

Compliance Committee to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters (Aarhus Convention)

**First progress review of the implementation of decision VII/80
on compliance by Romania with its
obligations under the Convention**

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I. Introduction

1. At its seventh session (Geneva, Switzerland, 18–21 October 2021), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/80 on compliance by Romania with its obligations under the Convention (see ECE/MP.PP/2021/2/Add.1).

II. Summary of follow-up

2. At its seventy-third meeting (Geneva, 13–16 December 2021), the Committee held an open session to provide guidance on preparing the plan of action that each Party subject to a decision or request of the Meeting of the Parties was requested to submit by 1 July 2022. Though invited, the Party concerned did not attend the open session.

3. On 8 February 2022, on the Committee's instructions, the secretariat sent an information note and a template to the Party concerned to assist it to prepare its plan of action.

4. At its seventy-fourth meeting (Geneva, 15–16 March 2022), the Committee held a further open session on the preparation of Parties' plans of action. The purpose of the session was to answer any specific questions from Parties regarding the format or content of their plan of action. A representative of the Party concerned and the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69 took part in the open session.

5. On 20 July 2022, the Party concerned submitted its plan of action.

6. On the same date, the secretariat forwarded the Party concerned's plan of action to the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, inviting their comments by 17 August 2022. No comments were received.

7. On 3 December 2022, the secretariat wrote to the Party concerned to inform it that, having reviewed its plan of action, the Committee had concluded that Romania's plan of action appeared to be only partially appropriate. The Committee invited the Party concerned to attend an open session at its seventy-seventh meeting (Geneva, 13–16 December 2022) to discuss its plan of action.

8. On 9 December 2022, the secretariat wrote to the Party concerned, providing it with a summary of the Committee's concerns on its plan of action.

9. At its seventy-seventh meeting, the Committee held an open session to discuss the Party concerned's plan of action with the participation of the Party concerned. Though invited, the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69 did not take part in the session.

10. On 29 September 2023, the Party concerned submitted its first progress report on decision VII/80, on time.

11. On 2 October 2023, the secretariat forwarded the Party concerned's first progress report to the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, inviting their comments by 30 October 2023. No comments were received.

12. On 11 December 2023, the Party concerned submitted additional information regarding its implementation of decision VII/80.

13. On the same date, the secretariat forwarded the Party concerned's first progress report to the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, inviting their comments by 15 January 2024.

14. On 15 January 2024, the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69 submitted comments.

15. The Committee prepared its first progress review, taking into account the information received, and adopted it through its electronic decision-making procedure on 6 August 2024.

The Committee thereafter requested the secretariat to forward the first progress review to Romania and the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69.

III. Considerations and evaluation by the Committee

16. In order to fulfil the requirements of paragraph 2 of decision VII/80, Romania will need to:

- (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:
 - (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;
 - (ii) Correctly implement the Convention with respect to:
 - a. Article 2 (3) – the definition of “environmental information”;
 - b. Article 4 (6) – the requirement to separate confidential from non-confidential information whenever possible and to make available the latter;
 - (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;
- (b) Provide the Committee with evidence that it has provided training to public authorities about the above duties;
- (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;
- (d) Review its legal framework and undertake the necessary legislative, regulatory and administrative measures to ensure that the court procedures for access to environmental information are timely and provide adequate and effective remedies;
- (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.

General observations

17. The Committee welcomes the Party concerned’s first progress report, which was submitted on time, as well as the additional information it provided on 11 December 2023.

18. The Committee appreciates the overall level of engagement that the Party concerned has demonstrated so far in the Committee’s follow-up on decision VII/80, including its submission, in English language, of the text of the measures it has prepared to implement the requirements of the decision thus far.

19. In contrast to the narrative style of the first progress report, the Committee commends the well-structured Table provided by the Party concerned in its additional information dated 11 December 2023. This format has enabled the Committee to more clearly understand the various measures taken by the Party concerned to implement each of the recommendations

in decision VII/80. The Committee accordingly invites the Party concerned to use a similar structure when preparing its final progress report on decision VII/80 due on 1 October 2024.

Paragraph 2 (a) (i) of decision VII/80 – time frames for responding to requests for access to environmental information and reasons stated for any refusals

20. In order to fulfil the requirements of paragraph 2 (a) (i) of decision VII/80, Romania will need to:

- (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:
 - (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.

