

The Ministry for the Environment and Sustainable Development
To the attention of: The Technical Analysis Committee for the Rosia Montana EIA
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3 July 2007

Contestation

The undersigned, Alburnus Maior NGO, headquartered in Rosia Montana, Alba County, 361 Berk Street, 517615, after having analyzed the Annex to the EIA Report submitted by Gabriel Resources (Annex), herewith submits the following comments concerning the legal aspects of the implementation of the Rosia Montana Project:

Only some of the questions the public raised in relation to the legal aspects of the implementation of the Rosia Montana project have been selected by the project owner and included, together with the answer of the latter, in two of the volumes of the Annex: the LEGAL Volume and the PERMITTING Volume. Many of the project owner's replies to questions concerning legal matters were included in other volumes: volume 68 includes the project owner's reply to the report written by the Institute for Legal Studies of the Romanian Academy entitled "Outlook on the legality of the Environmental Impact Assessment Report for the *Rosia Montana Project*"; volume 86 includes the project owner's reply to the contestation submitted by the Independent Centre for the Development of Environmental Resources etc.

In the present document we have consequently had to reorganize the questions and replies given by the project owner. We have organized this document on domains of authorization. In order to more easily identify the issues and responses given by the project owner, which were wrested from the documents initially published on the website www.mmediu.ro, we have chosen to include parts of the text of the responses and insert our comments on them underneath the table in which the original responses are reproduced.

I. Mining specific legislation, the mining license concession

1.

A large part of the Corna Tailings Management Facility is not included in the mining lease of Gabriel Resources. The questioner would like to learn if this is correct or is merely an erroneous information.

Permitting 51

Solution	<p>We would like to underline the fact that the mining operations developed by the S.C. Roșia Montană Gold Corporation S.A. (RMGC) as titleholder of the secured licenses are and going to and will be developed “<i>in the framework of certain perimeters which have been authorized by the relevant authority for this reason</i>” (according to the provisions of Art. 4(3) from Mining Law no.85/2003). [...] according to the provisions of art. 17(1), 18(2) letter a) and 20 from Mining Law no. 85/2003, the RMGC titleholder has the legal right to secure directly the mining license for the Bucium perimeter. Concurrently, we underline that in the Bucium perimeter approximately 9% of the surface area of the tailings management facility at its maximum extension (in the 16th year of operation) and not “a large part of it”.</p> <p>...</p>
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The public’s question is a pertinent one and in close relationship with the applicable legal requirements regarding the performance of mining activities. On the other hand, the reply intentionally moves the discussion away from these legal grounds. Naturally, the reply could have had two options: true or false.

According to the Non-technical summary, page 4, the project owner chooses to prevail itself of the Concession License for the exploitation of gold and silver ores in the Rosia Montana perimeter no. 47 /1999.

The project now subject to the environmental impact assessment procedure does not include the area which is the object of the Concession License for exploration in the Bucium perimeter no. 218/1999 (“Bucium License”), although the project owner unreasonably prevails itself of this license, too.

According to art 3, alin1 of the Mining Law 85/2003 mining activity means all the work related to the prospecting, exploration, development, exploitation, preparation/processing, concentration, commercialization of mining products, care and maintenance/closure of mines, including environmental rehabilitation.

As such the concession license for exploitation forces its owner to carry out exploitation activities “**only within perimeters especially authorized for this aim by the competent authority**” art 4, alin 3, an article of law fragmentarily quoted by the project owner.

What is more, according to the provisions of article 40 of the Decision no. 1.208 of 14 October 2003 on the approval of Norms for the application of Mining Law _85/2003_, the lists of perimeters where exploitation activities can be concessioned is approved via an order of the President of NAMR and it’s published in Romania’s Official Gazette, Part I.

As a consequence, the perimeters are not authorized at the project owner’s initiative. On the contrary, the perimeters designed for carrying out mining activities are established by the competent authority either via an order of the President of NAMR, either via legal acts of granting into administration or concessioning, according to article 23 of the same methodological norms.

The Concession license No. 47/1999 Rosia Montana can not be the object modifications in as far as the authorized perimeter is concerned as long as the methodological norms for the application of Law 85/2003 stipulate that “**in case the exploitation license holder proves the deposit’s extension which is the object of the licence beyond the limits of the exploitation perimeter approved via the license, the license holder can request the perimeter’s extension only after the initial**”

validity term has expired or after the exhaustion of the mineral resources/reserves from the initially approved perimeter, provided that the extensions do not interfere with another concession/ administration", article 32, alin 2 of Decision no. 1.208 of 14 October 2003.

Last but not least, one has to bear in mind that the exploitation perimeter means 'the area corresponding to the projection on the land surface of the contour of the portion of the earth's crust where, for a determined interval of depth, [...] exploitation activities are conducted, and also the areas of land needed for processing/preparation of mineral resources and the storage of mining residues'.

This is to say that at this stage of development of the mining activities proposed by RMGC, this company can only relate to the perimeter especially authorized for this aim via the mining license, a perimeter which needs to be identical with the one exploited by Minvest Deva. The future authorization and the issuing of a new exploitation license respectively, on a new perimeter, cannot be the object of discussions right now, being a future and uncertain issue.

If we are, as the project owner claims, in the stage of authorizing the mining activities in accordance with License no. 47/1999 Rosia Montana, it is then unreasonable how the project owner can claim rights generated by the Bucium Exploration License in the Bucium perimeter.

Also take notice that the Bucium exploration license issued for "Minvest" S.A, approved with the NAMR Order nr. 60/1999, published in Romania's Official Gazette, Part I, no. 222 of 20 May 1999, afterwards transferred to S.C. Rosia Montana Gold Corporation S.A., had a validity period of 8 years, which expired on 19 May 2007. As such, there is no way that the project owner can prevail itself of this license.

While the public's answer was strictly referring to the perimeter authorized via License No 47/1999, respectively to the fact that part of the Corna tailings pond surface falls in an unauthorized perimeter (in the sense of the above-quoted definition: the surface necessary for performing the exploitation, preparation and storing of mine waste), the project owner's reply refers to the authorization of the mining activities, a procedure that is distinctively stipulated in article 22 of Mining Law 85/2003 regarding the mining activities' inception.

2.

The questioner makes the following comments and addresses the following questions: when overlapping the project boundaries with the mining licence, we notice that, in the Bunta area, several dozens hectares are not covered by the mining license. The Mine Law is very strict in this respect: the project may be developed only within the perimeter covered by the license. Therefore, this should be rectified within the shortest time possible, in order to continue the procedures related to the analysis of this project.

Legal 389

Solution	Mention should be made the mining activities developed by RMGC as titleholder of the licenses are and will be performed " <i>within perimeters authorized for this purpose by the competent authority</i> " (according to art. 4(3) of the Mining Law no. 85/2003). [...] the titleholder has the legal right to directly obtain an exploitation license for Bucium perimeter, according to art. 17(1), 18(2) let. a) and 20 of the Mining Law no. 85/2003. ...
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The public's comment highlights the same aspect as above, respectively the lack of authorization for the proposed perimeter in relationship with the Exploitation License 47/1999.

Please also keep in mind the definition stipulated in article 31 of the methodological norms for the application of Law 85/2003, Decision 1208/2003: A mining license establishes: its duration, **the exploitation perimeter**, the quantity of reserves proposed to be exploited, types of mining products, the license holder's obligations under the exploitation development plan and the environmental rehabilitation plan, as well as other obligations and rights belonging to the license holder as stipulated by law. Of relevance at this point is also the stipulation of art 32 according to which a perimeter extension can only be approved beyond the initial limits after the validity term has expired or after the exhaustion of reserves.

The project owner has indeed the possibility to obtain an exploitation license for Bucium. Yet the authority can not decide on the conditions to issue or reject the environmental accord based on the discretionary right of the project owner to eventually obtain, sometimes in the future, the exploitation license for Bucium. Getting the new license and authorizing the actual mining activities in the Bucium perimeter will have to follow the distinctive procedure stipulated by article 22 of Law 85/2003.

The statements made by the project owner with regards to a future authorization procedure from the part of National Agency for Mineral Resources (NAMR) are contradictory. NAMR itself otherwise claims in file no 525/57/2007 at the Alba-Iulia Court of Appeal that **“Rosia Montana Gold Corporation does not have and never had an obligation for authorizing and for a deadline to start mining activities(our remark:- as stipulated by article 22 of Law 85/2003)**, because the mining activity was ongoing at the time the mining law was adopted and the mining license was issued based on article 46 of Mining Law 61/1998 **therefore its holder is not subject to the obligation to get an authorization for the start of it's mining activities”**

3.

The environmental permit is issued based on the mining license, which does not reflect the project currently proposed. Rosia Montana Gold Corporation holds licence no. 47/1999, transferred from the state-owned company MINVEST. This agreement stipulates a production capacity of 400,000 tons per year, while Rosia Montana Gold Corporation officially proposes, in its project, 13 million tons per year.

Legal 424

Solution	The concession license for exploitation in the Roşia Montană perimeter no. 47/1999 (“the Roşia Montană License”) was concluded based on and according to the procedures provided by the former Mining Law no. 61/1998, in force as at the conclusion of the License. [...] As per the legal provisions, <u>the object of the Roşia Montană License is the exploitation of the mineral resources in the perimeter Roşia Montană</u> and not the activity of CNCAF Minvest SA, which is a company affiliated to the license. [...] According to the legal provisions, RMGC follows the entire permitting procedure for the new mining exploitations, the public debate of the Report to the Environmental Impact Assessment Study being a compulsory stage within this permitting process.
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RMGC does not clearly indicate which are the legal requirements based on which the company is now in the authorizing procedure for **new mining activities**. On the contrary, RMGC is obliged, according to article 22 of Law 85/2003, to request the authorization **of only those** mining activities **stipulated in the mining license**.

