

Public access on information and justice for environmental matters in Romania

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Who am I?

I am a Natural sciences Counselor expert for the Ministry of Waters and Environmental Protection from Romania under the Ecological Control and Monitoring Directorate.

Now I am having under work drafting modifications on Environmental Protection Law no. 137/1995 needed for transposing into the Romanian legal framework the European Union provisions from the environmental field: Integrated pollution, prevention and control (IPPC) Directive, Seveso, Large Combustion Plants emissions limitation, eco-labeling, eco management Directives in order to support the decision makers on implementing measures to reduce impact on the environment from main industrial activities and involving public from the stage of evaluating the application for license before the decision had taken including cross border impact.

Existing legal frame for public access to environmental information and justice for environmental matters.

Romania as it well known is a country in transition from a centralized economy to free market one and in this line is rapidly developing an institutional and legal system to support compatibility with other systems in practice from the developed countries.

After signing Aarhus Convention concerning public access on information and access to justice on environmental matters in 1998, Romanian Government token, its chances to ratify these provisions by law in May 2000 without having an assessment of social impact, financial implications or having build tools to implement it.

Of course, some history exist concerning public access to environmental information since 1995 when Environmental Protection Law was entered into force which at that time was one of the vanguards from Eastern European legal provisions with special references for public access on environmental information and access to justice concerning environmental matters.

Under the article 5, it is specified that the public can apply directly or through an association group (e.g. NGO) to administrative authorities, to the court in order to prevent damages, or in case of direct or indirect harm to act into the justice.

The article 87 allows public through NGO's, to act into the justice (court of law) in order to preserve the quality of the environment no matter who was affected.

A short analysis to the legislative support show as follow:

- Environmental Protection Law 137/1995;
- Water Law 107/1996;
- Ministerial Order 125/1996 of the Minister of Waters, Forests and Environmental Protection to approve the procedure for releasing environmental authorization (license) for social and economic activities with environmental impact;
- Ministerial Order 282/1997 of the Minister of Waters, Forests and Environmental Protection to

- approve the mechanism on public access to informations concerning waters management;
- Ministerial Order 1325/2000 of the Minister of Waters, Forests and Environmental Protection to approve the procedure of public participation through its representatives on drawing plans, programmes, policies and legislation concerning the environment;
- Ministerial Order 340/2000 of the Minister of Waters, Forests and Environmental Protection to approve the level of taxes and fees for services issued by environmental public authorities, including releases of informations;
- Laws for ratifying Multilateral Environmental Agreements on which Romania is part as: Basel Convention, Vienna Convention and Montreal Protocol, Long-range air pollution control, so on.

Existing legal framework for public access on justice concerning environmental matters.

The biggest step took it in the public access to environmental information and access to justice concerning environmental matters was done with enforcing in December 2001 with the Law 544/2001 provisions which allow access on information and draw the framework of how the information should be released to the public. Under this law, provisions any information can be obtained from the Public Relation Department of any public institution or through specially designated persons.

Romanian Civil Code establishes the definitive character of the court of law decision than any abatement is considered an offence. Law 544/2001 has provisions with sanctions for any obstruction on public access on informations, in this regard article 22 paragraph 2 say: "the court can oblige the authority or public institution to release informations or to be in the position to pay moral and/or patrimonial damages".

The paragraph 15 of the same article declaim that only the complaint but the appeal is trial within an emergency procedure and are free of taxes, but before opening the justice procedure it have to be evaluated under administrative procedures.

Integration of social aspects of Aarhus Convention after ratification and before implementation. "Not in My Back Yard" concept.

Social impact assessment is unfortunately poor evaluated in relation with the matrix of integration within the access on information. Priorities are most given to releasing and less to how that is used that information.

The social impacts of projects and programs development in this field are not dealt with the cumulative impact on the community essentially to assess the response. In this regard, the society response with its positive or negative answers allows drawing of further approaches in order to improve social response.

In this perspective, development of new instruments for public access to information, have to be focused on implementation of sustainable development principles.

Steps have to be undertaken assessing this impact is to ensure that:

1. the community is properly taken into account on when development is being realized;
2. allows communities to be able to assess costs and benefits at an early stage;
3. enable a project to be rejected if it will lead to an unacceptable result.

In this perspective, development of a new instrument for public access on informations concerning environmental matters has to be realized with the following steps:

1. screening - in order to identify main issues had to be taken into account;
2. scoping - in order to identify main scopes;

3. predicting – identifying possible future impacts;
4. assessing – analysis of current situation in relation with the public implication;
5. evaluating – evaluation of social impact develop mitigation measures;
6. recommendations – data base best structure.

PRTR. Pollutant Release and Transfer Register. Environmental Impact Assessment tool or public access on information tool?

According to the art 5, paragraph 9, a tool on assessing emissions and transfer of the pollutants has to be created in order to evaluate impact on the environment and to be used as an instrument for public information.

Romania, through the Ministry of Waters and Environmental Protection had started creating a such an instrument having in mind also provisions of the EPER (European Pollutant Emissions Register) requested by the IPPC (Integrated Pollution Prevention and Control Directive 96/61/EC).

PRTR have to be used by various stakeholders, and because of those implications assessment have to take into account cost implications both in qualitative and quantitative terms.

From an economic point of view PRTR is a regulatory instrument useful not only to correct a market failure arising from the presence of an economic externality (internalization of the externalities concept of sustainable development, namely pollution) by spreading informations concerning releases and transfer of pollutants into the environment as a consequence of various activities.

As a source for public information PRTR include central participation of the public and its representative organs became a tool because of its ability to exploit the importance of reputation of a corporation and its side effect that strengthen other regulatory tools to achieve pollution abatement.

The systematic collection of data on emissions and transfer can be valuable for the facilities through its material balance character, leading to the development or implementation of more environmental friendly technologies, cost-savings and enhanced efficiency.

Under the PRTR mechanism public can be warned on the impact and to act in consequence in order to reduce pollution emissions that are hazardous for the human health and the environment.

A PRTR provides workers and communities' access on information on chemicals from which they are potentially exposed to risk, and help them to take informed actions and to choose the appropriate one.