Time frames for responding to requests for access to environmental information

21. With respect to the time frame in which public officials respond to requests from the public for access to environmental information, the Party concerned in its first progress report states that the Ministry of Environment, Waters and Forests (MEWF) has commenced a procedure to amend Government Decision no. 878/2005 on public access to environmental information. Following public participation, the amendment was expected to be adopted in mid-October 2023.¹

22. The Party concerned reports that the amendment provides for the adoption of the “Guide to public authorities for public access to environmental information” (the Guide). The Party concerned explains that the Guide is an updated version of the one provided to the Committee in 2019 and provides guidance to civil servants on handling environmental information requests in accordance with the provisions of article 4 of the Convention. The Party concerned explains that the adoption of the Guide through the Government Decision is aimed to strengthen its applicability to all authorities holding environmental information.²

23. The Party concerned reports that the Guide includes a specific section regarding the time frame within which environmental information requested by a member of the public is to be made available by a public authority following receipt of the request, namely:

As **a rule**, environmental information requested by a member of the public will be made available by the public authority as soon as possible and no later than one month after the request was submitted.

“**As soon as possible**” – practice regarding this term may differ according to the way in which each public authority is organised, but in general terms this should be understood as representing a term of several days from the date submitting the request to the public authority in question.

By **exception**, if the volume and the complexity of the information justify an extension of this period, the environmental information can be made available at the latest within two months after the request.³

24. The Party concerned states that, according to the Guide, the moment from which the above time frames are to be counted is “the date of the registration of the request” by the public authority.⁴

¹ Party’s first progress report, 29 September 2023, p. 2; Party concerned’s additional information, 11 December 2023, pp. 1-2.

² Ibid.

³ Party concerned’s additional information, 11 December 2023, annex 1, p. 7 (emphasis in original).

⁴ Party concerned’s additional information, 11 December 2023, p. 1.

25. The Committee welcomes the fact that the Guide contains a specific section on the time frame within which environmental information requested by a member of the public is to be made available and that the section makes clear that, as a rule, the requested information is to be made available as soon as possible and no later than one month after the request was submitted.

26. The Committee recalls that, in both its advice to the Party concerned dated 12 July 2018⁵ and its report to the Meeting of the Parties on decision VI/8h,⁶ it had made clear that any orders, instructions or guidance taken by the Party concerned to implement paragraph 2 (a) of decision VI/8h (now paragraph 2 (a) (i) of decision VII/8o) should have effect throughout the entire public administration. The Committee notes that the proposed amendment to Government Decision no. 878/2005 provides for the addition of a new provision, which states: “The guide to public authorities for public access to environmental information is set out in the annex which is an integral part of this decision”.⁷ The Committee welcomes that, following the amendment’s adoption, the Guide will form part of Government Decision no. 878/2005. The Committee understands that the Guide should therefore have effect throughout the entire public administration.

27. In the light of the foregoing and subject to receiving any information to the contrary in the meantime, so long as the text of the Guide is adopted in the above form and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned’s final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (i) of decision VII/8o to take the necessary measures “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”.

Reasons provided for any refusals of information requests

28. The Party concerned reports that the Guide includes a section on the way in which public authorities should respond in the case of refusing a request for access to environmental information.⁸ Regarding refusals of requests for environmental information, the Guide states:

Refusal of a request will be made in writing, if the request was made in writing or if the requester so requests. In either case, a refusal will include the reasons for it and provide information on the appeal procedure regulated by the convention.⁹

29. The Party concerned also reports that, in October 2023, the MEWF disseminated a survey on public access to environmental information and public participation in decisions on specific activities (the survey) among public authorities in order to, among other things, better understand the challenges faced by authorities when they receive a request for environmental information. The Party concerned states that questions 5 and 6 of the survey ask public authorities whether they have responded favourably to any requests for environmental information received during the past year and, if not, what the grounds for refusal were. The Party concerned submits that the MEWF received more than 100 responses to its survey, which it planned to review, with the conclusions finalized, by the end of January 2024.¹⁰

30. With respect to questions 5 and 6 of the survey, the Committee considers that the collection of this data will not directly address the requirement in paragraph 2 (a) (i) of decision VII/8o to ensure that public officials state the reasons for any refusals of an information request. The analysis of this data may however assist in the design and delivery of the training for public authorities to be carried out under paragraph 2 (b) of decision VII/8o. In this regard, the Committee considers that, it would be helpful for the Party concerned to monitor the way in which the Guide is being applied in practice in the future on a regular,

⁵ Committee’s advice to the Party concerned on decision VI/8h, 12 July 2018, p. 2.

