

## REFERENCE

### on questionnaire received from the secretariat of Aarhus Convention Compliance Committee of the United Nations Economic Commission for Europe

**Question 1.** A document “On information on subsurface management right granted for the purpose of extraction of mineral deposits as of 01.07.2019” was hosted on a web site of the Ministry of Territorial Administration and Infrastructure of the Republic of Armenia ([www.minenergy.am](http://www.minenergy.am)) in the list of which the valid permit of Lydian Armenia CJSC is available (the table is below)

**Question 2.** For the operation of the Amulsar gold-bearing quartzite mine, it was necessary to obtain the document referred to in Question 1, as well as a number of other documents in the field of environmental protection (water use permit, emission limit values, etc.).

**Question 3.** Currently the case № VD/1049/05/15 is in the proceedings of the Administrative court (the plaintiffs are Tehmine Yenokyan, Goharik Yenkoyan, Derenik Yenokyan, Sevak Mkrtchyan, Armen Hambardzumyan, Vanik Hovhannisyan, Aram Hovsepyan, Arthur Mkrtchyan, Alexan Mnatsakanyan, Gagik Grigoryan, Nairi Nersisyan “EcoRight” NGO, “Ekodar” Environmental NGO) with a claim “to recognize as illegitimate the approval of the RA Vayots Dzor province Amulsar gold-bearing quartzite mine project developed by “Geoteam” CJSC at the meeting held on 24.09.2014”; to recognize as invalid the expert conclusion N BF-76 of 17.10.2014; the permit N ՇԱԹՎ-29/245 issued on 12.11.2014 and re-executed on 26.09.2012; the amendment of the Mining Allotment Certificate N ԼՎ-245 of 26.09.2012, which was made on 12.11.2014; the Order N 286-A of 24.11.2014; the amendment made on 25.11.2014 in the Mining Allotment Certificate N ԼՎ-245 of 26.09.2012, based on the state order; as well as to recognize as invalid the amendment made on 29.11.2014 in the re-executed permit N ՇԱԹՎ-29/245 of 26.09.2012”. Under the present case, the Administrative Court has noted that both the opinion of the Expert Commission on Protection of Lake Sevan on the impact of specific activities on Lake Sevan and the conclusion of the expertise of the impact on the environment are an expert opinion by implication of Article 45 of Law of the Republic of Armenia “On the Fundamentals of Administration and Administrative Procedure”, and that opinion, in its turn, is considered as an evidence in the administrative proceedings under Article 42 of the same law. And the evidence of the administrative proceedings does not itself generate any legal consequences for individuals. The administrative body, under Article 37 (1) of the said law, shall be obliged to examine all the evidence in the case in a comprehensive manner, and while accepting an administrative act to take into account what factual circumstances are approved by the said evidence.

In such circumstances, it becomes clear that there has been no interference with the rights of persons by the disputed acts, as they have not determined the issue of granting the subsurface management right. **Therefore, the plaintiffs have no legal task to challenge them, as the issue of assessment of the evidence of the administrative proceedings is subject to review within the**

**legality (in this case the subsurface management right of extraction of minerals granted to Lydian Armenia CJSC) of administrative acts adopted in administrative proceedings.**

That is to say, the Administrative Court has considered the right to manage the subsurface granted to Lydian Armenia CJSC as an administrative act, has accepted the appeal in that regard and is currently examining its legality

It is also worth noting that the Ministry of Nature Protection is involved in this case as a third party.

**Question 4., Question 5.** The authorities of the Expert Commission on Protection of Lake Sevan are established by Articles 19-21 (Chapter 5) of the Law “On Lake Sevan”. The aforementioned articles do not explicitly state the imperative nature of the conclusions provided by the Commission, and as we have already mentioned, the Administrative Court has noted that both the opinion of the Expert Commission on Protection of Lake Sevan on the impact of specific activities on Lake Sevan and the conclusion of the expertise of the impact on the environment are an expert opinion by implication of Article 45 of Law of the Republic of Armenia “On the Fundamentals of Administration and Administrative Procedure”, and that opinion, in its turn, is considered as an evidence in the administrative proceedings under Article 42 of the same law. In addition, the Administrative Court also stated that “Lake Sevan as an environmental, economic, social, scientific, historical, cultural, aesthetic, health, climate, recreational (restorative) and spiritual value of the Republic of Armenia, having strategic importance for protection of the ecosystem the legislator has decided to set up a professional commission within the structure of the National Academy of Sciences of the Republic of Armenia, which should express its position in the projection of activities having a certain impact on Lake Sevan. That is to say, the members of the Commission, being persons with relevant field knowledge, shall express their opinion on the factual circumstances related to the issue of impact of Lake Sevan, when discussing a particular issue with the competent authorities”.

**Question 6.** The body referred to in Article 25 of the Law “On Lake Sevan” is the Ministry of Nature Protection.

**Question 8.** All judicial acts mentioned under the case VD/1049/05/15 can be found at [http://datalex.am/?app=AppCaseSearch&case\\_id=38562071809881426](http://datalex.am/?app=AppCaseSearch&case_id=38562071809881426).

**Question 10.** The issue of granting the subsurface management right was determined by the attached permit provided by the Ministry of Energy Infrastructure and Natural Resources of the Republic of Armenia. As it was already mentioned, the Ministry of Nature Protection is also involved in this case as a third party.

**Question 11.** In the specific context of this case, which disputes the validity of the permit granted to Lydian Armenia CJSC, the Administrative Court has stated that the permit granted by the Ministry of Territorial Administration and Infrastructure of the Republic of Armenia should become a subject for discussion as an administrative act in the administrative proceedings. During the judicial examination, the Administrative Court also considers the issues related to the expert conclusion on environmental impact assessment.

There are other cases in the case law where the administrative court during the judicial examination reviewed and considered the permit granted (dismissal of the permit) by the Ministry of Territorial Administration and Infrastructure of the Republic of Armenia as an administrative act, and in the course referring to the influence of the environmental impact assessment conclusion the conclusion on the permit granted by Ministry of Territorial Administration and Infrastructure of the Republic of Armenia. or dismissal of the permit. In the aforementioned case, in the final decision the Administrative Court referred only to the permit granted by the Ministry of Territorial Administration and Infrastructure of the Republic of Armenia (ref dismissal of the permit).

N	Name of the legal entity	Activity implementation address	Permit number, date of issue	Expiration date	Agreement number, date of issue	Mining Allotment Certificate number, date of issue	Note
158	«LYDIAN ARMENIA» CJSC	RA Vayots Dzor province, Amulsar gold-bearing quartzites	(ՇԱԹՎ) SHATV-29/245 26.09.12	01.01.2034	(ՊՎ) PV-245 26.09.12	(ԼՎ) LV-245 26.09.12	<Geoteam> CJSC was renamed