

JUDGMENT
IN THE NAME OF THE REPUBLIC OF ARMENIA

24 March 2010

City of Yerevan

The Administrative Court of the Republic of Armenia, acting with the following composition:

Presiding judge A. Mirzoyan
Clerk K. Zohranyan

Participants:

Plaintiff: Hayk Alumyan and Hrayr Savzyan, Agents for
Environmental Non-Governmental Organization "EKODAR"

Apartment 39, building 27
Mayak District, City of Yerevan, 0089
Republic of Armenia
Taxpayer identification number: 00866463, certificate number 03A 070486

Respondents: Government of the Republic of Armenia

1 Government House, Republic Square, City of Yerevan

Levon Gevorgyan, Agent for the Ministry of Nature Protection of the
Republic of Armenia

3 Government House, Republic Square, City of Yerevan

Ruzanna Piloyan, Agent for the Energy and Natural Resources Ministry
of the Republic of Armenia

2 Government House, City of Yerevan, Republic of Armenia

Third Person: Karapet Badalyan, Agent for the "Armenia Copper
Program" Closed Joint-Stock Company

19 Khanjyan Street, City of Yerevan, Republic of Armenia

Having examined in a public court hearing on 23 March 2010 the administrative case based on the claim of the environmental non-governmental organization "EKODAR" against the Government of the Republic of Armenia, the Ministry of Nature Protection of the Republic of Armenia, the Energy and Natural Resources Ministry of the Republic of Armenia, and a third party, the "Armenia Copper Program" CJSC, claiming in accordance with the procedure stipulated by Paragraph 1 of Article 68 of the Administrative Procedure Code of the Republic of Armenia:

- To nullify license number HV-MSH-13/33 issued to the "Armenia Copper Program" CJSC on 8 February 2001 to exploit the Teghut Mine;

Claiming in accordance with the procedure stipulated by Article 68 of the Administrative Procedure Code of the Republic of Armenia:

- To annul the Environmental Impact Assessment positive opinion number BP-31 approved by the Minister of Nature Protection of the Republic of Armenia on 3 April 2006;

- To annul the Environmental Impact Assessment positive opinion number BP-135 approved by the Minister of Nature Protection of the Republic of Armenia on 7 November 2006; and

- To annul the Republic of Armenia Government decision number 1278-N dated 1 November 2007 “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots”;

Claiming in accordance with the procedure stipulated by Article 65 of the Administrative Procedure Code of the Republic of Armenia:

- To invalidate special license number HV-L -14/90 issued to the “Armenia Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine, and, as a consequence, to invalidate the License Agreement number 316 on Subsoil Use for Mining Purposes concluded on 9 October 2007 between the “Armenia Copper Program” CJSC and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection;

- To invalidate special license number 21 issued to the “Armenia Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining, and, as a consequence, to invalidate license agreement number 140 dated 4 May 2006 between the “Armenia Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining”; and

- To invalidate the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan adopted in the 30 September 2005 session of the inter-agency committee coordinating the activities of support to the Teghut Mine Development Program;

Claiming in accordance with the procedure stipulated by Article 66 of the Administrative Procedure Code of the Republic of Armenia:

- To obligate the respondents to prohibit the “Armenia Copper Program” CJSC from carrying out activities contemplated by the Teghut Mine Operation Plan.

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1. Procedural History of the Case and the Plaintiff’s Legal Position

The “Transparency International Anti-Corruption Center” non-governmental organization, the “Helsinki Citizens’ Assembly Vanadzor Office” non-governmental organization, and the environmental non-governmental organization “Ekodar” have filed a court claim against the Government of the Republic of Armenia, the Ministry of Nature Protection of the Republic of Armenia, the Energy and Natural Resources Ministry of the Republic of Armenia, and a third party, the “Armenian Copper Program” CJSC, claiming:

Guided by Article 35(1) of the Judicial Code of the Republic of Armenia, Articles 76 and 79 of the Administrative Procedure Code of the Republic of Armenia, and Article 144 of the Civil Procedure Code of the Republic of Armenia, the Administrative Court of the Republic of Armenia, the Administrative Court of the Republic of Armenia (judge A. Mirzoyan) rendered Decision VD/3275/05/09 on 9 July 2009 “On Denying Admission of the Claim.”

Having examined the appeal against the decision of the Administrative Court dated 9 July 2009 “On Denying Admission of the Claim” filed by the Plaintiffs, the “Transparency International Anti-Corruption Center” non-governmental organization and the environmental non-governmental organization “Ekodar,” the Administrative Court of the Republic of Armenia, sitting in a bench of three judges (A. Arakelyan, K. Matevosyan, and K. Baghdasaryan), rendered Decision VD/3275/05/09 on 28 July 2009 “On Rejecting the Appeal.”

Having examined the cassation appeal filed by the “Transparency International Anti-Corruption Center” non-governmental organization and the environmental non-governmental organization “Ekodar” against the decision of the Administrative Court dated 28 July 2009 “On Rejecting the Appeal,” the Civil and Administrative Chamber of the Cassation Court of the Republic of Armenia rendered a decision on 30 October 2009 on the following: “1. To partially grant the cassation appeal. To quash the part of the 28 July 2009 Decision of the Administrative Court on rejecting the appeal by the environmental non-governmental organization “Ekodar,” and to change such part, i.e. to grant the appeal of the environmental non-governmental organization “Ekodar.” To uphold the part of the Decision concerning the

rejection of the appeal of the “Transparency International Anti-Corruption Center” non-governmental organization.”

On 11 December 2009, the Administrative Court of the Republic of Armenia (judge A. Mirzoyan) declared admissible the claim of the environmental non-governmental organization “Ekodar” against the Government of the Republic of Armenia, the Ministry of Nature Protection of the Republic of Armenia, the Energy and Natural Resources Ministry of the Republic of Armenia, and a third party, the “Armenian Copper Program” CJSC.