⁶ Committee’s report to the Meeting of the Parties on decision VI/8h, ECE/MP.PP/2021/55, para. 42.

⁷ Party concerned’s additional information, 11 December 2023, annex 1, p. 1.

⁸ Party concerned’s additional information, 11 December 2023, p. 1.

⁹ Party concerned’s additional information, 11 December 2023, annex 1, p. 17.

¹⁰ Party concerned’s additional information, 11 December 2023, p. 2.

recurring basis. Upon evaluating the outcomes of each review, the Party concerned should then have a regular system of training in place to train public officials, as needed, on the correct implementation of the Guide.

31. With respect to the Guide itself, the Committee notes that the text in essence replicates article 15 (3) of Government Decision no. 878/2005, which stipulates, in relevant part, that: “The rejection of the request for environmental information shall contain the reasons for the refusal.” While article 15 (3) already contained this text at the time of the information requests examined in the findings on communications ACCC/C/2010/51 and ACCC/C/2012/69, the Committee considers that, so long as the Guide is disseminated to all public officials handling requests for access to environmental information and highlighted in the training to be carried out under paragraph 2 (b) of decision VII/80, the explicit inclusion of this text in the Guide should be sufficient for the purposes of paragraph 2 (a) (i) of decision VII/80.

32. Accordingly, subject to receiving any information to the contrary in the meantime, so long as the text of the Guide is adopted in the above form and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned’s final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (i) of decision VII/80 to take the necessary measures “to ensure that public officials... in the case of a refusal, state the reasons for the refusal”.

Paragraph 2 (a) (ii) a. of decision VII/80 – definition of “environmental information”

33. In order to fulfil the requirements of paragraph 2 (a) (ii) a. of decision VII/80, Romania will need to:

- (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:
 - (ii) Correctly implement the Convention with respect to:
 - a. Article 2 (3) – the definition of “environmental information”.

34. Regarding paragraph 2 (a) (ii) a. of decision VII/80, the Party concerns reports that the Guide includes a special section explaining what “environmental information” is and how its definition should be interpreted, with references to the Committee’s findings in communication ACCC/C/2012/69 (Romania) and relevant jurisprudence of the Court of Justice of the European Union.¹¹

35. The Party concerned further reports that the introductory section of the survey disseminated to public authorities by the MEWF makes clear that “environmental information” is not limited to that held by environmental authorities, but includes all information linked to environmental protection. It submits that questions 1–4 of the survey are relevant for the implementation of paragraph 2 (a) (ii) a. of decision VII/80.¹²

36. The Committee welcomes the fact that the Guide expressly highlights the definition of “environmental information” and that the definition set out in the Guide is in line with article 2 (3) of the Convention. The Committee also welcomes that several of the questions in the survey draw the attention of public officials completing the survey to that definition.

37. Subject to receiving any information to the contrary in the meantime, so long as the text of the Guide is adopted in the form described above and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned’s final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (ii) a. of decision VII/80 to take the necessary measures “to ensure that public

¹¹ Party concerned’s additional information, 11 December 2023, p. 2.

¹² Ibid.

officials...correctly implement the Convention with respect to...article 2 (3) – the definition of ‘environmental information’”.

Paragraph 2 (a) (ii) b. of decision VII/80 – requirement to separate confidential from non-confidential information

38. In order to fulfil the requirements of paragraph 2 (a) (ii) b. of decision VII/80, Romania will need to:

- (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:
 - (ii) Correctly implement the Convention with respect to:
 - b. Article 4 (6) – the requirement to separate confidential from nonconfidential information whenever possible and to make available the latter.

39. With respect to paragraph 2 (a) (ii) b. of decision VII/80, the Party concerned reports that the Guide contains a special section instructing public authorities on how to proceed in the situation of a request for confidential information. This includes separating the confidential information from the non-confidential information and then disclosing the latter. The Guide provides specific examples to assist public authorities, drawing from the Committee’s findings in communication ACCC/C/2012/69 (Romania) and relevant jurisprudence of the Court of Justice of the European Union.¹³

40. The Party concerned further reports that question 7 of the survey deals with challenges encountered by public authorities when they receive a request for environmental information which is partly classified or confidential.¹⁴

41. The Committee welcomes the above steps by the Party concerned. Subject to receiving any information to the contrary in the meantime, so long as the text of the Guide is adopted in the above form and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned’s final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (ii) b. of decision VII/80 to take the necessary measures “to ensure that public officials...correctly implement the Convention with respect to...article 4 (6) – the requirement to separate confidential from nonconfidential information whenever possible and to make available the latter”.

