

Further information on Romania’s first progress report on the implementation of the plan of action for Decision VII/8o

Recommendations from 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	
Recommendation: Para. 2 (a) (i) of decision VII/8o	<p>In paragraph 2 (a) (i) of decision VII/8o, the Meeting of the Parties requests that the Party concerned:</p> <ul style="list-style-type: none"> (a) Provide the Committee with evidence that it has, as a matter of urgency, taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that public officials: <ul style="list-style-type: none"> (i) Respond to requests of members of the public to access environmental information as soon as possible, and, at the latest, within one month after the request was submitted, and, in the case of a refusal, state the reasons for the refusal;
Measures taken	<p>According to the plan of action, in order to ensure that public officials respond to requests of members of the public to access environmental information as soon as possible, and, at the latest, within one month after the request was submitted, and, in the case of a refusal, state the reasons for the refusal, we decided to take new actions to further disseminate the “Guide to public authorities for public access to environmental information”.</p> <p>The guide includes a special section about <i>when shall the environment information be disclosed by a public authority</i>. It is stated that, as a rule, environmental information which had been requested by a member of the public shall be made available by the public authority <u>as soon as possible</u> and <u>at the latest within one month after the request has been submitted</u>. It is described <u>how should “as soon as possible” be interpreted</u>, and also it is described <u>when the term can be extended to two months</u>. Moreover, this section includes explanations about <u>the moment taken as a reference for the beginning of the one-month period</u>, as provided by Government Decision no. 878/2005 on public access to environmental information, article 4, para. (2), which is from the date of the registration of the request.</p> <p>Furthermore, the guide includes a section about <i>the reasons for a refusal of a request of environmental information</i>, and also, a section dedicated to <i>the way the public authority shall respond to the applicant in case of a refusal</i>.</p> <p>The method on which we agreed on for further disseminating the guide was to actually adopt the guide through governmental decision, the reason behind this initiative being to <u>further strengthen the applicability of the guide among all the authorities that hold environmental information</u>. The draft governmental decision was subject to internal and external consultation and was published on MEWF webpage for public consultations. Currently, the process of approval is at the stage of integrating the observations received during external consultations. <u>We attach to the current document the draft Governmental Decision</u>.</p>

	<p>Taking into consideration that the guide is an updated version of the Guide already disseminated at national level in 2020, <u>in the survey mentioned in our letter on Romania’s first progress report</u> on the implementation of the recommendations from Decision VII/8o (Annex 1 to the letter, <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i>) which was applied to local and national public authorities, <u>questions 15-16</u> are intended to understand the general knowledge and perception of the public authorities about this guide.</p> <p>Moreover, the survey includes <u>questions about the responses given by public authorities in favor of the requests for environmental information and the grounds for refusal</u>. (questions 5 and 6).</p> <p><u>The survey was disseminated among public authorities during October 2023 and more than 100 answers were received</u>. The review of the answers and drawing conclusions will be finalized by the end of January 2024.</p>
<p>Recommendation: Para. 2 (a) (ii) a. of decision VII/8o</p>	<p>In paragraph 2 (a) (ii) a. of decision VII/8o, the Meeting of the Parties requests that the Party concerned:</p> <p>(a) Provide the Committee with evidence that it has, as a matter of urgency, taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that public officials:</p> <p>(ii) Correctly implement the Convention with respect to:</p> <p>a. Article 2 (3) – the definition of “environmental information”;</p>
<p>Measures taken</p>	<p>According to the plan of action, in order to ensure that public officials correctly implement the Convention with respect to the definition of “environmental information”, we decided to take new actions to further disseminate the “Guide to public authorities for public access to environmental information”.</p> <p>The method on which we agreed on for further disseminating the guide was to actually adopt the guide through governmental decision, as mentioned above.</p> <p>The guide includes a special section about <i>what environmental information is</i>. This section aims to offer sufficient explanations about what interpretation should be given to environmental information and especially, the wide character of this definition. Concrete examples are given, like the findings from ACCC/C/2012/69 and clarifications from the jurisprudence of the Court of Justice of the European Union.</p> <p>Furthermore, the <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i> includes (in the introduction to the questionnaire) explanations about what environmental information means, emphasizing that “environmental information” is not limited to information held by environmental authorities, but also includes all additional information linked to the field of environmental protection.</p> <p>Also, <u>questions 1-4</u> refer to environmental information and whether the authorities receive requests for environmental information. One of the objectives of this questions was to raise the awareness among public authorities that the public may sometimes address requests for environmental information without stating that the requested information is in fact environmental information. More exactly, the public can address a request not only on the basis of the provisions of Aarhus Convention,</p>

