

CERTEJ - AUTHORITIES' INCAPACITY TO CRITICALLY ANALYSE NEW MINING PROJECTS



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Abbreviations List

ANRM - Romania's National Agency for Mineral Resources

APM - Agency for Environmental Protection

APIA - Agency for Payments and Intervention in Agriculture

ARPM – Regional Agency for Environmental Protection

CAT - Committee of Technical Analysis

CE - European Commission

CIDRM - Independent Centre for the Development of Environmental Resources

CIL-CIP - Carbon in Pulp (CIP) is an extraction technique for recovery of gold which has been liberated into a cyanide solution as part of the gold cyanidation process

CNCAF Minvest - National Company of Copper, Gold and Iron MINVEST

EIA - Environmental impact assessment

EGU - European Goldfields

ELD - Eldorado Gold

GAL - Local Action Group

HCN - Hydrogen cyanide

MMP - Ministry of Environment and Forests

MMSC - Ministry of Environment and Climate Change

NASA - The National Aeronautics and Space Administration

Natura 2000 - Natura 2000 is the centrepiece of EU nature & biodiversity policy. It is an EUwide network of nature protection areas established under the 1992 Habitats Directive.

PDL - Democratic Liberal Party

PNDR - National Rural Development Programme

PSD - Social Democrat Party

PUZ - Zonal Urban Plan

ROSCI – Special protection area for the conservation of wild birds

ROSPA – Special Protection Area

RSR - Socialist Republic of Romania

TSX - Toronto Stock Exchange

USD - American Dollars

Introduction

The second case study of the Mining Watch Romania report includes a detailed review of mining operations developed in the area of Certeju de Sus commune in Hunedoara county. It describes the path with plenty of irregularities of the license transfer from the state company to the private investor. The latter gained afterwards huge amounts upon selling the project and hence the deposit to another mining operator with ongoing projects in Greece, Turkey, Brazil and China. The report also includes an account of the very serious mining accident of 1971, kept secret by the communist authorities, which made at least 89 victims. The accident at Certej was considered the most dreadful peacetime disaster in Romania, but this is not the only harm produced by mining in this area. The severe poverty and unemployment upon the sudden closure of the state mine are characteristic for this commune.

The name of the Deva Gold director, Nicolae Stanca is mentioned several times in the report. First he was the representative of the state enterprise who transferred the mining license to a private company, then he was employed by the same company who benefited from this transfer. The company tries now to get approval for an open pit mining project, but several irregularities have been discovered by environmental protection organisations who disputed the permit in court. Although the local authorities in Certeju de Sus as well as

the regional environmental authorities are very servile to the mining company, there are many reasons why the project should not start. Many procedural irregularities were identified in relation with the issuance of the environmental permit and one third of the project area would overlap on a Natura 2000 site.

The case of the Certej mining project becomes better and better known to the public, with several commemoration events organised in 2013 for the victims of the accident in 1971, in addition to a permanent monitoring of the authorities with a role in permitting. The opposition against this mining project is growing, many of the associations activating in the Save Rosia Montana campaign are already involved in monitoring the authorities, offering legal advice and informing the public on every stage achieved.

Authors

[Mining Watch România-2013](#)

For more information please see the following reports:

[Transylvania - undermined territory](#)

[Baia Mare - Preview of a mining disaster](#)

1. Certej – mining history and geographical location

Certeju de Sus is an old mining centre in Hunedoara county, located in the south-eastern area of Metaliferi Mountains. The place lies within the [Golden Quadrilateral of Apuseni Mountains](#), in the area of Deva, Brad, Baia de Arieş and Zlatna towns.

In the 19th century mining specialists from all over Europe carefully studied the complex agglomeration of chemical elements stored, in various combinations, by the mountain in this area. More than 100 types of minerals were discovered on an area of only one square kilometre. Two of them are unique in the world of mineralogy: silvanite and sacarambite.

Although mining has been practised in Certej for a very long time, it was Empress Maria Theresa who reformed and invigorated gold mining in Transylvania. The first gallery, called Maria, pierced the mountain in 1746. Between 1748 and 1876, during 128 years, more than 40 tonnes of gold were mined from this deposit. The whole mountain is now crossed by underground galleries. The underground mining has generated the town's development, with the first Technical Mining School in south-eastern Europe being founded here. Between 1920-1930, Săcărâmb, now a village within Certeju de Sus commune, had 14,000-15,000 inhabitants while Deva had no more than 8,000. There were several banks, workshops, butcher's shops, a beer factory and a ca-

sino in Certej.

Once the communist regime was established 'many countrymen who had worked in mining for generations, since ancient times, were forced to become employees of the state mines, because the ore they extracted on their own could only be sold at the exchange office for a risible price. In addition the state forcefully seized from peasants any land with gold bearing ores. In these circumstances, "the Certej local community includes almost only poor miners who live from the hard mining work", [as admitted by a state officer in 1974](#).

After the underground mining of the lodes in Săcărâmb, Hondol and Măgura, the communist authorities opened in 1982 the first open pit mine in Certej, Coranda open pit, through Minvest Deva company. Underground mining continued in parallel until 2004 when the galleries were closed. The ore processing operations were stopped the same year because of their inefficiency. Minvest [finally stopped its mining activity in 2006](#). The mine closure was not followed by environmental rehabilitation works on the mining perimeter, with the [pollution from acid rock drainage and acid mine drainage being still an outstanding issue](#).

A [journalist investigation](#) undertaken by Paul Cristian Radu in 2004 describes the atmosphere in the old mining

town as well as the new mining plans of Deva Gold company: “In an office, at the first floor of the building raised during the communist period, the company engineers make measurements for a future gold mining operation in the Certej-Săcărâmb area. Similarly to other cases, in Certej we have the same concentration of a few grams of gold per tonne of earth. The company has not moved yet a single gram of gold, although, according to officials from the National Agency of Mineral Resources (ANRM), they hold a li-

cense for gold ore mining. A pub suggestively called El Dorado lies at the ground floor of the same building. This is for the time being the only place in the Apuseni Mountains where the gold rush can be noticed. Particularly after alcohol runs down the throats of local people. The pub is for many poor people in the area a long-dreamed for golden land, a place where they forget about unemployment, family, hardships.”

