

Question to both the Party concerned and the communicant:

- 1. Were all documents relevant to the decision making, in particular all attachments required to be submitted by the applicant, and all 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?

All documents relevant for the decision making legally required to be taken into account were publicly available both in electronic format and on paper.

The documents on paper were made available at the headquarters' of EPA Gorj and at the headquarters' of every Quarry Mining Unit in the locations where the projects are implemented.

For a complete answer to this question we attach Annex for Q 1 which contains annexes regarding each quarry (Tismana I, Tismana II, Pinoasa, Rosia, Lupoia, Jilt N, Jilt S, Pesteană N where proofs of the availability of the documents are given).

Art 17 para (1) letter c) and g) of the MO 135/2010 require that the EIA Report be made available not only on internet but also at the headquarters of EPA Gorj, of the developer and of the local public administration (town hall of every commune).

Note: the PDF document called "Tismana 1 Form annex 15" is a document required by the MO 135/2010 (annex 15) which is compiled by the expert who elaborated the EIA Report and contains, as appropriate, technical data, assessments, simple and direct answers or more complicated answers to the questions of the public. The table format of Form required by annex 15 of the MO 135/2010 could not be respected because the answers could not be written in a column.

The same note is valid for the other pdf documents in Annex to Q 1, for every pit.

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 art 6 of the Convention?

Currently, in Romania, the law that regulates the environmental impact assessment of the public and private projects that may have significant effects on the environment is Law no.292/2018, which entered into force on 10th of January 2019.

This law transposes and implements the provisions of the Directive 2011/92/UE as amended by the Directive 2014/52/UE (the EIA Directive). Annex V to the Law no.292/2018 provides the detailed EIA procedure for public and private projects and thus implements the provisions contained in the law.

This law defines the public concerned in Art 2, letter g) as follows:

“Art.2

g) public interesat - publicul afectat sau care ar putea fi afectat de procedura decizională privind mediul, prevăzută la art. 4, ori care are un interes în cadrul respectivei proceduri; în sensul prezentei definiții, organizațiile neguvernamentale care promovează protecția mediului și care îndeplinesc condițiile prevăzute de legislația în materie sunt considerate ca având un interes.”

Unofficial translation:

“Art.2

g) public concerned - the public affected or which could be affected by the decision-making procedure regarding the environment, provided in art. 4, or who has an interest in the respective procedure; For the purposes of this definition, non-governmental organizations promoting environmental protection and meeting the conditions laid down in relevant legislation shall be deemed to have an interest. "

Art 4 of the Law no.292/2018, referred to in the definition above, provides:

“Art. 4

(1) Procedura de evaluare a impactului asupra mediului, prevăzută în anexa nr. 5, este parte integrantă din procedura de emitere a aprobării de dezvoltare.

(2) Procedura de evaluare a impactului asupra mediului integrează, după caz, evaluarea adecvată asupra ariilor naturale protejate de interes comunitar, conservarea habitatelor naturale, a florei și faunei sălbatice, precum și evaluarea posibilelor efecte ale emisiilor industriale și evaluarea pericolelor de accident major în care sunt implicate substanțe periculoase.

(3) Procedura de evaluare a impactului asupra mediului pentru proiectele care se construiesc pe ape sau care au legătură cu apele, conform prevederilor Legii apelor nr. 107/1996, cu modificările și completările ulterioare, se derulează coordonat cu procedura de emitere a avizului de gospodărire a apelor care include evaluarea impactului asupra corpurilor de apă.

(4) Coordonarea procedurii de evaluare a impactului asupra mediului cu procedura de emitere a avizului de gospodărire a apelor se realizează de către autoritatea competentă pentru protecția mediului.”

Unofficial translation:

“Art 4

(1) The environmental impact assessment procedure, provided in annex no. 5, is an integral part of the development consent procedure.

(2) The environmental impact assessment procedure shall include, as appropriate, the appropriate assessment of protected natural areas of Community interest, conservation of natural habitats, wild flora and fauna, and the assessment of possible effects of

industrial emissions as well as the assessment of major-accident hazards in which dangerous substances are involved.

- (3) The environmental impact assessment procedure for projects that are proposed on water or that are related to water, according to the provisions of the Water Law no. 107/1996, as subsequently amended and completed, is carried out in coordination with the procedure for issuing the water management permit, which includes the assessment of the impact on water bodies.
- (4) The coordination of the environmental impact assessment procedure with the procedure for issuing the water management permit shall be carried out by the competent authority for environmental protection. "

Annex 5 of Law no. 292/2018 requires, in Art. 10, para (1), letter e), the environmental authority to determine the public concerned.

"Art 10

- (1) După depunerea memoriului de prezentare și/sau a completărilor/informațiilor solicitate, pe suport hârtie și în format electronic, autoritatea competentă pentru protecția mediului derulează următoarele activități:
 - a);
 - b);
 - c);
 - d)....;
 - e) **identifică publicul interesat** și anunță depunerea solicitării de emitere a acordului de mediu, prin publicarea pe pagina proprie de internet a memoriului de prezentare și a anunțului întocmit conform modelului din anexa nr. 5.H, precum și prin afișarea la sediul său a anunțului menționat;"

Unofficial translation:

" Art 10

- (1) After receiving the presentation memorandum and/or the requested completions/information, on paper and in electronic format, the competent authority for environmental protection carries out the following activities:
 - a);
 - b);
 - c);
 - d)....;
 - e) **identifies the public concerned** and announces the submission of the request for issuing the environmental agreement, by publishing on its own website the presentation memorandum and the announcement prepared according to the model in annex no. 5.H, as well as by displaying the announcement at its headquarters; "

In conclusion, there is a clear legal provision in the Romanian legislation that requires the competent authority to determine who is "public concerned" before carrying out a public participation procedure subject to art 6 of the Convention.

