

## Access to environmental information, a key tool for ensuring eco-transparency: Proactive disclosure as reflected in Romanian legislation

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**Abstract.** The paper is based on the premise that access to environmental information is one of the most powerful mechanisms for environmental protection. Therefore, the research is centered on the analysis of proactive disclosure as an important factor in creating a reliable environment for public policies and as a key tool for ensuring eco-transparency. An important contribution of this paper to the existing literature is the endeavor to provide a clear and comprehensive definition of the term/ The definition of the term represents an important contribution of this paper. Further on, the focus is placed on the analysis of the most important national and international sources of law, mainly because free access to public information requires a pre-existing legal framework. The Discussions revolve around solutions aiming to improve the Romanian framework for proactive environmental information disclosure, having as starting point the case study on the Regional Environmental Protection Agency of Cluj-Napoca, which served for analyzing information, reporting results and finding solutions for the raised issues.

**Key Words:** environment, information, disclosure, legislation, Romania, transparency.

**Introduction.** The reasons that made us choose this topic are related to the fact that one of the most powerful mechanisms for environmental protection is citizens' right to have access to environmental information. Component of participatory democracy, public consultation in the environmental decision-making process is already common in EU countries. Public authorities are directly interested in making decisions as good as possible, as this would ensure their trustworthiness in citizens' eyes. This result can be achieved by promoting a partnership between authorities and civil society, so that the public participate in decision-making (Petrescu-Mag & Petrescu-Mag 2010a). Public participation in the everyday stewardship of the environment is considered a prerequisite for establishing and operating a proper environmental regime (Gavouneli 1999). This could enable the public to express their opinions and concerns and the decision-maker to take into consideration those relevant for the decisions in question. The result would be an increased accountability and transparency of the decision-making process and a greater public awareness of environmental issues. Moreover, it would also gain the public's support for the decisions that have been made. Based on that, access to environmental information is considered a key instrument for ensuring eco-transparency (Petrescu-Mag & Petrescu-Mag 2010b). Taking as a starting point the principle of administrative transparency, eco-transparency can be defined as a general obligation of public authorities to perform their activity in such a manner that it is open to the public, and in which free and unrestricted access to public environmental information is the rule and limited access to environmental information is the exception, always under law. This must be done so as to ensure effective public participation in environmental governance.

There are three aspects of public participation regarding environmental issues that can be identified in Romania (Mihu & Stoenescu 2005): public participation in decisions regarding specific environmental activities and projects; public participation in development programs, action plans and environmental policies; public participation in the elaboration of environmental laws, rules and regulations. Therefore, at national level, the problem of access to environmental information (and beyond) should be considered a fundamental issue for increasing the effectiveness of prevention and control of hazards caused by the degradation of the natural environment.

**Methodology.** A principal methodological approach of the study is the analysis of applicable environmental laws and policies at national, EU and international level. We resorted to a systematic review of the literature focused on proactive disclosure and then we went further to proactive environmental disclosure. We identified, evaluated, selected and synthesized all high-quality research evidence relevant for this topic.

An important part of the research is represented by a critical evaluation the purpose of which is to identify solutions for the debated issue and which gives a touch of novelty to the present paper, making it different from a simple literature review article. The study falls within the category of qualitative research and as to the methods employed, we used a case study for analyzing information, reporting results and finding solutions.

**Mechanisms of access to environmental information.** In addressing this issue it is assumed that the right to freedom of information is founded, in general, on the idea that public bodies do not keep information for themselves, but on behalf of the public. There are numerous examples in Romania showing that, due to acute shortage of information regarding optimal solutions for solving problems, mistakes were made with serious consequences on the environment, and those aware of these consequences could not take effective measures to prevent them, also due to lack of adequate information. There are two main ways of access to environmental information:

#### **Active disclosure**

Public authorities → Public (where "public" means any individual or legal entity, foreign or Romanian, that can provide identification data): it is the system whereby the public authority collects and disseminates environmental information to the public by default, providing the active flow of information. This is made public on the initiative of the public body and not on special requests from the public. This is also known as proactive disclosure and its result is proactive transparency, which can be achieved using a multiplicity of means ranging from publications and official gazettes, to publicly accessible notice boards, radio and television announcements and postings on the internet via websites of public institutions. Public bodies have the obligation to disclose information and, therefore, every member of the public has the corresponding right to receive information.

