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**PUBLIC PARTICIPATION AND ENVIRONMENTAL
IMPACT ASSESSMENT IN ROMANIA:
THE CASE OF ROȘIA MONTANĂ**

A Call for the Institutionalisation of Public Participation

2 Volumes
Volume 2

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PUBLIC PARTICIPATION AND ENVIRONMENTAL IMPACT ASSESSMENT IN ROMANIA: THE CASE OF ROȘIA MONTANĂ

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Abstract: In this thesis I develop a critical theory of public participation and deliberation in post-communist Romania. Primarily, this theory is developed from a critical assessment of two intermediate-level Romanian institutions: the deliberative system that has formed to debate the authorisation of a proposed gold mining project in Roșia Montană, Romania and the legitimacy claims of the series of hybrid forums that were convened as part of that project's Environmental Impact Assessment (EIA). The hybrid forum legitimacy claims were assessed based on a standard of hybrid forum legitimacy developed in this thesis from deliberative democracy theory and practice. Grounded in new institutionalism theory, this thesis describes the historical and contemporary socio-economic conditions that have shaped Romanian public participation and deliberation.



Miners' Statue in Baia de Arieș (Dragomir, 2007)

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CHAPTER 8: INSTITUTIONAL ANALYSIS OF ROMANIAN PUBLIC PARTICIPATION AND DELIBERATION

As was illustrated in the last chapter, even established democracies have institutional features and ideologies that influence and constrain public participation and deliberation.¹ However countries, like Romania, transitioning to democracy face their own particular challenges mobilising legitimate public participation and deliberation – challenges often shaped by their authoritarian history. Coelho, Pozzoni and Montoya have found that a lingering authoritarian culture can weaken civil society, promote resistance to reform from both public and state actors and ultimately compromise the democratic possibilities of society.² Cornwall and Coelho worry that political histories of authoritarian rule, paternalism, patrimonialism, clientelism and oppression may shape today's participatory spaces.³ Similarly under-resourced, corrupt and ineffective states or societies may limit the opportunities, motivation and mobilisation for

¹ For example, opportunities to contribute are often offered too late for public participation to make a difference. Participants do not always have access to the information they need to deliberate competently and sometimes participants are deliberately manipulated. Participants are not always treated fairly; the inequalities that exist in society do not disappear as participants enter the forum door. While many people may be eager to participate in legitimate public deliberations, some people are uncomfortable in micro forum settings; some worry that their participation will make no difference; some have no interest in the forum topic and others are simply not invited. For some, participation can be prohibitively costly. Participants may encounter elitist, technocratic or even hostile state actors who disregard public input because they consider public deliberation and decision-making their domain. Public participation may be dominated by state and commercial actors determined to promote their shared interests. Experiences of ineffective public deliberation can leave participants disillusioned cynical, distrustful and frustrated.

² Coelho, Pozzoni and Montoya, 2005; 175

³ Cornwall and Coelho, 2007; 22

legitimate public participation and deliberation.⁴ These conditions damage relationships among the public and between civil society and state actors and make legitimate public deliberation difficult.⁵

Grounded in Critical Theory and drawing on Historical Institutionalism Theory, in this chapter, I develop a critical theory of public participation and deliberation in post communist Romania. As with any theory based on historical institutionalism, I consider the temporal elements of the political situation – the timing, sequencing, trends and institutional changes over time.⁶ These temporal effects can be employed in causal relationship claims and can help to provide ‘explanations of political change as well as political inertia.’⁷ New institutionalism often places the institution’s structural features at the centre of the analysis and from there explores the political actors, their interests and strategies and the relationships and distribution of power among them.⁸ For new institutionalists, an institution’s structural features can influence, constrain or motivate the behaviour of participants; they can shape the way actors understand their interests and their identities; they can structure relationships of power and they can influence outcomes.⁹

As an informal institution, the structural features of Romania’s institution of public participation and deliberation are predominately shaped by other institutions. The set of Romanian laws and constitution articles that permit and regulate public participation is a formal institution that motivates and constrains

⁴ Cornwall and Coelho, 2007; 22

⁵ Cornwall and Coelho, 2007; 3

⁶ Pierson and Skocpol, 2002; 696, 698; Steinmo, Thelen and Longstreth, 1992; 10, 13

⁷ Pierson and Skocpol, 2002; 699, 701

⁸ Steinmo, Thelen and Longstreth, 1992; 12; Pierson and Skocpol, 2002; 706

⁹ Peters, 2005; 19; Pierson and Skocpol, 2002; 706; March and Olsen, 1999, 99 in Peters, 2005; 29; Steinmo, Thelen and Longstreth, 1992; 2; Chambers, 2002; 103

public participation; these structural features will be described in Chapter 9. The structural features of individual deliberative venues – not formally described in legislation, but put in place by venue conveners – shape participant behaviour, the distribution of power and deliberative outcomes; the structural features of the RMGC hybrid forums will be described in chapters 10-12. The activities of the formal institutions of state – domestic and foreign - and of the economy influence public participation. Romania's authoritarian past certainly shapes public participation and deliberation today. Finally, the public's shared perspectives, norms, cultural routines and – drawing on Critical Theory – their ideologies¹⁰ all define what is institutionally appropriate. In this chapter, I focus on the ways that Romania's past, economic institutions, domestic and foreign state institutions and the norms and ideology of the public all work to shape the behaviour of Romanian participants and deliberators.

In this chapter, I first provide an overview of the historical development of Romanian public participation and deliberation and a description of its contemporary socio-economic environment. I then construct two of the four theories - crisis, ideology, emancipation and education - required for a critical theory.¹¹ The historical and contemporary overviews serve as the basis for this critical theory's *theory of ideology*. This theory of ideology describes Romanian society's ideologies about public participation and deliberation that prevent them from reaching their political goals and the conditions under which these ideologies were formed.¹² After that, I describe this critical theory's *theory of*

¹⁰ In this thesis, consistent with Critical Theories use of the term, ideology represents those attitudes, beliefs and norms that are inconsistent with an actor's true interests and idea of the good life.

¹¹ Fay, 1987; 31-2

¹² Fay, 1987; 31; Ritzer, 2008; 287

crisis. A theory of crisis describes the suffering and frustration experienced by society and the events that led to that crisis.¹³ In this chapter, based on a review of Romanian historical and political literature, I address the third research question:

How does the historical development of Romanian public participation and deliberation and its contemporary socio-economic context shape public participation and deliberation in Romania today?

When the Roşia Montană Gold Corporation (RMGC) Environmental Impact Assessment (EIA) process began in 2004, Romania had only 15 years earlier emerged from the grip of a brutal totalitarian regime that had repressed public expression and destroyed the public's ability to participate in public decision making.¹⁴ Over the course of those 15 years, Romania has made some remarkable progress; the country was accepted into the European Union (EU) on 1 January 2007.¹⁵ Yet, in the face of some challenging circumstances, Romania's institution of public participation and deliberation remains weak.¹⁶

HISTORICAL DEVELOPMENT

Since its revolution in December 1989, Romanian political, economic and social reforms have lagged well behind the other Central and Eastern European (CEE) countries, which are also transitioning from communism to democracy and capitalism.¹⁷ All of the CEE states have had to face the task of replacing one-

¹³ Fay, 1987; 32

¹⁴ Gallagher, 2005; 3; Siani-Davies, 2001; 17; Georgescu, 1991; 263; Calinescu and Tismăneanu, 1991; 288; Dryzek, 2000; 104

¹⁵ Gallagher, 2009; 3; Bilefsky, D (2007) 'Romania and Bulgaria Celebrate Entry into European Union' 2 January 2007 NY Times.

¹⁶ Gallagher, 2005; 69; Stringer, Scriciu and Reed, 2009; 79

¹⁷ Phinnemore and Light, 2001; 1, Shafir, 2001; 88; Deletant, 2001; 40

party political systems with pluralist liberal democracies.¹⁸ They have had to adopt Western norms and values regarding human and minority rights.¹⁹ They have had to reorganize their political structures in order to participate in European and Euro-Atlantic programmes.²⁰ And they have had to switch from centrally planned to market economies.²¹ Even so, Romania's progress has been hesitant and sluggish when compared to the other CEE countries.²² Much of Romania's disappointing progress can be blamed on the lingering effects of Romania's communist era.²³ 'The irrational and totalitarian characteristics of the communist regime badly damaged Romania and left it ill-prepared to confront the challenges of democracy.'²⁴

A sense of citizenship has never been strong in Romania.²⁵ Romania was essentially governed by external forces until 1866 – when it became a constitutional monarchy with legislative power exercised by Parliament.²⁶ After a brief period of liberal, but not necessarily democratic, governance (1866 – 1938)²⁷, Romania was ruled by two authoritarian regimes (1938 - 1945)²⁸, followed by the totalitarian regimes of Gheorghiu-Dej and Ceaușescu (1945 – 1989).²⁹ Romania's relative isolation from the west - with the exception of Transylvania and its historic ties to Europe – means that the country has only a

¹⁸ Phinnemore and Light, 2001; 1

¹⁹ Phinnemore and Light, 2001; 1

²⁰ Phinnemore and Light, 2001; 1

²¹ Phinnemore and Light, 2001; 5

²² Deletant, 2001; 40; Light, 2001; 70

²³ Gallagher, 2005; 107; Bulei, 2005; 173; Stringer, Scricciu and Reed, 2009; 79

²⁴ Gallagher, 2005; 107; Phinnemore and Light, 2001; 6

²⁵ Gallagher, 2005; 10

²⁶ Georgescu, 1991; 150; Gallagher, 2005; 22

²⁷ Georgescu, 1991; 150

²⁸ Gallagher, 2005; 36-38; Calinescu and Tismăneanu, 1991; 296

²⁹ Gallagher, 2005; 51; Georgescu, 1991; 226; Calinescu and Tismăneanu, 1991; 296

narrow view of Western democratic models.³⁰ This means that the Romanian public and its public administrators have very little historic experience and understanding in democratic institutions and practices.³¹ The Romanian public have long been accustomed to being treated as submissive subjects rather than active citizens.³²

In *The Structural Transformation of the Public Sphere*, Habermas argues that the public sphere develops when the relationship between the state and the public shifts as a result of industrial revolution and the rise of capitalism.³³ As the role of the state expands, the bourgeois become more interested in its activities and a sphere of criticism of the state – the public sphere – develops.³⁴ However, according to Berov, based on per capita industrial output:

*Not a single Balkan country [including Romania] had managed to reach the economic stage of an advanced industrial country by the Second World War. This indicates that an industrial revolution had not been accomplished.*³⁵

Romania did not achieve industrial revolution before the Second World War. Romania did not experience the same mass exodus from the land to the city that was experienced in the more advanced capitalist countries.³⁶ Romanian domestic capital was not sufficient to support industrial development.³⁷ By the Second World War, Romanian demographics continued to be dominated by the peasant class. If Habermas is right, a public sphere could not have developed

³⁰ Gallagher, 2005; 68

³¹ Gallagher, 2005; 68; Calinescu and Tismăneanu, 1991; 296; Phinnemore and Light, 2001; 7

³² Gallagher, 2005; 8

³³ Outhwaite, 2009; 8; Dryzek, 1990; 38; Dryzek, 2000; 22

³⁴ Outhwaite, 2009; 8

³⁵ Berov, 1996; 316

³⁶ Berov, 1996; 317

³⁷ Berov, 1996; 317

in the largely agrarian Romania before WWII.³⁸ Industrial development did accelerate after the war, but only through the top-down efforts of a command economy administered by a totalitarian state - not by the bourgeois. And the totalitarian government worked to suppress any sort of public criticism of the state.³⁹ It was not until 1989, after the overthrow of the Ceaușescu, that it would have been possible for a public sphere to have developed in Romania; and it would have had to have been developed in a way other than by industrial revolution.



Photo 9: Long Live the Romanian Communist Party (Dragomir, 2007)

After World War II, domestic state policy certainly influenced Romania's institution of public participation and deliberation. The Romanian Communist Party (PCR) dominated Romanian society from 1945, when Romania

was occupied by the Soviet Union (1945-1958), to 1989, when communist rule fell to revolution.⁴⁰ The Romanian people lived under an extreme form of Stalinism for more than forty years.⁴¹ The Communist regime – initially with the support of the occupying Soviet troops⁴² - used an effective combination of executions, centrally controlled regulations, forced emigration, prison sentences, beatings and the careful distribution of privileges in order to

³⁸ Habermas, 1989; 51; Outhwaite, 2009; 8; Dryzek, 1990; 38; Dryzek, 2000; 22

³⁹ Georgescu, 1991; 236; Gallagher, 2005; 55

⁴⁰ Gallagher, 2005; 53; Georgescu, 1991; 226; Gheorghe Gheorghiu-Dej became PCR's General-Secretary in 1945 and, with the exception of a few months in 1954/55, he held that position until his death in 1965. (Gallagher, 2005; 56; Georgescu, 1991; 247) Nicolae Ceaușescu became the first secretary of the PCR at Gheorghiu-Dej's death. (Georgescu, 1991; 249) After consolidating his power Ceaușescu became Romania's first President in 1973, until his regime fell to revolution in December 1989. (Georgescu, 1991; 256; Calinescu and Tismăneanu, 1991; 280; Gallagher, 2005; 71)

⁴¹ Gallagher, 2005; 64; Shafir, 2001; 85; Swain and Vincze, 2001; 188; Georgescu, 1991; 236; Calinescu and Tismăneanu, 1991; 292

⁴² Georgescu, 1991; 237; Gallagher, 2005; 48; Calinescu and Tismăneanu, 1991; 286

suppress public opposition.⁴³ Gheorghiu-Dej relied on waves of executions, arrests and party purges for those who may have threatened his authority.⁴⁴ Detention camps and prisons were established and filled with politicians, scientists, professors and artists who opposed the regime.⁴⁵ Many of those sent to forced labour camps or prisons died there.⁴⁶ Ceaușescu's neo-Stalinism may have been less brutal, but perhaps more insidious.⁴⁷ Generalized terror was replaced by selective repression carried out by the ever present Securitate.⁴⁸ Retribution was extended to family members of dissidents.⁴⁹ Families, friends and colleagues were encouraged to monitor each other.⁵⁰ Privileges and intimidation were bestowed carefully in order to encourage people to comply with the government policies or to police each other on behalf of the administration.⁵¹ Except for the PCR, all political or civic organisations were eliminated during Romania's 44-year communist regime.⁵² All public association and gatherings were subsumed by the state and democratic processes were abolished or corrupted.⁵³ The public was forced to participate in public demonstrations of support and simulated joy while living in

⁴³ Georgescu, 1991; 236; Gallagher, 2005; 55

⁴⁴ Georgescu, 1991; 236-237; Gallagher, 2005; 54

⁴⁵ Georgescu, 1991; 236, 240 According to Georgescu it is impossible to estimate the number of arrests during Gheorghiu-Dej's rule, but at a minimum 'it must have been at least several hundred thousand.' (Georgescu, 1991; 237) Gallagher estimates the figure at 180,000 people in the early 1950s. (Gallagher, 2005; 47)

⁴⁶ Georgescu, 1991; 237

⁴⁷ Georgescu, 1991; 256

⁴⁸ Georgescu, 1991; 256; Calinescu and Tismăneanu, 1991; 288

⁴⁹ Gallagher, 2005; 69

⁵⁰ Gallagher, 2005; 65

⁵¹ Gallagher, 2005; 65

⁵² Shafir, 2001; 85; Calinescu and Tismăneanu, 1991; 288

⁵³ Calinescu and Tismăneanu, 1991; 288; Gallagher, 2005; 8

impoverished and despondent conditions.⁵⁴ Romania's Stalinist form of totalitarian communism terrorised the population and 'flattened civil society'.⁵⁵

By the early 50s, Romanians lived under strict centrally planned totalitarian controls that impacted their daily life.⁵⁶ Residents were not allowed to move home without government permission.⁵⁷ A militia controlled movement between towns.⁵⁸ Laws made it almost impossible to change employment.⁵⁹ Censorship had been instituted by as early as 1944 and by 1948 10,000 books and journals had been banned.⁶⁰ Doctors were made to perform gynaecological examinations on female workers to encourage pregnancy.⁶¹ It became a criminal offence for Romanians to speak with a foreigner without reporting the conversation to the authorities.⁶² Television programming was limited to two hours per workday.⁶³ Romanian officials went as far as to document guidelines on the appropriate amount of vegetables and soap for each citizen.⁶⁴

Ceaușescu's policy of *systematisation* in the 1980s divided the residents of rural villages and re-settled them among strangers in urban high rises.⁶⁵ As part of his plan to industrialise Romanian's economy, Ceaușescu intended to destroy thousands of rural villages and relocate the residents to work in the factories in

⁵⁴ Calinescu and Tismăneanu, 1991; 288; Georgescu, 1991; 262

⁵⁵ Gallagher, 2005; 3, 7, 9; Calinescu and Tismăneanu, 1991; 288-9; Georgescu, 1991; 237, 277; Shafir, 2001; 85

⁵⁶ Phinnemore and Light, 2001; 6; Gallagher, 2001; 104

⁵⁷ Gallagher, 2005; 47

⁵⁸ Gallagher, 2005; 47

⁵⁹ Georgescu, 1991; 261

⁶⁰ Georgescu, 1991; 240

⁶¹ Gallagher, 2005; 63

⁶² Georgescu, 1991; 274

⁶³ Georgescu, 1991; 274

⁶⁴ Georgescu, 1991; 260

⁶⁵ Gallagher, 2005; 64; Bulei, 2005; 167

towns and cities.⁶⁶ Ceaușescu meant to transform Romania's peasant population into an urban working class.⁶⁷ Hungarian communities were demolished and replaced with high-rise flats.⁶⁸ Romanians were moved into Hungarian neighbourhoods and Hungarian graduates were placed in jobs far from their own ethnic communities.⁶⁹ This process helped to suppress Romanian society by improving the material life of former peasants and by splitting up communities – especially Hungarian ones.⁷⁰ The dispersal of minorities meant that they could not join forces to protect their common interests.⁷¹ Ceaușescu's policy of systematisation furthered created dependency on the state by creating an urban proletariat out of the largely independent and self-sustaining peasantry.⁷²

Small sporadic attempts by groups - with too few members - and by courageous individuals emphasise the degree to which the regime managed to violently eliminate opposition from society.⁷³ Initially, Romanians protested against the introduction of the Communist order, collectivisation and Russian domination.⁷⁴ For 10 years after the war, peasants launched periodic attacks in their fight against the collectivisation of private farms.⁷⁵ 'Some 80,000 peasants were

⁶⁶ Gallagher, 2005; 64

⁶⁷ Gallagher, 2005; 65

⁶⁸ Gallagher, 2005; 62

⁶⁹ Gallagher, 2005; 62

⁷⁰ Georgescu, 1991; 253; Gallagher, 2005; 62, 68

⁷¹ Gallagher, 2005; 62

⁷² Gallagher, 2005; 65

⁷³ Gallagher, 2005; 62; Georgescu, 1991; 264; Calinescu and Tismăneanu, 1991; 288

⁷⁴ In Romania armed resistance continued much longer than it did in other Soviet Bloc countries. (Gallagher, 2005; 67) Soon after the Soviets occupied Romania in 1945, hundreds of Romanians were wounded and eleven killed during clashes between communist and anticommunist demonstrators. (Bulei, 2005; 153; Georgescu, 1991; 229)

⁷⁵ By as late as 1956, peasants in the Apuseni Mountains (the region where the Roșia Montană commune is located) fought against the regime. (Bulei, 2005; 159; Georgescu, 1991; 237) National resistance movements like the Black Coats (Sumanele Negre) and the Voice of Blood (Graiul Sângelui) participated in armed revolt. (Bulei, 2005; 159; Georgescu, 1991; 236)

imprisoned for their opposition.⁷⁶ In the 1970s, isolated attempts at reform may have been fuelled by Romania's participation in the Helsinki Accords.⁷⁷ However, Ceaușescu's extreme policy of repression along with Romanian society's inability to unite itself into an effective opposition meant that even these challenges were eradicated by the early 1980s.⁷⁸ It wasn't until the late 1980s that Romanian society began to assert itself against the Ceaușescu regime.⁷⁹ Still, these protests were disorganised, sporadic, lacked follow-up and made no real impact on PCR policy.⁸⁰ During this time, Ceaușescu managed to contain any form of liberalization by isolating the Romanian public,

⁷⁶ Gallagher, 2005; 48; Georgescu, 1991; 235

⁷⁷ Georgescu, 1991; 263; Gallagher, 2005; 62; During that time Hungarian intellectuals in Transylvania formed a dissident movement to defend Hungarian and minority rights. (Gallagher, 2005; 62; Georgescu, 1991; 278) In 1977, as many as 35,000 Jiu Valley coal miners went on strike. (Georgescu, 1991; 276; Gallagher, 2005; 62; Calinescu and Tismăneanu, 1991; 288) That same year the novelist, Paul Goma, published open letters and manifestos calling for free elections, freedom of the press, free labour unions and political pluralism as well as to criticise Ceaușescu's cult of the personality. (Georgescu, 1991; 264) In the later part of the 1970s religious groups began to demand human and religious rights. (Georgescu, 1991; 276) In March 1979 about 2,000 people in regions of Wallachia and Transylvania formed the Free Union of the Working People of Romania - calling for freedom of assembly and workers rights. (Georgescu, 1991; 264) These attempts at public participation lasted no more than a few weeks before the Securitate arrested the leaders and crushed the opposition. (Gallagher, 2005; 62; Georgescu, 1991; 264)

⁷⁸ Georgescu, 1991; 277; Gallagher, 2005; 62; Bulei, 2005; 170

⁷⁹ In 1986 members of the Securitate began criticising Ceaușescu's economic policy. (Gallagher, 2005; 71) The late 1980s also saw a return of the political parties that had been banned in 1947. (Georgescu, 1991; 277) Party leaders began recruiting young people and workers and established human rights associations that demanded respect for the constitution and political and economic reforms. (Georgescu, 1991; 277) During this period, ethnic minority leaders began to criticise Ceaușescu's policies of systematisation; in response some minority leaders were given prison terms and 'others died under suspicious circumstances.' (Georgescu, 1991; 278) While, many writers and intellectuals conformed to party orders and even participated in Ceaușescu's cult of the personality, some individual academics produced manifestos against the Ceaușescu regime. (Gallagher, 2005; 49) These individuals were often fired from their university positions and beaten and arrested by the Securitate. (Georgescu, 1991; 241) In 1987 strikes and demonstrations took place in major cities around the country – Brașov, Iași, Timișoara, Cluj and Bucharest. (Georgescu, 1991; 278; Gallagher, 2005; 62) In Brașov 'thousands of workers' – mainly from the local tractor plant - staged a hunger march and ransacked PCR headquarters.' (Georgescu, 1991; 278; Gallagher, 2005; 62) The riot was broken up by the Securitate and military and participants faced severe prison sentences or simply disappeared. (Georgescu, 1991; 278) Also in 1987, students and workers in Iași and Timișoara managed to unite and stage small protests. (Georgescu, 1991; 278) In March 1989 - leading up to the revolution in December - six veterans of the PCR, including 3 members of the central committee - addressed an open letter to Ceaușescu. (Gallagher, 2005; 66) The letter, made public by the BBC, complained about the incompetent governance of the Ceaușescu regime which they claimed had led to unbearable living conditions for Romanians. (Gallagher, 2005; 67) All signatories were immediately placed under house arrest. (Gallagher, 2005; 67)

⁸⁰ Gallagher, 2005; 62; Georgescu, 1991; 278

especially students, from the public dissent emerging in other communist states and to use the state media to manipulate the public and ensure their submission.⁸¹

Historically, economic policy has resulted in tragic living conditions for ordinary Romanians. These conditions ultimately worked to exclude the public from public participation and deliberation. Following a strict Stalinist economic model during the communist era, private ownership was curtailed⁸², planning was centralised⁸³ and the country focused its economy on heavy industry⁸⁴. Gheorghiu-Dej, Ceaușescu and the party elite – many with peasant backgrounds – were fixated on the idea of a modern, industrialized Romania, which it hoped would create a large industrial proletariat that would consolidate its influence.⁸⁵ Almost immediately the PCR began to eliminate private ownership; industry, mining, banks, transportation, health institutions, film companies, small shops and even taxis and restaurants were all nationalised.⁸⁶ National commissions were created to allocate raw materials and develop productions plans.⁸⁷ Economic activity was concentrated on industry - steel, machinery and petrochemical and oil refining - despite Romania's low supply of

⁸¹ Georgescu, 1991; 240, 274; Calinescu and Tismăneanu, 1991; 287; Gallagher, 2005; 89; The state worked to sever ties between the Romanian intelligentsia and the rest of the world – causing cultural and technological decline. (Georgescu, 1991; 240) Dissident intellectuals were often forced into internal or foreign exile – limiting their ability to influence the public. (Calinescu and Tismăneanu, 1991; 288) Many rural Romanians are isolated within Romania. Transportation and communication to some of the more remote villages and towns is often difficult. (Gallagher, 2005; 89) State media, especially television, was used to manipulate the public – especially those in rural communities where residents tend to have less formal education. (Gallagher, 2005; 89)

⁸² Georgescu, 1991; 233; Gallagher, 2005; 7

⁸³ Georgescu, 1991; 255; Gallagher, 2005; 74

⁸⁴ Gallagher, 2005; 7; Turnock, 2001; 150; Ianoș, 2001; 191; Georgescu, 1991; 253; Calinescu and Tismăneanu, 1991; 292

⁸⁵ Gallagher, 2005; 54; Georgescu, 1991; 272

⁸⁶ Georgescu, 1991; 233

⁸⁷ Georgescu, 1991; 232

raw materials and energy.⁸⁸ Without secure domestic or international markets for its goods and an over reliance on expensive imports, Romania was forced to concentrate on quantity rather than quality - producing obsolete and inferior airplanes, helicopters, automobiles, ships and computers.⁸⁹ This meant that for most of the communist period, Romania was forced to sell and sometimes barter often at a loss to unreliable Third World markets.⁹⁰

Agricultural collectivization began in 1949 and wasn't complete until 1962.⁹¹ Initially the public supported PCR measures to break up and redistribute the land on large estates.⁹² However, in addition to collective farming, private peasant plots were reduced, quotas were set and peasants were obligated to sell their produce to the state at below market prices thus removing all ability and incentive to cultivate at more than subsistence levels.⁹³ All available funding and modernisation was directed toward industry, leaving Romania's agriculture sector obsolete.⁹⁴ After 1974, a country rich in agricultural resources began to experience chronic food shortages and rationing.⁹⁵

In 1982, Ceaușescu initiated a plan to pay off, by 1990, the \$10.2 billion in Western debt that had been accumulated to fund his industrialization strategy and poorly conceived construction projects.⁹⁶ He was successful.⁹⁷ However it

⁸⁸ Georgescu, 1991; 253

⁸⁹ Gallagher, 2005; 60; Georgescu, 1991; 268

⁹⁰ Georgescu, 1991; 269; Gallagher, 2005; 60

⁹¹ Georgescu, 1991; 235; Gallagher, 2005; 48

⁹² Georgescu, 1991; 231

⁹³ Georgescu, 1991; 235; Calinescu and Tismăneanu, 1991; 293

⁹⁴ Georgescu, 1991; 253

⁹⁵ Georgescu, 1991; 259

⁹⁶ Gallagher, 2005; 63 Two of these projects included the Danube-Black Sea Canal, which began in 1949 and was not completed until 1987, and Ceaușescu's Palace of Parliament. (Georgescu, 1991; 253; Calinescu and Tismăneanu, 1991; 288) The cost of the Canal (\$2 billion) will take more than 50 years to recover and the still uncompleted Palace of Parliament cost the Romanian people \$4 billion and Bucharest's historic district. (Cutlasses, M (2005)

meant that imports were drastically reduced and exports increased to raise cash.⁹⁸ The country was left with less than enough to provide for the basic needs of the population.⁹⁹

Inefficiencies in production, increased exports in order to reduce Romania's foreign debt and Ceaușescu's insistent emphasis on industrialization destroyed living standards for the Romanians.¹⁰⁰ Romania underwent a fantastic de-modernization process.¹⁰¹ By the mid 70s, Romanians were faced with rising prices, chronic food shortages and rationing.¹⁰² Cuts in heating, fuel and electricity consumption were introduced.¹⁰³ Driving bans enforced.¹⁰⁴ Penalties were imposed on peasants who privately slaughtered animals.¹⁰⁵ People were encouraged to use horses and carts rather than trucks and to use oil rather than electric lamps.¹⁰⁶ The state restricted the use of home appliances and convinced people to rely on manual rather than mechanized labour.¹⁰⁷ Winters – when people were required to live without heat and light - were unbearable.¹⁰⁸ In the 1980s, the public was underfed and overworked with shrinking real incomes.¹⁰⁹ The mismanagement of the country impoverished 'one of the

'Danube-Black Sea will Bring Money In 633 Years' 26 May 2005 HotNews.ro Retrieved 22 February 2012 from <http://www.hotnews.ro/stiri-arhiva-1226595-canalul-dunare-marea-neagra-isi-scoate-banii-633-ani.htm>; Largest Administrative Building World Record retrieved 22 February 2012 from http://www.worldrecordsacademy.org/biggest/largest_administrative_building_world_record_set_by_the_Palace_of_the_Romanian_Parliament_80185.htm)

⁹⁷ Gallagher, 2005; 63

⁹⁸ Gallagher, 2005; 63

⁹⁹ Gallagher, 2005; 63

¹⁰⁰ Georgescu, 1991; 271

¹⁰¹ Georgescu, 1991; 272

¹⁰² Georgescu, 1991; 260

¹⁰³ Georgescu, 1991; 272; Smith, 2001; 131

¹⁰⁴ Georgescu, 1991; 272

¹⁰⁵ Georgescu, 1991; 259

¹⁰⁶ Georgescu, 1991; 272

¹⁰⁷ Georgescu, 1991; 272

¹⁰⁸ Georgescu, 1991; 272

¹⁰⁹ Calinescu and Tismăneanu, 1991; 279; Georgescu, 1991; 271

potentially richest east European countries.¹¹⁰ During the communist era, tragic economic decisions left the Romanian public struggling just to survive.¹¹¹ Poor living conditions proved to be an effective means of suppressing public opposition.¹¹²

The structure of communist era state and political institutions left little room for public participation and deliberation in public decision making. Ceaușescu centralized control of the PCR and the government.¹¹³ For 44 years Romania's administrative structure was based on a Stalinist model which promoted loyalty to the leader, strict ideology, centralised planning, terror regimes and pervasive regulations.¹¹⁴ By the 1980s, Romania's political structure was the most totalitarian of all the Soviet Bloc countries.¹¹⁵ Obedience and unconditional loyalty to the leader even transcended party ideology and state law.¹¹⁶ Individual administrators were primarily selected based on loyalty to Ceaușescu and secondly based on ideology, political activities and social origin.¹¹⁷ Positions, rewards and privileges were issued based on allegiance rather than merit.¹¹⁸ Communist governance continued the Phanariot¹¹⁹ tradition of corrupt and exploitative rule; leaders furthered their own personal interests and redirected national resources for private use.¹²⁰ Those who questioned policy

¹¹⁰ Georgescu, 1991; 267

¹¹¹ Calinescu and Tismăneanu, 1991; 279; Georgescu, 1991; 272; Smith, 2001; 131

¹¹² Calinescu and Tismăneanu, 1991; 293; Gallagher, 2005; 16

¹¹³ Georgescu, 1991; 258

¹¹⁴ Shafir, 2001; 85; Georgescu, 1991; 260; Calinescu and Tismăneanu, 1991; 292

¹¹⁵ Gallagher, 2005; 70

¹¹⁶ Gallagher, 2005; 56; Georgescu, 1991; 262; Calinescu and Tismăneanu, 1991; 288

¹¹⁷ Georgescu, 1991; 247

¹¹⁸ Georgescu, 1991; 262

¹¹⁹ The Phanariot - a group of wealthy Greeks and Hellenized Romanians - ruled the Romanian principalities between 1711 and 1821. (Georgescu, 1991; 91) They were said to have occupied their administrative positions solely to plunder Romanian resources for their own lavish lifestyles. (Georgescu, 1991; 78)

¹²⁰ Gallagher, 2005; 8; Shafir, 2001; 81

or suggested improvements were often marginalised or purged.¹²¹ Whims of the president were implemented without debate.¹²² Ceaușescu's 'precious directions' influenced almost every public decision about almost every topic: agriculture, industry, science and even the arts.¹²³ Ceaușescu promoted the de-professionalization of the government.¹²⁴ Policy was formulated and implemented without any real analysis; apparatchiks were favoured over technocrats.¹²⁵ Centralised decision making led to administrative inefficiency and inflexibility and discouraged initiative and responsibility.¹²⁶ An inexperienced and largely peasant bureaucracy meant that Romania's political elite 'was anti-intellectual, xenophobic, isolationist, anti-technocratic and hostile to change.'¹²⁷ In April 1972, Ceaușescu introduced his policy to periodically purge and rotate party and government officials.¹²⁸ Frequent changes in party and government positions led to role confusion and an increased inability to govern.¹²⁹ The state used various forms of coercion to limit public participation in public decision making to only a small group of actors loyal to the president.¹³⁰ In the end, Ceaușescu excluded even his own administration and increasing placed many of his family members in key political and government positions.¹³¹

¹²¹ Georgescu, 1991; 257

¹²² Georgescu, 1991; 256

¹²³ Georgescu, 1991; 258

¹²⁴ Georgescu, 1991; 255; Calinescu and Tismăneanu, 1991; 287; This philosophy was published in Ceaușescu's *Thesis*, which was written after his 1971 visit to China. (Georgescu, 1991; 255)

¹²⁵ Georgescu, 1991; 274, 255; Calinescu and Tismăneanu, 1991; 287

¹²⁶ Georgescu, 1991; 258

¹²⁷ Georgescu, 1991; 273

¹²⁸ Georgescu, 1991; 256

¹²⁹ Georgescu, 1991; 257

¹³⁰ Georgescu, 1991; 255

¹³¹ Georgescu, 1991; 257; Gallagher, 2005; 71; Calinescu and Tismăneanu, 1991; 287

Romania's history has almost always been shaped by the influence of external powers.¹³² With the military support of external powers, Romanian leaders have been free to rule the Romanians as they wished without fear of dissent.¹³³ Romanian elites play complicated games of deception in their foreign policy, courting assistance from foreign powers while simultaneously at home using the threat of foreign interference to divert the attention of the public away from the failures or indiscretions of the state.¹³⁴ Both Gheorghiu-Dej and Ceaușescu used this strategy to outmanoeuvre first the Soviets and then the West.¹³⁵

The PCR would never have risen to power without the support of the Soviets.¹³⁶ From its inception up until World War II the communist party was a small and insignificant force in Romanian political life.¹³⁷ However with the support of the Soviet occupation, the communist coalition organized and won parliamentary elections in November 1946.¹³⁸ Initially, Gheorghiu-Dej required the support of the Soviet occupation to stay in power.¹³⁹ He would garner this support by travelling to Moscow to negotiate directly with Soviet leaders, by promoting

¹³² Gallagher, 2005; 16 Between the 15th and mid-19th centuries, the Ottomans, Russians or Austrians approved – and often selected - Romanian princes. (Georgescu, 1991)

¹³³ Georgescu, 1991; 263; Calinescu and Tismăneanu, 1991; 287

¹³⁴ Gallagher, 2005; 9; Georgescu, 1991; 273

¹³⁵ Gallagher, 2005; 68

¹³⁶ Gallagher, 2005; 48

¹³⁷ Gallagher, 2005; 48; Calinescu and Tismăneanu, 1991; 286 However, by October 1945 - with the backing of the occupying Soviet forces - party membership surged to 256,863 and the communists captured control of the government. (Georgescu, 1991; 226)

¹³⁸ Gallagher, 2005; 48 Calinescu and Tismăneanu, 1991; 286 American and British observers protested the result, accusing the government of falsifying election results. (Georgescu, 1991; 230) Yet with the signing of the Treaty of Paris in February 1947, the West endorsed the Soviet backed government anyway. (Georgescu, 1991; 230)

¹³⁹ Georgescu, 1991; 248

Russian cultural and Soviet ideological dogma in Romania¹⁴⁰, by supporting Soviet military actions and by eliminating possible challengers.¹⁴¹

After 1958, when Gheorghiu-Dej managed to persuade Moscow to remove its troops from Romania, both Gheorghiu-Dej and Ceaușescu were able to use their maverick status against the Soviets to achieve respectability in the West and legitimacy at home.¹⁴² Romanian foreign policy became more bold, independent and separate from the Kremlin and other satellite countries.¹⁴³ Trading and diplomatic efforts with the West were intensified.¹⁴⁴ Romania began voting independent from the Soviets in the U.N.¹⁴⁵ Ceaușescu only intensified Gheorghiu-Dej's independence from the Soviets.¹⁴⁶ Because Ceaușescu appeared to be the only satellite leader defying the Soviets, the West ignored his neo-Stalinist style at home and offered him international legitimacy.¹⁴⁷ They ignored Ceaușescu's human rights abuses in order to secure an ally from within the Soviet Bloc.¹⁴⁸

Domestically, Ceaușescu promoted the idea that national freedom meant freedom from foreign rule rather than individual domestic freedoms.¹⁴⁹ He used

¹⁴⁰ Georgescu, 1991; 241

¹⁴¹ Georgescu, 1991; 238; Gheorghiu-Dej imprisoned, purged or executed Soviet favourites. (Georgescu, 1991; 238)

¹⁴² Gallagher, 2009; 16; Georgescu, 1991; 242; Calinescu and Tismăneanu, 1991; 287; Gallagher, 2009; 133

¹⁴³ Georgescu, 1991; 244; Gallagher, 2005; 55; Calinescu and Tismăneanu, 1991; 287

¹⁴⁴ Georgescu, 1991; 244; Gallagher, 2005; 55; Gallagher, 2009; 16 In the early 1970s, Romania joined the both the World Bank and the IMF. (Georgescu, 1991; 254; Gallagher, 2005; 58) In 1973, the European Economic Community granted Romania preferential trading status. (Gallagher, 2009; 16; Georgescu, 1991; 254) In 1975, the U.S. awarded Romania Most Favoured Nation trading status. (Georgescu, 1991; 270; Gallagher, 2005; 58)

¹⁴⁵ Georgescu, 1991; 246

¹⁴⁶ For example, Romania refused to support the Soviets during their Prague Spring invasion. (Georgescu, 1991; 253; Gallagher, 2005; 58)

¹⁴⁷ Georgescu, 1991; 246; Gallagher, 2005; 64; Gallagher, 2009; 16

¹⁴⁸ Calinescu and Tismăneanu, 1991; 287; Gallagher, 2005; 64

¹⁴⁹ Gallagher, 2005; 8

his independent foreign policy stance to secure legitimacy of his regime.¹⁵⁰ He attempted to win obedience and solidarity with the majority of the Romanians – dispute the economic failures of his regime - by manufacturing threats from their historic enemies, usually Hungary or Russia.¹⁵¹

Ultimately it was external influences that began to crack the hold of Ceaușescu's totalitarian regime. The Helsinki Accords in 1975 meant that the West could intervene to defend human rights abuses across borders and restrained Ceaușescu responses to individual and group opposition.¹⁵² After Gorbachev's reform policies of *perestroika* in 1986 and *glasnost* in 1988 Western analysts began to focus on Ceaușescu's human rights abuses and the countries deplorable living standards.¹⁵³ The West no longer required Romania to play the role of the rebellious satellite state.¹⁵⁴ The West pulled back its support and Ceaușescu regime's was increasingly isolated.¹⁵⁵

Historically, the Romanian state has employed a nationalistic stance to legitimate itself and to divide society, effectively eliminating the motivation for and the possibility of civil solidarity and opposition to the state. Transylvania – and its relatively diverse population - joined the *Regat* (the combined principalities of Wallachia and Moldavia) at the conclusion of WWI in 1918 to form *România Mare* (Greater Romania).¹⁵⁶ Romania's political elite used the

¹⁵⁰ Gallagher, 2005; 8

¹⁵¹ Gallagher, 2005; 9; Georgescu, 1991; 273

¹⁵² Gallagher, 2005; 62; Georgescu, 1991; 263

¹⁵³ Gallagher, 2005; 64; Georgescu, 1991; 275

¹⁵⁴ Gallagher, 2005; 64

¹⁵⁵ Georgescu, 1991; 275; Gallagher, 2009; 133

¹⁵⁶ Georgescu, 1991; 172; The population of the two original Romanian principalities was notably homogeneous; in 1899, 92% of the nearly 6 million people were ethnic Romanians practicing Romanian Orthodoxy. (Hitchens, 1996; 164) Transylvania's population was much more diverse. According to an official Hungarian pre-war census conducted in 1912

country's minority populations – Hungarians, Jews and Saxons – to divide society and to divert the attention of the population away from deplorable living conditions and from state corruption and misrule.¹⁵⁷ Although not features of the Gheorghiu-Dej regime, Ceaușescu exploited an interesting blend of ethnic rather than civic based protochronism¹⁵⁸, patriotism¹⁵⁹ and nationalism to solidify his hold on the Romanians and to bring legitimacy to his regime and programmes.¹⁶⁰ Emphasising Dacian rather than Roman roots, national symbols and myths replaced earlier proletarian ones.¹⁶¹ His interpretation of history exaggerated Romanian historical and cultural accomplishments and insisted that Romanian civilization had paved the way for the evolution of all Western civilizations.¹⁶² Ceaușescu created commemorative holidays and mobilised false euphoria in the population.¹⁶³ This view about the importance of Romanian history and destiny fed the nationalist, xenophobic, anti-Semitic, anti-Hungarian and patriotic sense of the population.¹⁶⁴ This spirit of nationalism split the public and delayed the appearance of an effective opposition.¹⁶⁵

The meagre and isolated attempts by the public to influence public decisions only highlight the total dominance of the Romanian communist leaders and the Securitate over the public, yet Romanian society had never had a strong sense of citizenship anyway.¹⁶⁶ The Securitate used brutality to neutralize the small

Transylvania's population was comprised of '53.8% ethnic Romanian, 31.7% Hungarian and 10.6% ethnic German.' (Georgescu, 1991; 122)

