

22 December 2020

Ms. Dorina Mocanu  
Ministry of Environment  
Bucharest, Romania

Ms. Catalina Radulescu  
Bankwatch Romania  
Bucharest, Romania

Dear Ms. Mocanu,  
Dear Ms. Radulescu,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Romania with article 6 and 9 of the Convention with respect to the extension of lignite quarries in Gorj County (ACCC/C/2016/140)**

During the hearing to discuss the substance of the above communication held at its 67<sup>th</sup> meeting (6-10 July 2020), the Committee indicated that it would subsequently send questions to the parties for their written reply. To this end, please find **enclosed** the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies by **Tuesday, 19 January 2020**. Please send your replies to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org), copying the the other party. The other party will have two weeks from the receipt of your answer to provide the Committee with any comments it wishes to make on your reply.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



---

Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Romania to the United Nations Office and other international organizations in Geneva

Enc: Questions from the Committee to the Party concerned and the communicant

**Questions from the Committee to the Party concerned and the communicant:****Question to both the Party concerned and the communicant:**

1. Were all the documents relevant to the decision-making, in particular all attachments required to be submitted by the applicant, and all the opinions which at the time of the EIA procedures in 2015 were legally required to be taken into account in these procedures:
  - (a) Publicly available during these procedures?
  - (b) Made available other than in electronic format? If so, in what format and where?

**Questions to the communicant**

2. Please comment on the statement made by Felix Zacharia, on behalf of the Party concerned, at the hearing during the Committee's sixty-seventh meeting on 9 July 2020, that the communicant's requests to suspend the deforestation decisions were submitted too late, because the deforestation had already occurred.
3. Please clarify whether you consider that the alleged difficulties to obtain court orders suspending administrative decisions in order to prevent environmental damage constitute a systemic problem in Romania. If so:
  - (a) Please provide statistics or other evidence to support your view;
  - (b) Please clarify if you consider this problem to result from:
    - (i) Insufficient legislation; or
    - (ii) The approach of the judiciary in applying the legislation (though you consider the legislation in itself is not problematic).

**Questions to the Party concerned**

4. Are there any legal requirements, guidance or administrative practice currently in place that:
  - (a) Require the competent authority to determine who is the "public concerned" before carrying out a public participation procedure subject to article 6 of the Convention?
  - (b) Provide any criteria to assist the competent authority to identify who is "the public concerned" for this purpose?

Please provide the text of the relevant legal provisions, guidance or administrative practice, together with an English translation thereof.

5. If the above arrangements existed at the time of the 2015 EIA procedures, please describe how they were applied in these procedures.

6. If such arrangements did not exist at the time of the 2015 EIA procedures, please describe how – and by whom – the scope of the public concerned was determined for the purposes of these procedures in practice.
7. What is the relation between the area of impact<sup>1</sup> that was assessed in each EIA procedure and the determination of the scope of the public concerned for the purposes of these procedures?
8. At the time of the 2015 EIA procedures, article 16 of Government Decision No. 445/2009 required “posting public notices within a certain radius”.<sup>2</sup> Please specify:
  - (a) How – and by whom – was this radius determined in the case of the 2015 EIA procedures?
  - (b) What was the relation between this radius and the area of impact<sup>3</sup> that was assessed in each EIA procedure?
  - (c) What was the relation between this radius and the places where the public notices for each EIA procedure were actually posted?
9. At the time of the 2015 EIA procedures:
  - (a) Who was obliged to take into account the results of the public participation?
  - (b) What, if any, were the legal requirements for the documentation of the outcomes of the public participation procedure?

Please provide the text of the relevant legal provisions then in force to support your reply to (a) and (b) above, together with English translation thereof.
10. If you do not consider the difficulties alleged by the communicant to obtain court orders suspending administrative decisions in order to prevent environmental damage constitute a systemic problem in Romania, please provide statistics or other evidence to support your view.
11. Please provide the text of Ministerial Order 135/2010,<sup>4</sup> together with an English translation thereof.

---

<sup>1</sup> Party’s reply to Committee’s questions, 9 March 2020, p. 7.

<sup>2</sup> Ibid., p. 22.

<sup>3</sup> Ibid., p. 7.

<sup>4</sup> Ibid., p. 23.