In its claim, the Plaintiff, the environmental non-governmental organization “Ekodar,” stated:

“License number HV-MSH-13/33 was issued to the “Armenian Copper Program” CJSC on 8 February 2001 to operate the Teghut Mine. According to the official position of the Government of the Republic of Armenia, the license was issued as a result of a competition.

Special license number HV-L-14/90 was issued to the “Armenian Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine: the period from 8 February 2001 to 8 February 2026 was set as its validity term. License Agreement number 316 on Subsoil Use for Mining Purposes was concluded on 8 October 2007 between the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection, on the other. Annex 4 is attached to the Agreement and is deemed an integral part thereof. According to Annex 3, “the recalculation of the mine reserves shall be ensured within nine months of the entry into force of the Agreement, and the materials shall be presented to the state for subsoil expert review,” after which “relevant amendments shall be made to the mine operation plan and agreement within a period of eight months.”

Special license number 21 was issued to the “Armenian Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining. The “Geological Prospecting Works Plan for the Teghut Mine Field in the Lori Marz” was stated in the license as the plan for the prospecting works.

License agreement number 140 was concluded on 4 May 2006 between the “Armenian Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining.”

In January 2005, the “Armenian Copper Program” CJSC approved the Feasibility Study for the Construction of the Teghut Mining Enrichment Plant.

Upon the order by the “Armenian Copper Program” CJSC, the “Mining Metallurgy Institute” CJSC carried out the environmental impact assessment (EIA) of the Teghut Mining Enrichment Plant. The EIA documents were presented for review of the environmental impact assessment. The “Environmental Expert Review” state non-commercial organization under the Republic of Armenia Ministry of Nature Protection issued Environmental Impact Assessment positive opinion number BP-31. On 3 April 2006, the Opinion was approved by the Minister of Nature Protection.

The Final Part of the Opinion reads: “The “Environmental Expert Review” state non-commercial organization under the Republic of Armenia Ministry of Nature Protection hereby issues a positive opinion on the Environmental Impact Assessment (EIA) of the Teghut Mining Enrichment Plant, subject to the mandatory condition that the aforementioned comments and suggestions are taken into account during the design phase for the Teghut Copper and Molybdenum Mine Site and Mine Enrichment Plant Plan.

The “Mining Metallurgy Institute” CJSC prepared a “Workplan.”

On 7 November 2006, the “Environmental Expert Review” state non-commercial organization issued Positive Opinion number BP-135 on “The Workplan of the First Phase (Eight Years) of Operation of the Teghut Mine Enrichment Plant and Copper and Molybdenum Mine Site Submitted by the “Armenian Copper Program” CJSC. On the same day, the Opinion was approved by the Minister of Nature Protection

Government Decree 128-A dated 11 June 2005 created the inter-agency Committee Coordinating the Activities of Support to the Teghut Mine Development Program, which was instructed:

- a) To discuss and approve, within a 15-day period, the List of Activities to Support the Teghut Mine Development, engaging the “Armenian Copper Program” CJSC;

- b) To coordinate the activities in accordance with the List of Activities to Support the Teghut Mine Development; and
- c) To inform the Prime Minister of the Republic of Armenia regularly about the progress of the activities.

In its session of 30 September 2005, the Committee Coordinating the Activities of Support to the Teghut Mine Development Program adopted the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan. Environmental impact assessment of the Concept Paper was not carried out.

On 23 March 2006, public hearings were held in the town of Alaverdi concerning the opinions of the affected communities, non-governmental organizations, citizens, and relevant state authorities on the Teghut Copper and Molybdenum Mine Operation Plan and the EIA of the Teghut Mining and Metal Plant.

On 1 November 2011, the Government of the Republic of Armenia adopted Decree 1278-N “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots.” This Decree concerns the state-owned forest land located within the administrative boundaries of the Shnogh and Teghut rural communities, as well as the community-owned land located within the administrative boundaries of the Shnogh and Teghut rural communities, as described in the relevant annexes. The Decree authorized the cutting of about 357 hectares of forest in this territory, and provided to the “Armenian Copper Program” CJSC 200,900 hectares of land under the open mine to be built with the right of lease, and 274,526 hectares of the land under the enrichment plant and auxiliary structures with the right of construction development, for a term of 50 years, without any competition, at a fee equal to the annual rate of the land tax.

On the same day, i.e. on 1 November 2007, the Republic of Armenia Government adopted a Decree “On Recognizing an Exceptional Prevailing Public Interest in Some Territories within the Administrative Boundaries of the Shnogh and Teghut Rural Communities of the Lori Marz of the Republic of Armenia and Changing the Designated Purpose of Lands.” Based on the Teghut Copper and Molybdenum Mine Operation Plan and prospect of building and operating a mining enrichment plant on its basis, an exceptional prevailing public interest was recognized in relation to 81,483 hectares of agricultural land owned by natural persons and legal entities, as stated in the annexes to the Decree. The said Decree recognized the “Armenian Copper Program” CJSC as the acquirer of the said territories, and provided that some of the said land shall be transferred to the industrial, subsoil use, and other production-purpose land category, and another part to the energy, transport, communication, and utility infrastructures land category. The Decree, save for its Paragraphs 4 and 5, entered into force on the 10th day following its official publication, while Paragraphs 4 and 5 entered into force when the specified territories became the ownership of the acquirer.

From April 2008, the “Armenian Copper Program” CJSC has been logging forests in the territories provided to it under Government decrees.

The Plaintiff has stated that the aforementioned acts violated Articles 1, 6(4), 10, and 33.2 of the Constitution of the Republic of Armenia, as well as international treaties of the Republic of Armenia, including the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (hereinafter “the Aarhus Convention”), the Convention on Environmental Impact Assessment in a Transboundary Context, Articles 46, 48, 48.1, 76, and 98 of the Land Code of the Republic of Armenia, Article 103 of the Water Code of the Republic of Armenia, Articles 11, 28, and 40 of the Subsoil Code of the Republic of Armenia, Articles 2, 3, 5, 9, 10, 11, 14, and 15 of the Republic of Armenia Law on Expert Review of Environmental Impact Assessment, Articles 13, 14, 59, 60, and 76 of the Republic of Armenia Law on Providing (Concession) of Subsoil for Prospecting and Mining of Mineral Resources, Article 17 of the Republic of Armenia Law on the Flora, and Article 18 of the Republic of Armenia Law on the Fauna.