(b) Provide any criteria to assist the competent authority to identify who is the “public concerned” for this purpose?

The Romanian legislation gives the environmental authorities a broad margin of appreciation in identifying who is the “public concerned”. The local EPAs, such as EPA Gorj, regularly make expert judgment evaluations based on their extensive knowledge of the area when identifying the “public concerned”. In making these evaluations, the local EPAs regularly use the provisions of the Ministerial Order 135/2010 (see text at Q11). Art 11 para (1) letter g), para (4), art 14 para (1) letter f), art.17, para (2) and (3), art.23 para (2) letter b) and para (3), art 24 and, as well, in the content of the public announcements given in Annexes 7,8,10,11,12,13,16,17 of the MO 135/2010 provide places where public notices have to be displayed.

This Order specifically requests EPAs to know in detail the location of the project, including by actually visiting it, to know in detail the administrative organization of the county in which it operates and to cooperate with the developer and with the representatives of the local public administration in order to fulfill their responsibilities with outmost efficiency. These representatives of the local public administration have also an obligation to work together with the EPAs, including by making indoor space available for public consultations.

According to the information provided by EPA Gorj, for the assessment of the mines’ extensions, the EPA experts tried to involve the inhabitants of the areas directly impacted by the extensions (by displaying the public announcements in the administrative centres of the area, as well as at the administrative points of the mines), the inhabitants of the county (by making the information available in two local newspapers), and finally the broader public (by making the information available on both the page of the developer and of EPA Gorj).

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

Taken into consideration that the legal requirements for identification of the public concerned existed within our national legislation without having any criteria for such identification, and based on the competent environmental authority practice we can give the following explanation:

Art .6 of the Aarhus Convention requires public participation in decisions on specific activities and implies public participation during the EIA procedures.

A very careful analysis of the MO 135/2010 provisions on public information and participation during the EIA procedures in Romania will reveal what requirements existed at the time of the 2015 EIA procedures and that had to be implemented by the competent environmental authority and sometimes, together with the developer.

In this context we bring to your attention the text of art.11, para (1), letter f) of the MO 135/2010 which says:

“ Art.11

(1) Within 15 days from submitting the presentation memorandum, the competent authority for environmental protection carries out the following activities:

- a)
- b)
- c)
- d)
- e)
- f) **Identifies the public concerned** and notifies the submission of the request for environmental agreement issuance for the projects that fall within the Government Decision no. 445/2009, by publishing on its own internet page and at its registered office/headquarters the public announcement drawn up according to the model in annex no. 7;"

The MO 135/2010 did not provide criteria for identifying the public concerned.

We also bring to your attention the text of art.17, para (1), letter a) of the MO 135/2010 which says:

"Art.17

- (1) **Within** 5 days from receiving the environmental impact assessment report by the competent authority for environmental protection, which integrates the reduction measures/alternative solution/accepted compensatory measures, depending on the case, resulted from the appropriated assessment study according to the provisions of art. 16 para. (1) and, whenever necessary, the security report on paper and in electronic format, as well as the proof of paying the tariff corresponding to the analysis phase, the **competent authority for environmental protection carries out the following activities:**

- a) **Establishes jointly with the developer the opportunities of the public to participate in taking the decision related to the project, indicating at least the place and date of the public debate;"**

Corroborating the provisions of art. 11 , para (1) letter f) with those of the art.17, para (1), letter a) it is obvious that the public concerned is most interested to participate in the EIA procedure and facilitating the participation of this public depends on, firstly, the competent environmental authority and secondly, on the developer. As we specified under question 4, the local public administration authorities helped a lot with the organization of the public hearings.

During the 2015 EIA procedures for the mining pits under this case, the local EPA Gorj (LEPA =EPA) took care to respect the legal provisions on public information on every step of the procedure and on participation to hearings that took place, having in mind that there must be a widely participation organized in suitable spaces, while the developer and the Mayor of the communes, knowing the reality on the spot (mining zone) could contribute with information such as the existence of proper spaces in certain villages, number of displaced households in the villages, inhabitants concerns, problems generated by the mining activity, etc.

The identification of the public concerned and its involvement in the 2015 EIA procedures was a result of the analysis of the existing reality in the mining area under question, and the

proposed places for the public hearings are reasonable places with adequate means for holding a hearing, even if, sometimes such a place could be 8 km away or more from the mining pit.

All places chosen for the public debate/hearing are within the residential village of a commune.

According to the Constitution, the territory of Romania is organized, from an administrative point of view, in communes, cities and counties.

The commune, the elementary unit of administrative organization, consists of one or more villages and is led by a local council and an elected Mayor.

In the mining area subject to this case, the villages allocated to a commune may be rather far from each other or lined up along the main road occupying more than 8 km in straight line.