According to article 5 of Law no. 544/2001 – the Romanian framework-law in this field, public authorities are obliged to inform the public ex officio about documents containing certain categories of public information, such as (the list is not exhaustive): legal documents that regulate the organization and operation of the public institution or authority, responsibilities of departments, schedule, program for audience, budget and balance sheet, list of documents of public interest etc. The following are some ways that facilitate communication between public authorities and citizens: display at the public authority's head office, publication in the Official Gazette, publication in the media, postings on web pages, consultation at the public authority's head office. Figure 1 shows the content of an environmental information database, created in accordance with the national legislation and actively disseminated and constantly updated.

#### **Passive disclosure**

Public → Public authority: also called reactive disclosure, this is a system, that allows the public to request and obtain environmental information from public authorities and which provides a passive flow of information on demand. In this regard, Law no. 544/2001 states that everyone has the right to request and obtain public information from public

authorities. The requests can be written or oral. Consequently, the communication of information implies that such information or documents are not too general or abusive.

Considering these ways of disclosure, public authorities are obliged to organize departments specialized in public relation and information and designate persons responsible for these activities. In Romania, the responsibilities, as well as the organization and operation of these departments are established by the internal rules of public authorities.

The texts of international treaties, conventions and agreements where Romania is a party	Environmental national legislation or in connection with the environment	Risk assessments on environmental elements and impact studies on the environment	Notifications, agreements and environmental agreements, data or data results summaries of monitoring activities affecting or possible to affect the environment	Reports on policies and environmental programs implementation, policies, plans and programs about the environment
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Figure 1. Environmental information database actively disseminated and constantly updated. Source: own elaboration.

**Proactive disclosure reflected in legislation.** Free access to public information requires the possibility to have a pre-existing legal framework. Therefore, in this subchapter, there were pointed out the main international sources of law, particularly the 1998 Aarhus Convention (Convention on the Access to Information, the Participation in Decision-Making and the Access to Justice in Environmental Matters) and some EU directives and national legislation frameworks. The issue of access to environmental information was first substantively addressed in the 1992 Rio Declaration on Environment and Development, in which Principle 10 states that:

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

The most important provision in international law that refers directly to proactive disclosure is contained in the world’s first binding treaty on access to information: the Council of Europe Convention on Access to Official Documents, adopted on June 18, 2009. Article 10 requires that:

“At its own initiative and where appropriate, a public authority shall take the necessary measures to make public official documents which it holds in the interest of promoting the transparency and efficiency of public administration and to encourage informed participation by the public in matters of general interest” (Council of Europe 2009).

The Explanatory Memorandum to the above-mentioned Convention states that citizens need information “to form an opinion on the authorities that govern them and to become involved in the decision-making process. National rules on proactive publication are thus encouraged.”

In addition to the Convention on Access to Official Documents, there are two sector-specific treaties that contain more details. These are the United Nations Convention against Corruption (UNCAC) (adopted by United Nations General Assembly

Resolution, 58(4) of October 31, 2003) and the Aarhus Convention, both of which define specific classes of information that ratifying states should take the initiative to make public. Long before it, in 1946, during its first session, the United Nations General Assembly adopted Resolution 59(1) ("Calling of an international conference on freedom of information"), which affirmed: "Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated" (United Nations General Assembly 1946).

Two years later, article 19 of the Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948 stated that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

The novelty of the Aarhus Convention is a fundamental one: while all previous agreements to the Aarhus Convention set out various obligations assumed by the parties (states and international organizations), this time, the mentioned document went further and established obligations of the parties, not only to each other, but also obligations of the parties to their own citizens. In other words, under the principles of representativeness and non-reciprocity, the signatory states and with them, the public authorities and decentralized public institutions, unconditionally assume certain obligations to the public. Therefore, article 4, begins by stating:

"(1) Each Party shall ensure that ... public authorities, in response to a request for environmental information, make such information available to the public ... (a) Without an interest having to be stated".

The preamble of the Aarhus Convention highlights two concepts: the right to a healthy environment, seen as a fundamental human right and the importance of access to information, public participation and access to justice, which can be seen as a tool for achievement of the right to a healthy environment: "Considering that, to be able to assert [the right to live in a clean environment] citizens must have access to information ... Recognizing that, in the field of environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns ...".

