

**Report on the Experience Gained by Romania following
the Application of Directive 2003/4/EC
on Public Access to
Environmental Information**

1. General description

1. General provisions

The information access principle was taken into consideration even from the drawing up and adoption of the first Romanian Constitution (1991). Therefore, Article 31 provides that *“A person's right of access to any information of public interest shall not be restricted. The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest.”*

The constitutional provisions were also reinforced by Romania's ratifying the Aarhus Convention on *Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Law No 86/2000 published in the Romanian Official Journal (ROJ) No 224/22 May 2000).

Also, an important role in facilitating the public access to information is played by Law No 554/2001 on the free access to information of public interest (ROJ No 663 of 23 October 2001), as subsequently amended and supplemented. The Implementing Rules of this law approved by Government Decision 123/2002 (ROJ No 167 of 8 March 2002) lay down the applicable principles, procedures and norms for the guarantee of the person's free access to any information of public interest as well as the sanctions in the event that a person considers that his/her right of access to information was infringed.

The Framework Law on environmental protection, namely the Government Emergency Ordinance (GEO) No 195/2005 (ROJ No. 1196 of 30 December 2005) approved as amended and supplemented by Law No 265/2006 (ROJ No 586 of 6 July 2006) as subsequently amended and supplemented, stipulates in Article 5:

“The state acknowledges the right to a healthy and ecologically balanced environment to any person, guaranteeing for that purpose:

- a) the access to environmental information by complying with the confidentiality conditions set forth by the law in force;*
- b) the right of assembly in environmental protection organisations;*
- c) the right to be consulted in the decision-making process on the development of the environmental policy and legislation, the issuance of regulatory acts in this area, the drawing up of plans and programmes;*
- d) the right to address to, directly or through environmental protection organisations, administrative and/or judicial authorities, as appropriate, for environmental issues irrespective of whether a prejudice was or was not caused.”*

Government Emergency Order (GEO) 195/2005 improves the framework for access to information and for ensuring public participation in the procedures for the issuing of regulatory acts on the environmental protection.

In the area of environmental protection legislation, Romania transposed Council Directive 90/313/EEC through Government Decision No 1115/2002 on free access to environmental information (ROJ No **781 of 28 October 2002**) gaining experience as regards the process of providing the public with environmental information either ex officio or upon request.

Following the substantial amendments made in this area as a result of the repeal of Directive 90/313/EEC by Directive 2003/4/EC, Romania adopted a new normative act intended to comply with the Community law, more precisely Government Decision No 878/2005 on public access to environmental information (ROJ No 760/22 August 2005).

II. *Applying* Government Decision No 878/2005

Government Decision No 878/2005 is a normative act applicable across the entire territory of the country. In this regard, the central, regional and local authorities are under the obligation to comply with the citizen's right to environmental information. The public authorities that are most involved in providing such information are the central, regional and local environmental authorities. In this regard, as a result of the provisions of Government Decision No 878/2005, the Ministry of Environment, the National Environmental Protection Agency, 8 Regional Environmental Protection Agencies and 42 Local Environmental Protection Agencies have an active role in disseminating ex officio environmental information.

Government Decision No 878/2005 ensures the right of public access to environmental information held by or for the public authorities and establishes the conditions, basic terms and ways of exercising such right, for example:

- Any natural or legal person, irrespective of citizenship, nationality or domicile has access to environmental information held by or for a public authority;
- The public authorities are under the obligation to make available to any applicant, upon his/her request, the environmental information held by or for such authorities, without justification of the purpose for which such information was requested.
- Access to any public lists or registers made publicly available as well as on-the-spot examination of the information requested is free of charge, except for the costs related to the need to make copies of documents, where appropriate.
- Any person who is not satisfied by the reply received to a request for environmental information has the right to undertake the following actions:
 - to file a preliminary complaint addressed to the management of the public authority from which he/she received the unsatisfactory reply;
 - to file a complaint with the competent administrative court if he/she is not satisfied with the settlement of the preliminary complaint.

In order to facilitate the public access to information, each authority created a specialised information and public relations department. Within such departments, the requests and replies on environmental information as well as other information of public interest are received and provided respectively, under the law and through the responsible persons. Information points, where conditions for the examination of the requested information were created and where clarifications, indications and counselling are offered in this respect, were also established.

After receiving and recording the request, the responsible persons within the specialised information and public relations departments conduct a primary request assessment by which they establish whether the requested information is information communicated ex officio (actively disseminated), can be provided upon request or is excepted from free access. In the event that the requested information is already communicated ex officio and can be found on the public authority's webpage, the applicant is informed at the earliest opportunity thereof as well as on the source where the requested information can be found.

In the event that the request does not refer to actively disseminated information, then such information shall be submitted to the responsible department with a view to formulating a reply.

The reply to the applicant shall be submitted within the statutory time limit and on the requested media. The public authority can provide the requested information on a medium other than that requested by the applicant when the information is already publicly available, under another form or in another format easily accessible for the applicant or when it is convenient for the public authority to make it publicly available under another form or in another format, which justifies the provision of the information in the available form or format.

In the event that the requested information is identified as being excepted from free access to information, the applicant shall be informed thereof within 5 days from registration.

If the request does not fall within the competences of the public authority at which the request was filed, within 5 days from the receipt of the request, the responsible structures or persons for public information submit the request to the competent institutions or authorities and inform the applicant thereof.

