



Michel Forst
UN Special Rapporteur on environmental defenders under the Aarhus Convention

Ref: ACSR/C/2023/13 (Romania)
(Please use this reference in your reply)

16 February 2024

Excellency,

I have the honour to address you in my capacity as UN Special Rapporteur on environmental defenders under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, article 3 (8) of the Aarhus Convention requires that “Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.”

At its seventh session (Geneva, 18–21 October 2021), the Meeting of the Parties to the Aarhus Convention adopted decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention.¹ Decision VII/9 establishes the rapid response mechanism in the form of an independent Special Rapporteur on environmental defenders under the authority of the Meeting of the Parties. At its third extraordinary session (Geneva, 23–24 June 2022), I was elected, by consensus, by the Meeting of the Parties as the Convention’s Special Rapporteur on environmental defenders.

In accordance with the mandate in decision VII/9, I write to bring to the attention of your Excellency’s Government information I have received concerning the alleged persecution, penalization and harassment of Bankwatch Romania and its staff members in connection with the exercise of their rights under the Aarhus Convention.

Bankwatch Romania is a non-governmental organization (NGO) founded in 2012, which seeks to prevent negative environmental and social impacts of publicly funded infrastructure projects in Romania, particularly in the energy sector. Bankwatch Romania also engages in strategic litigation and in activities to promote environmental justice in Romania. Based on the information received, Bankwatch Romania is an environmental defender within the meaning of the ninth preambular paragraph of decision VII/9.²

According to the information received, over the past two years Bankwatch Romania and its staff members have been subject to serious threats, intimidation and harassment campaigns as a result of their efforts to stop or challenge the legality of certain energy infrastructure projects in Romania. These alleged acts of persecution, penalization and harassment against Bankwatch Romania and its staff

¹ Available at: https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf

² Ibid.

members in connection with their exercise of their rights under the Aarhus Convention include, but are in no means limited to, the following:

1. Bankwatch Romania summoned to appear before Parliamentary Committee of Inquiry, November 2021

1. In December 2017, Bankwatch Romania succeeded in its legal challenge of a hydropower project in the Jiu Gorge National Park due to serious breaches of the Romanian legal framework on environmental impact assessment (EIA). In subsequent years, Bankwatch Romania brought similar successful challenges in relation to other major energy infrastructure projects in Romania.
2. On 9 September 2021, Romania set up a Parliamentary Committee of Inquiry to establish the causes of rising electricity and natural gas prices in Romania.
3. In early November 2021, representatives of Hidroelectrica (the state-owned company promoting the Bumbesti-Livezeni hydropower project), the National Environmental Protection Agency and the National Agency for Protected Areas appeared in front of the Parliamentary Committee of Inquiry. They stated that they were seeking ways to legalise the Bumbesti-Livezeni project, which at the time was more than half built, and that environmental organizations were making this harder for them.
4. Thereafter, on 26 November 2021, Bankwatch Romania and two other environmental NGOs were summoned to appear at a hearing in front of the Parliamentary Committee of Inquiry on 2 December 2021.
5. The Parliamentary Committee requested Bankwatch to answer the following questions:
 - a. What are the main gas and electricity projects causing irreversible environmental harm that you want stopped?
 - b. What are the main investments in the energy sector that your organization stopped?
 - c. What are your solutions so that energy projects of national interest can be eventually implemented in accordance with EU and national law?
6. The summons sent by the Parliamentary Committee of Inquiry to Bankwatch Romania on 26 November 2021 stated that if Bankwatch failed to attend the hearing or to otherwise cooperate during the inquiry, it could result in a criminal prosecution for “obstructing or hindering the discovery of the truth”.

2. Protest against Bankwatch Romania staff by Oltenia Energy Complex mine workers, 7 July 2022

7. In June 2022, Bankwatch Romania challenged the EIA permit of the Rosia lignite mine in Gorj county for having been issued in breach of Romanian law. The challenge resulted in a court order to temporarily suspend works at the Rosia mine, which employed about 1200 workers.
8. In early July 2022, Bankwatch Romania’s lawyer went to the site of the mine and noticed the mine had not implemented the court order for it to suspend operations and was in fact still operating. Bankwatch Romania’s lawyer therefore alerted the police to halt the works, and, together with the former director of the National Environmental Guard, appeared live on Facebook to highlight that the mine was still in operation despite the court order.