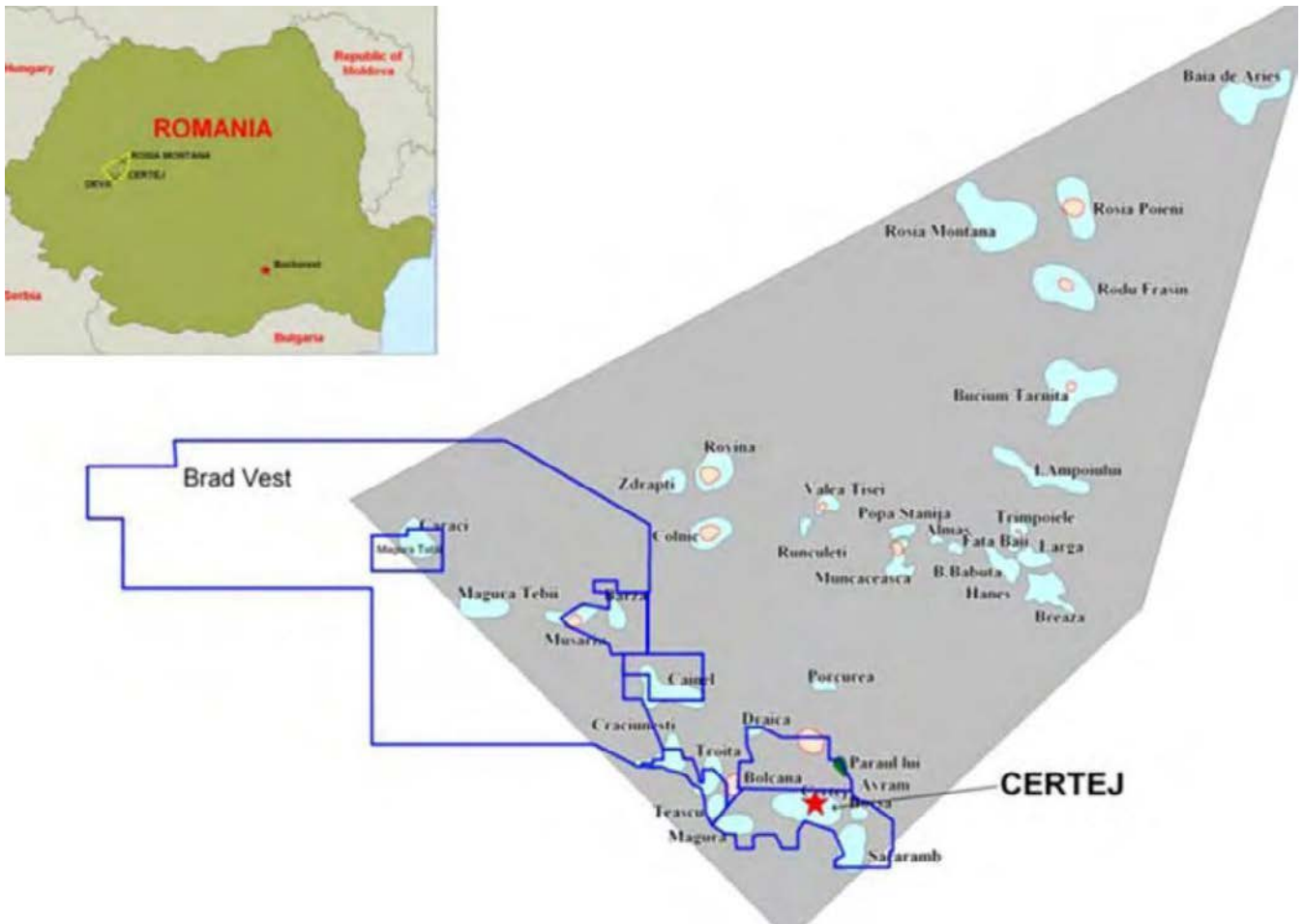


Figure. 1 Certej proiect location, sursa: [Gândul](#)

2. Demographic structure and employment in the community

Certeju de Sus commune includes nine villages¹ totalling 3,126 inhabitants, less than at the previous census of 2002. The commune is one of the 13 places in the [Local Action Group \(GAL\) Țara Zarandului](#), with access to European funding programmes for rural development.

Certeju de Sus is also an agricultural ["underprivileged area"](#) according to PNDR (National Programme for Rural Development)¹, and as such benefits from financial support through the agro-environment programmes developed through APIA (the Agency for Payments and Interventions for Agriculture). About 11% of Romania's total population lives in such mountain area places. Underprivileged areas in mountain regions (ZMD) [occupy 29.93% of the country's surface](#) and most of the Carpathian range area, marked by high altitudes and steep slopes.

The commune was declared an underprivileged mountain area on the basis both of natural conditions (altitude, climate, low fertility soils), and of the young people's exodus and the population ageing, the poorly equipped households and the insufficient infrastructure. About 60% of the commune's population works in agriculture. [The majority of local population live from this activity field both as workers and as farmers, or to generate additional revenues.](#)

Small agricultural properties are specific to the villages in this commune, with the exception of the apartment block area of Certeju de Sus residence village, where poverty and unemployment are more severe - more than 16%, the micro-region's average. As shown in the [Development Plan of GAL Țara Zarandului](#): 'Traditionally in the past most people in the commune used to work in the nearby mining operations (Brad - Gura Barza); however after mining was closed and extractive operations diminished, the region's active population re-oriented towards other fields of activity. Thus the available work force in the region, representing about 45% of the population, includes mainly workers at Brad or Deva. There are many well-to-do households, as well as an economic potential for future development, based on the financial resources held by many people living in the area.'

According to the development vision for Tara Zarandului, the micro-region intends to valorise the natural and environmental resources as well as the advantages of its geographic location, to develop thus a competitive economic environment and hence a viable, pleasant living environment for the inhabitants of the GAL territory. The threats seen as obstacles to achieving the local development strategy objectives include however "the local people's indifference towards environmental protection" and "the image of a mining town".

¹ Bocșa Mare, Bocșa Mică, Certeju de Sus - residence, Hondol, Măgura-Toplița, Nojag, Săcărâmb, Toplița Mureșului, Vărmaga

While most inhabitants of Certeju de Sus own lands which enable them to gain additional revenues from agriculture, the residents of the apartment blocks in the commune centre have a more peculiar condition. Built at the beginning of the 1970's for the workers who came from other parts of the country to work at the mine, the blocks are now in an advanced state of decay. Although still inhabited, many of them were not provided with running water in the autumn of 2012. The precarious economic condition of this group continues to make them dependent on employment in mining operations. A [dairy note](#) describes the experience in Certej right after the closure of mining works of a lady living in the commune: 'During last Easter holidays while the state mine was still open everyone had new clothes, even cars, although they had been unemployed for several months. In 2007 the balconies of

the blocks in the commune centre were full of "bowls", which brought us in the national news. Certej was the commune with over 1,000 parabolic antennas. Our village, like NASA! The authorities had spent money unwarily on painting walls and parties. Miners and their families had spent the money received as compensation salaries on clothes, scrap cars with worn tyres and to ensure "a whole life in the refrigerator's shade", in front of the TV set, with as many channels as possible, to make sure they do not miss any stupid programme'.

Therefore, although most of the commune inhabitants re-oriented towards other economic activities than mining, there still exists a small but very vocal nucleus acting as a pressure factor upon the community to restart mining works in Certeju de Sus.

3. Canadian company Gabriel Resources set their sights on the Certej deposit

One of the first references of the Canadian company Gabriel Resources (GR) to the gold- and silver-bearing deposits at Certej was mentioned in the press release of November 1998, as "two new gold-bearing areas identified on the property of Certej in Romania". According to their [1999 Annual Report](#)¹ GR purchased two new projects, Bolcana and Băița-Crăciunești, adjacent to the Certej [project](#). The same report, signed by Va-

1 Annual Report of Gabriel Resources for 1999, issued on 17 April 2000, http://www.ase.ro/rosia_montana/pdf/2005/ANEXA-4-%20feb-2005.pdf

sile Frank Timiș as Chairman and Chief Executive Officer, proposed to shareholders to reorganise the company, namely by splitting it into European Goldfields Ltd and Gabriel Resources Ltd. The reorganisation was approved and came into force as of June 2000. *Gabriel transferred to European Goldfields their exploration projects at Certej, Zlatna, Bolcana and Băița-Crăciunești.*

The beginnings of Gabriel Resources are marked by a lack of transpar-

Figure. 2 Certejul de Sus panorama



ency and charges of corruption, in utter contrast with the further portrays made by the favourable media and the public relations companies contracted. In a [journalistic investigation](#) published by the Romanian Centre for Independent Journalism (CRJI), Mihai Ianăș, former ANRM president, says that the deposits were presented on the Canadian stock exchange without any approval from the institution he was managing, and in the absence of the preliminary concession for the mining perimeters. Ioan Rădulescu, former personal counsellor of Mihail Ianăș, has an even more decisive position in this respect: “This business was rotten from one end to the other. When they listed the project at the stock exchange, the investors held no single piece of deposit in Romania. It was a clear scenario, aiming to achieve the stock exchange listing and then to obtain the license. (...) All this was possible, however, because of the association with the state in 1995”. The listing of deposits was accepted by the Canadian stock exchange based on an association agreement concluded in 1995 with the

state company for copper mining Regia Autonoma a Cuprului Deva. Neither the initial agreement, nor its addenda were ever made public. As shown by journalist Daniel Bojin, ‘they are nowhere to be found, not even at the headquarters of the former state company (Regia Autonoma), occupied now by the current state company Minvest which replaced it.”

It is very interesting to note that the person who signed the association documents between Minvest Deva and Gabriel Resources in 1997 on behalf of the Romanian state is no one else but Nicolae Stanca, current director of Deva Gold SA. The above mentioned journalistic investigation concludes that the initial association agreement and its addenda as well as the establishment of the joint venture in June 1997 allowed the investors to enter on the back door in a business with no mining license. At that time there was no mining law in Romania yet based on which to award mining licenses to private entities for resource exploitation.