Through the Aarhus Convention viewed in the context of the human rights and fundamental freedoms, it is assumed a new kind of responsibility of public authorities by recognizing the fundamental role of the right to a healthy environment. This right, stated also by the Romanian Constitution, is related to sustainable development, meaning that resources must be exploited so that future generations can benefit from them. Briefly, the Aarhus Convention brings another fundamental novelty in international law, as this is the first time when a link is made between human rights and the environment. The Convention is divided into three pillars: 1. Public right of access to environmental information; 2. The Public's right to participate in decisions; 3. The Public's right to address the justice if the first two rights (1 and 2) and environmental laws are violated.

Access to environmental information has emerged as a crucial service for citizens and was driven by various directives. These European directives and national legislations have generated a variety of means of disseminating environmental information (Böhler et al 2002). Following the adoption of the Aarhus Convention, at EU level there have been adopted directives that develop requirements for public participation in the decision-making process. One of these is Directive no. 2001/42 EC on the assessment of the environmental impact of plans and programs, called SEA Directive. It states that, in order to contribute to more transparent decision-making and with the aim of ensuring that the information supplied for the assessment is comprehensive and reliable, it is necessary to make sure that authorities with relevant environmental responsibilities and the public are consulted during the assessment of plans and programs and that appropriate time frames are set, allowing enough time for consultations and, expression of opinions. Therefore, the public's opinions, as well as the results of any trans-boundary consultation, should be

taken into account during the preparation of the plan or program and before its adoption or submission to the legislative procedure.

The objective of Directive no. 2003/35/EC is to contribute to the implementation of the obligations arising under the Aarhus Convention, in particular by: providing for public participation in the drawing up of certain plans and programs relating to the environment, improving public participation and providing for provisions on access to justice. Consequently, the Member States shall ensure that the public is given early and effective opportunities to participate in the preparation and modification or review of the plans or programs required to be drawn up. To that end, the Member States shall ensure that (article 2): (a) the public is informed...; (b) the public is entitled to express comments and opinions when all options are open before decisions on the plans and programs are made; (c) in making those decisions, due account shall be taken of the results of the public participation; (d) having examined the comments and opinions expressed by the public, the competent authority makes reasonable efforts to inform the public about the decisions taken and the reasons and considerations upon which those decisions are based, including information about the public participation process.

The directive on the freedom of access to environmental information (Directive no. 2003/4/EC on public access to environmental information, repealing Council Directive no. 90/313/EEC) aims to ensure free access to information on the environment held by public authorities and lays down detailed conditions for making such information accessible, including appeal procedures against refusal or failure to provide information, charges for the provision of information and exemptions from disclosure (Winter 1996). In view of these detailed procedural prescriptions, the directive has important implications on national patterns of administrative interest intermediation, namely by demanding a more open and transparent style of environmental regulation with different societal interests having equal opportunities in access to administrative decision-making. In this way, the scope for secretive and closed interaction patterns between regulatory authorities and the regulated industry found in many Member States is significantly reduced (Knill & Lehmkuhl 2002).

In Romania, the domestic sources of law concerning access to information on environmental matters are already in force, due to the fact that Romania is an EU member state. Request and disclosure of information on the environment is in accordance with the provisions of the Aarhus Convention. The Aarhus Convention was ratified in Romania by Law no. 86/2000 and the provisions of Directive no. 2003/4/EC on public access to environmental information were transposed by Governmental Decision no. 878/2005 on public access to environmental information. Articles 4 and 5 of the national law ratifying the Aarhus Convention (Law no. 86/2000) regulate access to environmental information. Both articles aim at creating a system to ensure the right of natural and legal persons to be informed as follows:

- Establish the obligation of the state to guarantee access to information by specific laws and their implementation in the practice of institutions.
- Establish the obligation of public authorities to collect, store and disseminate environmental information.
- Establish exceptions when the right to information cannot be guaranteed.

At national level, public participation in decision-making can be done in several stages and in many ways. Participation in decisions is a human right, thus the provisions of the law are the minimum required from the authorities. Public participation in decision-making is a complex process with several successive stages. In the first stage, the public must be informed, while in the second stage, the authorities should collect information from the public, which can be done in different ways (round tables, emails, free "hot line" calls to collect ideas, interviews from citizens or community leaders, focus groups, surveys etc). Based on these ideas and information and suggestions from the public - plus those the authorities already have from archives, officials, institutions, media and literature - the draft decision, in a first form, should be made, ideally in several versions. The third stage involves public consultation. The fourth stage, which must not be omitted, consists of assessing the public consultation. It should be done before the decision is adopted, in order to see if it was done correctly and efficiently. Public

consultation can be done in many ways, for example: public meetings, public hearings, public debates. Disclosure of data and policy documents ensures that the public has the necessary information to participate in policy- and decision-making. Participation is not just a means, but also a model for involving those concerned about the respective matter. It should be understood as a pro-active approach for creating an enhanced understanding of objectives, problems and their solution. Optimally, any participative process will help to create more informed operative decisions, and thus provide a more solid base for policy outputs, increasing the chance of reaching "sustainable" decisions that consider long-term effects (Appelstrand 2002).