The requests, the method and the time limit for the provision of environmental information as well as the on-the-spot consultation of environmental information are recorded in a register of information requests. At the end of each month, the number of requests for environmental information is centralised and it is published on the webpage of each environmental protection agency. At national level, this centralised list is displayed on the webpage of the National Environmental Protection Agency (www.anpm.ro).

Each environmental protection public authority makes publicly available both the lists of environmental information held by such authorities and by other public authorities, and the lists of public authorities holding environmental information and contact data.

The ex officio dissemination of environmental information also takes place by publishing, on the webpage, the most important information in the area, the relevant legislation, the raising-awareness campaigns on environmental protection, data or summaries of the data resulted from monitoring the activities that affect or may affect the environment, reports on the state of environment, regulatory acts, the reports of environmental impact studies and risk assessments, other environmental information held by the public authority depending on the specific scope of activity. At the same time, links to the webpages of other public authorities holding environmental information were created.

The environmental protection public authorities create and make publicly available informative materials (brochures, leaflets) containing the rights the public have under Government Decision No 878/2005 on public access to environmental information (for example the brochure *Public Access to Environmental Information* was drafted and can be accessed at the following link <http://www.anpm.ro/Files/Pliantvind%20mediul20092009616932281.pdf>)

The "Citizen's Guide on the Right of Access to Environmental Information" is publicly available on the first webpage of each environmental protection public authority according to the provisions of Government Decision No 878/2005.

Each environmental protection agency has a public relations department and registers the requests for environmental information, the method and time limit for the settlement of such requests. At national level, the National Environmental Protection Agency draws up the monthly report of the environmental information requested by the public based on the reports received from the local environmental protection agencies. This report is available on the webpage of the National Environmental Protection Agency.

Each local and regional environmental protection agency has own statistics on the number of requests received, the number of refusals and the grounds on which the requests were refused. Furthermore, each local and regional environmental protection agency has an internet link to the National Environmental Protection Agency on its webpage.

The environmental information is also disseminated by other means such as: mass-media, display at the public authorities' offices, the carrying on of informative and ecological education campaigns, exhibitions etc. The air quality information in the large urban agglomerations is made publicly available by means of electronic displays as well.

The public is provided with access to all relevant information within the issuance procedures of the regulatory acts in order to be able to actively participate and submit opinions and comments to the competent authority throughout the entire procedure prior to making a decision. While carrying out the specific activity, the public is offered all the opportunities to be informed and to contribute effectively to decision-making. Moreover, the public has available procedures to dispute the decisions made by the environmental authorities within the issuance procedures of the specific regulatory acts.

The economic operators carrying out their activity based on an environmental authorisation/integrated environmental authorisation are under the obligation to inform

the public on the possible impact of their activities and/or products on the environment and on the results of the emissions self-monitoring by displaying such information on own webpage or by other communication means.

In case of an imminent threat to public health and security or to the environment, generated by certain human activities or natural causes, the public authorities shall ensure, forthwith and free of charge the immediate mediatisation of such information so that measures preventing and/or diminishing the damage resulted from the respective threat can be taken.

III. Guarantee of the compliance with the right to environmental information

Furthermore, the public access to justice is ensured by the provisions of Chapter IV of Government Decision No 878/2005. Any applicant who considers that his/her request for the provision of environmental information has been wrongfully refused, whether in full or in part, ignored or inadequately answered by a public authority or not dealt with in accordance with the provisions of Government Decision No 878/2005 (access to the request, exceptions and rates), can address by filling a complaint to the leader of the respective public authority, requiring the reconsideration of the documents or acts of omissions. The prior complaint shall be settled pursuant to Administrative Law No 554/2004 ensuring the detailed legal framework of the access to justice of the interested public aggrieved in his/her legitimate rights or interests.

At the same time, Article 21(1) of the Romanian Constitution stipulates that *“Every person is entitled to bring cases before the courts for the defence of his/her legitimate rights, liberties and interests.”*

The right to a healthy environment is stipulated by Article 35 of the Romanian Constitution. Therefore, the state acknowledges the right of any person to a healthy and ecologically balanced environment and ensures the legislative framework for exercising such right. The right of access to any information is distinctly regulated in Article 31 of the Romanian Constitution, according to which the access of any person to any information of public interest is guaranteed. Consequently, the access of any person, either natural or legal, without making a distinction in legal terms, cannot be restricted.

Article 31(2) of the Romanian Constitution provides for the obligation of the public authorities to ensure the correct information of citizens on *“the public affairs and matters of personal interest.”*

Also, the request and provision of environmental information as well as the access mechanism to justice were reinforced along with the ratification of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, by Law No 86/2000. Thus, Article 4 and Article 5 of Law No 86/2000 aim at creating a system that ensures the compliance with the right of natural and legal persons to be informed, more precisely:

- The state is under the obligation to guarantee the access to information by specific normative acts and by implementing such acts in the practice of the institutions;
- It establishes the obligation of the public authorities to collect, store and disseminate the environmental information;

- It establishes the exceptions when the right to information cannot be ensured.

IV. Awareness raising measures

Following the transposition of Directive 2003/4/EC by Government Decision No 878/2005 (August 2005), awareness raising actions were carried out by economic operators and other authorities on public access to environmental information, public involvement in decision-making, the time limits/methods of providing such information and the right of access to justice in the case of a refusal to provide the requested information.