4. Gabriel splits and European Goldfields takes over Certej project

In 1999 ANRM awarded to the National Company for Copper, Gold and Iron MINVEST S.A., as per art. 46 of the Mining Law 61/1998, the concession for exploitation of the deposit in the Certej mining area by the „Concession license for exploitation at Certej, no. 435/1999”.

Since 2000, European Goldfields Ltd (80%) in association with the state company Minvest Deva (19%) form Deva Gold SA. In accordance with the Mining Law², Deva Gold becomes affiliated to the License no. 435/1999 approved by [HG no.](#)

² Mining Law 61/1998

[51/24.01.2000](#). of minister Radu Berceanu to the demand of deputy Nicolae Popa, Deva Gold undertook the same year the geological research on the mining perimeter, followed by drilling operations. In December 2001 the concession was transferred from C.N.C.A.F. MINVEST S.A. Deva to Deva Gold SA, who then became license holder, with Minvest Deva becoming an affiliate.

The media archives of that period store [an article](#) of journalist Paul Cristian Radu on the Certej-European Goldfields subject: 'Another company of Frank Timiș, International Goldfields, also leased a record area on Romania's territory. This covers more than 2,500 square kilometres, about ten times the area of Bucharest, between the cities of Deva, Lugoj and Oțelul Roșu. Considering this area plus those controlled by Gabriel Resources, the company who intends to mine gold from Roșia Montană, and by European Goldfields, a company activating in Hunedoara county, both established by Vasile Frank Timiș, we will find that this person leased 5% of Romania's territory.

According to [a media investigation](#), a media investigation Mihail Ianăș, director of ANRM at that time, is considered responsible for favouring and supporting Vasile Frank Timiș in obtaining the massive concessions of mining areas in Apuseni Mountains¹: 'It is of course a mere coincidence that Mihail Ianăș, the man who signed many of these concessions on behalf of the state, became, some time after the expiry of his mandate as director of ANRM,

the employee of Frank Timiș. Actually it was Mihail Ianăș himself who told us that he heard that Regal company needed a man in Romania so he offered them his services'.

Another [article](#), published in Academia Cațavencu in 2005, refers explicitly to the same moment: 'While president of ANRM, Mihail Ianăș conceded to Frank Timiș thousands of square kilometres in Apuseni Mountains, as well as areas for hydrocarbons in the north-east of the country. In compensation for the services he provided to Timiș, Mihail Ianăș was named by the latter representative of Regal Petroleum company in Romania.

Frank Timiș held 30% of European Goldfields and was president of the company until 2007, when he reduced his share and waived the presidency position to concentrate on another big business in this field: African Minerals.

5. European Goldfields and the gold-bearing deposits in Greece

In April 2005 European Goldfields also held 65% of the shares of Hellas Gold SA, with assets in the north of Greece. The mining concessions in this country covered a total area of 317 sqkm, including three polymetallic deposits: Olympias, Stratoni and Skouries.

In December 2003, the Greek government took over control of the mine from TVX Hellas, the former owner, who declared the project closed following local people's protests. The state purchased it for 11 million euro and sold it the same day, for the same amount, to Hellas Gold, a company established three days before, thus surrendering all exploitation rights. Shortly afterwards 95% of the company shares were acquired by the Canadian company European Goldfields. According to an audit the company's market value was estimated at that time at about 400 million euro.

In September 2005 Hellas Gold resumed production activities at Stratoni after having obtained the environmental permits from the Greek government.

In January 2006 Hellas Gold applied for similar permits for the Olympias project, where cyanide mining operations started in 2012.

In July 2011 the Ministry of Environment in Greece approved the Environmental Impact Study for the development of the projects held by the

company through its subsidiary Hellas Gold SA in Skouries.

For their operation in Skouries, Hellas Gold received the permit to deforest about 1,600 hectares of wood, in order to dig a two km diameter crater.

The peninsula inhabitants are against the commencement of these mining projects, and in April the protests of people from Yerissos escalated up to occupying the local authorities' offices. This was followed by retaliation, arrests and intimidation by the police forces, but at the same time by an enhancement of opposition, with significant protests being organised in the regional capital city Thessaloniki. Shortly before this report was completed, Hellenic Mining Watch announced that the courts of justice gave the case for the ecologist activists and the local people, obliging the local authorities to discard their incrimination for the events of April 2013.



Figure. 3 Protests in Greece against the Skouries gold mining project

6. European Goldfields and the gold-bearing deposits in Romania

In August 2008 European Goldfields held in Romania [an exploration license for an area of 534 sqkm in Hunedoara county](#) în județul Hunedoara (2.5 times the surface of Bucharest). Thus, according to information on the company website, European Goldfields extended their old license to a 338 sqkm area west of Certej (an area adjacent to the former mines near Brad), and to a 137 sqkm area near Deva, in the region of the gold and copper deposits at Muncel-Vețel.

European Goldfields, majority shareholder of Deva Gold, listed on the Toronto stock exchange (TSX:EGU), esti-

mated the necessary investment for mining the Certej deposit at 136.5 million euro: "It is a small deposit, I would say at the limit of profitability, particularly when all costs are rising", [said Nicolae Stanca, director of Deva Gold](#) for România Liberă. Stanca admitted even at that time the low efficiency of Certej project as compared to the optimum gold mining operations which yield between six and eight grams per tonne.

7. Successive irregularities in the permitting procedures

In September 2006 Hunedoara County Council issued the urban planning certificate for the Certej project. The certificate confirms the designation of Certej perimeter [as industrial mining area](#). In October the same year European Goldfields [concluded agreements with Xstrata Queensland Limited and Highlands Frieda Limited for the use of the technological process Albion](#) to increase project efficiency. In March 2007 European Goldfields submitted to the Romanian government the [Technical Feasibility Study for the mining project Certej](#). Following a new drilling campaign completed in October 2007 the company announced a 20% increase of the gold reserve for the Certej project. In December 2007 European Goldfields also applied for a regional urban plan (Plan Urbanistic Zonal - PUZ). Next year they renewed their urban planning certificate, including all project amendments since 2006.

What the company's official announcement to investors fails to mention is that Deva Gold had to abandon the plan to locate the tailings dam in Voia village, following [following a vehement public debate where they faced opposition from local people](#). The mining company intended to build the two tailings dams, one of which for cyanide oxidation, on Frumoasei Valley within Balşa commune. Prior to the public debate held on 26 June 2008, 102 persons, local people and land owners in Voia, signed a memorandum against cyanide

mining. On the contrary, in all their [official information releases](#) between 2006-2008, listed at the Toronto stock exchange, European Goldfields specifically mention the support they have from the local community.

The National Agency for Mineral Resources [approved the feasibility study](#) for the mining project in September 2008, although no official amendments had been made to the previous Feasibility Study submitted in March 2007, as would have required the new position of the tailings dams on the territory of Certeju de Sus commune. ANRM also [registered officially the reserves identified through the drilling exploration](#) : 41.5 million tonnes of ore with 2 grams of gold per tonne. Following submission to the National Agency for Mineral Resources of the geological documentation with the calculation of resources in the Certej mining perimeter, in view of their registration, and of the Feasibility Study, a new Addendum was issued, no. 3/18.07.2008, to the Concession License for mining no. 435/1999. Based on this Addendum, Deva Gold S.A., in their capacity of lessee, became the license holder, while C.N.C.A.F. MINVEST S.A. lost their status of affiliate to this license.

According to European Goldfields reports, the total investment value by the end of 2009 was about 43.76 million American dollars. In March 2010 Deva Gold obtained the environmental approval for the Regional Urban Plan,

based on which the Local Council of Certeju de Sus approved the Local Urban Plan.