Stating its arguments supporting the violations of the requirements of the aforementioned legal acts, the Plaintiff claimed to do the following in accordance with the procedure stipulated by Paragraph 1 of Article 68 of the Administrative Procedure Code of the Republic of Armenia:

- To nullify license number HV-MSH-13/33 issued to the “Armenian Copper Program” CJSC on 8 February 2001 to exploit the Teghut Mine;

Claiming in accordance with the procedure stipulated by Article 68 of the Administrative Procedure Code of the Republic of Armenia:

- To annul the Environmental Impact Assessment positive opinion number BP-31 approved by the Minister of Nature Protection of the Republic of Armenia on 3 April 2006;

- To annul the Environmental Impact Assessment positive opinion number BP-135 approved by the Minister of Nature Protection of the Republic of Armenia on 7 November 2006; and

- To annul the Republic of Armenia Government Decree number 1278-N dated 1 November 2007 “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots”;

Claiming in accordance with the procedure stipulated by Article 65 of the Administrative Procedure Code of the Republic of Armenia:

- To invalidate special license number HV-L-14/90 issued to the “Armenian Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine, and, as a consequence, to invalidate the License Agreement number 316 on Subsoil Use for Mining Purposes concluded on 8 October 2007 between the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection, on the other;

- To invalidate special license number 21 issued to the “Armenian Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining, and, as a consequence, to invalidate license agreement number 140 dated 4 May 2006 between the “Armenian Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining”; and

- To invalidate the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan adopted in the 30 September 2005 session of the Inter-Agency Committee Coordinating the Activities of Support to the Teghut Mine Development Program;

Claiming in accordance with the procedure stipulated by Article 66 of the Administrative Procedure Code of the Republic of Armenia:

- To obligate the Respondents to prohibit the “Armenian Copper Program” CJSC from carrying out activities contemplated by the Teghut Mine Operation Plan.

H. Alumyan, agent for the Plaintiff, and H. Savzyan, the chair of the environmental non-governmental organization “Ekodar,” appeared before the Court for the examination of the case.

2. Arguments and Legal Positions of the Respondents and the Third Party

One of the Respondents, the Energy and Natural Resources Ministry of the Republic of Armenia, presented to the Court the response to the claim, informing that, under the Republic of Armenia Government Decree 653-N dated 15 May 2008, the Energy and Natural Resources Ministry of the Republic of Armenia was conferred the powers of the “Authorized Body” under the Subsoil Code of the Republic of Armenia and under the Republic of Armenia Law on Providing (Concession) of Subsoil for Prospecting and Mining of Mineral Resources, save for the powers prescribed by Articles 59, 60, 61, 62, and 65 of Section 7 (“Protection of the Environment”) of the Law. Within the limits of the powers conferred upon it, the Energy and Natural Resources Ministry, as legal successor to the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection in respect of issuing the subsoil prospecting license, subsoil use license, and licensing agreements, informed the Court that the Plaintiff’s first claim (“to nullify license number HV-MSH-13/33 issued to the “Armenian Copper Program” CJSC on 8 February 2001 to exploit the Teghut Mine”) has no justification due to the following reasons.

The Subsoil Code of the Republic of Armenia adopted in 1992 did not prescribe any mining rights. The law adopted on 11 November 2002 defined, up until 3 July 2007, that the notion of “mining rights” would mean exclusive rights to prospect and operate a certain section of the subsoil certified by the prospecting [special] license and mining [special]

license, i.e. the exceptional right of prospecting or operation was deemed a “mining right.” Paragraph 2 of Article 76 of the Law provides that the business entities that had mining rights before the entry into force of the Law (1 April 2003) were deemed temporary licensees during the transition period, and the transition period was defined to be 14 months starting from a month after the entry into force of the law. Paragraph 3 of Article 76 provides that, before the entry into force of the Law, the business entities operating in accordance with the 19 March 1992 Subsoil Code, which had mining extraction licenses, would have the right to apply and receive a mining extraction or special mining extraction license. In the present case, license number HV-MSH-13/33 issued to the “Manes-Vallex” CJSC to exploit the Teghut Copper and Molybdenum Mine was on 23 March 2004 replaced with Special Mining Extraction License number HA-L-4/90 up until the end of the transition period (1 July 2004).

The Plaintiff’s 5th claim concerns the invalidation of special license number HV-L-14/90 issued to the “Armenian Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine, and, as a consequence, invalidation of the License Agreement number 316 on Subsoil Use for Mining Purposes concluded on 9 October 2007 between the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection, on the other;

To this end, the Respondent has informed the Court that, based on special mining extraction license number HV-L-14/90 issued to the Company on 23 March 2004, the Company prepared a Mine Operation Plan, which underwent the following expert reviews required by the legislation of the Republic of Armenia:

1. Environmental Impact Assessment (BP-135 issued on 7 November 2006);
2. Technical Security of the Design Documents of Dangerous Production Facilities (292 issued on 21 November 2006); and
3. Technical and Technological Assessment (114 issued on 28 November 2006).

Positive opinions were obtained from the aforementioned expert reviews.

Based on the positive opinions on the Mine Operation Plan, which underwent the expert reviews required by the legislation of the Republic of Armenia, License Agreement 316 on Subsoil Use for Mining Purposes was concluded on 9 October 2007 between the General Manager of the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Minister of Trade and Economic Development and Minister of Nature Protection, on the other. Therefore, the mining right was conferred upon the “Armenian Copper Program” CJSC in accordance with the requirements of the legislation.

