

**73. After Chapter II, a new chapter is introduced, Chapter III<sup>1</sup> with the following summary:**

„Chapter III<sup>1</sup>. Transparency in the exploitation of natural resources.”

Art. 37<sup>1</sup> Any management, exploitation, licensing or authorization activity for prospecting/probing/ concession with the purpose of exploiting the state’s natural resources by competent public institutions towards entities and, respectively, any prospecting or exploitation of national natural resource conducted by the respective entities is done by respecting the principle of transparency, responsibility, sustainability, fair competition, integrity:

Art. 37<sup>2</sup> The principle of transparency:

- a) Offering licenses for prospecting/probing/exploiting and establishing contracts between the Romanian state and representatives from the extractive industry must be conducted in conditions of effective decisional transparency, enabling the participation of citizens and legally constituted industry organizations in the decision making process.
- b) The public must have unlimited access to all information connected to the process of licensing for prospecting/probing/exploiting and by the means through which these projects are implemented (with the exception of industrial patents and of personal data information which are protected by law) irrespective of the fact that their owner is a public or private entity.
- c) The status of all sums of money which are paid legitimately during the process of licensing for probing/exploiting/prospecting, as well as all sums of money used to obtain related permits or of contracts with the state must be made available to the public.
- d) Mining companies must consult, regularly, with the citizens and any other interested party and to take into account the requests, observations made or solutions offered by them in order to conduct an ethical activity and in order to raise public trust.
- e) It is forbidden to develop and insert any confidentiality clauses in the contracts signed between the state and the extracting industry representatives which may lead to misinforming the public.
- f) Competent authorities have the obligation to publish all information connected to the contracts through which the state concedes natural resources in view of their exploitation (except industrial patents, which are confidential), including the acquisition documentation, the short list of qualified companies, received offers (winning and also-ran) and the terms of the contract (including the identity of the beneficiaries), excepting the

possible information which are protected by laws concerning classified information.

- g) Competent authorities elaborate and publish a national register comprised of the licences and concessions in the extractive domain, including in electronic form, granting citizens access to all the public interest information regarding the exploitation sites (size, positioning, characteristics etc.) and the companies who perform the extractions. The specifications of this register can be found in the methodological norms.
- h) Competent authorities elaborate and publish on their web site biannual reports concerning all the income collected to the state budget or local budgets from natural resource exploitation activities (taxes, royalties, payments in kind).
- j) The competent Ministry has the obligation to publish a set of clear, objective and quantifiable criteria that a natural resource exploitation project has to meet in order to be considered of particular public interest and to benefit from the implications of this classification.
- k) The criteria is published on the web page of the competent Ministry, of the competent authorities and the of the project concessionaire.
- l) Competent authorities monitor the extent to which the concessionaires continue to fulfil the respective criteria during the entire length of the project and publish the monitoring reports.
- m) In the situation where competent authorities ascertain the deviation of an extractive project declared of particular public interest from the criteria established for obtaining this classification, its particular public interest character is revoked starting with the moment the ascertainment becomes final.
- n) At the moment of the ascertainment by the competent authorities of the failure to comply with the criteria of particular public interest for an extractive project, the concessionaire has the right to formulate, in 30 days' time, a contestation with the competent ministry, which is to be resolved in maximum 45 calendar days.
- o) Following the ascertainment of losing the particular public interest quality of an extractive project, the Romanian state has the right to withdraw the concession right of the company who performs it or to renegotiate the terms of contract.
- p) Every company that exploits natural resources has the obligation to publish biannually, on its web page, the volume and production costs and the payments made to the state for every project developed. The reports are published in the companies' web page at the middle and the end of the fiscal year.

r) Any company involved in a project of exploitation of natural resources of the state is required to publish quarterly on its website a report of corporate governance, social responsibility and environmental protection, including a section on issues and risks identified during the reporting period and how to manage them. The reports will be uploaded on the company website at the middle and end of the fiscal year.

s) Extractive industry companies involved in mining projects of national natural resources are required to develop and disseminate informative materials for the citizens of the area to be exploited.

t) These informative materials include comprehensive explanations on the extraction procedures to be used, on the waste management plan, on the environmental regeneration plan and the reintegration of employees on the labor market at the end of the project, on the risks of the extraction activity and procedures and how those risks are managed.

u) This material is subject to approval by the competent public authorities.