On 15 June 2010 European Goldfields¹ completed the negotiations for a [funding line](#) of 135 million USD obtained from a consortium consisting of Caterpillar Financial SARL, ING Bank NV, Investec Bank plc, Unicredit Bank AG

1 The price of a European Goldfields (EGU) share at Toronto Stock Exchange on 5 Nov. 2010 was 15.11 C\$.

London Branch and WestLB AG London Branch; this funding is provided exclusively for starting the necessary works for commencing gold mining operations at Certej, in Apuseni Mountains. The total necessary investments for starting mining operations were estimated at 190 million USD. On 2 August 2010 European Goldfields announced they [submitted the documentation to the competent authorities in order to obtain the environmental agreement](#).

8. Voia community's refusal to accept tailings dams location in Balşa commune

Deva Gold proposed initially the arrangement of tailings dams for ore processing waste on Frumoasei Valley, in Voia village. The open pit and the processing plant would have been located in Certeju de Sus, and the tailings would have been disposed of in the nearby Balşa commune, Voia village. The tailings dams would have covered 871,995 m² outside of built up areas of Voia village, north of Certej, as per the Environmental Report for the Regional Urban Plan (PUZ). According to the procedures for obtaining the environmental agreement, the Voia villagers were consulted within a public debate regarding the opportunity of building the tailings dams.

In the summer of 2008 the Regional Environmental Protection Agency Timișoara organised [public consultations](#) on the environmental report for the

Regional Urban Plan associated with the mining operation. Several residents of Voia contacted the Independent Centre for the Development of Environmental Resources asking for the Centre's involvement in a campaign to prevent the approval for building the tailings dams. Within this campaign local people from Voia sent a memorandum to Timișoara Regional EPA requesting the Agency not to issue the environmental agreement. According to the [official minutes](#), the local residents present at the public consultation in Voia expressed their utter disagreement with the location of the two tailings dams in their commune. The Replica newspaper in Hunedoara considers: "Unlike other places, where almost nobody is present at such public consultation meetings and the projects go further without any problems, in Voia almost every household had a rep-

representative in the meeting room.” The attendance lists for the public debate, prepared by Deva Gold, can prove this.

The public debate initially scheduled for the autumn of 2007 was held on 24 June 2008. The economic offer of Deva Gold for the Voia area, coming together with the location of the two tailings dams on the village territory, included, among others, 100-150 jobs the water supply network for the village and building a connection road between Voia and Certeju de Sus¹. Neither the new by-pass which would have shortened the current route by 30 km, nor the jobs to be created convinced the local people to agree to the tailings dams being built in their village. The refusal was

supported by a written memorandum submitted to the Environmental Protection Agency. Mrs. Rodica Lasc, living in the village, witnesses the villagers’ refusal: “They want to turn Frumoasei (eng. “beautiful”) Valley, one of the most beautiful places in Romania, in my view, into a pond with cyanide sludge. They want to bring the sludge from Certej through pipes over the hill to Frumoasei Valley. I personally cannot accept this. They may come and give us money and gold, we still won’t give up our Frumoasei Valley and our good water”.

Figure 4 Balşa commune panorama, source: firmedevara.ro



9. The servile attitude of Certeju de Sus local authorities and the progress of permitting procedures

Following the Voia community's refusal to accept the building of the two tailings dams on their commune territory, Deva Gold SA reconfigured the technical project data on the fly, proposing a new location. This new location proposed for building the tailing dams is in Certeju de Sus commune, on Macrişului Valley, and although proposed as one of the potential locations in the Environmental Report for the Regional Urban Plan, it had not received the maximum score as per the criteria established. According to the assessment grid presented by the company, building the tailings dams on Măcrişului Valley would entail "a significant impact" in case of "dam breaking (considering the distance and level difference to inhabited areas and the number of persons potentially affected)".

As shown above, Deva Gold made no amendments to the Feasibility Study approved by ANRM in the autumn of 2008. The mining company ensured this time the local authorities' support through the commune mayor Petru Cîmpian. The support of Certeju de Sus Townhall for the Deva Gold project was confirmed by the mayor's presence at the public debate in Voia. While the local people in Voia refused cyanides on their land, those in Certeju de Sus were, [according to the mayor, "adapted to the issues"](#). He agreed to the tailings dams' location in his commune, stating at that

time: "I also expressed this agreement publicly, in the meeting we had yesterday (on Wednesday 25 June - editor's note) on the occasion of obtaining the environmental agreement requested from us".

As [noted](#) in the Hunedoara edition of Adevărul newspaper¹, 'Petru Cîmpian has been and remains a chief ally of Deva Gold, as he agreed to locate on the commune territory another huge tailings dam for the tens of thousands tonnes of toxic residues from gold mining. The initial intention was to build this dam near Voia village of the neighbouring commune Balşa, but during the public debate the local people refused the pollution of water, air, soil and the risk of accidents, although they were promised more than 100 jobs". Consequently on the day of the public debate organised in Voia, Deva Gold had already ensured an alternative location for the two tailings dams, one of which is for cyanide processing waste, at Certeju de Sus, based on the agreement of the commune's Local Council.

In 2010 the Certej Local Council issued the urban planning certificate for the Certej mining project. Two years later, in an interview given to Adevărul de Hunedoara newspaper, mayor Petru Cîmpian admitted that the project development steps had been made, intentionally, as secretly as possible. 'We saw

what has happened in Roșia Montană. Excessive media is very harmful”.

The mayor’s support to resuming gold mining operations went as far as issuing judgements which were a delight for media. He stated in the summer of 2013 that “the fish caught in tailings pond have miraculous effects upon those who eat them, improving

their sexual life, and the mayor said he was an example in this line. After several comments the mayor admitted that his statement “was a joke” addressed to those who maintain that water is contaminated with cyanides.” The mayor, although apparently moderate in terms of statements made, had a media intervention whenever required by the interests of Deva Gold.

10. Eldorado Gold takes over European Goldfields

In December 2011 Eldorado Gold initiated the takeover of European Goldfields for the amount of 2.5 billion dollars¹. The acquisition was completed in February 2012. Eldorado Gold became thus the majority shareholder of the

Deva Gold joint stock company. Eldorado Gold Corporation is a Canadian mining company listed on the Vancouver stock exchange, which holds mining perimeters in Greece, Romania, Turkey, China and Brazil.

