

22 February 2021

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)**

After considering the replies from the Party concerned and the communicant of 19 January 2021, the Committee has identified a number of additional points upon which it seeks clarification. To this end, please find **enclosed** further questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies by **Monday, 22 March 2021**. Please send your comments to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org), copying 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.

The Committee also notes that it is yet to receive the Party concerned's outstanding reply to question 10 from the Committee's letter of 22 December 2020, as well as the communicant's outstanding reply to question 3(a) from the Committee's letter of that same date. It looks forward to receiving each party's outstanding reply as soon as possible, and by 22 March 2021 at the latest.

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

Yours sincerely,



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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 communicant

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

1. In your reply of 19 January 2021, you kindly provided an English translation of Ministerial Order no. 135/2010. Please clarify whether the version provided to the Committee is the same version that was in force at the time of the 2015 EIA procedures at issue in this case? If not, please provide an English translation of Ministerial Order no. 135/2010 as in force at that time.
2. In your reply of 19 January 2021, you state that, for most of the quarries, notice of the public hearing was posted, inter alia, at the office of the relevant UMC. In this context, please clarify:
  - (a) What percentage of the population of the affected region work for Energy Complex Oltenia SA?
  - (b) Were the notices of the public hearing posted on a noticeboard inside or outside the offices of each UMC? Are the noticeboards accessible to the general public?
  - (c) Does each quarry employee have to go to the UMC office on a daily basis, or if not daily, at least on a weekly basis?
3. What is the total population living within the radius of the quarry extensions? Is the Gorj Exclusiv a free newspaper delivered to every household in Gorj county? If not, approximately how many copies of the Gorj Exclusiv newspaper are delivered each day in the villages within the radius of the quarry extensions?
4. Approximately what percentage of the public living in the affected villages within the radius of the quarry extensions have internet at home?
5. Please comment on the communicant's submission<sup>1</sup> that, while the EIA scoping decisions were published after they were taken, the public did not have an opportunity to participate during the scoping itself?
6. What commenting period, if any, was provided to members of the public to comment on the additional information made available for each quarry extension on the following dates:
  - (a) Tismana I – 22.10.2015
  - (b) Tismana II – 22.10.2015
  - (c) Pinoasa – 18.11.2015
  - (d) Rosia – 13.11.2015
  - (e) Lupoia – 14.01.2016 and 27.01.2016
  - (f) Roșiuta – 14.01.2016 and 27.01.2016
  - (g) Jilt Nord – 05.02.2016 (amended EIA report)
  - (h) Jilt Sud - 05.02.2016 (amended EIA report)
  - (i) Pesteana Nord – 17.03.2016
7. For each of the above quarry extensions, please specify whether, and if so how, the public was informed of the publication of this additional information and, if applicable, their opportunity and timeframe to provide comments on that information?

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<sup>1</sup> Communicant's reply to Committee's questions, 19 May 2020, p. 1.

8. Given that at least some of this additional information was clearly available to decision-makers prior to the publication of the draft EIA reports (for example, the risk and health assessment for Rosia de Jiu is dated 22 December 2006), why was the additional information<sup>2</sup> not made available to the public prior to the public hearings together with the draft EIA reports?
9. Please provide the list of additional documents and the weblinks to where the additional documents were made available for the following three quarry extensions (these details are missing for these quarries from the annexes to your reply of 19 January 2021):
  - (a) Lupoia – 14.01.2016 and 27.01.2016
  - (b) Roșița – 14.01.2016 and 27.01.2016
  - (c) Pesteana Nord – 17.03.2016
10. Please provide a copy of the reply, if any, sent by Gorj Environmental Protection Agency to the communicant regarding its request of 24 September 2015 for access to environmental information.<sup>3</sup>
11. Article 25 (2) of Ministerial Order no. 135/2010 requires the competent authority to only take into consideration “justified” public comments, opinions and observations. Please clarify what this means in practice, providing examples of those comments that are considered not to be “justified”, and explaining how it is determined whether comments are “justified” or not.
12. Article 18 of Ministerial Order no. 135/2010 provides that at the stage of “quality report analysis concerning the environmental impact assessment report”, the public concerned can submit “comments/opinions/observations to the environmental impact assessment report”. Please clarify at which stage the public can submit any other comments, information, analyses or opinions that it considers relevant to the proposed activity, but that do not relate directly to the environmental impact assessment report.
13. Please explain the meaning of the “Date of the ascertainment of Ramnicu Valcea Forestry Guard”, included in the table provided on pages 11 and 12 of your response of 9 March 2020.
14. Please specify with regards to *each* of the ten mining quarry extensions at issue in the present case (Pinoasa, Tismana I, Tismana II, Rosia, Rosiuta, Pesteana Nord, Pesteana Sud, Lupoia, Jilt Nord and Jilt Sud):
  - (a) On what date (day/month/year) did the deforestation authorized by the Forest and Hunting Inspectorate (ITRSV) between 2011 and 2013 start?
  - (b) On what date(s) did it stop and when were the deforestation activities resumed?
15. With regards to injunctive relief requests under articles 14 or 15(1) of Law 554/2004, please clarify whether, under Romania’s legal framework, the filing of an application for injunctive relief has automatic suspensive effect on the execution of the administrative act with respect to which the request is filed.

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<sup>2</sup> Party’s reply to Committee’s questions, 19 January 2021, annex 18.

<sup>3</sup> Communicant’s reply to Committee’s questions, 19 May 2020, annex 11.

16. On page 31 of your response of 9 March 2020, you state that “according to statistics compiled by the Ministry of Justice of Romania, within the last nine years, the duration of injunctive relief court proceedings (including on environmental cases) has varied between 135 and 319 days, while the duration of annulment proceedings has varied between 88 and 255 days.” Please explain why injunctive relief proceedings in Romania on average take longer than annulment proceedings.

Question to the communicant:

17. Please provide the text, in Romanian, of the final judgments on the following applications for injunctive relief filed regarding the 2012 deforestation decisions by the ITRSV, the 2012 environmental approvals and the 2015 environmental permits. If the judgments are available online, please also provide the weblink to each judgment.
- (a) Case No. 3512/93/2013 (Jilt Nord)
  - (b) Case No. 3574/92 (Rosia)
  - (c) Case No. 23827/3/2013 (Jilt Sud)
  - (d) Case No. 343/93/2014 (Tismana II)
  - (e) Case No. 3753/93/2013 (Tismana I)
  - (f) Case No. 3940/93/2013 (Pinoasa)
  - (g) Case No. 4070/93/2013 (Rosiuta)
  - (h) Case No. 17631/3/2013 (Tismana II)
  - (i) Case No. 17632/3/2013 (Tismana I)
  - (j) Case No. 37234/3/2014 (Rosia)
  - (k) Case No. 34493/3/2013 (Pinoasa)
  - (l) Case No. 41687/3/2016 (Rosiuta)
  - (m) Case No. 41683/3/2016 (Jilt Nord)
  - (n) Case No. 8448/3/2017 (Jilt Sud)
  - (o) Case No. 30618/3/2016 (Tismana I)
  - (p) Case No. 30848/3/2016 (Tismana II)
  - (q) Case No. 30626/3/2016 (Rosia)
  - (r) Case No. 30606/3/2016 (Pinoasa)
  - (s) Case No. 41684/3/2016 (Pestean)
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