The exploration activities developed and performed by RMGC are, according to the definition at article 3, point 1 of Law 85/2003, mining activities which should have also been authorized to start before their performance. What is more, the law makes a clear distinction between rights to explore and rights to exploit and as such please note that “exploitation means all activities performed in the underground and/or at the surface in order to extract mineral resources, process and deliver them in specific forms”.

It is not correct to claim that the object of the Rosia Montana License is the exploitation of mineral resources in the Rosia Montana perimeter in the general sense. The object can only be, based on the legal applicable provisions, the exploitation of mineral resources in the authorized Rosia Montana perimeter.

The collection of all studies and activities for the identification of deposits, their quantitative and qualitative evaluation as well as the assessment of technical and economical conditions for their use, based on which RMGC proposes the present project are specific activities of exploration as defined by article 3, point 12 of the Law 85/2003, activities performed by RMGC and unauthorized by the competent authority given that a separate mining license is missing.

To recognize any specific exploration rights based on an exploitation license would be an infringement of the legal applicable dispositions with regards to the authorization of exploration activities.

According to article 31, a mining license establishes: its duration, the exploitation perimeter, the quantity of reserves proposed to be exploited, types of mining products, the license holder’s obligations under the exploitation development plan and the environmental rehabilitation plan, as well as other obligations and rights belonging to the license holder as stipulated by law. Production capacity means beyond any doubt the quantity of reserves proposed to be exploited.

In address no. 5357/3.03.2006, in a reply to Alburnus Maior’s request for information no 35/2.02.2006, NAMR mentions that **“At the time when the exploitation license was transferred, there was no modification of the conditions in which the execution of mining activities in this perimeter has been concessioned”**.

As a consequence, the interpretation according to which the object of the Rosia Montana License is the exploitation of mineral resources in the Rosia Montana perimeter in the general sense and not the activity performed by Minvest SA, an affiliated company to the license is flawed. This is so because the license establishes the quantity of reserves **proposed to be exploited**. Therefore, the object of the license cannot be the exploitation of all mineral resources in Rosia Montana in the general sense. If, as claimed by the project owner, the ‘authorized perimeter’ is in no way relevant, which is after all the meaning of ‘the Rosia Montana perimeter’? Who establishes the limits of this perimeter?

4.

How was it possible that the mining licence no.47/1999 stipulate a licence holder and a licence holder affiliate -the titleholder Minvest for mine exploitation works and the affiliate licence holder RMGC for exploration activities?

Legal 296

Solution	<p>[...] The transfer of the Ro�ia Montan� License from Minvest to RMGC was made as per the provisions of art. 14 (1) of the Mining Law no. 61/1998, which provides that “<i>the titleholder of a license may transfer to another legal person the rights obtained and the obligations undertaken, only with the written approval of the competent authority</i>”. The approval of the transfer was made by NAMR Order no. 310/9.10.2000, published in the Romanian Official Gazette, Section I, no. 504/13.10.2000. Art. 2 of the above mentioned enactment provides that: “<i>CNCAF Minvest SA shall remain an affiliate company, under the conditions established by the license</i>”. We underline that no legal provision forbids the existence of an affiliate to an exploitation license held by a titleholder. Moreover, the very provisions of art. 15 of the former Mining Law no. 61/1998 expressly provide that: “<i>within the limits of an exploitation perimeter, the relevant authority may grant to some legal persons, other than the license titleholder, the right of exploitation and/or exploration for some mineral resources, under the conditions of law, with the titleholder’s approval</i>”.</p> <p>[...] As a conclusion, according to the above mentioned provisions, it results that both exploitation and exploration activities can be performed based on an exploitation license.</p>
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It is correct that, according to article 14, point 1 of Law 61/1998, *a license holder can transfer to another legal person the obtained rights and assumed obligations, only with the written approval from the competent authority*. Yet, as this legal requirement clearly stipulates, the legal person who is the beneficiary of the transfer can only get the rights and obligations previously held by the license holder and not rights of another nature and/or extent.

As shown above, the law stipulates distinctive procedures for exploration and exploitation. It is therefore impossible to accept that RMGC could have carried out, based on the exploitation license, exploration activities, because it doesn’t have a perimeter for exploration authorized by the competent authority based on the dispositions of article 15, point 4 of Law 85/2003. On the other hand RMGC could not legally perform exploration activities as long as the start of these activities, in light of article 22 of Law 85/2003, should have been authorized based on the documentation submitted by the license holder and stipulated by article 22 lit. a – lit. f of Law 85/2003.

5.

Starting from 2000, when the licence transfer was made, the exploitation licence holder was entitled to develop exploration activities while Minvest, the licence holder affiliate was entitled to carry out exploitation works. What article of the Mine Law no. 61/1998 allows such a thing, as Article 14 does not say anything about a double licence, with a licence holder and a licence holder affiliate?

Legal 296

Solution	<p>[...] The transfer of the Roșia Montană License from Minvest to RMGC was made as per the provisions of art. 14 (1) of the Mining Law no. 61/1998, which provides that <i>“the titleholder of a license may transfer to another legal person the rights obtained and the obligations undertaken, only with the written approval of the competent authority”</i>. The approval of the transfer was made by NAMR Order no. 310/9.10.2000, published in the Romanian Official Gazette, Section I, no. 504/13.10.2000. Art. 2 of the above mentioned enactment provides that: <i>“CNCAF Minvest SA shall remain an affiliate company, under the conditions established by the license”</i>. We underline that no legal provision forbids the existence of an affiliate to an exploitation license held by a titleholder. Moreover, the very provisions of art. 15 of the former Mining Law no. 61/1998 expressly provide that: <i>“within the limits of an exploitation perimeter, the relevant authority may grant to some legal persons, other than the license titleholder, the right of exploitation and/or exploration for some mineral resources, under the conditions of law, with the titleholder’s approval”</i>. [...]. As a conclusion, according to the above mentioned provisions, it results that both exploitation and exploration activities can be performed based on an exploitation license.</p>
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According to the document submitted in file no. 525/57/2007 at the Alba-Iulia Court of Appeal by NAMR, “In the case of these license holders there doesn’t any longer exist the obligation to obtain an authorization to start mining activities, as these activities were already authorized and approved before the two above-mentioned laws, being ongoing when these laws were adopted and published”, furthermore stating that **“Rosia Montana Gold Corporation does not have and never had an obligation for authorizing and for a deadline to start mining activities(our remark:- as stipulated by article 22 of Law 85/2003)**, because the mining activity was ongoing at the time the mining law was adopted and the mining license was issued based on article 46 of Mining Law 61/1998 **therefore its holder is not subject to the obligation to get an authorization to begin its mining activities”**.”

What we want to prove is that both the competent authority and the project owner have fashioned skewed interpretations of the provisions of Mining Laws no 61/1998, on the one hand and no 85 /2003 on the other hand, in a discretionary manner, to secure the best possible outcome for the project owner.

6.

What was the initial footprint set out in the licence, when it was issued in 1999?	
Legal 296	
Solution	<p>The provisions of art. (5) paragraph (4) of the Mining Law no. (85/2003), regulate with imperative character the obligation of confidentiality in regard of the information concerning the mining activities, mentioning that <i>„the competent authority, the titleholders of licenses/permits, as well as other public authorities ... have the obligation to maintain the confidentiality on data and information [...] they become aware of during the performance of their duties, through the entire period of the mining activities, in the conditions provided by the law”</i>. [...] consequently this information regarding the initial perimeter of the license cannot be disclosed.</p>

According to article 33 of Law 182/2002 : "It is forbidden to classify, as secrets of service, information which, by its nature or content, aims at ensuring the public’s knowledge on problems of public or private interest or which facilitates or hides law infringements or is an obstruction of justice." Related to this point, it is important to assert that the disclosure of the Rosia Montana the content of the license is absolutely necessary given that the information under discussion is meant to inform the public about a

general interest. The least that could be done is to apply the principle ‘the necessity to know’ with regards to the CAT members, principle according to which access to classified information should be granted individually to persons who, for fulfilling their work duties, need to work with such information and to have access to it.

To this aim, we request all members of CAT to require, based on article 38 of Decision No 585/2002 access to all information contained in the mining license of course to the extent that this information was legally classified.

7.

Which of the two Laws -the Mine Law no. 61 and the Mine Law no.85 allowed the modification of the footprint stipulated in licence 47?	
Legal 296	
Solution	[...] the National Agency for Mineral Resources has the legal power to negotiate and establish the provisions and conditions of the licenses, according to art. 55 (1), letter a) of Mining Law no. (85/2003) (art. 40 (1) letter b) of the Former Mining Law no. (61/1998) and of GD no. (756/2003) on the organization and operation of the National Agency for Mineral Resources, which provides that “ <i>The National Agency for Mineral Resources has the following main competences: negotiates and establishes, together with the other conceding party of the public domain of state, as the case may be, the provisions and conditions of oil agreements, of mining permits and licenses, executes such licenses and permits and regulates the performance of the oil operations and of the mining activities by norms, regulations and technical guidelines granted for the application of enforceable enactments</i> ”.

The defective answer offered by the project owner makes us conclude, on the one hand, that there was indeed a modification of the initial perimeter when the license was transferred, and on the other hand, the formulation of the answer leaves room for the conclusion that the perimeter’s modification was qualified as an operation resulting from the license. Please take notice at this point that, if such modification indeed took place, then it was illegal, as it refers to the very object of the mining license – its perimeter – and based on article 32, alin. 2 of Decision no. 1.208 of 14 October 2003, the extension of the initial perimeter could have been approved only after the exhaustion of resources or once the initial validity period of the mining license expires.