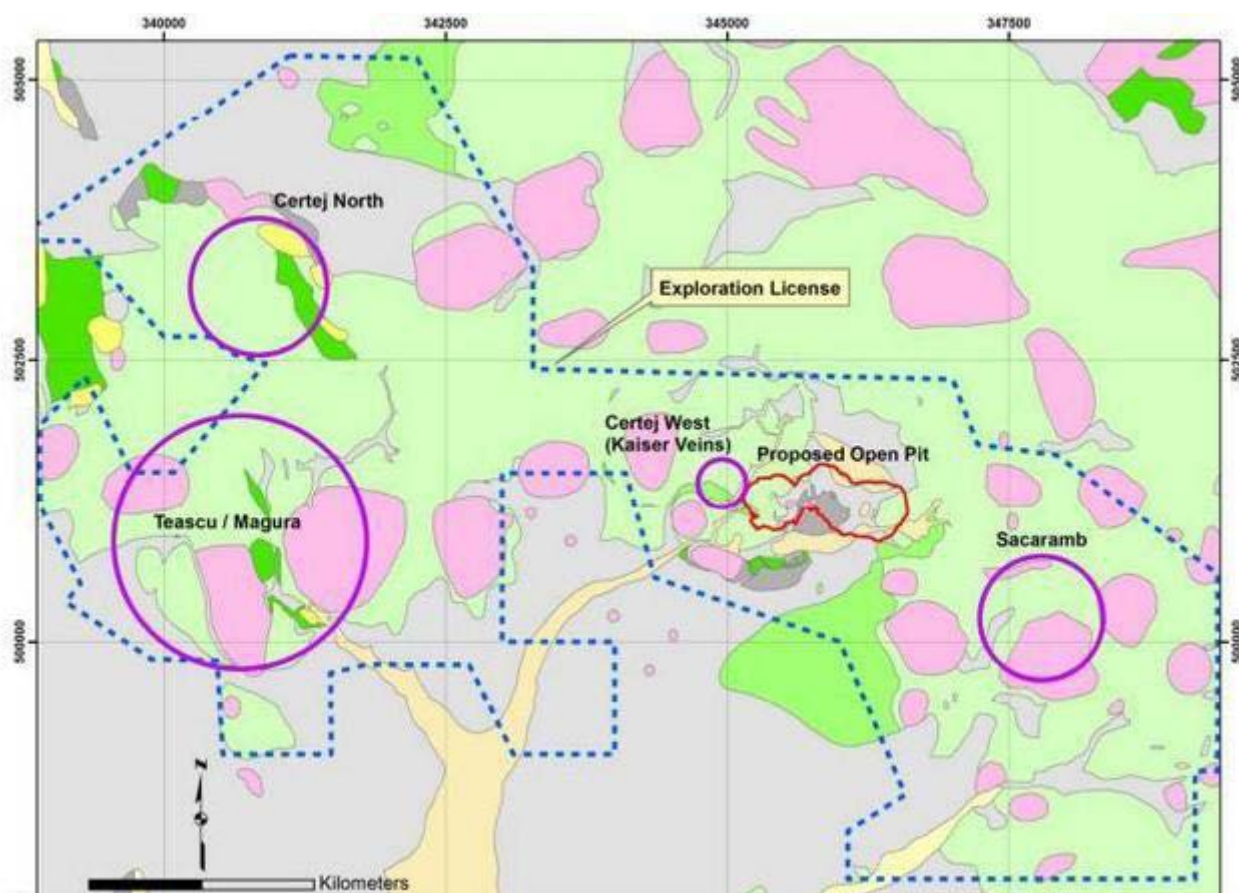


Figure. 5 The map of the Eldorado Gold mining perimeters

11. Deva Gold project – technical aspects

The gold-bearing deposit in the Certej perimeter has an estimated quantity of 45.5 mil. tonnes with a [concentration](#) of 1.8 g/t Au and 10 g/t Ag₁ and is proposed to be mined on a 456.2 ha area. The Certej mining project, with a 16 year duration and a processing capacity of 3 mil. tonnes of ore/year, involves deforestation, soil uncovering, an open pit, two huge waste dumps and the use of cyanides to obtain gold, as well as building two tailings dams over 63.6 ha.

The project area is 456.2 ha, currently covered by: forests 187 ha, meadows 30.7 ha, arable fields 5.3 ha, residential areas 18.7 ha. Out of this area 62.8 ha will be turned into Certej open pit and 63.6 ha into tailings dams for cyanide tailings, in addition to the processing plant and other specific premises.

The ore is obtained by uncovering the soil and using explosives - ANFO (a mixture of ammonium nitrate and fuel oil). This would result in a crater with maximum depth 290 m, dug in 30 m steps. The ore is delivered from the open pit to the processing plant by 65 t trucks for 24 h/day, 7 days/week, 360 days/year.

The ore processing is planned to be performed in several stages by the following methods:
Stage I - Flotation of ore to obtain a gold concentrate and flotation tailings;
Stage II - Oxidation of the gold pyrite concentrate (the Albion process);

Stage III - Cyanidation of the oxidised concentrate and the electrolyte recovery of gold and silver and casting in Dore alloy bullions.

The scale of the Certej mining project requires the use of 26,448 tonnes of sodium cyanide and 15,280 tonnes of copper sulphate during the 16 years of operation. Processed toxic waste will be disposed of in the tailings dam.

Drainage water from the mine waste dumps North (32.6 ha) and South (40.2 ha) is planned to be directed through a drainage channel to settlement tanks to ensure suspended solids sedimentation. Sediments will be transported to the tailings dam for flotation tails.

The main dam of the tailings pond is designed to cover 63.6 ha and will be built from rockfill; it will be built in stages, first the initial dam (starter) followed by successive height increases, with a maximum height of 169 m.

The tailings dam for flotation tails is an extractive waste facility classified under Risk Category A considering that a dam failure (loss of the structural integrity of the dam embankments) may produce a major accident (rapid and uncontrolled loss of the content of the tailings dam for flotation tails, which may entail loss of human lives, environmental impacts and material damages), in accord-

ance with the first indent of Annex III of Directive 2006/21/EC.

The tailings dam is also classified under Risk Category A based on its con-

tent of inorganic dissoluble/ dissociable cyanides (CNWAD) classified as very toxic substances (category H6), according to Directive 91/689/CE Annexes II and III.



Figure. 6 3D representation Certej project, source: Deva Gold

12. Environmental permitting - lack of transparency and procedural irregularities

In August 2010 European Goldfields announced on the Toronto Stock Exchange website the submission of documentation to the competent authorities in view of obtaining the environmental agreement. This new procedure was related to the environmental impact assessment for the entire mining project proposed for Certej. The mine, screened as having significant impact, rested under the regulating competence of the Regional Environmental Protection Agency Timișoara until this institution was reorganised in October 2012. Romania, in its capacity of country of origin and signatory of the Espoo Convention¹ a derulat undertook the

1 Romania became a signatory of the Convention on Environmental Impact Assessment in a Transboundary Context, adopted in Espoo

transboundary consultation procedure through the Ministry of Environment and Forests (MMP).

As shown on the institution's web page, MMP notified Hungary and Serbia as countries potentially affected by the project progress and sent them the documentation² in September 2009. In March 2010 Hungary and Serbia sent back to the Romanian ministry comments and recommendations on the documentation received. Between August 2010 – February 2011 DEVA GOLD submitted to the MMP the environmental impact assessment documentation

on 25 February 1991, upon sanctioning it by Law 22/2001.

2 According to Art. 3 of the Espoo Convention

and its subsequent additional information (hereinafter referred to as the EIA documentation) and the ministry sent it to Hungary and Serbia to be made available to the public and the national authorities. According to Art. 3 point 8 of the Espoo Convention, Serbia requested Romania's participation in a public debate meeting on their country territory, while Hungary requested two public debate meetings followed by participation in a round of consultations between authorities. Therefore two days of public debates followed:

- on 16 September 2011 in Novi Knezevac, Serbia;
- on 27 and 28 September 2011 in Budapest and Szeged respectively, in Hungary;

Romania's final response to Serbia was notified in November 2011. The consultations reunion with Hungarian authorities was held in Timișoara, on 8 December 2011. Hungary sent their final opinion on the Certej mining project in February 2012.

On 5 July 2012 the Regional Environmental Protection Agency Timișoara issued the environmental agreement no. 8 for the mining of gold-silver ores in Certej perimeter. Although this is an information of public interest, its publishing on the institution's website was unjustifiably delayed. Therefore the organisations who monitor the permitting process of mining projects in Romania [learned about this permit only at the beginning of September](#). They reported that the issuance of the environmental agreement for the Certej project creates an extremely dangerous precedent for

Romania, arguing that the Certej mining project is similar to the Roșia Montană one in terms of their devastating impact upon the environment, legality flaws, the shareholders' network, namely the owner companies, and as such raised serious criticism from environmental protection organisations in Romania over the years.

“The Ponta government achieved in only two months since its appointment what previous governments had only discussed. Although both prime minister Victor Ponta and the Minister of Environment and Forests Rovana Plumb strongly advocated at the beginning of their mandate that the mining project at Roșia Montană may not progress in the absence of environmental guarantees, the renegotiation of the state's participation or the contract disclosure, pretending thus to be interested and responsible regarding the serious impacts of such mining projects upon the environment and local communities, the government requested no environmental guarantee for approving the Certej project. ‘The Romanian State's participation, similar to that of Roșia Montană, is accepted in its current form and [the contract on which this project is based is again a secret one](#)’ shows a common press release of associations Alburnus Maior and The Independent Centre for the Development of Environmental Resources.

Moreover the environmental agreement has no concrete provision on any guarantees for environmental remediation in case of an accident. The agreement only mentions that the project operator is responsible for the acci-

dents produced but fails to specify how the damages are to be assessed, what is the value of the associated compensa-

tions and what mechanisms are in place to ensure that these considerations are complied with.

13. The reaction of central environmental authorities and of the civil society regarding the issuance of the environmental agreement for Certej

Although the Regional EPA in Timișoara is subordinated to the Ministry of Environment and Climate Change (MMSC), the minister of environment, Rovana Plumb, maintained that she only learned about the issuance of this environmental agreement at the beginning of September. An article published in *Gândul* noted that “one of the current counsellors of minister Plumb, Georgeta Barabaș, was previously director of the Environmental Protection Agency Deva, in the very same county where the Certej project is located’.