In Romania, the right to information is included among the constitutionally guaranteed human rights. Article 31 includes comprehensive provisions on freedom of information. The first two lines state that:

- (1) A Person's right of access to any information of public interest cannot be restricted.
- (2) Public authorities, according to their competence, are bound to provide correct information to citizens regarding public affairs and matters of personal interest.

Thereby, article 31 of the Romanian Constitution establishes free access to public information as a fundamental right of any person, be it natural or legal. Article 31 uses the term "person" ("Person's right..."), without specifying the distinct categories of persons to whom this fundamental right is addressed. Consequently, it can be interpreted that both natural and legal persons can benefit from this freedom (according to the principle of law, *ubi lex non distinguit, nec nos distinguere debemus*). The Normative configuration of this fundamental right includes freedom to inform any person by setting up the possibility of unrestricted access to a particular area, that of public information. The main normative consequence of the existing constitutional provisions on free access to public information is the establishment of a general obligation to provide public power and facilitate the access that is granted to any person in a circumstantial field, that of information of the public interest.

Furthermore, article 35 of the Romanian Constitution hints at the right of free access to environmental information when stating that the state recognizes everybody's right to a healthy and ecologically balanced environment. This article was introduced by Law no. 429/2003, upon constitutional review to synchronize the fundamental law with the new legislative principles promoted by various international documents to which Romania was a signatory party. Free access to environmental information as information of the public interest is regulated by Law no. 544/2001 on free access to public information (consolidated in 2009). Public information is defined here as:

"any information concerning the activities of or resulting from the activities of public authorities or public institutions, regardless of the support, form or mode of expressing the information."

In the same spirit as the Constitution, art. 1 of Law no. 544/2001 adds: "a person's free and unrestricted access to any information... is one of the fundamental principles of the relationships between individuals and public authorities, in accordance with the Romanian Constitution and the international documents ratified by the Romanian Parliament."

The law mandates public institutions to organize specialized departments for public information and relations, including a spokesperson to ensure direct communication with the press. This law is completed by Governmental Decision no. 878/2005 on public access to environmental information and Order no. 1182 of December 18, 2002 for granting approval of the methodology for managing and providing environmental information held by public authorities.

The Governmental Decision no. 1213 of 2006 establishing the framework procedure for assessing the environmental impact of certain public and private projects enumerates the stages this procedure implies:

- the screening stage to determine if the project fits with the procedure for environmental impact assessment;
- the stage of defining the field of assessment and writing the environmental impact assessment report;

- the analysis stage to determine the quality of the environmental impact assessment report.

The public may attend both the first stage, when the project is being framed and the final stage that concludes with the integrated environmental agreement being granted or not. Public information and participation in the evaluation of the environmental impact are coordinated by competent authorities in the field of environmental protection and include:

- Ways to inform the public: posters, publications in the central and / or local media, organization of exhibitions with plans, tables, charts, models on the project and so on;
- Ways to consult the interested public like written reports or public debates;
- Time frames for the procedure stages: in order to ensure enough time to inform the public, to effectively prepare and participate in the environmental decision-making process.

Unfortunately, sometimes this is only theory. In some cases, deadlines are unrealistically short and therefore liable to be broken, which undermines the respect for the law (according to the national legislation and more exactly to Law no. 544/2001, the waiting time for an answer to a request can range between 30 and 60 days).

The Romanian legislation confirms the right to information along with a presumption in favor of granting access to information – known as the principle of maximum disclosure.

“The principle of maximum disclosure establishes a presumption that all information held by public bodies should be subject to disclosure and that this presumption may be overcome only where there is an overriding risk of harm to a legitimate interest” (Mendel 2008).