Moreover, meetings were organised and collaborations were concluded with other public authorities, non-governmental organisations, and educational institutions in order to disseminate environmental information and to enable them to carry out environmental protection projects.

On 4-5 May 2006, the TAIEX seminar on the implementation of Directive 2003/4/EC and Directive 2003/35/EC took place and aimed at improving the current level of understanding of the two Directives by indicating the best practices for their implementation in the EU Member States (Spain, Portugal, Hungary) and by presenting the specific measures necessary for their implementation.

At the same time, training and awareness raising sessions of other authorities in charge of the implementation of Government Decision No 878/2005 took place and were intended to ensure the application of its provisions. Such training and awareness raising actions took place within:

- the Twinning Project on the “Implementation of the Environmental Acquis at National Level and Coordination of the 8 Regional Twinning Projects”
- the PHARE Project on “Reinforcement of the Institutional Capacity for the Implementation of SEA Directive and the Reporting Directive” carried out between November 2006 and February 2008.

2. Experience gained

The application of the provisions of Directive 2003/4/EC facilitates persons' access to environmental information, thus increasing the transparency and accessibility to information relevant for the public. In this way, the public is able to gain awareness of the environmental matters and contribute to the improvement of the environmental protection methods.

By creating a legislative framework on the public access to environmental information, a positive change in the attitude of the civil society and of the stakeholders towards the specific environmental protection matters has been noted, in the sense that awareness and accountability have increased. At the same time, this has facilitated the process of adopting the decisions in the programme of measures necessary for the achievement of the environmental objectives. An increase in the number of information requests and a more active participation of the public in environmental decision-making within the issuance procedures of the regulatory acts can be noted.

Another positive aspect to be noted is that the public is better informed on the environmental information and, as from 2006, the number of requests for information has been increasing every year, including those in electronic format, situation due to the permanent information dissemination on the public authorities' webpages, in the mass-media, through displays at the public authorities' offices, due to the carrying on of informative and ecological education campaigns, through displays on the institutions' websites of the corresponding citizens' rights to have access to environmental information and to actively participate in making environmental decisions within the issuance procedures of the regulatory acts or in the case of legislative projects. In general, requests are concrete as the requested information can be identified (for example in 2007, there were 7885 requests for information of public interest, 7804 of which received a reply).

Within the regulatory procedures, public information has an important role so that the public can actively participate in the decision-making process. The implementation of the directive created conditions for the civil society to actively contribute to the public debates regarding the impact on the environment generated by the implementation of certain projects, plans and programmes within the procedures regulated by the national legislation in force.

For example, for the adoption of the National Rural Development Programme (NRDP) 2007-2013, the draft programme was made available to the interested public on the webpage of the Ministry of Agriculture, Forests and Rural Development with a view to being consulted and to submitting observations and comments. Also, the public information on this programme was performed by drawing up informative materials (leaflets, brochures, guides, posters etc.), by broadcasting informative spots on the radio and on television, by creating a webpage specially intended for NRDP, by organising conferences at national and regional level and by participating in debates within different specialised shows.

Another example regarding the application of the Directive is the implementation of the Regional Operational Programme. The environmental report was made public in order to be consulted by the interested public and, subsequently, the public debate was organised. Therefore, the public was ensured access to all the relevant information and, at the same time, was offered the opportunity to submit opinions and comments to the competent authority before making a decision.

However, the civil society is many a time poorly represented at the public debates organised for the strategic documents. The public interest is high in the case of projects. Taking into consideration that the public information takes place before the date of the public debates, the public participation stage within the decision-making process has improved.

As a negative aspect in terms of the implementation of this Directive in Romania, we can draw attention to the fact that citizens have not yet acquired good knowledge on the environmental matters and issue which leads to a poor participation in the environmental decision-making in particular within the environmental assessment procedure for plans and programmes as there are protests and complaints of the public following the issuance decision of the regulatory acts for the projects subsequent to such plans.

3. Definitions (Article 2 of the Directive)

3.1. Have you encountered any particular difficulties relating to the interpretation and management of the definition of “environmental information”?

In Romania there were no difficulties relating to the interpretation and management of definition of “environmental information”.

On the date of transposition and implementation of this Directive, the competent authorities in the area of environmental protection already had experience in the public access to environmental information. Romania ratified the Aarhus Convention Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters in 2000 by Law No 86 which, therefore, became a law the provisions of which began to be implemented shortly after its entry into force.

At the same time, all the subsequently adopted normative acts in the area of regulation in terms of environmental protection maintained and improved the framework for the public information and participation in the drawing up of certain environmental plans and programmes.

3.2. According to your national/regional situation, give examples of the types of bodies that have been found to be covered by the provisions of Article 2 paragraph (2) letter (b), “any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment.” and letter (c), “any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (a) or (b)”.

Where appropriate, formulate suggestions on how the meaning of “public authority” may be further clarified.

Examples of types of bodies found to be covered by the provisions of Article 2 paragraph (2) letter (b) are:

- Institutul Național de Cercetare - Dezvoltare pentru Protecția Mediului - ICIM București (*The National Institute for Environmental Protection Research and Development – ICIM Bucharest*);
- Institutul Național de Cercetare și Dezvoltare "Delta Dunării" - INCDDD Tulcea (*Delta Dunării Research and Development National Institute - INCDDD Tulcea*);
- The Public Health Institutes.