	<p>respectively on the basis of Law no. 86/2000 for the ratification of the Aarhus Convention or on the basis of Governmental Decision no. 878/2005 <i>on public access to environmental information</i>, but also the request can be based on the grounds for guaranteeing free access to information of public interest (national Law no. 544/2001 <i>on free access to information of public interest</i>). The fact that an authority receives requests for information on the grounds of Law no. 544/2001 does not mean that the information in question cannot be classified as environmental information as well, and therefore we wanted to raise awareness among public authorities that they may be in the situation in which they provide environmental information to the public even more often than they consider.</p>
<p>Recommendation: Para. 2 (a) (ii) b. of decision VII/8o</p>	<p>In paragraph 2 (a) (ii) b. of decision VII/8o, the Meeting of the Parties requests that the Party concerned:</p> <ul style="list-style-type: none"> (a) Provide the Committee with evidence that it has, as a matter of urgency, taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that public officials: <ul style="list-style-type: none"> (ii) Correctly implement the Convention with respect to: <ul style="list-style-type: none"> b. Article 4 (6) – the requirement to separate confidential from nonconfidential information whenever possible and to make available the latter;
<p>Measures taken</p>	<p>According to the plan of action, in order to ensure that public officials correctly implement the Convention with respect to the requirement to separate confidential from nonconfidential information whenever possible and to make available the latter, we decided to take new actions to further disseminate the “Guide to public authorities for public access to environmental information”.</p> <p>The method on which we agreed on for further disseminating the guide was to actually adopt the guide through governmental decision, as mentioned above.</p> <p>The guide includes a special section about <i>the way the public authorities shall proceed in the situation of a request for confidential information</i>. Clarifications are offered about how the public authorities shall disclose that part of the environmental information which can be made available and which does not have a confidential nature, by marking out the confidential information which cannot be disclosed to the public. Limiting public access to confidential environmental information cannot be interpreted as denying access to environmental information. Also, concrete examples are given, like the case ACCC/C/2012/69 and the jurisprudence of the European Court of Justice.</p> <p>This section is preceded by a wide section describing <i>the reasons for a refusal of a request of environmental information</i>, which includes <u>explanations about confidentiality</u>.</p> <p>Furthermore, the <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i> includes a question dedicated to this subject. <u>Question 7</u> refers to the challenges encounter by public authorities when they receive a request for environmental information which is partly classified or confidential.</p>
<p>Recommendation: Para. 2 (a) (iii) of decision VII/8o</p>	<p>In paragraph 2 (a) (iii) of decision VII/8o, the Meeting of the Parties requests that the Party concerned:</p> <ul style="list-style-type: none"> (a) Provide the Committee with evidence that it has, as a matter of urgency, taken the necessary legislative, regulatory and

	<p>administrative measures and practical arrangements to ensure that public officials:</p> <p>(iii) Interpret the grounds for refusing access to environmental information in a restrictive way, taking into account the public interest served by disclosure, and, in stating the reasons for a refusal, specify how the public interest served by disclosure was taken into account;</p>
Measures taken	<p>According to the plan of action, in order to ensure that public officials <i>interpret the grounds for refusing access to environmental information in a restrictive way, taking into account the public interest served by disclosure, and, in stating the reasons for a refusal, specify how the public interest served by disclosure was taken into account</i>, the proposed measures were to amend the legislation.</p> <p>As we mentioned in the first report on the implementation of the plan of action, MEWF started the procedure for amending Government Decision no. 878/2005 on public access to environmental information.</p> <p><u>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.</u> 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”.</p> <p>The draft Governmental Decision was subject to internal and external consultation and was published on MEWF webpage for public consultations. Currently, the process of approval is at the stage of integrating the observations received during external consultations.</p> <p>The second objective of the amendment to the GD no. 878/2005 is to adopt the “Guide to public authorities for public access to environmental information”.</p> <p>The <u>guide includes a special section</u> about <i>how public authorities shall interpret the exceptions</i> for disclosing environmental information, by taking into account the satisfaction of the public interest. Concrete examples are provided in the guide, like interpretations given by the European Court of Human Rights and the European Court of Justice.</p> <p>Regarding the amendment of the Order no. 1182/2002 <i>on the approval of the Methodology for management and provision of environmental information, held by public authorities for environmental protection</i>, in order to assess the opportunity and the proper way for amending this order, firstly we will review the answers to the <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i> and after that, we will act accordingly. <u>Questions 10-12</u> from the survey will give us a better understanding on how public authorities communicate to the environmental authority what authorities hold environmental information and what environmental information they hold. Also, we will gain a better picture on how public authorities 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.</p>
Recommendation:	In paragraph 2 (b) of decision VII/80, the Meeting of the Parties requests that the Party concerned:

Para. 2 (b) of decision VII/80	(b) Provide the Committee with evidence that it has provided training to public authorities about the above duties;
Measures taken	<p>The <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i> includes a question (<u>Question 18</u>) regarding the need of the public authorities for training regarding their duties under the Aarhus Convention.</p> <p>The survey was disseminated among national and local authorities and more than 100 answers were received. The conclusions drawn after the review of the responses will represent grounds for setting the scope of possible trainings.</p> <p>Also, considering that the “Guide to public authorities for public access to environmental information” will be adopted by Governmental Decision, this action will increase its visibility and will further strengthen its applicability among all the authorities that hold environmental information. The guide itself represents a tool for the public authorities managing environmental information.</p> <p>Much more so, the process for the adoption of the Governmental Decision implies the consultation of a wide number of public authorities and the consultation of the public. As we mentioned in the first progress report, 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.</p>
Recommendation: Para. 2 (c) of decision VII/80	<p>In paragraph 2 (c) of decision VII/80, the Meeting of the Parties requests that the Party concerned:</p> <p>(c) Review its legal framework in order to identify cases where decisions to permit activities within the scope of article 6 of the Convention are conducted without effective participation of the public (art. 6 (3) and (7)), and to take the necessary legislative and regulatory measures to ensure that such situations are adequately remedied;</p>
Measures taken	<p>According to the plan of action, in order to identify cases where decisions to permit activities within the scope of article 6 of the Convention are conducted without effective participation of the public (art. 6 (3) and (7)), and to take the necessary legislative and regulatory measures to ensure that such situations are adequately remedied, we decided to open the dialogue between MEFW and other authorities by including in the <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i> targeted questions (<u>questions 13 and 14</u>) about the permitting procedures carried out by other authorities and the way they ensure public participation to the permitting procedures.</p> <p>After reviewing the answers to the survey, MEFW will continue the dialogue with other public authorities which conduct permitting procedures in order to decide upon further actions.</p>
Recommendation: Para. 2 (d) of decision VII/80	<p>In paragraph 2 (d) of decision VII/80, the Meeting of the Parties requests that the Party concerned:</p> <p>(d) Review its legal framework and undertake the necessary legislative, regulatory and administrative measures to ensure that</p>

	the court procedures for access to environmental information are timely and provide adequate and effective remedies;
Measures taken	<p>According to the plan of action for Decision VII/80, the identification of solutions to ensure that the court procedures for access to environmental information are timely and provide adequate and effective remedies will be accomplished through open dialogue between the representatives of justice authorities and environmental authorities.</p> <p>On the occasion of the <i>survey launched by the Task Force on Access to Justice of the Aarhus Convention in July 2022</i>, MEWF draw on <i>the valuable support offered by the authorities responsible for justice</i> and shared with these authorities the questionnaire on the <i>Measures to enable effective access to justice in environmental matters</i>. <i>The Ministry of Justice, the Romanian Superior Council of Magistracy and the National Institute of Magistracy</i> offered their input on the questionnaire. <i>Also, a significant number of courts from Romania</i> completed the questionnaire, offering substantive information regarding jurisprudence in environmental cases. <u>We attach to the current document the answer sent by Romania to this survey.</u> This survey represented a good opportunity for MEWF to obtain an insight on the perspective of the justice authorities, which will allow us to continue the dialogue for identifying further solutions.</p>
Recommendation: Para. 2 (e) of decision VII/80	<p>In paragraph 2 (e) of decision VII/80, the Meeting of the Parties requests that the Party concerned:</p> <p>(e) Provide adequate practical arrangements or measures to ensure that the activities listed in subparagraphs (a)–(d) above are carried out with broad participation of the public authorities and the public concerned;</p>
Measures taken	<p>As mentioned above, the process of amending the Governmental Decision no. 878/2005 <i>on public access to environmental information</i> implies ensuring the consultation of a wide number of public authorities and the consultation of the public. The draft GD was published on MEWF 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, after internal review, the draft GD was sent to all other national authorities that hold environmental information for consultation.</p> <p>After its adoption, the Governmental Decision will be published in the Official Gazette of Romania, which will offer further visibility to the decision, and also to the guide.</p> <p>Also, regarding the <i>Survey for the public authorities regarding public access to environmental information and public participation in decisions on specific activities</i>, MEWF disseminated the questionnaire to all the authorities under its subordination/ authority/ coordination. Furthermore, MEWF shared the questionnaire with a wide number of ministries, asking them to further disseminate it among the authorities under their subordination/ authority/ coordination / financed by them. This approach was meant to ensure a broad participation to the survey.</p>