The Plaintiff’s 6th claim concerns the invalidation of special license number 21 issued to the “Armenian Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining, and, as a consequence, invalidating License Agreement number 140 dated 4 May 2006 (“On Prospecting the Subsoil for Mining”) between the “Armenian Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining.”

The Plaintiff informed the Court that, based on special license number 21 issued by the Ministry of Nature Protection on 29 December 2005 for prospecting, the Company and the Ministry of Nature Protection concluded License Agreement number 140 dated 4 May 2006 (“On Prospecting the Subsoil for Mining”) within the time period set by the legislation. The Respondent hereby informs the Court that, on 11 April 2008, the “Armenian Copper Program” CJSC transferred to “Teghut” CJSC the mining rights for operating the Teghut Copper and Molybdenum Mine in the Lori Marz under Decree 59-A of the Minister of Trade and Economic Development dated 11 April 2008.

The prospecting and extraction rights for mining the Teghut Copper and Molybdenum Mine were provided to the Company on the basis of the relevant license and the Operation Plan that underwent the expert review and obtained positive opinions.

As to the Plaintiff’s 2nd claim to annul the Environmental Impact Assessment positive opinion number BP-31 approved by the Minister of Nature Protection of the Republic of Armenia on 3 April 2006, the 3rd claim to annul the Environmental Impact Assessment positive opinion number BP-135 approved by the Minister of Nature Protection of the Republic of Armenia on 7 November 2006, the 4th claim to annul the Republic of Armenia Government Decree number 1278-N dated 1 November 2007 “On Changing the Designated

Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots,” and the 7th claim to invalidate the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan adopted in the 30 September 2005 session of the Inter-Agency Committee Coordinating the Activities of Support to the Teghut Mine Development Program, the Energy and Natural Resources Ministry has informed the Court that they are beyond the scope of authority of the Ministry.

The Energy and Natural Resources Ministry has asked the Court, based on the foregoing, to reject the 1st, 5th, and 6th claims of the Plaintiff in view of the requirements of Article 76 of the Law, as there are no grounds for invalidating Special License number 21 of the “Teghut” CJSC issued on 29 December 2005, License Agreement number 140 dated 4 May 2006 “On Prospecting the Subsoil for Mining,” Special License HA-L-14/90 dated 23 March 2004, and License Agreement 316 on Subsoil Use for Mining Purposes concluded on 7 October 2007 on the basis of the Mine Operation Plan for which positive opinions of expert reviews were obtained.

R. Piloyan, representative of one of the Respondents, the Energy and Natural Resources Ministry, and L. Gevorgyan, representative of another Respondent, the Ministry of Nature Protection, appeared before the Court for the examination of the case.

A representative of another Respondent, the Government of the Republic of Armenia, which was duly notified of the case examination time and place, did not appear before the Court for the examination of the case.

Guided by Paragraph 2 of Article 95 of the Administrative Procedure Code, the Court decided to continue the case examination in the absence of one of the Respondents, the Government of the Republic of Armenia, which had been duly notified.

The third party, the “Armenian Copper Program” CJSC, submitted to the court a response to the claim, informing that license number HV-MSH-13/33 was issued to the “Armenian Copper Program” CJSC on 8 February 2001 to operate the Teghut Mine.

In support of its claims, the Plaintiff has argued that, after the entry into force of the Republic of Armenia Law on Providing (Concession) of Subsoil for Prospecting and Mining of Mineral Resources, the “Armenian Copper Program” CJSC did not have mining rights in the sense of Article 3 of the Law, and, therefore, could not be deemed a temporary licensee in the meaning of Article 76(1), and, therefore, license number HV-MSH-13/33 issued to the “Armenian Copper Program” CJSC on 8 February 2001 to operate the Teghut Mine has become invalid.

The Republic of Armenia Law on Providing (Concession) of Subsoil for Prospecting and Mining of Mineral Resources was adopted on 5 November 2002 and entered into force on 1 April 2003.

Prior to it, the 1992 Subsoil Code of the Republic of Armenia was in effect.

It also claimed that license HV-MSH-13/33 was issued while the Subsoil Code was in effect, and that the Subsoil Code did not define the term “mining right.”

Under Paragraph 1(9) of Article 3 of the Concession Law, as it stood at the time of entry into force (and remained in effect until 3 July 2007), the term “mining rights” was defined as exclusive rights to prospect and operate a certain section of the subsoil certified by a special prospecting license, a prospecting license, a special mining license, and a mining license.

In the instant case, the “Armenian Copper Program” CJSC held, prior to the entry into force of the Law on Concession, the exclusive right to operate the Teghut Mine, i.e. the “mining right” in the meaning of the aforementioned provision of Article 3 of the same Law.

Therefore, the “Armenian Copper Program” CJSC had mining rights when the Concession Law entered into force.

Furthermore, Paragraph 2 of Article 76 of the Concession Law provides: “... business entities that had mining rights before the entry into force of this Law are deemed temporary licensees during the transition period. During the transition period, a temporary licensee may perform all the actions that it performed under its license prior to the entry into force of this Law.” In other words, the only precondition defined by the legislature for a business entity to be deemed a temporary licensee is that it must have had a mining right before the entry into force of the Law.

In the instant case, the “Armenian Copper Program” CJSC had mining rights prior to the entry into force of the Concession Law, i.e. it was deemed a temporary licensee during the transition period.

Furthermore, in accordance with the procedure defined by Paragraph 3 of Article 76 of the Concession Law, the “Armenian Copper Program” CJSC obtained Special License number HV-L-14/90 on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine. As to license HV-MSH-13/33 issued under the 1992 Subsoil Code, it became invalid by virtue of Paragraph 3(6) of Article 76 of the Concession Law 14 months after 1 April 2003, the date of entry into force of the Concession Law and the end of the transition period.

Thus, the Plaintiff’s first claim is also not applicable, because the challenged license has become invalid by virtue of the law. Thus, the claim is to be denied.

In view of the aforementioned justification, the Plaintiff’s first claim is groundless and not applicable, and must be denied.

