

**Answer of the Romanian environmental authorities concerning the access to information
[point 3 of the operational conclusions with Romanian authorities on forests matters (Case
2020/2033) of June 8, 2021]**

3. Access to information

Environmental information

FMP represent “environmental information” as it is defined in the Aarhus Convention art.2, para 3, letter b) and a); the decisions taken by the public authorities in relation with the authorization of the works undertaken within FMP represent also “environmental information” according to art.2, para 3, letter b).

By the ratification law No 86/2000, the Aarhus Convention becomes part of the national legislation and the text of the Convention is compulsory for the public authorities that hold environmental information.

Other normative acts in force in RO:

The Pillar on Access to information of the Aarhus Convention is implemented in Romania by the *GD no.878/2005 on public access to environmental information* that transposes into national legislation the requirements of the *Directive2003/4/EC on public access to environmental information and repeal of Council Directive 90/313/EEC*.

Art. 3 and 4 of the Directive 2003/4/EC are transposed in *GD 878/2005, Chapter 2 Access upon request to environmental information* and in *Chapter 3 Exceptions*.

Art 2 para 1 of the Directive2003/4/EC on the definition of the environmental information is transposed in art.2 para 1 of the *GD no.878/2005*.

We have also in force the *GD no.1076/2004* on establishing the procedure for carrying out the environmental assessment of plans and programmes which enables the public to take an active part in the strategic environmental assessment procedures undertaken for plans or programs.

More than that, the drafted *MO for the approval of the SEA methodology for the FMP* has provisions for making available for the public the FMP in all three stages of the environmental assessment procedure: during the screening stage, the finalization of the FMP stage and the quality review stage/decision-making stage.

This means that we have in place the legal basis for making available to the public the FMP.

The latest modifications of the Forest Code has provisions in art 22 para (1⁴) regarding public availability of information on FMP.

Implementation of the commitments taken by RO in discussion with the COM

Based on the latest modifications of the Forest Code in art 22 para (1⁴) all FMP still in force shall be published by the central authority responsible for forestry on a dedicated public portal.

The public portal is the web site of the Ministry of Environment, Waters and Forests and the uploading of the existing FMP for 46 Forestry Districts (Ocoale silvice) has been done until now.

We assessed the number of the existing FMP approved by ministerial order as being approx. 1700 that is why we are still working on uploading them and we appreciate they will be made available on the Portal of the Ministry in approx. 6 months.

The FMP which are not yet available electronically will be made available in electronic format, upon request.

The new FMPs will be made available for the public by the EPAs in charge with the SEA procedure, as they are notified as new FMPs/modifications to FMPs in force or being subject to the review procedure required by the draft MO.

The draft MO provides that during the SEA procedure, the FMP and the SEA documentation (Presentation Memoire, Environmental Report, AA study) are posted on the web page of EPA (see art.7.para(4), art.15 para(2) and art.18 para(7) of the draft MO, in annex to this response).

Raising awareness of the relevant authorities for effectively grant access to the FMPs

For raising awareness on this matter, we intend to circulate a letter to the public entities involved (e.g., Romsilva, EPAs) explaining that the FMPs are environmental information and that they must be made available to the public in accordance with the Aarhus Convention and the Directive 2003/4/UE that is transposed in national legislation by GD 878/2005, as well as in accordance with the relevant SEA provisions of the (draft) MO on the SEA methodology for FMPs.

All EPAs are aware of the provisions regarding availability for the public, of the FMP and of the SEA documentation, as these are requirements carried out for all plans and programmes which are subject to SEA procedure provided by GD 1076/2004.

EPAs must pay attention to apply the provisions of the *MO approving the Methodology for the application of environmental assessment for FMPs* as soon as it will be in force which means that the FMPs will be made available for the public during the SEA procedure developed for them.

On the other hand, upon request, public authorities are obliged to make available to any applicant, environmental information held by or for them, without justification of the purpose for which the information has been requested (according to art 3 para (3) of GD no.878/2005 on public access to environmental information).

The circular letter will highlight the following issues in relation with the public access to environmental information/FMPs:

- Romsilva and the other public entities in the field of forest management, as well as the EPAs, are obliged to make available to any applicant, upon request, the information on FMPs held by or for them, without the applicant having to justify the purpose for making this request.
- The information on FMPs held by Romsilva, EPAs and other public entities in the field of forest management shall be made available in electronic format to the applicant at the latest within one month from the date of receipt of the request by the public entities.
- Where the volume and complexity of the information requested is so great that the one-month deadline cannot be met, the information shall be made available to the applicant within two months of the date of receipt of the request. In such cases the applicant shall be informed as soon as possible and at the latest before the expiry of the one-month period of the extension of the deadline for reply and the reasons for the extension.
- If the request for information on FMPs does not allow the identification of the information requested, Romsilva, EPAs and other public entities are obliged to ask the applicant, as soon as possible and at the latest within one month, to specify what it is requesting. Romsilva, EPAs and other public entities may refuse the request for information if the applicant has not specified what it is requesting within two months of the date on which the public authority sent the instructions to specify.
- Requests for access to environmental information/FMPs specifying/naming the FMP and clearly indicated Natura 2000 sites and forestry districts (ocoale silvice) cannot be refused as unreasonable.
- Romsilva, EPAs and other public entities shall make the information available in the form or format requested, including copies, unless:
 - (a) the information is already publicly available in another form or format easily accessible to the applicant;
 - (b) it is convenient for the public entity to make it available to the public in another form or format, in which case it shall give reasons for providing the information in the form or format available.
- Romsilva, EPAs and other public entities are required to keep information on the FMPs held by or for them in forms or formats that are readily reproducible and accessible by computer telecommunications or other electronic means.
- Reasons shall be given for the refusal of the request to provide information on the FMP, in whole or in part, in the form or format requested and shall be communicated to the applicant within one month of receipt of the request.
- In giving reasons for a refusal of access to information on FMPs Romsilva, EPAs and other public entities are obliged to take into account, in each individual case, that the satisfaction of the public interest in disclosure of the requested environmental information outweighs the interest satisfied by maintaining confidentiality.