



WHERE DOES THE IRRESPONSIBLE MINING START?

During the last 14 years, the mining sector has contributed 2.2% to overall GDP in Armenia.

In 2014, 7,057 people were employed in the metallic mining sector, which equalled around 10% of those employed in the industrial branch of the economy.

World Bank¹

Mining is one of the most important sectors of the Armenian economy but it has had a rather controversial role in the country's economic development.

The sale of mineral and metal concentrates amounts to more than half of Armenian exports. However, the exported ore is not processed in Armenia and no additional value is generated. The share of mining in Armenia's GDP is too small, while the impact of irresponsible mining on the environment and human health, as well as its social consequences are often disastrous for a small country rich in landscapes and biodiversity. In terms of impact, the operation of metallic mines is particularly problematic.

According to the Armenian Mining Code, the right to mining is granted for the geological exploration and the extraction of minerals discovered and identified through those explorations. Despite the fact that more than 400 mining permits have been issued (27 of which for geological exploration and operation of metallic mines), Armenia does not yet have a strategy for the development of the mining sector.

Main issues

The mining sector is more or less regulated but there are a number of critical shortcomings in the process of issuing the mining rights that cause arbitrary decisions, thus generating certain corruption risks. Said shortcomings are as follows:

Geological expertise procedure is not clear

There are no publicly available procedures or standards for the mining exploration aiming to approve the mineral reserves discovered through geological explorations. This process, which includes the approval of the industrial designation of minerals while taking into account the market value of the reserves, the cost of processing through the proposed technology, as well as social impacts of the mining project, is not transparent and leaves room for suspicions related to corruption risks.

The procedure for the environmental impact assessment is not sufficient

There are no adequate procedures for assessing the impact of mining on ecosystems and human health or its social consequences, nor are there clear standards for the review of environmental impact assessment reports and their accuracy. This gap in procedures along with the inability to involve quality multidisciplinary experts due to lack of finances make the conclusions of environmental expert examinations vulnerable. This makes the adoption of arbitrary and unfounded decisions more likely and gives additional opportunities for entering into negotiations and deals on the conditions of mining rights. In addition to all these issues, conclusions of environmental expert examinations are not subject to judicial appeal since they are not considered to be administrative acts.

There is a general lack of secondary legislation and/or guidelines to aid implementation of the EIA Law, such as guidelines or methodologies for assessing environmental, social and health impacts and for cumulative impact assessment. In the absence of detailed guidelines, mining contracts can play an important role in aligning with best international environmental and social practice.

Jurisdiction of the Environmental Expertise Center is very large. It includes not only the review of the assessment of impacts on the environment, but also on the cultural-historical heritage and human health as well as the social consequences. Thus, this institution bears all the responsibility for the assessment of costs and benefits and for the decision on expediency of exploration and exploitation of mines. It is obvious that the capacities of the Environmental Expertise Center are inadequate for such a large-scale review, and hence the quality of the conclusions issued by the Center are normally questionable.

Center for Responsible Mining of the American University of Armenia²

High-ranking officials are involved in the mining business

All companies engaged in metal mining and/or their affiliated enterprises are registered in offshore areas, which makes the identification of the beneficial owners of these companies difficult.⁴ On the other hand, the Armenian law protects the identity of the owners of joint stock companies. However, there are multiple facts pointing to high-ranking officials as the real owners of mining companies.⁵ Aside from the fact that these officials often engage in entrepreneurial activities illegally, they also sometimes wield serious (legislative, inspecting, administrative and other) leverage to influence the policies of the sector.

Mining companies have leverage to influence the decision-making

Prior to receiving mining rights, the mining companies may make “charity” payments to various foundations.⁶ In a number of identified cases, it was revealed that high-ranking officials or leaders of the affected communities or persons related to them controlled the charity foundations. There are also cases when such payments have been followed by legislative amendments in favor of specific mining projects.⁷ In other cases the leaders of the affected communities changed their previous negative position regarding the mining projects.⁸ Such practices raise valid doubts that these “charity donations” are made to serve the interests of certain companies, and the respective officials make decisions in a situation of conflict of interests, where eventually the private interests prevail.