Art. 37<sup>3</sup> The principle of responsibility

a) Releasing licenses for prospecting/exploration/exploitation and contracts between the Romanian state and extractive industry representatives must be done responsibly, taking into account the environmental impact and safety and health in mining areas.

b) Competent authorities have the duty to closely monitor the implementation of the exploitations and to intervene through all legal levers when companies deviate from the approved plans and/or act in an irresponsible manner.

c) Extractive industry companies are required to exploit natural resources using the safest and least harmful to the environment and public health in targeted areas processes and technological means, to take real responsibility for the safe management of waste, for the remediation of environmental damages and for the prompt compensation, in good faith and in compliance with the legal provisions, of all those who suffered from their current activity or exceptional circumstances (accidents, illnesses related to toxic substances used, etc..)

37<sup>4</sup>. The principle of sustainability

a) The competent authorities have the duty to promptly assess license applications/operating contracts, paying particular attention to their long term sustainability and how they contribute to the sustainable development of the concerned regions.

b) Measures for environmental regeneration and the reintegration of mine workers must start being implemented with enough time before the end of the mining projects to ensure the transition until their completion.

c) The exploitation of natural resources should be carried out only under conditions which ensure the protection and conservation of the environmental heritage for future generations, and do not jeopardize the region's sustainable development and the ability of future generations to exploit the remaining resources.

Art. 37<sup>5</sup> The principle of fair competition

a) Any company that wants to exploit the Romania's natural resources should benefit from objective and impartial treatment from the authorities and be given equal opportunities to obtain licenses, permits and contracts for this purpose.

b) Laws aimed at exploiting natural resources must not be modified in order to offer an unfair advantage to certain companies in the extractive industry.

c) Competition on the extractive market must be free, in accordance with the law, attempts by companies to distort this competition not being tolerated.

Art. 37<sup>6</sup> The principle of integrity:

Representatives of public authorities and institutions with decision-making powers are forbidden to use their function or political influence unlawfully in order to provide an advantage or conversely, to disadvantage a company that wants to exploit the Romanian natural resources.

Art. 37<sup>7</sup>

(1) Before assigning permissions/contracts/concessions/licenses to exploit natural resources to an entity, the public authorities must publish and subject to public consultation an assessment on environmental impact and sustainable development in the region.

(2) Media access is unrestricted to the meetings organized by the competent authorities in order to designate the winners of the licenses/contracts to exploit natural resources.

(3) The competent authorities and involved companies publish on their respective websites information regarding structures competent to receive complaints from citizens or their own employees with regards to any potential irregularities or deviation from the approved projects, as well as to any conduct that could affect national interest. Regardless of whether these are employees of a public or private institution, they benefit from the protection established under the provisions of the law no. 571/2004, as long as the object of the complaint refers to the manner in which public resources are being used.

(4) The competent authorities have the obligation to register and investigate these complaints and to solve them in maximum 60 days from registration, publishing on their respective website the result of their investigation and of the suggested measures.

Article 37<sup>8</sup> (1) Every companies that exploit natural resources on the territory of Romania (whether they are with state or private capital) must subject to independent annual audit and publish the auditing report on their respective website.

(2) Every company that receives, in any way, the right to prospect or exploit national natural resources is obliged to sign, alongside the contract, an integrity pact through which it commits to respect the principles enunciated in the present law, under the sanction of contract annulment and/or of payment of damages to the emitting authority.

Art. 37<sup>9</sup> (1) The entities that benefit from licences/contracts for exploiting national natural resources must create sustainable jobs. The sustainability of jobs generated through the exploitation project must be clearly highlighted in the plan for the company's cessation of activity.

(2) Minimum 3 years before finalizing the exploitation project, the employer launches retraining and professional reconversion programmes for extraction workers, beginning with identifying solutions to reintegrate the workers on the job market after finalizing the activity of resource exploitation.

(3) It is prohibited to award licenses/contracts to exploit national natural resources with the aim of developing projects that would transform the extraction areas into monoindustrial regions.

(4) The state, as owner of the natural resources, has the right of pre-emption over production resulted from the exploitation of natural resources.

Art. 37<sup>10</sup> (1) It is prohibited for the competent authorities to award licenses/contracts for the developing of projects of national natural resource exploitation other than within a competitive procedure that is free, fair, objective and transparent, to which more than one bidder participates.

(2) The authorities have the obligation to publish on their own internet page clear criteria based upon which licences/contracts are granted in order to develop natural resources exploitation projects.

(3) Competent authorities are forbidden to award derogations from relevant environmental and mining legislation