¹⁵⁷ Phinnemore and Light, 2001; 7; Gallagher, 2005; 68, 91; Georgescu, 1991; 262

¹⁵⁸ Gallagher, 2005; 61

¹⁵⁹ Calinescu and Tismăneanu, 1991; 286; Georgescu, 1991; 273

¹⁶⁰ Gallagher, 2005; 9; Georgescu, 1991; 262

¹⁶¹ Gallagher, 2005; 68; Georgescu, 1991; 273

¹⁶² Georgescu, 1991; 273; Gallagher, 2005; 61

¹⁶³ Georgescu, 1991; 262; Calinescu and Tismăneanu, 1991; 288

¹⁶⁴ Georgescu, 1991; 273

¹⁶⁵ Georgescu, 1991; 263

¹⁶⁶ Gallagher, 2005; 10, 62; Georgescu, 1991; 264; Calinescu and Tismăneanu, 1991; 288

and isolated attempts to oppose government policy and improve conditions.¹⁶⁷ Strict regulations and poor living conditions made it difficult for the public to muster up the energy to pursue political action.¹⁶⁸ Systematisation, the policy of mutual surveillance and nationalism made it difficult for people to create bonds and to develop any form of solidarity.¹⁶⁹ Only family members and a few close associates of the Ceaușescu's were invited to participate in the state's economic and administrative planning decisions.¹⁷⁰ Ceaușescu used the hierarchical and obedient traditions of the Orthodox Church to exploit his totalitarian style and to manipulate and mobilise society.¹⁷¹ Legitimation and support from foreign powers made it difficult for the Romanian people to resist state control or to obtain support from outsiders.¹⁷² Overall in Romanian society, resistance from the public remained weak even as government oppression became more irrational and living conditions became more unbearable.¹⁷³ Romanian elites easily submitted and no real dissent materialized to stop the regime's destructive policies.¹⁷⁴ Dissent was limited to isolated and short-lived associations (no more than a day or two after becoming public) and courageous acts by individuals.¹⁷⁵ In many ways the Romanian public appeared to be both victims and – in their efforts to survive - accomplices to the abuses of the communist regime.¹⁷⁶

¹⁶⁷ Georgescu, 1991; 263; Calinescu and Tismăneanu, 1991; 288; Gallagher, 2005; 67

¹⁶⁸ Calinescu and Tismăneanu, 1991; 293; Gallagher, 2005; 16

¹⁶⁹ Gallagher, 2005; 62

¹⁷⁰ Georgescu, 1991; 257; Gallagher, 2005; 71; Calinescu and Tismăneanu, 1991; 287

¹⁷¹ Georgescu, 1991; 237; Gallagher, 2005; 48

¹⁷² Georgescu, 1991; 263; Calinescu and Tismăneanu, 1991; 287

¹⁷³ Gallagher, 2005; 69

¹⁷⁴ Gallagher, 2005; 50

¹⁷⁵ Georgescu, 1991; 264

¹⁷⁶ Gallagher, 2005; 68; Gallagher, 2009; 17 The communist regime promoted atheism and nationalised church property; yet in order to secure the survival of the Church, Orthodox

REVOLUTION

Then a single act of civil disobedience by a Hungarian minister sparked 'a full-blown political rebellion against one of the most tightly controlled totalitarian societies in the world.'¹⁷⁷ Romania's revolution began on 15 December 1989 in Timișoara, when a Hungarian minister, refused to be removed from his church by the Securitate who wanted to silence his unyielding and vocal position on human and religious rights.¹⁷⁸ People from Tökés' congregation as well as Romanians, Serbs, students and workers spontaneously joined together in support of the minister.¹⁷⁹ The protest soon became a national anti-Ceaușescu and anti-Communist movement.¹⁸⁰ Ceaușescu's Stalinist form of communism had destroyed living standards for the Romanians and had made their lives miserable.¹⁸¹ The reforms in the U.S.S.R. initiated by Mikhail Gorbachev after 1985 further exposed the repressive nature of the Ceaușescu regime.¹⁸² Events during the summer and autumn of 1989 emboldened the people of Eastern Europe and had made it clear that the Kremlin had discontinued its support of the communist regimes of the Warsaw Pact.¹⁸³ On 25 December 1989 Nicolae Ceaușescu and his wife were tried and executed for crimes of genocide.¹⁸⁴

leadership submitted to communist rule and even declared it part of God's plan. (Gallagher, 2005; 66)

¹⁷⁷ Calinescu and Tismăneanu, 1991; 280

¹⁷⁸ Calinescu and Tismăneanu, 1991; 280; Gallagher, 2005; 71

¹⁷⁹ Calinescu and Tismăneanu, 1991; 280; Gallagher, 2005; 71

¹⁸⁰ Calinescu and Tismăneanu, 1991; 280

¹⁸¹ Calinescu and Tismăneanu, 1991; 280

¹⁸² Gallagher, 2005; 64

¹⁸³ Calinescu and Tismăneanu, 1991; 280; Solidarity won the Polish parliamentary election in June 1989. Hungary's parliament adopted multi-party elections and guaranteed human and civil rights in October. The Berlin Wall fell on 9 November and Czechoslovakia began its 'velvet revolution' on 17 of that month. (Calinescu and Tismăneanu, 1991; 280)

¹⁸⁴ Gallagher, 2005; 71-2; Phinnemore and Light, 2001; 1; Siani-Davies, 2001; 17; Calinescu and Tismăneanu, 1991; 280

The many unanswered questions about the revolution continue to influence Romania's institution of public participation and deliberation today. Were the events of December 1989 a spontaneous popular revolt



Photo 10: Broșov Memorial to Revolutionary Dead (Esko, 2006)

or a planned coup d'état?¹⁸⁵ Who killed, or gave the orders to kill, the more than 1,000 people who died during the events?¹⁸⁶ Why were they killed?¹⁸⁷ Did members of the new government have reasons to silence the Ceaușescus, other than justified retribution for the crimes of his regime?¹⁸⁸ Were loyal Securitate members resisting the popular revolution?¹⁸⁹ Did foreign actors (the Soviet Union or Hungary) play a role in the events?¹⁹⁰ Many Romanians feel that these questions still have not been answered, leading to feelings of distrust with the government and within society.¹⁹¹

In the face of ambiguity, Siani-Davies identifies three interpretations of the Revolution: the spontaneous revolution, the externally manipulated revolution and the stolen revolution.¹⁹² Siani-Davies asserts that these interpretations have become the 'foundation myths of the competing political groups' in Romania and that the individual interpretations are shaped and shape post-

¹⁸⁵ Gallagher, 2005; 70

¹⁸⁶ Gallagher, 2005; 71; Siani-Davies, 2001; 15; Deletant, 2001; 37 Siani-Davies estimates that during the revolution 1,104 people were killed and 3,352 were wounded; however, controversy remains about the casualty numbers. Estimates of fatalities sometimes reach 1,247 people. (Siani-Davies, 2005; 97) Bulei asserts that 1,004 people died and 3,320 were wounded. (Bulei, 2005; 170)

¹⁸⁷ Siani-Davies, 2001; 28

¹⁸⁸ Gallagher, 2005; 73; Calinescu and Tismăneanu, 1991; 283

¹⁸⁹ Calinescu and Tismăneanu, 1991; 283

¹⁹⁰ Siani-Davies, 2001; 15

¹⁹¹ Siani-Davies, 2001; 16

¹⁹² Siani-Davies, 2001; 21

revolution political allegiance.¹⁹³ The *spontaneous revolution* interpretation was originally narrated by the National Salvation Front (FSN) and continues to be sustained by FSN's successors.¹⁹⁴ In the turmoil of the revolution, the self-appointed FSN – led by Ion Iliescu, a second-tier communist under Ceaușescu – organised the Ceaușescu trial and executions, oversaw the transition period after the revolution and organised Romania's first elections for the spring of 1990.¹⁹⁵ In the spontaneous revolution narrative, 'the FSN claimed to be the standard-bearer of the revolution and the voice of the crowd on the streets.'¹⁹⁶ The *external manipulation* interpretation of the revolution is supported by nationalists, members of the parties that emerged from the PCR and former security officers.¹⁹⁷ This interpretation suggests that the revolution was manipulated by foreign influences, particularly the KGB working with the Hungarians.¹⁹⁸ For those supporting this interpretation, foreign terrorists, supporting Ceaușescu, were responsible for the violence experienced during the final days of his regime.¹⁹⁹ Academics, students, supporters of the new parties and the liberal press follow the *stolen revolution* interpretation.²⁰⁰ In this narrative, a group of disenchanted party, army and Securitate members formed the FSN and stole the revolution from the crowds of regular people.²⁰¹ From this interpretation, the FSN manipulated the Romanian people into believing

¹⁹³ Siani-Davies, 2001; 21

¹⁹⁴ Siani-Davies, 2001; 18

¹⁹⁵ Gallagher, 2005; 79; Calinescu and Tismăneanu, 1991; 290; Bulei; 2005; 171; Siani-Davies, 2001; 19 With control of state communication and transportation resources as interim government, the FSN had a distinct advantage over its competitors. (Gallagher, 2005; 89) Because elections were to be held so soon after the revolution, other political parties – that largely hadn't existed under Ceaușescu – had little time to organize. (Gallagher, 2005; 89)

¹⁹⁶ Siani-Davies, 2001; 18

¹⁹⁷ Siani-Davies, 2001; 21

¹⁹⁸ Siani-Davies, 2001; 21; Bulei, 2005; 171

¹⁹⁹ Siani-Davies, 2001; 21

²⁰⁰ Siani-Davies, 2001; 20; Calinescu and Tismăneanu, 1991; 283; Gallagher, 2005; 73; Deletant, 2001; 36

²⁰¹ Calinescu and Tismăneanu, 1991; 284

they had participated in a spontaneous revolution, when in fact the events of December 1989 concealed a carefully planned *coup d'état*.²⁰²

The 1989 Revolution itself remains one of the elements of Romania's communist past that continues to haunt the country's attempts to consolidate its democracy and develop its public sphere.²⁰³ 'The violent nature of the regime's demise produced controversy and recriminations which would impede efforts to consolidate a democratic successor right through the 1990s.'²⁰⁴ Soon after the revolution, Romanians began to express disappointment and mistrust in the transition government which quickly began to look like a continuation of the old regime.²⁰⁵ Only a portion of those responsible for the violence during the revolution have been brought to trial and many of the army and Securitate officers who have been identified as giving orders to fire on protestors remain at liberty.²⁰⁶ State actors have not published a credible official report about the events of December 1989.²⁰⁷ In the absence of a full official investigation or report, the public gets much of its information about the revolution through the newspapers or books, which tend to be politically biased.²⁰⁸ Rather than simply provide information which clarifies the events, these conflicting articles tend to

²⁰² Gallagher, 2005; 70; Siani-Davies, 2001; 20

²⁰³ Siani-Davies, 2001; 17; Gallagher, 2005; 3; Phinnemore and Light, 2001; 6

²⁰⁴ Gallagher, 2005; 73; The Romanian political elite, the army and the SRI have shown a reluctance to question the past and to bring out the truth about the revolution. (Siani-Davies, 2001; 23) Some now conclude that the FSN invented the terrorists to frighten the Romanians, to legitimize the FSN's grab for power and for the FSN to gain prestige as 'the saviour of the revolution.' (Gallagher, 2005; 72; Calinescu and Tismăneanu, 1991; 283; Phinnemore and Light, 2001; 1) Some now suspect that Iliescu and his supporters may have wanted to silence 'Ceaușescu to prevent him from ever testifying against them in open court about their own richly detailed communist past.' (Gallagher, 2005; 73; Calinescu and Tismăneanu, 1991; 283)

²⁰⁵ Gallagher, 2005; 79; Calinescu and Tismăneanu, 1991; 282; Bulei; 2005; 171; Siani-Davies, 2001; 19; After the December 1989 Revolution, the National Salvation Front (FSN) led by Ion Iliescu (a second-tier communist under Ceaușescu) assumed the role of interim government. (Gallagher, 2005; 79)

²⁰⁶ Deletant, 2001; 36

²⁰⁷ Siani-Davies, 2001; 16

²⁰⁸ Siani-Davies, 2001; 16

create confusion and contribute to the distrust and fragmentation found in Romanian society.²⁰⁹ Faced with divergent interpretations of the revolution and no official account, the Romanians are left to rely on lies, ambiguity and rumours.²¹⁰

CONTEMPORARY SOCIO-ECONOMIC CONTEXT

The 1989 Revolution might have been expected to be the 'critical junction' for Romania's institution of public participation and deliberation. For historical institutionalists, institutions are characterised by long periods of stability and equilibrium, punctuated by events that lead to institutional change.²¹¹ The revolution could have been the event that radically and permanently altered the Romanian public's relationship with its government. In fact after the revolution many Romanian political institutions were altered. One-party rule was abolished and peaceful transfers of power occurred in 1996, 2000 and 2004.²¹² The totalitarian controls imposed by Ceauşescu were lifted. Romania's constitution was approved by the public in December 1991 and Romania joined the EU in 2007.²¹³ Restrictions on the public expression of opinions and on public assembly were removed by the Romanian Constitution.²¹⁴ However, while it could be said that initially after the revolution Romanian public

²⁰⁹ Siani-Davies, 2001; 15-6; Gallagher, 2005; 70; Phinnemore and Light, 2001; 6; Just after the revolution, Petre Roman established a commission which published a report on the revolution on February 1990. (Siani-Davies, 2001; 24) The findings of this report had been shelved, 'because a number of those recommended for prosecution were senior ministers in the Romanian government.' (Siani-Davies, 2001; 24) In 1994, a member of the SRI produced a report on the revolution, but according to Siani-Davies the report was met with scepticism. (Siani-Davies, 2001; 16) A Senatorial Commission of Inquiry was to have published a report about the events, but the report was never published because of political disputes within the Commission. (Siani-Davies, 2001; 16)

²¹⁰ Siani-Davies, 2001; 21

²¹¹ Steinmo, Thelen and Longstreth, 1992; 15; Peters, 2005; 76-7

²¹² Gallagher, 2005; 14

²¹³ Calinescu and Tismăneanu, 1991; 285

²¹⁴ Romanian Constitution Articles 11, 39, and 43

participation and deliberation did see a shift, the change did not last much beyond the first year. Nearly fifty years of totalitarian rule and political repression have shown to have had an enduring influence on Romanian political activism and public participation.²¹⁵

Initially after the revolution, the Romanian public appeared committed to participating in the development of its democratic institutions, but its attempts were often met with violence.²¹⁶ Soon after the Revolution, Romanians took to the streets to protest a grab for power by former communists. At first, the FSN promised that it would only serve as an interim government; however, on 23 January it announced its intention to participate in the elections to be held in the spring.²¹⁷ The emerging opposition began to suspect an attempt to seize power by the former elite and they issued a statement condemning the FSN's decision.²¹⁸ They asserted that the FSN's participation in the May elections would constrain the administration's neutrality, credibility and its ability to fairly oversee the transition.²¹⁹ Protests began on 25 January.²²⁰ By 28 January, the protesters had stormed the Parliament building demanding the resignation of FSN leaders. That day the FSN organized its own demonstration, calling on workers to come to Bucharest to protect democracy.²²¹ Factory workers and

²¹⁵ Gallagher, 2005; 69; Stringer, Scriciu and Reed, 2009; 79

²¹⁶ Gallagher, 2005; 95

²¹⁷ Gallagher, 2005; 79; Calinescu and Tismăneanu, 1991; 290; Bulei; 2005; 171; Siani-Davies, 2001; 19 With control of state communication and transportation resources as interim government, the FSN had a distinct advantage over its competitors. (Gallagher, 2005; 89) Because elections were to be held so soon after the revolution, other political parties – that largely hadn't existed under Ceaușescu – had little time to organize. (Gallagher, 2005; 89)

²¹⁸ Gallagher, 2005; 80

²¹⁹ Gallagher, 2005; 79

²²⁰ Gallagher, 2005; 80; Bulei, 2005; 171

²²¹ Gallagher, 2005; 80

'40,000 coal miners from the Jiu Valley' arrived at the capital.²²² Opposition protesters were beaten and the offices of the political parties opposing the FSN were ransacked.²²³ Bucharest had experienced its first *Mineriadă*.²²⁴

On 11 March 1990 representatives from a number of journalist, writer, worker and student associations gathered in Timișoara and published their thirteen-point manifesto called the *Proclamation of Timișoara*.²²⁵ Refuting the transition government's claim to legitimacy, the proclamation promoted human rights and the implementation of democracy.²²⁶ The proclamation called to ban former communist activists and Securitate officers from party lists and from standing for political office – including the office of the president.²²⁷ The document soon became the organising policy of independent associations around Romania.²²⁸ By mid-May nearly 4 million Romanians had registered their support for the proclamation.²²⁹

As a result of the momentum generated out of the Revolution and new laws granting the freedom to associate, more than sixty political parties registered for

²²² Gallagher, 2005; 80; Bulei asserts the 5,000 miners participated in the first *mineriadă*. (Bulei, 2005; 171)

²²³ Gallagher, 2005; 80

²²⁴ Gallagher, 2005; 80 Calinescu and Tismăneanu, 1991; 294; Phinnemore and Light, 2001; 2; Deletant, 2001; 42; Gallagher describes the *mineriadă* as 'an instrument of pressure and intimidation designed to coerce and punish forces which were felt to be threatening the security and welfare of Romania and its people.' (Gallagher, 2005; 80) During the four *mineriadă* staged by the miners between January 1990 and February 1999, protesters (often with the support of the FSN) marched into Bucharest in large numbers and threatened, and in some cases carried out, violence in order to defend their interests and the public figures who supported them. (Gallagher, 2005; 80)

²²⁵ Calinescu and Tismăneanu, 1991; 291; Gallagher, 2005; 95

²²⁶ Calinescu and Tismăneanu, 1991; 291

²²⁷ Calinescu and Tismăneanu, 1991; 291

²²⁸ Calinescu and Tismăneanu, 1991; 291

²²⁹ Calinescu and Tismăneanu, 1991; 291

the May 1990 elections.²³⁰ Already organised during the communist period - miners, pre-1989 bureaucrats and members of the former communist party - supported the FSN after the revolution.²³¹ These groups stood to lose the most from political and economic reforms and from investigations into Romania's communist past.²³² In contrast, rural and agricultural communities, groups of urban professionals, the intelligentsia and students and religious groups had all been completely disrupted and literally dispersed during the communist period.²³³ While these groups opposed the Front, they lacked the organisation, basic campaigning skills, access to public assets, energy and resources, as well as, the insider knowledge necessary to challenge the ex-communists of the FSN.²³⁴

Beginning in April 1990 a group of students followed by intellectuals and workers participated in a peaceful sit-in Bucharest's University Square.²³⁵ Protesters were expressing their support for the Timișoara Proclamation and their opposition for the prominent presence of Ceaușescu era officials in the provisional government.²³⁶ Participants called for a genuine implementation of democratic processes and institutions rather than a reformation of the Communists ones.²³⁷ Iliescu responded to the protesters as Ceaușescu would

²³⁰ Calinescu and Tismăneanu, 1991; 289 While a communist party continued to participate in national politics in nearly all former Soviet Bloc countries, Romania's PCR was completely dissolved. (Gallagher, 2009; 17) 'The general mood among Romanians was definitely anti-Communist.' (Calinescu and Tismăneanu, 1991; 290)

²³¹ Calinescu and Tismăneanu, 1991; 294

²³² Calinescu and Tismăneanu, 1991; 294

²³³ Gallagher, 2005; 92

²³⁴ Calinescu and Tismăneanu, 1991; 294; Phinnemore and Light, 2001; 3; Shafir, 2001; 79; Gallagher, 2005; 92

²³⁵ Bulei, 2005; 171; Calinescu and Tismăneanu, 1991; 295; Gallagher, 2005; 90

²³⁶ Calinescu and Tismăneanu, 1991; 295; Gallagher, 2005; 90

²³⁷ Calinescu and Tismăneanu, 1991; 295

have done.²³⁸ Iliescu called the demonstrators *golani* (hooligans) and ordered the police to use truncheons and dogs in an attempt to disperse the protesters. His plan backfired.²³⁹ The protesters took *golani* as their nom-de-guerre and the FSN's image was tarnished domestically and internationally.²⁴⁰ The protesters defied the authorities and for three weeks after the elections they remained in the Square.²⁴¹ Then in June 1990, Iliescu accused the protesters of organising an extreme right rebellion and called on *loyal citizens* to come to the rescue of the government.²⁴² That day rioters attacked police headquarters and other public offices.²⁴³ 'At the instigation of Iliescu', armed miners from the Jiu Valley arrived in Bucharest again 'to crush pro-democracy and anti-Iliescu demonstrations.'²⁴⁴ The miners were joined by suspected Romanian Intelligence Service (SRI) and former Securitate officers.²⁴⁵ For two days they 'terrorized the population of the capital', ransacked opposition party headquarters and attacked and beat protesters and bystanders.²⁴⁶ Eventually, the protesters were dispersed and Iliescu thanked the miners for protecting the country from right-wing foreign forces.²⁴⁷

²³⁸ Calinescu and Tismăneanu, 1991; 295

²³⁹ Calinescu and Tismăneanu, 1991; 295; Gallagher, 2005; 95

²⁴⁰ Calinescu and Tismăneanu, 1991; 295; Gallagher, 2005; 95

²⁴¹ Gallagher, 2005; 95; Ion Iliescu was elected President in May 1990 and his party dominated the state sphere until November 1996. (Phinnemore and Light, 2001; 3) Emil Constantinescu was elected President in November 1996. (Phinnemore and Light, 2001; 4) After a disappointing attempt at reform by Constantinescu's coalition, Iliescu again won the Presidency in 2000. (Gallagher, 2005; 6; Gallagher, 2009; 1) Since national elections in 2004, Traian Băsescu has been Romania's president. (Bran, M (2012) 'Anger Threatens to Topple Romanian President as Austerity Measures Bite' 24 January 2012 Guardian Retrieved 13 February 2012 from <http://www.guardian.co.uk/world/2012/jan/24/romania-anti-government-austerity-protests>

²⁴² Gallagher, 2005; 95

²⁴³ Deletant, 2001; 42

²⁴⁴ Phinnemore and Light, 2001; 2; Deletant, 2001; 42

²⁴⁵ Deletant, 2001; 42

²⁴⁶ Deletant, 2001; 42

²⁴⁷ Gallagher, 2005; 96

Miners from the Jiu Valley arrived in Bucharest again in September 1991 to help force out the Romanian Prime Minister, Petre Roman, from office.²⁴⁸ Roman and Iliescu disagreed over the appropriate approach for economic reform; Roman favoured a quick economic liberalisation and Iliescu favoured a more cautious approach.²⁴⁹ This disagreement ultimately split the FSN.²⁵⁰ Following Iliescu's call, the miners raided the parliament building on 26 September.²⁵¹ Demonstrating the effectiveness of political coercion, Petre Roman submitted his resignation and President Iliescu installed a new caretaker government.²⁵²

The Miners' ability to use force as a way to influence public decision has diminished over the years. In January 1999 the miners returned to Bucharest; this time they demanded higher wages and opposed government policies in the face of more than 40% annual inflation, over 10% unemployment and mine closures.²⁵³ The unrest was followed by industrial worker strikes in June of that year.²⁵⁴ However, despite these protests, mining industry reforms continued to be implemented under the Constantinescu government.²⁵⁵

More recently, Romania public participation and deliberation has been possible without the threat of violence. In the spring of 2002, after a large scale civil society protest effort, Romania dropped its plans to build a Count Dracula

²⁴⁸ Gallagher, 2005; 99; Deletant, 2001; 43; Phinnemore and Light, 2001; 2

²⁴⁹ Gallagher, 2005; 98; Smith, 2001; 132

²⁵⁰ Gallagher, 2005; 98

²⁵¹ Gallagher, 2005; 99

²⁵² Gallagher, 2005; 99; Smith, 2001; 132

²⁵³ Phinnemore and Light, 2001; 5; Gallagher, 2001; 120; Turnock, 2001; 169

²⁵⁴ Phinnemore and Light, 2001; 5

²⁵⁵ Turnock, 2001; 169; Ianoş, 2001; 200

theme park.²⁵⁶ The intention was to build a theme park including a mock Dracula Castle and rollercoasters in the forests just outside of the medieval town of Sighișoara – a UNESCO world heritage site.²⁵⁷ The hope was that the park would bolster Romanian's tourist business.²⁵⁸ Greenpeace was supported by Stephanie Roth, from Alburnus Maior, and Britain's Prince Charles in their opposition of the project that would have destroyed a forest of ancient oaks.²⁵⁹ The opposition was ultimately successful and the proposal was dropped.

The media has played a contradictory role in Romanian society since the Revolution. A vigorous investigative print media has emerged and has proved to be effective in influencing government decisions and actions.²⁶⁰ The mass media has taken the role of watch-dog over Romania's new domestic security apparatus, the SRI.²⁶¹ However, the state media's role, especially television, in the 1990 elections demonstrated its capacity for bias and distortion.²⁶² The Romanian national mainstream newspapers and television stations allow themselves to be used by post-1989 nationalists: broadcasting foreign conspiracy theories, inflaming tensions during periods of unrest between ethnic

²⁵⁶ The Independent (2002) Retrieved on 2 Oct 2010 from <http://www.independent.co.uk/news/world/europe/draculalands-theme-park-bites-the-dust-646699.html>

²⁵⁷ Emagazine 31 August 2002 Retrieved 14 February 2012 from <http://www.emagazine.com/archive/1112>

²⁵⁸ Emagazine 31 August 2002 Retrieved 14 February 2012 from <http://www.emagazine.com/archive/1112>

²⁵⁹ The Goldman Environmental Prize, 2011; CNN World 2 July 2002 Retrieved 14 February 2012 from http://articles.cnn.com/2002-07-02/world/transylvania_1_dracula-theme-park-sighisoara-prince-vlad?_s=PM:WORLD

²⁶⁰ Turnock, 2001; 171; Gallagher, 2005; 14

²⁶¹ Deletant, 2001; 47

²⁶² Phinnemore and Light, 2001; 2; Gallagher, 2005; 90

Romanians and minority Hungarians and perpetuating the stereotypical image of Hungarians as arrogant, insensitive and insolent.²⁶³

Romanian ethnic minorities - mostly in Transylvania cities - demonstrate strong civic values.²⁶⁴ The Hungarian party, the Democratic Union of Hungarians in Romania (UDMR), was formed days into the Revolution.²⁶⁵ The UDMR has since been able to establish itself as the voice for many Hungarians.²⁶⁶ Shafir argues that the UDMR is not a single-issue party.²⁶⁷ While the UDMR participates in the debates for all parliamentary topics, it may be the only party that does not impose its absolutism and attempts to mediate between rival parties.²⁶⁸

Soon after the Revolution students and intellectuals organised groups which highlight issues, monitor government activities, support the development of Romanian public participation and publish political magazines.²⁶⁹ At first professionals, students and intellectuals joined political parties and actively participated in street demonstrations.²⁷⁰ However they soon found their advancement blocked by party veterans who were intent on re-establishing their party positions from before the war.²⁷¹ Since then, according to Gallagher, 'the

²⁶³ Shafir, 2001; 99; Gallagher, 2005; 78

²⁶⁴ While the Romanian Saxon population had historically engaged actively in public processes, many Saxons – about 12,000 a year - left Romania during the 80s when Germany paid Ceauşescu DM 10,000 for each German allowed to leave the country. (Gallagher, 2005; 81) More Germans left the country after the revolution when the borders were opened. (Gallagher, 2005; 81)

²⁶⁵ Gallagher, 2005; 76

²⁶⁶ Gallagher, 2005; 94

²⁶⁷ Shafir, 2001; 91

²⁶⁸ Shafir, 2001; 91

²⁶⁹ Calinescu and Tismăneanu, 1991; 297

²⁷⁰ Gallagher, 2005; 92

²⁷¹ Gallagher, 2005; 93; Calinescu and Tismăneanu, 1991; 294

younger generation, who played the leading role in the brief struggle against tyranny at the end of 1989, have largely absented themselves from politics.²⁷²

According to the public officials that I interviewed, the Romanian public does not organise itself²⁷³ nor does it regularly participate in public decision and action²⁷⁴. Of the 22 public officials I interviewed 14 complained about the lack of any real meaningful public participation in Romania.²⁷⁵ For the most part, Romanians participate as individuals and they do not participate politically. Rather, they participate as public service recipients²⁷⁶, to apply for approval²⁷⁷, to request information²⁷⁸ or to file complaints²⁷⁹. When they do participate, they participate at the local level²⁸⁰ and only when their specific interests are threatened²⁸¹.

²⁷² Gallagher, 2005; 10

²⁷³ Interviews: Ministry of the Economy and Commerce; Alba County Culture and Religion; Alba County SubPrefect; Hunedoara County Prefect

²⁷⁴ Interviews: Alba County Council; Arad County EPA; Câmpeni Local Council; Confidential 1; Hunedoara Prefect; Roşia Montană Local Council 2; Ministry of the Economy and Commerce; Ministry of Culture and Religion

²⁷⁵ Interviews: Alba County Council; Alba County Culture and Religion; Alba County Sub Prefect; Arad County EPA; Câmpeni Local Council; Câmpeni Mayor; Cluj County Environmental Guard; Cluj County Sub Prefect; Hunedoara County Environmental Agency; Hunedoara County Prefect; Roşia Montană Local Council 2; Ministry of the Economy and Commerce; National Agency for Mineral Resources; Ministry of Culture and Religion

²⁷⁶ Interviews: Arad County Council; Câmpeni Local Council For example, as part of a jalopy campaign, the Alba County EPA collected people's decommissioned cars at no cost. (Alba County EPA) The Alba County Council offers sport, cultural, anti-drug and anti-smoking campaigns for young people. (Alba County Council) The individuals can meet with the Alba County Sub Prefect during scheduled audience times to discuss problems with service delivery. (Alba County Sub Prefect) People participated with the Hunedoara County Prefect as part of the county's land restitution efforts. (Hunedoara County Prefect)

²⁷⁷ Interviews: Câmpeni Local Council For example, owners of historic monuments must apply for permission to conduct restoration projects or to perform works around archaeological sites. (Alba County Culture and Religion)

²⁷⁸ Interviews: Cluj County Environmental Guard; Alba County Culture and Religion

²⁷⁹ Interviews: Cluj County Environmental Guard; Cluj County Sub Prefect; Hunedoara County Environmental Guard; Alba County Environmental Guard; Câmpeni Local Council; National Agency for Mineral Resources For example, an individual complains that his neighbour is burning wood in his garden or complains about a neighbour's noisy car. (Alba County Environmental Guard) The counties are getting about 150 to 300 complaints a year from citizens. (Hunedoara County Environmental Guard; Alba County Environmental Guard; Cluj County Environmental Guard)

²⁸⁰ Interviews: Alba County Council; Arad County Council; Câmpeni Local Council; Hunedoara County Prefect; Roşia Montană Council 1 It seems that county level public officials expect residents to participate at the local level. Local level mayors and councils then represent their constituents' comments, ideas, values, complaints to county level officials. (Alba County

Experts²⁸² and business representatives²⁸³ participate in special committees and seminars at the county level.²⁸⁴ Investors – oftentimes foreign ones - bid for resource concessions²⁸⁵ and apply for permits to develop projects.²⁸⁶ While the public officials that I interviewed provided examples of local opportunities to participate²⁸⁷, they reported that organised participation in Romania is rare.²⁸⁸ When NGOs do participate with public agencies, it is usually to jointly provide

Council; Alba County Sub Prefect; Cluj County Sub Prefect; Arad County Council; Hunedoara County Prefect)

²⁸¹ Interviews: Arad County EPA; Câmpeni Local Council; Câmpeni Mayor; Confidential 1; Cluj County Environmental Guard; Confidential 2; Hunedoara County Environmental Guard; Roşia Montană Local Council 2; Ministry of Economy and Commerce; National EPA

²⁸² Interviews: Hunedoara County Prefect; Ministry of the Economy and Commerce; Ministry of Culture and Religion For example, architects advise the Alba County Council on landscape protection. (Alba County Council)

²⁸³ For example, business representative are invited to participate in the Alba County Council's economic development, tourism development and promotion and rural development committees. (Alba County Council) The Arad County Council often meets with business leaders. (Arad County Council)

²⁸⁴ Interviews: Alba County Council; Alba County EPA; Alba County Environmental Guard; Alba County Sub Prefect; National Agency for Mineral Resources; Ministry of the Economy and Commerce; Roşia Montană Council 1; Cluj County EPA; Arad County EPA; Cluj County Environmental Guard; Arad County EPA; Hunedoara EPA; Hunedoara Environmental Guard; Câmpeni Local Council

²⁸⁵ Interviews: National Agency for Mineral Resources

²⁸⁶ Interviews: Alba County EPA; Alba County Council; Arad County EPA; Arad County Council; Câmpeni Local Council; Confidential 1; Confidential 2; Hunedoara County Environmental Guard

²⁸⁷ For example, local and county council meetings are usually open to the public. (Câmpeni Local Council; Câmpeni Mayor; Roşia Montană Local Council 2; Roşia Montană Local Council 2; Alba County Sub Prefect; Arad County Council; Cluj County Sub Prefect; Hunedoara County Prefect) The representative from the Cluj Environmental Guard organised a seminar on public participation and access to information. He invited experts and business and NGO representatives. (Cluj County Environmental Guard) For example, Prefects and Sub Prefects are the chairs of the county level Social Dialogue Commissions that meet every two months. There unions, employers and civil society meet to discuss social issues in the county. The Sub Prefect is also the chair of the Elderly Commission. Representatives of pensioners meet with the Sub Prefect to discuss issues specific to elderly people. (Alba County Sub Prefect; Hunedoara County Prefect) State level ministries also have Social Dialogue Commissions that they convene. (Ministry of Culture and Religion)

²⁸⁸ Interviews: Alba County Council; Alba County Culture and Religion; Alba County Sub Prefect; Arad County EPA; Câmpeni Local Council; Câmpeni Mayor; Cluj County Environmental Guard; Cluj County Sub Prefect; Confidential 1; Hunedoara County Prefect; Roşia Montană Council 2; Ministry of the Economy and Commerce; National Agency for Mineral Resources; Ministry of Culture and Religion

some public service not to oppose or influence policy.²⁸⁹ According to one official:

*Unfortunately Romanian people get together only when there is a negative thing or aggression taking place. We don't have the education or organisation required to prevent certain things from happening.*²⁹⁰

The Sub Prefect from Alba argued that:

*In my view, after 17 years, we still don't have a well structured, unitary civil society.*²⁹¹

The representative from the Ministry of Culture told me that:

*There is a different civic culture here compared to America. The [Romanian] people don't have the culture to associate.*²⁹²

A local councillor expressed regret that the public does not participate:

*But citizens don't really come; they don't come. It is sad that they don't get involved.*²⁹³

In general, EIA public meetings are also not well attended.²⁹⁴ Those that do attend, participate because they anticipate that they will be directly impacted by the project.²⁹⁵ According to the Director for the EPA in Arad County:

²⁸⁹ For example, the Alba County Environmental Guard and the Alba Mont NGO convened environmental days, where they organised informational campaigns and worked with children to clean parks. (Alba County Environmental Guard)

²⁹⁰ Alba County Culture and Religion Interview

²⁹¹ Alba County Sub Prefect Interview

²⁹² Ministry of Culture and Religion Interview

²⁹³ Câmpeni Local Council Interview The Roşia Montană Council 2 interview participant expressed a similar regret.

*So they are not really interested, except to the extent to which they are affected by the activity in question.*²⁹⁶

One public official asserts that:

*So far, no NGO has ever shown up to a public debate on a project.*²⁹⁷

The disastrous administration of Romania's economy during the 44 year communist period continues to shape Romanian public participation.²⁹⁸ After the extreme form of socialism imposed on the country, it had to be expected that Romania's transition from a centralized state-managed economy to a market driven one was not going to be easy.²⁹⁹ Romanian industry suffered from inefficiencies, obsolete technology, old-school management and the on-going loss of markets.³⁰⁰ Romania continued to produce uncompetitive low value-added exports.³⁰¹ After the revolution, all parties competing in the spring elections called for a quick transition.³⁰² However, policy makers had little experience or understanding of market driven economies and none of them had a comprehensive plan for a relatively painless transition.³⁰³ Rather than pursue a strategy of quick and painful reforms, the post-communist governments elected a strategy of slow and painful reforms.³⁰⁴ Policy makers had to focus

²⁹⁴ Interviews: Arad County EPA; Cluj County Environmental Guard; Confidential 1; The public authorities and the developer must wait at the public meeting venue for 90 minutes, even if no one shows up to participate. (Hunedoara County Environmental Guard)

²⁹⁵ Interviews: National EPA; Confidential 2; Hunedoara County Environmental Guard; Arad County EPA; Confidential 1

²⁹⁶ Confidential 1

²⁹⁷ Arad County EPA

²⁹⁸ Gallagher, 2005; 16

²⁹⁹ Ianoş, 2001; 192; Calinescu and Tismăneanu, 1991; 292; Turnock, 2001; 152; Almer and Koontz, 2004; 478

³⁰⁰ Ianoş, 2001; 194-195; Smith, 2001; 146; Gallagher, 2005; 7; Calinescu and Tismăneanu, 1991; 293

³⁰¹ Turnock, 2001; 157; Ianoş, 2001; 194; Smith, 2001; 148

³⁰² Calinescu and Tismăneanu, 1991; 292

³⁰³ Calinescu and Tismăneanu, 1991; 292

³⁰⁴ Phinnemore and Light, 2001; 4; Shafir, 2001; 87; Smith, 2001; 127; Turnock, 2001; 152; Ianoş, 2001; 192; Gallagher, 2005; 98; Calinescu and Tismăneanu, 1991; 292

simultaneously on the liberalization of prices, the privatization of state enterprises³⁰⁵, the de-collectivization of agriculture, the creation of new legal frameworks, and the exposure of the economy by international competition.³⁰⁶ In order to induce privatization, state actors needed to encourage investment by providing a stable environment, controlling inflation and promoting growth.³⁰⁷ Economic risk was to be introduced into a structure in which workers had been guaranteed jobs.³⁰⁸ The state would have to provide a safety net for those who would be negatively affected by the new economy.³⁰⁹

In order to influence the 1996 elections, Romania borrowed heavily from the West, relaxed economic policy and reintroduced non-market controls.³¹⁰ While this strategy temporarily stimulated the economy, it ultimately resulted in inflation, currency devaluation, the slowdown of industry and the reversal of the country's gains in Gross Domestic Product (GDP) that had been made in the early part of the decade.³¹¹ After Iliescu was defeated in 1996, the new government pursued a more market-oriented economic strategy.³¹² They liberalized prices, eliminated subsidies to loss-making enterprises and for

³⁰⁵ Romania had been slow to privatize the state's salvageable enterprises and to liquidate the loss-making ones. (Shafir, 2001; 87; Smith, 2001; 127) Early governments were clearly uncomfortable with the social consequences of privatization and so they focused on industry modernisation and restructuring instead. (Gallagher, 2005; 98; Ianoş, 2001; 195) The privatization of large-scale enterprises saw little or no movement. (Ianoş, 2001; 194; Swain and Vincze, 2001; 179) The high level of subsidization in the heavy industrial and mining sectors continued. (Smith, 2001; 127; Ianoş, 2001; 194)

³⁰⁶ Smith, 2001; 135; Phinnemore and Light, 2001; 2; Swain and Vincze, 2001; 176; Ianoş, 2001; 192

³⁰⁷ Turnock, 2001; 152 While the public held high expectations for immediate improvements to their living standards, rapid change could be destabilizing. (Ianoş, 2001; 192); Since the revolution, Romania has experienced relatively little success in attracting foreign investment. By the autumn of 1996 Foreign Direct Investment (FDI) had reached a peak of \$3.4 billion, but the rate of investment began to decline. (Shafir, 2001; 88, Smith, 2001; 128; Turnock, 2001; 154)

³⁰⁸ Phinnemore and Light, 2001; 5; Ianoş, 2001; 193; Smith, 2001; 136; Turnock, 2001; 167

³⁰⁹ Turnock, 2001; 167, 169

³¹⁰ Turnock, 2001; 152; Smith, 2001; 129

³¹¹ Turnock, 2001; 152; Smith, 2001; 135

³¹² Ianoş, 2001; 195

consumer goods, opened up the foreign exchange market and removed import controls³¹³. Inflation - that had been repressed – rose to 151.4% in 1997 reducing real wages by 25%.³¹⁴ By February 1998, unemployment had risen to 11.8%.³¹⁵ In total, economic restructuring has resulted in a loss of more than a million industrial jobs.³¹⁶ These conditions affected consumption, which in turn hit consumer goods production and the development of the still immature private sector.³¹⁷

Cuts to mining sector subsidies in 1996 had an enormous impact on Romania's mining settlements.³¹⁸ Romania's miners had been accustomed to special attention they received from Ceaușescu.³¹⁹ During the communist era, Ceaușescu promoted the idea that workers – especially Romania's miners – were the ultimate proletariat.³²⁰ Many of the mining settlements (Apuseni and Banat mountains) in Romania had been dependent on that single economic activity.³²¹ After the revolution, without state support and subsidies, the mining industry entered a phase of sharp decline – threatening the special status of the miners; approximately 90,000 miners were laid off resulting in 30% unemployment.³²² As the population left the mining settlements, the remaining inhabitants experienced complex social, economic and environmental

³¹³ Ianoș, 2001; 195; Smith, 2001; 135 Government decisions to lift restrictions and barriers on imports have exposed domestic agriculture and industry to foreign competition. (Ianoș, 2001; 193)

³¹⁴ Smith, 2001; 135

³¹⁵ Smith, 2001; 136

³¹⁶ Phinnemore and Light, 2001; 8; Ianoș, 2001; 204

³¹⁷ Smith, 2001; 135

³¹⁸ Ianoș, 2001; 199; Turnock, 2001; 169

³¹⁹ Calinescu and Tismăneanu, 1991; 294; Gallagher, 2005; 80

³²⁰ Gallagher, 2005; 80

³²¹ Ianoș, 2001; 195

³²² Ianoș, 2001; 195; Turnock, 2001; 169

problems.³²³ Romanian miners living in relative isolation developed a strong sense of solidarity.³²⁴

