

TO: United Nations Economic Commission for Europe  
Environment Division  
Aarhus Convention secretariat

FROM:  
Catalina Radulescu,  
Attorney at Law

**Concerning: Decision VII/8o (Romania), the progress report of the Romanian Government**

Take into consideration the following:

1. Concerning access to information, please find attached the result of access to information litigation concerning a study on the selection of a site for a future nuclear SMR power plant (Decision of the Ploiesti Court of Appeal). The authorities refused to provide any information concerning the reasons why Doicesti was selected as the location of the future power plant. The selection of the location was not subject to SEA assessment, it is a decision taken also without public participation procedure. The government claims that the public participation procedure will take place later, but since there is a study concluding that Doicesti is the best location possible, we feel that all later public participation will be only figurative.
2. The payments and royalties paid according to the administrative contracts for the management of the landfills are not publicly available and the requests for information were denied. Also, the annexes of the administrative contract relating to the payments are not public. Please find attached an answer concerning a contract signed for the landfill illegally functioning in Dambovitza County.
3. Please find attached the argument in the court sustained by Arad and Environmental Protection Agencies according to which they are not obliged to: identify the public during the public participation procedure, nor to publish the final environmental permit after the SEA procedure is finalized. The Arad EPA claims that only the decision to issue the permit is to be published. This is a practice widespread at several EPAs in the country. This issue is harming the public participation procedure rights and also the access to justice since the administrative act that is challenged in court is the SEA Permit.
4. Caras Severin Environmental Protection Agency claims that the NGOs have standing in court only for access to information litigation. They are basing their arguments on Aarhus Convention (!) to prove that NGOs do not have standing in court for annulment cases of harmful environmental permits (page 6 of the attached documents).
5. The building permits, as final development consent, are NOT submitted to public participation, and they are not publicly accessible. Most of the issuing

authorities are rejecting the requests for building permits claiming they are the intellectual property of the beneficiary (see the attached answer from Sinaia Mayor). The provisions of art 7 of the law are confused and allow such legal interpretation. The law stipulates that the building permits are submitted to public consultation only for the projects that are subject to EIA assessment. However, projects are harming the environments that are damaging the environment but are not subject to EIA assessment (art 43<sup>1</sup> paragraph 2 of the law 50/1991<sup>1</sup>). The Aarhus Convention should be applied regardless of whether the EIA assessment procedure is needed or not. For the projects that are subject to EIA procedure, there is no public consultation, the authorities claim that the public consultation took place during the EIA assessment. However, the conclusions of the EIA permit are different from the conclusions of the building permit. The building permit must respect the EIA permit conclusions, but the public should be able to be consulted in this respect: whether the building permit took into consideration properly the EIA permit conclusions. Therefore, we consider that the public consultation procedure for building permits is illegal and not happening at all.

6. The integrated environmental permits (allowing the functioning of an installation subject to IED Directive 2010/75/EU) are revised each year, but no public consultation procedure is provided by law (the revision procedure is regulated by art 16 paragraph 2 of the Emergency Governmental Ordinance no 195/2005<sup>2</sup> and Order 1150/2020<sup>3</sup> of the Minister of Environment Waters and Forests). We feel that the revision process should be subject to public participation since the illegal functioning of such installations is harmful and very dangerous for human health and for other environmental factors.
7. Informing the public during the public consultation procedures is not always posted online, especially for the SEA permits and for the building permits because the law does not stipulate a clear obligation (The GD 1076/2004<sup>4</sup> and Law 50/1991). Therefore, for the SEA procedures the public consultation is announced in local newspapers that are only printed and nobody reads and for the building permits, there are lists published online AFTER the building permit was issued, with only the number and the beneficiary, not entirely.
8. Concerning the deadlines for public consultation procedure, even if there is an article in Law 52/2003<sup>5</sup> stipulating a 30-day deadline for public consultation, in practice only 10 days are allowed for normative acts, the deadline is also provided by the same article 7 of Law 52/2003. Such incoherence is favouring the violation of public participation rights.

We feel that the guide the plan of the government relies on does not sufficiently address these issues. The legislation should be massively revised so that the Aarhus Convention shall be properly implemented, with access to information and public

<sup>1</sup> <https://legislatie.just.ro/Public/DetaliuDocument/55794>

<sup>2</sup> <https://legislatie.just.ro/Public/DetaliuDocument/253015>

<sup>3</sup> <https://legislatie.just.ro/Public/DetaliuDocument/226702>

<sup>4</sup> <https://legislatie.just.ro/Public/DetaliuDocumentAfis/54164>

<sup>5</sup> <https://legislatie.just.ro/Public/DetaliuDocumentAfis/153210>

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participation for all environmental decisions and not only for the ones submitted to EIA/SEA assessments, and BEFORE the decision was taken.

The Governmental decision modifying GD 878/205 was not passed and the modifications are not sufficient to solve the Aarhus implementation issues in Romania.

In conclusion, the progress report is only a try of the Romanian Government to cover the fact that all the issues implied in this case were not solved and they are certainly not going to be solved using the guide proposed by the Government since the legislation is contradictory and lacunary.

Best regards,



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