The Romanian law regarding access to information meets the key elements (mentioned below), so it can be said that they promote the principle of maximum disclosure. These laws contain:

- A broad definition of both the scope of information and public bodies. Information includes: all records held by a public body, regardless of the form in which the information is stored (document, tape, electronic recording and so on), its source (whether it was produced by the public body or by some other bodies) and the date of production regarding environmental factors, activities or measures taken, including administrative measures, which affect or may affect the environment, reports on the application of the environmental legislation, health and human safety (Governmental Decision no. 878/2005).
- The processes of exercising this right, as well as the right to appeal, before a court in case of refusal to provide information (according to art. 22 of Law no. 544/2001, prior to appearing before the administrative court, a complaint must be made within 30 days from the institution’s explicit communication or tacit refusal).
- The public bodies’ obligation to proactively publish key categories of information, even in the absence of a request.
- A clear and narrow regime of exceptions that is subject to a harm test and the public interest (article 12 of Governmental Decision no. 878/2005 presents the situations when access to environmental information can be denied). Therefore, like any fundamental right, freedom of access to environmental information is a right that can be exercised relatively, not absolutely, so that public authorities may impose certain limitations and apply restrictions to certain situations. A refusal to disclose information is not justified unless the public authority can show that the information meets a strict three-part test. The three-part test, as Mendel (1999) shows, is represented by the following:
  - (1). Information must relate to a legitimate aim listed in the law;
  - (2). Disclosure must threaten to cause substantial harm to that aim; and
  - (3). The harm to the aim must be greater than the public interest in having the information.

This principle encapsulates the basic rationale underlying the very concept of freedom of information and ideally it should be provided for in the Constitution (as it is in Romania) to make it clear that access to official information is a basic right (Mendel 1999).

**A case study on the role of the Regional Environmental Protection Agency of Cluj-Napoca in the field of air quality and environmental proactive disclosure.** A key component of the equitable development and implementation of environmental policies is the participation of citizens and community-based organizations in the policy process. Such participation rests upon equitable access to agency-generated environmental information and effective use of that information by citizens (Kellog & Mathur 2003). Therefore, the Regional Environmental Protection Agency of Cluj-Napoca was chosen as the subject of this case study because it performs the tasks of the National Environmental Protection Agency at regional level, such as developing and implementing regional development policies and strategies doing the environmental planning in the region, providing expert assistance to develop, review and manage environmental projects and programs and being responsible for implementing the legislation and issuing environmental regulatory acts according to the specific legislation.

With respect to the Regional Agency, several aspects were taken into consideration: the duties and their distribution in the field of environmental disclosure and air quality, the organization and how it works (the responsibilities of public officials, the departments, the official website), the nature and the quality of the documents posted on the website etc.

The reasons that made us focus our attention on air quality, are presented below:

- (1). For Romania, air quality is one of the sectors in which public access to information can be easily verified because of the more rigorous legislation (requirement to draw up monthly and yearly air quality bulletins, reports on implementation measures in the integrated air quality management etc).
- (2). Citizens' interest in this sector, especially due to its impact on health. It is known that emissions of air pollutants, in general and from traffic, in particular, are very closely connected to urban air quality, on a local scale and to global problems like climate change, on a large scale (Thambiran & Diab 2011; Thirumala et al 2011). Emissions of air pollutants from Road transport represent, in most cases, a critical parameter for a comprehensive and successful understanding of the mechanisms governing air pollutant concentrations (Progiou & Ziomas 2012; Böhler et al 2002). Cluj is one the three largest counties in the country. Of the total county population (674.902 inhabitants), 461.251 inhabitants live in urban areas and the rate of urbanization is 66.89% (Official Report of Census 2011). In the last 20 years, urban areas have proved to have a harmful impact on the environment, fragmenting and isolating ecosystems, compromising their capacity to provide environmental services (Depietri et al 2012) and therefore affecting everybody's right to a healthy and ecologically balanced environment (stated in the Constitution).

The local inventory of atmospheric pollutants is the result of the information provided by inventoried economical operators (at production level, devices, installations and vehicles, total fuel consumption previously used) and statistical data (number of inhabitants by county, number and categories of registered cars etc). It was created with several purposes: to identify pollutant sources and activities and possibilities to mitigate emissions; to develop strategies in this direction; to estimate the costs and benefits of different environmental policies; to use emission inventories as input data for pollutants dispersion models in order to assess air quality; to provide the necessary information for assessing the efficiency of environmental protection policies and programs and adequate data for public information using established indicators (Oroian 2011; Luttenberger & Rukavina 2004). These goals are consistent with the provisions of Directive no. 2008/50/EC on ambient air quality and cleaner air for Europe, which establishes the need to reduce pollution to levels that minimize adverse effects on human health, to improve monitoring and evaluation of air quality and to provide information to the public. One of the obligations assumed by Romania in order to implement the directive was to create the National Network for Monitoring Air Quality. The National Network for Monitoring Air Quality includes 142 stations for continuous monitoring of air quality, equipped with automatic measurement of the main air pollutants: sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>2</sub>/NO<sub>x</sub>), carbon monoxide (CO), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>),



benzene (C<sub>6</sub>H<sub>6</sub>) heavy metals (lead, cadmium, nickel, arsenic, mercury), and polycyclic aromatic hydrocarbons.