Examples of types of bodies found to be covered by the provisions of Article 2 paragraph (2) letter (c) are:

- Institutul Național de Statistică (*The National Statistics Institute*);
- The economic operators acting under the authority, in coordination or attached to the Ministry of Transportation.

3.3. Please specify whether you have any other observations related to the practical application of Article 2.

Romania does not have any other observations related to the practical application of Article 2.

4. Access to environmental information (Article 3 of the Directive)

4.1. What are the practical arrangements as referred to in Article 3(5)(c), set up by, in particular, national and regional authorities? Please provide examples of these practical arrangements.

With a view to implementing the provisions mentioned in Article 3(5)(c), specialised information and public relations departments were organised within public authorities.

Within such departments, the responsible persons receive the requests and provide environmental information pursuant to the law. Information points, where conditions for the examination of the requested information were created and where clarifications, indications and counselling are offered in this respect, were also established. Environmental information can also be consulted *in situ* by the interested parties at the office of the authority holding the respective environmental information.

The lists of environmental information held by such authorities as well as by other public authorities (for example <http://www.anpm.ro/content.aspx?id=52>) and the list of public authorities holding environmental information (for example <http://www.anpm.ro/content.aspx?id=49>) are published on the website of each environmental protection public authority. At the same time, links to the webpages of other public authorities holding environmental information were created (see the previous ANPM link).

At the office of the local and regional public authorities, there are registers for certain types of information (for example the register of the issued environmental agreements, the register of approvals for the issued plans and programmes, the register of issued environmental permits etc.).

The environmental information can be also accessed within the urban planning and land use management procedures. This type of information is contained in the urban planning and land use management documentations where, pursuant to Law No 350/2001 on land use management and urban planning (ROJ No 373 of 10 July 2001) as subsequently amended and completed, the *Procedure for population information on urban planning and land use management* is carried out. In this area, the procedures on authorising constructions, urban planning and land use management are harmonised and/or are being harmonised with EIA Directive and SEA Directive so that all environmental information in such areas is also subject to the specific information and communication procedures.

4.2. In which way has it been ensured that the public has adequate information of the rights they enjoy, as referred to in Article 3(5) last paragraph?

The “*Citizen’s Guide on the Access to Environmental Information*” is made publicly available on the webpage of each environmental protection public authority according to the provisions of Government Decision No 878/2005:

Ministry of Environment: http://www.mmediu.ro/Ghid_privind_Mediul_HG_878.doc

National Environmental Protection Agency: <http://www.anpm.ro/content.aspx?id=51>

Links for opening the Guide “*Citizen’s Right of Access to Environmental Information*”

REGION 1 – North-West	
ARPM BACĂU	http://www.arpmbc.ro/download/3558.pdf
APM Bacău	http://www.armbc.ro/files/Ghid%20-%20Drepturile%20cetatenilor%20privind%20i
APM Botoșani	http://www.apmbotosani.ro/Ghid%20_Informația_privind_Mediul_HG%20878_act
APM Iași	http://www.apmis.ro/files/ghid_878.pdf
APM Neamț	http://www.apmnt.ro/informatia%20de%20mediu/Ghid%20_informatia%20privind
APM Suceava	http://www.apmsv.ro/APM%20Suceava/Ghid%20_Informatia%20privind%20Medi
APM Vaslui	http://www.apmvs.ro/FATADA/flux_inform/Ghid%20_Informatia%20privind%20Me
REGION 2 South - East	
ARPM GALAȚI	www.arpmgl.ro/Ghiduri/Ghid%20_Informatia%20privind%20Mediul_HG%20878%
APM Galați	www.apmgl.ro
APM Brăila	http://www.apmbr.ro/Ghid%20info.pdf
APM Buzău	http://www.apmbuzau.ro/16relatii%20si%20educatie%20ecologica/Ghid%20_Info
APM Constanța	http://www.mediu-constanta.ro/pdf/Ghid%20_Informația
APM Tulcea	http://www.apmtl.ro/docs/Ghid%20Informatia%20privind%20Mediul_HG%20878
APM Vrancea	http://www.apmvn.ro/inf%20mediu/Ghid%20_Informatia%20privind%20Mediul_H
REGION 3 South - Muntenia	
ARPM PITEȘTI	http://www.arpmsm3.ro/index.php http://www.arpmsm3.ro//index.php?option=articles&cntid=179
APM Argeș	www.apmag.ro
APM Călărași	http://www.apmcl.ro/files/Ghid%20_Informatia%20privind%20Mediul_HG%20878
APM Dâmbovița	http://www.apmdb.ro/util/Ghid_Informația_privind_Mediul_HG_878_actualizat_20