8.

How can it be explained that the footprint set out in the exploitation licence 47 for the current exploitation does not currently comprise the existing preparation plant and the existing crusher (EIA report, Vol. 9, Exhibit 2.2)?	
Legal 296	

Solution	<p>With respect to the project initiated by S.C Roşia Montană Gold Corporation S.A (RMGC) and subject to the procedure of environmental impact assessment, the location of the treatment plant intended to be built by RMGC for the operation of Roşia Montană Project, in which the crushers are also located (as provided in Schedule (2.3). and (2.10) of the EIA Report, vol. 9) is situated within the perimeter of Roşia Montană License.</p> <p>...</p>
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Please notice the flagrant contradiction between this answer and the one given to the question “What was the initial perimeter of the license, at the moment when it was approved in 1999?” (Legal 296). The answer given to question Legal 296 indicates that this information would be classified as secret of service, yet, if the limits of the authorized perimeter of License 47/1999 Rosia Montana constitutes indeed classified information, then it is impossible to assess the extent to which the current processing plant and/or the one proposed by the project owner as well as the mills are situated within or outside the limits of the authorized perimeter.

9.

<p>Under what mining licence will mine operations be carried out at the four mines proposed in the project, in case it will be permitted? How will it be obtained? (under what article of the Mine Law no.85?)</p>	
<p>Legal 296</p>	
Solution	<p>[...] We specify that the Roşia Montană license has a period of 20 years, with the possibility of being extended, according to the Mining Law. As per the legal provisions, <u>the object of the Roşia Montană License is the exploitation of the mineral resources in the perimeter Roşia Montană</u> and not the activity of CNCAF Minvest SA, which is a company affiliated to the license. [...]</p> <p>According to the legal provisions, RMGC follows the entire permitting procedure for the new mining exploitations, the public debate of the Report to the Environmental Impact Assessment Study being a compulsory stage within this permitting process.</p> <p>In conclusion, there is no need for obtaining a new mining license, as RMGC is the titleholder of a concession license for the exploitation of the Roşia Montană perimeter.</p>

RMGC’s reply implies that it is undergoing the full authorization procedure for the new mining operations. But based on the license no. 47/1999, the only authorization procedure for mining activities valid after the license was granted was regulated by the dispositions of art. no. 22 of the Law no. 85/2003. Please note that the competent authority, NAMR, based on the document included in the file for the fore-mentioned cause, states that the project owner has not and is not required to request a permit to begin its operations, according to article 22 of the Law no. 85/2003. Certainly, such a contradictory attitude thwarts the essence of the participation procedure while the public is entitled to be informed about the procedure/procedures which have been undertaken.

10.

<p>If your answer will be that, under the licence issued, RMGC was in charge of exploration activities and that exploitation operations were carried out by Minvest, I will ask you another question: for what reasons was the transfer made?</p>	
<p>Legal 296</p>	

Solution	<p>[...] The transfer of the Roșia Montană License from Minvest to RMGC has been performed as per the provisions of art. 14 (1) of the Mining Law no. 61/1998 “<i>the titleholder of a license may transfer the rights obtained and the undertaken obligations to another legal person, only with the written approval of the competent authority</i>”, being thus approved by ANRM Order no. 310/9.10.2000, published in the Romanian Official Gazette, Section I, no. 504/13.10.2000. Paragraph (2) of the above mentioned enactment specifies “<i>CNCAF “Minvest” SA shall remain an affiliated company, under the conditions established in the license</i>”.</p> <p>We underline the Roșia Montană License has a period of 20 years, with the possibility of extension, according to the Mining Law. As per the legal provisions, <u>the object of the Roșia Montană License is the exploitation of the mineral resources within the Roșia Montană perimeter</u>, and not the activity performed by CNCAF Minvest SA.</p> <p>...</p>
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If the question ponders on the legality of the transfer of the mining license, on the one hand, in as far as its utility and opportunity are concerned, the project titleholder, RMGC produces arguments to support its right to start its mining operations based on an operation license. But please note that the distinction between the activities to increase the degree of available information on reserves and the exploration activities defined as the collection of studies and activities meant to identify deposits, their quantitative and qualitative evaluation and also the identification of the conditions the technical and economical conditions necessary for its extraction there is a clear distinction between the procedure and the substance of the matter. According to article 15 of the Law no. 85/2003, exploration can only be undertake if an exclusive exploration license is granted, a license which the project owner has never had and does not have at the present time.

11*.

<p>[...] The exploitation parameters specified in license no 47/1999 are very much different from the ones proposed by RMGC. As such, referring here only to the production capacity, mining license no 47/1999 stipulates a capacity of 400.000 tones of gold and silver ores/annum¹. RMGC in return proposes an operation with a production capacity of 13.000.000 tones/annum. RMGC admits that fact that it wishes to modify the existing license in order to reflect the proposed exploitation perimeters². [...] a request for an environmental accord can only be formulated by a mine operator based on a mining license that approves the proposed perimeters. The conclusion is that the modification of the license should have taken place before RMGC submitted the request for an environmental accord.</p> <p>ICDER Contestation – Volume 86, page 5</p>
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* Note: this issue is extracted from the contestation submitted by a non-governmental NGO entitled Independent Center for the Development of Environmental Resources (ICDER). **As the project owner did not translate the contestation into English and equally only replied to it in Romanian (Volume 86), the translation of the indicated excerpts was made by Alburnus Maior.**

¹ Address no 181613/09.10.2002 from the State Secretary in the Ministry for Economy, Mr. Gavril Baican to the President’s Cabinet;

² EIA Report, volume 7 – General Information – page 6

<p>Solution Volume 86, pag 45-46</p>	<p>[...] According to the legal provisions, RMGC follows the entire permitting procedure for the new mining exploitations, the public debate of the Report to the Environmental Impact Assessment Study being a compulsory stage within this permitting process. Regarding the possibility to carry out exploration works based on an exploitation mining license, please notice the following: [...] As a conclusion, according to the above mentioned provisions, it results that both exploitation and exploration activities can be performed based on an exploitation license.</p>
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The project owner does not reply to the public's pertinent observations while trying to emphasize that according to the operation license it has been granted exploration rights, even though through that transfer it only received those rights that CNCAF Minvest SA previously had. If the question enquires about the flawed procedures as the license does not cover the mining activities undertaken to the present moment and will not cover the expressed intentions in terms of the area it includes and the production capacity of the titleholder, the reply cannot at least be specific: "according to the legal dispositions (our note: which dispositions?), RMGC will undergo all the legal steps in the authorization procedure for the new mining operation, the public debate of the EIA Report being just a compulsory stage in this authorization process.

II. Archaeological, cultural and natural patrimony protection

1.

<p>S.C Rosia Montana Gold Corporation S.A doesn't fulfil the requirements provided by Article 11 of Mines Law 85/2003.</p>	
<p>PLEASE SEE CONTESTATION FORM 2</p>	
<p>Solution</p>	<p>The statement that SC Rosia Montana Gold Corporation (RMGC) does not fulfil the provisions of art. 11 of the Mining Law no.85/2003, published in the Romanian Official Gazette, Section I, no. 197/27.03.2003, are incorrect. The Mining Law no. 85/2003 has a general applicability and makes no reference to the Roșia Montană Project or to other mining projects, as it has been mistakenly suggested. According to art. 11 of the Mining Law, <i>"the performance of mining activities on the lands where historical monuments are located, [...] archaeological sites of special interest [...], as well as the creation of an easement right for mining activities on such lands is strictly forbidden. The exemptions from the provisions of art. 1 are established by Government decision, with the approval of the relevant authorities in the field and by establishing indemnification and other compensatory measures"</i>. [...] Based on the mining license no 47/1999, RMGC has gained the right to carry out mining activities in the Rosia Montana perimeter, which includes areas with a certain protection regime. If the interdiction stipulated by article 11 would have been absolute, the Mining Law would have stipulated the interdiction to establish mining perimeters in areas with a certain protection regime...</p>

The issue raised by the public was referring to the fact that the Mining Law stipulates a distinctive, special procedure for authorizing the performance of mining activities on lands on which are located historical monuments and archaeological sites of special inters, applicable **only in exceptional cases**, namely via a Governmental Decision. The project owner's reply is based on an erroneous interpretation of the law.

As far as the Mining Law clearly stipulates that the exceptions to article 11, alin 1, are established via a Governmental Decision, a superior administrative act in relation to the archaeological discharge certificate issued by the Direction for Historical Monuments and Museums within the Ministry for Culture and the Cults, it can not be considered that a project owner could opt to adopt this latest procedure, stipulated by OG 43/2000. Related to this, please see address no 216512/22.11.2006 of the Ministry for Economy and Commerce which shows that for authorizing the performance of mining activities as proposed by the Rosia Montana mining project on lands on which are located historical monuments and archaeological sites of special interest must go through the procedure stipulated by Art. 11, alin 2 of the Mining Law.

2*.

Beginning with 2001, the Ministry for Culture and the Cults issued several archaeological discharge certificates for Rosia Montana [...] What we wish to highlight is that the issuing of archaeological certificates for areas at Rosia Montana under the footprint of the proposed mine before the environmental impact assessment procedure for the mine proposal has infringed upon the very effect utile of the environmental impact assessment.[...] The EIA procedure stipulated by GD 918/2002 includes the evaluation of project's impacts on „material and cultural patrimony goods” (Article 3, lit. c). According to article 6 of Law 462 of 12 November 2003 for modifying and complementing Emergency Ordinance 43/2000, natural and legal persons, in this case Rosia Montana Gold Corporation have the legal obligation to finance preventive and/or rescue archaeological research, having at the same time the obligation to establish, in the feasibility study and technical project the measures for preventive and/or rescue archaeological research, for protecting the archaeological patrimony or for discharging the areas. The technical project must be submitted for environmental impact assessment according to the above legal provisions.