The Regional Environmental Protection Agency of Cluj-Napoca is monitoring air quality through analysis made with laboratory equipment, using physicochemical analysis and automated stations for monitoring air quality located in five sampling points. The Agency also took into account the measurements made by the laboratories of the heaviest polluters among economic operators. These measurements are the basis for the elaboration of the Integrated Management of Air Quality Program in Cluj-Napoca.

The data on Air quality monitored by the Regional Environmental Protection Agency of Cluj-Napoca are public information and are displayed on two monitors: one located outside, in one of the most populated hall squares of the city (Mihai Viteazu Hall Square) and another located inside the City Hall of Cluj-Napoca. Information about the monitored values is available for public access on the website of the Regional Environmental Protection Agency of Cluj-Napoca: <http://arpmcj.anpm.ro>. In this regard, there are issued monthly and annual reports on environmental quality, for the county of Cluj. Since August 1, 2009, the Regional Environmental Protection Agency of Cluj-Napoca has been publishing daily bulletins to inform the public about the air quality of Cluj county; they are based on on-line measurements made with automatic stations for monitoring air quality. The results of the measurements concerning particulate matter are obtained with the nephelometric method. The Monthly evolution of air quality is represented by the general indices for monitoring air quality from the local monitoring network.

**Results and Discussion.** Participation reflects a normative towards possible and functional environmental governance and it should be reflected, at least at national level, into a much more coherent set of practices. Proactive disclosure, part of the right of information, can be considered part of democratic and, implicitly, transparent governance. As Helen Darbishire (2010) remarks, in principle, all information held by public bodies could be proactively disclosed, subject only to the application of exceptions that are consistent with international and national laws. The literature offers a number of guiding principles for designing and implementing proactive disclosure regimes, so that information be available, findable, relevant, accurate, comprehensible, low cost or free and up-to-date.

One must carefully take into account the fact that holding information and disseminating it to the population do not lead to environmental protection unless the public is able to understand and use it. In this context, both at local and national level, there emerges the necessity for an educational campaign and specialized services to guide citizens in solving problems in the field. The first step in raising citizens' awareness of pollution-related damages is to inform them about environmental problems and solutions for environmental prevention and protection. Therefore, it can be said that environmental education starts with good information. Further on, citizen must be directly involved in solving environmental issues through participation in drafting regulations and issuing and implementing decisions. Only in this way can public opinion become operational.

The results of our case study indicate that in the short-to-medium term, the Regional Environmental Protection Agency of Cluj-Napoca can be used as a major regional portal of disseminating environmental information, even if there are many things that must still be done, like correcting civil servants' mentality according to which any way of doing things is fine when one works for the state.

The Present research brings to the foreground issues that can hinder access to environmental information:

(1) The law requires public bodies to disclose certain categories of information, but this is not enough. For many people, Effective access depends on these bodies actively publishing and disseminating key categories of information even in the absence of a request. The amount of covered information should increase over time, particularly as new technologies make it easier and cheaper to publish and disseminate it (Mendel 2008). The internet is an effective means to disseminate information, even more so as it

does not imply relevant costs like other means (mail correspondence, photocopies). For this reasons, public authorities should use this tool more often. It can be noticed that, unfortunately, public authorities constantly publish on their website incomplete or outdated information (for example the Report on the status of environmental factors for 2011 – the Regional Environmental Protection Agency of Cluj-Napoca). Sometimes, instead of a piece of information, the web page only displays the well-known "Site under construction" (for example, this is the case of Reporting Integrated Programs/Programs for air quality management to EC - Regional Environmental Protection Agency of Cluj-Napoca 2013, on 18<sup>th</sup> of March 2013). Such was the case when we tried to find on the web page of the Regional Environmental Protection Agency of Cluj-Napoca information about: the list of public authorities that have environmental information, the record of the requests for environmental information, Air Quality Bulletins (only monthly bulletins are posted) and the list may go on.