APM Giurgiu	http://www.apmgr.ro/INFO_PUBLIC/Ghid%20informatia%20mediu.pdf
APM Ialomița	http://www.apmil.ro/files/Ghid%20Informatia%20privind%20Mediul%202009.pdf
APM Prahova	http://www.apmph.ro/ghid.html
APM Teleorman	http://www.apmtr.ro/infmed/ghid_hq878.pdf
REGION 4 South-West	
ARPM CRAIOVA	www.arpsv4.ro/Drepturile_cetătenilor_privind_accesul_la_informatiile_de_mediu.pdf
APM Dolj	http://www.apmdj.ro/Manuale/GhidInfoMediuHG878_2009.pdf
APM Gorj	http://www.apmgj.ro/My_Homepage_Files/Download/Ghid%20Informatia_privind
APM Mehedinți	http://www.apmmh.ro/documents/publicatii/GHIDUI%20-%20DREPTURILE%20C
APM Olt	http://www.apmot.ro/Ghid%020_Informatia%20privind%20Mediul_HG%20878%20
APM Vâlcea	http://www.apmvl.ro/documente/110/Ghid_Informatia_privind_Mediul_HG_878_a http://www.apmvl.ro/index.php?id=110&idc=2361
REGION 5 West	
ARPM TIMIȘOARA	http://www.arpmv5.ro/pages/doc/Ghid%20_Informatia%20privind%20Mediul_HG
APM Timiș	http://www.apmtm.ro/nou/Ghid%20_Informatia%20privind%20Mediul_HG%20878
APM Arad	http://www.apmar.ro/Ghid%020_Informatia%20privind%20Mediul_HG%20878%20
APM Caraș-Severin	http://www.apmcs.ro/materiale/Ghid%20_Informatia%20privind%20Mediul_HG%2
APM Hunedoara	http://www.apmhd.ro/index.php?mv=32&smv=76&gen=1
REGION 6 North-West	
ARPM CLUJ-NAPOCA	http://www.arpmnv6.ro/index.htm
APM Cluj	http://www.apmcluj.ro/fisiere/drepturi_cetateni.pdf
APM Bihor	http://www.apmbh.ro/Ghiduri/Ghid%20_Informatia%20privind%20Mediul_HG%20
APM Bistrita-Năsăud	http://www.apmbn.ro/fisiere/ghid/dcim09.pdf
APM Maramureș	http://www.apmmm.ro/docs/GhidAccesInfMediu.pdf
APM Satu-Mare	http://www.apmsm.ro/ghid_informatia_de_mediu_2009.pdf
APM Sălaj	www.apmsj.ro/Infmediu/Ghid_Informatia_privind_Mediul_2009.pdf
REGION 7 Centre	
ARPM SIBIU	http://www.arpm7c.ro/documents/informatia-de-mediu/Ghid_Informatia_privind_M
APM Alba	http://www.apm-alba.ro/prima-pq/Ghid%20_Informatia%20privind%20Mediul_HG
APM Brașov	http://www.apmbrasov.ro/informatia/ghid-informatie/Ghid-Informatie.pdf

APM Covasna	http://www.apmcv.ro/index.php?option=com_content&view=article&id=76&Itemid=
APM Harghita	http://www.apmhr.ro/filebank/Infomediu/Drepturi/Ghid_Informatia_Mediu_HG_878
APM Mureş	http://www.apmms.ro/pdfs/Ghid_Informatia_privind_Mediul_HG_878_1.pdf
APM Sibiu	http://www.apmsibiu.ro/doc/d_1sti_3inf/ghid_hg878.pdf
REGION 8 Bucharest - Ilfov	
ARPM Bucureşti	http://www.arpmb.ro/Ghid%20Informatia%20privind%20Mediul_HG%20878%20
APM Bucureşti	http://www.apmb.ro/Ghiduri/GhidDrepturileCetatenilorPrivindAccesulLaInformatiile
APM Ilfov	http://89.37.126.78/Ghid%20Informatia%20privind%20Mediul_HG%20878%20a
ANPM	http://anpm.ro/Files/Ghid%20Inforvind%20Mediu_20096169646.pdf

The environmental protection public authorities draw up and make publicly available informative materials (leaflets) containing the rights the public have pursuant to Government Decision No 878/2005 on public access to environmental information.

Meetings were organised and collaborations were concluded with other public authorities, non-governmental organisations and educational institutions in order to disseminate environmental information, to raise awareness on the rights enjoyed by the public as regards the access to environmental information and on the obligations which must be fulfilled regarding environmental protection.

4.3. Please specify whether you have any other observations related to the practical application of Article 3.

Romania does not have other observations related to the practical application of Article 3.

5. Exceptions (Article 4 of the Directive)

5.1. Amongst the possible exceptions listed in Article 4, which ones have been retained in the implementation of Directive, to refuse access to environmental information?

Chapter III of Government Decision No 878/2005 on public access to environmental information specifies the exceptions on the basis of which public authorities can refuse a request for environmental information. Such exceptions are detailed in Articles 11 and 12 according to which:

“Article 11

Public authorities can refuse a request for the provision of environmental information if:

(1) (a) the information requested is not held by or for the public authority to which the request is addressed. In this case, if the public authority is aware that the information is held by or for another public authority, such authority shall submit the request to the respective authority at the earliest opportunity but not later than 15 days from the receipt date of the request and inform the applicant accordingly or inform the applicant of the public authority to which it believes it is possible to apply for the information requested;

(b) the request is manifestly unreasonable;

(c) the request is formulated in too general a manner, taking into account Article 5;

(d) the request concerns material in the course of completion or unfinished documents or data;

(e) the request concerns internal communications, taking into account the public interest served by disclosure.

Article 12

(1) The public authorities can refuse a request for the provision of environmental information if the disclosure of the respective information affects:

(a) the confidentiality of the proceedings of public authorities where such confidentiality is provided for by law in force;

(b) the international relations, the public security or the national defence;

(c) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(d) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;

(e) intellectual property rights;

(f) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;

(g) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;

(h) the protection of the environment to which such information relates, such as the location of rare species.