Although at the moment the technical project is not finalized and approved, even less the feasibility study, and the EIA procedure is still ongoing, these archaeological certificates produce legal effects in the sense of ascertaining that a large part of the Rosia Montana territory does not contain archaeological goods and can be put in the industrial circuit.

...

ICDER Contestation – Volume 86, page 10-11

<p>Solution Volume 86, page 49-52</p>	<p>RMGC assured, according to the applicable legislation in Romania, the financial resources for evaluating and studying these types of archaeological vestiges.</p> <p>In respect for the opinion and conclusions of researchers who did these studies, the Ministry for Culture and the Cults, the National Commission for Archaeology and the National Commission for Historical Monuments– the company did nothing more than putting at disposal some material expenditure – equipments, labour costs, etc.</p> <p>[...]All archaeological research with a preventive character performed at Rosia Montana since 2000 have been carried out within a complex research program, being authorized, according to the applicable legislation, via an authorization for preventive research. [...]ALL DISCHARGED PERIMETERES HAVE BEEN RESEARCHED BEFORE. All research was performed based on the applicable legislation, respectively OMCC no. 2392 of 06.09.2004 for establishing the archaeological standards and procedures.</p> <p>According to the same legal norms, the researchers are not the ones having the competence to grant the archaeological discharge, the procedure being as follows: as a consequence of a complex research process, the archaeologists put together a comprehensive documentation, in standard format, regarding the researched area. After its careful analysis, the National Commission for Archaeology recommends, or</p>
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* Ibid

	<p>not, the issuing of the discharge certificate. These certificates were issued, regarding the research performed between 2001 – 2006, directly by the Ministry for Culture and the Cults or by its decentralized structures, respectively by the Alba County Direction for Culture, Cults and National Cultural Patrimony.</p> <p>[...]</p> <p>A specific measure for mitigating the potential impact on the archaeological patrimony, a procedure for archaeological supervision was chosen both for the construction period and for the operating period. As such, the protocol on accidental discoveries will be applied for the identifying, documenting and conserving the archaeological artefacts and structures that could be identified during the construction period.</p> <p>...</p>
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While the problem raised by the public was referring to the administrative measures adopted for the archaeological patrimony of Rosia Montana before the start of the environmental impact assessment procedure and to how these measures have infringed upon the principle of ‘effect utile’ of this EIA procedure, the project owner’s reply more targets actions and procedures that the project owner intends to adopt in future stages of developing the Rosia Montana project.

Related to this point, please take notice of the Ministry for Culture and the Cults’ latest position released on 28.02.2007, according to which “In order to harmonize the cultural and environmental policies, as well as to synchronize the administrative decisions in these two important domains, the Ministry for Culture and the Cults will not anymore issue administrative acts in it’s domain of competence for the documentations on the Rosia Montana area, until the Ministry for the Environment and Water Management decides on the environmental impact assessment study”.

3.

<p>The questioner refers to the sentence of the Court from Bucharest 1st district which was issued on the 12th of July 2006 concerning Mr. Paul Damian Cristian: the court of law remembers that he proposed for archaeological discharge an area, on the base of a report that includes only personal remarks.</p>	
<p>Legal 134</p>	
Solution	<p>With respect to your allegations, please consider the following aspects:</p> <p>(i) As per the provisions of art. 5 (2) of the Government Ordinance no. 43/2000 regarding the preservation of the archaeological heritage and the declaration of certain archaeological sites as national interest areas, as republished (“GO nr. 43/2000”) “<i>the archaeological discharge is the procedure which ascertains that a piece of land which was classified as archaeological heritage can be rendered to current human activities</i>”;</p> <p>(ii) art. 2 (11) of the GO no. 43/2000 “<i>the assessment of the archaeological survey results, as provided by the archaeological report drafted according to the enforceable standards, is the major for determining the legal status for the preservation of archaeological discoveries or, as the case may be, of the archaeological discharge of the area</i>”;</p> <p>[...] Considering the above mentioned, we mention that the archaeological report cannot include “only personal opinions”, because the content, as well as its comments are evaluated and reviewed by the members of the National Archaeology Commission, the Ministry of Culture and Religious Affairs will subsequently grant the archaeological discharge certificate.</p>

We would like to highlight at this point that the problem raised by the public was not the one that the “archaeological report” contains “only personal opinions”, but the one that the submission to the National Archaeological Commission by Mr. Paul Damian contains, as the court ascertained, “only personal opinions”. The court established the fact that the main conclusions of the **archaeological report** written by the French archaeologists who researched the respective area were distorted by Mr. Paul Damian, “either because inability, or because of ill will”. As one can clearly conclude from the dispositions of article 2 (11) of OG 43/2000, at the basis of establishing the juridical status of archaeological discoveries should have been the archaeological report itself, and not a distorted document made out of this report.

4.

<p>The Roman mine galleries situated at Orlea, Carnic etc. are unique given their craftsmanship and state of preservation. From the project maps one can see that these are to be turned into open pits. As mitigation measure for this destruction the project owner is proposing “a series of replicas that would consist of a construction either located above ground, in a backfilled feature of the proposal</p> <p>Contestation Type 1</p>	
<p>Solution</p>	<p>Regarding your question, our answer is that we are not dealing with unconditioned destruction of Roman mine galleries at Rosia Montana without prior complex studies and adequate measures. Yet, we are faced with a relative paradox, respectively that, without research, due to their conservation state and the nature of such vestiges, the physical existence of the Roman galleries would be threatened. On the other hand, any archaeological research implies to a bigger or lesser extent, the irremediable destruction of an archaeological context in order to save the information.[...] The main conclusions of studies and mining archaeological research performed since 1999 are:</p> <ul style="list-style-type: none"> • in the Roșia Montană site approximately 7 km of antique mining works have been brought to light; these are not continuous works, but portions of mining works wrested in almost all mining perimeters within the deposit; • within the protected areas, at the moment centered in the perimeter of the Rosia Montana project, respectively Cămină Monuleți, Lety - Coș, Piatra Corbului and Păru Carpeni, the majority of mining works that were brought to light exists in other mining sectors that will be nonetheless, after their research, affected by the mine proposal, in the Carnic area respectively; • mining archaeology studies carried out in the Cetate and Cârnic massifs showed that the antique mining works are already affected, being disfigured in variable proportions by more recent mining works, especially by those carried out between XVIII century and 2006; • the human impact on the underground channels (mining recultivation), as well as the natural one (crumblings, floods, mud outflows, cave-ins) made that at the moment the antique mining works are in different conservation states; • in future it is necessary to continue mining archaeological investigations in the area of Orlea and Carina massifs; • it is necessary to continue works of research and conservation in the Păru-Carpeni areas (that's were a Roman mining water draining system was discovered, an unique discovery in Europe at the moment, after similar ones were discovered in the Iberic Peninsula in the 30' of the past century) and Cămină Monuleți. <p>The study of these structures meant a better knowledge of them and determined at the same time the adoption of pertinent and well grounded decisions on their conservation and put into value. Based on the results of research carried out until now (finalized respectively for the Cetate, Cârnic, Jig massifs and ongoing in the Orlea massif), a decision was taken</p>

	<p>to conserve and put into value the following area containing old mining works:</p> <ul style="list-style-type: none"> • in the Carnic Massif – antique underground and surface exploitations in the area Piatra Corbului, in the massif’s south-western part; • in the Lety – Coș – Căpâlna Monulești massifs, including a Roman mining water draining system; • in the Văidoaia massif- the vestiges of surface mining exploitations in the massif’s central area; • in the Orlea massif– the Păru-Carpeni mining sector, including a Roman mining water draining system and the portions of antique mining exploitations drained by this system. <p>[...] In conclusion, regarding your question, our answer is that we are not dealing with unconditioned destruction of Roman mine galleries at Rosia Montana without prior complex studies and adequate measures or mitigation.</p> <p>...</p>
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The project owner’s reply fails to indicate the legal applicable provision that allows, as a measure of protection for the archaeological patrimony, the replacement of historical monuments of national interest with “a series of replicas”. As such, the appreciations made by the project owners with regards to the opportunity of the protection measures that it intends to apply regarding the Roman mine galleries in the Orlea and Carnic Massifs remain subjective and with no legal basis.

III. Urbanistic documentations, urbanistic certificates, environmental impact assessment for plans and programs

1.

<p>It is true that RMGC has proposed in 2002 the alteration of the Urbanism Plan so as no other activity alternative to mining will be possible to be developed in Rosia Montana?</p>	
<p>Permitting 22</p>	
<p>Solution</p>	<p>.] we would like you to understand that there are mandatory legal provisions limiting the development of projects other than those intended for the exploration and processing of natural resources in the areas where these have been identified. In this respect, we want to mention the following legal provisions:</p> <p>(i) art. 41(2) from the Mining Law no.85/2003 “<u>the County Councils and Local Councils shall modify and/or update the existing territorial plans and urban general plans in order to allow for carrying out all the operations related to the conceded mining activities</u>”;</p> <p>(ii) art. 6(1) from the Governmental Decision 525/1996 for the approval of the General Urbanism Regulation (“GD no. 525/1996”) “<u>the permitting of final constructions, other than industrial ones, which are required for the development of mining and processing operations of identified mineral resources from areas outlined pursuant to the law, is strictly forbidden</u>”;</p> <p>(iii) art 4.4 of Local Urbanism Regulation of Roșia Montană governing the 2002 General Urbanism Plan, “<u>the permitting of final constructions, other than industrial ones, which are required for the development of mining and processing operations of identified mineral resources from areas outlined pursuant to the law, is strictly forbidden</u>”.</p> <p>...</p>

The statement that Rosia Montana had an urbanistic plan prior to the one which was voted in July 2002 is false. The first time the commune set out to develop an urbanistic plan was in 2001 when it employed the services of the Strajan Architecture Firm. This plan was later dropped when RMGC informed the Town Hall, in a letter, that it would cover all expenses with designing and authorizing the urbanistic documents. At that time, it also took it upon itself to choose the contractee. The first urbanistic plans voted by the Local Council from Rosia Montana- General Urbanistic Plan for Rosia Montana and The Industrial Development Zonal Urbanistic Plan for Rosia Montana Gold Corporation are the ones under consideration since 19 July 2002. 1616 hectares of communal land were then declared to be part of an industrial area.