9. On 7 July 2022, Bankwatch Romania invited representatives of Gorj County Council, the national media and the management of Oltenia Energy Complex (CEO), the state-controlled company which operates the Rosia mine and is Romania's largest lignite-based energy producer, to meet together with four members of Bankwatch Romania's staff in the city of Targu Jiu in Gorj county to discuss the just transition to a neutral emission economy and to present Bankwatch Romania's report on mine closure and land reclamation. Despite having confirmed it would participate, no representatives of CEO management attended the meeting. Instead, around 80–100 CEO mine and energy workers gathered in front of the meeting venue to protest against Bankwatch Romania for challenging the EIA permit of the Rosia lignite mine and other mine closures resulting from Bankwatch Romania's environmental efforts. The protesters shouted, and had banners claiming, that Bankwatch Romania is "paid by foreigners to close our careers" and were "traitors [who] sold out our country". When two of Bankwatch Romania's staff came out from the meeting to speak with the gathered protesters, the protestors called them "thieves" and asked "who really pays you?".
10. The Gorj police were present at the protest but did not intervene in any way, even though the two Bankwatch staff were hugely outnumbered by the angry crowd of protesters.
11. The protest was organized by one of the CEO workers' unions. The union is associated with a Romanian political party.
12. When CEO was asked by the media about the protest, CEO's representative said that the workers "were protesting in their spare time". When asked if management would take any action following the protest, CEO's representative said that it was "not aware" of the protesters' grievances.³
13. As a result of concerns for the personal safety of its staff, Bankwatch Romania ceased field visits to Gorj county for the rest of 2022. These were only resumed in 2023 after the staff undertook detailed security training.

3. Harassment of Bankwatch Romania, and its staff members, in the media and social media

14. Bankwatch Romania's court challenge against the Rosia mine, and its environmental efforts against other mines, have resulted in a smear campaign against Bankwatch Romania, and its individual staff members, in local and national media and on social media also. Based on the information received, this has included the following:
 - (i) *Romania TV, July 2022*
15. The protest on 7 July 2022 against Bankwatch Romania by the CEO workers was widely reported upon on the national television channel, Romania TV.⁴

³ See "[Why are you hurting us?" Oltenia Energy Complex Trade Union protests in Targu Jiu against energy transition \(pressone.ro\)](https://www.pressone.ro)

⁴ See, for example, <https://platforma4.mediatrust.ro/browser/tv/V4GB2Y/z/t> and <https://platforma4.mediatrust.ro/browser/tv/XYNO1P/z/t>.

16. During the news items, it was claimed that Bankwatch Romania is a foreign-funded organization that, through its actions, is causing serious harm to the Romanian energy system.⁵
17. During a twenty-two minutes-long current affairs feature on the protest against Bankwatch Romania, Romania TV included close-up footage of the two Bankwatch staff members trying to talk to the protesters, and broadcast the full names, positions and biographical background of the two staff members. Romania TV also displayed on screen a series of personal photos taken from the personal social media account of one of the staff members, a young woman, without her consent.⁶
18. On 11 July 2022, Bankwatch Romania submitted a complaint to the National Audiovisual Council of Romania for Romania TV's reporting of the protest, including the inaccurate and one-sided reporting and the broadcasting of personal photos of the private life of the Bankwatch Romania's female staff member.
19. On 28 July 2022, the National Audiovisual Council informed Bankwatch Romania that while there had been a proposal to sanction Romania TV, the proposal had not received the necessary quorum and therefore no action would be taken.
 - (ii) *Minister of Energy describing Bankwatch Romania's actions as "criminal", 14 October 2022*
20. On 14 October 2022, Romania's then-Minister of Energy, Mr. Virgil Popescu, visited the Roşia quarry. In comments later that day to Capital, a national newspaper, Mr. Popescu stated that: "This morning...I went to see the Roşia quarry, which is essential for the optimal functioning of the Oltenia Energy Complex, which, unfortunately, the so-called Gorje ecologists recently tried to close." Referring to Bankwatch Romania's court challenge against the Roşia quarry's EIA permit, he stated that it was "an irresponsible, 'criminal' action in the context of the current energy crisis".⁷
 - (iii) *Harassment of Bankwatch Romania and its staff members on social media, 28 February 2023*
21. On 28 February 2023, Mr. Laurentiu Primo, a well-known former television personality, hosted a live Facebook video,⁸ which dedicated about ten minutes (see minutes 09:00-22:00 of the video) to Bankwatch Romania's court case which resulted in the annulment of the construction permit of the Bumbesti-Livezeni hydropower project.
22. In the video, Mr. Primo showed pictures of all staff members of Bankwatch Romania, made sexist and defamatory remarks about the staff members, and invited his followers to look the staff members and their families up online and to contact them directly (see minutes 15:30-20:00 of the video). He also asserted that the staff members of Bankwatch Romania should be sent to prison for "treason of the country".

⁵ See [Platforma - pręglądarka \(mediustrust.ro\)](https://www.mediustrust.ro/).

⁶ See [Platforma - pręglądarka \(mediustrust.ro\)](https://www.mediustrust.ro/), at minutes 1, 11 and 13-16.

⁷ See [Virgil Popescu critică închiderea carierei Roşia: E o acţiune „criminală” în contextul crize energetice – Capital](https://www.capital.ro/), dated 14 October 2022.

⁸ See [Război, tărböi şi un gherţoi | By Meritocrazia Romania | Facebook](https://www.facebook.com/MeritocraziaRomania/).

23. To date, over 30,000 people have watched the video. Following the posting of the video, Bankwatch Romania staff and their family members received extensive hate mail.
24. According to the information received, Mr. Primo had previously hosted a national TV show, but was banned from TV in 2014 due to antisemitic and xenophobic comments. Mr. Primo then moved his show to YouTube and Facebook, which is subject to less regulatory scrutiny in Romania.