(2) In the event that a request for the provision of environmental information is rejected on the grounds that it concerns a material which is being drafted, the public authority is under the obligation to communicate to the applicant the designation of the authority drafting the material and the approximate date of its completion.”

Within the Ministry of Environment, the receipt of a request on the provision of an administrative act from the specific area of another institution/authority was rejected pursuant to Article 11(1)(a) informing the applicant on the source of origin of the document.

Within the Ministry of Regional Development and Housing, there were two cases of rejection of a request on environmental information, to which the abovementioned public authority refused to reply as:

- the request was formulated in general terms (according to Article 4(1)(c)) and
- the request aimed at internal communications (according to Article 4(1)(e)).

In every particular case, the public interest served by providing the information shall be weighed against the interest served by keeping the confidentiality.

The grounds for refusal shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by disclosure.

In the event that the requested information is identified as excepted from the free access to information, the applicant is informed thereof within 5 days from receipt.

5.2. Please specify whether the Member States or regions have issued any guidance (such as circulars or guidelines) governing the granting of exceptions.

In Romania, no guidance governing the granting of exceptions have been published.

5.3. Indicate whether any steps have been taken to ensure the accessibility of a list of criteria, as mentioned under Article 4(3), on the basis of which the authority concerned may decide how to handle requests.

The handling of requests which falls under Article 4 of the Directive shall be carried out according to the provisions of Chapter II of Government Decision No 878/2005.

The grounds for refusal provided for in Articles 11 and 12 shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by providing the information

No special list of criteria on the basis of which requests are handled was drawn up as no difficulties were encountered in this regard.

5.4. Please specify whether you have any other observations relating to the practical application of Article 4.

Romania does not have any other observations relating to the practical application of Article 4.

6. Charges (Article 5 of the Directive)

6.1. According to Article 5 (2) public authorities may make a charge for supplying environmental information. Have public authorities fixed charges? Please give examples of what measures public authorities have implemented on charging.

Environmental protection public authorities do not levy charges on the provision of environmental information. Therefore, Article 29 of Government Decision No 878/2005 stipulates that the access to any public lists or registers drawn up and made publically available and the examination in situ of the information requested shall be free of charge.

Article 30 of Government Decision No 878/2005 stipulates that, in case of making copies, the potential charge shall not exceed reasonable amounts (for example, for data research maximum 3.5 Euro, for A4 copies maximum 2.8 Euro, for CD 1 Euro).

Please give examples of what measures public authorities have implemented on charging.

In Romania, charges are not implemented.

6.2. Please explain how it has been ensured that the applicants are aware of a schedule of charges and circumstances in which a charge may be levied or waived.

Not applicable.

6.3. Please specify whether you have any other observations relating to the practical application of Article 5.

Romania does not have any other observations relating to the practical application of Article 5.

7. Access to justice (Article 6 of the Directive)

7.1. Please specify the kind of review procedure is provided for an applicant in cases mentioned in Article 6(1). Please specify the appointed authority or independent body.

Any applicant who considers that his/her request for the provision of environmental information has been wrongfully refused, whether in full or in part, ignored or inadequately answered by a public authority or not dealt with in accordance with the provisions of Government Decision No 878/2005 (access to the request, exceptions and rates), can address by filling a complaint to the leader of the respective public authority, requiring the reconsideration of his/her request.

The right to request the review of an administrative decision (including the decision on the request for environmental information) is also provided for in Article 7(1) of Administrative Law No 554/2004. According to this law, a person considering that one of his/her legitimate rights was prejudiced through an individual administrative act shall request its annulment, whether in full or in part, to the issuing public authority or its direct supervisory authority, if any, within 30 days from the notification date of the act.

The competent authority may, depending on the applicant's option, be the authority that issued the decision or one of the direct supervisory authorities, as applicable (for example for a decision issued by a local environmental protection agency, the review of the decision can be requested to the Regional Environmental Protection Agency, the National Environmental Protection Agency or the Ministry of Environment). The

competent authority shall review the request for environmental information and shall issue a new decision within 30 days from the date of the request.

This review is important as, following its performance, in the event that the applicant believes that the respective review is still not favourable for him/her, he/she has the right to address to the courts of law.

This prior administrative review procedure is exempted from taxes.

7.2. Please specify the kind of procedure is provided for an applicant in cases mentioned in Article 6(2). Please specify three institutions entitled to review.

The Romanian Constitution specifies in Article 52 *“Any person aggrieved in his/her legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his/her application within the lawful time limit, is entitled to the acknowledgement of his/her claimed right or legitimate interest, the annulment of the act and reparation for the damage.”*

Law No 554/2004 on administrative disputes, amended, sets out in Article 1 that *“Any person that considers aggrieved in his/her legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his/her application within the lawful time limit, can address to the competent administrative court for the annulment of the act, acknowledgement of the claimed right or legitimate interest and reparation of the damage caused to him/her. The legitimate interest can be both private and public.”*

According to Law No 554/2004, the courts of law have the authority to hear the legality of the administrative acts, actions or acts of omissions on the basis of which the final administrative decision was issued.

In the event that a person considers that he/she is aggrieved in his/her rights provided for by Law No 554/2004, such person may file a complaint at the administrative section of the county court in which jurisdiction he/she resides or in which jurisdiction the headquarters of the authority or public institution is located. The county court can oblige the authority or the public institution to provide the requested information of public interest and to pay non-material and/or material damage.