Initially, Romania saw radical developments in agriculture reform and privatization.³²⁵ Cooperatives were dismantled and their assets were distributed to entitled persons or to their heirs according to historic boundaries.³²⁶ Compulsory produce deliveries from family plots were abolished.³²⁷ However the state has been slow to provide the support needed by commercial farmers.³²⁸ The creation of large commercial farms is stalled because of credit shortages and the lack of a property market.³²⁹ As a result Romanian agriculture has since reverted back to small-scale peasant subsistence farming.³³⁰ Commercial farming and agro-industries have seen an associated decline - contributing to net imports of foodstuffs.³³¹



Photo 11: Bistra (Dragomir, 2007)

Fortunately on the path to membership, the EU provided structural assistance: including help (SAPARD) for agriculture and rural development, transport systems and the protection of Romania's natural and cultural heritage.³³² Foreign support

schemes to stimulate the development of small- and medium-sized enterprises

³²³ Turnock, 2001; 169; Ianoş, 2001; 199 The state has designated many of these settlements as disadvantaged areas, offering generous redundancy and retraining programmes to unemployed miners and providing increased support to improve the infrastructure and to generate alternative economic activity and employment. (Turnock, 2001; 167; Ianoş, 2001; 199)

³²⁴ Gallagher, 2005; 80

³²⁵ Swain and Vincze, 2001; 175

³²⁶ Swain and Vincze, 2001; 176

³²⁷ Swain and Vincze, 2001; 176

³²⁸ Swain and Vincze, 2001; 179

³²⁹ Turnock, 2001; 161

³³⁰ Turnock, 2001; 164; Swain and Vincze, 2001; 175; Ianoş, 2001; 194

³³¹ Swain and Vincze, 2001; 175; Ianoş, 2001; 194

³³² Turnock, 2001; 155. 168; Gallagher, 2009; 5

(SMEs) have been offered.³³³ Finally, the World Bank has provided funds to 'help with rural housing, infrastructure (electricity, roads and water) and community centres.'³³⁴

The PCR's economic policy has unquestionably been one of the legacies of the Communist period that has made Romania's transition to a market economy and democracy difficult and has helped to inhibit the development of Romanian public participation. After the Revolution, Romanians had visions of prosperity and improvements in their living conditions.³³⁵ Almost immediately the supplies of fuel, heat and light were restored, and food rationing was scaled down.³³⁶ The work week was decreased and workplace environments were relaxed.³³⁷ Early retirement was offered to make room for younger workers.³³⁸ Efforts were made to improve housing and infrastructure.³³⁹ Yet, Romanians have continued to struggle with rising prices, decreases in real wages and unemployment and they have experienced only slight and sporadic improvements to their living conditions.³⁴⁰

The economic situation suffered by the Romanians impacts their ability to consolidate their political structures.³⁴¹ Experience shows that the public can only rarely summon the determination to participate in public processes while at

³³³ Turnock, 2001; 152

³³⁴ Turnock, 2001; 167

³³⁵ Phinnemore and Light, 2001; 5; Ianoş, 2001; 193

³³⁶ Calinescu and Tismăneanu, 1991; 292; Gallagher, 2005; 90; Gallagher, 2009; 17

³³⁷ Smith, 2001; 129

³³⁸ Smith, 2001; 129; Ianoş, 2001; 194

³³⁹ Turnock, 2001; 154

³⁴⁰ Ianoş, 2001; 193; Smith, 2001; 136; Turnock, 2001; 167; Gallagher, 2001; 119; Gallagher, 2009; 9; Phinnemore and Light, 2001; 5; Smith, 2001; 129; Ianoş, 2001; 193; Calinescu and Tismăneanu, 1991; 292

³⁴¹ 'The 1930s demonstrated the difficulty of sustaining a pluralist political system against a background of sharply falling living standards.' (Gallagher, 2005; 16)

the same time it is faced with extremely poor living conditions.³⁴² The costs of public participation are unbearable in Romania's economic environment and restrict the inclusivity of Romanian public deliberations.³⁴³ The Romanian economic situation has left the Romanian population exhausted, dejected and cynical in their relationship with the state.³⁴⁴ The Romanian public has neither the energy nor the resources to launch any real effort for political participate or deliberation.³⁴⁵ Meanwhile, Romania's dire economic environment forces the state to concentrate on its economic imperatives and to passively exclude civil society activists, further limiting the opportunities for public participation and deliberation.³⁴⁶

Romania's post-communist state institutions have been structured in a way to limit public participation, making it impossible for the public to break into public policy debates and to hold any hope of influencing public decisions.³⁴⁷ The damage done to Romania's political structures by the Ceaușescu regime meant that these institutions had to be rebuilt from scratch, but after the revolution, the government lacked a comprehensive plan to reorganize and liberalize Romania's political and social structures.³⁴⁸ While at times authoritarian tendencies had been restrained³⁴⁹, the transition government appeared prepared to implement a semi-authoritarian structure.³⁵⁰ While the opposition was organizing itself, the FSN took advantage of their dominant position; they

³⁴² Gallagher, 2005; 16

³⁴³ Coelho, Pozzoni and Montoya, 2005; 179; Mahmud, 2007; 58; Coelho, 2007; 37

³⁴⁴ Gallagher, 2005; 16

³⁴⁵ Ianoș, 2001; 192; Gallagher, 2005; 16; Phinnemore and Light, 2001; 5; Smith, 2001; 128

³⁴⁶ Dryzek, 2000; 138

³⁴⁷ Gallagher, 2005; 3; Gallagher, 2009; 3

³⁴⁸ Turnock, 2001; 167; Gallagher, 2005; 5

³⁴⁹ Gallagher, 2005; 14

³⁵⁰ Gallagher, 2005; 4; Light, 2001; 70; Phinnemore and Light, 2001; 2; Siani-Davies, 2001; 19; Shafir, 2001; 83

quickly occupied public institutions at all levels and created or refined state institutions in order to bolster their authority.³⁵¹ Some of the parallel structures established under Ceaușescu were simply refined – blocking rather than streamlining reforms.³⁵² The nomenklatura of the PCR still held positions in all levels of the bureaucracy – positions they were not willing to abandon.³⁵³ Many of the personnel from the former Securitate remain active in successor departments.³⁵⁴ The administration took no steps toward replacing Ceaușescu's bureaucracy with new appointments based on merit and an understanding of democratic principles.³⁵⁵ It proved difficult to motivate these civil servants to implement reforms based on a pluralist democracy.³⁵⁶ The communist era left behind a bureaucratic culture of inefficiency, irresponsibility, incompetence and corruption.³⁵⁷ It would be difficult to overestimate the impact of the totalitarian methods of the Communists on Romania's contemporary administrative structure.³⁵⁸

Improvements to Romania's infrastructure - which had been left to fall behind modern standards - were required to encourage development and domestic and international trade.³⁵⁹ The new government was faced with poverty in rural areas, declining industry and subsidised mining regions.³⁶⁰ The communist regime left behind complex environmental problems.³⁶¹ The transition itself

³⁵¹ Gallagher, 2005; 4, 8; Calinescu and Tismăneanu, 1991; 285; Turnock, 2001; 152; Ianoș, 2001; 192; Smith, 2001; 136; Phinnemore and Light, 2001; 1; Deletant, 2001; 40

³⁵² Gallagher, 2005; 5; Light, 2001; 71

³⁵³ Calinescu and Tismăneanu, 1991; 285; Gallagher, 2005; 1; Phinnemore and Light, 2001; 6

³⁵⁴ Gallagher, 2005; 90; Deletant, 2001; 46

³⁵⁵ Gallagher, 2001; 107; Phinnemore and Light, 2001; 2

³⁵⁶ Gallagher, 2005; 4; Gallagher, 2009; 1

³⁵⁷ Georgescu, 1991; 258; Gallagher, 2009; 1

³⁵⁸ Gallagher, 2001; 104

³⁵⁹ Turnock, 2001; 167

³⁶⁰ Smith, 2001; 128; Turnock, 2001; 167; Gallagher, 2001; 116; Ianoș, 2001; 195

³⁶¹ Ianoș, 2001; 199

caused difficult social issues, like unemployment, inadequate legislation and property reclamation, to emerge.³⁶² Meanwhile a cautious approach to public spending was required to maintain stability and encourage foreign investment.³⁶³

Romania's post-communist governments have continued the Phanariot and Ceaușescu traditions of *kleptocracy* – public authorities redirecting public resources for private use.³⁶⁴ After the Revolution, the chaos of the transition left state resources exposed to theft by well-placed individuals.³⁶⁵ The break-up of Romanian communism benefited a small group of well placed citizens – some of whom were important figures of the former regime - who were able to adapt their methods and take advantage of the new structure.³⁶⁶ Individuals blackmail or inform on others, make false accusations and leak damaging information about one another in order to strengthen their influence and humiliate or frighten those who oppose them.³⁶⁷ Gallagher cites examples of developers offering bribes in order to secure planning permission and allegations of individuals offering bids for public jobs.³⁶⁸ Public officials, with access to international

³⁶² Ianoș, 2001; 193; Smith, 2001; 136; Turnock, 2001; 167; Swain and Vincze, 2001; 179; Phinnemore and Light, 2001; 2; Gallagher, 2009; 9

³⁶³ Turnock, 2001; 152

³⁶⁴ Gallagher, 2009; 1; Gallagher, 2005; 8

³⁶⁵ Gallagher, 2009; 10; Gallagher, 2005; 17; Phinnemore and Light, 2001; 3; Deletant, 2001; 40; Shafir, 2001; 89

³⁶⁶ Gallagher, 2005; 3; Deletant, 2001; 40

³⁶⁷ Gallagher, 2005; Gallagher, 2009; 1; 'ANI Head Files Blackmail Complaint Against Rosca Stanescu' 19 November 2009 Nine O'Clock Retrieved 16 February 2012 from <http://www.nineoclock.ro/ani-head-files-blackmail-complaint-against-rosca-stanescu/> and 'Top Journalists Accused of Blackmail' December 2009 The Diplomat Retrieved 16 February 2012 from <http://www.thediplomat.ro/articol.php?id=736>

³⁶⁸ Gallagher, 2005; 312; Gallagher, 2009; 106

financial assistance, divert public funds to boost their own financial situation or their political influence.³⁶⁹ One public official complains that:

*Starting from the mayor from the commune and up to the top of the hierarchy they are all susceptible to money. They don't look back. Although they gathered substantial wealth, houses, villas, vacation houses, cars, cash in their accounts, they never seem to have enough. And they don't look at those who elected them. That's the problem with Romanians.*³⁷⁰

Ultimately it was the inability of Romania's public administration to resolve conflicts that stalled political reforms even in the reform motivated Constantinescu government (1996-2000).³⁷¹ During his government, political liberalisation was delayed by division, mutual suspicion and hostility within the four-party coalition.³⁷² The competitive win/lose strategy employed by Romanian politics encourages everything or nothing debates within Parliament and indeed within the governing coalitions – leaving no room for tolerance between political opponents and collaborative problem solving.³⁷³ Each of the parties is convinced that they must gain absolute power in order to achieve their election promises.³⁷⁴ Any commitment for reform or even governance plays second to this quest for power.³⁷⁵ An inability to work collaboratively and to rise above individual positions for the sake of the public interest – combined with the strength of the former communists within the administration – meant political reform was impossible.

³⁶⁹ Gallagher, 2005; 2, 4

³⁷⁰ Roşia Montană Local Council 2

³⁷¹ Deletant, 2001; 35; Gallagher, 2005; 6; Turnock, 2001; 153; Ianoş, 2001; 195; Gallagher, 2009; 1

³⁷² Phinnemore and Light, 2001; 4; Turnock, 2001; 154; Gallagher, 2005; 5; Shafir, 2001; 88; Gallagher, 2009; 1

³⁷³ Shafir, 2001; 80; Gallagher, 2005; 79; Phinnemore and Light, 2001; 7

³⁷⁴ Shafir, 2001; 86

³⁷⁵ Gallagher, 2005; 5; Shafir, 2001; 86

Changes to political institutions and processes may not necessarily guarantee societal changes among public officials or the public.³⁷⁶ After 44 years of Romania's form of totalitarian communist rule, it would have been difficult for any group of people to have reformed and reorganised Romania's public administration structures.³⁷⁷ However, the Romanian post-communist governments have shown a reluctance to implement the difficult reforms that might cost them their positions of power and their access to the material benefits of Romanian public administration.³⁷⁸ Instead, sluggish government reforms have barely improved the living conditions of the Romanian public – creating a disengaged, suspicious and scornful public sphere.³⁷⁹

After the revolution, the motivation to advance change in Romanian society has come from external rather than internal forces.³⁸⁰ Many international agencies are trying to promote reforms to strengthen democracy, support civil society growth and promote good governance in Romania.³⁸¹ Any society recovering from 45 years of severe totalitarian rule would require massive support, if not supervision, from external actors.³⁸² Transitioning totalitarian institutions to democratic ones and introducing the corresponding values, which are alien to the political elite and the general public, will fail if not for pressure from the outside.³⁸³

³⁷⁶ Shafir, 2001; 83; Turnock, 2001; 152

³⁷⁷ Gallagher, 2001; 104; Phinnemore and Light, 2001; 6; Ianoş, 2001; 192

³⁷⁸ Gallagher, 2005; 8; Calinescu and Tismăneanu, 1991; 285; Turnock, 2001; 152; Ianoş, 2001; 192; Smith, 2001; 136; Phinnemore and Light, 2001; 1; Deletant, 2001; 40

³⁷⁹ Gallagher, 2005; 17

³⁸⁰ Gallagher, 2005; 12

³⁸¹ Turnock, 2001; 164; Gallagher, 2005; 11

³⁸² Gallagher, 2001; 115 This was seen during the introduction of democracy to Germany and Japan after WWII. (Gallagher, 2005; 70)

³⁸³ Gallagher, 2001; 107

However, Romanian politicians take pride in their ability to outfox external powers – pretending to adopt recommended reform measures while extending their power and exploiting the Romanian public.³⁸⁴ As part of its accession to the EU, Romania was required to reform its public administration from the ministerial to the local level.³⁸⁵ However, the guidance provided by EU was itself not consistent or coordinated.³⁸⁶ The confusion that resulted meant that Romanian officials could pretend to implement reforms without actually changing anything; officials agreed to the critical administrative reforms required for EU accession while delaying or impeding their implementation.³⁸⁷ Western international governance structures (e.g. the Helsinki Final Act and Copenhagen Criteria) – especially those with monitoring structures - have weakened the ability of public administrators to employ their strategy of duplicity.³⁸⁸ However, because Romanian public officials have quickly learned the language of democracy – transparency, professional integrity and public service - international officials, temporarily assigned to Romania, are often unaware of this Romanian tradition.³⁸⁹ Gallagher sees a tendency for Romania’s post-communist governments to prefer *simulated change* or a *facade democracy*.³⁹⁰ Ultimately the programmes that are implemented are

³⁸⁴ Gallagher, 2005; 13; Deletant, 2001; 36; Gallagher; 2009, 150

³⁸⁵ Gallagher, 2009; 93 The accession process was meant to introduce decentralisation, civil service reforms, administrative coordination and political neutrality. (Gallagher, 2009; 93-94) One priority was to create a permanent and separate bureaucracy that was not reshuffled with every change of government. (Gallagher, 2009; 94)

³⁸⁶ Gallagher, 2009; 94

³⁸⁷ Gallagher, 2005; 15; Gallagher, 2009; 3,93, 99; The practices of administrative purges and political appointments continued. (Gallagher, 2009; 97) Strategy papers and action plans were written but the reforms never implemented. (Gallagher, 2009; 98)

³⁸⁸ Gallagher, 2001; 108; Helsinki Final Act Retrieved 7 November 2012 from <http://www.hri.org/docs/Helsinki75.html>; Copenhagen Criteria Retrieved 7 November 2012 from http://europa.eu/legislation_summaries/glossary/accession_criteria_copenhagen_en.htm

³⁸⁹ Gallagher, 2009; 111

³⁹⁰ Gallagher, 2005; 4 The dominate theory in the government was that it would take at least 20 years for Romania to transition to democracy and in the interim the country would need a paternalistic government to maintain stability. (Calinescu and Tismăneanu, 1991; 285)

empty facades that hide authoritarian tendencies and corruption.³⁹¹ The Romanians knew that the EU officials could not admit failure.³⁹² This meant that as important implementation deadlines approached, the donors were forced to relax the success criteria.³⁹³ Romanian bureaucrats continued to operate based on rules and procedures rather than analysis, results, evaluation and policy design.³⁹⁴ Officials from the EU could only watch helplessly as the Romanian public administration continued to operate as it always had.³⁹⁵ 'The old structures and behaviour patterns in the Romanian bureaucracy have been consolidated beneath a modernising façade.'³⁹⁶

Rather than taking measures themselves to oppose the state, the Romanian public may again be waiting for the West to save them.³⁹⁷ Romanians feel that aligning with the West is the only sure path to recovery – especially economic recovery - for their society.³⁹⁸ Public authorities, following the tradition of past Romanian leaders, hope that strong foreign relations will bring in necessary financial backing and boost the legitimacy of their authority domestically.³⁹⁹ The Romanian public submitted easily under communist rule - even as more and

³⁹¹ Gallagher, 2009; 94

³⁹² Gallagher, 2009; 111

³⁹³ Gallagher, 2009; 111

³⁹⁴ Gallagher, 2009; 102

³⁹⁵ Gallagher, 2009; 97

³⁹⁶ Gallagher, 2009; 111

³⁹⁷ Georgescu, 1991; 263

³⁹⁸ Gallagher, 2001; 108; Georgescu, 1991; 263; In 1995, all major parties in parliament gave unanimous backing for the Romanian application to EU membership. (Gallagher, 2001; 110) In 1997, the Constantinescu government stressed the importance of international economic cooperation and Romania's need for foreign investment and market experience. (Gallagher, 2001; 109) Even NATO's 1997 refusal to admit Romania had no negative impacts on public opinion. A 1997 opinion survey showed that 80% of Romanians supported EU and 76% supported NATO membership. (Economist Intelligence Unit, 1997; 13) Romanian was ultimately admitted into NATO in 2004 when its strategic geographic location made its participation more important after the Al-Q'aida attacks on the U.S. in September 2001.

³⁹⁹ Gallagher, 2001; 104; After the outbreak of ethnic violence in Târgu Mureş in March 1990 and of miner violence in June 1990, the government took immediate action to repair their image with the West. (Gallagher, 2001; 108)

more totalitarian measures were introduced - because they lived in the 'hope of a hypothetical British and American intervention.'⁴⁰⁰ These hopes faded as the West stood by while Romanian communists, with the support of occupying Soviet troops, forced the abdication of King Mihai.⁴⁰¹ The Romanians waited, but the West again showed its indifference while it offered respectability to the maverick Ceaușescu who had stood up against the Soviets.⁴⁰² Finally all hopes for foreign intervention faded when the Communist governments in the east won legitimacy with the 1975 Helsinki Accords.⁴⁰³ Yet in the summer of 2006, participants at the public meetings expressed a similar faith in foreign investors. During the Alba meeting, one participant said,

*Since Ceausescu's age there used to be a saying among the old people "let the Americans come so they can save us from poverty". Now, they are here and they will end poverty in Roșia Montană. But we must also show our interest, so that they can do their job, their duties.*⁴⁰⁴

Despite their obvious desire to normalise relations with the West, in times of crisis Romanian political elites continue to resort to the jingoism used by Romanian regimes throughout its history.⁴⁰⁵ Defending the nation against alleged foreign threats intent on exploiting and colonizing their country is used by leaders to distract the public from domestic issues - corruption and poor

⁴⁰⁰ Bulei, 2005; 159; Georgescu, 1991; 263

⁴⁰¹ Georgescu, 1991; 230

⁴⁰² Gallagher, 2009; 16; Georgescu, 1991; 242; Calinescu and Tismăneanu, 1991; 287; Gallagher, 2009; 133

⁴⁰³ Georgescu, 1991; 263

⁴⁰⁴ Alba Iulia Public Meeting – Speaker 115

⁴⁰⁵ Georgescu, 1991; 255

living standards - and to secure legitimacy.⁴⁰⁶ Popular resentments against state misrule can be redirected towards threatening foreign targets.⁴⁰⁷

After the strong sense of civic solidarity brought by the Revolution and the pervasive distaste for Ceaușescu's nationalism, it appeared that nationalist sentiments would be marginalised in Romanian society.⁴⁰⁸ However, the political elite learned early that - in order to maintain their hold on power - they needed to form alliances with the former communists who continued to hold the insider knowledge and power necessary for early election wins, but who also continued to hold Ceaușescu era resentments against minorities.⁴⁰⁹ Ultimately, early governments chose to alienate the minorities - drawing on nationalist feelings - whenever it faced strong competition from dissenting groups, in times of economic hardship and whenever shortcomings of state actors were revealed.⁴¹⁰ It was not until the after the 1996 election that the Hungarian party, UDMR, was invited to join the governing coalition.⁴¹¹ However even then, many coalition members returned to their nationalistic strategies and isolated the Hungarian party when internal conflict reduced the coalition's strategic options to nationalistic ones.⁴¹²

Romanians, especially those in predominately Hungarian cities, began to fear the loss of benefits they had received as a result of Ceaușescu nationalism.⁴¹³

Soon after the Revolution, people in rallies began chanting, '*noi suntem*

⁴⁰⁶ Georgescu, 1991; 247; Gallagher, 2001; 109; Gallagher, 2005; 9

⁴⁰⁷ Gallagher, 2005; 2

⁴⁰⁸ Gallagher, 2005; 75

⁴⁰⁹ Gallagher, 2001; 107; Calinescu and Tismăneanu, 1991; 296

⁴¹⁰ Gallagher, 2001; 107; Calinescu and Tismăneanu, 1991; 296

⁴¹¹ Shafir, 2001; 98

⁴¹² Gallagher, 2001; 112; Shafir, 2001; 91

⁴¹³ Gallagher, 2005; 84

Români (we are Romanians) - uniting the Romanians and attempting to credit themselves - with the exclusion of the minorities - for the revolution.⁴¹⁴ Romanian and Hungarian demonstrations to express collective interests sometimes end in violence.⁴¹⁵ 'Rival national communities proved relatively easy to manipulate by forces intent on promoting ethnic antagonism.'⁴¹⁶ This social gullibility may be due to the isolation and limited exposure between ethnic communities and perhaps to the powerful hold local elites have over their communities - particularly among the peasants.⁴¹⁷ During the forced industrialisation of the Communist era, rural peasants were forced to migrate to urban industrial areas.⁴¹⁸ These workers were never properly integrated and often feel disconnected and discontented.⁴¹⁹ Faced with high unemployment and a declining industrial sector the Romanian working class turned to a nationalist agenda.⁴²⁰

⁴¹⁴ Shafir, 2001; 92

⁴¹⁵ Phinnemore and Light, 2001; 2; Calinescu and Tismăneanu, 1991; 296 In early January, Romanian students, parents and teachers in Transylvanian cities organized peaceful demonstrations against Hungarian attempts to restore Hungarian language instruction in schools which had been Hungarian before the communist era. (Gallagher, 2005; 77) In March 1990, videotaped rallies were publicised showing large crowds of people chanting anti-Hungarian threats and speakers accusing the Hungarian minority of expressing hostility towards the Romanians. (Gallagher, 2005; 83) Also in March, the nationalist party, *Vatra Românească* (Romanian Hearth) - now called the Party of Romanian National Unity (PUNR) - staged a protest to counter a prior Hungarian rally calling for political reforms and liberalisation, as well as, for rights for ethnic minorities. (Gallagher, 2005; 84) The *Vatra Românească* demonstrations resulted in beatings and the ransacking of the offices of both Romanian and Hungarian organisations. (Socor, 1990; 39) Three people were killed and 269 injured. (Gallagher, 2005; 85)

⁴¹⁶ Gallagher, 2005; 89

⁴¹⁷ Gallagher, 2001; 89, 120

⁴¹⁸ Gallagher, 2005; 84

⁴¹⁹ Gallagher, 2005; 84

⁴²⁰ Phinnemore and Light, 2001; 7; Gallagher, 2001; 107

Some see nationalist tensions subsiding in Romania. One local public official argued that that Romanian and Hungarian nationalist leaders were 'fuelling' the conflict between groups because the 'profit from the discord'.⁴²¹ He added that:

*You should know that the ethnic problems don't appear on the lower levels. They are raised by the ethnic leaders. People marry each other, work together without any problems, they meet, there's no problem.*⁴²²

Romania is now divided between those pursuing a narrow nationalist identity and those seeking an identity based on liberal European values.⁴²³ The public that continues to hold nationalist attitudes are the elderly and the military who abandoned Ceaușescu's communist ideology, but not his nationalism.⁴²⁴ The nationalist parties are strong in the areas with large minority populations or weak economies.⁴²⁵ The Romanian working class has begun to demonstrate more apathy and complacency than activist nationalism.⁴²⁶ Intellectuals and young professionals – influenced by European values – work to challenge Romanian nationalism.⁴²⁷ Nationalistic sentiments may be declining as European governing structures exert their influence on Romanian society.⁴²⁸ The freedoms and advancements in travel and communications mean that Romanians are no longer isolated from Western values and perceptions.⁴²⁹ A decline in nationalistic values may lead to a more unified and therefore powerful public sphere.

⁴²¹ Roșia Montană Council 1

⁴²² Roșia Montană Council 1

⁴²³ Phinnemore and Light, 2001; 7; Gallagher, 2001; 113

⁴²⁴ Gallagher, 2001; 112

⁴²⁵ Gallagher, 2001; 105; Phinnemore and Light, 2001; 7

⁴²⁶ Gallagher, 2001; 117

⁴²⁷ Gallagher, 2001; 121

⁴²⁸ Phinnemore and Light, 2001; 7; Gallagher, 2001; 104

⁴²⁹ Gallagher, 2001; 116; Phinnemore and Light, 2001; 7

Even after the revolution, the essence of democracy, public participation and deliberation, is still largely missing in Romania.⁴³⁰ While many political institutions were reformed as a result of the revolution, Romanian public participation and deliberation was not one of them.⁴³¹ The popular activism demonstrated during the 1990s probably had *some* influence on the former communists who continued to hold power after the Revolution⁴³² – forcing them to establish some democratic institutions rather than allowing them to revert to a liberalised one-party political system as they might have wished.⁴³³ Foreign institutions - rather than local bottom-up grassroots associations - continue to provide the support and pressure for political and economic reforms.⁴³⁴ However, this foreign backing alone will have no lasting impact without domestic advocates.⁴³⁵ Domestic groups committed to a strong democracy exist, but they are still largely weak and ineffectual.⁴³⁶ Distrust and competition among civil society organisations reduces the possibility of the formation of strong coalitions.⁴³⁷ The lack of pressure for reform from the Romanian public has contributed to the hesitant consolidation of Romania's democracy.⁴³⁸

⁴³⁰ Stringer, Scriciu and Reed, 2009; 81

⁴³¹ Gallagher, 2005; 69; Stringer, Scriciu and Reed, 2009; 79

⁴³² Calinescu and Tismăneanu, 1991; 289; ; Gallagher, 2005; 71; Siani-Davies, 2001 By as early as 22 December – 7 days after the start of the revolution in Timișoara - the National Salvation Front (FSN) led by Ion Iliescu issued its ten-point programme which included measures to reorganize and liberalize Romania's political, economic and social structures. (Gallagher, 2005; 74; Calinescu and Tismăneanu, 1991; 283) At that time, the members of the FSN included students and intellectuals who had participated in the early part of the uprising, as well as, army and Securitate officers. (Gallagher, 2005; 73) However, 'the directing group were people who had been communists right up until the collapse of the regime.' (Gallagher, 2005; 73) By the end of the year (9 days!) the FSN had 145 members – who had taken over the PCR structures and had allies installed in state owned enterprises and in every level of governance. (Gallagher, 2005; 73)

⁴³³ Calinescu and Tismăneanu, 1991; 289; Gallagher, 2005; 4; Phinnemore and Light, 2001; 2

⁴³⁴ Deletant, 2001; 40; Smith, 2001; 132; Gallagher, 2005; 11; Stringer, Scriciu and Reed, 2009; 86

⁴³⁵ Turnock, 2001; 154; Gallagher, 2005; 6; Shafir, 2001; 86

⁴³⁶ Institute for Democracy and Electoral Assistance, 1997; xiv; Gallagher, 2005; 7, 17; Stringer, Scriciu and Reed, 2009; 81; Alba County Sub Prefect Interview

⁴³⁷ Stringer, Scriciu and Reed, 2009; 81

⁴³⁸ Gallagher, 2005; 16; Stringer, Scriciu and Reed, 2009; 81

Although over time, state threats and intimidation have faded, Gallagher argues that 'it is not far-fetched to assume that nearly fifty years of political repression will probably impede political activism, and weaken civil society, for long into the future.'⁴³⁹

THEORY OF IDEOLOGY

While Romania's past and the activities of domestic and foreign state and economic institutions continue to constrain public participation and deliberation, the norms, beliefs and ideologies held by Romanian society also work to prevent the Romanian public from reaching its political goals.⁴⁴⁰ Most of these ideologies have their roots in Romania's communist past; Ceaușescu is gone, but many of the values, perceptions and customs persist.⁴⁴¹ It is important to point out that the term *ideology* does not mean that Romanian fears, distrust, complacency, disappointment, cynicism and despair are irrational or unfounded.⁴⁴² Rather *ideologies* refer to those worldviews and beliefs that prevent the Romanian public from experiencing the satisfaction, political freedom, self-expression, self-determination and sense of contribution that would be possible with communicative action and deliberative democracy. These ideologies prevent Romanians from working together to form powerful associations and from trusting that their efforts at public participation can actually influence public decision and action.

⁴³⁹ Gallagher, 2005; 69; Georgescu, 1991; 278

⁴⁴⁰ Fay, 1987; 31; Ritzer, 2008; 287

⁴⁴¹ Gallagher, 2005; 93; Phinnemore and Light, 2001; 6; Stringer, Scriciu and Reed, 2009; 87

⁴⁴² Gallagher, 2005; 7

Both the Romanian public and its public authorities blame their lack of effective public participation on their inexperience.⁴⁴³ Many Romanians – both public administrators and ordinary citizens - have literally no experience with democratic institutions and practices.⁴⁴⁴ One Bucharest public meeting participant said that:

*We need 50 more years to understand democracy.*⁴⁴⁵

More than one public official suggested that the Romanian citizens do not yet have the experience of public participation and that it would take time for them to gain that experience.⁴⁴⁶

*I believe that some time must pass to change something in the peoples' mentality. [In the past] they were directed; someone always told them what to do.*⁴⁴⁷

The Cluj Sub Prefect argues that:

*This is a pretty slow process regarding the implementation of participatory democracy in Romania. It is about a change of mentality for both citizens, who need to have more courage to get involved, and local authorities, who need to ask for citizens' opinions more.*⁴⁴⁸

Romanian public participation and deliberation never developed during the communist era because the population grew ever more dependent on and

⁴⁴³ Stringer, Scriciu and Reed, 2009; 79

⁴⁴⁴ Gallagher, 2005; 68; Calinescu and Tismăneanu, 1991; 296; Phinnemore and Light, 2001; 7

⁴⁴⁵ Bucharest Public Meeting- Speaker 356; For him, 'the most important principle of democracy is to respect each other and the minority must oblige the majority'. (Bucharest Public Meeting – 356)

⁴⁴⁶ Interviews: Câmpeni Local Council; Alba County Council; Alba County Culture and Religion; Alba County Sub Prefect; Arad County EPA; Cluj County Sub Prefect; Roșia Montană Local Council 2; Cluj County Environmental Guard; Hunedoara Sub Prefect; Confidential 2

⁴⁴⁷ Câmpeni Local Council Interview

⁴⁴⁸ Cluj Sub Prefect Interview

submissive to the state for its material needs.⁴⁴⁹ Romanians learned that conformity, rather than individual abilities or actions, ensured their safety and their ability to meet their basic needs.⁴⁵⁰ The Romanian public's dependence on a strong centrally managed state has only *grown* since the revolution. Romania's elite with its appalling record of governance has 'sought to muffle popular discontent by encouraging relationships of dependence and promoting aspects of political culture which encourage passivity and resignation.'⁴⁵¹ Romania's dependent public reinforces vertical authoritarian relationships of domination within society, discourages solidarity within society, inhibits grassroots participation and allows elite misrule and corruption.⁴⁵²

Romania's fragmented and distrustful society has been an important obstacle to its ability to strengthen itself through association and to participate in and influence public decision and action.⁴⁵³ In order to strengthen its authority over the public, elites and public officials encourage social fragmentation, resentment of opposition and inter-ethnic suspicion.⁴⁵⁴ Romania's long history of foreign domination and corrupted public officials has contributed to the country's social mistrust.⁴⁵⁵ The suspicion - that was cultivated during the communist regime - between various groups within Romanian society still works to divide and keep the public sphere powerless to influence public decision and action. Class differences between the peasants, workers, students, religious activists and

⁴⁴⁹ Gallagher, 2005; 48; Calinescu and Tismăneanu, 1991; 288

⁴⁵⁰ Gallagher, 2005; 69

⁴⁵¹ Gallagher, 2005; 15; Early governments attempted to bribe the public for its support by offering Romanian citizens shares in privatised companies and property at below market prices. (Gallagher, 2005; 10)

⁴⁵² Gallagher, 2005; 17

⁴⁵³ Gallagher, 2005; 6; Shafir, 2001; 83

⁴⁵⁴ Gallagher, 2005; 107

⁴⁵⁵ Gallagher, 2005; 16; Gallagher, 2009; 13

intellectuals have never been overcome. Individuals and groups of dissatisfied Romanians and Magyars act independently and make no attempts to create a united force.⁴⁵⁶ The Securitate's technique of persuading Romanians to monitor and report on family, friends and colleagues contributed to an atmosphere of distrust within society.⁴⁵⁷ This strategy of fragmentation – used throughout Romania's history - ensures complacency on the part of the public even in the face of poor performance and corruption from political elites and the government.⁴⁵⁸

Under the Communist regime, a network of discreet personal relationships became necessary to ensure personal survival.⁴⁵⁹ The acronym of the Romanian Communist Party (PCR) began to represent the key for a bearable existence in Romania - *Pile* (corruption) *Cunoștințe* (contacts) and *Relații* (relations).⁴⁶⁰ This subversive approach to life coincided with the Romanian *live and let live* attitude which further fragmented society.⁴⁶¹ This attitude continues in Romanian society, increasing competition among individuals and limiting the public's ability for solidarity.⁴⁶²

Romanian society seems averse to - and somewhat incompetent in - the deliberation, bargaining, compromise and negotiation skills required when resolving conflict in a pluralist society.⁴⁶³ Romanian society emerged from communism with little or no experience – and even hostility toward – conflict

⁴⁵⁶ Georgescu, 1991; 277

⁴⁵⁷ Deletant, 2001; 55

⁴⁵⁸ Gallagher, 2005; 15; Gallagher, 2009; 1

⁴⁵⁹ Shafir, 2001; 81

⁴⁶⁰ Shafir, 2001; 81

⁴⁶¹ Shafir, 2001; 81

⁴⁶² Shafir, 2001; 81

⁴⁶³ Shafir, 2001; 88; Gallagher, 2005; 79; Phinnemore and Light, 2001; 7

and the resolution of public conflict.⁴⁶⁴ After the Revolution, early public protests were often ineffective and sometimes led to violence. This early experience of public participation – sometimes violent - perhaps frightened the Romanian public from expressing its dissent. Romanians express a discomfort with a diversity of interests, unrestricted debate and opposition.⁴⁶⁵ Shafir sees what he calls *polarised pluralism* or an all or nothing approach to conflict, which leaves little room for consensual politics.⁴⁶⁶ A Romanian model of pluralism includes dialogue between interest groups, but explicitly minimises confrontation and dispute and relies on broad national consensus.⁴⁶⁷ This model envisages a powerful role for the state – as agenda setter, debate arbitrator and the executor of public decisions.⁴⁶⁸ According to Siani-Davies, this model resembles ‘the one-party pluralism of reform socialism.’⁴⁶⁹

Even after its experience with Ceaușescu’s totalitarian form of governance, many Romanians still hold a favourable view toward an authoritarian society.⁴⁷⁰ Rather than allowing groups to collectively reason, argue and negotiate policy based on their sometimes competing group and individual interests, Romanians have historically resolved their conflicts through authoritarian hierarchical processes (i.e. state, elite and church), violent coercion and the exclusion of those with whom it differs (e.g. nationalism). For many Romanians, liberal democracy looks risky and full of conflict.⁴⁷¹ The Romanian values, expressed in its nationalism and its religion, helped to delegitimize communism but not

⁴⁶⁴ Shafir, 2001; 83; Gallagher, 2005; 75

⁴⁶⁵ Gallagher, 2005; 81; Siani-Davies, 2001; 18

⁴⁶⁶ Shafir, 2001; 80

⁴⁶⁷ Siani-Davies, 2001; 18

⁴⁶⁸ Siani-Davies, 2001; 18

⁴⁶⁹ Siani-Davies, 2001; 19

⁴⁷⁰ Gallagher, 2005; 6; Phinnemore and Light, 2001; 3; Siani-Davies, 2001; 18

⁴⁷¹ Gallagher, 2005; 4

necessarily to promote democracy.⁴⁷² The main source of support for authoritarian practices comes from those who have an interest in security, even at the price of state control, rather than freedom and its inherent risks.⁴⁷³ Many Romanians continue to hold lingering fears of state actors and a general unwillingness to oppose its authority.⁴⁷⁴ Collective values, encouraged by the Orthodox Church, reduce the importance of the individual and subject him/her to authority.⁴⁷⁵ According to Shafir, 'the future of the region is authoritarian.'⁴⁷⁶

According to historical institutionalism theory, institutional inertia explains why more than twenty years after the overthrow of the totalitarian regime, Romanian public participation and deliberation remains stagnant and weak. Three themes emerge out of this theory of ideology for post-communist Romanian public participation and deliberation. One theme relates to the fragmentation of Romanian society and the inability of the Romanian public to form political association and solidarity. Another theme relates to the Romanian cynicism that derives from the public's inability to penetrate public institutions, influence public decisions and make any meaningful difference. Finally, Romanian public participation and deliberation remains sluggish because state actors resist the improvement or democratisation of formal political institutions, even with foreign support and guidance.

The remnants of communist era state and economic institutions and the perspectives, norms and ideologies of the public all continue to constrain

⁴⁷² Shafir, 2001; 83

⁴⁷³ Calinescu and Tismăneanu, 1991; 295

⁴⁷⁴ Gallagher, 2005; 7

⁴⁷⁵ Gallagher, 2005; 8

⁴⁷⁶ Shafir, 2001; 83

Romanian public participation and deliberation today.⁴⁷⁷ Ceaușescu's policies of systematisation and mutual surveillance and his nationalist ideology continue to fragment society, to cause mutual distrust and to make it difficult for people to create political bonds and to form solidarities beyond family associations.⁴⁷⁸ Communist coercion and intimidation worked to immobilise the public and eliminate Romanian public participation.⁴⁷⁹ The brutal totalitarian nature left the Romanian public politically dependent and submissive.⁴⁸⁰ Even now, many Romanians are afraid to oppose the authority of state actors.⁴⁸¹ The authoritarian nature of the regime suppressed conflict and left the Romanian public with inadequate collective reasoning skills – especially in the face of conflict.⁴⁸² Romanians view public conflict as dangerous or rude; only authoritarian decision makers or technical experts – usually foreign ones - can resolve public disputes.⁴⁸³ Under Ceaușescu the public was forced to participate in public demonstrations of state support; public political events now seem distasteful and insincere.⁴⁸⁴ Romanians continue to let themselves be distracted by nationalist claims of threats from ethnic minorities and foreign interference; state corruption, misrule and the real issues facing the country go unnoticed.⁴⁸⁵ The revolution itself and the refusal of the state to conduct an official investigation left the Romanian public confused and suspicious.⁴⁸⁶ The grab for power by the former communists so soon after the revolution left many Romanians disappointed and cynical about their inability to influence public

⁴⁷⁷ Gallagher, 2005; 69; Georgescu, 1991; 278

⁴⁷⁸ Gallagher, 2005; 65

⁴⁷⁹ Gallagher, 2005; 108

⁴⁸⁰ Gallagher, 2005; 48; Calinescu and Tismăneanu, 1991; 288

⁴⁸¹ Gallagher, 2005; 7

⁴⁸² Shafir, 2001; 88; Gallagher, 2005; 79; Phinnemore and Light, 2001; 7

⁴⁸³ Siani-Davies, 2001; 18; Gallagher, 2005; 6; Phinnemore and Light, 2001

⁴⁸⁴ Calinescu and Tismăneanu, 1991; 288; Georgescu, 1991; 262

⁴⁸⁵ Gallagher, 2001; 107; Calinescu and Tismăneanu, 1991; 296

⁴⁸⁶ Siani-Davies, 2001; 21

decisions.⁴⁸⁷ The economic decisions made during the communist era continue to impact Romanian living standards; Romanians must still compete among their neighbours for basic resources and the poor living standards mean that the costs of public participation are very high for typical Romanians.⁴⁸⁸ While sometimes external actors seem to care more for political and economic reforms than Romanians, the society still holds some distrust of foreigners and delights in finding ways to benefit from international aid while maintaining its independence.⁴⁸⁹ Romanian state institutions continue to resist reforms, even with the help of foreign sponsors, and continue to disregard the contributions of ordinary citizens.⁴⁹⁰ The impregnable structural features of Romanian political institutions have resisted change and make it impossible for the Romanian public to influence public decisions, resulting in political despair and complacency.⁴⁹¹ Meanwhile, the public holds very little confidence in the abilities, judgement and integrity of its public officials, further eroding the public's motivation to participate.⁴⁹² Romania's dire economic situation forces the Romanian state to consider its economic state imperatives over all other public considerations.⁴⁹³ Each of these structural features of Romania's institution of public participation and deliberation discourage participation and encumber deliberations. The ideologies, rationally created during the

⁴⁸⁷ Gallagher, 2005; 79; Calinescu and Tismăneanu, 1991; 282; Bulei; 2005; 171; Siani-Davies, 2001; 19; After the December 1989 Revolution, the National Salvation Front (FSN) led by Ion Iliescu (a second-tier communist under Ceauşescu) assumed the role of interim government. (Gallagher, 2005; 79)

⁴⁸⁸ Calinescu and Tismăneanu, 1991; 293; Gallagher, 2005; 16

⁴⁸⁹ Gallagher, 2005; 12-3; Deletant, 2001; 36; Gallagher; 2009, 150

⁴⁹⁰ Gallagher, 2005; 4; Gallagher, 2009; 1

⁴⁹¹ Gallagher, 2005; 3; Gallagher, 2009; 3

⁴⁹² Gallagher, 2009; 13, 94; Gallagher, 2005; 16; Shafir, 2001; 81; Bistra Public Meeting – Speaker 327; Bucharest Public Meeting – Speaker 347; Survey results for this thesis; Roşia Montană Local Council 2 Interview

⁴⁹³ Dryzek, 2000; 94; Alba County Council Interview; National EPA Interview; Alba County EPA Interview

communist era, prevent the Romanian public from drawing on the solidarity they experienced during the revolution and from developing an environment that nurtures the growth of a strong and vibrant public sphere and civil society.