Without prejudging the accuracy of the above information, I express my grave concern about the above sequence of events which appears to amount to an ongoing, serious campaign of harassment and intimidation specifically targeting Bankwatch Romania and its staff members because of their exercise of their rights under the Aarhus Convention.

On this point, it is important that I draw to your attention that the Aarhus Convention Compliance Committee has made clear that article 3 (8) of the Convention “is not limited in its application to acts of public authorities as defined in article 2, paragraph 2, of the Convention, but rather covers penalization, persecution or harassment by any State body or institution, including those acting in a judicial or legislative capacity”.⁹ Therefore, both conduct by the Parliamentary Committee of Inquiry and public statements by the then-Minister of Energy as well as a failure to act by Romania’s regulatory bodies, including media regulatory bodies like the National Audiovisual Council, can trigger Romania’s obligations under article 3 (8).

I also express my serious concern about the roles played by the Romanian media, including the use of social media, in enabling and exacerbating the alleged persecution, penalization and harassment of Bankwatch Romania.

In this regard, the Aarhus Convention Compliance Committee has made clear that article 3 (8) “covers penalization, persecution or harassment by private natural or legal persons that the Party concerned did not take the necessary measures to prevent.”¹⁰ This means that Romania is bound by article 3 (8) of the Aarhus Convention to also ensure that environmental defenders like Bankwatch Romania and its staff are not penalized, persecuted or harassed by private entities like TV channels and prominent figures like Mr. Primo on Facebook Live for exercising their rights under the Convention.

Finally, I express my concern at the apparent failure by Oltenia Energy Complex to take any steps following the threatening conduct of its mining and energy workers at the protest against Bankwatch Romania organized by the CEO workers’ union in Targu Jiu on 7 July 2022.

As it is my responsibility, under the mandate entrusted to me by the Meeting of the Parties to the Aarhus Convention, to seek to clarify all complaints brought to my attention, I would be grateful for your response to the following matters:

1. Please provide any information and/or comments you may have on the allegations set out in the present letter.
2. Please provide information on any legislation, regulation or other mechanisms Romania has in place to prevent or promptly address harassment or other forms of intimidation against environmental defenders by or in the media (including print media, television, radio and social media).

⁹ See the Compliance Committee’s findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 70, <https://unece.org/fileadmin/DAM/env/pp/compliance/CC-58/ece.mp.pp.c.1.2017.19.e.pdf>.

¹⁰ Ibid.

3. In this regard, please provide information on what actions, if any, have been taken:
 - a. With respect to the invasive and inflammatory coverage by Romania TV of the protest against Bankwatch Romania on 7 July 2022. In particular, what measures or sanctions has Romania taken with respect to the alleged harassment and invasion of privacy by Romania TV of individual staff members of Bankwatch Romania, including broadcasting personal photos of a young female Bankwatch staff member on national television without her consent?
 - b. With respect to Mr. Primo's Facebook Live. In particular, what actions, if any, has Romania taken to (i) prosecute or otherwise sanction Mr. Primo for his alleged hate speech and incitements to harass Bankwatch Romania staff on Facebook Live, and (ii) prevent Mr. Primo from harassing Bankwatch Romania and its staff again in the future?
 - c. With respect to public statements by politicians and other Members of Parliament. In particular, what codes of conduct or other measures, including sanctions, does Romania have in place to ensure that Government Ministers and Members of Parliament do not claim publicly that the actions of environmental defenders like Bankwatch Romania are "criminal"?
4. Please provide information as to what actions, if any, have been taken regarding the apparent failure by Oltenia Energy Complex to itself take any action following the threatening conduct of its mining and energy workers against Bankwatch Romania at the protest on 7 July 2022.
5. Please provide information as to the actions taken, if any, as a result of the present letter.

I would appreciate receiving your response within 60 days, that is by **16 April 2024**. After this date, the present letter and the response received from your Excellency's Government may be made public on the Aarhus Convention's website.¹¹ They will also subsequently be reported upon in my report to the eighth session of the Meeting of the Parties in 2025.

In this regard, the Government should take great care, when looking into the allegations in the present letter, that nothing is done that could put Bankwatch Romania or its staff at risk of further persecution, penalization or harassment.

In the event that your investigations support or suggest the allegations to be correct, I urge you to take appropriate measures to address the alleged persecution, penalization and harassment and to ensure the accountability of any person(s) responsible therefor.

Please accept, Excellency, the assurances of my highest consideration.



Michel Forst

UN Special Rapporteur on environmental defenders under the Aarhus Convention

¹¹ <https://unece.org/env/pp/aarhus-convention/special-rapporteur>.

To: Her Excellency, Ms. Luminița Odobescu, Minister of Foreign Affairs of Romania

Cc: Ms. Dorina Mocanu, national focal point for the Aarhus Convention, Ministry of Environment, Water and Forests, Romania