The provisions of the Mining Law no. 85/2005 cannot be invoked in this case because this law was not in force in 19 July 2002 and there is no proof of a notification from the NAMR to the local authorities in Rosia Montana asking them to alter the commune's urbanistic plans, a notification which would have been required according to the provisions of the same article no. 41 of the Mining Law.

On the other hand, GD 525/1996 stipulates:

- at art 5- funding for the development of general urbanistic plans and the local urbanistic regulations is secured from the local budget of the administrative units and the national budget, through MLPAT.
- at art 13- the contracting of the development and the updating of the general urbanistic plans and the general urbanistic regulations will be carried through under the terms of the legislation on public acquisitions.

Rosia Montana's General Urbanistic Plan was not funded from the budget of local authorities and the contracting for its development was not made according to the legislation on public acquisitions.

2*.

In order to obtain a construction permit for the industrial facilities within the Rosia Montana project (open pits, waste dumps, tailining pond, access roads etc), RMGC has to elaborate a Zonal Urbanistic Plan for the Industrial Development Area [...]

The Rosia Montana project owner did not modify the above mentioned urbanistic plans in order to allow the execution of all operations necessary for the proposed mining activities and did not undertake the environmental impact assessment procedure for obtaining an environmental avis for these plans, according to the provisions of GD 1076/2004 and Order 117/2006.

[...] Before undertaking the EIA procedure for the Rosia Montana Project, the titleholder should have carried out the procedure to update the urbanistic plans of the above-mentioned communities and to evaluate the environmental impact in order to obtain the environmental avis. This sequencing in time is obvious, this being the very aim of GD 1076/2004 – that the SEA procedure for a plan or program to be made at a **strategic** superior level, meaning before the EIA procedure for a project.

...
ICDER Contestation – Volume 86, page 6-7

* Ibid

<p>Solution Volume 86, page 46-48</p>	<p>[...] In 2002 a General Urbanistic Plan (PUG) was elaborated for the entire commune, stipulating urbanistic norms for all 16 villages on the Roşia Montană territory, as well as a protected area, hosting the houses listed as historical monuments. The mining project proposed by Roşia Montană Gold Corporation S.A. occupies only 25% of the Rosia Montana territory and affects only 4 of the 16 villages, constructions bans for facilities other than industrial facilities being applied only for this area. In the remaining territory of 75% of Rosia Montana there are no bans caused by the mining project.</p> <p>[...] At the same time, please take notice of the fact that there are imperative legal norms restricting the development of other projects than those destined for exploitation and processing of natural resources in areas where these are identified. To this aim we would like to mention the following provisions:</p> <p>[...] At the moment a Modification of the Zonal Urbanistic Plan for the Industrial Development Area Rosia Montana is in the authorizing stage, an urbanistic documentation that was already approved in 2002, but it is being modified given the detail stage in which the Rosia Montana project is (see Annex 3.1, modifications: reduction of open pits footprint, redesign of technological roads, increase of the protected area's surface, all these being the result of the process to evaluate the environmental impact assessment and of the measures to prevent, minimize and eliminate the potential impact, resulted from the evaluation process). [...]</p> <p>With regards to the evaluation of the effects of plans and programs on the environment, stipulated by GD 1076/2004, this procedure could not have been applied for urbanistic plans which were approved two years before the entry into force of this governmental decision. The modification of the Zonal Urbanistic Plan for the Industrial Development Area Rosia Montana which is at the moment in the authorizing stage applies this procedure, as stipulated by GD 1076/2004.</p> <p>...</p>
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Please note that the project owner does not respond to the criticisms and observations made in the above paragraphs. Their object was the legal succession between the development and the authorization of the urbanistic plans for the development of the Rosia Montana project, on the one hand and the assessment of the environmental impact of the project, on the other.

Rosia Montana Gold Corporation had the legal obligation to develop an urbanistic plan for the area covered in the mining project, before the assessment of the environmental impact of the project would proceed. It was required to modify the Zonal Industrial Development Plan as early as August 2004, through the provisions in the table of contents of the urbanistic certificate no.68. According to the provisions of the Law on territorial planning and urbanism no. 350/2001, Art 32- whenever documentation is submitted for a derogation from the provisions in the authorized urbanistic documentation for the respective area, the development of a new urbanistic documentation can be requested through an urbanistic certificate which will justify and demonstrate the possibility for the requested urbanistic intervention. After the authorization of the new urbanistic documentation- Zonal Urbanistic Plan or Detailed Urbanistic Plan- the technical documentation needed to receive the authorization for construction can be designed. Consequently, the documentation required to obtain an environmental accord (which is part of the technical documentation needed for a construction authorization) can be put together only after the new urbanistic documentation was approved.

GD 1076/2004 is in force since 3 December 2004, therefore before the environmental assessment procedure for the Rosia Montana Project was initiated. Consequently, the development of the documentation required to receive an environmental accord without the prior approval of the new urbanistic documentation (approval which includes the environmental assessment according to GD 1076/2004) has been conducted with utter disregard of the Law no. 350/2001 and DG 1076/2004.

3.

The Urban Certificate obtained in May 2006 (the old one being suspended), no longer includes a tailings facility. The period of public consultation and assessment of the environmental study has been initiated without a valid urbanism certificate. The procedure for securing an environmental permit cannot be conducted without having a valid urbanism certificate; thus, the Ministry should reject the application for an environmental permit, which was submitted by RMGC.

Permitting 28

Solution	<p>A) Your assertion referring to the fact that there is no tailing management facility in the Urbanism Certificate 78/26.04.2006 issued by Alba County Council is not grounded. Actually, the <i>section 1 Construction works, position 10</i> of the Urbanism Certificate no. 78 of 26th 04. 2006 – mentions “processing plant and associated constructions” – which category includes the tailing management facility which is compulsory for the processing plant running.</p> <p>The tailing management facility is also specified on the layout plans which are integral part of the Urbanism Certificate, are sealed by Alba County Council so that they cannot be modified and this facility is also mentioned in the tables with the occupied surface areas and property and land types from the previous plans.</p> <p>[...] Thus, from legal point of view, we specify that the Urbanism Certificate is part of the documentation submitted by the applicant by the time of the environmental permitting procedure start up.</p> <p>In fact, we would like to underline that RMGC complied with the legal requirement as it submitted a complete documentation in full compliance with the law provisions including an applicable Urbanism Certificate (Urbanism Certificate no. 68 of 26th August 2004). The waiving of the initial Urbanism Certificate is irrelevant and does not impact the environmental permitting procedure as per the following:</p> <ul style="list-style-type: none">• The requirement to have an applicable Urbanism Certificate refers to the time of the procedure start up (art. 9 of the environmental impact assessment procedure approved through the Order no. 860/2002), and this requirement was met by RMGC as mentioned above ;• On the date of the EIA Report submission (15th May 2006) and prior to the public consultation start up (June 2006). The documentation submitted by Roșia Montană Gold Corporation (RMGC) contained also the Urbanism Certificate no. 78/26th 04.2006 which is applicable and valid since that date and at present. The Urbanism Certificate is an informative document and its goal is only to inform the applicant about the legal, economic and technical regime of the existing lands and buildings and to establish the urbanism requirements and the approvals necessary to obtain the construction permit (including the environmental permit) as per art. 6 of Law 50/1991 referring to the completion of construction works , republished and art 27 paragraph 2 of the Norms for the application of Law 50/1991 – Official Journal 825 bis/13.09.2005);• As it is an informative document, it does not limit the number of certificates an applicant may obtain for the same land plot (art. 30 of Law no. 350/2001 regarding the territorial planning and urbanism).
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It seems inconceivable to be able to state, first of all, that an industrial facility that will occupy 3,631,375 m² – the tailings pond in Corna Valley- can be regarded as the collateral construction of an industrial facility of 513.777 m² but on the other hand industrial facilities much smaller in size (stack of topsoil etc) are described separately. On an industrial platform all facilities are inter-connected and

therefore if we were to go along with the project titleholder's logic, reflected in the answers reproduced above, the urbanism certificate should have only mentioned, when the aim of the certificate was stated, that the aim is "the construction of the Rosia Montana Project". The real reason why this industrial facility has not been included in the urbanism certificate no. 78 from April 2006 is that with through this omission the new certificate will have contained the same exact details as the old one which was suspended, consequently being affected to the same extent by the decision which suspended the legal effect of the old certificate. And this in spite of the fact that the Law no. 350/2001 stipulates that all urbanism certificates for the same plot of land should include the same details: *Art. 30- For the same plot of land more than one urbanism certificate can be remitted but their content, based on the documentation for territorial planning and for urbanism and all the other specific regulations in this domain must be the same for all the requesters.*

Situation plans are not the same thing with the urbanism certificate. Situation plans are part of the documentation put together by the requester in order to obtain the urbanism certificate. The urbanism certificate, on the other hand, is an administrative act with a distinct individual character and whose annexes are made up only of technical forms which have to be filled in by the titleholder, standard annexes that are issued by the competent authority and not written up by the requester, the titleholder.