The county court judgement can be subject to appeal at the Court of Appeal that shall pass a final and irrevocable judgement.

Both the complaint and the appeal are heard in court by emergency procedure and are exempted from stamp duty.

An independent body aiming at the defence of the human rights and liberties within their relations with the public authorities is represented by the Ombudsman. This institution is established and operates in accordance with Law No 35/1997 (ROJ No 844/15 September 2004) as subsequently amended and completed.

Any natural person, irrespective of citizenship, age, gender, political affiliation or religious beliefs, has the right to address to the Ombudsman in order that his/her rights be complied with.

The Ombudsman aims to achieve the legal settlement of the requests received and requires the respective public authorities or the public administration civil servants to cease infringing human rights and liberties, to re-establish the rights of the petitioner and to repair damages.

The requests addressed to the Ombudsman must be submitted in writing and must indicate the name and domicile of the person aggrieved in his/her human rights and freedoms, the rights and liberties infringed as well as the administrative authority or the civil servant in question. The petitioner must prove the delay and the refusal of the public administration to settle his/her request legally.

The requests addressed to the Ombudsman are exempted from stamp duty.

The Ombudsman has access, according to the law, to the classified information held by the public authorities insofar as it deems such information necessary for the settlement of the complaints addressed to it.

In the exercise of its duties, the Ombudsman issues recommendations which cannot be subject to parliamentary control or to judicial control. Through the recommendations issued, the Ombudsman refers the matter to the public administration authorities in connection with the illegality of acts or administrative actions. The silence of the public administration bodies and the delayed issuance of acts are regarded as administrative actions.

The Ombudsman has the right to conduct its own investigations, to request from public administration authorities any information or documents necessary for the investigation, to hear and take statements from the leaders for the public administration authorities and from any civil servant who can provide the necessary information for the settlement of the request.

In the event that, following the requests submitted, the Ombudsman finds that the complaint of the aggrieved person is grounded, it shall write to the public administration authority that infringed that person's rights, calling on it to reform and revoke the administrative act and to repair the damage caused and to restore the prior situation of the person adversely affected.

The public authorities in question shall immediately take the necessary measures to eliminate the illegalities found, to repair damages and to eliminate the causes that generated or favoured the infringement of the rights of the aggrieved person and shall inform the Ombudsman thereof.

In the event that the public authority administration or the civil servant does not eliminate the illegalities committed within 30 days from the referral, the Ombudsman shall contact the public administration authorities that are hierarchically senior to it. The hierarchically senior authority is then required to communicate the measures taken within a maximum of 45 days.

7.3. Is the decision issued by the institution referred to in question 7.2 final? If not, please specify what kind of procedures could follow this one to get a final decision.

According to Article 19(1) of Government Decision No 878/2005 on public access to environmental information *"The final and irrevocable judgements by which actions were admitted according to Law No 554/2004 constitute enforceable titles against the public authority holding the environmental information."*

The judgements of the courts of law are drawn up in writing and are justified de facto and de jure. The judgements of the court of law are final and irrevocable according to the Code of Civil Procedure.

7.4. Please specify whether you have any other observations relating to the practical application of Article 6.

Romania does not have any other observations relating to the practical application of Article 6.

8. Dissemination of environmental information (Article 7 of the Directive)

8.1. Please identify the measures which have been taken to ensure that public authorities organise the environmental information, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunications and/or electronic technology.

The dissemination of environmental information is carried out by displaying the most important environmental information held by the public authority, the lists of other public authorities holding environmental information, the lists of information held by such authorities and its periodical update on the webpage.

A database, which is managed and updated by the specialised personnel within the public relations department of each competent environmental protection authority, was also created. This database is actively disseminated and includes:

- texts of international treaties, conventions or agreements to which Romania is a party, and of local, regional, national or Community legislation, on the environment or relating to it;
- policies, plans and programmes relating to the environment;
- the reports on the state of the environment;
- data or summaries of data derived from the monitoring of activities affecting or likely to affect, the environment;
- approvals, agreements and authorisations for the activities with a significant impact on the environment and environmental conventions between the public authorities and the natural and/or legal persons on the environmental objectives or a reference to the place where such information can be requested or found;
- reports of environmental impact studies and risk assessments concerning the environmental elements referred or a reference to the place where the information can be requested or found;

At the same time, links to the webpages of other public authorities holding environmental information were created.

The following were drawn up and are updated on a monthly basis: the database of the projects subject to the environmental impact study and the projects which obtained environmental agreement and the database of the plans and programmes which are subject to the environmental assessment and the projects which obtained the environmental permit.

Furthermore, information on quality air in the large agglomerations is made publicly available by means of the electronic displays.

Every year and on the occasion of certain environmental events, the environmental protection public authorities draw up and make publicly available informative materials (leaflets) containing the rights enjoyed by the public, other information on the different provisions of the environmental legislation, information on the various environmental campaigns.

The “Citizen’s Guide on the Right of Access to Environmental Information” is publicly available on the webpage of each environmental protection public authority according to the provisions of Government Decision No 878/2005.

The environmental information is also disseminated by other means such as: mass-media, displays at the public authorities’ offices, the carrying on of informative and ecological education campaigns, exhibitions etc.