As to the second claim of the Plaintiff, the Third Party informed the Court that, on 3 April 2006, the “Environmental Expert Review” state non-commercial organization issued the Environmental Impact Assessment Positive Opinion number BP-31, which was approved by the Minister of Nature Protection on the same day.

To support this claim, the Plaintiff has argued that the aforementioned opinion failed to list the plants included in Armenia’s Red List, the animal species included in the Red List of the International Union for Conservation of Nature and Natural Resources and Armenia’s Red List, which were present in the breached area, and that the opinion failed to specify which portion of the 1,563 hectares planned for construction development and of the 768 hectares planned for production facilities was covered by forests. For purposes of the Convention on Environmental Impact Assessment in a Transboundary Context, the operation of the Teghut Mine is a “proposed activity,” and Armenia is a “Party of origin.”

The Plaintiff has claimed that the Environmental Impact Assessment Positive Opinion number BP-31 should be annulled on the basis of Paragraph 1(b) of Article 62 of the Republic of Armenia Law on Foundations of Administration and Administrative Proceedings, which provides that an administrative act is null and void if rendered by a non-competent administrative authority.

The act in question, the Environmental Impact Assessment Positive Opinion number BP-31, cannot be annulled on the basis of the aforementioned legal provision, because the opinion was issued by a competent authority, the Ministry of Nature Protection of the Republic of Armenia.

Republic of Armenia Government Decree 345 dated 30 October 1996 “On the State Body Authorized to Perform the Environmental Impact Assessment Expert Review” provides:

“In fulfillment of Article 16 of the Republic of Armenia Law on Expert Review of Environmental Impact Assessment, the Government of the Republic of Armenia hereby decides:

1. To confer the powers of the state body authorized to perform expert review of environmental impact assessment to the Republic of Armenia Ministry of Nature Protection and Subsoil Resources.”

The Plaintiff, citing Article 14 of the Law on Expert Review of Environmental Impact Assessment and the Convention on Environmental Impact Assessment in a Transboundary Context, has argued that the impact of the proposed activity extends beyond the state border of the Republic of Armenia, necessitating its approval by the Government of the Republic of Armenia.

The Plaintiff supported this assertion by referring to the Workplan, according to which the River Shnogh flows into the River Debet, which in turn is a transboundary river and flows from Armenia to Georgia. On this basis, the Plaintiff argued that the proposed activity could have a significant transboundary impact.

The Company has informed the Court that it objects to this assertion of the Plaintiff, arguing as follows:

a) The description of water removal on page 33 of the Workplan reads: “The design solutions preclude the spilling of production wastewater into the water resources. The enterprise operates with a full circulation system.”

b) The sixth paragraph on page 100 of the EIA reads: "Below the tailings dam, a protective land barrier is designed to be built. The barrier and the created surface would be fully insulated with a layer of clay, which would not allow the water infused from the tailings dam to pollute the water and land below it."

c) The fourth paragraph on page 104 of the EIA reads: "The protective barrier and the created surface would be fully insulated with a layer of clay, which would not allow the water infused from the tailings dam to flow out to the environment."

d) The first and second paragraphs on page 122 of the EIA read: "The outflow of the wastewater from the production and auxiliary needs would be channeled to the tailings dam, and the clearwater would return to the enrichment plant. The enterprise operates with a full circulation system, and wastewater does not flow out into open water basins. The utilities wastewater would be cleaned from insoluble mixtures, colloids, and solved organic substances. The standard cleanwater would be removed to the River Shnogh, mixed with its water, and subsequently flow into the River Debet."

e) Page 128 of the EIA reads: "Thus, when the cleaned wastewater flows into the River Shnogh, the quality of the river water would not be altered." This assertion, too, concerns the "utilities wastewater," rather than the wastewater from "production" use.

These conclusions, drawn from a number of studies in the EIA, prove that the proposed activity does not have any transboundary impact. Therefore, the Plaintiff is just making assumptions in the claim about the possible transboundary impact of operating the Teghut Mine.

Paragraph 3.9 of the claim reads that, according to the minutes of the meeting held in the Office of the Prime Minister on 20 June 2008, "d) the operation of the mine precludes any transboundary impact."

The information cited from the aforementioned document does not show a possible significant transboundary impact; on the contrary, it precludes the impact. Therefore, the competent body to approve the Environmental Impact Assessment positive opinion number BP-31 is the Ministry of Nature Protection, and not the Government of the Republic of Armenia, contrary to what the Plaintiff has claimed.

Moreover, there is no evidence of anything related to Paragraph 1 of Article 62 of the Republic of Armenia Law on Foundations of Administration and Administrative Proceedings because:

a) The opinion clearly reads that it was issued by the "Environmental Expert Review" state non-commercial organization under the Republic of Armenia Ministry of Nature Protection and approved by the Minister of Nature Protection of the Republic of Armenia;

b) The act clearly reads that it is issued to the "Armenian Copper Program" CJSC and regulates the activities related to the design documents of the environmental impact assessment (EIA) of the Teghut Mining Enrichment Plant; and

c) The act does not impose any duty or confer any right upon the company to which it is issued.

Thus, Environmental Impact Assessment positive opinion number BP-31 was issued by a competent authority. The grounds provided by law for annulling it are absent. The Plaintiff's claim is groundless.

As to the third claim of the Plaintiff, the Company has informed the Court that the "Environmental Expert Review" state non-commercial organization issued Environmental Impact Assessment positive opinion number BP-135 on 7 November 2006, which was approved on the same day by the Minister of Nature Protection. The aforementioned arguments are fully and identically applicable to this claim, as well.

The Environmental Impact Assessment positive opinion number BP-135 was issued by a competent authority. The grounds provided by law for annulling it are absent. The Plaintiff's claim is groundless.

As to the Plaintiff's third claim (in accordance with the procedure stipulated by Article 68 of the Administrative Procedure Code of the Republic of Armenia, to annul the Republic of Armenia Government Decree number 1278-N dated 1 November 2007 "On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots"), the Third Party has informed the Court that, on 1 November 2007, the Government of the Republic of Armenia adopted Decree number 1278-

N “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots.”