Paragraph 2 (a) (iii) of decision VII/80 – restrictive interpretation of grounds for refusal, specifying how public interest in disclosure was taken into account

42. In order to fulfil the requirements of paragraph 2 (a) (iii) of decision VII/80, Romania will need to:

- (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:
 - (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.

¹³ Party concerned’s additional information, 11 December 2023, p. 3.

¹⁴ Ibid.

Interpret the grounds for refusing access to environmental information in a restrictive way, taking into account the public interest served by disclosure

43. The Committee welcomes the clear instruction on page 15 of the Guide that public authorities ensure that the grounds for refusal covered by the Convention are interpreted restrictively, taking into account the public interest in disclosure and the possibility that the information is related to emissions into the environment, namely:

The grounds for refusal covered by the Aarhus Convention shall be interpreted **restrictively**, taking into account the satisfaction of the public interest in the disclosure of the information, on one hand, and the possibility that the requested information is related to emissions into the environment, on the other hand. The fact that the requested environmental information falls under one of the categories of exceptions mentioned above is not sufficient to justify invoking the exception.¹⁵

44. Subject to receiving any information to the contrary in the meantime, so long as the text of the Guide is adopted in the above form and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned's final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (iii) of decision VII/80 to take the necessary measures "to ensure that public officials...interpret the grounds for refusing access to environmental information in a restrictive way, taking into account the public interest served by disclosure".

In stating the reasons for a refusal, specify how the public interest served by disclosure was taken into account

45. The Committee recalls that, in its advice to the Party concerned dated 12 July 2018, it had noted that a possible measure which the Party concerned might consider with respect to paragraph 2 (b) of decision VI/8h (now paragraph 2 (a) (iii) of decision VII/80) would be to amend its law to include a more explicit requirement to include in the refusal decision a discussion of the public interest and how that was taken into account.¹⁶

46. In this regard, the Party concerned reports that the MEWF has started the procedure to amend article 15 (3) of Government Decision no. 878/2005 on public access to environmental information. It submits that, once amended, article 15 (3) will ensure that, in the case of a refusal of a request for environmental information, public authorities expressly specify the way in which the public interest was taken into account.¹⁷

47. The Committee notes that the proposed amendment to article 15 (3) of Government Decision no. 878/2005 provides:

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. 16-19.¹⁸

48. While welcoming the proposed amendment to article 15 (3) of Government Decision no. 878/2005, the Committee considers that, if adopted in the form proposed, the amendment will not in itself be sufficient to fulfil the requirement in paragraph 2 (a) (iii) of decision VII/80 to "ensure that public officials...in stating the reasons for a refusal, specify how the public interest served by disclosure was taken into account". This is because paragraph 2 (a) (iii) of decision VII/80 not only requires that, in the case of a refusal, public officials explain "how the authority took into account the public interest", but more particularly, that they also explain how the public interest "served by disclosure" was taken into account.

49. The Committee therefore welcomes that page 17 of the Guide states that:

¹⁵ Party concerned's additional information, 11 December 2023, annex 1, pp. 15-16 (emphasis in original).

¹⁶ Committee's advice to the Party concerned on decision VI/8h, 12 July 2018, p. 3.

¹⁷ Party concerned's additional information, 11 December 2023, p. 4.

¹⁸ Party concerned's additional information, 11 December 2023, annex 1.

Public authorities shall explicitly specify how the public interest served by the disclosure of environmental information has been taken into account.¹⁹

50. Since neither the proposed amendment to article 15 (3) of Government Decision no. 878/2005 nor the Guide is yet adopted or in force, the Committee cannot yet conclude that the Party concerned has met the requirements of paragraph 2 (a) (iii) of decision VII/8o.

51. However, subject to receiving any information to the contrary in the meantime, so long as, prior to the Party concerned's final progress report due on 1 October 2024, both article 15 (3) of Government Decision no. 878/2005 is amended and the text of the Guide is adopted as proposed and disseminated to all relevant public officials, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirement of paragraph 2 (a) (iii) of decision VII/8o to take the necessary measures "to ensure that public officials...in stating the reasons for a refusal, specify how the public interest served by disclosure was taken into account".