Even without criteria established by legislation or guidance, the EPA Gorj decided **jointly with the developer**, based on its experience and practice and taking into consideration not only the reality of the mining zone, but the technical details of these mining projects, the location of the villages and of the pits in the territory, as well, that the concerned public within the area under question can reach the location of the public hearings because these were held, most of them in the Town Hall of the communes to which they belonged, because in their own village there were no conditions for holding hearings and project presentations.

We consider that the competent environmental authority has this margin of appreciation and provided reasonable solutions for the participation of the public concerned to the EIA procedures in 2015.

Taking into consideration that the legislation in force at the time of the 2015 EIA procedures applied by EPA Gorj was the Ministerial Order 135/2010 (the detailed EIA methodology) that is attached to the present document in English translation we hereby indicate the articles which establish the actors and the locations of the public announcements that, logically, lead to the idea that all members of the public concerned had access to the information from the procedure:

Art 11, para (1), letter g); art. 17, para (1), letters a), b), c), para (2), para (3); Art. 23, para (2), para (3); Art.24.

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.

If we consider that the above mentioned arrangements half existed and half not existed, the scope of the public concerned was quite large because the EPA Gorj accepted in the procedure the NGOs that declared its interest and addressed letters and questions and participated at the public hearings and as well, any inhabitant of the mining zone who addressed questions, and participated at the public hearings.

Based on the provisions of the Ministerial Order 135/2010 regarding information of the public/public concerned in articles indicated in our answer under Q 5, the scope of the public concerned was determined in connection with the impact and likely impact of the mining activities proposed (excavation and deforestation) - citizens of the villages

that had to be relocated, impact of dust produced by the excavation works, impact on drinking water supply wells, impact on land as a consequence of the deforestation works, etc.

An important aspect that must be highlighted here is that for everybody (citizens of the villages considered as members of the public concerned, authorities and most of all - the developer -) were aware that the area in which the 2015 EIA procedures were conducted is an old mining zone in which pollution issues are known and should not be accentuated, but mitigated. The EPA Gorj was always involved in the EIA procedures for this mining area and the ongoing mining activities were operating based on the environmental authorizations issued by EPA Gorj, as we have explained in our previous response to the Compliance Committee in 09.03.2020.

The response to this question must be read in connection with our response to question 5 above.

Moreover, the EIA Report was made available, besides on internet, in reasonable places with physical access like the headquarters of every UMC (Unitate Miniera de Cariera = Quarry Mining Unit (QMU)).

The UMCs = Quarry Mining Units (QMUs) are located as follows:

Pit/Quarry	Name of UMC/Name of QMU	Location of the headquarter of QMU
Tismana I	QMU Tismana	Cîlnic Commune - Cîlnic village
Tismana II	QMU Tismana	Cîlnic Commune - Cîlnic village
Pinoasa	QMU Pinoasa	Fărcăsești Commune - Fărcăsești village
Rosia	QMU Rosia	Rovinari town
Lupoaia	QMU Lupoaia	Cătunele Commune - Lupoaia village
Jilt Nord	QMU Jilt Nord	Mătășari Commune - Mătășari village
Jilt Sud	QMU Jilt Sud	Mătășari Commune - Mătășari village
Pesteană Nord	QMU Pesteană	Urdari Commune -Urdari village

Who ensured the availability of the documentation: both the EPA Gorj and the developer.

The physical accessibility of the citizens to the EIA Report was made public through the announcement on the organization of the public hearing; this announcement was published by the following means: on the web page of the Energy Complex Oltenia SA, EPA Gorj, in the local newspapers, at the headquarters of the public local administration authorities (see Annex to Q1).

The arrangements for the public hearings enabled every member of the public concerned from a wider circle to participate at such hearing, even from 8-10 km away or even further, as, for e.g., the impact on the underground water was important for many people, not only for those located in the near vicinity of a mine. As a result of the participation of the public concerned to the 2015 EIA procedures, and according to the requirements of the Ministerial Order no/135/2010 (art.26, para (1) and (2)) all Environmental Agreements issued by EPA Gorj include *Chapter V. Information on the public participation within the developed procedure* under which is given information on when and how the public was informed during the EIA procedure stages, when and how the concerned public participated to decision making process of the project and how the comments of the concerned public were taken into consideration.

We provide in Annex to Q 6 the translation in English of Chapter V of the Environmental Agreements issued at the finalization of the 2015 EIA procedures.

Note: Cîlnic= Calnic= Călnic; Fărcășești= Farcasesti; Cătunele= Catunele; Mătășari= Matasari.

7. What is the relation between the area of impact (Party's reply to CC questions, 9 March 2020, p.7) that was assessed in each EIA procedure and the determination of the scope of the public concerned for the purposes of these procedures ?

The response to this question must be seen together with the response to questions 4 and 8.

We provide below the text taken from our response given to the CC on 9 March 2020, page 7:

“All the environmental agreements issued in 2015- 2016 are reflecting the 2 components of the pits: the component dedicated to excavation works and the component dedicated to deforestation. Romania emphasizes the fact that within the EIA procedures developed in 2015 are environmental impact assessments done on the whole surface approved within the mining license and the cumulative impact was assessed for the new excavations, as well as for the old excavations and, as well as for the works within the pits situated in the neighborhood.”

This paragraph reflects the idea that the cumulative impact was assessed within the EIA Reports. The environmental impact assessment was not limited to the new proposed works.

For example in the EIA Report for Tismana II Pit, on page 251 one can read about the assessment of the cumulated impact caused by noise, vibrations and dust/particles for the inhabitants in the area.