However the first public statement of minister Rovana Plumb on this matter was made after the national media took over the news sent by environmental NGOs regarding the environmental agreement issuance. *Kamikaze* magazine reports on this subject: “The Ministry is thunderstruck. Minister Rovana Plumb was taken by surprise by this news, which she says she learned from the media. She promptly announced that she requested the remov-

al of director Lambrino for not having informed the ministry and that she sent a control team to check the legality of the agreement itself.

Shortly afterwards the minister’s media statements became more numerous and culminated with her declaration at the end of the meeting with Janez Potocnik, European Commissioner for Environment. Rovana Plumb stated then that the environmental agreement for the Certej gold mining project “is illegal and breaches European norms”. Only a few days before, “prime minister Victor Ponta had requested” the minister to take measures to ensure that environmental regulations are complied with, maintaining that the problems are generated by the former PDL government who “would give any permit for a bribe”.

The minister of environment announced that she requested the Commission for Discipline to undertake an administrative investigation regarding

all the persons involved in the issuance of the environmental agreement, either on behalf of the Ministry of Environment or of the Regional Environmental Protection Agency¹. However the ministry has never disclosed any information on the investigation results or any necessary measures identified by that commission.

During the same period ANPM (the National EPA) brought an application at the Court of Appeal for cancellation of the environmental agreement issued by the Regional Environmental Agency in Timișoara for the Certej mine. Rovana Plumb announced the media that she had informed local authorities about the two directives breached by the environmental agreement issued - the Birds Directive¹ and the Habitats Directive², as well as other European regulations: “Two European directives were breached, the Habitat Directive and the Birds Directive, by failing to issue the adequate assessment within the biodiversity strategy procedure. Thirdly, the environmental liabilities prior to privatisation were not transferred within the environmental agreement, as provided by law. Fourthly, according to legislation in force, at the time when the company applied for the environmental agreement the Regional Environmental Protection Agency Timișoara was not legally entitled to undertake this procedure. The competence for this rests with the National Environmental Protection Agency”.

The environmental agreement for the Certej project was issued although the mining project footprint

1 Directiva Păsări 79/409/CEE

2 Directiva Habitate 92/43/CEE

would overlap with 108.7 hectares of the Natura 2000 site ROSPA 0132 Metaliferi Mountains along Măcrișului Valley. This surface represents about 0.4% of the site surface. The site has 26,671 hectares in all. The Natura 2000 site ROSPA 0132 Metaliferi Mountains was designated in 2011. The nearest Natura 2000 site is ROSCI0029 Glodului, Cibului and Măzii Gorges, about 7.8 km east from the project. The conclusions of the report “Assessment of the cumulated impact of the Roșia Montană and Certej project and the consequences of simultaneous accidents with potential transboundary effects” indicate that the maximum values of pollutant concentrations in air and of cyanides in water are: ‘(1) Much lower than the concentration and/or duration of exposure which could affect population, birds and other terrestrial species and (2) Safe for the aquatic flora, which can resist to exposure to much higher concentrations and longer durations than those of the cyanide levels predicted for the river water, even in the case when the spill occurs in low water flow rate conditions.”

Following the issuance of the environmental agreement, the Independent Centre for the Development of Environmental Resources expressed their concern about the issuance of this administrative act which, according to the press release of 1 September 2012 had ‘many legality flaws’¹. The insufficient underlying documentation for the agreement relates to the absence of studies and impact assessments for biodiversity, as per the Habitats Directive and the Birds Directive, or the absence of any assessments of the area’s archaeological potential and the health

condition of local population with respect to hazardous substances. The insufficient analysis of the impact of an accident upon biodiversity, limited to the capacity of each species to resist and regenerate, was also contested. CIDRM announced in the same press release that they would bring an action in court against the issuing authority for the cancellation of the act.

The main reasons why CIDRM believed the environmental agreement had been issued illegally were:

- Some sections of the Report on the Environmental impact study "Mining of gold and silver ores in the Certej perimeter" (the EIA report) were prepared by persons who were not certified to prepare environmental impact assessments as per national legislation;
- The CIL tailings dam proposed would not be made impervious and as such it would not comply with Directive 80/68/EEC on groundwater protection against pollution with certain hazardous substances;
- The EIA Report fails to describe the environmental media potentially affected by the project implementation, as per all legal provisions applicable to the protection of biodiversity, human settlements and the archaeological heritage;
- Although it is estimated that the hydrocyanic acid (HCN) emissions from the CIL tailings dam surface (page 53) would be 2200 kg/year, while the emissions from the processing plant (page 49) would be 1743 kg/year, the impact of these emissions upon air quality and hence upon human health is not as-

sessed, particularly in the given relief conditions which allow for the massive accumulation of pollutants in valleys. The report also fails to estimate the long term post-closure emissions of this toxic gas (Annex IV) from the tailings dam surface, considering that the tailings dam with cyanides can generate such emissions for decades after the end of the mining operations;

- No analysis has been undertaken regarding the project impact upon the flora and fauna species which depend on the wood habitat to be deforested. In addition no indication is made about the biodiversity impact of the flooding of the areas to be covered by the dam and the tailings pond;
- Chapter 4.7 of the EIA Report, "The socio-economic environment", makes no reference to the impact on the local community of the relocation of people directly affected by the project implementation, nor to the post-closure evolution of the socio-economic environment;
- The fact that not even the environmental agreement no. 8 of 05.07.2012 mentions any notice from the Ministry of Culture and Confessions issued prior to the environmental agreement issuance entitles us to conclude that the environmental agreement was issued in the absence of any notice from the Ministry of Culture, and therefore in breach of the Ordinance OG 43/2000, Art. 2 (10);
- The EIA Report fails to assess the "Zero Alternative", that is, an assessment of the case when the project is not implemented / the proposed activity is abandoned;
- The final decision on issuing the en-

vironmental agreement was not communicated to the potentially affected neighbouring states, consulted within the transboundary procedures implemented;

- The absence of the study on the adequate environmental assessment of the project impacts upon the Natura 2000 site Metaliferi Mountains.



Figure. 7 Direct action in front of the Romanian Government, source: re-generation.ro

14. Legal actions brought against the environmental agreement

On 18 September 2012, minister Rovana Plumb said that “we will take the necessary step to remedy this illegality. All legal steps will be taken” and she announced that the National EPA brought an application at the Bucharest Court for cancelling the environmental agree-

ment¹, as well as for suspending its legal effects during the entire trial duration. Moreover she said at that time that an international convention on the transboundary environmental impact had been breached, in that one of the

¹ Case 45346/3/2012, Bucharest Court of Justice

countries consulted, namely Hungary, gave a negative response but this was not taken into consideration.

In September 2012 the National Environmental Protection Agency, subordinated to the Ministry of Environment, brought to the Bucharest Court of Appeal an application for cancelling the environmental agreement for the Certej mining project. The Independent Centre for the Development of Environmental Resources (CIDRM) and Salvați Bucureștiul associations registered as interested parties in the litigation. At the first court hearing the Bucharest Court of Appeal declined its competence for solving this case in the favour of the

Bucharest Court of Justice. At the [new hearing](#) – 1 October 2013, which was thus scheduled one year after the first hearing¹, the National Environmental Protection Agency requested a new date to enable a better preparation of the case. The civil society [noted](#) the plaintiff's low interest for this case and their poor preparation for supporting the arguments pleaded, and communicated that the environmental authorities neglect the Certej case. On the occasion of the next two hearings ANPM requested again a delay of the trial for this case, and finally with their abandonment of the claim for cancellation of the environmental agreement, on 27 November 2013.

15. The revision and the defective issuance of a new environmental agreement

Hunedoara EPA issued on 9 October 2013 [a decision to revise](#) the environmental agreement for the cyanide mining project at Certej and requested the partial resuming of the environmental impact assessment for the project “Mining of gold and silver ores in the Certej perimeter”. Deva Gold was thus asked to submit an assessment study of the potential impacts of the mining project upon protected areas of community interest (Natura 2000 sites). On the date when this decision was published on the institution's website, Deva Gold had already submitted the [documentation](#), to the environmental

authority, with a five day deadline for submitting comments.

