



MINISTRY OF ENVIRONMENT,
WATERS AND FORESTS

CABINET OF MINISTER

No. DGEICPSC/108247/29.09.2023

To: Ms. Áine Ryall, Chair of the Compliance Committee
Ms. Fiona Marshall, Environmental Affairs Officer - Secretary to the Compliance Committee, Aarhus Convention Secretariat
e-mail: aarhus.compliance@un.org

Ref: Progress report on the implementation of the plan of action for Decision VII/8o

Dear Chair,

We would like to take this opportunity to thank you and the Compliance Committee as a whole, together with its Secretariat, for the continuous work in detecting the issues in the implementation of the Aarhus Convention and the assistance of the Parties in order to meet their obligations and to improve their implementation of the Convention.

According to **Decision VII/8o concerning compliance by Romania with its obligations under the Convention, adopted in October 2021 at the seventh session of the Meeting of Parties to the Aarhus Convention**, Romania is requested to submit detailed progress reports by **1 October 2023** and **1 October 2024** on the measures taken and the results achieved in the implementation of the plan of action and the recommendations from Decision VII/8o. In this context, **we are hereby submitting Romania's first progress report.**

This report presents the activities undertaken by the Ministry of Environment, Waters and Forests (MEWF) since October 2021, concerning the implementation of Decision VII/8o. The clarifications received by Romania in December 2022 from the Aarhus Convention Compliance Committee were of great help and improved our understanding on how to implement the recommendations of the decision.

Accordingly with the Plan of action submitted to ACCC in 2022, **MEWF started the procedure for amending Government Decision no. 878/2005 on public access to environmental information:**

- **MEWF prepared the draft Government Decision for amending Government Decision no. 878/2005 on public access to environmental information.**
- **Article 15, para. (3) of GD no. 878/2005 will be amended, in order to ensure that the public authority will expressly specify the way in which the authority took the public interest into account, in case of refusal of the request for environmental information. The wording of this article will be "The rejection of the request for environmental information shall contain the reasons for the refusal, explanations on how the authority took into account the public interest, as well as the information regarding the review procedure provided in art. 16- 19".**

- Another provision of this draft GD is the adoption of the **“Guide to public authorities for public access to environmental information”**. The purpose of this provision is to further strengthen the applicability of the guide among all the authorities that hold environmental information. This guide is an updated version of the Guide sent to ACCC in 2019 which was disseminated at national level in 2020.
- As you already know, the Guide aims to ensure that public institutions and authorities are properly informed of the rights and obligations established by the Aarhus Convention, focusing on providing guidance to civil servants involved in the process of addressing requests for environmental information, in accordance with the provisions of art. 4 of the Aarhus Convention. It provides relevant examples in order to help public authorities with a correct interpretation of the provisions of the Aarhus Convention, as well as to instruct officials on how to comply with such provisions, focusing mainly on the exceptions from providing the information requested from the public and the way public authorities shall interpret them. A distinction had been made between general information of public interest, environmental information, as well as how to deal with requests for classified or confidential information. The Guide contains jurisprudential examples at all levels, such as cases of national courts of justice, as well as jurisprudence of the Court of Justice of the European Union and The European Court of Human Rights, with the aim to analyze and to provide a relevant interpretation of the Aarhus Convention and of other provisions related to access to environmental information at European Union level or at national level. It aims to tackle not only the procedure of addressing environmental requests of the public by authorities, but also the right to access to justice of any member of the public who requested environmental information and who considers that his or her request has been wrongfully refused, whether in part or in full, ignored or inadequately answered by a public authority. In this regard, we identified provisions from national legislation, cases of the European Court of Justice, indicating the procedure to be followed, as well as the applicable legal framework and the court of justice which is competent in such cases.
- Until the present moment, the following steps were taken:
 - o The draft GD was subject to internal consultation within MEWF and with other environmental authorities (National Environmental Protection Agency, Danube Delta Biosphere Reserve Authority, National Environmental Guard, National Forest Guard, National Agency for Natural Protected Areas, National Meteorological Administration, National Forest Administration - Romsilva, Environment Fund Administration, National Administration “Romanian Waters”).
 - o After completing the internal consultations, the draft GD was published on MEFW webpage, on 13 September 2023, for public consultation (link: <http://www.mmediu.ro/articol/proiect-de-hotarare-privind-modificarea-si-completarea-hotararii-guvernului-nr-878-2005-privind-accesul-publicului-la-informatia-privind-mediul/6461>). Also, the draft GD was sent to all other national authorities that hold environmental information for consultation.