INSTITUTIONAL CHANGE?

I have no doubt that, in general, this theory of ideology explains Romanian public participation and deliberation. However, the case studied for this thesis does not reflect this theory. More than one public official interviewed for this research reported that the public participation and deliberation around the proposed Roşia Montană Gold Corporation (RMGC) project's authorisation has not been characteristic of Romanian participation in general.⁴⁹⁴ In the next chapter it is demonstrated that the deliberative system that has formed to debate the zoning and project authorisation decisions for the proposed RMGC gold mining project is rich and complex. In chapters 10-12 it will be shown that many of the people, who participated in the RMGC EIA hybrid forums, demonstrated experience and knowledge about political processes. Rather than submissive and dependent, these participants stood firm against opposition. Yes, there was distrust among those participants with opposing positions, but the participants demonstrated strong alliances with those who shared their views. The participants of the RMGC EIA hybrid forums intuitively knew that the meetings were not legitimate and they knew exactly why. While it remains to be seen, I argue that the deliberative system to debate the authorisation of the proposed RMGC project might actually be the critical junction - which one might have expected to have come out of the 1989

⁴⁹⁴ Interview: Alba County Council; Alba County Environmental Guard; Alba County SubPrefect; Arad County Environmental Protection Agency; Confidential 2; Confidential 1; Hunedoara County Environmental Guard; National Agency for the Protection of the Environment

Revolution - that will result in some reform of Romania's institution of public participation and deliberation.

A critical theory must include a theory of crisis.⁴⁹⁵ The theory of crisis describes the ways that a particular social institution is 'fundamentally unsatisfactory to those who live in it'.⁴⁹⁶ A critical theory's theory of crisis describes the domination, frustration and suffering experienced by the participants, as well as the events that led to the crisis.⁴⁹⁷ The crisis for this critical theory of public participation and deliberation in post-communist Romania begins in 2000.⁴⁹⁸ Then a group of Roşia Montană farmers realised that the Romanian government was about to perfunctorily authorise an enormous open-pit gold extraction operation, processing plant and tailings pond in their backyards.⁴⁹⁹ This would mean that the farmers would lose their land and their pastoral way of life. At the same time, local miners worried that their livelihoods would be threatened if the project was not authorised. As it escalated - and as more people became concerned about the state's ability to resolve the issue - this conflict led to suffering within the community.⁵⁰⁰

*Since this company has come to Roşia Montană we have only suffered.*⁵⁰¹

One participant at the Roşia Montană meeting said it this way:

⁴⁹⁵ Fay, 1987; 32

⁴⁹⁶ Fay, 1987; 23

⁴⁹⁷ Fay, 1987; 32

⁴⁹⁸ Alburnus Maior, 2011

⁴⁹⁹ Alburnus Maior, 2011

⁵⁰⁰ Pulitzer Centre 16 July 2012 Retrieved 12 August 2012 from <http://pulitzercenter.org/reporting/romania-gold-mining-rosia-montana-village-environment-culture>

⁵⁰¹ Câmpeni Public Meeting

*Because, in general, before this company showed up, we were all friends. We were saying hi to each other on the road. We were respecting each other. We've ended in this way because of this company. We are enemies now - children with parents, brothers among themselves, neighbours, friends. We don't say hi to each other anymore. What's going on in Roşia Montană is very grave.*⁵⁰²

He added:

*What's even worse is that the Romanian authorities forgot about us. They left us here, without taking any necessary measures to see what's going on in Roşia Montană. This project is for all the government a simple hot potato that was transmitted from hand to hand - each of them trying to hide from responsibility. Leaving us here to fight each other is not nice; I do not agree with something like this. I will never agree to something like this.*⁵⁰³

One Roşia Montană resident seemed to express hurt,

*I'm glad you are booing at me. On this very field, I received applause over the years, not booing. I played soccer for this commune. And I fought for this commune and I'll keep fighting for this commune.*⁵⁰⁴

However, rather than sustaining their political ideologies and surrendering their interests, in 2002, the farmers sought the help of a foreign journalist turned activist.⁵⁰⁵ Together this group, Alburnus Maior, mobilised the biggest, most durable and most active grassroots public action campaign experienced to date in post-communist Romania.⁵⁰⁶ At the same time the company mobilised labour unions and local miners to support the authorisation of the project. As a result,

⁵⁰² Roşia Montană Public Meeting

⁵⁰³ Roşia Montană Public Meeting

⁵⁰⁴ Roşia Montană Public Meeting

⁵⁰⁵ The Goldman Environmental Prize, 2011

⁵⁰⁶ Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

more Romanian people than ever are actively engaged in a – for the most part - non-violent political debate about their future.

The people engaged in this deliberative system, while probably not abandoning their ideologies, seemed to be working to overcome them. While participants may still be afraid to express their opinions in public, they are speaking out anyway. Ms. Roth tells this story:

In Bucharest, we organized a forum where locals from Roşia Montană took the microphone. One woman said, “My name is Morgit, I come from Roşia Montană, and my husband and son are buried in the cemetery there. I would like to be buried next to my husband and son.” She was very scared to speak and afterward she cried. But now that people like her have started speaking, nothing is going to stop them. It’s very liberating for them, and it’s very moving to see.⁵⁰⁷

While the cost of participation in the deliberative system has likely been high for many of the participants, by the time of the EIA hybrid forums they had nonetheless continued with their efforts for four years. While many of the hybrid forum participants held almost no hope that their comments would actually influence the outcome, they still stood in front of a large and sometimes hostile audience to express their views. People criticised the government. Hybrid forum participants sat through extremely unpleasant antagonistic public meetings and continued to present their arguments and to demand to be heard. Students, farmers, religious leaders, members of environmental protection and civil rights associations, the intelligentsia and Hungarians and Romanians are

⁵⁰⁷ Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

all working together to protect their shared interests and to influence the public sphere and institutional forums.

I argue that we are witnessing a breakdown of the ideologies that have prevented the Romanian people from fulfilling their political interests through public participation and deliberation. For both new institutionalists and critical theorists institutional structures are not determinate; members can actually shape and reform institutions.⁵⁰⁸ Sometimes change is brought about by external circumstances and sometimes by internal revolt.⁵⁰⁹ In the Roşia Montană case, I propose change has come about for three reasons - some internal and some external. One, the RMGC authorisation decision is a true crisis for both those who oppose and those who support the project. The farmers and miners both see that an unfavourable authorisation decision for the RMGC project threatens their way of life. Both those who support and those who oppose the project see no alternative but to protect their interests through collective action. For both those who support and those who oppose the project their lifestyles *must* be protected and they can *only* be protected through collective action. Secondly, as with many instances of institutional change, change is occurring through leadership and in this case foreign leadership.⁵¹⁰ Neither Stephanie Roth of Alburnus Maior nor the executive management of Gabriel Resources are Romanian. While these leaders are certainly drawing on international support, both sides are also working to organise Romanian activists, to form domestic and foreign alliances, to build leadership capacity

⁵⁰⁸ Held, 1980; 172; Kincheloe and McLaren, 2000; 282

⁵⁰⁹ Peters, 2005; 78; Steinmo, Thelen and Longstreth, 1992; 7; Institutional success can be evaluated based on the degree to which the institution's structural features allow its members to meet the external challenges they face – their ability to operate and adapt within the socio-economic context of the institution. (Peters, 2005; 42, 82)

⁵¹⁰ Peters, 2005; 38

and to break down the ideological barriers that have prevented the Romanian public from pursuing their interests through collective action. Finally, change is coming about – perhaps incrementally - through changes in Romania’s external circumstances. Since the communist era policies - that isolated Romania from the rest of the world - were lifted the Romanian public has had access to foreign institutions that can support their causes. Alburnus Maior in particular has more than once appealed to European sources for support in its efforts to change Romania’s institution of public participation and deliberation. Sometimes change is precipitated by inconsistencies between the norms professed by an institution and the behaviours of the members.⁵¹¹ As a European Union member state, the Romanian public can now highlight the inconsistencies between Romanian and European norms – particularly the European norms of public participation.⁵¹²

The actors of the Roşia Montană have begun to overcome the ideologies that have prevented them from realising their political goals through collective action. Then they ran into, like a brick wall, the structural features of the Romanian formal political and state institutions that remain stuck in the communist era. Alburnus Maior complains that throughout the RMGC authorisation process civil society has had to ‘pry open’ access to Romanian political institutions.⁵¹³ Many of the formal state institutions have been reformed, but the attitudes and motivations of many Romanian public administrators remain trapped in the communist era.⁵¹⁴ Romanian public

⁵¹¹ Peters, 2005; 36

⁵¹² UNECE, 1998; Romanian Law 86/2000; European Council Decision 2005/370/EC

⁵¹³ Alburnus Maior, 2007d; 2

⁵¹⁴ Gallagher, 2005; 4; Gallagher, 2009; 1

officials continue to work to suppress public participation and to disregard the contributions of the public. Given Romania's economic condition, policy makers are forced to consider its economic state imperatives over all other policy concerns. As the actors of the Roşia Montană case are breaking down the barriers that have stopped them from participating, the resistance by state actors to listen to and to consider the contributions of the public has led to even more frustration and domination.

The structure of the RMGC EIA hybrid forums privileged the project owner over everyone else. Like all proponent-led public meetings, the room layout, meeting format, logistics and procedures of the RMGC EIA hybrid forums were designed to discourage equal and productive debate and to ensure that the company's arguments dominated the arguments of those who oppose the mine. The Aarhus Convention, European Directives and, for the most part, Romanian legislation do not provide guidance or standards for the production of EIA public meetings.⁵¹⁵ The legislation does not include monitoring mechanisms or penalties for those who convene public processes that ignore, discourage or even suppress public participation.⁵¹⁶ This leaves EIA public processes open for abuse by project owners who want their projects authorised.⁵¹⁷ RMGC took advantage of the ambiguity in the law and produced public meetings that allowed them to control and dominate meeting participants. Romanian state actors did nothing to stop them.

⁵¹⁵ Okello and Beevers et. al., 2009; 219

⁵¹⁶ Okello and Beevers et. al., 2009; 219

⁵¹⁷ O'Faircheallaigh, 2010; 21; Almer and Koontz, 2004; 490

Many participants complained about this domination during the public meetings.⁵¹⁸

*Sadly this procedure has proven; this at least to me, to be nothing other than a publicity event organised by and for the project owner. There is no space for dialogue; for the public to express their concerns so that the public authorities can take due account of these at the decision making moment.*⁵¹⁹

These meetings were clearly RMGC meetings; opportunities for the company to showcase their project.⁵²⁰ According to Dr. Moran:

*It also became clear that the structure of the entire process was controlled by RMGC, preventing any actual dialogue.*⁵²¹

Alburnus Maior worries that:

*In this way the sham public consultation process had the effect of severely damaging, in two months, the years and years of work by civil society groups to engage the public more in decision-making processes.*⁵²²

At both the Cluj and Bistra public meetings, participants complained about the unfair format of the meetings.⁵²³ Mr. Aston responded that if the opposition did not like the format of the meetings, they should hold 'their own meetings'.⁵²⁴ This statement highlights the RMGC approach to the meetings – the meetings were theirs, rather than the 'publics'. Rather than honest debate about the

⁵¹⁸ Haiduc, 2006; Moran, 2007; 3; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

⁵¹⁹ Haiduc, 2006

⁵²⁰ Field Notes 23 July 2006; Bistra Public Meeting

⁵²¹ Moran, 2006; 10

⁵²² Alburnus Maior, 2007d; 13

⁵²³ Cluj Public Meeting; Bistra Public Meeting

⁵²⁴ Cluj Public Meeting; Bistra Public Meeting

benefits, opportunities, risks and costs of the project, the meetings became an opportunity for RMGC to promote its project. Rather than listen to, consider and respond to the comments and questions of the public, the RMGC representatives attempted to squash any criticism of the project. This was an unfortunate missed opportunity for the few members of the public who did attend the public meetings to learn all sides of the debate. These meetings ran the risk of confirming the Romanians' worst fears about the state of their democracy and of alienating those who did attend the meetings from making future attempts at participating in public decision making.

The domination experienced by the hybrid forums participants was unquestionably frustrating. However, for one public official, the RMGC EIA public meetings would have been unimaginable during Romania's communist past.

*It's new for Romania. Because we are very young, we do not [remember] the past times of Ceausescu. But nobody could have imagined something like [the Cluj public meetings] in that time.*⁵²⁵

The public official from the Alba County Environmental Protection Office remarked:

*Everyone had the chance to express their opinion. I consider them democratic.*⁵²⁶

A participant at the Bucharest public meeting said:

⁵²⁵ Cluj County Environmental Guard Interview

⁵²⁶ Alba County EPA

*It is praiseworthy that 17 years after the revolution in December '89 we can find a way for dialogue.*⁵²⁷

However, she then sarcastically adds:

*Regrettably, this form of dialogue is between Romanians.*⁵²⁸

During the public meetings most participants expressed frustration and disappointment. Those who oppose, those who support and even some of the public officials who observed the public meetings all expressed their frustration with the public meetings. In their contestation of the RMGC EIA hybrid forums to the Aarhus Compliance Committee, Alburnus Maior asserts that the participants of the Cluj-Napoca public meeting were 'disappointed and frustrated' with the format of the meeting.⁵²⁹ The experience of the RMGC EIA hybrid forums could be called a crisis of democracy for the participants. One stunned participant at the Bistra public meeting said,

*This consultation does not look like a consultation should look like.*⁵³⁰

A Romanian public official argued:

*Well I think that what happened there cannot be considered a public debate. Professionally speaking, what happened there was not a public debate, a professional one.*⁵³¹

Some of the words used to describe the RMGC EIA hybrid forums were 'manipulative', 'propaganda', 'parody', 'disingenuous public relations events', 'a

⁵²⁷ Bucharest Public Meeting

⁵²⁸ Bucharest Public Meeting

⁵²⁹ Alburnus Maior, 2007d; 13

⁵³⁰ Bistra Public Meeting

⁵³¹ Alba County Environmental Guard

generalized scandal', 'a cynical farce', 'a hoax', 'a scam', 'a mess' and 'a charade'.⁵³² A project supporter at the Bucharest public meeting said:

*I am shocked that I came in the capital city of Romania to a madhouse. [...] In the country's capital I feel like [I am] in a madhouse. Gentlemen, what country are we living in?*⁵³³

The word most used to describe the RMGC EIA hybrid forums, by both those who oppose and those who support the project, was *circus*.⁵³⁴ A project supporter complained:

*We came here to assist at a circus that I never imagined to be possible.*⁵³⁵

The frustration experienced by the participants is clearly illustrated by this Bucharest public meeting participant.

I am not amused by this thing. What does amuse me is the fact that this circus, because this is a circus, is covered from a legal point of view. [...] Mr. Horea Avram, in the opening [presentation,] spoke about the fact that the debates are being conducted according to the law. I ask him to tell us where in the law it says that a dialogue between the people who participate in the debate and the project owner is not possible? We ask questions. You answer what you want to answer and we don't have the right to take the microphone [to respond]. It's our right. I want rights. I can protest. Furthermore, I am interested;

⁵³² Bara, 2002; 1; Alburnus Maior, 2007d; 14; Alba Iulia Public Meeting; Moran, 2007; 3; Alburnus Maior, 2007d; 21; Bucharest Public Meeting; Roşia Montană Council Member 1; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

⁵³³ Bucharest Public Meeting

⁵³⁴ Alba County Environmental Guard ; Alba Iulia Public Meeting; Bucharest Public Meeting; Câmpeni Public Meeting; Roşia Montană Public Meeting; 24 July 2006 Field Notes; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

⁵³⁵ Alba Iulia Public Meeting

*where in the law does it says anything about the legal way in which I can contest the answers that you give me during the public debates?*⁵³⁶

While it may not be possible to convene fully legitimate deliberative processes, it was the lack of deliberative legitimacy at the RMGC EIA hybrid forums that led to participant frustration and suffering. Despite Romania's democratic inexperience and despite its brutal communist past, the participants were aware of their frustration and the source of their frustration; they intuitively knew that the public meetings were not legitimate based on an ideal of democratic deliberation. This means that the *theory of empowerment* that has been developed in this thesis to critique the legitimacy claims of the RMGC EIA hybrid forums may not provide full enlightenment for those who are participated in the public meetings. Many of the people who are participating in the deliberative system to debate the proposed RMGC gold mining project already appear to have an understanding of what makes participation and deliberation legitimate. Many of these people have already been empowered, through the leadership of Alburnus Maior, to take action to reform Romania's political institution of public participation and deliberation. It even seems that some of these people are working to emancipate and liberate themselves from their ideologies and from the political institutions that dominate them. Perhaps this theory will fill out their understanding of deliberative legitimacy and provide the theoretical confirmation these citizen activists need to further mobilise the Romanian public, expand their rights and reform their political institutions – at least the political institution of EIA hybrid forums.

⁵³⁶ Bucharest Public Meeting

CHAPTER 9: ROȘIA MONTANĂ DELIBERATIVE SYSTEM

All of the deliberative venues described in chapter 5 have been employed in the deliberative system to debate the authorisation of the proposed Roșia Montană Gold Corporation (RMGC) project - everyday talk, broadcasted discourse, institutional forums, associational forums and hybrid forums. This chapter demonstrates that the deliberative system to debate the authorisations of the proposed RMGC project is rich and complex. It is in this deliberative system that society forms and coalesces around public opinion and will ultimately reach the public decisions about the zoning and project authorisations for the proposed RMGC. In this chapter, I address the first research question:

What deliberative venues were employed as part of the deliberative system for the authorisation of the proposed RMGC gold mining project?

In order to more fully address this question, I present a sample of the activities employed in each venue type. For each venue type, I describe some of the formal legal structural features that allow and constrain public participation and deliberation in that venue in Romania. I do not describe the non-deliberative participatory activities employed as part of the RMGC authorisation – opinion polls, written comment, notification and application processes or demographic or attitudinal surveys. Nor is there room in this thesis to analyse the legitimacy of each of the deliberative activities. This description of the deliberative system

to debate the RMGC proposed project demonstrates the various expressions of deliberation for each venue type and places the RMGC Environmental Impact Assessment (EIA) hybrid forums in context. Because a deliberative system is a set of independent but interrelated deliberative venues it is important to understand the deliberative system in which the RMGC EIA hybrid forums were convened.⁵³⁷

EVERYDAY TALK

Everyday talk is the private and informal political talk among family, friends and sometimes strangers.⁵³⁸ As the purely expressive venue of a deliberative system, participants of everyday talk do not seek to make binding decisions or to reach agreement on action.⁵³⁹ During Romania's communist past, even everyday talk might have been monitored by neighbours, friends and colleagues.⁵⁴⁰ However, since the revolution, Romanians are guaranteed the freedom to hold and express their opinions by their constitution.⁵⁴¹ As the most informal and least formally regulated of all the deliberative venues, the structural features that influence the behaviour and outcomes of everyday talk are predominately derived from the implicit norms and ideologies shared among the participants.

I know that individuals participated in everyday talk about the proposed gold mine. For example, I overheard students at a restaurant in Abrud debating the

⁵³⁷ Mansbridge, 1999; 211

⁵³⁸ Mansbridge, 1999; 212; Habermas, 1998; 307; Dryzek, 2001; 663

⁵³⁹ Mansbridge, 1999; 212, 227; Parkinson, 2003; 190; Benhabib, 1996a; 84

⁵⁴⁰ Deletant, 2001; 55; Gallagher, 2005; 15; Gallagher, 2009; 1

⁵⁴¹ According to Article 30 of the Romanian Constitution, all forms of censorship are prohibited; however, expressions that promote the defamation of the country or the nation, include obscene conduct or incite the public to 'discrimination, territorial separatism or public violence' are prohibited.

project.⁵⁴² That conversation ended with one of the students – a daughter of a miner - changing her t-shirt from a RMGC one to a Greenpeace one.⁵⁴³ I myself participated in everyday talk with people – with strangers in shared taxis and on trains, with students in restaurants and with colleagues at parties. During the field work portion of this research project, I was not yet aware of Mansbridge’s notion of everyday talk. So while I think it would be fascinating to investigate and observe everyday talk and to analyse how it spreads, grows and influences public opinion and decisions, I did not collect data about these activities so I cannot describe them here.

BROADCASTED DISCURSIVE ARENA

Both civil society and commercial actors are very active in the macro broadcasted discourse arena of the deliberative system to debate the proposed RMGC gold mining project. Participants of the broadcasted discursive arena do not seek to reach binding agreement, but they do seek to influence both the public sphere and the more formal deliberative forums – especially institutional forums with the mandate to make decisions.⁵⁴⁴ Since Romania’s revolution, the right and freedom to assemble and express ideas, opinions, or beliefs in public without interference by public authorities have been guaranteed by formal institutions like Romania’s Constitution and laws.⁵⁴⁵ These laws constrain and

⁵⁴² Field Notes 25 July 2006

⁵⁴³ Field Notes 25 July 2006

⁵⁴⁴ Dryzek, 2000; 25, 56, 102; Habermas, 1998; 383; Outhwaite, 2009; 143; Hendriks, 2006; 493; Hendriks, 2009; 176; Mansbridge, 1999; 213, 227; Mansbridge, 2007; 266; Dryzek and Niemeyer, 2008; Cohen, 1996; 190-1; Cohen and Arato, 1992; ix, 531; Dodge, 2009; Hendriks, 2006; 491; Shapiro, 1999; 34-5; Benhabib, 1996a; 84; Gastil and Keith, 2005; 3; Parkinson, 2003; 184; Aler and Koontz, 2004; 476

⁵⁴⁵ Romanian Constitution Articles 11, 30, 31, 39, 43; Law 60/1991 legislates and regulates the right to assembly; Law 31/2004 amends the Public Gatherings Law; According to Article 30 of the Romanian Constitution, all forms of censorship are prohibited; however, expressions that promote the defamation of the country or the nation, include obscene conduct or incite the

mobilise participation in Romania's discursive arena. For example, public assemblies are permitted, but they must be conducted in a 'peaceful and civilized' manner.⁵⁴⁶ Article 31 of the Romanian Constitutions requires the independence of public radio and television and requires that public radio and television guarantee broadcasting time for important social and political groups. The National Audiovisual Council (CNA) regulates all public broadcasts and ensures the transmission of a pluralist expression of opinions and ideas.⁵⁴⁷

While no formal legal institutions explicitly regulate *political* broadcasts, several European Directives and Romanian laws regulate certain broadcasts in order to protect *consumers* against misleading and unfair information.⁵⁴⁸ Article 31 of the Constitution requires public and private media to provide 'correct

public to 'discrimination, territorial separatism or public violence' are prohibited. Participants may not obstruct the use of roads or public transportation. Unless the activities are authorised, the assembly may not obstruct the provision of education, culture, health or businesses. Assemblies may not endanger public order, public safety or property. Events that promote fascism, communism, or racism; incite violence or hatred; or defame the country or the nation are prohibited. Local authorities, police or gendarmerie are required to ensure the protection of the participants and organisers. The police or gendarmerie must intervene to prevent the disturbance of public order, the endangerment of public safety or the destruction of buildings or property.

⁵⁴⁶ Right to Public Assembly Law 60/1991

⁵⁴⁷ Law 504/2002 describes the roles and responsibilities of the autonomous National Audiovisual Council (CNA), which is the sole regulatory authority for broadcasting services and advertising. The Council has the right to control the content of broadcasted programmes periodically, whenever the Council feels it necessary and if it receives a complaint about a broadcast.

⁵⁴⁸ Romanian Constitution Article 31; Romanian Law 504/2002; European Directive 2006/114/EC annulled Directive 84/450/EEC and its amendment 97/55/EC and annulled Article 14 of Directive 2005/29/EC; Romanian Law 148/2000 transcribes the original European Misleading and Competitive Advertising Directive 84/450/EEC, which was later repealed by Directive 2006/114/EC. Law 148/2000 was amended with Law 283/2002 and Government Ordinances 17/2003 and 90/2004. Government Ordinance 21/1992 was amended by Laws 11/1994, 178/1998, Government Ordinance 58/2000, Emergency Ordinance 146/2001, Government Ordinance 84/2002 and Law 476/2006; Law 504/2002 was amended by Law 402/2003, Emergency Ordinance 3/2006, Laws 364/2007 and 116/2008 and Emergency Ordinance 181/2008. This Law repealed the previous audiovisual law 48/1992; Romanian advertising is regulated by the National Agency for Consumer Protection, the Ministry of Economy and Finance, the Ministry of Health and/or the National Audiovisual Council (CNA). The National Authority for Consumer Protection manages Government Ordinance 21/1992.

information' to the public.⁵⁴⁹ Inaccuracies in advertisements – in brochures, catalogues, audio and video - are prohibited. According to Romanian laws, anyone is entitled to submit a complaint against an advertisement.⁵⁵⁰ Advertisers are required to provide supporting documentation that proves that the assertions or indications made in advertisements are accurate. In the event that advertising is determined to be misleading, European member states must have in place legal or administrative structures to prevent or cease the publication of the misleading advertising.⁵⁵¹ These regulations have been used in Romanian administrative proceedings to ensure that the broadcasting of political, as well as commercial, information is accurate and fair.



Photo 12: Cluj Protest March (Mines and Communities, 2004)

Both those who support the project and those who oppose it have participated in the macro broadcasted discursive arena through public demonstration. For 5 days in August 2004 more than 50 people marched 137 km from Cluj-Napoca to Roşia Montană.⁵⁵² The march was organised by Alburnus Maior, the Romanian Institute for Peace (PATRIR), MindBomb EEC and Greenpeace Romania.⁵⁵³ The Archbishop of Cluj blessed

⁵⁴⁹ According to Romanian Law 504/2002 journalists are responsible for the accuracy of the information they publish.

⁵⁵⁰ Romanian Laws 148/2000 and 504/2002; Misleading advertising is defined as any advertising which deceives or is likely to deceive the audience it reaches and is likely to affect their economic behaviour. According to Romanian law, advertising must be decent and fair. Prohibited advertising includes those that discriminate based on race, sex, language, ethnicity or nationality; those that oppose religious or political views; those that damage the image or privacy of individuals; those that exploit superstition or fear and those that incite violence.

⁵⁵¹ European Directive 2006/114/EC

⁵⁵² Mines and Communities Retrieved 22 July 2010 from <http://www.minesandcommunities.org/article.php?a=1043>

⁵⁵³ Mines and Communities Retrieved 22 July 2010 from <http://www.minesandcommunities.org/article.php?a=1043>

the marchers and expressed his support for their cause.⁵⁵⁴ The event was intended to demonstrate solidarity with the Roşia Montană villagers who refused to sell their property to RMGC and to protest the proposed RMGC project.⁵⁵⁵



Photo 13: Greenpeace Protest (Greenpeace, 2010)

Greenpeace Romania has organised public demonstrations annually since the beginning of the authorisation process for the proposed RMGC project.⁵⁵⁶ For example, twice in July 2006, at the start of the RMGC public meetings, Greenpeace activists chained themselves to the entrance of the Ministry of the Environment.⁵⁵⁷ A banner blocking the entrance declared the Ministry 'Closed Due to Inactivity.'⁵⁵⁸ Electric saws were required to unchain the protestors and the protestors went limp as the police tried to drag them away.⁵⁵⁹ In May 2010, Greenpeace Romanian activists, dressed in Roman costumes, protested outside the Gabriel Resources booth during an investment fair in Alba Iulia.⁵⁶⁰ Their banner reads,

⁵⁵⁴ Mines and Communities Retrieved 22 July 2010 from <http://www.minesandcommunities.org/article.php?a=1043>

⁵⁵⁵ Mines and Communities Retrieved 22 July 2010 from <http://www.minesandcommunities.org/article.php?a=1043>

⁵⁵⁶ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/>

⁵⁵⁷ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/greenpeace-a-blocat-ministerul-mediului/>

⁵⁵⁸ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/greenpeace-a-blocat-ministerul-mediului/>

⁵⁵⁹ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/greenpeace-a-blocat-ministerul-mediului/>

⁵⁶⁰ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-stand-rmgc-alba-iulia/>

'Ecological Investments in Roșia Montană'.⁵⁶¹ Activists described their concerns about the RMGC project to potential investors.⁵⁶² In July 2010, Greenpeace activities installed a camp to block the entrance to the RMGC offices in Bucharest.⁵⁶³ According to the NGO, 15 activists chained themselves to the entrance hoping to stop business activities at the company's headquarters.⁵⁶⁴ The protestors were calling on Romanian public authorities to consider the European Parliament resolution recommending a ban on the use of cyanides in mining.⁵⁶⁵ The protestors were arrested and then released.⁵⁶⁶



Photo 14: Union Protest (Meridian, 2007)

In October 2007, the Future of Mining Union and the National Trade Union Confederation Meridian organized a protest in front of the prefect's office in Alba Iulia.⁵⁶⁷ About 200 employees from RMGC participated.⁵⁶⁸ This event was to mark the job cuts announced by

⁵⁶¹ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-stand-rmgc-alba-iulia/>

⁵⁶² Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-stand-rmgc-alba-iulia/>

⁵⁶³ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-sediu-rmgc/>

⁵⁶⁴ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-sediu-rmgc/>

⁵⁶⁵ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-sediu-rmgc/>

⁵⁶⁶ Greenpeace Romania Retrieved 22 July 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/protest-greenpeace-sediu-rmgc/>

⁵⁶⁷ Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>

⁵⁶⁸ Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>

RMGC which were to take place in December 2007.⁵⁶⁹ The rally organisers wanted to remind public authorities that their decisions impact the lives of hundreds of people.⁵⁷⁰ Speeches were delivered supporting the mine by employees and management of RMGC.⁵⁷¹ The prefect received the delegation from RMGC who informed the authorities of the situation affecting the people of Roşia Montană and asked that their views be carried to the authorities in Bucharest.⁵⁷²

I did find some evidence of normative structural features of Romania's institution of public participation and deliberation that might work to constrain broadcasted discourse. Public meeting participants who support the project objected to the oppositions' efforts to use public demonstrations. A participant of the Roşia Montană meeting complained about the 'media circus' that was created by the opposition – especially by what she called the 'naked' Greenpeace advocates who had recently demonstrated against the project by chaining themselves to the front of the Ministry of the Environment's offices in Bucharest.⁵⁷³ Some accuse protesters of being paid to demonstrate.⁵⁷⁴ Some participants did not seem to see the value of civic action. For example, the speaker for RMGC called the actions of Greenpeace 'a form of eco-terrorism'.⁵⁷⁵ At the Câmpeni public meeting a participant complained:

⁵⁶⁹ Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>

⁵⁷⁰ Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>

⁵⁷¹ Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>

⁵⁷² Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>; About 20 gendarme and police oversaw the event and directed traffic. (Meridian CSN Retrieved 22 July 2012 from <http://www.csnmeridian.ro/articol/ro/539/>)

⁵⁷³ Roşia Montană Public Meeting

⁵⁷⁴ PACE, 2004; 7

⁵⁷⁵ Bucharest Public Meeting

*But now we see that these mercenaries from Greenpeace, who only deal with breaking up programs all over the world, destroying projects.*⁵⁷⁶

In June 2007, the NGO, Pro Dreptatea, held a multi-day rally in Roşia Montană's main square.⁵⁷⁷ During the rally, the protestors used wooden structures (coffins, gallows and scaffolds) to demonstrate its support of the RMGC project.⁵⁷⁸ The Soros Foundation issued a press release condemning what it thought were inappropriate protest activities by the NGO and calling on the local council to remove the structures that had been left on display after the rally.⁵⁷⁹ In describing the inappropriateness of the display, the Soros Foundation cited the recent suicides allegedly committed by people who had sold their homes to RMGC.⁵⁸⁰

Stephanie Roth of Alburnus Maior questions the effectiveness of public demonstrations for influencing public decision making.⁵⁸¹ According to Alburnus Maior, its main tools of influence related to the RMGC authorisation decision are celebrity endorsements, public education and the courts.⁵⁸² While the NGO supports the efforts of Greenpeace and some of its members participate in Greenpeace protests, Alburnus Maior does not find public protest an effective

⁵⁷⁶ Câmpeni Public Meeting

⁵⁷⁷ Soros Foundation Romania Retrieved 22 July 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=31

⁵⁷⁸ Soros Foundation Romania Retrieved 22 July 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=31

⁵⁷⁹ Soros Foundation Romania Retrieved 22 July 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=31

⁵⁸⁰ Soros Foundation Romania Retrieved 22 July 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=31

⁵⁸¹ International Accountability Project, <http://www.accountabilityproject.org/article.php?id=525> retrieved 22 July 2012.

⁵⁸² International Accountability Project, <http://www.accountabilityproject.org/article.php?id=525> retrieved 22 July 2012.

means to influence public decisions.⁵⁸³ According to Ms. Roth, ‘demonstrations are good for public awareness, but politicians don’t care about demos – they are in the paper one day and not the next.’⁵⁸⁴

Both those who support and those who oppose the project have hosted festivals, picnics and parties in order to raise awareness about their positions through the macro discursive arena. Organisers work to enlist media partners for these festivals; and



Photo 15: National Miner's Day (Meridian, 2007)

as a result, the festival messages are broadcasted widely throughout Romania.⁵⁸⁵ In August 2007, National Miner’s Day was celebrated in Roşia Montană and Abrud.⁵⁸⁶ Musicians performed and celebrities and politicians gave speeches; more than 2,000 residents participated.⁵⁸⁷ Most of the speeches described the benefits of the proposed RMGC project and condemned the opposition blocking the project.⁵⁸⁸ The event was used as an opportunity to call on the public decision makers to support the proposed project.⁵⁸⁹

Each August Alburnus Maior organises a two and a half day culture festival in Roşia Montană, called Fan Fest.⁵⁹⁰ In 2006, 15,000 people attended the

⁵⁸³ International Accountability Project, <http://www.accountabilityproject.org/article.php?id=525> retrieved 22 July 2012.

⁵⁸⁴ International Accountability Project, <http://www.accountabilityproject.org/article.php?id=525> retrieved 22 July 2012.

⁵⁸⁵ Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

⁵⁸⁶ Meridian CSN Retrieved 23 July 2012 from <http://www.csnmeridian.ro/articol/ro/505/>

⁵⁸⁷ Meridian CSN Retrieved 23 July 2012 from <http://www.csnmeridian.ro/articol/ro/505/>

⁵⁸⁸ Meridian CSN Retrieved 23 July 2012 from <http://www.csnmeridian.ro/articol/ro/505/>

⁵⁸⁹ Meridian CSN Retrieved 23 July 2012 from <http://www.csnmeridian.ro/articol/ro/505/>

⁵⁹⁰ Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

festival. 'Fan' is the Romanian word for hay. While celebrating the hay harvest in the commune this festival raises awareness about the negative impacts of the proposed project.⁵⁹¹ In recent years the festival has included music, participatory art, book launches, poetry readings, environmental presentations and workshops, theatre, music and children programmes.⁵⁹² This event has no commercial sponsors and is funded through individual donations⁵⁹³ In March 2007, Alburnus Maior organised the 'From Roşia Montană with Art' festival.⁵⁹⁴ This 2 day festival took place in Bucharest and included concerts, poetry readings and theatre performances.⁵⁹⁵ The aim of the festival was to use art to draw the public's attention to the environmental and social issues of the RMGC project.⁵⁹⁶

Those who support the project raised normative concerns about the opposition's use of festivals as a form of broadcasted discourse. During the Deva meeting, one participant called FanFest a 'drunkfest'.⁵⁹⁷ Mr. Aston complained that FanFest participants – who claim to care for the environment – leave litter and trash scattered around the festival site. The NGO, however, argues that it cleans and rehabilitates the area after the festival.⁵⁹⁸

⁵⁹¹ Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

⁵⁹² Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

⁵⁹³ Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

⁵⁹⁴ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.org/index.shtml?cmd%5b291%5d=x-291-28404&cmd%5b292%5d=x-322-28404&cmd%5b300%5d=x-299-28404>

⁵⁹⁵ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.org/index.shtml?cmd%5b291%5d=x-291-28404&cmd%5b292%5d=x-322-28404&cmd%5b300%5d=x-299-28404>

⁵⁹⁶ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.org/index.shtml?cmd%5b291%5d=x-291-28404&cmd%5b292%5d=x-322-28404&cmd%5b300%5d=x-299-28404>

⁵⁹⁷ Deva Public Meeting

⁵⁹⁸ Alburnus Maior Retrieved 23 July 2012 from http://www.ngo.ro/site_item_full.shtml?x=26591

Between 2006 and 2009, the company spent more than CAD \$28.7 million on publicity in order to influence the public sphere and members of institutional forums.⁵⁹⁹ In 2005, the company hired a former speech writer for George Bush Sr. and launched its \$1 million 'True Story' advertising campaign.⁶⁰⁰ One of the three television clips shows a child dreaming of a modern school, rivers with fish, a public park and a better job for his parents. The National Advertising Council (CNA) rejected a petition from 14 civil society associations who argued that the ads were misleading and immoral.⁶⁰¹ In response to a complaint made by a public meeting participant, the company argued that the commercials were developed from basic advertising techniques.⁶⁰² According to the company's research, the ads successfully reduced the number of negative statements by 10-12 points and increased the number of positive statements made by the public.⁶⁰³

Then early in 2009, RMGC launched the 'Roşia Montană - 4 Billion Dollars' publicity campaign.⁶⁰⁴ These advertising spots were played on Romania's TV,

⁵⁹⁹ Gabriel Resources 2007 4th Qtr Report; Gabriel Resources 2008 4th Qtr Report; Gabriel Resources 2009 4th Qtr Report; Breakdown of expenditures includes: Corporate External Communications: 2006 - CAD \$1.682 million; 2007 – CAD \$1.857 million; 2008 – CAD \$0.736 million; 2009 – CAD \$0.411; Development Communications: 2006 – not reported; 2007 – CAD \$3.814 million; 2008 – CAD \$7.967; 2009 – CAD \$12.246.

⁶⁰⁰ Transylvania News Retrieved 22 July 2012 from <http://transylvanianews.blogspot.com/2006/11/globe-and-mail-fighting-fire-with-fire.html>

⁶⁰¹ Realitatea Retrieved 22 July 2012 from <http://forum.realitatea.net/archive/index.php/t-9089.html>

⁶⁰² Arad Public Meeting; RMGC, 2007; Volume 6, 57

⁶⁰³ Adevarul 6 November 2006

⁶⁰⁴ RMGC 4 Billion Dollar Ads Retrieved 23 July 2012 from <http://www.youtube.com/watch?v=44BJAK5y5gA>; <http://www.youtube.com/watch?v=NLEA8fsv7uo>; <http://www.youtube.com/watch?v=JTR0uOxWTEs>; <http://www.youtube.com/watch?v=M-9HYmhJSy8>; RMGC Retrieved 23 July 2012 from <http://en.rmgc.ro/media/video-gallery/100/2342/tv-ads/over-3600-romanians-will-have-job-again-result-mining-project.html>

radio stations and the RMGC website.⁶⁰⁵ The clips claim that the project will bring \$4 billion dollars in benefits to Romania and will clean up the pollution caused by previous mining campaigns; will reforest larger areas than required by law; create cyanide waste less than what is required by EU directives; and will use the same technology used by mines around the world.⁶⁰⁶ In response to a complaint filed by Alburnus Maior, the National Audiovisual Council (CNA) pulled the advertisements because they were deemed misleading.⁶⁰⁷ The advertisements can still be found on the RMGC website with a disclaimer that specifies that the \$4 billion dollars in benefits are derived from \$1.8 billion in direct benefits to the state and \$2.2 billion in in-country spending.⁶⁰⁸ The advertisements cite RMGC's own EIA Report as evidence to support these claims.⁶⁰⁹

Some of those who oppose the project raised normative claims about the company's efforts to influence the public sphere through broadcasted

⁶⁰⁵ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-34710&cmd%5b316%5d=x-322-34710&cmd%5b300%5d=x-299-34710>

⁶⁰⁶ RMGC Retrieved 23 July 2012 from <http://en.rmgc.ro/media/video-gallery/100/2342/tv-ads/over-3600-romanians-will-have-job-again-result-mining-project.html>

⁶⁰⁷ Alburnus Maior 30 October 2009 Press Release Retrieved 23 July 2012 from http://xa.yimg.com/kq/groups/19949518/1325231475/name/PR_Alburnus+Maior_30_10_09.pdf; Alburnus Maior Retrieved 23 July from

<http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-35234&cmd%5b316%5d=x-322-35234&cmd%5b300%5d=x-299-35234>; The NGO has four complaints against the advertisements. Alburnus Maior argues that if the project is indeed 'new' the company would be required to submit a new EIA Report. They argue that the company's claim to bring in \$4 billion dollars is unsubstantiated. They say that any tax revenues and profit share received by the state would be based on the profits generated by the project. These profits would depend on the production of gold and the gold price – both of which are volatile and unpredictable. Alburnus Maior refutes the claim in the advertisements that RMGC will clean up the pollution caused by past mining activities. According to the NGO, this clean up is the responsibility of the state-owned mining company and that environmental rehabilitation efforts for Roşia Montană have already been allocated. Finally, the NGO asserts that the ad disclaimers - citing the unapproved RMGC EIA Report as evidence for these claims - are not sufficient proof.