Paragraph 2 (b) of decision VII/8o – training for public authorities

52. In order to fulfil the requirements of paragraph 2 (b) of decision VII/8o, Romania will need to:

(b) Provide the Committee with evidence that it has provided training to public authorities about the above duties.

53. The Party concerned reports that its survey includes a question regarding the need of public authorities to receive training regarding their duties under the Convention and that the responses received "will represent grounds for setting the scope of possible trainings".²⁰

54. The Party concerned states that the Guide itself represents a tool for public authorities managing environmental information and that the process for the adoption of the amendment to Government Decision no. 878/2005 implied the consultation of a wide number of public authorities.²¹

55. The Committee accepts the Party concerned's submission that the Guide, once adopted and disseminated, can be a tool for training public authorities. The Committee however makes clear that neither the Guide or the consultation regarding the amendment to Government Decision no. 878/2005 are themselves sufficient to meet the requirement of paragraph 2 (b) of decision VII/8o.

56. In this regard, the Committee recalls that, in its advice to the Party concerned dated 12 July 2018, it had explained that, in order to meet the requirement of paragraph 3 of decision VI/8h (now paragraph 2 (b) of decision VII/8o), the Party concerned would need not only to develop appropriate information materials and to disseminate them to all officials involved, but also to design and carry out training for public authorities dealing with requests for access to environmental information. In its advice, the Committee made clear that:

"Attention should be paid to the need to reach public authorities of different ministries and different levels of government (municipalities, regional authorities, national authorities, etc.). Importantly, the training should be organized after the measures ... have been taken, and should make specific reference thereto, thereby enhancing the measures already taken and allowing members of public authorities to obtain clarifications on those measures."²²

57. In its advice, the Committee had also explained that the Party concerned would need to demonstrate to the Committee that:

As many as possible of its public officials that handle matters within the scope of paragraph 2 of decision VI/8h have received the trainings. The Committee will need to examine the content of the trainings and a list of participants, including the name,

¹⁹ Party concerned's additional information, 11 December 2023, annex 1, pp. 15-17.

²⁰ Party concerned's additional information, 11 December 2023, p. 5.

²¹ Party concerned's additional information, 11 December 2023, p. 5.

²² Committee's advice to the Party concerned on decision VI/8h, 12 July 2018, p. 4.

position and organization of each participant. Both the content of the trainings and the list of participants will need to be provided to the Committee in English.²³

58. In the light of the above, the Committee urges the Party concerned to design and carry out its trainings for public authorities that handle requests for access to environmental information as soon as possible. The Committee requests the Party concerned, together with its final progress report due on 1 October 2024, to provide the content of the trainings and the list of participants, both in English, including the name (which the Committee will thereafter redact), position and organization of each participant.

59. Based on the foregoing, the Committee considers that the Party concerned has not yet fulfilled the requirements of paragraph 2 (b) of decision VII/80.

Paragraph 2 (c) of decision VII/80 – effective participation of the public in decisions to permit activities within the scope of article 6 of the Convention

60. In order to fulfil the requirements of paragraph 2 (c) of decision VII/80, Romania will need to:

- (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.

61. The Party concerned reports that, in order to identify cases where decisions to permit activities within scope of article 6 of the Convention are conducted without effective public participation, it decided to open a dialogue between the MEWF and other authorities by including questions (specifically, questions 13 and 14) in the survey about the permitting procedures carried out by public authorities and for which procedures public participation was ensured. It adds that, after reviewing the answers to the survey, the MEWF will continue its dialogue with the public authorities which conduct permitting procedures in order to decide upon further action.²⁴

62. With respect to cases where decisions to permit activities within the scope of article 6 of the Convention are conducted without effective participation, the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69 report that building permits preceded by environmental impact assessment (EIA) are not subject to public participation because the authorities claim that public consultation has already taken place during the EIA procedure. The communicants submit that, since the building permit must comply with the EIA conclusions, the public should also be consulted at this stage.

63. The communicants also report that integrated environmental permits are revised each year, but under the law of the Party concerned, public participation is not required during the revision process.²⁵

64. The Committee welcomes that the Party concerned has opened a dialogue between the MEWF and other authorities to identify the permitting procedures carried out by public authorities and the extent to which public participation is ensured in those procedures. The Committee is however concerned that, as of the date of the Party concerned's first progress report and additional information,²⁶ the latter merely ten months before the final deadline of 1 October 2024 for the Party concerned to demonstrate that it has fully met the requirements of decision VII/80, the Party concerned was still only at the stage of gathering information about the permitting procedures conducted by its public authorities and whether public participation is provided for in those procedures.