To support this claim, the Plaintiff has argued that the Government of the Republic of Armenia has failed to define the cases in which state- or community-owned land plots can be provided with a right of lease or construction development without a competition under Paragraph 5 of Article 76 of the Land Code of the Republic of Armenia, and the aforementioned state- and community-owned land plots were provided to the “Armenian Copper Program” CJSC with a right of lease or construction development without a competition by the Government of the Republic of Armenia, rather than a marz (province) governor and/or community mayors, which, in the opinion of the Plaintiff, the aforementioned provision of the Land Code requires.

This claim of the Plaintiff is groundless, because no evidence of providing land plots to the “Armenian Copper Program” CJSC under the challenged decree of the Government has been submitted to the Court.

Thus, there are no grounds for annulling the Republic of Armenia Government Decree number 1278-N dated 1 November 2007 “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots.”

As to the Plaintiff’s fifth claim (in accordance with the procedure stipulated by Article 65 of the Administrative Procedure Code of the Republic of Armenia, to invalidate Special License number HV-L-14/90 issued to the “Armenian Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine, and, as a consequence, to invalidate the License Agreement number 316 on Subsoil Use for Mining Purposes concluded on 8 October 2007 between the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection, on the other), the Company has informed the Court that the Ministry of Trade and Economic Development issued Special License number HV-L-14/90 to the “Armenian Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine.

On 8 October 2007, the License Agreement number 316 on Subsoil Use for Mining Purposes was concluded between the “Armenian Copper Program” CJSC, on the one hand, and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection, on the other.

The Plaintiff has argued, in support of this claim, that Special License HV-L-14/90 does not specify the mining extraction site and the floor plan, and that the existence of an operation license alone cannot be deemed a “mining right.” When the Concession Law entered into force, the “Armenian Copper Program” CJSC was not deemed an entity holding “mining rights” for purposes of that Law. During the transition period, the “Armenian Copper Program” CJSC was not deemed a temporary licensee.

The Plaintiff argued this claim on the basis of Article 65 of the Administrative Procedure Code of the Republic of Armenia. Under Paragraph 1 of Article 71 of the Administrative Procedure Code, a challenging claim may be submitted to the court within a two-month period of the entry into force of the challenged administrative act.

The license the validity of which the Plaintiff challenges was issued on 23 March 2004. It entered into force when License Agreement number 316 on Subsoil Use for Mining Purposes was concluded, i.e. on 8 October 2007. The claim was submitted to the court on 25 June 2009. Thus, the Plaintiff has missed the deadline provided by the aforementioned provision for filing such a claim to court.

The Plaintiff has missed the six-month deadline provided by Paragraph 1(b) of Article 71 of the Republic of Armenia Law on Foundations of Administration and Administrative Proceedings for filing an administrative appeal against an act, which renders the act “not subject to appeal.”

Special License number HV-L-14/90 for mining the Teghut Copper and Molybdenum Mine entered into force on 8 October 2007. Therefore, the Plaintiff has missed the deadline provided by law for filing this claim, too.

As to the Plaintiff’s sixth claim (“to invalidate Special License number 21 issued to the “Armenian Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for

mining, and, as a consequence, to invalidate license agreement number 140 dated 4 May 2006 between the “Armenian Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining”), the Company has informed the Court that, on 29 December 2005, the Ministry of Nature Protection issued Special License number 21 to the “Armenian Copper Program” CJSC for prospecting the subsoil for mining.

On 4 May 2006, license agreement number 140 “On Prospecting the Subsoil for Mining” was concluded between the “Armenian Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection.

The Plaintiff has argued, in support of this claim, that the coordinates of the site allocated for prospecting in Special License 21 differed from the coordinates specified in License Agreement 316 on Subsoil Use for Mining Purposes.

The license, the validity of which the Plaintiff has challenged, was issued on 29 December 2005. It entered into force when License Agreement number 140 “On Prospecting the Subsoil for Mining” was concluded, i.e. on 4 May 2006. The claim was filed to court on 25 June 2009. Therefore, when submitting this claim to court, the Plaintiff missed the deadline provided by Paragraph 1 of Article 71 of the Administrative Procedure Code of the Republic of Armenia.

The Plaintiff has also missed the six-month deadline provided by Paragraph 1(b) of Article 71 of the Republic of Armenia Law on Foundations of Administration and Administrative Proceedings for filing an administrative appeal against an act, which renders the act “not subject to appeal.”

Special License number 21 issued to the “Armenian Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining entered into force on 4 May 2006. Therefore, the Plaintiff has missed the deadline provided by law for filing this claim.

As to the Plaintiff’s seventh claim (in accordance with the procedure provided by Article 65 of the Administrative Procedure Code, to invalidate the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan adopted in the 30 September 2005 session of the Inter-Agency Committee Coordinating the Activities of Support to the Teghut Mine Development Program), the Third Party has informed the Court that the Plaintiff has argued, in support of this claim, that the Concept Paper has not undergone environmental impact assessment, and that the Inter-Agency Committee performed an action that is directly prohibited by law.

Paragraph 1(b) of Article 71 of the Republic of Armenia Law on Foundations of Administration and Administrative Proceedings sets a six-month period for filing an administrative appeal against an act. Under Paragraph 1(1) of Article 71 of the Republic of Armenia Administrative Procedure Code, a challenging claim may be submitted to the court within a two-month period of the entry into force of the challenged administrative act.

In the present case, the challenged Concept Paper was adopted on 30 September 2005, and the claim was filed to court on 25 June 2009. Therefore, the Plaintiff has missed the deadline provided by law for filing this claim.

Moreover, the Plaintiff has failed to show that the act challenged by the Plaintiff is “an administrative act.” Hence, the claim is not applicable.

