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ARMENIA

Amulsar: Human Rights Violations and Environmental Negligence in the Search for Gold

Executive summary

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Around the world, the development of extractive projects has been described both as a blessing and as a curse. On one hand, mining is regularly lauded as an important driver of economic development.¹ On the other, it has been shown that the economic benefits of mining often fail to reach the directly impacted local communities,² who instead suffer rising inequality,³ environmental pollution, health risks, pressure on public services and infrastructure, and depleted economic potential for long-term sustainable development.⁴ What's more, the extraction of high-value natural resources has often been a factor in triggering, escalating or sustaining conflicts around the world.⁵

Although Armenia is rich in mineral resources, the image of the mining sector in the country has also been tarnished by a decade-long history of non-transparent governance of natural resources and a legacy of environmental pollution and unmitigated health risks. This is discussed in chapter 2, where the report describes the context of Armenia, and in chapter 3 where the challenges of developing the mining sector in the country are examined.

Chapter 4 presents the Amulsar gold mine project, its owner Lydian International Limited, and its promoters and financiers, which include two multilateral development banks (MDBs) – the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC) – as well as the environmental, social, economic, human rights and corruption risks related to the project.

1. ICMM, 2020, *Role of Mining in National Economies Mining Contribution Index* (5th edition), International Council on Mining and Metals, URL (last accessed on 16 June 2022): <https://www.icmm.com/en-gb/research/social-performance/2020/role-of-mining-in-national-economies>

2. Söderholm, P., Svahn, N., 2015, *Mining, regional development and benefit-sharing in developed countries*, Resources Policy, Vol. 45, pp. 78-91, URL (last accessed on 28 January 2022): https://econpapers.repec.org/article/eeejrpoli/v_3a45_3ay_3a2015_3ai_3ac_3ap_3a78-91.htm

3. Carvalho, F., 2017, *Mining industry and sustainable development: time for change*, Food and Energy Security, Vol. 6/2, pp. 61-77, URL (last accessed on 28 January 2022): <https://onlinelibrary.wiley.com/doi/full/10.1002/fes3.109>

4. OECD, 2019, *Enhancing Wellbeing in Mining Regions: Key Issues and Lessons For Developing Indicators*, URL (last accessed on 28 January 2022): https://www.oecd.org/cfe/regionaldevelopment/Wellbeing_MiningRegions_3rdOECDMeeting_PreConference.pdf

5. United Nations Interagency Framework Team for Preventive Action, 2012, *Extractive Industries and Conflict. Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflict*, URL (last accessed on 28 January 2022): https://www.un.org/en/land-natural-resources-conflict/pdfs/GN_Extractive.pdf

At the start of 2022, the Armenian government showed willingness to green-light the restart of the Amulsar project, a consequence of serious pressures both for economic reasons and from investors. Nonetheless, to date, the project remains blocked and embroiled in numerous court proceedings.

Chapter 5 presents the legal and accountability frameworks for analysing allegations of environmental impacts and human rights violations related to Amulsar, as well as evidence that confirms those allegations. It recalls that the Armenian state has an obligation to respect, protect and fulfil human rights and to ensure that they are enjoyed to the fullest extent by people in Armenia, while Lydian must respect human rights and avoid violations through robust assessment and management of impacts. The investors in the project have an obligation to conduct proper project appraisals and human rights due diligence to ensure that states and businesses develop projects in line with the above obligations under national and international law.

The report concludes that there is abundant evidence of serious violations of a wide range of rights in the development of the Amulsar gold mine, from substantive and procedural environmental rights to social, economic and political rights of affected individuals and communities. Moreover, there are examples of significant barriers to justice and remedy for rights holders, who have sought redress through judicial and non-judicial mechanisms without success thus far.

There is strong evidence that the Armenian state has on numerous occasions breached its obligations under international law to protect and uphold the human rights to health and to a healthy environment, to peaceful assembly, freedom of speech, information, participation in decision-making, and access to justice. Although the majority of these human rights violations were committed by the state before the Velvet Revolution of 2018, unfortunately, the new government of Prime Minister Nikol Pashinyan has not taken decisive steps to protect environmental and human rights defenders and the rights of people in local communities, nor to redress past violations.

In this regard, reports from UN Special Rapporteurs on human rights and the Aarhus Convention Compliance Committee have called on the Armenian State to ensure meaningful consultations on the Amulsar project. In addition, the UN Human Rights Committee's report on Armenia from 2020 makes recommendations to Armenia with regard to civil and political rights and anti-corruption measures, and requests that the state 'provide detailed information on allegations of corruption concerning the Amulsar gold mine'.

Lydian and investors in the Amulsar project, like the EBRD and the IFC, have obligations to respect human rights in accordance with the UN Guiding Principles on Human Rights and their own policies. These obligations have not been respected. Lydian has actively denied the rights of Armenians to participate in decision-making, to speak freely and to protest peacefully against the Amulsar project. It has initiated unprecedented legal action in Armenia against its critics from local communities, civil society and the media, aimed at silencing their voices and draining resources to protect their rights.