65. The Committee accordingly urges the Party concerned to identify the measures it will take to fulfil paragraph 2 (c) of decision VII/80 and to implement those measures as soon as

²³ Ibid, p. 5.

²⁴ Party concerned's additional information, 11 December 2023, p. 5.

²⁵ Comments by communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, 15 January 2024, p. 2.

²⁶ Party concerned's additional information, 11 December 2023, p. 6.

possible. In this regard, the Committee recalls that, in its report to the Meeting of the Parties on decision VI/8h, the Committee had invited the Party concerned “to seek its advice on how it may fulfil the requirements of paragraph 7 (b) of decision VI/8h [now paragraph 2 (c) of decision VII/80] in a timely and resource-effective way”.²⁷ The Committee reiterates its invitation to the Party concerned, while noting the very short time now remaining until the deadline for the Party concerned’s final progress report.

66. Based on the foregoing, the Committee considers that the Party concerned has not yet fulfilled the requirements of paragraph 2 (c) of decision VII/80.

Paragraph 2 (d) of decision VII/80 – ensure that court procedures for access to environmental information are timely and provide adequate and effective remedies

67. In order to fulfil the requirements of paragraph 2 (d) of decision VII/80, Romania will need to:

- (d) Review its legal framework and undertake the necessary legislative, regulatory and administrative measures to ensure that the court procedures for access to environmental information are timely and provide adequate and effective remedies.

68. The Party concerned reports that the identification of solutions to ensure that the court procedures for access to environmental information are timely and provide adequate remedies will be accomplished through an open dialogue between the representatives of justice authorities and environmental authorities. It further states that the Ministry of Justice, the Romanian Superior Council of Magistracy, the National Institute of Magistracy and a significant number of its courts provided inputs to the survey carried out by the Task Force on Access to Justice of the Convention in July 2022. It adds that this survey therefore represents a good opportunity for the MEWF to continue the dialogue with the justice authorities to identify solutions.²⁸

69. The Committee welcomes the stated intention by the Party concerned to engage in dialogue between its justice and environmental authorities to identify solutions to ensure that the court procedures for access to environmental information are timely and provide adequate remedies. The Committee is however concerned that, as of the date of the Party concerned’s first progress report and additional information,²⁹ the latter merely ten months out from the final deadline of 1 October 2024 for the Party concerned to demonstrate that it has fully met the requirements of decision VII/80, the Party concerned was still only at the stage of identifying possible options to fulfil paragraph 2 (d) of decision VII/80.

70. The Committee urges the Party concerned to identify the measures it will take to fulfil paragraph 2 (d), for example, an expedited procedure for the courts’ review of access to environmental information cases, and to implement those measures as soon as possible.

71. Based on the foregoing, the Committee considers that the Party concerned has not yet fulfilled the requirements of paragraph 2 (d) of decision VII/80.

Paragraph 2 (e) of decision VII/80 – ensure that the activities listed in subparagraphs (a) – (d) above are carried out with broad participation

72. In order to fulfil the requirements of paragraph 2 (e) of decision VII/80, Romania will need to:

- (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.

73. With respect to paragraph 2 (e) of decision VII/80, the Party concerned submits that the draft amendment to Government Decision no. 878/2005 was subject to consultations with

²⁷ Committee’s report to the Meeting of the Parties on decision VI/8h, ECE/MP.PP/2021/55, para. 90.

²⁸ Party concerned’s additional information, 11 December 2023, p. 6 and annex 2.

²⁹ Party concerned’s additional information, 11 December 2023, p. 6.

various environmental authorities and national authorities which hold environmental information and was published on 13 September 2023 for public consultation.³⁰

74. The Party concerned reports that the MEWF disseminated the survey on public access to environmental information and public participation in decisions on specific activities to all public authorities under the MEWF's control. The MEWF also shared the survey with a wide number of other ministries, asking them in turn to disseminate the survey among the public authorities under their control.³¹

75. The Committee welcomes the consultations on the draft amendment to Government Decision no. 878/2005, and the Guide annexed thereto, that the Party concerned has conducted with its public authorities with a view to fulfilling paragraph 2 (a) of decision VII/80. The Committee also welcomes the MEWF's dissemination of the survey to the public authorities under its control, as well as to other relevant ministries and public authorities under those ministries' control. The Committee likewise commends the dialogue carried out by the MEWF with relevant public authorities with a view to gathering information towards the implementation of paragraphs 2 (b) – (d) of decision VII/80.