As to the Plaintiff’s seventh claim to obligate the Respondents to prohibit the “Armenian Copper Program” CJSC from carrying out activities contemplated by the Teghut Mine Operation Plan, the Company has informed the Court that, according to Article 66 of the Administrative Procedure Code of the Republic of Armenia, a plaintiff may file a “claim to obligate” demanding to adopt a favorable administrative act the adoption of which was denied by the administrative authority, or which was not adopted by it.

In the present case, the Plaintiff has failed to present any evidence to show that it has asked the administrative authority to adopt the relevant favorable administrative act and has either been denied or has received no reply. Therefore, the Plaintiff has failed to comply with the requirement of Article 66 of the Administrative Procedure Code of the Republic of Armenia. As a consequence, the Plaintiff has no right to file “a claim to obligate” on this basis.

Besides, the Plaintiff has provided no evidence to show that the “Armenian Copper Program” CJSC has not started the proposed activities after receiving expert review opinions number BP-31 and BP-135 approved by the Ministry of Nature Protection of the Republic of

Armenia. In fact, the “Armenian Copper Program” CJSC has started to implement the following proposed activities (as covered in the mass media, as well). Thus, the expert review opinions have not lost their validity under Article 11 of the Republic of Armenia Law on Expert Review of Environmental Impact Assessment, contrary to what is claimed by the Plaintiff. Therefore, the substantive law grounds prescribed by the aforementioned provision for closing down, suspending, or prohibiting the relevant activities of the “Armenian Copper Program” CJSC do not exist.

The Plaintiff’s claim (to obligate the Respondents to prohibit the “Armenian Copper Program” CJSC from carrying out activities contemplated by the Teghut Mine Operation Plan) is groundless and shall be rejected.

K. Badalyan, representative of the Third Party (the “Armenian Copper Program” CJSC) appeared before the court for the examination of the present case.

3. Relevant Facts for the Examination of the Case, Reasoning and Conclusions of the Administrative Court of the Republic of Armenia

Having examined the submitted written evidence, and having evaluated each piece of evidence by inner conviction based on the comprehensive, full, and impartial review of all the evidence in the case, the court concluded that the claim is manifestly unfounded and subject to dismissal with the following reasoning.

In the claim filed, the environmental non-governmental organization “Ekodar” has claimed:

- In accordance with the procedure stipulated by Paragraph 1 of Article 68 of the Administrative Procedure Code of the Republic of Armenia, to nullify license number HV-MSH-13/33 issued to the “Armenia Copper Program” CJSC on 8 February 2001 to exploit the Teghut Mine;

- In accordance with the procedure stipulated by Article 68 of the Administrative Procedure Code of the Republic of Armenia, to annul the Environmental Impact Assessment positive opinion number BP-31 approved by the Minister of Nature Protection of the Republic of Armenia on 3 April 2006, to annul the Environmental Impact Assessment positive opinion number BP-135 approved by the Minister of Nature Protection of the Republic of Armenia on 7 November 2006, and to annul the Republic of Armenia Government decision number 1278-N dated 1 November 2007 “On Changing the Designated Purpose of Lands for Implementing the Teghut Copper and Molybdenum Mine Operation Plan and Allocating Land Plots”;

- In accordance with the procedure stipulated by Article 65 of the Administrative Procedure Code of the Republic of Armenia, to invalidate special license number HV-L -14/90 issued to the “Armenia Copper Program” CJSC on 23 March 2004 for mining the Teghut Copper and Molybdenum Mine, and, as a consequence, to invalidate the License Agreement number 316 on Subsoil Use for Mining Purposes concluded on 9 October 2007 between the “Armenia Copper Program” CJSC and the Republic of Armenia Ministry of Trade and Economic Development and Ministry of Nature Protection; to invalidate special license number 21 issued to the “Armenia Copper Program” CJSC on 29 December 2005 for prospecting the subsoil for mining, and, as a consequence, to invalidate license agreement number 140 dated 4 May 2006 between the “Armenia Copper Program” CJSC and the Republic of Armenia Ministry of Nature Protection “On Prospecting the Subsoil for Mining”; and to invalidate the Concept Paper of the Teghut Copper and Molybdenum Mine Operation Plan adopted in the 30 September 2005 session of the inter-agency committee coordinating the activities of support to the Teghut Mine Development Program;

- In accordance with the procedure stipulated by Article 66 of the Administrative Procedure Code of the Republic of Armenia, to obligate the respondents to prohibit the “Armenia Copper Program” CJSC from carrying out activities contemplated by the Teghut Mine Operation Plan.

Under Article 108 of the Administrative Procedure Code of the Republic of Armenia, “expedited proceedings shall be applied in case when ... 5) the claim is manifestly unfounded.”

Article 110 of the Administrative Procedure Code of the Republic of Armenia provides:
“If the grounds stipulated by Article 108 of this Code are present, the Administrative Court shall immediately move to render a judicial act on the merits of the case.” In this case, the court, having taken into account the fact that the claim is manifestly unfounded, has applied expedited proceedings and has moved to render a judicial act on the merits of the case.

Paragraph 1 of Article 3 of the Administrative Procedure Code of the Republic of Armenia provides:

“Each natural person or legal entity may apply to the administrative court in accordance with the procedure stipulated by this Code, if it believes that the administrative acts, actions, or inaction of state government and local self-government bodies or their officials:

- 1) Have violated or may directly violate its rights and freedoms under the Republic of Armenia Constitution, international treaties, laws, and other legal acts, including:
 - a. Obstacles posed to the exercise of such rights and freedoms; or
 - b. Failure to provide the necessary conditions for the exercise of such rights, which had to have been provided under the Republic of Armenia Constitution, international treaties, laws, or other legal acts;
- 2) Have illegitimately imposed obligations on them; or
- 3) Have illegitimately imposed an administrative sanction on them.”