We quote:

“From the point of view of environmental protection, we are more interested about the noise, vibration and dust levels at sensitive receptors:

- inhabitants of Farcasesti - Mosneni village - Rosia de Jiu perimeter;
- inhabitants of Timiseni village - Rosia de Jiu and Pinoasa perimeters;
- inhabitants of Negomir village - Pinoasa perimeter;
- inhabitants of Pinoasa village - Pinoasa, Tismana I and Tismana II perimeters;
- inhabitants of Hodoreasca village - Tismana II perimeter;
- inhabitants of Hodoreasca and Cocoreni village - Pesteană N and Pesteană S perimeters;
- fauna from the forest area.”

An extract from the Environmental Agreement of Tismana I Pit given below in both Romanian language and translated in English, as well, speak about the issue of cumulated impact:

4. Respectarea cerințelor comunitare transpuse în legislația națională

Proiectul privind continuarea activității unei cariere miniere de suprafață în limita perimetrului aprobat prin licență de ANRM, face obiectul unei proceduri de EIM complete, care ia în considerare posibilele efecte semnificative asupra populației și mediului (fauna, floră, sol, apă, aer, factori climatici) generate de activitatea carierei, de utilizarea resurselor naturale, de emisiile de poluanți și de eliminarea deșeurilor (în conformitate cu articolul 5 și cu anexa IV la Directivă) dar și evaluarea impactului asupra mediului pentru întreaga activitate, analizând efectele cumulate ale activităților anterioare și a celor viitoare, pe întreaga suprafață a perimetrului aprobat prin licență de ANRM, astfel asigurându-se respectarea tuturor cerințelor Directivei 2011/92/UE dar și ale legislației naționale privind evaluarea efectelor anumitor proiecte publice și private asupra mediului.

Evaluarea impactului cumulat generat de desfășurarea simultană a activităților aterente perimetrelor miniere a fost efectuată prin modelare matematică, a transportului și dispersiei poluanților în atmosferă, în cadrul activităților de exploatare lignit.

In house translation:

The project regarding the continuation of the activity of a surface mining quarry within the perimeter approved by ANRM (National Agency for Mineral Resources) license is subject of a complete EIA procedure, which takes into account not only the possible significant effects on the population and environment (fauna, flora, soil, water, air, climatic factors, etc.) generated by the quarry activity, by the use of natural resources, pollutant emissions, and waste disposal (in accordance with Article 5 and Annex IV of the EIA Directive) but also the environmental impact assessment for the entire activity, analyzing the cumulative effects of the previous activities and future ones, on the entire surface of the perimeter approved by ANRM license, thus ensuring the observance of all the requirements of Directive 2011/92 / EU and also of the national legislation regarding the evaluation of the effects of certain public and private projects on the environment. The assessment of the cumulative impact generated by the simultaneous development of the activities related to the mining perimeters was performed by mathematical modeling of the transport and dispersion of pollutants in the atmosphere, within the lignite exploitation activities.

Such a paragraph is foreseen in every Environment Agreement issued in 2015.

An annex with the Environmental Agreements is attached to the present answer - Annex to Q 7.

In Annex to Q 7 there is also a map representing the location of every mining pit within the delimitation of the territorial administrative units to which they belong and it can be seen that the proposed location of the continuation works are not always near the old mine, sometimes these places are away from the old mine (e.g., deforestation area for Pinoasa pit which is not near Pinoasa old pit, but is South -East of Halda Exterioara Valea Negomir).

The relation between the area of impact and the scope of the public concerned:

The environmental impact assessment was performed for the license perimeter confirmed by the authority in the field, respectively the National Agency for Mineral Resources, the quarries perimeters being located within the localities mentioned under question 4 and the public information and consultation procedure took into account the public within these localities.

The map given in the Annex to Q 7 exemplifies the location of the proposed works related to the location of the pit and related to the administrative territory of the communes.

Every EIA Reports that were subject to the public information, consultation and to the public hearings contains assessments on:

- The potential impact of the proposed activity on the demographic characteristics / local population
- Number of inhabitants in the impact area, population changes
- Permanent inhabitants and visitors, migration tendencies of the inhabitants
- Population characteristics in the impact area (distribution by age, sex, education, family size, ethnic group)
- The potential impact of the project on the local economic conditions, the labor market, the unemployment dynamics
- The price of the land in the area under discussion (residential, commercial, industrial areas) and its dynamics
- Potential impact on economic activities (agriculture, forestry, fish farming, recreation, tourism, transport, mining, housing construction with one or more floors, retail or en-gros trade)
- Potential impact of the project on the living conditions in the area
- The potential impact of the project on ethnic and cultural conditions
- The potential impact of the project on the objectives of cultural, archeological patrimony and on the historical monuments.

8. At the time of the 2015 EIA procedures, art 16. of the Government Decision no.445/2009 required “posting public notices within a certain radius”. Please specify:

- a) How and by whom this radius was determined in the case of the 2015 EIA procedures?**
- b) What was the relation between this radius and the area of impact that was assessed in each of the EIA procedure?**
- c) What was the relation between this radius and the places where the public notices for each EIA procedure were actually posted?**

We provide below an answer to this question taking into consideration that to the previous questions we furnished responses that reflect the link between “posting public notices within a certain radius” and the area of impact.