The process of adoption of draft GD will start after 13th October. According to national legislation, the adoption of a normative act can start 30 days after the initiation of public consultations.

Also, MEWF prepared a survey among public authorities in order to better understand the challenges faced by the authorities when a request from the members of the public to access environmental information is addressed to them, when determining whether the held information is environmental information and when dealing with confidential environmental information. The questionnaire is attached to this letter in Annex 1.

During October 2023, the questionnaire will be disseminated among public authorities. The review of the answers and drawing conclusions will be finalized by the end of January 2024.

We would like to express our willingness to closely collaborate with the Compliance Committee in order to reach compliance with the Aarhus Convention, and to continue our efforts to implement the Committee's recommendations in due time.

Minister

Mircea FECHET

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29.09.2023

Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities

Romania ratified the Aarhus Convention by Law no. 86/2000 for the ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, signed at Aarhus on 25 June 1998.

The Aarhus Convention offers a wide definition on “environmental information”:

”(a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programs, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;

(c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;”

Therefore, the “environmental information” is not limited to information held by environmental authorities, but also includes all additional information linked to the field of environmental protection.

At the Meeting of the Parties to the Aarhus Convention held in 2021, a decision was adopted concerning compliance by Romania with its obligations under the Aarhus Convention (Decision VII/80).

One of the actions for implementing the recommendations from Decision VII/80 is to conduct a survey among the public authorities. The purpose of this survey is to gain a better understanding on the challenges faced by the authorities when a request from the members of the public to access environmental information is addressed to them, when determining whether the held information is environmental information or when dealing with confidential environmental information.

In this context, the Ministry of Environment, Waters and Forests launches a consultation regarding the access to public information and public participation in decisions on specific activities.

Public authorities are invited to fill the following questionnaire by 15th November and send it to the following e-mail: evaluare.impact@mmediu.ro

I. Please provide name and contact data of the institution who filled in the questionnaire:

Authority:

Tel.:

E-mail:

Contact person:

II. QUESTIONS:

1. Taking into account the definition of the “*environmental information*” as presented above, do you consider that your institution holds environmental information? Please provide the list of environmental information held.
2. During last year, did you receive any request for environmental information formulated on the basis of the provisions of Aarhus Convention, Law no. 86/2000 or GD no. 878/2005 *on public access to environmental information*?
3. During last year, did you receive any request for information, according to Law no. 544/2001 *on free access to information of public interest*?
4. Among the requests for information received under Law no. 544/2001, are there any requests that envisage environmental information, considering the definition for environmental information from Aarhus Convention?
5. Did you respond in favor of the requests for environmental information (as mentioned at points 2 and 4)?
6. Were there any cases of refusal to provide environmental information? If so, what were the grounds for refusal?
7. In the situation that you are dealing with classified or confidential environmental information, what are the challenges you encounter when a request for such information is addressed to you?
8. Do you apply any charge for supplying environmental information (e.g., for providing copies of the documents)?
9. If yes, what is the amount of the charge? Please, indicate the legislative provision for the ground of applying the charge.
10. How do you ensure access for the public to information related to the type and scope of environmental information held, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained? Please, describe indicating relevant websites/links/other media platforms.
11. Do you update annually the list of public authorities under your subordination or coordination that hold environmental information and do you send the list to NEPA?
12. Do you update annually the list of environmental information held by your institution and do you send the list to NEPA?
13. Do you carry out any permitting procedures? If yes, please provide detailed information on the permitting process, indicating the legal basis.
14. Do you ensure public participation to the permitting procedures?
15. Are you aware of the *Guide to public authorities for public access to environmental information* prepared and disseminated by MEWF in 2020?
16. If yes, do you find it useful?

17. What other aspects would you consider useful to be clarified?

18. Do you appreciate there is a need for training regarding your duties under the Aarhus Convention?