The urbanistic certificate is not just a form used to inform the project titleholder as it is stated in the above reply. The urbanistic certificate is, and we stress this, an administrative act with a distinct individual character which ensures the application of the provisions in the urbanism documentation (Art. 28, Law 350/2001)- for confirmation please see the decision of 20 April 2005 of the Alba Iulia Tribunal from file no. 622/2005 which stipulates that the nature of the urbanistic certificate is inherently juridical. It is a compulsory act required in the process of applying for a construction permit for the specific facilities described in the certificate. It is therefore obvious that during the entire environmental impact assessment procedure and the remittance of the environmental license, the project titleholder should have obtained a valid urbanistic certificate and not receive one at the same moment when the application for an environmental license was submitted. The Ministry for the Environment and Water Management (MMGA) has assessed and recognized this situation when it noted that because of the suspension of the urbanistic certificate no. 68/2004, the Ministry could not go forward with the environmental assessment procedure and issue an environmental permit (Annex?). "During the first phase of the evaluation, the joined commission of the Ministry for the Environment and Water Management noted, within the 5 day interval required by law, that the Technical Form, Annex of the Urbanistic Certificate is missing from the submitted documentation. When the documentation will be resubmitted, properly filled in, the next phase, the analysis of each individual component, will commence. At the moment, the working group in the ministry has sent the project titleholder a resolution which includes the deadline by which it should submit the Technical Form, Annex of the Urbanistic Certificate. The first qualitative analysis which will be undertaken by the Technical Analysis Committee is that of the content of the Urbanistic Certificate and of the Technical Form, if they are identical to the old Urbanistic Certificate based on which the project phase started in 2005 has been undertaken", was mentioned in a press material issued by MMGA and published by Rompress on 24 May 2006.

Therefore, the request to reject the application for an environmental license, based on the view that the necessary procedure to obtain an environmental license was flawed because a valid Urbanistic Certificate was not presented is completely sound from a juridical point of view and by the state of the described situation.

IV. Protection of human settlements and public health

1.

How is the law observed as regards to the graves resettlement when according to Law 98/1994, resettlement of a graveyard is possible only after 30 years since the last burial?	
Legal 30	
Solution	The relocation of the earthly remains and their reburial takes place after the discussions with the community and the church authorities, in compliance with the religious rituals and the applicable legal provisions. [...] Consequently, the relocation of a graveyard prior to the expiry of the term of 30 years is possible, being allowed by the law after the obtaining of the approval from the inspectorate of sanitary police and preventive medicine. Only in the situation in which the change of destination of the land where the graveyard is located is made by breaching the legal provisions, respectively in the absence of such an approval, the sanctions for the offences provided by art.11 letter j) of Law no. 98/1994 become applicable.

According to the regulations on the management and functioning of parish cemeteries and cemeteries adjacent to monasteries which are all within the jurisdiction of the Romanian Orthodox Church, voted by the Holy Synod on the 23 December 1977, art. 9, burial places are divided into two categories, those for eternal use and those for temporary use; according to art. 26 *Graves can only be opened after at least 7 years have passed since the last inhumation date.*

Of utmost importance is art. 1 according to which *these cemeteries are sacred goods and are the property of the parish and monasteries as local cultural units that have legal an acknowledged legal status.*

Please also note that according to the Statute for the management and functioning of the Romanian Orthodox Church, *Cemeteries are sacred goods and are bestowed the legal status of such objects: they are inalienable and imprescriptible and cannot be exchanged, conditioned, alienated, seized.*

2.

What will happen if a single local from Corna doesn't want to move, as there is no law governing forced resettlement of the locals who live there?	
Legal 125	
Solution	When acquiring the private property lands necessary for the development of Roşia Montană Project, RMGC's approach is primarily based on the principle of a "willing seller-buyer". [...] the expropriation, made in accordance with the legal and constitutional provisions, represents one of the modalities of obtaining the right of use over the lands necessary for the development of a mining project, being expressly provided by art. 6 of the Mining Law no. 85/2003 and by art. 6 of Law no. 33/1994.

Please notice that the full or partial expropriation of buildings can be done only if they serve a cause of public interest and therefore no elements exist to justify the national or local interest, social and/or economic advantages, environmental or of any other kind which prove the necessity of the project and no alternative option to expropriation is available.

Invoking art. 6 of the Law no. 33/1994 can be misleading because it is not sufficient that the prospective works and geological explorations, the extraction and processing of mineral valuable substances be enumerated among other things as public utility works; their public utility would have to be declared after minute research which would justify the economic, social and environmental advantages. But such economic, social or ecological advantages cannot result from the proposed mining project in Rosia Montana.

3. In Volume 68, pp. 157-175 there is a section entitled “Additional Information on the Potential Impact on Forests as a Result of the Development of the Rosia Montana Mining Project and the proposed measures to prevent/ minimize/ eliminate this impact”. It should first be noted that the process of removing these forests the forestry circuit and deforestation is conditioned by the prior securing of a separate environmental license. To this end Rosia Montana Gold Corporation is not, at the moment, any steps. Please see the annex to the document Scheme for the authorization of the removal of the forests from the forestry circuit and deforestation (Source: The Ministry for Agriculture).

Furthermore, according to the fore-mentioned section, the land surface of the industrial perimeter which is now part of the Romanian national forestry fund is 255 ha wide. This information is wrong. Please see the annexed address by the Ministry for Agriculture which confirms that within the mining perimeter at Rosia Montana there are 1242.26 ha of forest which have to be removed from the national forestry fund in order to be deforested.

V. Decision-making transparency on public administration

1.

How have the percentages of 80% for the investor and 19.8% for the Romanian state been established and who negotiated for Romania?	
Legal 41	
Solution	[...]Roşia Montană Gold Corporation SA was set up in 1997, according to the legal provisions in force as at that time, the setting up being made by observing all the conditions imposed by Company Law no. 31/1990 and Trade Register Law no. 26/1990, in regard of the setting up of the joint stock companies with mixed capital. We underline that the Articles of Associations of Roşia Montană Gold Corporation SA, representing the result of the parties agreement in regard of the terms and conditions under which the partnership between the Romanian state and investor takes place represents a public document, being included in the category of documents which, as per Law no. 26/1990 on the Trade Register, are published in the Romanian Official Gazette and for which the Trade Register is obliged to issue, on the expense of the persons submitting a request, certified copies. ...

Please note that the project owner has not replied to the public’s questions as it has not offered the requested details on who decided the share with which the Romanian partner in the project, the Romanian state, contributed to the capital of the company, Rosia Montana Gold Corporation.

This is all the more concerning as the public has repeatedly pointed out during several of the public consultation meeting that there was an ongoing criminal investigation into the decision by three of the former executives of Minvest who negotiated the share with which the Romanian state should participate in the company. After the investigation was transferred seven times from one prosecutor’s office to another as each declined its competence, is now reviewed by the National Anti-Corruption Department in Alba-Iulia. The accusation brought against them is that they abused their professional competences against the public interest. NACD has decided to proceed with the criminal investigation against the three individuals.

2.

The community must be granted access to the agreements concluded between the company and the Romanian Government. What are the conditions imposed on the company?	
Legal 338	
Solution	[...]Roșia Montană Gold Corporation SA was set up in 1997, according to the legal provisions in force as at that time, the setting up being made by observing all the conditions imposed by Company Law no. 31/1990 and Trade Register Law no. 26/1990, in regard of the setting up of the joint stock companies with mixed capital. We underline that the Articles of Associations of Roșia Montană Gold Corporation SA, representing the result of the parties agreement in regard of the terms and conditions under which the partnership between the Romanian state and investor takes place represents a public document, being included in the category of documents which, as per Law no. 26/1990 on the Trade Register, are published in the Romanian Official Gazette and for which the Trade Register is obliged to issue, on the expense of the persons submitting a request, certified copies.

The concession license for exploitation is first and foremost a contract between the Government and the company, initially granted by the National Agency for Mineral Resources to Minvest and later transferred to Rosia Montana Gold Corporation. Yet the clauses of this act, which is in essence a contract between the authorities and the titleholder, have never been made available to the members of the community which will be directly affected by the project or the concerned members of the public. The RIA Report or any other documentation submitted by RMGC with its application of an environmental license do not include a distinct and complete section in which the specific clauses of the concession license for exploitation at Rosia Montana, specifically on the conditions for exploitation, are described: does the license mention the use of cyanide technologies; does Minvest have the legal obligation to cover the expenses incurred with the environmental rehabilitation of the existing mine in Rosia Montana, owned by the Romanian state; the production capacity, the exact perimeter, the documentation based on which the license was granted (impact assessment study, environmental rehabilitation plan etc.) etc. Alburnus Maior has made several attempts to get access to this information but the competent authorities who were asked to put forward the information have in reply offered only incomplete responses, sometimes contradictory and which do not give a clear image of the conditions on which the decision to issue the concession was based and also the requirements made explicit in this document (see annexes 1 and 2). For example, to our point in which we requested the “disclosure of the documentation based on which the license was granted”, the public authority replies “these are not public documents” and to our request about the technology, no answer was provided.

Even when the Environmental Protection Agency for the Alba County was forced by the ruling of a court of law to disclose the mining license for the concession to explore Bucium, this authority did not remit the respective document to the petitioner.

VI. Landfilling of waste

1.