For example, in order to inform the public on the potential impact that the implementation of the Regional Operational Programme may have on the environment, advertisements in the mass-media were published whereas these documents could be consulted in the webpage of the ministry.

The public was able to make written comments on the Environmental Report and was able to participate in the public debate organised on 18 January 2007.

8.2. What are the measures taken to ensure that information is updated, as appropriate?

Information is updated by a person specially designated for this purpose within the technical departments of the environmental protection authorities. Such person collects the information and compares it to the information displayed on the environmental authority’s webpage making the necessary changes when necessary.

Updating the information disseminated to the public, means:

- displaying on the environmental protection authorities’ webpages and periodical update of the following information: the public advertisements corresponding to the issuance procedures of the regulatory acts (filing the request, decision on the classification stage, public debate, decision-making), the documents on the basis of which decisions are made, legislative news, reports on the state of the environment,

registers and national inventories, lists of the public authorities holding environmental information, lists of information held by the environmental protection public authorities and by other authorities holding environmental information, lists of the requests for environmental information etc.

- periodical update of the database of projects subject to the environmental impact study and the projects which obtained the environmental agreement (displayed on the webpage of the environmental protection public authority);
- update of the database of plans and programmes subject to environmental assessment and the projects which obtained the environmental permit (displayed on the webpage of the environmental protection public authority).

8.3. Is there an obligation to report on the state of the environment, next to the national, also at regional and local levels and if so, according to which timetable?

According to Article 23 of Government Decision No 878/2005 on public access to environmental information, the environmental protection public authorities are under the obligation to draw up and to publish reports on the state of the environment at national, regional and local level, as appropriate, on own webpages and on an annual basis.

The report on the state of the environment at national level is drawn up and published on an annual basis. At regional level, such report is also drawn up quarterly.

8.4. What mechanisms are used to publicize these reports?

The reports on the state of the environment are published on the webpages of the public environmental protection authorities.

8.5. Please specify whether you have any other observations relating to the practical application of Article 7.

Romania does not have any other observations relating to the practical application of Article 7.

9. Quality of environmental information (Article 8 of the Directive)

9.1. Please specify the measures taken to ensure that any information that is compiled by public authorities or on their behalf is up to date, accurate and comparable.

The measures taken to ensure that any information that is compiled by public authorities or on their behalf is up to date, accurate and comparable are the following:

- periodical update of the information on the webpages of the public authorities holding environmental information;
- the drawing up of the annual report on the state of the environment as well as other reports by comparing the information between the year for which the report is drawn up and the previous year;
- periodical update of the databases and displaying such databases on webpages.

9.2. To ensure that information is comprehensible, accurate and comparable, the method used in compiling the information is important. Have you received any request about the method used? Please give any other information you consider useful.

In Romania, there were no requests for information on the method used in compiling the information.

9.3. Please specify whether you have any other observations relating to the practical application of Article 8.

Romania does not have any other observations relating to the practical application of Article 8.

10. Statistics

Where statistical data has been collected on the items below, it would be useful to forward this data to the Commission:

- **Number of requests made**
- **Areas to which the requests for information relate**
- **Percentage of requests handled within the one-month period and those within the extended term**
- **Percentage of requests accepted/refused; in the case of refusal, please give a breakdown by exemption cited in support of the refusal**
- **Number of procedures introduced according to Article 6.1 and 6.2 of the Directive; average duration and average cost of the procedures; percentage failures and successes at the end of the procedures.**

The total number of requests for environmental information received in the 2006-2008 period is 48,525, of which:

- in 2006 – 14,293 requests for environmental information.
- in 2007 – 15,039 requests for environmental information.
- in 2008 – 17,193 requests for environmental information.

We specify that the number of requests for environmental information was calculated based on the data in the reports on the number of requests for environmental information received, on a monthly basis, from all the environmental protection agencies and from other public authorities holding environmental information in the country in the 2006-2008 period by the National Environmental Protection Agency.

The total number of public authorities holding environmental information that reported the status of the requests for environmental information is approximately 200 public authorities, 50 of which are environmental protection agencies.

The areas to which the requests for information relate were those regarding:

- the state of the environmental factors: air, water, soil, biodiversity;

- the activity affecting or which may affect the environmental factors: waste management/generation, production of energy, carrying out activities generating noise, management of chemical substances;
- the effects of environmental pollution on the public health;
- legislative measures, plans, projects;
- regulatory acts issued by the environmental protection authorities.

The percentage of requests solved within one month was 100% while there were no requests solved within a longer period.

In the 2006-2008 period, **the requests for environmental information were accepted** in proportion of 100%.

There were 9 cases in which applicants were refused the request for copies of certain documents but they were given the right to consult the document at the site of the public authority. Such cases fell under Article 4(2)(e) of the Directive.

In the 2006-2008 period, 9 **procedures** were introduced **according to Article 6(1) and (2) of the Directive** at the level of the environmental protection agencies.

The average duration of the procedures is a minimum of 6 months.

Both the complaint and the appeal are heard in court by emergency procedure and are exempted from stamp duties. There may be a fee for the legal representatives within the administrative and judicial procedures. Such fees are established by negotiation between the attorney and the client.

In 8 of the 9 actions brought before the court, the court ruled in favour of the environmental protection agencies whereas in one action the court ruled in favour of the plaintiff, in this case the environmental protection agency being obliged to make available to the plaintiff copies of the documents he/she requested.