⁶⁰⁸ RMGC Retrieved 23 July 2012 from <http://en.rmgc.ro/media/video-gallery/100/2342/tv-ads/over-3600-romanians-will-have-job-again-result-mining-project.html>

⁶⁰⁹ RMGC Retrieved 23 July 2012 from <http://en.rmgc.ro/media/video-gallery/100/2342/tv-ads/over-3600-romanians-will-have-job-again-result-mining-project.html>

advertisements. Roth argues that the ads backfired against the company, because the public views the spots as propaganda similar to the style of Ceaușescu.⁶¹⁰ One person described the campaign as 'emotionally manipulative' on a Romanian Parliament website forum about the proposed project.⁶¹¹ Another found it incredulous that the economic issues facing Romania could all be resolved by the RMGC project.⁶¹² Some of the public meeting participants question the effort and money spent by the company on its advertising campaign.⁶¹³ One participant argued that the amount of money spent on publicity could have paid the salaries of many miners for years to come.⁶¹⁴ According to Gabriel Resources' Chief Financial Officer, Richard Young, a broad-based communications programme is needed because the politicians 'need cover' so that:

*When they approve this project the people on average will say, 'That's OK,' and not want to run them out of town.*⁶¹⁵

The company argues that they were required to spend that much money for advertisements because of the misinformation that had been spread about the project by the press and NGOs.⁶¹⁶

Television programmes and films are another way for the public to learn about and to form their opinions about the project. In August 2007, America's Public

⁶¹⁰ Transylvania News Retrieved 22 July 2012 from <http://transylvanianews.blogspot.com/2006/11/globe-and-mail-fighting-fire-with-fire.html>

⁶¹¹ Romania's House of Deputies Retrieved 23 August 2012 from http://www.cdep.ro/informatii_publice/forum.dispPost?subid=1

⁶¹² Romania's House of Deputies Retrieved 23 August 2012 from http://www.cdep.ro/informatii_publice/forum.dispPost?subid=1

⁶¹³ Roșia Montană Public Meeting; Arad Public Meeting

⁶¹⁴ Roșia Montană Public Meeting

⁶¹⁵ Transylvania News Retrieved 23 July 2012 from <http://transylvanianews.blogspot.com/2006/11/globe-and-mail-fighting-fire-with-fire.html>

⁶¹⁶ Transylvania News Retrieved 23 July 2012 from <http://transylvanianews.blogspot.com/2006/11/globe-and-mail-fighting-fire-with-fire.html>

Broadcasting Station (PBS) aired a programme – called ‘Gold Futures’ - about the dispute in Roşia Montană on its ‘Wide Angle’ series.⁶¹⁷ In the program, some Roşia Montană residents said that they welcomed the land purchases by the company and believed that the RMGC project is the only hope for the community.⁶¹⁸ The programme also interviewed those who refuse to sell their property and are fighting the project. ‘Gold Futures’ was directed and edited by Hungarian filmmaker, Tibor Kocsis, the creator of the film ‘New Eldorado: The Curse of Roşia Montană’.⁶¹⁹ That 2004 film won a number of Hungarian film awards.⁶²⁰ The documentary was produced by Mr. Kocsis’ production company, Flora Film International, which has also produced documentaries on the Baia Mare accident and an ecological history of the Carpathian Basin.⁶²¹ Flora Film International lists Greenpeace, the Hungarian Ministry of Environment and the Energy Club of Hungary as its partners; George Soros’s Open Society Institute backs the Energy Club of Hungary.⁶²²

In January 2007, the documentary, ‘Mine Your Own Business’, premiered at the National Geographic Society Hall in Washington D.C.⁶²³ Based on Michael Moore’s style of documentary, the film claims to expose ‘the dark side of the

⁶¹⁷ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.ngo.ro/en/index.shtml?cmd%5B314%5D=x-314-32765&cmd%5B316%5D=x-322-32765&cmd%5B300%5D=x-299-32765>

⁶¹⁸ PBS Wide Angle Retrieved 23 July 2012 from <http://www.pbs.org/wnet/wideangle/episodes/gold-futures/introduction/969/>

⁶¹⁹ PBS Gold Futures Retrieved 23 July 2012 from <http://www.pbs.org/wnet/wideangle/lessons/gold-futures/rosia-montana-and-the-gold-mine/4320/>

⁶²⁰ Film Unio Hungary Retrieved 23 July 2012 from <http://filmunio.hu/en/2005/1782-new-eldorado-for-the-ida-awards.html>

⁶²¹ Flora Film International Retriever 23 July 2012 from <http://www.florafilm.hu/introduction.html>

⁶²² Hobbs, B. (2007) Biased PBS ‘Gold Futures’ Documentary Partly Funded by Gold Investor Soros; News Busters August 21 2007 Retrieved 23 July 2012 from <http://newsbusters.org/blogs/bill-hobbs/2007/08/21/biased-pbs-gold-futures-documentary-partly-funded-gold-investor-soros>; Energy Club of Hungary Retried 23 July 2012 from <http://energiaklub.hu/en/rolunk/partnerek?page=1>

⁶²³ Mine Your Own Business Retrieved 23 July 2012 from <http://mineyourownbusiness.blogspot.com/>

environmental movement'.⁶²⁴ The movie claims that the economic development that comes from mining projects can help to lift people out of poverty.⁶²⁵ According to the film, environmentalists are preventing Roşia Montană's poor from getting the jobs offered by RMGC.⁶²⁶ The movie's director called the film, 'the world's first anti-environmentalist documentary.'⁶²⁷ Gabriel Resources admits that it provided most of the funding for the film 'Mine Your Own Business'.⁶²⁸ The opposition to the RMGC project called the film propaganda 'disguised as a critique of the environmental movement'.⁶²⁹

Websites are another important method for broadcasting information and opinions through the macro discursive sphere. To date there are no Romanian formal institutions that regulate the use of websites by voluntary associations. The developer maintains two websites that include RMGC project information: a Gabriel Resources website⁶³⁰, and a RMGC website⁶³¹. The RMGC website is in Romanian, English and Hungarian; the Gabriel Resources website is in English only. The 2009 Project Presentation Report and the EIA Report can be

⁶²⁴ Mine Your Own Business Retrieved 23 July 2012 from <http://mineyourownbusiness.blogspot.com/>

⁶²⁵ Mine Your Own Business Retrieved 23 July 2012 from <http://mineyourownbusiness.blogspot.com/>

⁶²⁶ Mine Your Own Business Retrieved 23 July 2012 from <http://mineyourownbusiness.blogspot.com/>

⁶²⁷ Strausbaugh, J (2007) 'A Maverick Mogul, Proudly Politically Incorrect', NYTimes 19 August 2007 Retrieved 23 July 2012 from <http://www.nytimes.com/2007/08/19/movies/19stra.html?pagewanted=all>; The Brown Spectator Retrieved 23 July 2012 from <http://thebrowspectator.com/mine-your-own-business-reviewenvironmental-imperialism/>

⁶²⁸ Mine Your Own Business Retrieved 23 July 2012 from <http://mineyourownbusiness.blogspot.com/>

⁶²⁹ Alburnus Maior Retrieved 23 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32754&cmd%5b316%5d=x-322-32754&cmd%5b300%5d=x-299-32754>

⁶³⁰ <http://www.gabrielresources.com/>

⁶³¹ <http://www.rmgc.ro/>

found on the Gabriel Resources website.⁶³² The EIA Report, the EIA Annex and the documents for the proposed Industrial Area Urban Planning Zone (PUZ) can be found on the RMGC website.⁶³³ The Relocation and Resettlement Action Plan (RRAP) and its Annex can no longer be found on either site.⁶³⁴ Among other things, the websites include press releases, financial reports, project descriptions, photo and video galleries and biographies of its current directors and management team.

Alburnus Maior's website *Save Roşia Montană* was first launched in 2002.⁶³⁵ This website is the NGO's main source of information for the public.⁶³⁶ According the NGO, the intention of its website is to inform the public and to encourage the public to become involved in its opposition to the RMGC project.⁶³⁷ According to Stephanie Roth, Alburnus Maior's strategy has been to make their campaign international – to inform the world about the risks of the proposed RMGC project.⁶³⁸ The NGO's website is in Romanian and many of its pages are translated into English.⁶³⁹ It includes a history of its activities regarding the project opposition, project reports, open letters and press releases.⁶⁴⁰

⁶³² Gabriel Resources Retrieved 23 July 2012

<http://www.gabrielresources.com/site/technicalreports.aspx>

⁶³³ RMGC Website Retrieved 23 July 2012 from <http://en.rmgc.ro/rosia-montana-project/environment/environmental-impact-assessment.html>; <http://en.rmgc.ro/rosia-montana-project/environment/environment-evaluation-for-puz.html>

⁶³⁴ But you can find them here <http://www.gabrielresources.com/documents/RRAP.pdf> and here http://www.gabrielresources.com/documents/RRAP_annex.pdf

⁶³⁵ <http://rosiamontana.org/en/>

⁶³⁶ <http://rosiamontana.org/en/>

⁶³⁷ <http://rosiamontana.org/en/>

⁶³⁸ <http://rosiamontana.org/en/>; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁶³⁹ <http://rosiamontana.org/en/>

⁶⁴⁰ <http://rosiamontana.org/en/>

Other associations that oppose the project often have pages on their websites dedicated to providing information about the RMGC project and opportunities to participate in the authorisation decision. On these pages associations publish press releases, reports, position papers and open letters related to the project. The website of Cyanide Free Romania (in Romanian and English) was created to provide information about the Romanian legislative process and the risks associated with cyanide-based mining, to mobilise the public and to help the public send petitions to their representatives in Parliament.⁶⁴¹ The Greenpeace International site⁶⁴² does not mention Roşia Montană, but Greenpeace Romania's website⁶⁴³ does (in Romanian only). One portion of the Greenpeace Romania website has been set aside for information about the NGO's campaign to protest the RMGC project, including a comment blog and video footage.⁶⁴⁴ Architecture, Restoration, Archaeology's (ARA) site (in Romanian with a few pages in English) includes its June 2009 resolution to have Roşia Montană declared a World Heritage Site, as well as reports and a management plan that describes the significance of the Roşia Montană site.⁶⁴⁵ The Soros Foundation in Romania website includes electronic copies of open letters to public officials, public announcements for relevant events, reports documenting issues with the EIA Report and documents complaining about the lack of government transparency regarding authorisation activities.⁶⁴⁶ The Romanian Academy's website (in Romanian with some content translated into English) hosts a Forum for statements, announcements and reports that highlight both the costs, as well

⁶⁴¹ www.faracianura.ro

⁶⁴² <http://www.greenpeace.org/international/>

⁶⁴³ <http://www.greenpeace.org/romania/>

⁶⁴⁴ <http://www.greenpeace.org/romania/>

⁶⁴⁵ <http://www.simpara.ro/>

⁶⁴⁶ <http://www.soros.org/about/foundations/romania>

as, the benefits of the project.⁶⁴⁷ The Independent Centre for the Development of Environmental Resources' (CIDRM) website (in Romanian and English) includes more than 20 documents containing comments and contestations regarding the proposed Roşia Montană project, the Roşia Montană urban plans and the proposed cyanide in mining ban.⁶⁴⁸

Of the NGO's that support the RMGC project, I could only find websites for Pro Roşia Montană and the Meridian National Trade Union Confederation. The Pro Roşia Montană website (in English only) declares the NGO's support for the RMGC project and asserts that the people of Roşia Montană 'are mature enough' to decide on the future of their village.⁶⁴⁹ The website has not been updated since November 2008. The website for the Meridian National Trade Union Confederation (in Romanian with selected pages translated into English) has a number of references to Roşia Montană and the proposed project.⁶⁵⁰ The site publishes the union's position paper on the use of cyanide in mining, photos from the Ministry of the Economy's visit in March 2010, an extensive description of the Miner's Day Celebration in August 2007 and a description of the miner's march in Alba in October 2007.⁶⁵¹ I could not find websites for either the NGOs Pro Dreptatea or the Future of Mining Union.

An important element of the broadcasted discursive arena is the press. The Romanian Constitution and Romanian law guarantee freedoms and provide

⁶⁴⁷ <http://www.acad.ro/>

⁶⁴⁸ <http://www.centruldemediu.ro/>

⁶⁴⁹ <http://prorosiamontana.ro/>

⁶⁵⁰ www.csnmeridian.ro

⁶⁵¹ www.csnmeridian.ro

protections for the press.⁶⁵² The voluntary associations who are actively involved in the RMGC authorisation process publish press releases, issue public statements and file reports to get their message out to the public. Associations issue press releases to inform the public of their own activities, decisions by the courts and public authorities, the activities of public authorities, the activities of other associations, support from public officials and party leaders, and of upcoming events. A review of the websites of the associations participating in the RMGC authorisation decision reveals nearly 525 press releases that have been issued from between February 1999 and July 2010.⁶⁵³

Association	Number of PR	Average Per Year	Earliest	Latest ⁶⁵⁴
Gabriel Resources	210	19	Feb 1999	Jun 2010
RMGC	38	9	Feb 2006	Jul 2010
Alburnus Maior	191	24	Jul 2002	Jul 2010
Greenpeace Romania	11	2	Aug 2004	Jul 2010
Cyanide Free Romania	19	7	Jun 2007	May 2010
Pro Roşia Montană	0	NA		
Meridian	19	4	Dec 2005	Mar 2010
ARA	0	NA		
Soros Foundation Romania	14	6	May 2007	Feb 2010
Romanian Academy	3	0	Mar 2003	Nov 2009
CIDRM	18	10	Jul 2007	Mar 2009

Table 6: Number of Press Releases Issued by Major Actors

As part of my research, I collected newspaper articles related to the proposed RMGC project. These articles were published from between 1998 and the end of 2006 and were pulled from the archives of two important national newspapers - *Evenimentul Zilei*⁶⁵⁵ (170 articles) and *Ziua*⁶⁵⁶ (186 articles).

⁶⁵² Romanian Law 504/2002; While the Convention for the Protection of Human Rights and Fundamental Freedoms does not explicitly guarantee freedom of the press, the Council of Europe maintains that this democratic freedom is established in Article 10 of the Convention.

⁶⁵³ This is a conservative estimate because some of the early press releases have dropped off the archives of association websites.

⁶⁵⁴ Data collected in July 2010

⁶⁵⁵ <http://www.evz.ro/index.html>

Some of these articles are small, 1-paragraph updates; others are full featured stories, including a series of investigative reports published by Ziuva in April 2004. The first article, I found on the project was published on 10 May 1998. The articles only trickled out between 1998 (5 total articles) and 2001 (4 total articles). Then in 2002, 81 articles on the project were published between the two papers. Between 2002 and the end of 2006, the 2 papers published an average of nearly 6 articles a month. During the Alba Iulia meeting one participant complained that the Romanian mass media pays too much attention to the people who oppose the project, especially to Alburnus Maior.⁶⁵⁷

Associations publish photos in the broadcasted discursive arena to express their views and to try to persuade the public and decision makers. The photos used by each of the associations involved in the RMGC authorisation process tell very different stories. The company accuses Alburnus Maior of intentionally publishing photos of Roşia Montană that conceal the exploited areas of the commune.⁶⁵⁸ The Alburnus Maior web site includes Roşia Montană photos that look like this:

⁶⁵⁶ The last addition of Ziuva was published on 7 January 2010 after struggling with financial difficulties. The websites <http://www.ziuaonline.ro/> and www.ziuaaveche.ro seem to have replaced the online version of the paper. These websites do not include the archives of Ziuva.

⁶⁵⁷ Alba Iulia Public Meeting

⁶⁵⁸ Alba Iulia Public Meeting



Photo 16: Roșia Montană (Alburnus Maior)



Photo 17: Roșia Montană (Alburnus Maior)



Photo 18: Roșia Montană (Alburnus Maior)



Photo 19: Roșia Montană (Alburnus Maior)

According to one of the council members from Roşia Montană, ‘the interest of the company is that Roşia Montană looks as sinister as possible’.⁶⁵⁹ The photos of the village on the Gabriel Resources website look more like this:



Photo 20: Roşia Montană (Gabriel Resources)



Photo 21: Roşia Montană (Gabriel Resources)



Photo 22: Roşia Montană (Gabriel Resources)



Photo 23: Roşia Montană (Gabriel Resources)



Photo 24: Redgrave and Ashton (Newspad, 2006)

Both sides of the RMGC project debate are supported by celebrity endorsements. Leslie Hawke, a supporter of the RMGC project and mother of Ethan Hawke, has been operating an education program – sponsored by RMGC - at the proposed site of the mine.⁶⁶⁰ In June 2006 British Actress, Vanessa Redgrave, was presented with a

⁶⁵⁹ Roşia Montană Council 1

⁶⁶⁰ Smith, C (2007) ‘Fighting Over Gold in the Land of Dracula’ NYTimes 3 January 2007 Retrieved 23 July 2012 from <http://www.nytimes.com/2007/01/03/business/worldbusiness/03gold.html?pagewanted=all>

lifetime achievement award at the Transylvania International Film Festival (TIFF) sponsored by RMGC.⁶⁶¹ Ms. Redgrave used her acceptance speech to express her opposition to the RMGC project and to dedicate her award to Alburnus Maior. In gratitude, Alburnus Maior sold her a one-square meter plot in Roșia Montană. That October, Ms. Redgrave attended a charity Halloween Ball in Bucharest, where a dance with her was put up for action.⁶⁶² John Aston, Vice President for Corporate Affairs of Gabriel Resources, paid €10,500 to waltz with Ms. Redgrave.⁶⁶³

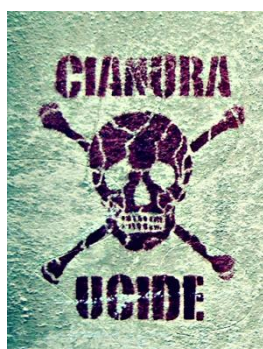


Photo 25: Cyanide Kills (International Stencil Archive)

Various NGOs opposing the project have used graffiti tagging as part of its strategy to raise public awareness through the discursive arena.⁶⁶⁴

Alburnus Maior's red and green

'Salvați Roșia Montană' tags can be



Photo 26: Save Roșia Montană (Alburnus Maior)

found spray painted on buildings in nearby towns and cities, including as far away as Bucharest. Cyanide Free Romania also has its own tag that says 'Cyanide Kills'. The Alburnus Maior website has a page for users to download the Salvați Roșia Montană stencil.⁶⁶⁵

⁶⁶¹ Maruntoiu, D (2006) 'Oscar-Winning Actress Pleads Against Gold Mining Project' Bucharest Daily News 13 July 2006 Retrieved 23 July 2012 from <http://www.roconsulboston.com/Pages/InfoPages/RosiaMontRegrave.html>

⁶⁶² Newspad Retrieved 23 July 2012 from <http://www.newspad.ro/Un-dans-de-10-000-euro,175774.html>; International Accountability Retrieved 23 July 2012 from <http://www.accountabilityproject.org/article.php?id=525>

⁶⁶³ Newspad Retrieved 23 July 2012 from <http://www.newspad.ro/Un-dans-de-10-000-euro,175774.html>; International Accountability Retrieved 23 July 2012 from <http://www.accountabilityproject.org/article.php?id=525>

⁶⁶⁴ International Stencil Archive Retrieved 23 July 2012 from <http://stencils.ch/index.php?showimage=354>

⁶⁶⁵ Alburnus Maior Retrieved 23 July 2012 from http://www.rosiamontana.ro/doc/Stencil_ro.pdf

Being presented an award that expresses your cause is an excellent way to get your message broadcasted in the discursive arena. In 2005, Stephanie Roth was awarded the Goldman Environmental Prize – sort of a Nobel Prize for the green movement –for her work on the Roșia Montană campaign.⁶⁶⁶ In March 2007, RMGC’s President and CEO, Alan Hill, was presented the “Responsible Manager of the Year” award, which is presented each year to the manager who most promotes Corporate Social Responsibility.⁶⁶⁷ According to the award jury, the prize was given to Mr. Hill because of his commitment to ecological and social responsibility in mining. Later it was learned that the member of the award jury that had nominated Mr. Hill was a lobbyist representing Gabriel Resources.⁶⁶⁸ The award was protested by the Hungarian Foreign Affairs Minister.⁶⁶⁹ After the protests, the award sponsors distanced themselves from the decision to present the award to Mr. Hill and considered retracting the prize.⁶⁷⁰ The sponsors have since discontinued the award.

In order to influence the public and public decision makers, the associations involved in the authorisation of the proposed RMGC have published many open letters. Open letters have been sent by the opposition to party leaders, Ministers of the Environment, Ministers of the EU Parliament, Prime Ministers

⁶⁶⁶ The Goldman Environmental Prize, 2011; Grist Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁶⁶⁷ Green Horizon Retrieved 24 July 2012 from <http://www.greenhorizon-online.com/index.php/Romania/head-of-controversial-mining-enterprise-wins-csr-honour.html>

⁶⁶⁸ CSR-News Retrieved 24 July 2012 from <http://csr-news.net/main/2007/04/17/auszeichnung-responsible-manager-of-the-year-2006-2/>; Alburnus Maior Retrieved 24 July 012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32761&cmd%5b316%5d=x-322-32761&cmd%5b300%5d=x-299-32761>

⁶⁶⁹ Rosia Montana Retrieved 3 August 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32761&cmd%5b316%5d=x-322-32761&cmd%5b300%5d=x-299-32761>

⁶⁷⁰ GPA-djp Retrieved 24 July 2012 from http://www.gpa-djp.at/servlet/ContentServer?pagename=GPA/Page/Index&n=GPA_4.a&cid=1174636984408

and Presidents. These letters are usually posted on the association's website and are often published in the newspapers. For example, in June of 2006, after Vanessa Redgrave came out in support of Alburnus Maior, the company bought a full-page ad in the U.K.'s Guardian attacking Ms. Redgrave's position.⁶⁷¹ The open letter ad is signed by 77 villagers who complain that 'a small group of outsiders' – who have no connection with the community - are trying to stop the mine.⁶⁷² They lament that Ms. Redgrave has her 'fine home in London', but that without the mine the villagers of Roşia Montană will have no place to live.⁶⁷³

In June 2007, the President of ICOMOS sent an open letter to the then Prime Minister, Călin Popescu-Tăriceanu.⁶⁷⁴ In his letter, the president reminds the prime minister that ICOMOS has officially raised concerns about the preservation of the cultural assets in Roşia Montană by resolution at 3 of its General Assemblies.⁶⁷⁵ The president repeats the ICOMOS statement that rejects the RMGC project and demands the immediate stop to the project.⁶⁷⁶ In the letter, the president argues that the cultural heritage of Roşia Montană is a

⁶⁷¹ Rosia Montana Open Letter Retrieved 24 July 2012 from http://www.rosiamontana.ro/drept_la_replica/4657_guardian_design_dv5.pdf; Vasagar, J (2006) 'Redgrave Centre Stage in Campaign to Halt Romanian Gold Mine that has Split Village' 22 June 2006 The Guardian Retrieved 24 July 2012 from

<http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts>

⁶⁷² Rosia Montana Open Letter Retrieved 24 July 2012 from http://www.rosiamontana.ro/drept_la_replica/4657_guardian_design_dv5.pdf; Vasagar, J (2006) 'Redgrave Centre Stage in Campaign to Halt Romanian Gold Mine that has Split Village' 22 June 2006 The Guardian Retrieved 24 July 2012 from

<http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts>

⁶⁷³ Rosia Montana Open Letter Retrieved 24 July 2012 from http://www.rosiamontana.ro/drept_la_replica/4657_guardian_design_dv5.pdf; Vasagar, J (2006) 'Redgrave Centre Stage in Campaign to Halt Romanian Gold Mine that has Split Village' 22 June 2006 The Guardian Retrieved 24 July 2012 from

<http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts>

⁶⁷⁴ ICOMOS Open Letter 15 June 2007 Retrieved 24 July 2012 from http://www.rosiamontana.ro/doc/tariceanu_150607.pdf

⁶⁷⁵ ICOMOS Open Letter 15 June 2007 Retrieved 24 July 2012 from http://www.rosiamontana.ro/doc/tariceanu_150607.pdf

⁶⁷⁶ ICOMOS Open Letter 15 June 2007 Retrieved 24 July 2012 from http://www.rosiamontana.ro/doc/tariceanu_150607.pdf

common asset of the citizens of Romania and Europe and places the responsibility for the care of these assets in the hands of the Romanian and European authorities.⁶⁷⁷ Additionally, the president offers ICOMOS support for an initiative that preserves or enhances the historic monuments at the site.⁶⁷⁸

In July 2007, the Archbishop and Metropolitan of Feleac and Cluj published his open letter to the Minister of the Environment.⁶⁷⁹ In the letter he aligns himself with the Romanian Academy and the Catholic, Unitarian and Protestant Churches of Transylvania in their opposition to the RMGC project.⁶⁸⁰ He writes the letter as the President of the Metropolitan Synod of Cluj, Alba, Crişana and Maramureş, representing more than 4 million citizens.⁶⁸¹ In the letter he beseeches the Minister to use all legal means to save Roşia Montană from the RMGC project.⁶⁸² He argues that the Roşia Montană's poverty is not a justification for the 'ecological disaster' that will be caused by the project.⁶⁸³ He asserts that the project is burdened with 'hidden manoeuvrings', the misrepresentation of specialist documents and the falsification of expert

⁶⁷⁷ ICOMOS Open Letter 15 June 2007 Retrieved 24 July 2012 from http://www.rosiamontana.ro/doc/tariceanu_150607.pdf

⁶⁷⁸ ICOMOS Open Letter 15 June 2007 Retrieved 24 July 2012 from http://www.rosiamontana.ro/doc/tariceanu_150607.pdf

⁶⁷⁹ Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

⁶⁸⁰ Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

⁶⁸¹ Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

⁶⁸² Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

⁶⁸³ Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

opinions.⁶⁸⁴ The Ministry of the Environment responded with assurances that the legal procedure for evaluating the project would be enforced according to the letter and the spirit of the law.⁶⁸⁵

In November 2009, Hotnews published an open letter from Pro Roşia Montană, Pro Dreptatea and several other local civil society associations.⁶⁸⁶ The letter was sent to twelve candidates for president in the upcoming election.⁶⁸⁷ The writers say that unemployment in the commune is at 90%.⁶⁸⁸ They argue that the only source of “survival and welfare” for Roşia Montană has always been mining.⁶⁸⁹ The writers argue that the project will use modern mining techniques, bring ‘economic revival’ to the region, create jobs and ensure sustainable development. They plead with the candidates to restart the RMGC process and approve the project.⁶⁹⁰

Both those who support and those who oppose the proposed RMGC project have been very active in the broadcasted discourse arena to debate the project’s authorisation decision. Since the 1989 Revolution, the communist era

⁶⁸⁴ Archbishop Open Letter 2 July 2007 Retrieved 24 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32839&cmd%5b316%5d=x-322-32863&x=32863&set%5b319%5d=selected-32839&set%5b321%5d=selected-32863>

⁶⁸⁵ Realitatea Retrieved 24 July 2012 http://www.realitatea.net/schimb-de-scrisori-privind-proiectul-rosia-montana_77857.html

⁶⁸⁶ NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc

⁶⁸⁷ NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc

⁶⁸⁸ NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc

⁶⁸⁹ NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc

⁶⁹⁰ NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc

structural features that had eliminated public participation in this arena have been lifted. While the freedoms gained after the revolution have allowed for a rich discursive arena for this case, some Romanians continue to hold values and opinions that may continue to regulate and constrain broadcasted discourse.

INSTITUTIONAL FORUMS

For this thesis, the deliberations among state actors - executive offices, the courts, parliaments, local and county level councils and governmental bureaucracies - all take place in institutional forums. As a member state of the European Union, Romania is also subject to directives issued by the European Parliament and Council. Typically members of these bodies deliberate with the aim of reaching binding decision. Rather than fully inclusive, these forums are representative; deliberators represent the non-present members of the jurisdiction.

As discussed in Chapter 3, according to Romanian law, authorisation authority for development projects like RMGC's sits at the regional, county and sometimes state level agencies of the Ministries of Culture, the Environment, of Economy and Commerce and in the local or county level elected councils; state-level presidential and parliamentary bodies are usually not involved in planning, licensing, permitting and approval processes.⁶⁹¹ However, those who have a stake in the outcome of the RMGC authorisation decision have sought to

⁶⁹¹ Romanian Organisation and Function of Ministry of the Economy, Trade and Business Environment Government Decision 1634/2009 Ch I § 1 Articles 2 and 5; Romanian Protection of Historical Monuments Law 422/2001: This law was amended by Law 468/2003, 259/2006; Romanian EIA Procedures Ordinance 860/2002 Article 2; National EPA Interview; World Wide Legal Directories: http://www.hg.org/articles/article_1911.html

circumvent the administrative process so that the binding authorisation decisions for the proposed RMGC project will be taken in other institutional forums – such as in parliament or in the courts.⁶⁹² For example, during the Bucharest public meeting, a member of the Romanian Ecologist Party proposed that:

*The EIA Report should be analyzed by the Romanian Parliament through its special committees and the results to be discussed in public debates. Project authorisation must not be, in any way, a decision of the Minister of Environment and Water Management and neither one of the Government. The final decision must represent the result of the parliamentary debates.*⁶⁹³

In Romania the President acts as head of State, while the Prime Minister is the head of Government.⁶⁹⁴ Executive powers are held by the Government while legislative powers are held by both the Government and the two houses of Parliament – the Chamber of Deputies and the Senate.⁶⁹⁵ The President is elected by popular vote for a 5-year term – maximum of 2 terms.⁶⁹⁶ As head of State, the President safeguards the constitution, manages foreign affairs and ensures the proper functioning of governing bodies.⁶⁹⁷ The President is also the supreme commander of the Armed Forces and chairperson of the Supreme Council of National Defence.⁶⁹⁸ After consultations with the majority party in Parliament, the President selects the Prime Minister, who chooses the

⁶⁹² National Environmental Protection Agency; Bucharest Public Meeting

⁶⁹³ Bucharest Public Meeting

⁶⁹⁴ UNEDSA, 2003; 5

⁶⁹⁵ UNEDSA, 2003; 5

⁶⁹⁶ This was increased from 4 year terms in 2004. (UNEDSA, 2003; 5)

⁶⁹⁷ UNEDSA, 2003; 5

⁶⁹⁸ UNEDSA, 2003; 6

members of the Government.⁶⁹⁹ The Government and its governing program must be confirmed by the entire Parliament. Members of both chambers of Parliament are elected for 4-year terms under a party list proportional representation system.⁷⁰⁰ Political parties representing national minorities have the right to one representative in the Chamber of Deputies – even if the party fails to obtain a sufficient number of votes for representation in Parliament.⁷⁰¹ Each national minority group is entitled to only one representative.⁷⁰²

Both the Romanian and European Parliaments are responsible for drafting and approving legislation that might either guide the project to approval or prohibit certain activities that could effectively halt the project proposal. Despite Romanian and EU law establishing the Ministry of the Environment as the competent authority for environmental agreements, despite the suspension of the EIA process, despite irrevocable court rulings and despite the lack of valid plans for the commune, at the start of 2010, the Romanian government included the proposed RMGC project in its official programme.⁷⁰³ In January 2010, the president of Romania suggested that the decision for the RMGC project might be taken by the Romanian Supreme Defence Council, which is led by the president.⁷⁰⁴

⁶⁹⁹ UNEDSA, 2003; 5

⁷⁰⁰ UNEDSA, 2003; 5

⁷⁰¹ UNEDSA, 2003; 5

⁷⁰² UNEDSA, 2003; 6

⁷⁰³ Alburnus Maior, 2008a; 3; Alburnus Maior Press Release 19 January 2010 Retrieved 29 November 2011 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-35847&cmd%5b316%5d=x-322-35847&cmd%5b300%5d=x-299-35847>; Gabriel Resources 2010 2nd Qtr Report; 2; Soros Foundation Romania Website Retrieved 7 August 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=110; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁷⁰⁴ <http://www.romaniapress.com/news-1003976.html> and Alburnus Maior Press Release 19 January 2010 Retrieved 29 November 2011 from

In December 2004, a resolution regarding Romania's admission into the EU adopted by the European Parliament included a concern regarding the development of the RMGC project.⁷⁰⁵ It considered that the mine posed a serious environmental threat to the entire region.⁷⁰⁶ Then in November 2006, the Foreign Affairs Committee of the European Parliament highlighted the RMGC project when it called for Romania to make further efforts to protect the environment.⁷⁰⁷

In February 2007, a bill to ban the use of cyanide in mining – and effectively block the RMGC project - was introduced to in the Romanian Senate.⁷⁰⁸ The bill was rejected by the Senate, but forwarded to the Deputy Chamber.⁷⁰⁹ The Deputy Chamber's Judicial Committee endorsed the bill, the Environment Committee rejected the bill and in March 2008 - after a consultation process that included representatives from Gabriel Resources, mining trade unions, the Coalition for Cyanide Free Romania, the Romanian Academy and Canada's Ambassador to Romania – the Industry Committee voted against the bill.⁷¹⁰ Then in April 2008, the entire Deputy Chamber debated the bill for more than an

<http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-35847&cmd%5b316%5d=x-322-35847&cmd%5b300%5d=x-299-35847>

⁷⁰⁵ Alburnus Maior, 2008a; 3; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁷⁰⁶ Alburnus Maior, 2008a; 3; Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁷⁰⁷ Alburnus Maior, 2007e; 2

⁷⁰⁸ România fără Cianuri Press Release 6 October 2008 Retrieved 29 November 2011 from http://www.rosiamontana.ro/img_upload/9b1a5b3a71bed3312b6e2bd7a453902f/PR_CFRC_6oct08_engl_1.pdf

⁷⁰⁹ CIDRM Press Release 13 March 2008 Retrieved 29 November 2011 from <http://www.centruledemiediu.ro/index.shtml?apc=es3n-&x=48&s=t>

⁷¹⁰ Gabriel Resources, 2007 4th Qtr Report, 7; CIDRM Press Release 13 March 2008 Retrieved 29 November 2011 from <http://www.centruledemiediu.ro/index.shtml?apc=es3n-&x=48&s=t>

hour.⁷¹¹ In the end the Deputies returned the bill to the Industry and Health Committees for re-examination.⁷¹² As of January 2010, Romania's Parliament has still not voted on the bill.

In May 2010, the European Parliament adopted a motion to ban the use of cyanide-based technologies in European mining.⁷¹³ A European ban on the use of cyanide would also effectively stop the RMGC project. The European resolution says that banning the use of cyanide in mining is the only way to protect European water resources and ecosystems against cyanide pollution from mining operations.⁷¹⁴ Parliament asked the Commission to provide financial support for the redevelopment of those areas where the use of cyanide in mining is banned.⁷¹⁵ The resolution calls on member states to withhold their support of mining projects using cyanide until the ban is legislated and calls on the Commission to legislate a complete ban before 2012.⁷¹⁶ According to the Gabriel Resources 2010 1st Quarter Report, this motion has no legal impact because only the European Commission (EC) has the authority to initiate

⁷¹¹ România fără Cianuri Press Release 15 April 2008 Retrieved 29 November 2011 from <http://www.bancyanide.ro/index.shtml?x=2820&cmd%5B97%5D=c-1-0ddccbbb66ade42214624fc253ced3e3&cmd%5B123%5D=x-123-2640>; The debate was only announced to civil society organisations on the morning of the debate. Cyanide Free Romania tried to mobilise civil society representation at the debate by distributing a press release to the general public, but the announcement was too late for civil society activists to show their presence. However, representatives of Gabriel Resources had received a specific invitation to the proceedings. (România fără Cianuri Press Release 15 April 2008 Retrieved 29 November 2011 from <http://www.bancyanide.ro/index.shtml?x=2820&cmd%5B97%5D=c-1-0ddccbbb66ade42214624fc253ced3e3&cmd%5B123%5D=x-123-2640>)

⁷¹² România fără Cianuri Press Release 15 April 2008 Retrieved 29 November 2011 from <http://www.bancyanide.ro/index.shtml?x=2820&cmd%5B97%5D=c-1-0ddccbbb66ade42214624fc253ced3e3&cmd%5B123%5D=x-123-2640>

⁷¹³ European Parliament, 2010

⁷¹⁴ European Parliament, 2010; 3

⁷¹⁵ European Parliament, 2010; 3

⁷¹⁶ European Parliament, 2010; 3

directives or regulations, which must then be approved by the European Parliament and EU Council.⁷¹⁷

The National Commission for Archaeology approved all of the RMGC Archaeology Discharge Certificates in 2004 and 2005. The Director for Romania's Historic Monuments and Museums asserts that all of the permitting decisions for the project have been unanimous.⁷¹⁸ Dr. Piso, an archaeologist from the Technical University of Cluj and from the National History Museum of Transylvania, accuses the Romanian government of appointing or removing commission members based on party affiliation.⁷¹⁹ According to him, those on the National Commission for Archaeology who had opposed the RMGC project, including himself, have been removed from the commission.⁷²⁰

In June 2009 and again in April 2010, the NGO ARA submitted a request to the Romanian Ministry of Culture to list Roșia Montană as a UNESCO World Heritage Site.⁷²¹ As part of its resolution, the NGO published a cultural heritage management plan that describes the significance of the Roșia Montană archaeological and architectural heritage.⁷²² It asserts that the cultural heritage in Roșia Montană is at risk because of the proposed mining project.⁷²³ In February 2010, the Romanian Ministry of Culture announced its intention to

⁷¹⁷ Gabriel Resources 2010 1st Quarter Report; 2

⁷¹⁸ PACE, 2004

⁷¹⁹ PACE, 2004

⁷²⁰ PACE, 2004

⁷²¹ ARA Open Letter to the Romanian Ministry of Culture 27 April 2010 Retrieved 29 November 2011 from www.simpara.ro/download-14.htm

⁷²² ARA Roșia Montană Cultural Heritage Management Plan (2009) Retrieved 29 November 2011 from <http://www.simpara.ro/Nota%20de%20fundamentare%20Lista%20tentativa%20Rosia%20Montana.pdf>

⁷²³ ARA Roșia Montană Cultural Heritage Management Plan (2009) Retrieved 29 November 2011 from <http://www.simpara.ro/Nota%20de%20fundamentare%20Lista%20tentativa%20Rosia%20Montana.pdf>

include Roşia Montană on the UNESCO World Heritage tentative list.⁷²⁴ If approved the Ministry of Culture could effectively stop the proposed RMGC project even without a direct mandate to approve or reject the authorisation of development projects.

Administrative institutional deliberations are often circumvented by institutional deliberations in the courts; countries like the United States and Canada are especially well-known for this process.⁷²⁵ Judicial deliberations are often more formally rigorous than legislative deliberations and deliberative reason in judicial forums is constrained by legal arguments. However, both judicial and legislative deliberative bodies are considered institutional forums for the purposes of this thesis because the deliberations of these forum types typically result in jurisdictionally binding decisions and because forum members are official representatives of the state. In *The Politics of Environmental Mediation*, Douglas Amy argues that despite the drawbacks of the courts, certain interests may be better represented in the courts than in hybrid forums like environmental mediation. Litigation is expensive; this prohibits the use of litigation by many individuals and associations without the financial resources to pursue and sustain the activity through appeals processes – especially against opponents with ‘deep pockets’.⁷²⁶ These resources could be used more directly for better initiatives, like cleaning up existing pollution.⁷²⁷ The courts are already overburdened and - especially in the case of Romania - are sometimes

⁷²⁴ Alburnus Maior Open Letter to Romanian Minister of Culture 26 January 2011 Retrieved 29 November 2011 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-39672&cmd%5b316%5d=x-322-39672&cmd%5b300%5d=x-299-39672>

⁷²⁵ Almer and Koontz, 2004; 489; Amy, 1987; 22

⁷²⁶ Amy, 1987; 19

⁷²⁷ Amy, 1987; 19

unreliable and inconsistent.⁷²⁸ Court processes take time – often many years.⁷²⁹ This can leave communities – like Roşia Montană – in limbo waiting for the judgement that decides the fate of their homes, their life style and their source of income. Court decisions usually result in a ‘winner-take-all’ outcome.⁷³⁰ There is rarely any room for compromise in court decisions and value based – rather than legally based – arguments are often not permitted.⁷³¹ This means that although a decision is rendered, the underlying conflict is never resolved – leading to new court cases.⁷³² However in cases of unbalanced power, court-based institutional forums may be the only fair hearing available for some participants.⁷³³ Civil society organisations may be out matched in the political and administrative arenas against a developer with seemingly unlimited resources and direct access to policy makers.⁷³⁴ Dryzek argues that state imperatives like economic development make it difficult for civil society organisations to influence administrative or political decisions with arguments based on environmental protection.⁷³⁵ In these circumstances, as we have seen by the actions of both RMGC and those who oppose the project, associations resort to institutional deliberations in the courts.

The Aarhus Convention, European directives, the Romanian Constitution and Romanian law all stress the importance of the availability of judicial processes for the public, including associations, in order to protect interests and enforce

⁷²⁸ Amy, 1987; 19-21

⁷²⁹ Amy, 1987; 19-21

⁷³⁰ Amy, 1987; 22

⁷³¹ Amy, 1987; 22

⁷³² Amy, 1987; 22

⁷³³ Amy, 1987; 80

⁷³⁴ Amy, 1987; 23

⁷³⁵ Dryzek, 2000; 94

the law.⁷³⁶ Signatories to the Aarhus Convention must ensure that parties, with a sufficient interest in the outcome of a decision or who claim a right impairment, have access to court review procedures.⁷³⁷ There they can challenge the substantive or procedural aspects of any public decision or act relating to the environment.⁷³⁸ Articles 51 and 52 of the Romanian Constitution guarantees the public's right to address public authorities or to appeal their decisions. Legally established associations have the right to forward petitions on behalf of their membership. Law 554/2004 entrenches the constitutional right of Romanian citizens to petition the courts in the event that their rights or legitimate interests have been abused by a public authority; citizens whose rights or interests have been abused by a public authority are entitled to have their rights acknowledged, the act that infringed on their rights annulled and reparation for damages.⁷³⁹ Romania's EIA Law 137/1995 recognises the rights of individuals or associations to address judicial authorities to prevent environmental damage or to seek compensation in the case that direct or indirect damage has been endured. The courts can cancel or reject an environmental agreement or they can censor the legality of an environmental authorisation refusal and order the public authority to issue the agreement. In Romania, court decisions can be appealed until the appeal processes ends in a

⁷³⁶ UNECE, 1998; EU's Directive 2003/4/EC; Romanian Constitution Articles 51 and 52; Romanian Law 554/2004

⁷³⁷ UNECE, 1998

⁷³⁸ UNECE, 1998

⁷³⁹ Romanian Constitution Article 52; Law 554/2004 repealed the original administrative litigation law, Law 29/1990. Law 554/2004 was amended by Laws 100/2006 and 262/2007; This law is not restricted to environmental decisions; it applies to all administrative public decisions. Some examples of administrative activities that abuse a person's rights or interests are: a failure to respond to a request or application, the expression of excess power, an unjustified refusal to fulfil a request, etc. Civil servants may also refer to this law when petitioning the court regarding the abuse of employment rights by public authorities.

decision from a supreme court or in Romania's case, the High Court of Cassation and Justice.