In the very short interval allowed for stakeholders to submit comments and suggestions, the Independent Centre for Development of Environmental Resources, Salvați Bucureștiul, Efectul Fluture and Transilvania Verde associations, as well as a large number of citizens of the area potentially affected by the Certej mining project, formulated a contestation and submitted it to the Deva EPA. The objections referred mainly to the fact that an environmental agreement may be revised to the extent

that the approved project is subject to modifications: “In this case the revision was not required by changes in the project for which the environmental agreement was issued, but instead by an approach undertaken in order to complete the legal documentation. Such approach *aims rather to conceal and to complete the previous unsatisfactory documentation prepared, based on which no environmental agreement should have been issued*. The project operator is obliged¹ to prepare the impact assessment study on the Natura 2000 site ROSPA 0132 Metaliferi Mountains - according to the law, “Any plan or project not required for the management of the natural protected area of community interest but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its potential impacts on the natural protected area of community interest, in view of the site’s conservation objectives.” Nevertheless, *the operator of the Certej mining project has not prepared any such appropriate assessment study in view of obtaining the environmental agreement no. 8/05.07.2012.*

On 12 November 2013 Hunedoara EPA announced the decision of the Technical Assessment Committee to issue a new environmental agreement based on the completion of the studies on security and on the impact upon the Natura 2000 site Metaliferi Mountains. The announcement on the issuance of the revised environmental agreement, also

communicated the deadline for submitting contestations by the interested public, 25 November; based on the review of the comments and suggestions received, the CAT members would decide upon issuing or rejecting the environmental agreement. However, although the mining of gold-silver ores in the Certej perimeter is classified as a “major risk” operation, Hunedoara EPA issued a new revised environmental agreement, *only one day after receiving the contestation* submitted by the custodian of the Natural Reserve Măgurile Băiței, the Club Alpin Român Deva Association.

Consequently the Environmental Protection Agency Hunedoara issued on 27 November 2013 a new environmental agreement for the Certej mining project. Considering that the new act illegally replaces and revises the environmental agreement issued by the Regional Environmental Protection Agency Timișoara in 2012, the Independent Centre for the Development of Environmental Resources decided to dispute the new act in administrative due process. At the same time with the decision to issue a new environmental agreement, **MMSC abandoned the claim for cancellation of the environmental agreement** issued in 2012, a process under trial at the Bucharest Court.

1 Emergency Ordinance no.57 of 20 June 2007

16. Illegitimate political interferences in the issuance of the new environmental agreement

On the date when the environmental agreement of 2012 was issued¹, the technical counsellor of the minister of environment was Georgeta Barabaş, member of PSD Hunedoara, previously executive director of Hunedoara EPA until 25 June 2012. Mrs. Barabaş had been director of the institution in Hunedoara since April 1997, with a three year pause. Although she was aware of the environmental impact assessment procedure and had participated in many of the meetings where the Certej mining project had been discussed, when asked by the reporter from Gândul whether she had informed the minister of environment on the environmental agreement project, Barabaş explained: “I was not the minister’s counsellor at that time, to inform her”. The statement of Mrs. Barabaş is suspect, to say the least, in the context when she was aware of these issues, according to Gabriela Lambrino, executive director of the Regional Environmental Protection Agency Timișoara, and she was counsellor of Rovana Plumb at the time when the environmental agreement was issued.

One year later the same Georgeta Barabaş returns as executive director of the EPA, and as such she signs the decision to issue the revised environmental agreement. Within a public debate

organised on 11 November 2013 at the Cultural House in Deva, she stated however that the whole documentation for issuing the agreement was in Timișoara, and Hunedoara EPA was not aware of the additional information requested within the Technical Approval Commission meetings. Mrs. Barabaş’ statements are confusing in this case too, increasing the suspicions regarding the honesty of her public affirmations.

Actually the perfect synchronisation between the issuance date of the new environmental agreement and the date of MMSC’s abandonment of the claim in court cannot be a mere coincidence. The environmental authorities have certainly communicated with respect to the issuance and re-issuance of the environmental agreement, particularly in the context of a more intense media focus on this subject.

The public interest was also excited by the fact that the defender selected by Deva Gold SA in the above mentioned case is the attorney-at-law office Nestor Nestor Diculescu Kingston Petersen. The pleading attorney-at-law for the case was no one else but Mrs. Ana Diculescu-Șova, the mother of Dan Șova, deputy minister for large projects. The latter, as member of the government, participated in the preparation

1 July 5th, 2013

of the [participated in the preparation of the 'National Plan for Strategic Investments and Creation of Employment'](#) published in July 2013. The projects listed in this plan include the Certej

mining project proposed by Deva Gold SA. Other [Mrs. Şova were Roşia Montană Gold Corporation and the American company Bechtel.](#)

Informații detaliate despre dosar		Înregistrate în ultimele 7 zile	Înregistrate în luna curentă
Număr unic dosar: (Număr anterior)	45346/3/2012		
Înregistrat în data de:	23 Noiembrie 2012		
Obiectul cauzei:	anulare act administrativ		
Materia juridică:	Contencios administrativ și fiscal		
Stadiu procesual:	Fond		

PĂRȚI:	
1	AGENȚIA PENTRU PROTECȚIA MEDIULUI - Reclamant
2	SC DEVA GOLD SA - Părât
3	SC DEVA GOLD SA CU SEDIUL ALES LA S.C.A. NESTOR NESTOR DICULESCU KINGSTON PETERSEN - Părât
4	AGENȚIA REGIONALĂ PENTRU PROTECȚIA MEDIULUI TIMIȘOARA - Părât

TERMENE DE JUDECATĂ:			
Nr.	Data	Soluție	Detalii
1.	3 Decembrie 2013	la act de renunțare la judecată	În temeiul art.246 C.proc.civ., ia act de renunțarea reclamantei ANPM la judecată. Respinge cererile de intervenție accesorie. Cu recurs. Pronunțată în ședință publică azi, 03.12.2013.
2.	26 Noiembrie 2013	Amână cauza	Amână pronunțarea la data de 03.12.2013. Pronunțată în ședință publică azi, 26.11.2013.
3.	29 Octombrie 2013	Amână cauza	Pentru imposibilitate prezentare.
4.	1 Octombrie 2013	Amână cauza	Pentru a se lua cunoștință de cererea precizatoare și pentru comunicarea acesteia.

Figure. 8 The law firm contracted by Deva Gold , source: Portal Just

17. The accident at Certej in 1971: 89 victims and an almost forgotten precedent

On 30 October 1971 a mining accident occurred which resulted in the death of 89 persons in Certeju de Sus in Hunedoara county. The dam failure and the slide of the mine waste heap from the tailings dam of the Certej mining operation [produced the biggest peacetime tragedy of the 1970s.](#) The scale of the disaster was concealed at that time in order to avoid declaring it a national tragedy. Follow-

ing technical research and investigations to identify the accident causes, the case was closed with no result. Bad luck remains for eternity the only one guilty for the tragedy which occurred 40 years ago in Certej, although 89 persons were swallowed by tailings and died.

“There were seven degrees below zero and mist that morning in Certej.” Ioan

Chirlă is horrified even now remembering that all the bodies recovered from the tailings by army soldiers were naked. “The cyanide used in the extraction process was present in the tailings and it burnt all their clothes. All the bodies removed from the tailings were naked, with traces of bumps and burns”, recounts Ioan Chirlă for Adevărul de Seară – Hunedoara. The accident had little coverage in the Romanian media, and the details of the tragedy are still unjustifiably neglected nowadays by authorities. At that time the communist party’s censorship imposed a total silence on this subject, but the present day authorities’ lack of interest in the Certej accident remains inexplicable.

