

TO: The European Commission
Secretary General
B 1049 Brussels Belgium
Email SG-PLAINTES@EC.EUROPA.EU

Conc.: infringement by Romania of Directive:

- 2001/42/EC on the assessment of the effects of certain public and private projects on the environment
- EU Pilot 3217/12/ENVI-6

Bucharest, 14.12.2012

Dear Secretary General,

The NGOs: Justice and Environment, Bankwatch Association Romania, Greenpeace CEE Romania request the European Commission to start an infringement procedure against Romania on the implementation of the Directive:

- 2001/42/EC on the assessment of the effects of certain public and private projects on the environment transposed in Romania through Governmental Decision no 1076/2004

Regarding the SEA procedure that is carried out now by Romania regarding the revised version of the National Energy Strategy 2011 – 2020, we would like to complain about the following violations of the SEA Directive:

1. The transposition measures were actually a translation of the article of the Directive when it comes to the scope of the directive. In national law it is not clear what plans and programs are subject to SEA. Therefore the High Court of Justice and Cassation and the Bucharest Court of Appeal in case no 10543/2/2010¹ found that the national Energy Strategy is NOT subject to SEA procedure as it is a political act. Therefore the Governmental Decision no 1069/2007 is still enforced although The Government accepted the SEA procedure is needed.

At this point we think it is necessary to ask the Romanian Government to modify the transposition act and to clarify what plans and programs are subject to SEA in relation to *political acts* that are not.

2. Regarding the SEA procedure being carried out we would like to show that:

¹ Decision no. 3394/2012 of High Court of Cassation and Justice and Decision no 3688/2011 of the Bucharest Court of Appeal

a. There is no transboundary procedure although the strategy refers to projects with transboundary impact like: bulding a new power plant (page no 27 and 176 from the environmental report), building two more nuclear reactors at Cernavoda Nuclear Power Plant and increase of nuclear energy production (page no 26, 30, 107, 117 – 119, 134 from the environmental report)²

b. Alternative 0 is missing as any other alternatives. The only one that is considered is *the old version of the Strategy* illegally approved through Governmental Decision no 1069/2007.

c. There was no public participation in drafting the project of the revised national Energy Strategy

d. Opportunities of the public to participate in the procedure were not mentioned in a public announcement. Some individual notifications were release but they only regarding the upload on webpage of the environmental report and revised version of the strategy. In the notification submitted to us it is mentioned that the date of the public debate will also be notified, but in fact it was not, nor the announcement posted on website of the Ministry of Economy or Environment (the environmental competent authority to release the SEA permit). In fact on the website of the Ministry of Environment this procedure is not uploaded; therefore the revised Strategy and environmental report from August 2012 are not posted on their webpage. As a result we were not able to participate in this procedure. We were not informed about the date of the public debate or about the outcome of the meeting.

We are requesting that you ask the Romanian Government to start over the procedure in full respect of SEA Directive, SEA Protocol of the Espoo Convention and Aarhus Convention art 7.

Greenpeace,

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Bankwatch Association Romania

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J&E

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² http://www.minind.ro/dezbateri_publice/2012/Raport_de_mediu_Strategia_Energetica_2011_2020_Rev05.pdf