Art.16 para (2) of the Government Decision no.445/2009 requires, literally, “posters on a certain territorial area” and this is what was done by EPA Gorj in full compliance with the legislative requirements. As we have already explained also at the previous questions, posting the public announcements on a certain territorial area was the decision of EPA Gorj, based on expert judgment and experience of its staff, in consultation with the developer and the public administration. The decision was supported, as well, by the likely/possible impact on a certain area and of course on the impacted people.

The area of impact assessed in each of the EIA procedure overlaps with the territorial area of the public announcements or is larger, but anyhow the area of impact of these the 2015 EIA procedure for the pits may happen to overlap or not overlap entirely, depending on the location and the severity of the proposed works (excavation & deforestation).

The so called “radius for posting public notices” is not a fixed number, this radius varies from one pit to another and it is determined by a very reasonable condition: to find reasonable and suitable places for posters and for public hearings. It may be bigger or not than 10 km and it depends on the location of the center of the circle with $R = 10$ km.

While responding to this question we wanted to see if the decision regarding the display locations of the public announcements can reasonably be explained:

1) For example, for Pinoasa quarry

Drawing a circle with its center in the centre of Pinoasa quarry and passing through the localities where the public announcements were displayed, we find that in the case of Calnic Commune, $R =$ about 8.7 km, in the case of Negomir Commune $R =$ about 8.9 km, in the case of Farcasesti Commune, $R =$ about 9.4 km.

This radius of cca. 10 km would correspond to the radius of impact determined by the EIA report for this pit and the public notices location are within this radius because the probability of people being affected within this radius is bigger than that for those people located outside this radius. For people outside this radius the means of information include the local newspapers, headquarters (EPA Gorj and developer's) and internet (EPA Gorj and the developer Energy Complex Oltenia SA).

In addition to complying with the legal requirements, EPA Gorj considered several aspects when determining the location of the display for the public notices:

- the surface subject to the continuation of the lignite extraction works is located in the suburbs of Calnic, Negomir, and Farcasesti communes (this is a criterion valid for Pinoasa Pit but it was applied for all Pits).

- the concerns of the inhabitants caused by the impact of the mining works, especially because the area is traditionally affected by the surface mining quarry, with possible impact on the air (noise and particles) and on the groundwater, endangering the supply of water from wells;
- the cumulative impact, the likely effects on the environment over relatively long distances;
- the probability of a higher human traffic in the villages where the offices of Mayor of the communes are located, considering that the Town Hall is usually visited whenever it is necessary to solve personal or community problems or for information. The town halls are, as well, suitable locations for public hearings (there are facilities within the mayor's office).

2) For example, for Tismana I and II quarries

Tismana I and Tismana II quarries are adjacent to each other.

Drawing a circle with its center in Tismana Quarries I, II and passing through the localities where the public announcements were displayed, respectively Calnic City Hall we find that R is about 2.83 km, and about at the same distance is the village of Pinoasa ($R = 2,08$ km) and Stejerei village (village in Calnic Commune) located at $R =$ about 2.67 km. Pinoasa and Stejerei belong

to Calnic Commune, the public hearing was held in Calnic Town Hall because the criterion of displaying the public notice at the Commune Town Hall was fulfilled .

All above mentioned localities are part of a circle with its center in the approximate center of Tismana I, II pits and a radius of about 3 km. In the case of these quarries, as provided by the Environmental Agreements for Tismana I and Tismana II, the surface subject to the continuation of excavation and deforestation works is located in the suburbs of Calnic Commune and in Pinoasa village and it is not necessary to relocate the population. **The NGOs Bankwatch and Greenpeace and an inhabitant from Pinoasa village took part in the public hearings held for Tismana pits at the Calnic Town Hall.**

Tismana I and II are located at the margin of the Rovinari mining basin and within a circle with $R = 10$ km and its center in the Tismana I, II quarry we can see more localities entering this circle, but these localities do not belong to the communes (administrative units) where the works are proposed. Anyway, if the people of those localities had wanted to participate in the public debate, they would have been received and listened to.

The above mentioned examples are taken randomly.

Every EIA Report is about 300 pages. Every completion to the EIA Report available as the Form annex 15 is about 50-100 pages. The responses within this form are not simple ones, they are properly assessments that can provide complex information about the impact caused on more distant localities.

Looking at the Tismana I Form annex 15(see Annex for Q 1), at page 8, in the table called “SITUATIA LOCALITATILOR AFECTATE IN ALIMENTAREA CU APA PRIN LUCRARILE DE EXPLOATARE” we can see the how the water supply was resolved for the localities affected by operation works - and this is an example that the cumulated assessment included a surface bigger than 3 km and referring to **all quarries** in question (bigger than the radius of posting public notices).

We present below, in English, the situation given in Tismana I Form annex 15(see Annex for Q 1), page 8, the table called “SITUATIA LOCALITATILOR AFECTATE IN ALIMENTAREA CU APA PRIN LUCRARILE DE EXPLOATARE

In summary, the table presents the following situation:

- **Tismana I and II quarries**
 - the affected area is
 - entirely in the excavation area for the aquifer horizons excavated, until greening
 - outside the exploitation area - 250 households from Pinoasa village;
 - How to solve through the works carried:
 - A supply well was drilled in the south of the mining perimeter which must be maintained until the cessation of activity and the restoration of the groundwater level.
- **Pinoasa quarry**
 - the affected area is
 - entirely in the excavation area for the aquifer horizons excavated, until greening

- outside the exploitation area - 60 households from Pinoasa village in the cumulation area with Tismana I and 110 households in **Timiseni** village, **Barhoti** and **Boncea** hamlets

➤ How to solve through the works carried:

- A power supply network was executed from 2 mining drillings which must be maintained until the cessation of activity and the restoration of the groundwater level.