The Administrative Court of the Republic of Armenia hereby finds that, under Paragraph 1 of Article 3 of the Administrative Procedure Code of the Republic of Armenia, persons or entities that believe that their rights have been violated may apply to the Administrative Court. Administrative justice is specific, i.e. a person may not seek court protection with any or abstract demands, but rather, may apply to court only when it is an interested party, i.e. a party the public subjective rights of which have been violated by an administrative body. Administrative proceedings primarily serve the protection of the rights and personal interests of the person and citizen. It means that administrative justice may be sought only by a person (natural person or legal entity), which believes that the administration has directly touched upon its rights or interests. Persons may not seek court review of any administration, which is not related directly to them, simply on the ground that they have a general interest in the legitimate conduct of administrative bodies. Whilst prescribing this approach, the Administrative Procedure Code of the Republic of Armenia does not recognize (subject to certain exceptions that do not concern this particular case) the so-called “public complaint,” as it only stipulates the possibilities of seeking judicial protection of violated rights, i.e. judicial protection that is due in case of violation of the subjective rights provided to a person by law.

Paragraph 1(1) of Article 3 of the Republic of Armenia Law on Non-Governmental Organizations provides:

“A non-governmental organization (hereinafter “an Organization”) is a type of societal amalgamation—an organization that does not pursue the aim of deriving a profit or distributing the profit between its participants, i.e. a non-commercial organization, in which natural persons, including citizens of the Republic of Armenia, foreign citizens, and stateless persons have unified in accordance with the procedure stipulated by law based on the commonality of their interests in order to satisfy their non-religious spiritual or other intangible needs, to protect their and others’ rights and interests, to provide tangible and intangible support to society or certain groups of society, and carrying out other activities for the public good.”

Article 15 of the Republic of Armenia Law on Non-Governmental Organizations provides:

“1. For achieving the objectives mentioned in its by-laws, an organization may in accordance with the procedure defined by law:

- 1) Disseminate information about its activities;
 - 2) Organize and conduct peaceful and unarmed meetings, gatherings, processions, and demonstrations;
 - 3) Represent and defend its and its members' rights and lawful interests in other organizations, courts, and state government and local self-government bodies;
 - 4) Cooperate with other non-commercial organizations, including international and foreign non-governmental non-commercial organizations, and, for the purpose of engaging in coordinated activities and representing and defending common interests, create with such organizations unions or join unions created by them, whilst retaining its autonomy and legal entity status;
 - 5) In accordance with the procedure stipulated by its By-Laws, create separated subdivisions—branches, representation offices, and institutions; and
 - 6) Create commercial organizations or become a participant in such organizations.
2. Other rights of the organization may be prescribed by law, as well."

The aforementioned article, too, clearly, unambiguously, and somewhat exhaustively defines the rights of non-governmental organizations, because any other rights may be vested in non-governmental organizations only by law. Those rights are not subject to broad interpretation. Neither the Law on Non-Governmental Organizations nor any other law of the Republic of Armenia stipulates the right of non-governmental organizations to seek judicial protection with any or abstract demands. Moreover, it flows from Article 3 of the Administrative Procedure Code of the Republic of Armenia that they do not have such a right.

Paragraph 3 of Article 9 of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (hereinafter "the Aarhus Convention"), which is effective for the Republic of Armenia as from 1 October 2001, provides:

"In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment."

Article 6 of the Constitution of the Republic of Armenia provides:

"International treaties shall enter into force only after their ratification or approval. International treaties are a part of the legal system of the Republic of Armenia. If a ratified international treaty provides rules that differ from the rules stipulated by laws, then the treaty rules shall be applied. International treaties that contradict the Constitution may not be ratified."

Under these circumstances, the following legal issue becomes significant: does the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, to which the Republic of Armenia has acceded, give non-governmental organizations the right to have standing in this dispute.

Paragraph 3 of Article 9 of the Aarhus Convention does not vest such a right in non-governmental organizations. It provides that each Party, i.e. each state that is a party to the Convention, shall ensure that members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

This legal provision allows the state to ensure access to only administrative or only judicial procedures, or to both. In other words, this legal provision concerns the Parties, i.e. the states, and does not directly stipulate the right of non-governmental organizations to go to court. Thus, Paragraph 3 of Article 9 of the Aarhus Convention does not give standing to non-governmental organizations.

Paragraph 2 of Decision SDO-269 of the Constitution Court of the Republic of Armenia dated 26 December 2000 “In the Case to Determine the Conformity of the Obligations stipulated by the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters with the Constitution of the Republic of Armenia” provides that, under the Convention, the Republic of Armenia has undertaken a number of obligations, including the obligation to ensure, within the framework of its national legislation, access to an expeditious procedure of restoring the violated rights of persons under the Convention by the judiciary or an independent and impartial body, as well as the obligation to consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Thus, the Constitutional Court has reiterated in its decision that the Aarhus Convention does not provide direct judicial standing to non-governmental organizations. Moreover, such an obligation does not indirectly flow from the Convention, because the state must only ensure, within the framework of its national legislation, access to an expeditious procedure of restoring the violated rights of persons under the Convention by the judiciary or an independent and impartial body.

The Administrative Court hereby finds that the persons that have such standing are already stipulated by the Administrative Procedure Code of the Republic of Armenia, which enables them to carry out the complete protection of the violated rights of persons. However, non-governmental organizations are not among them.

Based on the foregoing and guided by Articles 59, 112-115, 108-110, and 118 of the Administrative Procedure Code of the Republic of Armenia, and Articles 130-132 of the Civil Procedure Code of the Republic of Armenia, the court

RULES

To dismiss the claim of the environmental non-governmental organization “EKODAR” against the Government of the Republic of Armenia, the Ministry of Nature Protection of the Republic of Armenia, the Energy and Natural Resources Ministry of the Republic of Armenia, and a third party, the “Armenia Copper Program” CJSC; and

To deem the issue of the stamp duty resolved.

This judgment shall enter into legal force a month after being published.

A cassation complaint against this judgment may be lodged prior to the date specified for its entry into legal force.

If this judgment is not voluntarily executed, it shall be executed through the Service for Compulsory Execution of Judicial Acts, at the debtor’s expense.

JUDGE

A. MIRZOYAN