Why isn't mentioned anywhere that the EU Waste Directive, transposed in our legislation as Governmental Decision no. 349/2005, does not allow construction of a waste dump (a tailings facility) at less than 1 Km away from an inhabited locality? How is this distance to Abrud to Gura Cornei going to be settled?

(Legal 27)	
+	
An estimate of the financial guarantees necessary for the tailings management facility, according to the Governmental Decision 349/2005 and to the Waste Directive.	
(Legal 8)	
+	
Waste deposits can not be built, according to the applicable legislation in Romania, at less than 1000m away from an inhabited area;	
Solution	<p>Please note that the Government Decision no. 349/2005 regarding waste storage (“GD 349/2005”), as well as the Directive 1999/31/EC regarding waste storage, are not applicable for the tailings management facility of the Project.</p> <p>Please consider that the activity of mining waste storage is separately provided by the Directive no. 2006/21/EC regarding the management of waste resulting from the mining industry (“Directive no. 21/2006”).</p> <p>[...]Although until now the Directive no. 21/2006 has not been transposed in the internal legislation, RMGC drafted the report on the environmental impact assessment study by observing the mandatory requests and conditions provided by this regulation, thus complying with the Guidelines issued by the Ministry of Environment and Waters Management for the preparation of the environmental impact assessment study for the Roșia Montană Project, as per the provisions of Order of the Minister of Waters and Environment Protection no. 860/2002 regarding the environmental impact assessment and the issuance of environmental agreement procedures (“Order no. 860/2002”).</p> <p>...</p>

The reply is clearly unfounded given the following issues: the invoked directive is not applicable on the Romanian territory at the moment. Until it is implemented, in the absence of other specific regulations, the common law on the matter is applicable, i.e. G.D. 349/2005 on the landfilling of waste with all the obligations that the company has to comply with according to this decision; in this context, the pertinent observations made by the public were not adequately addressed in the project titleholder’s reply.

Please also note the declaration made by the European Commissioner for the Environment, Mr. Stavros Dimas (Ref: P-3710/06EN and E-3711/06EN; Reply by Mr. Dimas on behalf of the Commission, 29 Sept 2006). In his declaration he stated: “it is also the responsibility of the national authorities to evaluate and ensure the conformity with the Council’s Directive no. 1999/31/EC from 26 April 1999 on waste management. When Romania will become a member state, the Commission can intervene if there is proof that the authorization does not comply with the requirements of this Directive.”

VII. Water

TMF won’t be completely lined, and this represents a breach of the directives on underground water protection as it has been transposed in Romanian legislation under Governmental Decision nr. 351/2005.	
Legal 196	
Solution	<p>We draw attention to the fact that the reference to the Government Decision no. 351/2005 on the approval of the Program for the gradual disposal of the exhaustions, emissions and effluence of particularly hazardous substances is incorrect, as this piece of legislation does not provide the criteria for building/operating the tailings management facilities.</p> <p>...</p>

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We also humbly draw to your attention that the Directive 21/2006 has not been integrated into the internal legislation and the deadline for its transposition has not passed. Therefore there is no legal impediment for the Governmental Decision no. 351/ 2005 on the approval of the Program for the gradual elimination of exhaustions, emissions and the waste of priority dangerous substances to be applied to the mining project proposed by RMGC. Please remember that the domain of application of this decision is stipulated at article 1. *The present Program for the gradual elimination of exhaustions, emissions and the waste of priority dangerous substances, henceforth named 'the program', designates the unitary legal and institutional framework required for the prevention of the pollution of surface water resources, territorial marine waters. Seaside waters and underground waters with the families and groups of dangerous substances from the list no. 1 and 2 and the priority/ dangerous priority substances, please consider Annex 1, table 1, point 1.8*

VIII. Environmental liability insurance

1.

<p>The report confirms the fact that Gold Corporation's representatives didn't find an insurance provider for the mining project, this being evidence of the fact that the project breaks the directive 35/2004 regarding the environmental liability on prevention and remediation of environmental damages. Which is the registration number of the contract concluded with project's insurer and where can be consulted?</p> <p>Legal 211</p>	
Solution	<p>[...]Moreover, according to the provisions of art. 19 (1) of the Directive no. 35/2004, the Member States will transpose the disposals of the Directive, in the internal legislation, until 31.04.2007. We mention the fact that, until now, the Directive no. 35/2004 has not been transposed in the internal legislation. Considering the above-mentioned issues, <u>please notice the fact that the project proposed by RMGC does not breach the Directive no. 35/2004, as there are no internal regulations to determine the substantive and procedural aspects regarding the establishment of such a guarantee.</u></p> <p>Nevertheless, considering that there will be specific legal provisions regarding the establishment of certain guarantees, RMGC will take all the necessary measures for the observance of all the legal provisions.</p>

The project owner's reply only speculates on a potential exoneration of a liability determined by the absence of internal regulations with a normative character for the transposition of the Directive no. 35/2004. Just the promises the titleholder has made according to which "RMGC will take all the necessary measures to comply with the obligations it has", "to the extent that there are specific legal provisions about the establishment of any guarantee" are obviously insufficient to safeguard the principle "the polluter pays" and the principle of caution.

In this context, please note that the Romanian state has not fulfilled its obligation to transpose into the national legislation the directive no. 35/2004 within the given time frame agreed to on 31 April 2007, and therefore in the absence of the internal regulation it cannot be an impediment for the specific

conditions for the upholding of the objective environmental liability. Please additionally also note that the principle of the direct application of the directive, a principle activated by the presence of several of the specific conditions it refers to but which allows any citizen to use the fact that the law was not timely applied.

Furthermore, please also note that in this case the provisions of the Decision no. 349 from 21 April 2005 on waste management are applicable. Based on this normative act a financial guarantee has to be presented to ensure that the condition for the safety of the deposit are met and the titleholder will also set up a fund to be used for the closure of the mine and post-closure monitoring of the deposit-see art 11 and art 12 of the normative acts mentioned here.

IX. EIA/Seveso II Procedure

1*.

<p>Some installations of the Rosia Montana Project fall under the incidence of GD no. 95 of 23.01.2003[...] According to article 6, (1) <i>In order to fulfil the obligations stipulated at art 5, the activity owner will submit, at the same time with the legal documentations for obtaining the environmental accord, environmental authorization and/or the civil protection avis, if the case is so, transmitted to the territorial public authorities for environmental protection, respectively for civil protection, a notification [...]</i> According to article 16 of GD 95/2003, <i>the territorial public authorities for environmental protection and civil protection shall prohibit the use or bringing into use of any establishment, installation or storage facility, or any part thereof if the operator has not submitted the notification, reports or other information within the specified period. [...]</i></p> <p>RMGC did not submit such notification together with the documentation to obtain the environmental accord in December 2004, therefore the above-mentioned installation should be prohibited by the competent authorities.</p> <p>...</p> <p>ICDER Contestation – Volume 86, page 13-14</p>	
<p>Solution, Volume 86, page 53</p>	<p>[...]</p> <p>Please note that RMGC has respected the applicable norms and to this aim it submitted such notification to the environmental protection authorities.</p> <p>...</p>

Please note that the project titleholder does not, in its answer, indicate or make any exact reference to the notification it allegedly submitted (such as registration number provided by the competent authority). Only the statement according to which this notification was not submitted is not sufficient proof to settle this issue. According to the address by MMGA 26506/09 Nov. 2006, until 09 Nov. 2006 the ministry had not received such a document from RMGC.

X. EIA Procedure

1*.

* Ibid
 * Ibid

Ever since the launch of the EIA procedure in December 2004, the documentation submitted by the project owner has been criticized as not being complaint with the legal applicable norms. As such, a great number of non-governmental organizations and individuals criticized the Project Presentation Report as infringing upon the provisions of Order 860/2002 – annex II.2 entitled ‘Standard content for the Project Presentation Report necessary for issuing the environmental accord/integrate environmental accord.’ The Ministry for the Environment was asked to return the project presentation report to the project owner for it to be made according to the applicable legislation and, at the same time, to return the EIA procedure until a new presentation report is submitted.

...

ICDER Contestation – Volume 86, page 11-12

Solution,
Volume 86,
page 53

The technical memorandum was sent to the competent authority in December 2004 in the initial stage of the EIA procedure and it was practically amongst the documents which were at the base of scoping. Would this document have been in violation of MO 860/2002, then MMGA had the possibility to request additional information for the scoping phase, yet at this stage no information was requested to support CAT in its scoping decision.

The aspects which regard the non-compliance of the project presentation report submitted by RMGC on 14 December 2004 to the Agency for Environmental Protection Alba with the provisions of the MO 860/2002 no less than 7000 contestations submitted by the concerned public to AEP Alba and the Ministry for the Environment have pointed to this fact. To this contestation the public received back a standard reply according to which “the contestations have been collected in a special register and the opinion of petitioners and the motivated observations will be analyzed at the relevant stages in the procedure for the evaluation of the impact on the environment and the issuing of an environmental license during public consultations”

The project titleholder has never analyzed these aspects and has never offered a motivated reply; no more so in the Annex to the EIA Report or during the public consultation meetings, even though MO 860/2002 imperatively states at article 44 that *during the public consultation meetings the project titleholder described the proposed project and the assessment it conducted within the environmental impact assessment study, replies to the public’s questions, provides qualified answers to the public’s justified proposals that it received in a written format before the respective public meeting.*

2*.