- **Rosia quarry**

➤ the affected area is

- entirely in the excavation area for the aquifer horizons excavated, until greening

- outside the exploitation area - 30 households from Rosia de Jiu village in the cumulation area with Tismana I and 100 households in **Farcasesti Mosneni village**.

➤ How to solve through the works carried:

- a water supply network was installed in **Farcasesti-Mosneni** village, **Brostenita** hamlet, with source from 2 wells, and **Rosia de Jiu - Rogojelu** villages, with source from 5 wells. These must be maintained until the cessation of activity and the restoration of the groundwater level.

- **Pesteană Nord quarry**

➤ the affected area is

- entirely in the excavation area for the aquifer horizons excavated, until greening

- outside the exploitation area - **Pesteană de Jos** village and **Valea cu Apa**.

➤ How to solve through the works carried:

- a water supply network was built in **Pesteană de Jos** village, and **Valea cu Apa** village which must be maintained until the cessation of activity and the restoration of the groundwater level.

- **Jilt Nord quarry**

➤ the affected area is

- entirely in the excavation area for the aquifer horizons excavated, until greening

- outside the exploitation area - **Bradetele** village -50 households.

➤ How to solve through the works carried:

- Godinesti water supply station serves all localities crossed: **Godinesti, Ciuperceni, Bradet, Matasari, Dragotesti**.

In the case of the village of Runcurelu from the mining perimeter, it is necessary to monitor the water level in the wells and as the working front advances, to relocate people.

In the case of Bradetele village, if there is a decrease in the groundwater level, it is necessary to connect to the existing network (Godinesti).

- **Jilt Sud quarry**

➤ the affected area is

- entirely in the excavation area for the aquifer horizons excavated, until greening
- outside the exploitation area - **Miculesti and Croici** villages -50 households.

➤ How to solve through the works carried:

- a water supply network was built in **Miculesti** village

In the case of the households of Croici village within the mining perimeter and those from the safety pillar, it is necessary to follow the water level in the wells, and as the working front advances, to relocate the people.

In the case of Miculesti village, if necessary, the extension of the existing water supply network.

- **Lupoaia quarry**

➤ the affected area is

- entirely in the excavation area for the aquifer horizons excavated, until greening
- outside the exploitation area - **Lupoaia** village -20 households and **Rosiuta** village - 60 households.

➤ How to solve through the works carried:

- the households of Rosiuta village are connected to the Rosiuta quarry network, and those of Lupoaia village to the Lupoaia quarry network.

In the case of the households of **Lupoita** and **Lupoaia** villages proposed for relocation, it is necessary to monitor the water level in the wells, and as the working front advances, to relocate. In the case of Lupoaia village, which is not relocated, the necessary water will be filled by increasing the capacity of the tank, and the sand will be removed from the drillings.

The above mentioned localities are within a circle of more or less 10 km if we take as the center of the circle Pinoasa quarry (as the expert did in his report presented in Annex 3 of the communicant posted on the web site of ACCC on 19.05.2020).

In our understanding Q8 refers only to posting of public announcements in other places than local newspapers or internet.

We present below the summary situation of the locations of displaying the announcements and conducting the public hearings/debates

Pit	Where was the announcement about the request for an environmental agreement posted	No. Of public debates	The place where the public debate took place / the date and time of the debate	Where was the announcement about the public debate posted	Where was the announcement about the decision on the issuance of the environmental agreement posted
PINOASA	Fărcăsești Town Hall /23.03.2015	3	The Cultural House in Fărcăsești/19.08.2015 , 16 ⁰⁰	The office of UMC Pinoasa in Fărcăsești Village on 14.07.2015 and at Fărcăsești	The office of Fărcăsești Town Hall under the

				Town Hall /16.07 2015	no. 554/18.01.2016 and at the office of UMC Pinoasa in Fărcășești Village under the no. 997/18.01.2016
	Câlnic Town Hall /19.03 2015		The office of Câlnic Town Hall /20.08.2015, 16 ⁰⁰	Câlnic Town Hall /15.07 2015	The office of Câlnic Town Hall under the no. 169/18.01.2016
	Negomir Town Hall /19.03 2015		The office of Negomir Town Hall /24.08.2015, 16 ⁰⁰	Negomir Town Hall /16.07 2015	The office of Negomir Town Hall under the no. 204/18.01.2016
TISMAN A I	Câlnic Town Hall /19.03.2015	1	The office of Câlnic Town Hall /20.08.2015, 16 ⁰⁰	The office of UMC Tismana in Câlnic Village/14.07.2015 and at Câlnic Town Hall under no.2625 ¹ /16.07.2015 (see annex for Q 8)	The office of Câlnic Town Hall under the no. 4509/11.12.2015
TISMAN A II	Câlnic Town Hall /19.03.2015	1	The office of Câlnic Town Hall /20.08.2015, 16 ⁰⁰	The office of UMC Tismana from Câlnic Village /14.07.2015 and at Câlnic Town Hall under no.2626 ¹ /16.07.2015 (see annex for Q 8)	The office of Câlnic Town Hall under the no. 4509/11.12.2015
ROSIA	Fărcășești Town Hall /23.03.2015	1	The Cultural House in Fărcășești/19.08.2015, 16 ⁰⁰	The office of UMC Rosia in Rovinari town/14 07.2015 and at Fărcășești Town Hall /16.07.2015	The office of the Town Hall and at the Cultural House in Fărcășești Village under the no. 495/15.01.2016, and at the office of UMC Rosia/15.01.2016
PESTEANA NORD	Urdari Town Hall /05.03.2015,	3	Plopușoru Town Hall in Plopușoru Village/12.10.2015, 16 ⁰⁰	Plopușoru Town Hall /16.09.2015	Plopușoru Town Hall /22.04.2016
	Bălteni Town Hall/05.03.2015,		Bălteni Town Hall in Bălteni Village /13.10.2015, 16 ⁰⁰	Bălteni Town Hall/16.09.2015	Bălteni Town Hall/22.04.2016