As part of its campaign to stop the RMGC project, Alburnus Maior is managing what it calls a *strategic litigation* effort - taking court action against Romanian authorities over the permitting process.⁷⁴⁰ By April 2008, 111 lawsuits had been filed against the project.⁷⁴¹ According to the company, Alburnus Maior has initiated legal action against 'virtually every local, regional and national Romanian regulatory authority' that is part of the authorisation and approval process for the project.⁷⁴² One participant of the public meetings complained that the opposition has not 'been able to do anything for Roşia Montană, except to pose obstacles and start trials.'⁷⁴³ Alburnus Maior has more than once petitioned the UN's Aarhus Compliance Committee with charges that the Romanian public authorities have violated the Aarhus Convention.⁷⁴⁴ While, Gabriel Resources and RMGC are not usually the targets of the legal action, Gabriel Resources uses its legal resources to attempt to intervene in all the cases.⁷⁴⁵

In September 2007, the Ministry of the Environment issued a statement that the RMGC EIA Process was suspended because urbanistic certificate on which the

⁷⁴⁰ Alburnus Maior Retrieved 31 July 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32836&cmd%5b316%5d=x-322-32846&x=32846&set%5b319%5d=selected-32836&set%5b321%5d=selected-32846>

⁷⁴¹ <http://www.thestar.com/News/World/article/418856> Retrieved 6 July 2010.

⁷⁴² Gabriel Resources, 2005 3rd Qtr Report; 3

⁷⁴³ Roşia Montană Public Meeting

⁷⁴⁴ Alburnus Maior Retrieved 31 July 2012 from http://www.ngo.ro/img_upload/17ef04f0530a65b2f4e73d9a4b5d99ea/EIAcronology_updateMarch08.pdf; Alburnus Maior Retrieved 31 July 2010 from www.unece.org/env/pp/compliance/C2005.../addInfo20070220.doc

⁷⁴⁵ Gabriel Resources, 2005 3rd Qtr Report; 3

EIA Process was based had been suspended.⁷⁴⁶ The original urbanistic certificate 68/2004 that was considered the base for the EIA Process was irrevocably suspended by the Alba Tribunal in June 2005.⁷⁴⁷ Subsequent urbanistic certificates have been issued by the Alba County Council, but at the time of writing all but one had been annulled and that one was being tested by the Bucharest Tribunal.⁷⁴⁸ Alburnus Maior and CIDRM initiated the court action to annul certificate 68/2004; RMGC's request to intervene was refused.⁷⁴⁹ The certificate was annulled because it did not fully list the natural and historic elements of the protected areas and buffer zones; it did not include a complete inventory of all of the planned industrial facilities (including the tailings management pond and dam); it did not adequately allow for the protection of the Cârnic Mountain; and it impacted four municipalities, which is counter to the principle of local autonomy.⁷⁵⁰ The Minister announced that the licensing

⁷⁴⁶ Ministry of the Environment 14 September 2007 Press Release Retrieved 31 July 2012 from http://www.mmediu.ro/protectia_mediului/rosia_montana/certificat_urbanism.htm

⁷⁴⁷ Alburnus Maior, 2010; 1

⁷⁴⁸ 78/2006 was annulled by the Cluj Tribunal and the Cluj Court of Appeal in November 2007; Certificate 105/2007 was irrevocably annulled by the Cluj Tribunal in 2008 (Gabriel Resources 2009 2nd Qtr Report; 4) because it has the same content as the suspended certificate. (Alburnus Maior, 2010; 1); At the time of writing certificate 87/2010 is currently being tested by the Bucharest Tribunal. The opposition contends that this most recent urbanistic certificate is based on Roşia Montană's PUG and RMGC's Industrial Area PUZ, both of which were irrevocably declared illegal by the Alba Court of Appeal in January 2008. (Alburnus Maior 18 April 2012 Press Release Retrieved 31 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-40127&cmd%5b316%5d=x-322-40127&cmd%5b300%5d=x-299-40127>); According to the amendment Law 262/2007 an administrative act (i.e. permit or certificate) is automatically suspended if it contains the same substance as an already suspended administrative act. In other words, if a citizen manages to successfully petition the courts to have an administrative act suspended, the public authority cannot then reissue another act with the same content as the suspended act. The intention of the law is to limit attempts to evade court decisions by simply reissuing the same act or in the case of RMGC, resubmitting the same urbanistic certificate.

⁷⁴⁹ Gabriel Resources 2007 4th Qtr Report; 3; Alburnus Maior, 2007b; 2

⁷⁵⁰ Alburnus Maior, 2007b; 2

procedure would not continue until the NGO court action contesting the validity of the urbanistic certificates is concluded.⁷⁵¹

In the last half of 2007, RMGC launched administrative and legal actions to contest the suspension of its EIA process. In September 2007, RMGC petitioned an administrative appeal with the Ministry of the Environment.⁷⁵² The company maintains that the validity of the urbanistic certificate is not a requirement of the EIA Process.⁷⁵³ They argue that an urbanistic certificate has nothing to do with the environmental review.⁷⁵⁴ They argue and the President of the Alba County Council agrees⁷⁵⁵ that the urbanistic certificate simply notifies the developer of the permits, studies and authorisations required for his particular project and that the EIA Process should not be dependent on the receipt of a valid urbanistic certificate.⁷⁵⁶ The Ministry responded to the company's appeal the next month with a 14 page response that, according to the company, did not address the important issues.⁷⁵⁷ In November 2007, RMGC sued the Ministry of the Environment and personally the Minister of the Environment and the State Secretary over the decision to suspend the EIA Process in the Bucharest Court of Appeal.⁷⁵⁸ In February 2008, nearly 20 NGOs sent an open letter to the Minister of the Environment declaring their intention to intervene in the court case.⁷⁵⁹ The court ultimately dismissed the

⁷⁵¹ Ministry of the Environment 14 September 2007 Press Release Retrieved 31 July 2012 from http://www.mmediu.ro/protectia_mediului/rosia_montana/certificat_urbanism.htm

⁷⁵² Gabriel Resources, 2007 4th Qtr Report; 3

⁷⁵³ Gabriel Resources, 2007 4th Qtr Report; 7

⁷⁵⁴ Gabriel Resources, 2007 4th Qtr Report; 7

⁷⁵⁵ Evenimentul Zilei 31 July 2007 'Alba Council Issues New Urbanistic Certificate to RMGC'

⁷⁵⁶ Gabriel Resources 2007 4th Qtr Report; 7

⁷⁵⁷ Gabriel Resources, 2007 4th Qtr Report; 7

⁷⁵⁸ Gabriel Resources, 2007 4th Qtr Report; 7

⁷⁵⁹ Alburnus Maior, 2008a; 4; Alburnus Maior Open Letter 18 February 2007 Retrieved 31 July 2012 from <http://rosiamontana.ngo.ro/en/index.shtml?cmd%5b314%5d=x-314-32835&cmd%5b316%5d=x-322-32835&cmd%5b300%5d=x-299-32835>

company's suit in July 2009.⁷⁶⁰ In December 2009, the company appealed Bucharest Court of Appeal's decision to the Romanian Supreme Court.⁷⁶¹

In January 2008 the Alba Iulia Court of Appeal irrevocably declared both the 2002 Roşia Montană General Urban Plan (PUG) and the RMGC Industrial Area Urban Zoning Plan (PUZ) illegal.⁷⁶² According to the opposition, the court reversed the Roşia Montană Council's decision, in part, because a number of the council members who had originally approved the urban plans were RMGC employees or closely related to RMGC employees – violating conflict of interest laws.⁷⁶³ RMGC's 2002 PUZ did not include key elements of the project – the Jig and Orlea quarries.⁷⁶⁴ The opposition also claims that the Local Council did not follow the Strategic Environmental Assessment (SEA) Process nor did it consult with the affected population before approving the PUG.⁷⁶⁵ Although the company argues that the public was invited to 11 council meetings and public debates to discuss the 2002 PUG.⁷⁶⁶ RMGC's Industrial Area PUZ was nullified because it did not include key elements of the project.⁷⁶⁷ This meant that the commune had to develop a new PUG and the company had to create a new Industrial Area PUZ.

In May 2007, the Alba Iulia Tribunal annulled the public facilities resettlement contract between RMGC and Roşia Montană's town hall.⁷⁶⁸ As part of the

⁷⁶⁰ Gabriel Resources 6 July 2009 Press Release Retrieved 31 July 2012 from <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aiTH4dMd6p3A>

⁷⁶¹ Gabriel Resources, 2009 4th Qtr Report; 4

⁷⁶² Alburnus Maior, 2008c; Monitorulcl.ro, 2008; 1

⁷⁶³ Alburnus Maior, 2008c; Monitorulcl.ro, 2008; 1

⁷⁶⁴ RMGC, 2007; Volume 52 page 2

⁷⁶⁵ Alburnus Maior, 2008c; Monitorulcl.ro, 2008; 1

⁷⁶⁶ RMGC, 2007; Volume 2 page 42

⁷⁶⁷ RMGC, 2007; Volume 52 page 2

⁷⁶⁸ Alburnus Maior, 2008d; 12-3

resettlement of the Roșia Montană community, RMGC plans to move the commune's public facilities (the town hall, police office and schools, etc.) to Piatra Alba.⁷⁶⁹ In the resettlement contract concluded in the summer of 2006, RMGC and the town hall agreed to the terms and conditions for relocating the Roșia Montană public facilities. During the hearings Alburnus Maior argued that the contract exceeded the local council's legal authority.⁷⁷⁰ In the contract, town hall agreed to obtain all the permits and approvals on behalf of RMGC for not only the resettlement site, but for the mining project as well.⁷⁷¹ The town hall also pre-agreed to approve all permits for the resettlement and the mining project that were within their authority.⁷⁷² Finally, the NGO argued that the contract should have gone through an open bidding process, which didn't happen.⁷⁷³ The court agreed that the Local Council did not have the authority to enter into a contract of this nature and that a contract like this is subject to a formal tender process.⁷⁷⁴ RMGC appealed this court's ruling and a final decision is still pending.⁷⁷⁵

The courts have overturned decisions taken by the Ministry of Culture. In September 2007, the Alba Iulia Court of Appeal suspended ADC 5/2004.⁷⁷⁶ During the hearing Alburnus Maior argued that the certificate was approved without consultation with and a recommendation from the National Commission

⁷⁶⁹ Alburnus Maior, 2007b; 6

⁷⁷⁰ Alburnus Maior, 2007b; 6

⁷⁷¹ Alburnus Maior, 2007b; 6

⁷⁷² Alburnus Maior, 2007b; 6

⁷⁷³ Alburnus Maior, 2007b; 6

⁷⁷⁴ Alburnus Maior, 2007b; 6

⁷⁷⁵ Alburnus Maior, 2007b; 6

⁷⁷⁶ Alburnus Maior, 2007b; 3

for Archaeology.⁷⁷⁷ Without this discharge certificate, no construction permits may be issued for the processing plant, tailings pond, pipelines and access roads.⁷⁷⁸ Gabriel Resources was permitted to intervene in this case.⁷⁷⁹ In December 2008, the Romanian Supreme Court irrevocably annulled RMGC Archaeological Discharge Certificate 4/2004.⁷⁸⁰ During the Supreme Court hearings, civil society attorneys argued that the Cârnic Mountain holds archaeological evidence that must be protected and that the Romanian State was obligated to use administrative, technical and legal means to protect the site.⁷⁸¹ The courts accepted the interpretation proposed by civil society attorneys that the Director of the Romanian National History Museum intentionally distorted the results of a 2003 archaeological research effort that had actually called for the restoration of the site.⁷⁸² The court actions were taken by Alburnus Maior and the Pro Europe League against the Ministry of Culture.⁷⁸³ RMGC requested to intervene during the Supreme Court hearings, but its request was rejected.⁷⁸⁴ The company asserts that it can rewrite the

⁷⁷⁷ Alburnus Maior, 2007b; 3; Alburnus Maior 3 September 2007 Press Release Retrieved 31 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32767&cmd%5b316%5d=x-322-32767&cmd%5b300%5d=x-299-32767>

⁷⁷⁸ Alburnus Maior, 2007b; 3; Alburnus Maior 3 September 2007 Press Release Retrieved 31 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32767&cmd%5b316%5d=x-322-32767&cmd%5b300%5d=x-299-32767>

⁷⁷⁹ Alburnus Maior, 2007b; 3

⁷⁸⁰ Gabriel Resources 9 December 2008 Press Release Retrieved 31 July 2012 from <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aVU81HhJthEU>; First in June 2005 the Alba Iulia Court of Appeal annulled RMGC's ADC 4/2004. Then in November 2007 the Broşov Court of Appeal annulled the certificate (Gabriel Resources 2008 4th Qtr Report; 9)

⁷⁸¹ Alburnus Maior, 2007a; Alburnus Maior Open Letter to the Minister of Culture Retrieved 15 November 2011 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-34701&cmd%5b316%5d=x-322-34701&cmd%5b300%5d=x-299-34701>

⁷⁸² Alburnus Maior, 2007a

⁷⁸³ Alburnus Maior, 2007a

⁷⁸⁴ Alburnus Maior, 2007a; 1

discharge application in a way that will be acceptable to the courts and allow the Ministry of Culture and Religion to release another certificate.⁷⁸⁵

In September 2008, after an unsuccessful administrative appeal in February 2008, the company filed a petition with the courts to compel the Ministry of the Environment to release the dam safety permits for the RMGC Cetate and Corna (TMF) dams.⁷⁸⁶ The permits had been endorsed by the National Commission for Dam Safety and Water Works (CONSIB) in April 2007 and again in March 2008, but the Ministry of the Environment refused to release the permits.⁷⁸⁷ The CONSIB is a committee of engineers and experts that reviews dam designs and then makes its permitting recommendation to the Ministry of the Environment.⁷⁸⁸ State standards specify the technical criteria for dams, for example earthquake resistance and spillway capacity.⁷⁸⁹ In February 2009, the Bucharest Court of Appeal validated the permits on behalf of the project.⁷⁹⁰ However the Ministry of the Environment appealed this decision to the Supreme Court in July of that year.⁷⁹¹ Finally in June 2010, Romania's Supreme Court irrevocably ordered the Ministry of the Environment to release the permits.⁷⁹²

ASSOCIATIONAL FORUMS

Each of the voluntary associations participating in the deliberations to debate the authorisation decision of the proposed RMGC project deliberate in

⁷⁸⁵ Gabriel Resources 2010 1st Qtr Report; 5

⁷⁸⁶ Gabriel Resources, 2009a; 1; It is not clear why the Ministry refused to release the permits.

⁷⁸⁷ Gabriel Resources, 2009a; 1 Gabriel Resources, 2008 2nd Qtr Report; 3

⁷⁸⁸ CONSIB Website Retrieved 2 August 2012 from

http://www.mmediu.ro/gospodarirea_apelor/consib.htm

⁷⁸⁹ CONSIB Website Retrieved 2 August 2012 from

http://www.mmediu.ro/gospodarirea_apelor/consib.htm

⁷⁹⁰ Gabriel Resources, 2009 1st Qtr Report; 6; Gabriel Resources, 2009a; 1

⁷⁹¹ Gabriel Resources, 2009 3rd Qtr Report; 2

⁷⁹² Gabriel Resources, 2010 2nd Qtr Report; 1

associational forums to recruit members, raise contributions or investments, align with other associations, develop strategy and plans, form solidarity and to share information and resources.⁷⁹³ Voluntary associations include churches; professional associations; rights based civil society associations; companies and social movements. Members of individual associations often deliberate to reach binding decisions, while the deliberations of inter-associational alliances may or may not result in binding outcomes. I think it would be fascinating to study deliberations within and among voluntary associations. While I did not observe any associational forum deliberations for this research project, I did find evidence of them.

International conventions, European directives and Romanian laws all address the rights of the public to freely associate.⁷⁹⁴ The Aarhus Convention recognises the need for people to associate with others in order to protect their environmental rights and fulfil their duties to protect and improve the environment.⁷⁹⁵ Parties to the Aarhus Convention agree to provide recognition of and support to associations that promote environmental protection.⁷⁹⁶ The Aarhus Convention and European Directive 85/337/EC specifically include

⁷⁹³ Fung, 2004; 52; Mansbridge, 1996; 58; Cornwall and Coelho, 2007; 18; Mansbridge, 1999; 212; Gutmann and Thompson, 1996; 40, 113; Dryzek, 2000; 77, 134; Hendriks, Dryzek and Hunold, 2007; 369; Cornwall and Coelho, 2007; 23

⁷⁹⁴ UNECE, 1998; European Directive 85/337/EC; Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms; Article 40 of the Romanian Constitution; Romanian Laws 137/1995, 350/2001 and 554/2004; Both the Convention for the Protection of Human Rights and Fundamental Freedoms and the Romanian Constitution puts some restrictions on the public's freedom to form associations. Restrictions to this freedom can only be placed in the interests of national security or public safety, to prevent disorder or crime and to protect the health, rights and freedoms of others. According to the Romanian Constitution, only those associations that aim to resist the principles and rules of the State or those opposing the sovereignty or independence of Romania will be considered unconstitutional. Judges, public advocates, active members of the Armed Forces, policemen and certain categories of public servants are prohibited from joining political parties. Secret associations are also prohibited in Romania.

⁷⁹⁵ UNECE, 1998

⁷⁹⁶ UNECE, 1998

'associations, organisations or groups' - and NGOs that promote environmental protection - in their definition of the public and of the public concerned.

While the deliberations of commercial associations are regulated a bit more rigorously than the deliberations of civil society associations, the required structures of commercial and civil society associations are quite similar. Romania's Ordinance 26/2000 allows for and regulates Romanian civil society associations – those voluntary associations that 'conduct work activities in the public interest'. Romania's Companies Law (31/1990) allows for and regulates Romanian commercial associations, including RMGC.⁷⁹⁷ As a Canadian company listed on the Toronto Stock Exchange (TSX) Gabriel Resources is regulated by the Canada Business Corporations Act (CBCA).⁷⁹⁸ All of these regulations require associations to register with the government and to establish required bodies of association – general assembly (shareholders), board of directors and auditors.⁷⁹⁹ The general assemblies for both commercial and civil society associations must meet annually to discuss the association's strategy for the upcoming year, approve financial statements, elect board of directors and appoint auditors.⁸⁰⁰ In addition, share transactions, financial disclosure, the distribution of dividends, shareholder rights are all regulated for commercial association, but not for civil society associations.⁸⁰¹ Extraordinary general assembly meetings are required when a company makes important changes -

⁷⁹⁷ Romanian Ordinance 26/2000 Chapter II Article 4; Romanian Law 31/1990

⁷⁹⁸ CBCA R.S.C., 1985, c. C-44 Retrieved 14 November 2012 from <http://laws-lois.justice.gc.ca/PDF/C-44.pdf>

⁷⁹⁹ Romanian Ordinance 26/2000 Chapter III Article 20-1; Romanian Law 31/1990 Title II Chapters I, II, II; Romanian Law 31/1990 Title III Chapter IV § 2 Article 111; Romanian Law 31/1990 Title III Chapter IV § 6 Articles 172-3

⁸⁰⁰ Romanian Ordinance 26/2000 Chapter III Article 21; Romanian Law 31/1990 Title III Chapter IV § 2 Article 111; CBCA Part X Articles 106; 133; CBCA Part X Articles 103, 106; 135

⁸⁰¹ Romanian Law 31/1990 Title III Chapters IV § 1; CBCA

for example moves its headquarters, modifies its objectives or bylaws, increases or decreases its capital, merges with another company, considers early dissolution or removes a director from the board.⁸⁰² In Romania, boards of directors meet monthly and in Canada, they meet based on the provisions articulated in their corporate bylaws.⁸⁰³ Corporations must maintain records of general assembly, board of directors and special committee deliberations and provide them to shareholders upon request.⁸⁰⁴ Beside these minimal requirements, the substantive and procedural aspects of an association's day-to-day deliberation and decision-making processes are not regulated.

Alburnus Maior has formed a strong alliance with local NGOs like Greenpeace Romania⁸⁰⁵, the Independent Centre for the Development of Environmental Resources (CIDRM)⁸⁰⁶, Green Transylvania⁸⁰⁷ and Cyanide Free Romania⁸⁰⁸ and international associations like MiningWatch Canada⁸⁰⁹, Bank Watch⁸¹⁰ and the Rainforest Action Network⁸¹¹; Alburnus Maior calls this alliance the *Save Roşia Montană Campaign*. These associations strategise together, co-sign open letters, co-intervene in court actions, co-contest the outcomes of institutional forum deliberations and participate together in public

⁸⁰² Romanian Law 31/1990 Title III Chapter IV § 2 Article 113; CBCA Part X Article 109

⁸⁰³ CBCA Part X Article 114

⁸⁰⁴ Romanian Law 31/1990 Title III Chapter IV § 6 Articles 172-3; CBCA Part X Article 120

⁸⁰⁵ Greenpeace Romania Website Retrieved 5 December 2011 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/>

⁸⁰⁶ CIDRM, 2011a

⁸⁰⁷ Green Transylvania Website Retrieved 2 August 2012 from <http://www.greentransylvania.ro/>

⁸⁰⁸ Cyanide Free Romania 12 June 2008 Press Release Retrieved 5 December 2011 from <http://www.bancyanide.ro/index.shtml?x=2854&cmd%5B97%5D=c-1-0ddccbbb66ade42214624fc253ced3e3&cmd%5B123%5D=x-123-2640>; Cyanide Free Romania, 2011

⁸⁰⁹ MiningWatch Canada Website Retrieved 2 August 2012 from <http://www.miningwatch.ca/>

⁸¹⁰ Bank Watch Website Retrieved 2 August 2012 from <http://bankwatch.org/>

⁸¹¹ The Rainforest Action Network Retrieved 2 August 2012 from <http://www.ran.org/>

demonstrations.⁸¹² The *Save Roşia Montană Campaign* has also enlisted support from political parties and in April 2008, the Liberal-Democratic Party (PLD) joined the Greater Romanian Party (PRM) and the Democratic Union of Hungarians in Romania Party (UDMR) to announce their support for the ban on cyanide in Romanian mining operations.⁸¹³

RMGC has aligned itself with its investors, employees and local labour unions. Gabriel Resources has been actively working to form alliances with potential funders and investors. In 2002 the World Bank declined to provide a \$250 million loan for the project because of their concerns about the project's 'significant environmental and social issues'.⁸¹⁴ The American company Newmont Mining owns nearly 20% stake in Gabriel Resources.⁸¹⁵ In April 2003, the shareholders of Newmont Mining Corporation asked the company to review its policies on community engagement, environmental impacts and waste disposal.⁸¹⁶ This request was prompted by NGO protests, lawsuits and accusations of threats and harassment around the company's mining projects in

⁸¹² NGO Open Letter 7 December 2006 Retrieved 24 July 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>; NGO Open Letter 29 July 2008 Retrieved 24 July 2012 from http://lmv.hu/files/OpenLetter_stop_river_pollution_by_mining_NGOs_290708.pdf; Alburnus Maior, 2007b; 2; Alburnus Maior, 2008a; 4; Alburnus Maior Open Letter 18 February 2007 Retrieved 31 July 2012 from <http://rosiamontana.ngo.ro/en/index.shtml?cmd%5b314%5d=x-314-32835&cmd%5b316%5d=x-322-32835&cmd%5b300%5d=x-299-32835>; Alburnus Maior, 2006a; Alburnus Maior Website Retrieved 2 August 2012 from <http://rosiamontana.org/en/categorii.shtml?x=32842&cmd%5b321%5d=c-1-32842&cmd%5b316%5d=x-322-32842&set%5b319%5d=selected-32842>

⁸¹³ Cyanide Free Romania Press Release 15 April 2008I Cyanide Free Romania, 2011

⁸¹⁴ Mining Weekly 15 October 2002 Retrieved 6 August 2012 from <http://www.miningweekly.com/article/romanian-goldmine-loan-blocked-by-world-bank-chief-2002-10-15>; Alburnus Maior, 2007e; 1; Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

⁸¹⁵ Newmont Press Release 2 June 2008 Retrieved 1 August 2012 from <http://www.newmont.com/our-investors/press-releases/2008/06022008>

⁸¹⁶ Oxfam 23 April 2007 Press Release Retrieved 1 August 2012 from <http://www.oxfamamerica.org/press/pressreleases/groups-urge-newmont-to-address-shareholder-and-community-concerns>

Indonesia, Ghana, Peru, the United States and Romania – including the Roşia Montană project.⁸¹⁷ Shareholders expressed concern that the controversies could impact the company's reputation, share price and its ability to obtain permits.⁸¹⁸

In February 2005, the Romanian NGO PATRIR was expelled from the *Save Roşia Montană Campaign* for secretly meeting with RMGC.⁸¹⁹ The Peace Action, Training and Research Institute of Romania (PATRIR) was founded in March 2001 and its objective is to promote peace, conflict transformation and the prevention of violence.⁸²⁰ Originally PATRIR officially opposed the RMGC project.⁸²¹ However in February 2005, it was revealed that senior PATRIR staff members had met privately with RMGC representatives⁸²². According to Alburnus Maior, corporations attempt to meet with civil society activists to legitimise their social and environmental credentials when in fact meetings with the company are one way conversations with RMGC representatives doing all the talking.⁸²³ The coalition organised by Alburnus Maior has a policy to only meet with RMGC representatives during official public meetings.⁸²⁴ During the Bucharest meeting, Mr. Aston elaborated on the company's attempts to form partnerships with the opposition. He said:

⁸¹⁷ Oxfam 23 April 2007 Press Release Retrieved 1 August 2012 from <http://www.oxfamamerica.org/press/pressreleases/groups-urge-newmont-to-address-shareholder-and-community-concerns>

⁸¹⁸ Oxfam 23 April 2007 Press Release Retrieved 1 August 2012 from <http://www.oxfamamerica.org/press/pressreleases/groups-urge-newmont-to-address-shareholder-and-community-concerns>

⁸¹⁹ Alburnus Maior, 2005

⁸²⁰ PATRIR, 2011

⁸²¹ Cluj-Napoca Declaration 18 September 2003 Retrieved 5 December 2011 from http://www.ngo.ro/site_item_full.shtml?x=5995

⁸²² Alburnus Maior, 2005

⁸²³ Alburnus Maior, 2005

⁸²⁴ Alburnus Maior, 2005

*Starting with the year 2002 we invited the opposition groups to enter in a dialogue with us. PATRIR was the only NGO that entered in a dialogue with us. Unfortunately, in a press release, they were kicked out of the campaign of NGOs against the project because they initiated a dialogue with us.*⁸²⁵

According to Mr. Aston, at one point the company tried to cooperate with local NGOs. However, after the first meeting Alburnus Maior issued a press release accusing the company of attempting to bribe the NGOs.⁸²⁶ At the Bucharest meeting, Mr. Aston offered another invitation to the opposition, 'our offer for dialogue, for seminars, for conferences is still open. It has always been so. Let's talk.'⁸²⁷

The company did manage to forge a successful alliance with the NGO Youth Action for Peace (YAP). Through this alliance, YAP obtains resources for its projects and opportunities to implement projects in the Roşia Montană area.⁸²⁸ In exchange, the company earns valuable support from civil society activists. During the Roşia Montană meeting a YAP representative argued:

*The declaration that says the civil society in Romania is against the project is not entirely true. It is better to say, "Part of the civil society in Romania is against the project."*⁸²⁹

RMGC admits that it provided the funds to establish Pro Roşia Montană and that it continues to financially support the association.⁸³⁰ The members of this association, as well as, Pro Dreptatea and the Future of Mining Union are all

⁸²⁵ Bucharest and Câmpeni Public Meetings

⁸²⁶ Câmpeni Public Meeting

⁸²⁷ Bucharest Public Meeting

⁸²⁸ Bucharest Public Meeting

⁸²⁹ Roşia Montană Public Meeting

⁸³⁰ Field Notes, 24 July 2006; Pro Roşia Montană, 2011

employees of RMGC and exist solely to support the proposed mining project.⁸³¹ The associations that support the project were well represented at the public meetings for the EIA process; they co-sign open letters, participate in public demonstrations and are invited to represent civil society associations in hybrid forums.⁸³² During the Roşia Montană public meeting, a member of Alburnus Maior accused the company of ‘buying NGOs or creating your own NGOs to support you’.⁸³³

While the associations that oppose the project express both of Cohen and Arato’s dual orientations of civil society, the associations that support the proposed RMGC project do not.⁸³⁴ Cohen and Arato argue that civil society associations work in a dual orientation.⁸³⁵ While civil society associations put forward their substantive claims as part of their ‘offensive orientation’, they also simultaneously work in a ‘defensive orientation’, reforming political institutions expanding rights and mobilising publics.⁸³⁶ The civil society associations that oppose the proposed RMGC project work in both the offensive and defensive orientations. However, while the associations that support the project clearly express their substantive arguments; they do not work for the ‘defensive’

⁸³¹ Field Notes, 31 July 2006; Pro Roşia Montană, 2011

⁸³² Field Notes, 31 July 2006; NGOs Open Letter 5 November 2009 Retrieved 24 July 2012 from http://media.hotnews.ro/media_server1/document-2009-11-5-6420711-0-pro-rosia-montana-scrisoare-deschisa.doc; PACE, 2004, 5

⁸³³ Roşia Montană Public Meeting

⁸³⁴ Alburnus Maior 15 November 2003 Press Release Retrieved 2 August 2012 from http://www.ngo.ro/site_item_full.shtml?x=6437; Habermas, 1998; 370; Dryzek, 2000; Dodge, 2009; Cohen and Arato, 1992; 531; Chambers, 2002; 98; Hendriks, 2006; 494 Cornwall and Coelho, 2007; 6

⁸³⁵ Habermas, 1998; 370; Dryzek, 2000; Dodge, 2009; Cohen and Arato, 1992; Chambers, 2002; 98; Hendriks, 2006; 494

⁸³⁶ Habermas, 1998; 370; Dryzek, 2000; Dodge, 2009; Cohen and Arato, 1992; Chambers, 2002; 98; Hendriks, 2006; 494

orientation of civil society.⁸³⁷ As registered NGOs, the associations that support the project are still called on to speak on behalf of civil society – providing another bullhorn for the company.⁸³⁸

On the other hand, RMGC accuses Alburnus Maior of being funded, and therefore, influenced, by Gabriel Resources competitors and by Hungarian supporters.⁸³⁹ Those who support the project accuse Alburnus Maior of being a front for the interests of its major funder, George Soros.⁸⁴⁰ According to project supporters, the fact that George Soros is Hungarian only provides further evidence that Alburnus Maior does not really oppose the mine, but is attempting to further Hungarian interests.⁸⁴¹ Soros denies any personal interest or involvement in the *Save Roşia Montană Campaign*.⁸⁴² Soros claims that his foundations in Romania that support the campaign operate independently from Soros himself.⁸⁴³

One very powerful way to influence public decisions is for voluntary associations to establish formal alliances with state institutions – Private/Public Partnerships.⁸⁴⁴ The deliberations for these partnerships are private and informal. Alliance members, both state and private, can base their deliberations

⁸³⁷ Alburnus Maior 15 November 2003 Press Release Retrieved 2 August 2012 from http://www.ngo.ro/site_item_full.shtml?x=6437; Cohen and Arato, 1992; 531; Chambers, 2002; 98; Dryzek, 2000; 102

⁸³⁸ PACE, 2004

⁸³⁹ Gabriel Resources Press Release 5 September 2007 <http://www.gabrielresources.com/s/PressReleases.asp?ReportID=206593>; Field Notes 7 August 2006

⁸⁴⁰ Gabriel Resources Press Release 5 September 2007 <http://www.gabrielresources.com/s/PressReleases.asp?ReportID=206593>

⁸⁴¹ Gabriel Resources Press Release 5 September 2007 <http://www.gabrielresources.com/s/PressReleases.asp?ReportID=206593>

⁸⁴² Soros Foundation Romania Website Retrieved 2 August 2012 from http://www.soros.ro/en/features_detaliu.php?features=18

⁸⁴³ Soros Foundation Romania Website Retrieved 2 August 2012 from http://www.soros.ro/en/features_detaliu.php?features=18

⁸⁴⁴ The Diplomat Retrieved 20 August from http://www.thediplomat.ro/features_1106_1.htm

on common aims and interests – making it easier to deliberate and reach agreement. Private/Public Partnerships provide voluntary associations with access to public decisions makers allowing the association to build relationship, present its arguments, establish credibility and influence public decisions. Simultaneously, cash strapped public authorities can benefit from the wealth of private associations. I could find no European Directives or Romanian Laws that regulate partnerships between private associations and public authorities.

RMGC has entered into a Private/Public Partnership with the Romanian State. The Romanian State mining company, Minvest, owns 19.31% of RMGC and Gabriel Resources owns 80.46% of RMGC.⁸⁴⁵ The Romanian State will earn 19.31% of the profit from the gold mine once the project is in the operations phase without assuming any of the risks.⁸⁴⁶ Gabriel Resources has provided the funding for the mining and processing development, operations and rehabilitation expenditures.⁸⁴⁷ Minvest ceased its operations in Roşia Montană in the spring of 2006 and is solely responsible for the environmental rehabilitation from its past operations and all severance and redundancy payments for its staff.⁸⁴⁸ Alburnus Maior accuses the Romanian government of favouring RMGC during the RMGC EIA process because the state will derive benefits if the project is authorised.⁸⁴⁹

⁸⁴⁵ Gabriel Resources 2010 Annual Information Form page 5; Foricon SA owns the remaining 0.23%.

⁸⁴⁶ Deva Public Meeting

⁸⁴⁷ RMGC, 2007; Volume 5 page 20

⁸⁴⁸ Gabriel Resources, 2000

⁸⁴⁹ Alburnus Maior, 2007d; 3

RMGC and the Ministry of Culture established a partnership to research the cultural and archaeological aspects of the mining site.⁸⁵⁰ The National Museum of Romanian History coordinated the project and Gabriel Resources has provided project funding.⁸⁵¹ The company has already invested \$11 million into the project and it plans to invest a total of \$25 million for the research and restoration of Roşia Montană archaeological and historical sites⁸⁵². RMGC and the Museum of Romanian History together published a monographic volume called Alburnus Maior – all financed by Gabriel Resources.⁸⁵³ RMGC worked with the Ministry to restore the Roşia Montană Mining Museum.⁸⁵⁴ Eddie O'Hara, the European Parliament's General Rapporteur in the Sub-Committee on the Cultural Heritage, agrees with the company that Roşia Montană cultural heritage cannot be investigated and preserved without the investments of RMGC.⁸⁵⁵

HYBRID FORUMS

In addition to the hybrid forums employed as part of the RMGC EIA process, the associations involved in the deliberative system for the authorisation of the proposed project also participated in other hybrid forums. Hybrid forums are those deliberative forums that bring together more than one type of political actor – experts, voluntary associations (commercial and civil society), public

⁸⁵⁰ Câmpeni Public Meeting

⁸⁵¹ RMGC, 2006a; Cultural Heritage Management Plan; 19; Câmpeni Public Meeting

⁸⁵² RMGC, 2006a; Cultural Heritage Management Plan for Archaeological Heritage Plan page 50; Gabriel Resources 2008 4th Qtr Report; 9; From the public meetings, it is not actually clear if the company is promising at total of \$25 million or \$34 million. At the Bucharest and Câmpeni meetings, RMGC said that they had spent \$9 million that that they planned to spend \$25 million more. (Bucharest Public Meeting) At the Bistra meeting, the company said that it planned to invest a total of \$25 million for cultural heritage research and restoration. (Bistra Public Meeting)

⁸⁵³ RMGC Website Retrieved 6 August from <http://en.rmgc.ro/rosia-montana-project/patrimony/archeological-research/alburnus-maior-monographic-series.html>

⁸⁵⁴ RMGC, 2006a; Cultural Heritage Management Plan page vi

⁸⁵⁵ PACE, 2004

officials and individuals.⁸⁵⁶ Hybrid forums do not result in binding decision, but rather they seek to influence the public sphere and other forums – especially institutional forums.⁸⁵⁷ The Aarhus Convention and various European directives guarantee the public's right to participate in environmental decision making – usually in the form of public notification, public access to information, access to judicial processes and opportunities for the public to express its opinions.⁸⁵⁸ These directives do not define - much less mandate or regulate - hybrid forums employed for public deliberation and participation.⁸⁵⁹ In fact, the associations involved in the authorisation decision for the proposed RMGC project have used many types of hybrid forums to influence public opinion and decisions – many of them private, exclusive, self-interested and unregulated.

Dryzek argues that lobbying is a particularly powerful form of hybrid forum between policy makers and members of voluntary associations.⁸⁶⁰ I add that lobbying is powerful because it is an exclusive, informal, private and usually self-interested type of hybrid deliberative forum. Given the reciprocal and transformative nature of deliberation, exclusive deliberations - where only a few non-competing interests are represented - are likely to be very influential. In these, usually face-to-face deliberations, parties can better understand and address their mutual experiences, perceptions and needs. This is in contrast to more open and inclusive hybrid forums, where the needs of the parties are more varied and complex – making them more difficult to consider and address.

⁸⁵⁶ Hendriks, 2006; 486; Hendriks, 2009

⁸⁵⁷ Zapata, 2009; 204; Dodge, 2009; 230; Hendriks, 2009; 176; Rosenberg, 2007; 9; Gastil and Keith, 2005; 3; Melville, Willingham, and Dedrick, 2005; 42; Dryzek, 2001; 654

⁸⁵⁸ Directive 85/337/EEC was amended with Directives 97/11/EC, 2003/35/EC and 2009/31/EC; Stringer, Scriciu and Reed, 2009; 77; Cherp, 2001; 346

⁸⁵⁹ Stringer, Scriciu and Reed, 2009; 86

⁸⁶⁰ Dryzek, 2000; 86, 136

Deliberations in exclusive and private hybrid forums give participants an opportunity to discuss and develop ideas, as well as, an opening to promote individual interests, build relationship and reach mutual understanding and agreement. Given the non-inclusive and non-public nature of lobbying hybrid forums, I would argue that they are less legitimate forms of hybrid forum.

I could not find EU legislation that regulates the activities of lobbyists in Member States. Although the European Commission's approach to its own relationships with lobbyists is 'based on openness to all interest groups and guarantees them equal treatment while recommending that they apply a system of self-regulation'.⁸⁶¹ I could not find Romanian legislation that addresses the private meetings and deliberations between public officials and the individuals or associations who want to influence their decisions.

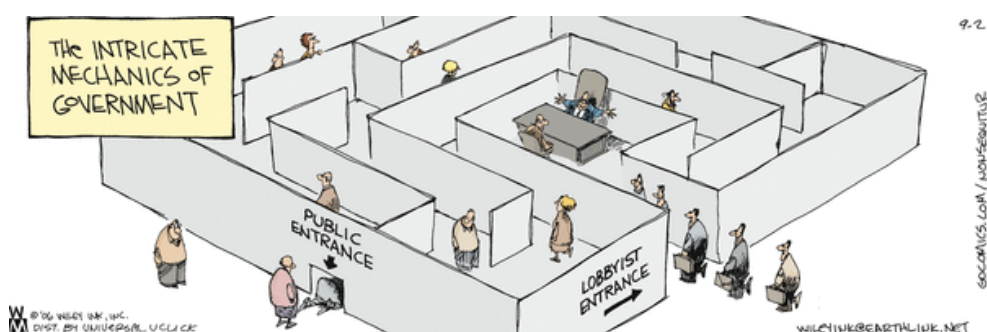


Figure 3: Privileged Access (Non-Sequitur)

Business owners in Romania have wide access to public officials and their access is deeper than that of civil society associations or citizens.⁸⁶² Romanian public officials speak at length about their meetings with business

⁸⁶¹ European Commission Official Journal C348, 3/12/1999 Retrieved 3 August from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:91999E0440:EN:HTML>

⁸⁶² Gallagher, 2005; 7

representatives.⁸⁶³ This experience aligns with Dryzek's theory that states 'actively include' – invite rather than just be receptive to – those associations whose interests are aligned with state imperatives – namely commercial associations.⁸⁶⁴ The Alba County Council President spoke about special council committees that include council members and business owners; civil society representatives are not invited to participate on these committees.⁸⁶⁵ The objective of these committees is to create the conditions that make it easier for businesses to succeed.⁸⁶⁶ Because, Romania's economic development strategy focuses on attracting foreign investment, many foreigners representing foreign commercial associations participate in the Alba County Council Committee meetings.⁸⁶⁷ Most Romanian public officials report that the public rarely participates in public decision making.⁸⁶⁸ According to one Romanian public official, communication with individual citizens can be 'difficult' and is best dealt with in the macro broadcasted discursive arena – e.g. press releases, flyers, websites or in written letters.⁸⁶⁹ Yes, environmental activists are invited to provide comment at SEA and EIA public meetings, but Romanian public officials do not solicit the direct and private advice of civil society activists to help design programmes or craft legislation.