76. The Committee similarly welcomes the public consultation carried out in September-October 2023 on the draft amendment to Government Decision no. 878/2005 and the annexed Guide. The Committee points out, however, that to fulfil paragraph 2 (e) of decision VII/80, the Party concerned will need to consult the public concerned, including the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, not only during the preparation of the amendment to Government Decision no. 878/2005 and the Guide, but also with respect to the other measures to be taken to implement paragraph 2 (a) – (d) of decision VII/80.

77. Accordingly, while welcoming the steps taken so far by the Party concerned with respect to paragraph 2 (e) of decision VII/80, the Committee considers that the Party concerned has not yet demonstrated that it has met the requirements of that paragraph.

IV. Conclusions

78. The Committee welcomes the Party concerned's first progress report, which was submitted on time, as well as the additional information it provided on 11 December 2023.

79. The Committee appreciates the overall level of engagement that the Party concerned has demonstrated so far in the Committee's follow-up on decision VII/80, including its submission, in English language, of the text of the measures it has prepared to implement the requirements of the decision thus far.

80. Subject to receiving any information to the contrary in the meantime, so long as Government Decision no. 878/2005 is amended and the text of the Guide is adopted as proposed and disseminated to all public officials handling requests for access to environmental information prior to the Party concerned's final progress report due on 1 October 2024, the Committee will report to the Meeting of the Parties that the Party concerned has fulfilled the requirements of paragraph 2 (a) (i) – (iii) of decision VII/80.

81. The Committee considers that the Party concerned has not yet fulfilled the requirements of paragraph 2 (b) – (d) of decision VII/80.

82. While welcoming the steps taken so far by the Party concerned with respect to paragraph 2 (e) of decision VII/80, the Committee considers that the Party concerned has not yet demonstrated that it has met the requirements of that paragraph.

83. The Committee invites the Party concerned, together with its final progress report, due on 1 October 2024:

³⁰ Party concerned's first progress report, 29 September 2023, p. 2.; Party concerned's additional information, 11 December 2023, p. 6.

³¹ Party concerned's first progress report, 29 September 2023, p. 2.; Party concerned's additional information, 11 December 2023, p. 6.

- (a) With respect to paragraph 2 (a) of decision VII/80, to provide the text, together with an English translation thereof, of all legislative, regulatory, administrative and other measures, either in draft or final form, that it has by then taken to fulfil paragraph 2 (a) (i) – (iii) of decision VII/80.
- (b) Regarding paragraph 2 (b) of decision VII/80, to provide evidence that it has carried out training for public authorities on the measures taken to fulfil paragraph 2 (a) (i) – (iii) of decision VII/80, including to provide the following information in English language:
 - (i) The content of the training;
 - (ii) A list of participants, including the name, position and organization of each participant.
- (c) With respect to paragraph 2 (c) of decision VII/80, to provide:
 - (i) The outcomes of its survey and other research it has by then undertaken in order to identify cases where decisions to permit activities within the scope of article 6 of the Convention are conducted without the effective participation of the public;
 - (ii) The text, together with an English translation thereof, of all legislative, regulatory, administrative and other measures, either in draft or final form, that it has by then taken to fulfil the requirements of that paragraph.
- (d) Concerning paragraph 2 (d) of decision VII/80, to provide the text, together with an English translation thereof, of all legislative, regulatory, administrative and other measures, either in draft or final form, that it has by then taken to fulfil the requirements of that paragraph.
- (e) Regarding paragraph 2 (e) of decision VII/80, to explain how it has involved the relevant public authorities and the public concerned, including the communicants of communications ACCC/C/2010/51 and ACCC/C/2012/69, during the preparation of the further measures to be taken to implement paragraph 2 (a) – (d) of decision VII/80.

84. The Committee reminds the Party concerned that all measures necessary to implement decision VII/80 must be completed by, and reported upon, by no later than 1 October 2024, as that will be the final opportunity for the Party concerned to demonstrate to the Committee that it has fully met the requirements of decision VII/80.