Some witnessing from accident survivors were registered in a short

18. Closure and environmental restoration plan for the Certej mine

Governmental Decision 1034/2010, allocated the amount of 100,000 thousand lei from the environmental fund, within the approved budget, as non-reimbursable funding for the closure of certain mining operations. This amount is awarded to the Ministry of Economy, Trade and Business Environment in stages, starting 2010. However the bid for awarding the contract was organised only one year later.

documentary by film director George Adamescu only 42 years later. Miliția Spirituală association also made public for the first time in 2013 a Report of the General Prosecutor of RSR, (the Socialist Republic of Romania), Augustin Alexa, on the Certej disaster. ‘The dam failure at the tailings pond was the result of the coinciding action of unpredictable factors, following some sub-aquatic geo-mechanical and hydro-physical phenomena, which are not fully understood yet by science and technics. Consequently, as the dam failure at the tailings pond was the result of such factors, no individual can be found guilty of any criminal liability’, shows the document of 4 December 1972, originating from the Archive of the Central Committee of the Romanian Communist Party.

The contract ‘Works for the closure, making safe and environmental remediation of the mining operation Certej – Valea Mireșului and Valea Mealu tailings dams, Hunedoara county’ was won by the bidder Eco Invest SRL/ Hidroconstrucția/TPSUT. The Ministry of Economy, Trade and Business Environment announced shortly afterwards the cancellation of four bids in the field of mine closure and remediation works, including that for the Certej tailings dam. The ministry’s press release says

that the decision was based on an audit which showed that “the bids were organised in August 2011, breaching legal provisions, to enable only certain companies to win.” However the company Eco Invest SRL, winner of the award contract of November 2011, disputed the ministry’s decision and the National Competition Council [admitted this request in September 2012](#) Therefore the closure programme, totalling 12,437,197 lei, net of VAT, would include a treatment system for water in the Valea

Mireşului tailings dam, stability works, environmental remediation works at the emergency pond on Valea Mealului and sealing and environmental remediation works for the latter. The plan for mine closure and environmental remediation of the area could create employment and should include a professional reorientation component.

19. From obtaining the environmental agreement to starting operations

The revised environmental agreement obtained by Deva Gold for the Certej mining operation does not entitle them to actually start operations. A series of other permits and administrative documents to be issued by local and central authorities should precede the final permit for building the mining facility.

The recent draft law for amending the Mining Law 85/2003, draft law PL-x 573/2013, rejected by the Parliament on 10.12.2013, would have facilitated in a totally unconstitutional and abusive manner the awarding of necessary permits and agreements for mining companies, including Deva Gold. The mining law thus amended would have enabled mining companies to obtain concession of any asset in the public domain within their mining perimeter,

to expropriate any private asset located in that same perimeter, to destroy any historical monuments and archaeological sites which get in their way in order to develop mining operations, as well as to obtain again in no more than 60 days any agreement or approval cancelled by a court.

The Certej mining project would involve deforestation of no less than 187 ha of woods, and such approval, as per the current legislation, can be issued only by a Governmental Decision. A preliminary specific environmental agreement is required, strictly in relation with the environmental impact generated by the loss of such a large forest area.

Deva Gold does not currently hold an ownership right upon all the private

land plots where it proposes to develop its mining activities, and this reason would be sufficient to prevent them from obtaining the construction permit as per the current legislation.

The company has not undertaken so far, through certified institutions, any preventive archaeological survey of those areas in the mining perimeter susceptible of belonging to the national cultural heritage. The National Archaeo-

logical Register includes 19 sites in the Certejul de Sus locality, archaeological sites, settlements and galleries dating back to the Neolithic, the Bronze Age, the Roman Age up to contemporary times. In the absence of such archaeological survey, those areas cannot be subject to the archaeological discharge and as such the company cannot obtain a construction permit.

20. Conclusions

ANRM acknowledges the gold quantity of the Certej deposit at 83 tonnes while the company estimates in the impact study that they will extract 81 tonnes of gold. There would also be some additional 450 tonnes of silver. As of 13 December 2013 [only the gold at Certej was worth more than three billion dollars, while the silver was worth ten times less](#), If we deduct from the cumulated value of the two metals the cost of developing the project, of almost 200 million dollars, and the cost for acquiring the mining project, of 2.5 billion dollars, there would still remain a difference of over 700 million dollars. What is shocking however is the profit registered upon the sale of the mining project by European Goldfields to Eldorado Gold. Since its establishment in 2000 until 2009 when they published their last [report](#), the company spent 43.76 million dollars. The available sources do not indicate the spendings of European Goldfields in 2010 and 2011, until they sold the project, but we could consider, for the sake of exercise, an average be-

low 5 million dollars per year. The initial investment would be between 50-55 million dollars, so they obtained by selling it 500 times more than they had actually spent.

A review of the way how this amount was acquired shows that Gabriel Resources initially, later on through European Goldfields, a company that held no assets upon its establishment, managed to fund its activity and to produce a huge profit in a little more than 10 years. The company's success was mainly a result of their ability to sign a non-transparent principle agreement with the Romanian state, through a former state company. Based on this agreement the company was listed at the stock exchange, claiming to hold rights upon a significant gold deposit. We can notice in this case the relaxed attitude of the Toronto stock exchange related to the listing of a company which at that time held no solid legal documents (no license) to prove their assets. In the first year since the list-

ing their share price raised from 0.38 to 4.5 Canadian dollars. The amounts thus gained enabled the company to continue operation and to obtain the transfer of the concession and the license for exploitation from MINVEST to the Romanian company held by European Goldfields. The first association agreements between the Romanian state company and the foreign investor were signed by Nicolae Stanca, the current director of the company created from this association – Deva Gold SA. The agreements were not the result of any bid and there were no previous announcements made regarding the state company's availability to associate with private companies. The enormous amount obtained by European Goldfields upon selling their assets to Eldorado Gold is not justified by any kind of added value except for the transfer of the license and the concession. Actually the deposit held by the Romanian state was sold by a private company to another private company, with no revenue for the national budget. The most spectacular transaction has already been completed, the remaining potential revenues for the state would represent taxes and potential benefits calculated as percentages of the difference between the gold selling price and production costs, within the limits of the 19.7 % state's participation.

Considering what will happen after the start of mining operations, we will notice that it is still the Romanian state who will pay most. The potential benefits do not justify the unfair sharing of risks. Although Eldorado Gold would be entitled to 80% of the profit, the costs to be covered in case of an environmental accident or the mine

closure costs in case of the company's bankruptcy rest with the Romanian state in exchange of their 19.7 % participation. According to the environmental agreement issued, the company was not obliged to submit any environmental guarantee, and this is one of the reasons why the agreement is disputed. The agreement only mentions that the project operator is responsible for the accidents produced but fails to specify how the damages are to be assessed, what is the value of the associated compensations and what mechanisms are in place to ensure that these considerations are complied with. The director of Deva Gold himself admits that the mining project itself has a very low profitability because of the low gold concentration of the ore, which makes the scenario of the company bankruptcy, as a result of external factors, at least plausible.

The Romanian state is exposed through this project to a huge as well as useless risk, the amounts to be paid in case of an accident do not justify undertaking the complete risk of damages. It is exactly because of this complete undertaking of environmental risks that we can consider mining to be still subsidised by the state, in any case it does not generate any benefits for citizens. The Romanian state would be in a much profitable position in the case of Certej if instead of such hidden subsidies they would access funds for the environmental remediation of the area, thus creating real employment and ensuring the possibility of a sustainable development model for the community. The extremely disadvantageous development model chosen by the Romanian state and the suspect past connections of the Certej

cyanide mining project operator also raise many suspicions of corruption and illegalities.

The company can have no confidence at present that they will ever develop any mining project, and the lack of transparency in the past resulted in the staged progress of the mining project permitting. While the license and concession transfer have not raised the interest of investigation authorities yet, the environmental agreement is disputed in court by the civil society. Although the state institutions serves the interest

of mining companies, the civil society managed to intervene before the project start. The devastating accident of 1971 occurred exactly because the authorities at that time had no capacity to ensure an efficient control, there were no complex permitting procedures, and all actions undertaken was totally non-transparent. These realities started to change gradually, although the lack of transparency renders the activity of ANRM and of the state authorities before 1989 just as opaque nowadays.

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