⁸⁶³ Interviews: Alba County Council; Alba County EPA; Alba County Environmental Guard; Alba County Sub Prefect; National Agency for Mineral Resources; Ministry of the Economy and Commerce; Roşia Montană Council 1; Cluj County EPA; Arad County EPA; Cluj County Environmental Guard; Arad County EPA; Hunedoara EPA; Hunedoara Environmental Guard; Câmpeni Local Council

⁸⁶⁴ Dryzek, 2000; 29, 94, 109, 137; Lanzalago, 1964; 123

⁸⁶⁵ Alba Iulia Council President Interview

⁸⁶⁶ Alba Iulia Council President Interview

⁸⁶⁷ Alba Iulia Council President Interview

⁸⁶⁸ Interviews: Alba County Council; Alba County Culture and Religion; Alba County Sub Prefect; Arad County EPA; Câmpeni Local Council; Câmpeni Mayor; Confidential 1; Hunedoara County Prefect; Roşia Montană Local Council 2; Ministry of the Economy and Commerce; Ministry of Culture and Religion; Cluj County Environmental Guard; Cluj County Sub Prefect; National Agency for Mineral Resources

⁸⁶⁹ Alba Iulia Council President Interview

Representatives of RMGC have enjoyed special access to public officials. According to Gabriel Resources, it meets with public officials in order to understand and address their issues and concerns.⁸⁷⁰ The company has focused on what it calls the important economic benefits of the project during an economic crisis in Romania.⁸⁷¹ Gabriel Resources assures its investors that it is working 'diligently' in order to restart the EIA Process and to further the permitting processes for the project.⁸⁷² The company asserts that the change of government in December 2009 has resulted in more open dialogue with ministerial levels of government.⁸⁷³ The company works directly and regularly with local and county level officials to forward the permitting process for the project and to discuss the requirements for the new resettlement locations.⁸⁷⁴ A few of the government officials that I interviewed had a Gabriel Resources calendar, leather diary or pen holder in their office.⁸⁷⁵

In February 2007, Gabriel Resources representatives met privately with representatives from the United Nations Development Programme (UNDP) Bratislava Regional Office to negotiate a business partnership with RMGC that would bring a rumoured \$20 million to the UNDP.⁸⁷⁶ According to one of the UNDP representatives, the company was meeting with the UNDP 'to pitch their deal'.⁸⁷⁷ The UNDP argued that an alliance with RMGC would ensure that the RMGC environmental protection and community development programmes

⁸⁷⁰ Gabriel Resources, 2009 1st Qtr Report, 6

⁸⁷¹ Gabriel Resources, 2009 1st Qtr Report; 1

⁸⁷² Gabriel Resources, 2009 1st Qtr Report; 2

⁸⁷³ Gabriel Resources, 2009 1st Qtr Report; 2

⁸⁷⁴ Gabriel Resources, 2009 1st Qtr Report; 2; RMGC, 2006b; 74

⁸⁷⁵ National EPA; Alba County Culture and Religion; Câmpeni Mayor

⁸⁷⁶ Alburnus Maior, 2007c; Moran, 2007; 3; Greenpeace 27 February 2007 Press Release Retrieved 3 August 2012 from <http://poland.indymedia.org/pl/2007/02/26601.shtml>

⁸⁷⁷ Alburnus Maior, 2007c

were kept 'on the right track'.⁸⁷⁸ A group of environmental activists from Greenpeace and Alburnus Maior made a surprise visit to protest the meeting.⁸⁷⁹ The activists came from Hungary, Slovakia and Romania and wanted assurances that the UNDP was not negotiating a partnership with Gabriel Resources.⁸⁸⁰ A representative of the UNDP ultimately agreed to meet with two members of Alburnus Maior.⁸⁸¹ Alburnus Maior asked why the UNDP office was meeting with Gabriel Resources and not with civil society organisations.⁸⁸² The UNDP representative responded that the corporation, not civil society associations, was willing to invest in the region.⁸⁸³ The opposition worries that a partnership between Gabriel Resources and the UNDP would give Gabriel Resources the legitimacy it needs to obtain its environmental agreement for the RMGC project.⁸⁸⁴ This example provides evidence for Dryzek's idea that public officials actively include commercial associations in hybrid deliberative forums, while passively excluding civil society associations - especially if the substantive concerns of the civil society association clash with any of the state's or transnational institution's established imperatives.⁸⁸⁵ According to Dryzek, the World Trade Organization, the International Monetary Fund and the World Bank all passively exclude civil society associations, while actively including commercial ones.⁸⁸⁶ As can be seen in the Roşia Montană case, because corporate interests are aligned with state imperatives, they receive special and

⁸⁷⁸ Alburnus Maior, 2007c

⁸⁷⁹ Greenpeace 27 February 2007 Press Release Retrieved 3 August 2012 from <http://poland.indymedia.org/pl/2007/02/26601.shtml>

⁸⁸⁰ Greenpeace 27 February 2007 Press Release Retrieved 3 August 2012 from <http://poland.indymedia.org/pl/2007/02/26601.shtml>

⁸⁸¹ Greenpeace 27 February 2007 Press Release Retrieved 3 August 2012 from <http://poland.indymedia.org/pl/2007/02/26601.shtml>

⁸⁸² Alburnus Maior, 2007c

⁸⁸³ Alburnus Maior, 2007c

⁸⁸⁴ Alburnus Maior, 2007c

⁸⁸⁵ Dryzek, 2000; 109, 136-7; Dryzek, 2001; 665

⁸⁸⁶ Dryzek, 2000; 137

privileged access to hybrid deliberative forums with state and transnational institutions.

However, the NGOs opposing the project have also managed to meet with individual Romanian and European party leaders and members of parliament in order to gain their support. For example, in September 2006, a Hungarian MEP hosted a joint press conference with Alburnus Maior and Greenpeace in Brussels.⁸⁸⁷ During the press conference the group – including the MEP - publically state their opposition to the project.⁸⁸⁸ Then in October 2006, representatives of a number of Romanian and Hungarian environmental NGOs met with the leader of the Romanian Hungarian party UDMR and the state secretary of the Ministry of the Environment.⁸⁸⁹ During the meeting, the NGOs expressed their concerns and objections regarding the proposed RMGC project.⁸⁹⁰ The opposition discussed its proposal for Roşia Montană to become a UNESCO World Heritage site – creating a basis for tourist and sustainable development alternatives to the mine.⁸⁹¹ During this meeting the UDMR leader declared his opposition to the RMGC project.⁸⁹² For 3 days in November 2007, Members of the Coalition for Cyanide Free Romania, in partnership with Cyanide Free Bulgaria, organised meetings in Brussels with MEPs, the press and the European Commission's Directors General of the Environment and of Industry.⁸⁹³ The intention of these meetings was to increase awareness of the

⁸⁸⁷ Greenpeace 20 September 2006 Press Release Retrieved 3 August 2012 from www.endseurope.com/docs/60920b.doc

⁸⁸⁸ Greenpeace 20 September 2006 Press Release Retrieved 3 August 2012 from www.endseurope.com/docs/60920b.doc

⁸⁸⁹ Green Transylvania 18 December 2006 Press Release

⁸⁹⁰ Green Transylvania 18 December 2006 Press Release

⁸⁹¹ Green Transylvania 18 December 2006 Press Release

⁸⁹² Green Transylvania 18 December 2006 Press Release

⁸⁹³ Cyanide Free Romania 23 November 2007 Press Release

risks of using cyanide in mining in densely inhabited areas.⁸⁹⁴ The Coalitions asked the MEPs to support a declaration banning the use of mining related cyanide.⁸⁹⁵

In addition to lobbying hybrid forums, the deliberative system to debate the proposed RMGC project has also included deliberative conference hybrid forums. As discussed in Chapter 7, deliberative conferences are ad hoc hybrid forums. Deliberative conferences are usually more inclusive and open – and therefore more complex – than lobbying hybrid forums. People participate in deliberative conferences to learn about the details and possible effects of a public decision; to hear and understand the views and opinions of others; to understand the priorities, conditions and possible constraints on public outcomes; to express their concerns, positions and ideas about a public decision; and ultimately people participate in deliberative conferences in order to influence public opinion and public decisions. Deliberative conferences of some type are often considered an important part of public participation. However, these types of hybrid forums are typically no more regulated than lobbying.

When Romanian public officials speak about meeting with civic society in hybrid forums, they often refer to their Social Dialogue Commissions.⁸⁹⁶ According the interview participant at the Ministry of Culture, every ministry has a Social Dialogue Commission.⁸⁹⁷ These are large meetings that bring together public

⁸⁹⁴ Cyanide Free Romania 23 November 2007 Press Release

⁸⁹⁵ Cyanide Free Romania 23 November 2007 Press Release

⁸⁹⁶ Interviews: Alba County Sub Prefect; Ministry of Culture and Religion; Hunedoara County Prefect

⁸⁹⁷ Ministry of Culture and Religion Interview

officials, trade unions, NGOs and other associations that have an interest in the public authority's mandate.⁸⁹⁸ These meetings usually take place either every 2 months (Alba Sub Prefect) or every 18 months or so (Ministry of Culture).⁸⁹⁹ Rather than the exclusive and private lobbying forums employed for commercial actors, the deliberative conferences scheduled for civil society associations are inclusive, diverse and transparent – making it more difficult to form relationship and address mutual interests.

In March 2007, the UNDP announced the launch of its LA21 process in Alba County with a press release.⁹⁰⁰ Using consultation and consensus-building processes – often convened by the UNDP - Local Agenda 21 processes promote dialogue between local public agencies, citizens, local organisations and businesses.⁹⁰¹ These deliberative conferences work to develop sustainable development strategies and programmes and to assess local programmes, policies and laws.⁹⁰² According to the press release, the Alba County process was 'underway' and RMGC, Greenpeace and Alburnus Maior had been invited to participate.⁹⁰³ Alburnus Maior subsequently sent an open letter to the UNDP representative in Romania condemning the UNDP's LA21 process as biased toward the development of the project.⁹⁰⁴ According to the NGO, no announcements about the LA21 process had been posted at any of the local

⁸⁹⁸ Interviews: Alba County Sub Prefect; Ministry of Culture and Religion; Hunedoara County Prefect

⁸⁹⁹ Interviews: Ministry of Culture and Religions, Hunedoara County Prefect; Alba County Sub Prefect

⁹⁰⁰ UNDP Press Release: <http://www.undp.ro/download/files/press%20releases/UNDPMandate-RosiaMontanaPress%20Release11March%202007EN.pdf>

⁹⁰¹ UNDESA, 1992

⁹⁰² UNDESA, 1992

⁹⁰³ UNDP Press Release: <http://www.undp.ro/download/files/press%20releases/UNDPMandate-RosiaMontanaPress%20Release11March%202007EN.pdf>

⁹⁰⁴ Alburnus Maior 9 March 2007 Open Letter Retrieved 5 August 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32758&cmd%5b316%5d=x-322-32758&cmd%5b300%5d=x-299-32758>

town halls and Alburnus Maior had not been informed of or invited to participate in the process that was already underway.⁹⁰⁵ The NGO condemned the process as a way for Gabriel Resources to gain the legitimacy it needs to obtain its environmental agreement.⁹⁰⁶

The Soros Foundation Romania hosted a debate in February 2010 at the Romanian Peasant Museum in Bucharest.⁹⁰⁷ The debate focused on community, heritage and sustainable development – with a specific focus on Roșia Montană. More than 80 participants attended from public institutions, the Romanian Academy, researchers, museum directors, professors and cultural heritage NGOS.⁹⁰⁸ Representatives from RMGC were also invited to participate.⁹⁰⁹ The debate lasted 3 hours and afterward, the Ministry of Culture announced its intention to attempt to list Roșia Montană as a World Heritage site.⁹¹⁰

In July 2010, RMGC held a conference on its mining project in Bucharest. International experts were invited to attend the conference, but the conference was not open to the general public.⁹¹¹ Greenpeace employees registered for

⁹⁰⁵ Alburnus Maior 9 March 2007 Open Letter Retrieved 5 August 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32758&cmd%5b316%5d=x-322-32758&cmd%5b300%5d=x-299-32758>

⁹⁰⁶ Alburnus Maior 9 March 2007 Open Letter Retrieved 5 August 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32758&cmd%5b316%5d=x-322-32758&cmd%5b300%5d=x-299-32758>

⁹⁰⁷ Soros Foundation Romania 19 February 2010 Press Release Retrieved 5 August 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=115

⁹⁰⁸ Soros Foundation Romania 19 February 2010 Press Release Retrieved 5 August 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=115

⁹⁰⁹ Soros Foundation Romania 19 February 2010 Press Release Retrieved 5 August 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=115

⁹¹⁰ Soros Foundation Romania 19 February 2010 Press Release Retrieved 5 August 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=115

⁹¹¹ RMGC Website Retrieved 5 August 2012 from <http://en.rmgc.ro/events/economic-conference-2010.html>

the conference, but were not allowed to attend.⁹¹² According to the company, the experts who attended the conference overwhelmingly supported the Roşia Montană project as a potential expansion of Romania's GDP by \$19 million.⁹¹³ One expert estimates that the Romanian government will gain 44% to 48% of the cash flow from the project once it is in operation.⁹¹⁴ Another asserted that tourism and agriculture in Roşia Montană would only be possible if the mining project is approved.⁹¹⁵

The Ministry of the Environment's Ordinance 860/2002 established the Technical Analysis Committee (CAT) to ensure an integrated approach to environmental authorisation decisions.⁹¹⁶ The CAT meets three times as part of an EIA process: during the Screening, Scoping and Review stages.⁹¹⁷ Representatives from local authorities, or in the case of large projects regional or state-level authorities, meet to deliberate and reach conclusions about proposed projects likely to have significant impacts on the environment.⁹¹⁸ The developer is also invited to the CAT meetings.⁹¹⁹ During the Review Stage CAT, the developer and the environmental protection agency present the EIA Report and the EIA Annex to the CAT.⁹²⁰ The members of the CAT have the

⁹¹² Greenpeace 8 July 2010 Press Release Retrieved 5 August 2012 from <http://www.greenpeace.org/romania/ro/campaigns/Toxic/rosiamontana/activitati/expertii-rmgc-se-pronunta-p/>

⁹¹³ RMGC Website Retrieved 5 August 2012 from <http://en.rmgc.ro/events/economic-conference-2010.html>

⁹¹⁴ RMGC Website Retrieved 5 August 2012 from <http://en.rmgc.ro/events/economic-conference-2010.html>

⁹¹⁵ RMGC Website Retrieved 5 August 2012 from <http://en.rmgc.ro/events/economic-conference-2010.html>

⁹¹⁶ Romanian Ordinance 860/2002 Ch 1 § 1 Article 2

⁹¹⁷ Romanian Ordinance 860/2002 Ch II § 1 Article 14; Romanian Ordinance 860/2002 Ch II § 3 Article 25; Romanian Ordinance 863/2002 Annex 3 Part 1

⁹¹⁸ Romanian Ordinance 860/2002 Ch 1 § 1 Article 2

⁹¹⁹ Romanian Ordinance 860/2002 Ch 2 § 4 Article 29

⁹²⁰ Romanian Ordinance 860/2002 Ch 2 § 4 Article 29

right to ask the developer to correct or amend the EIA Report.⁹²¹ Civil society representatives and individual citizens are not invited to attend the sessions nor are the minutes of the meetings public⁹²², which means that these sessions are very exclusive and private, and therefore powerful, deliberative conferences.

As mentioned in Chapter 7, I distinguish between public meetings and deliberative conferences. In deliberative conferences, participants have an opportunity to deliberate among themselves. For Public meetings, the communication is generally directed from the front of the room – in the form of speeches and presentations – to the audience and to a lesser degree from the audience – in the form of questions or comments – to the front of the room.

According to Romanian law, in general, the state will convene public meetings to discuss proposed regulations or legislation at the written request of a legally constituted association.⁹²³ Government Decision 1076/2004 requires public authorities - that have proposed a new public plan or programme - to organise public debates to discuss draft documents and SEA Reports.⁹²⁴ The environmental protection authority leads the public debate, registers the justified proposals from the public and documents the debate minutes.⁹²⁵ Other than the public meetings convened by the local authority for the new Roşia Montană

⁹²¹ Romanian Ordinance 860/2002 Ch 2 § 4 Article 29

⁹²² Freedom of Information Request 126912/40560/14.11.2007

⁹²³ Romanian Law 52/2003; Seating during public meetings is based on the date the association was legally established, with the longest established association sitting nearest the chairperson. (Romanian Law 52/2003) If the chairperson of a meeting feels that an individual has violated the 'rules', the chairperson first warns the person and may ultimately eject the person from the meeting. (Romanian Law 52/2003) The participation of the media may not be limited. Minutes and voting results during public meetings must be recorded, made public and archived. (Romanian Law 52/2003)

⁹²⁴ Government Decision 1076/2004

⁹²⁵ Government Decision 1076/2004

PUG and Historic Area PUZ, I could not find any government sponsored public meetings to discuss the authorisation of the RMGC proposed project.

According to the company, RMGC has convened a number of public meetings with the members of the Roşia Montană community. RMGC hosted four public meetings to discuss the modifications to the RMGC Industrial Area PUZ and its SEA Report in late March and early April 2009.⁹²⁶ The meetings were held in Roşia Montană, Câmpeni, Abrud and Bucium.⁹²⁷ During these meetings, 327 speakers addressed questions and comments to the company.⁹²⁸ In December 2007, RMGC met twice with residents of Roşia Montană to discuss the reduction of its work force, the termination of its property acquisition programme and the company's intention to continue construction of the resettlement area, Recea Alba.⁹²⁹ According to the company more than 100 people attended the first meeting.⁹³⁰ The company blamed the situation on the September 2007 decision by the Ministry of the Environment to suspend the RMGC EIA Process.⁹³¹

⁹²⁶ RMGC Plan for Public Participation Process for the SEA of the PUZ Retrieved 5 August 2012 from <http://en.rmgc.ro/sites/default/files/puz-en/Plan-of-Public-Participation-process-for-the-Strategic-Environmental-Assessment.pdf>

⁹²⁷ RMGC Plan for Public Participation Process for the SEA of the PUZ Retrieved 5 August 2012 from <http://en.rmgc.ro/sites/default/files/puz-en/Plan-of-Public-Participation-process-for-the-Strategic-Environmental-Assessment.pdf>

⁹²⁸ RMGC PUZ Annex, Volume2 1-6 Retrieved 5 August 2012 from <http://en.rmgc.ro/rosia-montana-project/environment/environment-evaluation-for-puz.html>

⁹²⁹ RMGC 12 December 2007 Press Release Retrieved 5 August 2012 from <http://www.rmgc.ro/media/comunicate-de-presa/rmgc/intalnire-cu-comunitatea-din-rosia-montana.html>

⁹³⁰ RMGC 12 December 2007 Press Release Retrieved 5 August 2012 from <http://www.rmgc.ro/media/comunicate-de-presa/rmgc/intalnire-cu-comunitatea-din-rosia-montana.html>

⁹³¹ RMGC 12 December 2007 Press Release Retrieved 5 August 2012 from <http://www.rmgc.ro/media/comunicate-de-presa/rmgc/intalnire-cu-comunitatea-din-rosia-montana.html>

In RMGC's Public Consultation and Disclosure Plan (PCDP), the company estimates that it has held 140 public consultations and 2,000 individual consultations between 2000 and early 2006.⁹³² According to the company, these activities are meant to 'inform and engage the public' and to 'receive comments and proposals on the EIA Study'.⁹³³ However, many of the hybrid forums and non-deliberative activities - public meetings, technical seminars, surveys, individual interviews, workshops and focus groups – focus on the company's Relocation and Resettlement Action Plan (RRAP) rather than the design of the project.⁹³⁴ For example, the company organized several public meetings in Roşia Montană, Abrud and Corna to gather reactions from the communities and to clarify information about their RRAP's relocation and compensation policies.⁹³⁵ According to the company, reactions and suggests were used to amend the RRAP.⁹³⁶ With the exception of selected summaries of the RRAP focus group sessions, the results of these activities have not been made available to the public.⁹³⁷

Like lobbying hybrid forums, Site Visits or Fact Finding Missions are a powerful way for associations to deliberate with decisions-makers. The host association can select sites for tours, organise meetings with supporters and arrange staged activities for delegates. Visitors often document their impressions in formal reports, which can be used by the host association to give credibility to their positions. RMGC has hosted a number of site visits for European and

⁹³² RMGC, 2006a; Public Consultation and Disclosure Plan page 30; The company also estimates that it has conducted 100 site visits and 110 disclosure activities.

⁹³³ RMGC, 2006a; Public Consultation and Disclosure Plan page 30

⁹³⁴ RMGC, 2006a; Public Consultation and Disclosure Plan page 40-2

⁹³⁵ RMGC, 2006b; 75; The RRAP is not clear when the gazettes were released or the consultation meetings held.

⁹³⁶ RMGC, 2006b; 75

⁹³⁷ RMGC, 2006f; 40-9

Romanian political officials. For example, the European Parliament Environment Committee conducted a study visit to Roșia Montană in December 2003.⁹³⁸ In October 2006, members of the Romanian Parliamentary Committees for Public Administration and Territorial Management visited Roșia Montană to investigate the status of the mining project and to complete a Parliamentary report.⁹³⁹ In March 2010 the Minister of the Economy visited Roșia Montană and then in April 2010 the Ministers of the Environment and of Culture visited the commune on fact-finding missions.⁹⁴⁰ Delegates meet individually, with company representatives and local officials and sometimes with village residents and civil society representatives.⁹⁴¹

In June 2006, representatives of the UNDP visited Roșia Montană.⁹⁴² Their stated mission was to investigate development alternatives in the event that the proposed RMGC project did not receive an environmental agreement.⁹⁴³ During their visit, delegates met with Alburnus Maior for 40 minutes and with Gabriel Resources for the rest of the day.⁹⁴⁴ As a result of their visit, the delegation concluded that while the people from the village and the region care about the environment, they care more about economic sustainability.⁹⁴⁵ The

⁹³⁸ PACE, 2004; 1

⁹³⁹ Big News Magazine Retrieved 5 August 2012 from <http://bignewsmagazine.com/2006/10/parliamentary-committee-rosia-montana-project-serious-environment-issues/>

⁹⁴⁰ Gabriel Resources, 2010 1st Qtr Report, 2

⁹⁴¹ Gabriel Resources, 2010 1st Qtr Report, 2

⁹⁴² Alburnus Maior, 2007c; As a result of its visit the UNDP produced 3 reports: Sustainable Development Perspectives of Roșia Montană in Light of a Major Gold Mining Investment – May 2006; Sustainable Development at Roșia Montană; Fact Finding Mission Report on Sustainable Development Pathways for Roșia Montană; Alburnus Maior complains that the Sustainable Development Perspectives of Roșia Montană Report was published in May 2006 – before the UNDP's visit to Roșia Montană in June.

⁹⁴³ Alburnus Maior 9 March 2007 Open Letter Retrieved 5 August 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32758&cmd%5b316%5d=x-322-32758&cmd%5b300%5d=x-299-32758>

⁹⁴⁴ Alburnus Maior, 2007c

⁹⁴⁵ Alburnus Maior, 2007c

NGO accuses the UNDP delegates of reaching their conclusions based on data provided by RMGC and a one-day site visit hosted by the company.⁹⁴⁶ The UNDP representative defends himself with the following:

*I worked for CNN for 16 years and I travelled with government officials and companies all over the world and this does not mean that I am not able to make my own news gathering while on the ground. So to travel with somebody does not necessarily mean that you will be definitely influenced by the companion you travel with.*⁹⁴⁷

Eddie O'Hara, from the European Parliament, made a study visit to Roşia Montană in July 2004. According to the site visit report, the trip was at the invitation of the Romanian Parliament and lasted 3 days.⁹⁴⁸ The intention of the visit was to: 'evaluate the cultural importance of the site'; examine the level of consideration given to the importance of the site and explore approaches to give the appropriate level of consideration.⁹⁴⁹ The aim was to provide information that would assist the Romanian parliament and resulted in the General Rapporteur's Roşia Montană Report.⁹⁵⁰

Mr. O'Hara met with county and local level public officials, company and civil society representatives. With objections from the company, three independent archaeologists were permitted to accompany Mr. O'Hara on a tour of the Roşia Montană archaeological sites.⁹⁵¹ According to Mr. O'Hara's schedule, he spent 3.5 hours with county level public officials in Alba Iulia; they discussed the

⁹⁴⁶ Alburnus Maior, 2007c

⁹⁴⁷ Alburnus Maior, 2007c

⁹⁴⁸ PACE, 2004

⁹⁴⁹ PACE, 2004; According to the opposition and John Aston, Alburnus Maior invited Mr. O'Hara to come to investigate what they thought were illegal Archaeological Discharge certificates. (PACE, 2004; Câmpeni Public Meeting)

⁹⁵⁰ PACE, 2004

⁹⁵¹ PACE, 2004

economic and cultural benefits of the RMGC project and the need for careful observance of legislation.⁹⁵² In total, Mr. O'Hara spent at least 9.0 hours with RMGC representatives – including the tour of surface archaeological sites and mining galleries.⁹⁵³ The EU delegation met with the mayor of Roşia Montană, Mr. Narita, who told them that 11 out of 13 councillors were in favour of the project, but because the schedule had slipped, Mr. O'Hara was unable to meet with local councillors and church representatives or to visit the most significant archaeological or heritage sites as originally scheduled.⁹⁵⁴ Mr. O'Hara met for 1.5 hours with civil society representatives and 1.0 hour with the Romanian Academy.⁹⁵⁵ At the conclusion of his visit, he spent 3.5 hours with members of Romania's Parliament in Bucharest.⁹⁵⁶

During the second day of his visit, Mr. O'Hara met with Roşia Montană NGOs. Members of Alburnus Maior and Pro Roşia Montană and professors from the University of Cluj spoke. The meeting started with 40 people⁹⁵⁷ but during the meeting more 100 people arrived – causing the room to overflow with people out into the street.⁹⁵⁸ The meeting became chaotic and Mr. O'Hara 'ruled out of order speakers from outside the local resident community.'⁹⁵⁹ During the visit, Mr. O'Hara 'called for an indicative vote.' First he asked by a show of hands

⁹⁵² PACE, 2004

⁹⁵³ PACE, 2004; According to the opposition, the delegation spent additional time with RMGC senior management during dinner in Albac on the first night of their visit. (Stephanie Roth 7 February 2005 Email)

⁹⁵⁴ PACE, 2004; Mr. O'Hara accepted and reported on the survey results communicated to him during meetings with company representatives and the mayor of Roşia Montană, without question and without seeking proper evidence.

⁹⁵⁵ PACE, 2004

⁹⁵⁶ PACE, 2004

⁹⁵⁷ According to Alburnus Maior the meeting started with 15 people who each represented groups from the village. (Stephanie Roth 7 February 2005 Email)

⁹⁵⁸ PACE, 2004; Alburnus Maior argues that RMGC had summoned their employees to storm the meeting. (Stephanie Roth 7 February 2005 Email)

⁹⁵⁹ PACE, 2004

who was from the local area.⁹⁶⁰ Alburnus Maior asked that people provide some evidence of residency, but Mr. O'Hara ignored that request.⁹⁶¹ From this data collection method, Mr. O'Hara concluded that a clear majority of those present were from the local area.⁹⁶² 'Of these locals 75% were in favour of the RMGC project and 25% against.'⁹⁶³

The following December, Eddie O'Hara published his Information Report on the Roşia Montană project.⁹⁶⁴ The opposition complains that after spending less than 24 hours in Roşia Montană – most of it with RMGC representatives - Mr. O'Hara concludes that the cultural heritage of Roşia Montană 'cannot be developed and exploited without the means provided by the exploitation of the mineral resources.'⁹⁶⁵ While he sees the need for ongoing monitoring of the archaeological research and impacts of the project on cultural heritage, Mr. O'Hara concludes that 'from the cultural heritage point of view [the RMGC project] might be seen as an exemplary project of responsible development.'⁹⁶⁶ According to Mr. O'Hara, it is important to balance principles with realities and to balance economic development with the protection of cultural heritage.⁹⁶⁷ The results of Mr. O'Hara's report have been used by the company in

⁹⁶⁰ PACE, 2004

⁹⁶¹ Stephanie Roth 7 February 2005 Email

⁹⁶² PACE, 2004

⁹⁶³ PACE, 2004; 5; Residents who opposed the project were not invited to the meeting nor were they summoned to participate. (Stephanie Roth 7 February 2005 Email)

⁹⁶⁴ PACE, 2004; Before he left Roşia Montană, Mr. O'Hara received a petition from Alburnus Maior signed by 287 people proposing that the movable archaeological material should remain in Roşia Montană and all immovable remains should be preserved in situ. (PACE, 2004)

⁹⁶⁵ PACE, 2004; 2; (Stephanie Roth 7 February 2005 Email)

⁹⁶⁶ PACE, 2004; 2

⁹⁶⁷ PACE, 2004

advertisements, on its websites and during the public meetings to provide European credibility to its project.⁹⁶⁸

Each of the five deliberative venue types - everyday talk, broadcasted discourse, institutional forums, associational forums and hybrid forums – have been employed in order to influence and to take decisions related to the authorisation of RMGC’s proposed gold mining project. The deliberative system that has been formed to debate the propose RMGC project is deep and rich. This system demonstrates that public decision making processes are complex – often involving both elected and bureaucratic public officials - not always obvious and sometimes capricious. The ability to navigate these processes and effectively influence the public and public decision makers requires a certain amount of resources and expertise. This analysis also confirms Dryzek’s notion of state imperatives; commercial actors whose interests are aligned with state imperatives are at an advantage and can ‘override the constellation of discourses’ when it comes to influencing public policy.⁹⁶⁹ To this advantage must be added the uneven access, among the various types of actors, to the knowledge and wealth necessary to effectively participate in the deliberative venues. This description of the deliberative system to debate the RMGC project provides the political context for the RMGC EIA hybrid forums.

⁹⁶⁸ Câmpeni Public Meeting

⁹⁶⁹ Dryzek, 2001; 663

CHAPTER 10: CONDITIONS THAT GUIDE DELIBERATOR RELATIONS

In the next 3 chapters, I compare the structure of the hybrid forums convened for the Roșia Montană Gold Corporation (RMGC) Environmental Impact Assessment (EIA) process against the eleven condition legitimacy standard for hybrid forums that was developed from deliberative theory and practice in chapters 6 and 7 of this thesis. This standard is compared to the structural features of the RMGC hybrid forums and highlights the structural elements that caused the domination and repression experienced by the RMGC hybrid forum participants. To a large degree, this analysis draws on the claims of the hybrid forum participants themselves. In the next 3 chapters I address the second research question posed for this thesis.

In what ways were the hybrid forums employed as part of the RMGC EIA process legitimate in terms of the normative claims made by deliberative theory and in what ways were they not legitimate?

The legitimacy standard developed for this thesis has been divided into 3 categories based on the prominent aim of the condition: the conditions that guide deliberator relations; the conditions that shape deliberative content; and the conditions that link the hybrid forum to the deliberative system. Each legitimacy condition has been placed in a category based on its primary purpose, but some conditions fulfil more than one purpose. For example, the

condition ‘free from coercion’ guides how participants relate to one another, but it also shapes deliberative content; the claims and arguments presented in free deliberations are more complete, authentic and diverse than those presented in deliberations that are characterised by coercion. The condition public/transparent links the hybrid forum to the deliberative system, but it also shapes the claims and arguments that might be offered in a public versus a private deliberation. All of the conditions are related and impact each other. However, I thought it would improve the readability of the analysis if I divided up the legitimacy conditions over 3 chapters.

This chapter begins with a description of the institutional structures of Romanian EIA hybrid forums in general and of the specific institutional structures incorporated in the RMGC EIA hybrid forums. I then critique the RMGC EIA hybrid forums against the five legitimacy conditions that guide deliberator relations: free from coercion, equal, inclusive, reciprocal and transformative.

Hybrid Forum Legitimacy Standard	
Conditions that Guide Deliberator Relations Chapter 10	
Free from Coercion	Yes
Equal	Yes
Inclusive/Representative	Representative
Reciprocal	Reciprocal/Authentic
Transformative	Yes
Conditions that Shape Deliberative Content Chapter 11	
Informed	Yes
Reasonable	Expanded
Early Participation	Yes
Conditions that Link the Forum the to Deliberative System Chapter 12	
Influenced	Yes
Justifiable/Accountable/ Influential	Influential
Public/Transparent	Yes

ROMANIAN EIA HYBRID FORUM STRUCTURE

Developers in Romania carry most of the responsibility for informing the public about the stages of the EIA Process.⁹⁷⁰ According to Almer and Koontz, 'in most cases, administrators are responsible for implementing EIA processes, including public hearings.'⁹⁷¹ According to Ordinance 860/2002, the developer must announce to the public when it submits its application for environmental agreement for projects that are likely to have a significant environmental impact.⁹⁷² The developer must announce the initial and final results (after the comment period) of the Screening Stage CAT decision.⁹⁷³ Within 5 days of the submission of the EIA Report and at least 10 days before the public debate, the environmental protection agency with the agreement of the project developer must announce to the public the opportunities for public participation.⁹⁷⁴ Within two working days after the CAT's Review Stage final decision to issue or reject the project's authorisation the developer must announce the decision in the mass media.⁹⁷⁵ The authority drafts the content of the announcements and the developer pays for and displays them at public concourses and publishes them in the mass media - the national or local press, and/or on radio or TV.⁹⁷⁶

⁹⁷⁰ Romanian Ordinance 860/2002 Ch 3 Article 35; Public announcements must include the name of the project developer; the location of the project and the opportunities for the public to participate - the date, time, agenda and venue for public meetings; the locations and schedule for the availability of relevant information; and the duration and location for the submission of public comments or questions. (Romanian Ordinance 860/2002 Annex II.4)

⁹⁷¹ Almer and Koontz, 2004; 476

⁹⁷² Romanian Ordinance 860/2002 Ch 3 Article 36

⁹⁷³ Romanian Ordinance 860/2002 Ch 2 § 1 Article 13c-d, 16; Romanian Ordinance 860/2002 Ch 3 Article 36, 37

⁹⁷⁴ Romanian Ordinance 860/2002 Ch 2 § 4 Article 27; Romanian Ordinance 860/2002 Ch 3 Article 36, 39

⁹⁷⁵ Romanian Ordinance 860/2002 Ch 2 § 4 Article 31; Romanian Ordinance 860/2002 Ch 3 Article 36, 47

⁹⁷⁶ Romanian Ordinance 860/2002 Ch 3 Article 37; Romanian Ordinance 860/2002 Ch 2 § 1 Article 13

The Aarhus Convention and various European directives require signatories and member states to allow the public to submit – either in writing or through public hearings or inquiries – any comments, analysis, proposals, data or opinions that it considers relevant to the proposed project.⁹⁷⁷ However, according to Ordinance 860/2002, in Romania the project developer organises the public debate under the guidance of the environmental protection authority.⁹⁷⁸ The public debates must take place in the presence of representatives from the environmental protection authority.⁹⁷⁹ They must be convenient for the public and convened on the proposed site of the project.⁹⁸⁰ The public debates must be held after working hours.⁹⁸¹ If no members of the public arrive within 90 minutes of the start time of the public debate, the project developer can conclude that the public has no concerns about the proposed project.⁹⁸² The Environmental Protection Authority and the developer together designate a chairperson and recorder for the public debates.⁹⁸³ During the public debates, the project developer must describe the proposed project, the EIA Study and EIA Report⁹⁸⁴; answer questions from the public; and provide documented responses to the questions that had been submitted by the public before the debate.⁹⁸⁵ During the public debates, the developer records the

⁹⁷⁷ Aarhus Convention; Directive 85/337/EEC was amended with Directives 97/11/EC, 2003/35/EC and 2009/31/EC; Romanian Environmental Protection Law 137/1995 was amended by Government Ordinance 91/2002, Government Decision 918/2002, Law 294/2003 and Government Decision 1705/2004; Law 50/1991 was amended by Laws 453/2001, 401/2003, 199/2004, 376/2006, 52/2006, 117/2007 and 101/2008 Government Ordinance 5/2002 and Emergency Ordinances 122/2004 and 214/2008; Stringer, Scriciu and Reed, 2009; 77

⁹⁷⁸ Romanian Ordinance 860/2002 Ch 2 § 4 Article 27

⁹⁷⁹ Romanian Ordinance 860/2002 Ch 3 Article 41

⁹⁸⁰ Romanian Ordinance 860/2002 Ch 3 Article 41

⁹⁸¹ Romanian Ordinance 860/2002 Ch 3 Article 41

⁹⁸² Romanian Ordinance 860/2002 Ch 3 Article 41

⁹⁸³ Romanian Ordinance 860/2002 Ch 3 Article 43

⁹⁸⁴ Romanian Ordinance 860/2002 Ch 2 § 4 Article 27; Ch 3 Article 44; According to the Alba EPA director, it is the specialists who present the project's risks. (Alba County EPA Interview)

⁹⁸⁵ Romanian Ordinance 860/2002 Ch 3 Article 44; Alba County EPA Interview

‘well-grounded proposals’ and opinions expressed during the meetings.⁹⁸⁶ After the public debates, the developer publishes the ‘well grounded proposals’ raised during the debate and the developer’s evaluation of the proposals in the EIA Annex document.⁹⁸⁷

RMGC EIA HYBRID FORUM STRUCTURE



Photo 22: Moderators (Zoltan, 2006)

The RMGC EIA public meetings were held between 24 July 2006 and 25 August 2006 in four villages, four towns, four cities and two municipalities in five counties around Romania.

Each of the meetings generally followed the same format. RMGC and the Ministry of the Environment selected two moderators for the Roşia Montană public debate; Nicolae Heredea (right) is a director general from the Ministry of the Environment and Nicolae Mihăilescu (left) is a university professor.⁹⁸⁸ According to the Ministry of the Environment, representatives from the Ministry of the Environment, the National Environmental Guard, the Regional Environmental Protection Agency in Sibiu, the Alba County Environmental Protection Agency and the Alba County Commissioner’s office were also present, but these representatives were not introduced nor were they pointed out to the audience.⁹⁸⁹ Mihăilescu was not present at every public meeting; he was only present for the meetings at Roşia Montană, Abrud,

⁹⁸⁶ Romanian Ordinance 860/2002 Ch 3 Article 44

⁹⁸⁷ Romanian Ordinance 860/2002 Ch 3 Article 42, 44; Romanian Ordinance 860/2002 Ch 2 § 4 Article 28

⁹⁸⁸ Roşia Montană Meeting Minutes; Alburnus Maior, 2007d; 15; Alburnus Maior claims that Mr. Heredea has worked for RMGC in the past. (Alburnus Maior, 2007d; 15)

⁹⁸⁹ Romanian Government Website Retrieved 8 August 2012 from http://www.gov.ro/dezbateri-publice-ale-raportului-la-studiul-de-evaluare-a-impactului-asupra-mediului-pentru-proiectul-rosia-montana__1a58755.html; Formula AS August 2006 Retrieved 12 August from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>; Field Notes 24 July 2006

Câmpeni, Alba Iulia, Cluj and Bucharest.⁹⁹⁰ When Mihăilescu was present, he acted as the debate president; otherwise Heredea was the debate president.⁹⁹¹

The debate president opened the meeting with a 5-minute statement describing the EIA process, the public debate schedule, the viewing locations of the EIA Report; the public comment procedure, the EIA Annex and the procedure for the public debate.⁹⁹² After the debate president's opening statement, RMGC gave a 45-minute presentation of their project.⁹⁹³ Then the meeting broke for 30 minutes so that people could register to speak for the question and answer portion of the debate.⁹⁹⁴ During the question and answer portion of the debate, participants had 5 minutes to express their opinions or ask their questions and the company had 5 minutes to respond.⁹⁹⁵ Participants were not given an opportunity to follow-up.⁹⁹⁶ The comments of the participants were recorded and signed by the debate president and the secretary.⁹⁹⁷ Participants could not transfer their time to another speaker.⁹⁹⁸ Participants were instructed not to repeat questions.⁹⁹⁹ The speaker could not hold a dialogue with the audience.¹⁰⁰⁰

⁹⁹⁰ Meeting Minutes: Roșia Montană, Abrud, Câmpeni, Alba Iulia, Cluj; Bucharest; Deva; Bistra, Arad, Turda, Baia de Arieș, Lupșa; Field Notes: Zlatna and Brad

⁹⁹¹ Meeting Minutes: Roșia Montană, Abrud, Câmpeni, Alba Iulia, Cluj; Bucharest; Deva; Bistra, Arad, Turda, Baia de Arieș, Lupșa; Field Notes: Zlatna and Brad

⁹⁹² Câmpeni Public Meeting, Lupșa Public Meeting

⁹⁹³ Câmpeni Public Meeting, Lupșa Public Meeting; Moran, 2006; 10

⁹⁹⁴ Câmpeni Public Meeting, Lupșa Public Meeting

⁹⁹⁵ Câmpeni Public Meeting, Lupșa Public Meeting; Deva Public Meeting; Alburnus Maior, 2007d; 12; Moran, 2006; 10

⁹⁹⁶ Câmpeni Public Meeting, Lupșa Public Meeting; Deva Public Meeting; Alburnus Maior, 2007d; 12; Moran, 2006; 10

⁹⁹⁷ Câmpeni Public Meeting, Lupșa Public Meeting

⁹⁹⁸ Câmpeni Public Meeting, Lupșa Public Meeting

⁹⁹⁹ Câmpeni Public Meeting, Lupșa Public Meeting

¹⁰⁰⁰ Câmpeni Public Meeting, Lupșa Public Meeting



Photo 23: Catalin Hosu (Esko, 2006)

The 45-minute presentation by RMGC employees was virtually the same at each meeting.¹⁰⁰¹ RMGC's Vice President for Responsible



Photo 24: John Aston (RMGC, 2006a)

Development, John Aston was the

spokesperson for the company and he opened the presentation.¹⁰⁰² At each meeting, Aston spoke in English and Catalin Hosu interpreted his comments into Romanian.¹⁰⁰³ After that, Horea Avram led a presentation that described the company's extraction, gold processing, waste management and rehabilitation plans.¹⁰⁰⁴ Avram also showed a 7-minute film of the rehabilitation of a gold mining project in Spain.¹⁰⁰⁵ Adi Gligor gave a presentation on the cultural aspects of the project.¹⁰⁰⁶ Finally, Marius Tudor presented the company's socio-economic development plan.¹⁰⁰⁷



Photo 25 Roşia Montana Public Debate (Alburnus Maior, 2006)

The 14 public meetings were audio and video recorded by RMGC.¹⁰⁰⁸ The meetings lasted between 2.5 to 12 hours.¹⁰⁰⁹ The signed recorded minutes for most of the meetings where published, but ultimately the Ministry of

¹⁰⁰¹ Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰² Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰³ Public Meeting Transcripts

¹⁰⁰⁴ Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰⁵ Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰⁶ Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰⁷ Meeting Transcripts: Câmpeni, Lupşa, Alba Iulia

¹⁰⁰⁸ Public Meeting Field Notes; Alba County EPA; Cluj County EPA

¹⁰⁰⁹ Public Meeting Field Notes

the Environment used the RMGC recordings to transcribe the questions and comments of each speaker.¹⁰¹⁰ These questions and comments were published in the EIA Annex Questions document.¹⁰¹¹ The documented questions were forwarded along with the written comments collected during the EIA Public Comment period to RMGC in January 2007.¹⁰¹² The questions and comments were addressed by RMGC in its EIA Annex.