The Regional Agency is suggested to restructure its web page so that environmental information about the agencies of the other counties be easier to access. This is a requirement that emerges from the fact that in 2010 the Regional Environmental Protection Agency of Cluj-Napoca went through a reorganization process. From that date on, the Regional Agency fulfills the duties of the local environment authority and of the coordinator of the environmental agencies of the other five counties in Region 6 or the North-West Region.

(2). One of the elements that the Regional Environmental Agency should correct in the future concerns the efficiency of the environmental information disclosure. What are we actually expecting? The simple fulfillment of duty obligations imposed by legal rules, checked job tasks and the communication of useful information that citizens can make use of.

This last aspect also refers to the content of environmental information. It should be concise, accurate, accessible, so that any citizen can understand it, not just specialists in the field. This observation is based on the study of the air quality reports, published monthly by the Regional Environmental Protection Agency of Cluj-Napoca. Figures 2-3 represent an example in this respect. The image below is part of the monthly report on air quality (August 2011 – Figure 2, January 2013 – Figure 3) provided by the Regional Environmental Protection Agency of Cluj-Napoca. One may wonder how much a person who is not an employee of the Regional Agency can understand from the chart below, as there is no legend or other explanations. Fortunately, the explanations can be found in literature (Mihăiescu et al 2011), but access to it is not always free or, if it is, it implies an academic search that is not always an easy task for citizens.

However, the Regional Agency's daily air quality reports have their good aspects that must not be overlooked. Therefore, the information is presented in a simple, concise manner, accessible to anyone. As it can be observed in Figure 4, the general air quality index is divided into six categories: 1. excellent, 2. very good, 3. good, 4. medium, 5. bad, 6. very bad. For each monitoring station there is an identification code. For stations 3, 4 and 5 air quality can be identified without problems (taking into consideration the already-mentioned indicators SO<sub>2</sub>, NO<sub>2</sub>, O<sub>3</sub>, CO, PM<sub>10</sub>), but there is no information displayed for stations 1 and 2 due to some technical malfunctions and lack of analyzers for measuring at least 3 of the 5 parameters, respectively.

(3). Fees are a controversial issue in laws about freedom of information. It is widely accepted that fees should not be so high as to deter requests. Public bodies face many costs with searching, preparing and duplicating documents, sending information, etc. that can be transferred to the ones soliciting the information. Given the existing economic conditions in Romania, it would be good if certain social categories, such as the unemployed, retirees, students etc benefited from a fee reduction or free access to information. In order to ensure the consistency and accessibility of the fee structure, the fee should be established by a central authority, rather than by each public body separately, as it happens today.

A. Evoluția indicelui general de calitate a aerului la stațiile din rețeaua locală de monitorizare:

Stația CJ-4 adresa: Str. Dâmbovița, Cluj Napoca

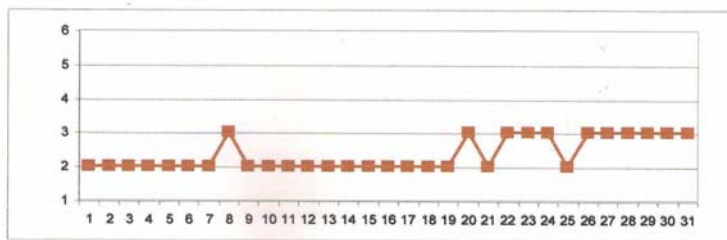
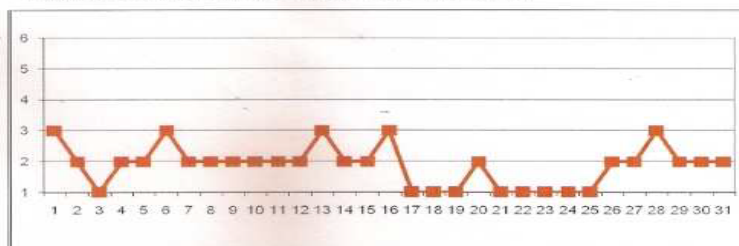


Figure 2. Evolution of the general air quality parameter in the local monitoring network.