On 6 June 2006 MMGA made a public announcement³ and sent a series of individual notifications regarding the stage of public consultations on the EIA report submitted at MMGA. Both the announcement at the individual notifications mention that the EIA report was submitted to the Ministry on 15.05.2006. This means that in establishing and announcing the public participation opportunities MMGA violated the legal deadline imposed by article 27 - (1) of Order 860/2002⁴ - *in 5 working days from when the EIA report and, if the case is so, the security report, is received, public authorities for environmental protection, together with the project owner establish the opportunities for public participation in the decision-making procedure for the project and announce them in the media, on the project owner’s expense.*

* Ibid

³ http://www.mmediu.ro/dep_mediu/rosia_montana/dezbatere_publica.pdf

⁴ Asa cum a fost modificat prin Ordinul MAPAM 210/2004

ICDER Contestation – Volume 86, page 16

Solution	This claim is ungrounded according to the legal provisions. In 5 working days the competent authority and the project owner establish the opportunities for public participation in the decision-making procedure for the project and announce them in the media. The project owner made the announcements in the established term, the announcement published on the authority's website having nothing in common with the announcements published by the project owner in mass-media
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The project owner's reply is spurious, given that the Order no. 860/2002 clearly states the fact that all the announcements about the opportunities for the public to attend will be made within five working days from the time the EIA Report and the Security Report were received- both those made by the project titleholder and the competent authorities. Furthermore, the project titleholder cannot state with any degree of precision what announcements it refers to (the dates on which they were made, the publications in which they were made etc.)

3*.

[...] We do not consider that the aim of a public debate meeting is to transform it into a PR activity for the project owner. Its aim should be first and foremost to inform the public about the project and to offer the public an open and democratic space for it to openly express its concerns, views and proposals on the project. We do not know of at least a negative impact to have been presented by the project owner, maybe with the exception of « impactarea » (the impact on) churches in the Corna Valley, a definition whose resonance in the Romanian language is more than questionable. What is more, the project owner did not reply during the public debates to the justified proposals from the public received in written before the public meeting⁵.

ICDER Contestation – Volume 86, page 16

Solution Volume 86, page 53-54	[...] As a consequence, RMGC engaged itself in a vast process of public consultation according to the Romanian and EU norms on the EIA procedure. Our company organized 14 public debates in Romania and in 2 in Hungary. Far from being a PR campaign, it is an integral part of a serious process of public information and consultation before the project approval. RMGC supports this process and considers that it is important in a democratic society.
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The project owner's reply does not address the specific problem raised at this point, that of the quality of the information put forward by the project owner during the public consultation meeting. This is more an attempt to present the legal requirements for the assessment of the impact on the environment and the issuing of an environmental license which is of no real utility at this point. We therefore consider that this aspect was not addressed and did not receive an adequate response and solution, respectively.

* Ibid

⁵ According to article 44 - (1) of Order 860/2002, *during the public debate meeting the project owner describes the proposed project and the evaluation made in the environmental impact study, replies to the questions from the public, replies with arguments to the justified proposals from the public received in written prior to the respective public meeting.*

4*.

Regarding the public consultations in Hungary, we do not consider that they represent equivalent participation opportunities of the Hungarian public compared to the ones of the Romanian public. Article 2 of the Espoo Convention stipulates the obligation for the party of origin to offer an opportunity for the public in the potentially affected areas to participate in the EIA procedure and to guarantee that the opportunity offered to the public in the potentially affected country is equivalent to the one offered to the public in the country of origin. We understand that initially only one public debate meeting was planned, in the town of Szeged, yet, following pressure from environmental Hungarian NGOs it was decided to organize another public debate meeting, in the city of Budapest⁶. Until 22 August 2006 there was no public announcement about the exact place and hour for the public debate in Budapest⁷.

Several environmental Hungarian NGOs criticized the fact that the Hungarian public could consult in the Hungarian language only a resume of 24 pages from the EIA report, a document otherwise containing 5.000 pages⁸

As such, neither the number itself of the public debate meetings organized on Hungary's territory, (in comparison to the 13 organized in Romania), nor their mediatization, and neither the information in their native language at the disposal of the Hungarian public do not correspond to the principle of equivalent opportunities for participation between the Romanian and the Hungarian public.

ICDER Contestation – Volume 86, page 16-17

Solution Volume
86, page 54

The public debates in Hungary, at Budapest and Szeged, were organized at the request of the Hungarian Ministry for the Environment and were organized by this institution.

The public information and consultation plan was submitted to the Romanian Ministry for the Environment by RMGC, together with which it decided on the opportunities for the public to participate in the EIA procedure, without also consulting the Hungarian Ministry for the Environment. Given the high level of interest of the public in Hungary and also because of the fact that the latter will be affected by the project- impacted population- it is relevant to note that only 24 pages (the chapter on Trans-boundary Impact) from the EIA Report out of a total of 3500 translated into Hungarian and subsequently made public by the Hungarian Ministry for the Environment. Together these pages make up for less than 1% of the Report. RMGC translated into Hungarian "the non-technical summary" of the report and furthermore, submitted it to the Hungarian Ministry for the Environment only on the day of the public consultations in Szeged, therefore making it impossible for the participants to the meeting to study it in preparation for the meeting. As this was one of the two meetings organized in Hungary (which were held due to the efforts made by Hungarian NGOs), it is very clear that the Hungarian public was not provided with equivalent opportunities to participate and were not adequately consulted in regard to the project.

* Ibid

⁶ www.greenpeace.hu.

⁷ www.greenpeace.hu

⁸ A se vedea articolul „Proiectul de la România Montană, criticat de "verzii" din Ungaria" la <http://www.curentul.ro/curentul.php?numar=20060821&cat=10&subcat=100&subart=41752>

Even more worrying is the fact that many of the EIA Report's chapters were translated into Hungarian, but were not subsequently published. To take an example, the International Group of Independent Experts (IGIE) which assessed the EIA Report for the "Ad-hoc Romanian and Hungarian Committee on Rosia Montana" notes in its report: "The translation of Chapter 2- the Technological Process- in Hungarian is faulty. The significance of this part of the operation indicates the fact that more attention should have been granted to it than it has been". Given that a translation of this chapter was available, why was it not published? One of the fundamental principles of the Aarhus Convention is that all the information available must be published, to allow the public to take the best possible decision. We therefore conclude that neither the two public meetings in Hungary (compared to 14 organized in Romania) nor the publicity made to advertise them or finally, the information translated for the Hungarian public do not comply with the principle of equivalent opportunities for participation laid out by the Espoo Convention and or the non-discrimination principle and access to environmental information as stipulated by the Aarhus Convention.

Annexes:

- a letter signed by 230 environmental organizations from Hungary in which they express their dissatisfaction with the designated procedures for the participation of the public in Hungary in the evaluation of the Rosia Montana project;
- Alburnus Maior's submission to the Aarhus Compliance Committee on the Rosia Montana public consultation process

5.

[...] According to the information presented by Gabriel Resources to its investors⁹, in 2007 RMGC intends to apply for an exploitation mining license in the Bucium perimeter. In this document, Gabriel Resources claims: «the conclusions of a pre-feasibility study showed that the best economic option would be to process the ores from the Bucium perimeter using the Rosia Montana project's industrial facilities ».

Although RMGC's intention to exploit, in the nearby future, the gold and silver ores from the Bucium perimeter is well-defined (even is the production capacity is still unknown), this intention is nowhere mentioned in the Rosia Montana EIA report and what kind of cumulative impact it could have with the Rosia Montana project (cumulative impact on discharge waters, quantities of waste, increased emissions etc). **The project owner therefore does not adequately replies to the question from the check list of the stage to evaluate the quality of the EIA report: *Does it identify any other existing or planned development with which the project could have a cumulative impact?***

ICDER Contestation – Volume 86, page 18

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The company conducted a pre-feasibility study for Bucium where it holds a mining license for a much larger mine than the one for Rosia Montana. There is information according to which RMGC intends to use the tailings management facility and the processing plant from Rosia Montana for Bucium pit and that represents a major issue related to the tailings management facility. This facility has been constructed for Rosia Montana Project, i.e. it has a certain storage capacity for tailings. If the tailings resulted from Bucium are stored in the tailings management facility where Rosia Montana tailings are stored, then the dam will surely fail.

⁹ Gabriel Resources - Consolidated Financial Statements, March, 31, 2006 and 2005 on www.sedar.com

The questioner would like to receive a confirmation with respect to the fact that Gabriel Resources will use the tailings management facility and the processing plant for Bucium Project, because that will mean that the Project needs to be redesigned.

Permitting 51

Solution

Please note that pursuant to current legal provisions, the project proposed by the titleholder [1] is undergoing the procedure of environmental impact assessment. Therefore, a potential analysis of a potential development of other mining projects or operations of S.C. Roșia Montană Gold Corporation S.A. (RMGC) exceeds the scoping of the procedure of environmental impact assessment conducted for Roșia Montană Project. Moreover, with respect to the current stage of mining activities developed within the Perimeter covered by Bucium License, a discussion related to the feasibility or the operations of this Project can be done only at a principle level.
[...]
If the Mining License for Bucium Perimeter is secured and the decision to develop the mine is taken, than a permitting process of this mining project would have to be initiated and that would require among other issues, to secure an environmental permit and to undergo a procedure for environmental impact assessment that on its turn requires a public consultation and disclosure stage according to applicable legal requirements.
...

Please first note that the project owner discusses in the Annex the issue of extending the exploitation to include the Bucium perimeter to its best interest: in some paragraph this is regarded as a certainty, in the above point as a possibility. Please see, for example, the reply to the problem raised by the public on the fact that part of the Corna Valley tailings pond is designed outside the perimeter from the mining license (both the problem and the project owner’s reply are reproduced above).

The EIA Report therefore does not identify and describe other projects planned by RMGC in the area or any kind of other developments with which the Rosia Montana project could have a cumulative impact.