



11.2.2011

NOTICE TO MEMBERS

Subject: Petition 0622/2010 by A.I.C. (Romanian), on behalf of AD Astra, an association of Romanian scientists, on alleged infringement of Community legislation in connection with the Roşia Montană gold mine project (Romania)

1. Summary of petition

The petitioner is seeking a European Parliament inquiry into the legality of the Roşia Montană gold mine project, maintaining that it infringes a number of European directives, including Directive 2006/21/EC, which requires cyanide concentrations in tailings ponds to be reduced, Directive 80/68/EC on the protection of groundwater, Directive 2006/60/EC establishing a framework for Community action in the field of water policy and Directive 2008/50 on ambient air quality. The petitioner takes the view that the various reports which have been drawn up are either incomplete or unclear regarding potential hazards and measures to be taken in case of accidents. He also considers the amount of the negotiated regeneration guarantee in case of accidents is insufficient given the size of the future gold mine. He also points to the cross-border impact of the project and the fact that the European Union would have a central role to play should an accident occur and should therefore monitor compliance with existing standards.

2. Admissibility

Declared admissible on 7 October 2010. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 11 February 2011.

The Commission is not competent to assess the appropriateness of this project, notably from the socio-economic, historical and cultural points of view. The final decision remains fully in

the hands of the competent Romanian authorities. Comments on the appropriateness, viability or feasibility of this project with respect to these points would be out of place.

Directive 2006/21/EC on the management of waste from extractive industry¹ applies to this project. This directive was adopted after the Baia Mare accident on the basis of the recommendations made by an International Commission which has analysed in depth the causes of this accident. Most of the recommendations of this Commission were included in the directive which, as a result, comprises precise and strict requirements ensuring an appropriate safety level of mining waste facilities, including dams.

The Commission is well aware of the toxicity and the health impacts of cyanide. This is why very stringent limit values for cyanide storage, which are, to the best knowledge of the Commission, the most stringent worldwide, have been included in Directive 2006/21/EC. Any new project using cyanide technology has to be designed to meet the requirements of the directive, including the cyanide limit values. The choice of the technology to be used in gold mining remains the responsibility of the operator as long as he demonstrates to the competent authorities that the limit values will be respected. Additional information will be requested from the Romanian authorities on this aspect.

Article 12 of the directive introduces an obligation for the rehabilitation of the site after its closure. A compulsory financial guarantee has to be fixed by the competent authority to cover the obligations of the permit including after-closure provisions. Additional possible financial guarantees can be required by the competent authority under the Environmental Liability Directive, 2004/35/EC,² to cover the consequences of a possible accident – for which in any case the operator remains responsible.

According to the information provided in the petition, the financial guarantee has been fixed at €150 million, which might be sufficient to cover the strict minimum requirements of the directive. Nevertheless, the Commission will ask the Romanian authorities for more details about the calculation carried out in order to fix the guarantee.

According to Articles 4, 12 and 13 of Directive 2006/21/EC, measures have to be taken during operation and after closure to prevent possible water deterioration in accordance with Directive 2000/60/EC, Water Framework Directive, WFD³.

The WFD and Directives 80/68/EEC⁴ and 2006/118/EC (Groundwater Directives) require Member States to ensure the prevention of the deterioration of the status of surface and ground waters, preventing and limiting inputs of pollutants into groundwater and protecting, enhancing and restoring all water bodies. In order to ensure the above-mentioned obligations, Member States had to establish River Basin Management Plans by the end of 2009. Romania has not officially approved its plan yet. The Commission, therefore, sent a reasoned opinion to Romania in November 2010 and urged it to comply with EU water legislation and to submit its plans for managing river basins.

¹ OJ L 102, 11.4.2006, p. 15

² OJ L 143, 30.4.2004, p. 56-75

³ OJ L 327, 22.12.2000, p. 1-73

⁴ OJ L 20, 26.1.1980, p.43-48

The Commission understands that the opening of mining activities has an impact on wildlife. This should have been assessed in the impact assessment prepared in the context of this project. The Commission will ask the Romanian authorities for more details on the measures foreseen to protect wildlife in this zone during both the operational and post-closure phases.

The Commission will ask the Romanian authorities for more details on the measures foreseen to avoid the deterioration of air quality after the closure of the mine.

Conclusion

The Commission is aware of the potential risks associated with gold mining and the use of cyanide. The comprehensive application of existing legislation should ensure that all precautions are taken in order to limit the impact on the environment and on public health of this kind of activity.

Since, in this case, mining operations have not yet started, no possible breaches of the directive can be identified at this point in time. Nevertheless, additional information will be requested from the Romanian authorities on several points raised in the petition in order to verify how EU legislation will be respected if the project enters into an operational phase.