	Plopșoru Town Hall /05.03.2015		Udari Town Hall in Urdari Village /14.10.2015, 16 ⁰⁰	The office of UMC Peșteana in Urdari/16.09.2015 and at Urdari Town Hall /16.09.2015	Urdari Town Hall /22.04.2014, office of UMC Pestena in Urdari
LUPOAI A	Cătunele Town Hall /05.03.2015	2	Cătunele Town Hall /06.10.2015, 16 ⁰⁰	Cătunele Town Hall /14.09.2015	The office of Cătunele Town Hall /05.04.2016
	Motru Town Hall /05.03.2015		Town Hall Motru/08.10.2015, 16 ⁰⁰	Motru Town Hall /11.09.2015	The office of Motru Town Hall /05.04/2016
	The office of UMC Lupoia in Lupoia Village/05.03.2015			The office of UMC Lupoia/11.09.2015	The office of UMC Lupoia in Lupoia/05.04.2016
JILT NORD	Fărcășești Town Hall /07.03.2015	2	the Cultural House in Fărcășești Village /05.10.2015, 16 ⁰⁰	Fărcășești Town Hall /14.09.2015	The office of Fărcășești Town Hall/14.04.2016
	Mătășari Township Town Hall /07.03.2015		Mătășari Town Hall /27.10.2015, 16 ⁰⁰	Mătășari Town Hall /14.09.2015 and again on 01.10.2015	The office of Mătășari Town Hall/14.04.2016
				Primary School from Runcurel Village/14.09.2015	School in Runcurel Village/14.09.2016
					the Cultural House in Bradet Village /14.09.2016
JILT SUD	Slivilești Town Hall /05.03.2015	5	Town Hall Slivilești/01.10.2015, 16 ⁰⁰		Town Hall Slivilești/23.11.2016
	Fărcășești Town Hall /05.03.2015		the Cultural House in Fărcășești /05.10.2015, 16 ⁰⁰	Fărcășești Town Hall /14.09.2015	Fărcășești Cultural House /23.11.2016
	Mătășari Town Hall /05.03.2015		Mătășari Town Hall /27.10.2015, 16 ⁰⁰	Mătășari Town Hall /14.09.2015 and again on 01.10.2015	Mătășari Town Hall /23.11.2016
	Dragotești Town Hall /05.03.2015		Dragotești Town Hall /28.10.2015, 16 ⁰⁰		Dragotești Town Hall /23.11.2016
	Negomir Town Hall /05.03.2015		Negomir Town Hall /29.10.2015, 16 ⁰⁰	Primary school of Runcurel Village/14.09.2015	Negomir Town Hall /23.11.2016

Note:

1. The public announcement for Tismana I and Tismana II quarries at Calnic town hall/mayor's office was registered under no.2625/16.07.2015 and no.2626/16.07.2015. The stamp in the upper right corner of the page makes this difficult to read (Annex for Q 8).

2. The requirements of the MO no.135/2010 for public information and participation in the decision-making process are quite extensive as the responsibilities for information are shared between the owner/developer (Energy Complex Oltenia SA) and the environmental authority (EPA Gorj) and the means of information are: local newspaper, internet, posting at headquarters, at the working place according to art.17 para. (3) of the MO 135/2010 (UMCs = Quarry Mining Units) or at the mayor's office. A close inspection of Chapter V of the Environmental Agreements of every pit, reveals where all public notices were posted, by whom and by what means.

3. The radius drawn by the court appointed expert in the report annexed (Annex 3) to the replies of the communicant of 19 May 2020, seems to be entirely arbitrary. He decided to put together the two radii of 10 km each, which the EIA Report provides for Rosia and Pesteană Nord pits, but this decision is not backed up by any reasoning. The center of this radius also seems to have been arbitrarily selected.

What localities will enter within a circle with $R=20$ km depends on the selected place for the centre of this circle.

4. We have revised the document entitled "Map mining pits" which is now "**Map mining pits_rev**" in the Annex for Q 8 because in the initial document the location of Tismana II pit was not correct.

5. For the proposed works in Tismana I, II Pits the surface is located within the suburbs of Cîlnic Commune.

For the proposed works in Pinoasa Pit the surface is located within the administrative limits of Cîlnic, Negomir and Fărcășești Communes.