The EBRD has claimed that its investment in the development of the Amulsar mine was earmarked for environmental and social measures. These measures have failed, as the Bank disregarded grievances from Armenian experts and affected people. In 2014, the Bank's Project Complaint Mechanism (PCM) considered two complaints by local people and environmental groups on the Amulsar project to be ineligible. In 2020, the Bank's reformed complaint mechanism – newly named the Independent Project Accountability Mechanism (IPAM) – started a compliance investigation, which is ongoing.

As Lydian International was dissolved in 2021, the Bank lost its shares in the project, without acknowledging any responsibility for the project's impacts and its lack of due diligence – a glaring

example of a 'non-responsible exit'. Despite claiming a key role in preventing harm to people and nature, the development bank refused to provide a remedy for harm in due time, which constitutes a serious breach of the UN Guiding Principles on Business and Human Rights (UNGPs) and its own policies.

As a result, the Armenian authorities, Lydian and international investors in the Amulsar project are yet to resolve the existing conflicts, provide a remedy, or ensure transparent and participatory decision-making on the Amulsar project. To that end, this report makes recommendations to the Armenian government, the EBRD and IFC, and Lydian Armenia, namely:

1. Armenia needs to uphold the rights of local communities and environmental and human rights defenders, in line with its obligations under international human rights law.

To that end, **Armenia should:**

- revoke all existing permits for the Amulsar gold mine project;
- take immediate steps to address the recommendations published by UN human rights bodies and special procedures, the Compliance Committee of the UNECE Aarhus Convention on environmental governance and the Bureau of the Standing Committee to the Bern Convention on protection of biodiversity;
- initiate an independent expert assessment of the costs and benefits of the Amulsar gold mine, thoroughly taking into consideration economic, social, health and environmental factors, then take this assessment into account to ensure that negative impacts are duly identified and prevented and that local populations and communities may directly benefit from the project if it is finally pursued;
- overhaul its environmental and mining legislation to ensure democratic and prudent governance of the mining sector and adopt regulations and enhance institutional capacity to properly assess the social and health impacts of mining;
- reinforce institutional capacity to implement and monitor the respect for legislation, improve access to information and participation, clarify methodologies for decision makers to conduct cost-benefit assessments, simplify the procedure for conducting cumulative impact assessments and implement robust anti-corruption policies and processes relating to mining;
- protect environmental and human rights defenders, specifically from strategic litigation against public participation lawsuits (SLAPPs) and retaliation from Lydian or other actors. Effective legislation against SLAPPs must contain three main elements: (1) procedural safeguards against SLAPPs, (2) measures to deter against and raise awareness of SLAPPs and (3) protective and supportive measures for SLAPP targets. The most important procedural safeguard to include is the possibility for judges to dismiss SLAPPs in the early stages of proceedings for cases that are manifestly ill-founded and aimed at preventing the defendant from exercising their right to public participation, using a broad definition of what constitutes public participation. Protective and supportive measures for SLAPP targets should include financial assistance to cover legal fees, as well as access to support services against the risk of emotional or psychological harm, and protection from further intimidation and retaliation.
- improve the impact of the Extractive Industries Transparency Initiative (EITI) process at the community level by promoting the participation of local communities in the governance of natural resources;
- ensure proper remedy for the negative impacts caused by the mine to local communities, human rights defenders and the environment throughout the previous phases of the project;
- conduct an independent and transparent investigation into the corruption surrounding the land acquisition in Gndevaz.

2. The EBRD and the IFC should:

- support the Armenian government in implementing the above steps and
- update their environmental and human rights due diligence approach in view of the anticipated findings and recommendations of the banks' accountability mechanisms;
- develop human rights and environmental due diligence policies in order to better comply with the UN's guiding principles;
- acknowledge and address the existing gaps and barriers to participation and effective redress for project-affected persons and human rights defenders in their approach to disclosing information, and involve communities and stakeholders in informed and meaningful consultation;
- develop concrete policies and guidelines on human rights due diligence to ensure, prior to project risk categorisation, a thorough bank-led or bank-commissioned analysis of human rights risks; make its methodology and conclusions publicly accessible for each project; ensure proper assessment of the impacts via human rights impact assessments (HRIA) or other contextual analyses, if risks are identified; make these additional assessments public;
- provide meaningful public participation – which is timely, a two-way process, transparent, accessible and safe – to all rights-holders; ensure that proper procedures are in place and implement regular capacity building and evaluations of procedures to ensure they allow for safe and meaningful public participation. The banks should also develop more concrete guidance reflecting a zero-tolerance policy on reprisals.
- along with Lydian, provide remedy for the negative impacts caused by the Amulsar project to local communities, human rights defenders and the environment throughout the previous phases of the project.

3. Lydian Armenia should:

- drop all legal actions against environmental and human rights defenders and avoid stigmatisation through antagonistic rhetoric or by spreading misinformation to discredit the activities of defenders;
- take immediate steps to ensure it respects all human rights and the environment, and abide by the UN Guiding Principles on Business and Human Rights;
- immediately provide remedy for the negative impacts it caused to local communities, human rights defenders and the environment throughout the previous phases of the project.



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