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CONTESTATION

It is with great concern that we, the undersigned, have taken notice of Romania's Ministry for the Environment and Water Management's (MMGA) announcement¹ that the scoping list for the Environmental Impact Assessment (EIA) of Rosia Montana mine proposal² has been finalized. This was done without any form of public participation and in a complete lack of transparency. The undersigned therefore request MMGA to reinitiate the Rosia Montana EIA scoping stage; this time creating all the necessary conditions for the public to be adequately consulted.

Amongst the signatories are NGOs and MEPs who are officially registered parties³ of the Rosia Montana EIA.

Scoping is perhaps the most important stage of an EIA⁴ procedure, as it aims to point out the content and extent of the Environmental Information to be submitted to the Competent Authority under the EIA procedure. In all forms of scoping, consultation with environmental authorities, other interested parties and the public forms an important part of the process. Consultations will help ensure that all the impacts, issues, concerns, alternatives and mitigation which interested parties believe should be considered in the EIA are addressed.

The importance of public participation during the scoping stage can be further highlighted if one considers that, in the event that the laws had been enforced for the Rosia Montana EIA, NGOs would have had the possibility to timely submit comments and proposals such as the scoping list⁵ attached to this contestation. This means that the final scoping list now released by MMGA is at least incomplete.

Public participation during scoping is guaranteed by the Aarhus Convention that has been ratified by Romania and the EIA Directive 97/11 /EC; as amended by Directive 2003/35 /EC.

In support of our contestation, we would like to add the following:

¹ See the 'Rosia Montana' section on the Ministry's website; www.mappm.ro

² See <http://www.rmgc.ro>

³ See www.apm-alba.ro for the complete list of registered parties. This statute gives the right to be notified and consulted about each step of the EIA procedure and this in a timely manner.

⁴ EIA stands for the procedure which fulfils the assessment requirements of Directive 97/11/EC.

⁵ 'Alburnus Maior' commissioned Bob Moran, an American mining expert, to draw up the attached scoping list.

The Directorate General for Environment of the European Commission has published various guidelines that detail “Best Available Practices” (BAP) that need to be applied for each stage of an EIA. According to these guidelines⁶, successful scoping consultations may be facilitated by a range of means including:

- **Initial announcements about the scoping process in local or national newspapers;**
- **preparing a leaflet or brochure about the project giving brief details of what is proposed with a plan or map, describing the EIA process and the purpose of scoping, and inviting comments;**
- **Public meetings (it may be helpful to invite an independent person to chair public meetings);**
- **A Scoping Workshop at which participants work together through a structured program to identify matters to be addressed by the EIA process (this can be particularly helpful if the issues are complex and there are several groups interested in the proposals; an independent facilitator can be useful in ensuring workshops are successful);**
- **Establishing an expert or community based Scoping Group who will continue to oversee the environmental studies throughout the process (this can be useful for projects where the issues are complex or where the project is at an early stage in the planning process and the significance of issues is unclear);**
- **Publishing a draft Scoping Report for review and comment before completing the process.**

In order to improve MMGA’s institutional capacity, a PHARE team elaborated a step-by-step manual as to how the Rosia Montana EIA should be conducted in order to meet the relevant national, European and international legislation. Although never published by MMGA, the manual, in accordance with BAP, specifies the following steps during scoping:

- 1. A number of actions related to consultation with the Romanian public and that of the potentially Affected Parties regarding the environmental aspects to be addressed by the EIA study. These actions will be undertaken after the site inspection visit, during a five-week interval.**
- 2. Public consultation is followed by a number of actions aimed to review the information and suggestions received from the public. These actions may require about three weeks.**
- 3. A scoping checklist is finalised according to OM 860/2002 and taking into account the comments and suggestions received from the public and experts of the potentially affected Parties.**
- 4. A first draft of the Guidance as a written document, apart from the Checklist, is developed. This draft of the Guidelines is made public by posting on MMGA’s website.**

⁶ “Guidance on EIA – Scoping”, prepared by Environmental Resources Management (ERM) under a research contract with the Directorate General for Environment of the European Commission, June 2001. Copies of the guidance documents can be requested from Directorate General Environment of the European Commission at <http://europa.eu.int/comm/environment/eia/eia-support.htm>

- 5. The Romanian public and that of the potentially affected Parties is notified that they may send comments and suggestions within a two week interval.**

None of the above has been applied in the Rosia Montana EIA.

The absence of public participation and consultations for the Rosia Montana EIA scoping stage therefore violates Art. 6, pct. 3, 4, 6, 7 and 8 of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters; ratified by Romania with Law 86/2000.

The absence of public consultation and participation for the Rosia Montana EIA scoping stage also violates Article 1 and 3 of Directive 2003/35/EC.

Given the above, we request MMGA to reinitiate the Rosia Montana EIA scoping stage; this time creating all the necessary conditions for the public to be adequately consulted.

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