Information on mining is inadequate

According to the Armenian Mining Code, geological data held by the mining company that was acquired within the limits of the mining right may not be revealed without the consent of the mining company.⁹ However, the term “geological information” is often subject to discretionary interpretation and is used in practice arbitrarily with regards to other types of information being presented as a “commercial secret.” Furthermore, there are cases when the same data relating to some companies are published, but are rejected for others.

Often the changes in the mining rights of companies are not made in a transparent way. The conditions of issuing the mining rights in some cases undergo changes by relevant authorities behind closed doors, thus neglecting the legal requirement for ensuring public notifications and discussions and decreasing the chances for public oversight and for legal appeal of illegal decisions.

A country's natural resources, such as oil, gas, metals and minerals, belong to its citizens. Extraction of these resources can lead to economic growth and social development. However, poor natural resource governance has often led to corruption and conflict. More openness and public scrutiny of how wealth from a country's extractive sector is used and managed is necessary to ensure that natural resources benefit all

*Extractive Industries
Transparency Initiative
(EITI)³*

Recommendations

The recommendations below focus on the reduction of key current corruption risks.

THE GOVERNMENT OF ARMENIA SHOULD:

1. Improve the impact review processes by:

- Developing the secondary legislation, including the methodology for the assessment of the impacts of mining on biodiversity, public health, other economic activities and social issues.
- Bringing together expert examination conclusions under one government entity or other structure that will have the authority on an interagency level to coordinate the assessments of the impacts of mining on separate areas (environment, human health, historical and cultural heritage, social and economic issues), as well as to provide a complete analysis of costs and benefits from the state perspective, taking into account all the data.

Extractive Industries Transparency Initiative (EITI) is a global standard promoting open and accountable governance of natural resources implemented by more than 50 countries.

On March 9, 2017, the Republic of Armenia received the status of a candidate country of the Extractive Industries Transparency Initiative (EITI)¹⁰

2. Create mechanisms of transparency and accountability for the mining business

- Develop a legal basis for the collection and publication of information on the activities of all companies engaged in mine exploration and exploitation, and particularly for ensuring transparency of information regarding the beneficial ownership.
- Offer legal solutions for identification of beneficial owners in a way so that over time to make data on companies engaged in economic activities in other sectors as well publicly available, hence taking into account not only the EITI requirements, but also the global process and other international obligations on the identification of beneficial owners.

¹World Bank, *Armenia - Strategic mineral sector sustainability assessment* (Washington D.C.: The World Bank Group, 2016), <http://documents.worldbank.org/curated/en/289051468186845846/pdf/106237-WP-P155900-PUBLIC.pdf>

²American University of Armenia. (Yerevan, February 2017), <http://mlri.crm.aa.am>

³EITI web site, *2016 Progress Report*, https://eiti.org/sites/default/files/migrated_files/progressreport.pdf

⁴Hetq, <http://hetq.am/arm/news/54322/teghouts-offshore-labyrinth-and-valeri-mejlumyans-business-empire.html>

⁵Hetq, <http://hetq.am/arm/news/6389/vardan-avazjanyans-business-project.html>, <http://hetq.am/arm/news/64880/surik-khachatryan-sharunakum-e-oski-oronel.html>

<http://hetq.am/arm/news/628/whos-minding-armenias-natural-resources.html>

⁶Official announcements, <https://www.azdarar.am/announcements/orq/45/00077886>, <https://www.azdarar.am/announcements/cat/133/00257041>

⁷Republic of Armenia government decision N 781-N of July 31, 2014 on "Approving the procedure for the protection of flora objects of the Republic of Armenia and their use for reproduction in natural conditions."

⁸Hetq, <http://hetq.am/arm/news/11953/mayor-of-jermuk-says-no-to-amulsar-gold-mine.html>, <http://ecolur.org/hy/news/mining/what-did-gndevaz-village-head-agree-with-pm-hovik-abrahamyan-about-amulsar-project/6539/>

⁹Mining Code, Article 13, Paragraph 2

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