Source: Regional Environmental Protection Agency of Cluj-Napoca, Air Quality Bulletin, August 2011, available at: <http://apmcj.anpm.ro/files/My%20Folder/Evolutia%20calitati%20aerului-2011/Evolutiecalitate aer082011.pdf>. (second page)

A. Evoluția indicelui general de calitate a aerului la stațiile din rețeaua locală de monitorizare:

Stația CJ-3 adresa: Str. 1 Decembrie 1918, Cluj Napoca



Stația CJ-4 adresa: Str. Dâmboviței, Cluj Napoca

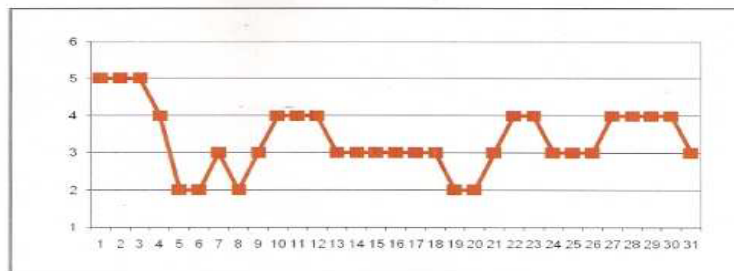


Figure 3. Evolution of the general air quality parameter in the local monitoring network.

Source: Regional Environmental Protection Agency of Cluj-Napoca, Air Quality Bulletin, January 2013, available at: <http://apmcj.anpm.ro/files/My%20Folder/Evolutie%20lunara%20ianuarie%202013/Evolutiecalitate aer012013.pdf> (second page)

Nr.: 47 / 22.01.2013

**Buletin pentru informarea publicului  
cu privire la calitatea aerului în județul Cluj în data de 22/01/2013**

Indicele general de calitate a aerului este calculat pentru următorii indicatori: dioxid de sulf (SO<sub>2</sub>), dioxid de azot (NO<sub>2</sub>), ozon (O<sub>3</sub>), monoxid de carbon (CO), pulberi în suspensie cu diametrul mai mic de 10 micrometri (PM<sub>10</sub>).

Nr. Cri	Cod stație	Zona	Indice general de calitate a aerului zilnic						Obs.
			1 EXCELENT	2 FOARTE BUN	3 BUN	4 MEDIU	5 RAU	6 FOARTE RAU	
1.	CI-1	RO0601							defecțiune tehnică
2.	CI-2	RO0601							stația nu este dotată cu analizatoare pentru măsurarea a cel puțin 3 din cei 5 indicatori
3.	CI-3	RO0601							
4.	CI-4	RO0601							
5.	CI-5	RO0601							

Datele sunt furnizate de stațiile automate din Rețeaua Națională de Monitorizare a Calității Aerului.

Figure 4. Informative Bulletin on air quality in Cluj county, on 22.01.2013.

Source: after Regional Environmental Protection Agency of Cluj-Napoca, Air Quality Daily Bulletin (22.012013), available at: <http://apmcj.anpm.ro/files/My%20Folder/Buletine%20ianuarie%202013/Buletincalitate aer22012013.jpg>

(4). Very often, one of the biggest obstacles in accessing environmental information in Romania is the poor state in which records are kept. Many times, officials do not know what information they have or, even if they do know, they cannot locate the records they are looking for. As Mendel (2008) says, handling information is one of the key functions of modern government and doing this well is crucial to effective public management.

There are no excuses for the disorganization of public relations services or of offices specialized in disseminating information and assisting citizens in formulating and solving specific problems; there is only the interest of perpetuating a state of confusion and indifference that brings profit to groups interested only in their own benefits.

**Conclusions.** It cannot be said that the environment is always properly protected in Romania, although there is a formal legal framework. If a record of environmental law cases was made, one would notice that Romania occupies one of the last places in Europe. Since Romania's accession to EU (2007), robust legislation on public information has been developed. Even if Romania has a comprehensive legislative framework in this field, authorities do not always inform citizens how to benefit from these rights and neither do they always take action to ensure that the civil society has adequate resources for appropriate responses in due time. What is practised here is a formal democracy: public bodies grant citizens rights they cannot benefit of. Legal provisions are often inefficient, as there are no effective implementation mechanisms adapted to the needs and specific elements that characterize Romanian society. Therefore, the central government, municipalities and other local public actors are required to develop and implement (and this is a very important aspect due to the fact that rules and procedures remain very often only written words) integrative environmental policies. In this context, proactive disclosure may represent an important factor in creating a reliable environment for public policies. Consequently, the laws concerning freedom of information mirror the fundamental premise according to which public authorities are supposed to serve people, having the duty to create and implement appropriate tools and mechanisms for this purpose.

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Romania for the sustainable development of rural space ("La présente publication a été rendu possible grâce à l'Accord qui lie Wallonie-Bruxelles et la Roumanie").

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