For the proposed works in Rosia Pit the surface is located within the administrative limits of Fărcășești Commune.

For the proposed works in Pesteană Nord Pit the surface is located within the administrative limits of Urdari, Plopsoru and Bilteni Communes.

For the proposed works in Jilt Sud Pit the surface is located within the suburbs (extravilan and intravilan) of the Dragotesti, Slivilesti, Negomir, Matasari and Fărcășești Communes.

For the proposed works in Jilt Nord Pit the surface is located within the suburbs (extravilan and intravilan) of Matasari and Fărcășești Communes.

For the proposed works in Lupoia Pit the surface is located within the administrative limits of Catunele Commune and of the Motru town.

9. At the time of the 2015 EIA procedures:

(a) Who was obliged to take into account the results of the public participation?

The Ministerial Order 135/2010, Section 3: Quality Review Stage of the Impact Assessment Report furnishes provisions in this respect. A direct and short answer to this question is : the competent environmental agency in charge with the EIA procedure is obliged to take into account the results of the public participation, but the Ministerial Order 135/2010 stipulates that answers to the questions raised by the public are given by the developer in writing, within a table form provided in an annex to the ministerial order(Annex 15), then the answers are analyzed within the TAC (Technical Analysis Committee) within the EIA procedure conducted by EPA Gorj and consequently the decision to issue the Environmental Agreement is taken by the competent environmental agency in charge with the EIA procedure, after consultation with the others authorities involved in TAC.

The above mentioned explanation is provided by the following articles of the the Ministerial Order 135/2010:

Art 18, para (1)

Art 21, para (2)

Art 22, letters a) and b)

Art 23, para (1) letters a), b), d), e), para (5)

Art 25, para (2)

Art 26, para (2), letter c).

We provide under question 11 the text of the Ministerial Order 135/2010, together with its English translation.

We also provide in the Annex to Q 7 all Environmental Agreements issued by EPA Gorj for the 2015 EIA procedures in Romanian language and the English translation of only Chapter V of the Environmental Agreements. Chapter V of the Environmental Agreement (final EIA decision) describes how the public comments were taken into consideration in the EIA procedure.

(b)What, if any, were the legal requirements for the documentation of the outcomes of the public participation procedure?

The legal requirements provided by Governmental Decision no.445/2009 in Art.14, para (3) and Art.18, are as follows:

“ Art.14

(3)Raportul privind impactul asupra mediului este supus comentariilor publicului interesat, ale carui propuneri/recomandari sunt luate in considerare in etapa de analiza a calitatii acestuia.”

In house translation:

“ Art 14

(3) The EIA Report is subject to the comments of the public concerned, whose proposals/ recommendations are taken into account in the review of the quality of the EIA Report stage. ”

“Art.18

Rezultatele consultarilor si informatiile obtinute potrivit prevederilor art.7 si art.11-17 se iau in considerare in emiterea acordului de mediu si a aprobarii de dezvoltare, respective in respingerea solicitarii acordului de mediu si a aprobarii de dezvoltare pentru proiectele publice sau private care fac obiectul prezentei hotarari.”

In house translation:

“Art.18

The results of the consultations and the information obtained according to the provisions of art. 7 and art. 11-17 are taken into account in issuing the environmental agreement and the development consent, respectively in rejecting the request for the environmental agreement and the development consent for the public or private projects which are subject of this Decision. ”

The legal requirements provided by the Ministerial Order 135/2010, are as follows:

In order to arrive at the outcomes of the public participation procedure, both the environmental protection agency and the developer are given responsibilities as described above in our answer under letter (a).

The developer/the EIA expert is required to give answers to the questions raised by the public before and during the public hearing, in a table provided by Annex 15 of the MO no.135/2010 (see Art 18 para (2), Art 21 para (1) and (2), Art 22 letters a) and b)).

The environmental protection agency is responsible for fulfillment of the actions required by Art 18 para (2) second part, Art 21 para (2), Art.22, Art.23 para (1), para (5), Art 24, Art 25 para (2).

Practically, the outcomes of the public participation can be seen in the document foreseen by Annex 15 of the MO 135/2010 which is an annex to the EIA Report, as provided by Art.22 letter b) of the MO 135/2010 and this document was posted by EPA Gorj on the its web page for each of the 2015 EIA procedure (see Annex for Q 1).

The outcomes of the public participation can be seen within the EIA Report, according to Art 24 of the MO 135/2010, if the same authority considered necessary to apply Art.23, para (1) letter e).

The outcomes of the public participation can be seen, as required by Art 26, para (2), letter c) within the content of the Environmental Agreement. Chapter V of each Environmental Agreement issued for each pit at the end of the 2015 EIA procedure contains, in summary, how the public participation procedure was developed and the outcomes of this participation were taken into consideration.

The content of the Environmental Agreements is provided in Annex for Q 7.

The content of the written answers to the public concerned questions is provided in the Annex for Q 1, the PDF document for each quarry.

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.

We provide under question 11 the text of the Ministerial Order 135/2010, together with its English translation.

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.

For providing an answer to this question we have asked the opinion of the Ministry of Justice which was not provided until January, 19th, 2021. As soon as the Ministry of Environment, Waters and Forests will have this information it will be forwarded to the Compliance Committee.

11. Please provide the text of the Ministerial Order 135/2010, together with an English translation thereof.

Please find attached to our letter the required text and its translation in English in Annex for Q 11.