In my field notes, I commented that many of the public debates had a festival-like atmosphere. RMGC employees wore green t-shirts; Pro-Roșia Montană members wore yellow t-shirts; Pro-Dreptate members wore red t-shirts and members of Greenpeace wore yellow t-shirts.¹⁰¹³ Pro-Roșia Montană members handed out free t-shirts and flags to meeting participants.¹⁰¹⁴

FREE FROM COERCION

For deliberations to be legitimate, the participants must be free to offer their arguments without fear of coercion. Coercion can take the form of manipulation, deception, threats, intimidation, blackmail, bribery, propaganda, political imprisonment, unilateral action and violence.¹⁰¹⁵ During Romania's communist period, state actors suppressed public participation and deliberation

¹⁰¹⁰ Public Meeting Minutes; RMGC, 2007; The Brad and Zlatna public meeting minutes have not been published on the Ministry of the Environment's website.

¹⁰¹¹ According to the Ministry of the Environment, while the questions documented in the EIA Annex Questions were not exact transcriptions of the speakers' comments, the Ministry had attempted to document the topics discussed.

¹⁰¹² RMGC, 2007

¹⁰¹³ Field Notes 24 July 2006

¹⁰¹⁴ Field Notes 24 July 2006

¹⁰¹⁵ Dryzek, 2000; 1; Hendriks, 2006, 492; Hendriks, 2009; Cohen, 1997; 74; Mendonça, 2009; 211; Rawls, 2005a; Habermas, 1998; Mansbridge, 1996; 47; Benhabib, 1996; 68; Rosenberg, 2007; 4; Button and Ryfe, 2005; 27; Connelly, 2009

with violence and imprisonment.¹⁰¹⁶ Initially after the Revolution, Romania's miners - sanctioned by the transition government dominated by ex-communists - earned a reputation for effectively using physical violence and threats to interrupt and suppress public participation.¹⁰¹⁷ Stephanie Roth asserts that the secret police is still powerful in Romania.¹⁰¹⁸ Even now many Romanians are afraid to publically express their opinions and continue to practice a form of 'self-censorship'.¹⁰¹⁹

The political demographics of Roșia Montană, and therefore its political outcomes, were distorted as a result of RMGC's relocation and resettlement activities prior to the RMGC EIA hybrid



Photo 26: Alba Recea Resettlement Site (RMGC, 2010)

forums. RMGC released its first Resettlement and Relocation Action Plans (RRAP) in 2002 and 2003.¹⁰²⁰ According to the company, the earlier plans 'caused discontent within the community as it was perceived as unfair'.¹⁰²¹ They released their new RRAP in early 2006.¹⁰²²

¹⁰¹⁶ Georgescu, 1991; 236, 263-4; Gallagher, 2005; 55, 62, 67, 98-9; Calinescu and Tismăneanu, 1991; 288; Dryzek, 2000; 104

¹⁰¹⁷ Calinescu and Tismăneanu, 1991; 294; Gallagher, 2005; 80; Phinnemore and Light, 2001; 2; Deletant, 2001; 42; Bulei, 2005; 171; Deletant, 2001; 42

¹⁰¹⁸ Grist Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰¹⁹ Grist Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; Gallagher, 2005; 7

¹⁰²⁰ RMGC, 2006b; 9; I cannot find copies of either the 2002 or 2003 RRAP.

¹⁰²¹ RMGC, 2006b; 42

¹⁰²² RMGC, 2006b

By the 4th quarter of 2005, Gabriel Resources had already acquired 400 of the 974 (41%) homes required to obtain the surface rights for the project.¹⁰²³ By 2009, of those families who had sold their property, 77% decided to relocate rather than resettle among their neighbours in one of the resettlement sites.¹⁰²⁴ Of those families who sold their property, 75% left the area completely and moved more than 25 kilometres away from the commune; only 28 families (4%) hope to settle at the Piatra Alba site in the Roşia Montană commune.¹⁰²⁵ Those families who sold their home before 2009 and left the area either did not have a strong interest in staying Roşia Montană – to mine, farm, stay with their families or to preserve their rural lifestyle - or they were afraid that project authorisation for the mine was inevitable.¹⁰²⁶ The elderly were the first to sell their homes and leave the commune.¹⁰²⁷

Some families who have relocated say they have found a better life after leaving the village.¹⁰²⁸ Others complain that they feel forced or tricked into selling their property and that they regret their move.¹⁰²⁹ They claim that the company threatened that they would not get anything for their homes once mining operations started.¹⁰³⁰ According to these locals, the company told them that

¹⁰²³ RMGC, 2006b; 36; Gabriel Resources, 2005 4th Quarter; 5; Alba Iulia Public Meeting; Deva Public Meeting; Câmpeni Public Meeting; This figure represents the required number of *home* purchases and does not include public and community buildings and non-residential properties, like agricultural and livestock fields. (RMGC, 2006; 36) In 2009, the company reported that it only needed 892 residential properties and that it had purchased 794 (89%) of them. Of the 794 properties purchased 143 were uninhabited. (Gabriel Resources, 2009b; 13)

¹⁰²⁴ Gabriel Resources, 2009b; 13; By this time 651 families had moved house.

¹⁰²⁵ Gabriel Resources, 2009b; 13; Câmpeni Public Meeting

¹⁰²⁶ Pulitzer Centre 16 July 2012 Retrieved 12 August 2012 from

<http://pulitzercenter.org/reporting/romania-gold-mining-rosia-montana-village-environment-culture>

¹⁰²⁷ Vasagar, J (2006) 'Redgrave Centre State in Campaign to Halt Romanian Gold Mine that has Split Village' Guardian 23 June 2006 Retrieved 12 August from

<http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts?INTCMP=SRCH>

¹⁰²⁸ Alba Iulia Public Meetings

¹⁰²⁹ Cleveland Indy Media Center, 2004

¹⁰³⁰ Alba Iulia Public Meeting; Cleveland Indy Media Center, 2004

they would be evacuated by force.¹⁰³¹ Some of the locals feel like they were threatened to sell their homes cheaply and they now regret leaving the area.¹⁰³² Some residents complain that they are under psychological pressure to leave.¹⁰³³ Business owners who stayed lost their customer base; schools lost students.¹⁰³⁴ The opposition argues that the company should have been required to obtain its environmental authorisation before beginning to buy property and relocate and resettle the residents.¹⁰³⁵ During the Roşia Montană meeting one participant said:

*Something sinister has been created to force those of us who are still in Roşia Montană to leave.*¹⁰³⁶

The loss of these families surely resulted in a shift of the commune's political demographics; RMGC employees, miners hoping to work for the company and residents with strong attachments to the land most likely remained in Roşia Montană. Stephanie Roth, the Swiss citizen who manages the opposition alliance, as well as John Aston, the Irish spokesperson for RMGC, were both residents of Roşia Montană at the time of the EIA public meetings.¹⁰³⁷ Democratic outcomes of the commune, including local elections and the RMGC EIA hybrid forums, were certainly impacted. In an interview, Mr. Hill, RMGC

¹⁰³¹ Alburnus Maior, 2006b; 6

¹⁰³² Cleveland Indy Media Center, 2004

¹⁰³³ Vasagar, J (2006) 'Redgrave Centre State in Campaign to Halt Romanian Gold Mine that has Split Village' Guardian 23 June 2006 Retrieved 12 August from <http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts?INTCMP=SRCH>; Alba Iulia Public Meeting, Roşia Montană Public Meeting

¹⁰³⁴ Vasagar, J (2006) 'Redgrave Centre State in Campaign to Halt Romanian Gold Mine that has Split Village' Guardian 23 June 2006 Retrieved 12 August from <http://www.guardian.co.uk/world/2006/jun/23/topstories3.arts?INTCMP=SRCH>; Pulitzer Centre 16 July 2012 Retrieved 12 August 2012 from <http://pulitzercenter.org/reporting/romania-gold-mining-rosia-montana-village-environment-culture>

¹⁰³⁵ Mombu Interview with Stephanie Roth (2011) Retrieved 10 December 2011 from <http://www.mombu.com/culture/canada/t-cyanide-and-government-corruption-1510881.html>

¹⁰³⁶ Roşia Montană Public Meeting

¹⁰³⁷ Alburnus Maior, 2007c

Managing Director at the time of the public meetings, describes the impact of this relocation on the population of Roșia Montană.

*Imagine a subdivision in which half the houses have already been bulldozed down; it becomes dysfunctional; the community is more separated out and school enrolment and patient lists fall. This has happened in our case with the sellers having moved away.*¹⁰³⁸

Coercion restricts deliberations and has been expressed in Roșia Montană's 2002 General Urban Plan (PUG), which declared the commune a mono-industrial area and blocked the development of all economic activities - such as, agriculture, services and tourism - in the area, except for investments in mining.¹⁰³⁹ According to the opposition, RMGC completely financed the development of the 2002 Roșia Montană PUG – unfairly influencing the design of the plan.¹⁰⁴⁰ One participant complained,

*I want to open a farm in Roșia Montană, but at the moment, since the company came, these rights have disappeared - the right to develop. Only those with mining experience can develop. The rest of us with free enterprise have been blocked.*¹⁰⁴¹

Restrictions on non-mining investments; the state's refusal to begin the environmental rehabilitation of the Roșiamin mining activities; and the state's neglect of the commune's infrastructure has resulted in the deterioration of the village and ensure that the commune appears desperate for the project's

¹⁰³⁸ TWST, 2005; 2

¹⁰³⁹ Roșia Montană Public Meeting; Alburnus Maior Retrieved 12 August 2012 from <http://rosiamontana.org/en/categorii.shtml?x=32840&cmd%5b321%5d=c-1-32840&cmd%5b316%5d=x-322-32840&set%5b319%5d=selected-32840>; Alburnus Maior Retrieved 24 July 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-32832&cmd%5b316%5d=x-322-32832&cmd%5b300%5d=x-299-32832>

¹⁰⁴⁰ Monitorulcl.ro, 2008; 1

¹⁰⁴¹ Câmpeni Public Meeting

investment.¹⁰⁴² It also sustains the argument that no real development alternatives (tourism, agriculture, etc.) exist for Roșia Montană.¹⁰⁴³ More than one participant of the EIA public meetings complained that they thought that members of the opposition had not offered any viable development alternatives for Roșia Montană:

*I provoke openly those that represent Alburnus Maior and Greenpeace to offer a viable alternative [to the mine], instead of noisy manifestations.*¹⁰⁴⁴

In December 2007, 100 families living in Roșia Montană signed a petition that requested the Roșia Montană local council to modify the PUG; that appealed for the environmental rehabilitation of the previous mining damage; and that called for the protection of Roșia Montană's archaeological and cultural heritage. RMGC responded with a letter to the Roșia Montană Mayor and the local council, stating its opinion that the opposition's plan to modify the PUG was illegal.¹⁰⁴⁵ RMGC stated that Mining Law 85/2003 requires county and local councils to modify their existing PUGs to allow for the operations necessary for the mining activities.¹⁰⁴⁶ The company further argued that the Urban Planning Law 525/1996 forbids the construction of permanent buildings other than those required for resource exploitation and processing.¹⁰⁴⁷ RMGC stated its determination of use all legal measures to force the Roșia Montană Council and

¹⁰⁴² Roșia Montană Council 1; Field Notes 26 July 2006; Alburnus Maior, 2008a; 4 and Alburnus Maior, 2008b; Alburnus Maior Retrieved 12 August 2012 from <http://rosiamontana.org/en/categorii.shtml?x=32840&cmd%5b321%5d=c-1-32840&cmd%5b316%5d=x-322-32840&set%5b319%5d=selected-32840>

¹⁰⁴³ Field Notes 26 July 2006; Alba Iulia Public Meeting; Câmpeni Public Meeting

¹⁰⁴⁴ Alba Iulia Public Meeting

¹⁰⁴⁵ Gabriel Resources Letter Retrieved 19 October 2012 from http://www.rosiamontana.ro/press/scrisoare_gold_CLRosia_PUG.pdf

¹⁰⁴⁶ Gabriel Resources Letter Retrieved 19 October 2012 from http://www.rosiamontana.ro/press/scrisoare_gold_CLRosia_PUG.pdf

¹⁰⁴⁷ Gabriel Resources Letter Retrieved 19 October 2012 from http://www.rosiamontana.ro/press/scrisoare_gold_CLRosia_PUG.pdf

individual council members to comply with the law and enforce the PUG.¹⁰⁴⁸

The company argues that no one has offered to make non-mining investments in the commune, while at the same time ensuring that such investments are prohibited.¹⁰⁴⁹

During the Alba Iulia meeting, one participant complained that ‘starting with the arrival of this company, no other investment is permitted.’¹⁰⁵⁰ She then explained that ‘of course no other alternatives can be implemented.’¹⁰⁵¹ She pointed out that the ‘SAPARD program¹⁰⁵² is gone’ and the infrastructure had not been improved.¹⁰⁵³ This participant speculates that

*The effective freezing of the area has been encouraged so that they can show us “oh my, how horrible it is there; look what we can do to help you”.*¹⁰⁵⁴

During the Alba Iulia meeting, one participant argued that:

*Our area is filled with historic monuments that are being restored slowly or not at all because the Ministry of Culture does not have enough money for the restoration.*¹⁰⁵⁵

A Bucharest public meeting participant – who thought tourism would be a viable alternative for the commune - highlighted the fact that Roşia Montană needs

¹⁰⁴⁸ Gabriel Resources Letter Retrieved 19 October 2012 from http://www.rosiamontana.ro/press/scrisoare_gold_CLRosia_PUG.pdf

¹⁰⁴⁹ RMGC, 2006a Chapter 9 Non-Technical Summary; 54

¹⁰⁵⁰ Alba Iulia Public Meeting

¹⁰⁵¹ Alba Iulia Public Meeting

¹⁰⁵² The EU’s Special Accession Programme for Agriculture and Rural Development (SAPARD) assists the implementation of country attaining EU membership. It supports measures to create employment and sustainable development in rural areas. (European Commission – Enlargement Retrieved 12 August 2012 from http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/sapard_en.htm)

¹⁰⁵³ Alba Iulia Public Meeting

¹⁰⁵⁴ Alba Iulia Public Meeting

¹⁰⁵⁵ Alba Iulia Public Meeting

road, utility and sewerage infrastructure improvements. But he complained that 'the government is not taking care of this thing.'¹⁰⁵⁶

The Sustainable Development Plan for the RMGC EIA Report lists a number of economic activities - tourism, agriculture and small manufacturing - that the company has considered for the commune *after* the mining project.¹⁰⁵⁷ These are the same activities that the opposition organisations propose for the commune as *alternatives* to the mining project.¹⁰⁵⁸ During the Alba Iulia meeting, one participant asked, 'can we understand that development alternatives that will be possible then are also possible now?'¹⁰⁵⁹ The company argues that sustainable development is *only* possible through its investments - in the form of local purchases, employee training, micro-credit programmes and tax contributions - that will stimulate the economy in the area.¹⁰⁶⁰ This means that tourism and small manufacturing are only possible after the mining operations are complete.¹⁰⁶¹

The threat of expropriation seemed to occupy the deliberations of many of the public meeting participants.¹⁰⁶² The company asserts that it plans to acquire land on a 'willing seller/willing buyer basis' and will avoid the use of expropriation 'as far as practical'.¹⁰⁶³ Although in its RRAP, the company says that 'expropriation may be used as a last resort in a small number of cases

¹⁰⁵⁶ Bucharest Public Meeting

¹⁰⁵⁷ RMGC, 2006a Chapter 5 – Assessment of Alternatives; 14-16

¹⁰⁵⁸ Alburnus Maior Retrieved 12 August 2012 from

<http://rosiamontana.org/en/categorii.shtml?x=32840&cmd%5b321%5d=c-1-32840&cmd%5b316%5d=x-322-32840&set%5b319%5d=selected-32840>

¹⁰⁵⁹ Alba Iulia Public Meetings

¹⁰⁶⁰ Câmpeni Public Meeting, Alba Iulia Public Meeting, Lupșa Public Meeting, Deva Public Meeting, Bucharest Public Meeting

¹⁰⁶¹ RMGC, 2006a Sustainable Development Plan; 84-5

¹⁰⁶² Roșia Montană Public Meeting; Alba Iulia Public Meeting

¹⁰⁶³ RMGC, 2006b; 9

where no agreement can be reached'.¹⁰⁶⁴ Because the state is a partner in the RMGC project, the residents fear that state actors will designate the project in the public interest - authorising property expropriation.¹⁰⁶⁵ This fear is particularly poignant for Romanians who experienced Ceaușescu policies of expropriation and systematisation – the forced resettlement of citizens.¹⁰⁶⁶

*I have a question, a very important one, what happens if one single villager from Corna refuses to move from there? Because this is not an operation conducted by the Romanian state or the Romanian law and it is not a project done for public use.*¹⁰⁶⁷

A participant at the Roșia Montană public meeting argued:

*The people from Roșia Montana who don't want to sell their properties; [this right is] guaranteed by the state. The churches, they don't want to sell their properties. Some people declare that they will even go to international courts, where the Romanian State has begun to lose more and more trials lately. What will Gold Corporation do when they are about to start building and they are involved in lots of international trials?*¹⁰⁶⁸

The use of threats or force – harm to individuals, property and commerce - are a very effective way to intimidate participants and to limit public debate. Romania, especially its miners, has a recent history of successfully using

¹⁰⁶⁴ RMGC, 2006b; 32

¹⁰⁶⁵ Roșia Montană Public Meeting; Alba Iulia Public Meetings; Bucharest Public Meeting; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰⁶⁶ Gallagher, 2005; 64; Bulei, 2005; 167; Grist Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰⁶⁷ Alba Iulia Public Meeting

¹⁰⁶⁸ Roșia Montană Public Meeting

physical violence in an attempt to distort public deliberation.¹⁰⁶⁹ During the Alba Iulia meeting a participant complained to the moderator that:

*Upon my arrival to the microphone, from up there, fist threats and stuff like that were made in my direction.*¹⁰⁷⁰



Photo 27: Bucharest Public Meeting (Alburnus Maior, 2007d)

He noted that the threats were ‘a way to limit the access of the public to the debates.’¹⁰⁷¹ One Alba Iulia man asked the moderators to ‘end the insults and threats that come from the room’.¹⁰⁷² This man blamed ‘a large group of people, mostly employees from the company, who are affecting the discussion.’¹⁰⁷³ During the

Bucharest meeting, a participant referred to the Romanian miner revolts, called *Mineriadă*, by saying:

*What are the miners doing in Bucharest today, brought here with coaches? If you want me to lower the discussion to the level of the 90s, when the criminal Ion Iliescu was [calling] the miners to come to Bucharest.*¹⁰⁷⁴

Members of Alburnus Maior report having received threats of physical harm because of their opposition to the project.¹⁰⁷⁵ In August 2006, a representative of Alburnus Maior contacted me to tell me that one of her colleagues had been

¹⁰⁶⁹ Calinescu and Tismăneanu, 1991; 294; Gallagher, 2005; 80; Phinnemore and Light, 2001; 2; Deletant, 2001; 42

¹⁰⁷⁰ Alba Iulia Public Meeting

¹⁰⁷¹ Alba Iulia Public Meeting

¹⁰⁷² Alba Iulia Public Meeting

¹⁰⁷³ Alba Iulia Public Meeting

¹⁰⁷⁴ Bucharest Public Meeting

¹⁰⁷⁵ Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

threatened during the Turda public meeting.¹⁰⁷⁶ According to her, the vice president of Pro-Dreptatea threatened to burn alive a speaker at the public meeting.¹⁰⁷⁷ According to the NGO, the company doesn't threaten and intimidate opposition members but it mobilises the miners to do it.¹⁰⁷⁸ The NGO accuses the company of inciting anger in the miners and encouraging them to take action to stop opposition organisations in order to save mining jobs.¹⁰⁷⁹

This story was reported by Stephanie Roth in an interview:

*Two days ago the mining company held a meeting in Roşia Montană and the managing director said to their employees and local miners "we can't give you any jobs this year, or buy you any houses or do anything for you. We have to concentrate on the opposition. We have to invest all our money in fighting them." He said to the miners, "if I was you I'd stand up for my rights, and I'd act now to protect my jobs". And the very next day one of my colleagues was attacked by one of the miners who had attended this meeting. The mining company is the moral author of that attack. It was very convenient for them - they don't need to get their own knives out. Others do it for them.*¹⁰⁸⁰

From time-to-time during the public meetings, I personally received subtle threats and intimidating comments from RMGC employees. When I would not use RMGC resources to modify and administer the public meeting surveys that I had planned for this research, a RMGC employee threatened to bar me from 'their' public meetings.¹⁰⁸¹ After I reminded him twice that the meetings were public he ultimately changed his position, but still he barred me from

¹⁰⁷⁶ Field Notes 11 August 2006; Field Notes 15 August 2006

¹⁰⁷⁷ Field Notes 11 August 2006

¹⁰⁷⁸ Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰⁷⁹ Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰⁸⁰ Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹⁰⁸¹ Field Notes 23 July 2006

administering my survey inside the meeting venues.¹⁰⁸² During the Roşia Montană meeting, an ‘independent’ EIA Report author – wearing a green Gabriel Resources t-shirt said to me:

*You better be careful. These miners are known for being violent. We cannot take responsibility for anything that happens to you.*¹⁰⁸³

Another time, I was told:

*These are the dragon ladies. They are not happy with you. You better watch out. You don't want to harass the locals.*¹⁰⁸⁴

On more than one occasion and by more than one RMGC employee, I was told that RMGC management ‘was not happy’ that I was attending the meetings.¹⁰⁸⁵



Photo 18: Public Meeting Security (Esko, 2006)

RMGC hired private security for the larger public meetings, Roşia Montană, Cluj, Turda, Bucharest, Deva and Arad.¹⁰⁸⁶ At those meetings, security personnel searched hand bags at the venue entrance.¹⁰⁸⁷ Opposition members complained

that these physical searches might have been used to ‘create the impression that the opponents might be violent in some way.’¹⁰⁸⁸ The local police, Roşia Montană’s police chief – sometimes wearing a Gabriel Resources t-shirt – and

¹⁰⁸² Field Notes 23 July 2006

¹⁰⁸³ Field Notes 24 July 2006

¹⁰⁸⁴ Field Notes 24 July 2006

¹⁰⁸⁵ Field Notes 24 July 2006; Field Notes 25 July 2006

¹⁰⁸⁶ Field Notes 24 July 2006; Field Notes 7 August 2012; Field Notes 9 August 2012; Field Notes 21 August 2006; Field Notes 23 August 2006; Field Notes 25 August 2006;

¹⁰⁸⁷ Field Notes 24 July 2006; Field Notes 7 August 2012; Field Notes 9 August 2012; Field Notes 21 August 2006; Field Notes 23 August 2006; Field Notes 25 August 2006;

¹⁰⁸⁸ Alburnus Maior 2007a

the Romanian Jandarme were also present at many of the meetings.¹⁰⁸⁹ In Bucharest, RMGC's private security personnel sometimes surrounded the members of the opposition as they tried to express their opinions at the microphone.¹⁰⁹⁰ Security placed themselves between opposition members and the company representatives when members of the opposition shouted for the company to respond to their questions.¹⁰⁹¹ Alburnus Maior accuses the company of using intimidation tactics to control members of the opposition at the public meetings.¹⁰⁹²

Interruptions during a participant's time to speak are another way to limit participation and intimidate the speaker. During the first part of the Roşia Montană public meeting opposition members whistled and shouted - some with megaphones - drowning out the company's 45



Photo 29: The Opposition during RMGC Presentation (Zoltan, 2006)

minute presentation.¹⁰⁹³ They did not, however, interrupt the company's presentation during any of the subsequent meetings.¹⁰⁹⁴ Members of the opposition said that they wanted to drown out the RMGC presentation, because a representative of Alburnus Maior was not allowed to sit at the panel in front of the room and because the meetings were convened by the company rather

¹⁰⁸⁹ Field Notes 24 July 2006; Field Notes 25 July 2006; Field Notes 26 July 2006; Field Notes 31 July 2006; Field Notes 7 August 2006; Field Notes 9 August 2006; Field Notes 14 August 2006; Field Notes 15 August 2006

¹⁰⁹⁰ Field Notes 21 August 2006; Alburnus Maior, 2007d; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹⁰⁹¹ Field Notes 21 August 2006

¹⁰⁹² Alburnus Maior, 2007d; Formula AS August 2006 Retrieved 12 August from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹⁰⁹³ 24 July 2006 Field Notes; Roşia Montană Public Meeting

¹⁰⁹⁴ Field Notes and Public Meeting Transcripts

than the government.¹⁰⁹⁵ The Roșia Montană meeting was the most boisterous; for the most part speakers from both sides of the debate could be heard, but nearly every speaker was booed at, whistled at and insulted.¹⁰⁹⁶ By the Câmpeni meeting, many of the speakers could get through their 5 minutes without being interrupted.¹⁰⁹⁷ Of the 44 speakers recorded (including the company) 24 speakers (56%) were interrupted for an average of 1.3 times and an average of 5.4 seconds.¹⁰⁹⁸ It must have been frightening enough for the participants to speak into a microphone in front of as many as 500 people without having to worry about being interrupted and insulted. At the Cluj meeting, I could see participants' hands and legs tremble as they spoke.¹⁰⁹⁹

Members of the formal opposition did not attend every meeting; those meetings were much less raucous.¹¹⁰⁰ One participant at the Zlatna meeting commented that:

*In Zlatna, the discussions were civilized. There was no booing; probably due to the lack of those opposing the project from Abrud and Baia Mare.*¹¹⁰¹

However, those who spoke against the mine were more likely to be interrupted and to be interrupted for longer times. At the Roșia Montană meeting, 83% of

¹⁰⁹⁵ Roșia Montană Council Member 1

¹⁰⁹⁶ Roșia Montană Public Meeting; The opposition chanted *thieves* when some of the RMGC employees spoke. Project supporters changed traitors when some of the opposition spoke. Project supporters shouted *noi sunt Români* (we are Romanians) when the one speaker from Hungary spoke. Project supporters shouted to *get that ugly thing out of here* when a member of Alburnus Maior spoke. (Roșia Montană Public Meeting)

¹⁰⁹⁷ Câmpeni Public Meeting

¹⁰⁹⁸ Câmpeni Public Meeting

¹⁰⁹⁹ Field Notes 7 August 2006

¹¹⁰⁰ Formula AS August 2006 Retrieved 12 August from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>;

¹¹⁰¹ Zlatna Public Meeting

the speakers who oppose the mine were interrupted for an average of 24 seconds; 70% of those who support the mine were interrupted for an average of 18 seconds; and 28% of the company speeches were interrupted for an average of 11 seconds.¹¹⁰² At the Zlatna meeting, when a local resident who opposed the project stood up to speak, he commented:

*[This is] a hard mission for me, to fight with almost an entire room today.*¹¹⁰³



Photo 29: RMGC Employees (Zoltan, 2006)

But even at the meetings without formal opposition representation, those participants who spoke against the mine were interrupted and booed.¹¹⁰⁴ For example, opposition members did not attend the Bistra meeting.¹¹⁰⁵ The one man who opposed the project and spoke during the meeting was booed and heckled by the audience.¹¹⁰⁶ The moderator was forced to intervene 8 times to silence the crowd during this man's 5 minute presentation – including shouting at one woman, 'Madam, silence. Shut your mouth. Stop speaking.'¹¹⁰⁷

¹¹⁰² Roşia Montană Public Meeting; I was not able to record 4 of the speakers at the Roşia Montană public meeting. At that meeting, I recorded 23 people who spoke against the mine and 10 who spoke in favour of the mine.

¹¹⁰³ Zlatna Public Meeting

¹¹⁰⁴ Bistra Public Meeting;

¹¹⁰⁵ Bistra Public Meetings

¹¹⁰⁶ Bistra Public Meetings

¹¹⁰⁷ Bistra Public Meeting

Some participants complained that they were required to register with RMGC employees in order to enter the venue and in order to speak at the meetings.¹¹⁰⁸ During registration, the participants were required to show their identification and to give their contact details.¹¹⁰⁹ These contact details were



Photo 20: RMGC Employee Registering Attendees and Speakers (Esko, 2006)

later posted on the Ministry of the Environment's webpage.¹¹¹⁰ Stephanie Roth complained that initially the secretaries (RMGC employees) would not let members of the opposition register to speak¹¹¹¹ Alburnus Maior was concerned that the registration process was used to:

*intimidate members of the public and to dissuade them from speaking up against the project. The illegality of this registration process was brought to the attention of the representatives of MMGA and the moderators of the meetings, but, as usual, no action was taken by them.*¹¹¹²

Unilateral actions are another way to force an outcome in deliberations. For example, in 2007, RMGC demolished 120 buildings in Roşia Montană's protected area. According to Architecture Restoration Archaeology (ARA) the company did not have legal permits, with the Ministry of Culture's approval, for this work.¹¹¹³ In another example, some Roşia Montană property owners have built windowless and doorless structures, called *cabanas*, in order to increase

¹¹⁰⁸ Field Notes 24 July 2012; Alburnus Maior, 2007d; 4; The practice of requiring people to register in order to enter the meetings faded over time. (Field Notes)

¹¹⁰⁹ Field Notes 24 July 2012;

¹¹¹⁰ Romanian Ministry of the Environment, 2007

¹¹¹¹ Field Notes 24 July 2006

¹¹¹² Field Notes 24 July 2006; Alburnus Maior 2007b

¹¹¹³ Alburnus Maior, 2007b; 6

the value of their property.¹¹¹⁴ Given the commune's PUG, RMGC calls this practice illegal.¹¹¹⁵ Nonetheless, once the action is taken, perhaps a fine is issued, but outcome options are removed or distorted - restricting deliberations.

EQUAL

Hybrid forum equality assumes that all participants have equal opportunities to introduce truth claims and proposals and equal opportunities to criticise the claims, assumptions and proposals of others.¹¹¹⁶ Equality is important because participants deserve the respect as free and equal members and because equality means that a diverse range of claims – even outlying ones – can broaden the deliberations. Claims and arguments must be considered based on their merits rather than on the status or wealth of the participant who offers them.¹¹¹⁷ The better argument should prevail no matter who offers it.¹¹¹⁸ In post-community Romania, public officials and the public share a paternalistic, top-down, hierarchical and formal view of public decision making.¹¹¹⁹ Public officials seek to maintain the authoritarian structures left over from the communist regime and many Romanians have come to depend on the state's authority to make decisions and to resolve public conflict.¹¹²⁰ For Romanians,

¹¹¹⁴ Roşia Montană Council Member 1 Interview

¹¹¹⁵ Gabriel Resources 2006 4th Qtr Report; Gabriel Resources 2007 2nd Quarter Report

¹¹¹⁶ Cohen, 1989b; 33; Cohen, 1997; 74; Benhabib, 1996a; 70, 78; Young, 1996; 122; Mansbridge, 1999; 225; Hendricks, 2006; 492; Dryzek, 2000; 172; Dodge, 2009; 227; Rawls, 2005a; 23; Habermas, 1998; 315; Metze, 2009; 244; Mendonça, 2009; 211; Benhabib calls this right the *principle of egalitarian reciprocity*. (Benhabib, 1996a; 78)

¹¹¹⁷ Gutmann and Thompson, 1996; 41; Cohen, 1989b; 33; Cohen, 1997; 69; Mansbridge, 1999; 224; Deveaux, 2003; 793

¹¹¹⁸ Cohen, 1997; 74; Cohen, 1989b; 33; Benhabib, 1996a; 70, 78; Mansbridge, 1999; 225; Habermas, 1998; 305; Young, 1996; 122; Hendricks, 2006; 492; Dryzek, 2000; 172; Dodge, 2009; 227; Rawls, 2005a; 23; Habermas, 1998; 315; Metze, 2009; 244; Mendonça, 2009; 211

¹¹¹⁹ Shafir, 2001; 89; Calinescu and Tismăneanu, 1991; 285; Gallagher, 2005; 106; Stringer, Scriciu and Reed, 2009; 78

¹¹²⁰ Gallagher, 2005; 4, 6, 17; Light, 2001; 70; Phinnemore and Light, 2001; 2; Siani-Davies, 2001; 19; Shafir, 2001; 83

status – wealth, class, profession, education - brings credibility and acceptability to claims and arguments.

Just before the first public meeting was about to start, I observed the reaction of the company employees when Mr. Aston arrived in his brand new silver sedan on the dirt roads of the village of Roșia Montană.¹¹²¹ A large group of people surrounded his car and applauded.¹¹²² They fought among themselves for an opportunity to shake Mr. Aston's hand and to say in English, 'hi, boss'.¹¹²³ In my field notes I observed that the reaction seemed reminiscent of the way people might have treated a government boss under the communist regime.¹¹²⁴

The Alba County Council official pointed to this paternalistic relationship when he spoke about his absence from the Roșia Montană public meetings. Rather than attend the public meetings so that he could hear the views of the public, rather than not speak but listen, he said that he was never going to participate in a Roșia Montană public meeting, because:

*I do not wish to influence the decision or the position of these people one way or another. Because people would ask me what do I want and afterwards they'd follow my example and I really want this to be their opinion.*¹¹²⁵

¹¹²¹ Field Notes 24 July 2006

¹¹²² Field Notes 24 July 2006

¹¹²³ Field Notes 24 July 2006

¹¹²⁴ Field Notes 24 July 2006

¹¹²⁵ Alba County Council Interview



Photo 36: Opposition Holding Banner (Esko, 2006)

The format of the RMGC public meetings limited the possibility for participant equality and the equal presentation of all arguments. RMGC convened the public meetings. Only company

employees and members of Pro Roşia Montană were allowed in the meeting room before 3:30pm.¹¹²⁶ For each meeting, RMGC employees set up the rooms, displayed their information and hung several Pro Roşia Montană banners and as many as 9 Gabriel Resources banners around the room.¹¹²⁷ When members of the opposition attempted to hang banners on the walls after the start of the meeting, company employees removed the banners.¹¹²⁸ Opposition members resorted to standing with their arms raised holding the banners in the air throughout the meetings.¹¹²⁹ The company brought 3-D maps of the project site, Power Point presentations and a video describing the restoration of a mining project in Spain.¹¹³⁰ Large sketches and floor-plans of the new resettlement homes and community facilities were displayed around the venues on easels.¹¹³¹ The company employed security and the audio/video technicians.¹¹³²

¹¹²⁶ Field Notes 24 July 2006; Field Notes 25 July 2006; Field Notes 23 August 2006

¹¹²⁷ Field Notes 15 August 2006

¹¹²⁸ Field Notes 25 July 2006

¹¹²⁹ Field Notes 25 July 2006

¹¹³⁰ Field Notes 25 July 2006

¹¹³¹ Field Notes 24 July 2006

¹¹³² Field Notes 25 July 2006



Photo 37: Theatre Style Room Layout (Esko, 2006)

Like all public meetings the rooms were arranged theatre style – limiting the amount of discussion among the participants and granting power to the people in front of the room.¹¹³³ At each meeting, the RMGC presenters sat on the stage behind a table with the debate moderators.¹¹³⁴ Members of the opposition were not allowed to set up their own information tables and leaders of the opposition were not offered an opportunity to present their case from the front of the room or to offer evidence (photographs, maps or diagrams) of their position.¹¹³⁵ When Eugene David from Alburnus Maior attempted to mount the stage at the Roşia Montană meeting the Jandarme stopped him and forced him to turn around.¹¹³⁶ One participant asked:

*Alburnus Maior, why don't they have seats at the table next to you, Mr. Aston?*¹¹³⁷

Logistically, the meetings were structured to ensure that the company's positions dominated the deliberations.

Procedurally, the meetings were designed to actually discourage equal and productive public debate.¹¹³⁸ Speakers were prohibited from engaging in dialogue with other participants.¹¹³⁹ Participants were required to address all of

¹¹³³ Field Notes 24 July 2006; Moran, 2006; 10

¹¹³⁴ Field Notes 24 July 2006

¹¹³⁵ Field Notes 24 July 2006

¹¹³⁶ Field Notes 24 July 2006; Roşia Montană Council Member 1

¹¹³⁷ Roşia Montană Public Meeting

¹¹³⁸ Alburnus Maior, 2007d; 4; Moran, 2006; 10

¹¹³⁹ Câmpeni Public Meeting

their questions and comments to the company.¹¹⁴⁰ The Ministry of the Environment or opposition representatives were not given the opportunity to respond to questions or comments.¹¹⁴¹ Participants were required to state all of their questions and their comments before the company would respond.¹¹⁴² Participants could not follow-up for clarification or rebuttal after the company's response; this meant that the company could provide irrelevant, inaccurate, unverifiable or insolent responses – or indeed refuse to respond at all - without challenge.¹¹⁴³ The moderators did not confirm with speakers that their questions were answered nor did they intervene when it was obvious that their questions or comments had not been addressed.¹¹⁴⁴ Members of the public could not transfer their time to another speaker, but the company could let any of its pool of about 40 experts speak during their 5 minutes.¹¹⁴⁵

The company and members of the opposition did not have equal time to present their arguments. The company had the opportunity to present its case during the first 45 minutes of each meeting; opposition representatives were not given a similar opportunity.¹¹⁴⁶ Opposition members could only articulate their arguments from the floor during the 5-minute speaking times of individual members. Five minutes is not a lot of time to address a 3,000 page EIA Report, especially for someone who is knowledgeable about the topic.¹¹⁴⁷ The five minutes were given to everyone – those with technical expertise as well as

¹¹⁴⁰ Roşia Montană Public Meeting; Bistra Public Meeting

¹¹⁴¹ Bistra Public Meeting

¹¹⁴² Roşia Montană Public Meeting; Bistra Public Meeting

¹¹⁴³ Câmpeni Public Meeting; Bistra Public Meeting; Bucharest Public Meeting; Alburnus Maior, 2007d; 13; Moran, 2006; 10

¹¹⁴⁴ Bucharest Public Meeting

¹¹⁴⁵ Bucharest Public Meeting; When a participant at the Bucharest meeting asked to transfer his time to another participant, the moderator informed him that he didn't 'have this right.' (Bucharest Public Meeting)

¹¹⁴⁶ Roşia Montană Public Meeting

¹¹⁴⁷ Bistra Public Meeting; Alburnus Maior, 2007d; 13; Deva Public Meeting

those with very little to say about the project.¹¹⁴⁸ As with the meeting participants, the company was given 5 minutes to respond, but after every participant spoke.¹¹⁴⁹ For example, at the Roşia Montană each of the 37 individuals who spoke could only speak once for 5 minutes; yet, the company could speak after each speaker – 37 times at 5 minutes each.¹¹⁵⁰ At the Roşia Montană, the company only spoke 18 of its possible 37 times.¹¹⁵¹ However, by the Bucharest meeting, the company began using its 5 minutes after nearly every speaker.¹¹⁵² They used the extra time to make additional points – not relevant to the proceeding question - about the benefits of the project.¹¹⁵³ This meant that the company spoke for the majority of the Bucharest public meeting. For this study, I analysed 7 of the 14 meetings. Over the course of these meetings, those who support the project spoke for 4.5 hours; those who oppose the project spoke for 4.6 hours and the company spoke for 6.0 hours. If you add the 45 minute introduction for each meeting, the company spoke for a total of 11.3 hours in 7 meetings.

As mentioned in Chapter 7, many hybrid forum practitioners recommend the use of professional neutral facilitation and ground rules to encourage participant equality.¹¹⁵⁴ The moderators for the RMGC hybrid forums were inconsistent and ineffective at enforcing the meeting ground rules and the ground rules themselves did not support participant equality. The moderators were

¹¹⁴⁸ Alburnus Maior, 2007d; 13; Deva Public Meeting

¹¹⁴⁹ Field Notes 24 July 2006

¹¹⁵⁰ Roşia Montană Public Meeting

¹¹⁵¹ Roşia Montană Public Meeting

¹¹⁵² Bucharest Public Meeting

¹¹⁵³ Bucharest Public Meeting

¹¹⁵⁴ Melville, Willingham, and Dedrick, 2005; 44; Hendriks, 2005a; 81; Fishkin and Farrar, 2005; 74; Crosby and Nethercut, 2005; 113; Carson and Hartz-Karp, 2005; 130; Bonner, Carlitz, et al, 2005; 148; Sokoloff, Steinberg and Pyser, 2005, 188; Karpowitz and Mansbridge, 2005; 240; Cornwall and Coelho, 2007b; 25; Rojanamon, Chaisomphob, and Bureekul, 2010; 6; Lukensmeyer, Goldman and Brigham, 2005; 159; Almer and Koontz, 2004; 476

incapable of keeping order in the room, much less encouraging equal and productive debate.¹¹⁵⁵ Their main function seemed to be to read the opening statement, to announce the next speaker, to yell out 'Quiet in the Room' from time to time and to stop people who went over the 5 minute time limit.¹¹⁵⁶

Opposition members accused the moderators for the RMGC hybrid forums of being biased.¹¹⁵⁷ According to members of the opposition, both moderators had either worked directly for RMGC or worked for an organisation that had ties to RMGC.¹¹⁵⁸ It probably did not help matters that the moderators sat at the dais with the title owner; the moderators and RMGC representatives appeared to be co-producers and partners at the public meetings.¹¹⁵⁹ At the Roşia Montană meeting Stephanie Roth complained to me that the moderators were allowing the project supporters to speak for more than 5 minutes.¹¹⁶⁰ However, my analysis of that meeting shows that 2 project supporters were stopped early (at 231 and 240 seconds); 2 members of the opposition were stopped early (at 209 and 289 seconds); and 2 members of the opposition were allowed to go over five minutes (353 and 367); the company did not go over five minutes at that meeting. At the same time, overall, for the 7 meetings that I analysed, the moderators were more rigorous with keeping speakers who oppose the mine within the 5 minutes time – 11.7% versus 8.3%. I found that, while the moderators more frequently stopped the company early (6.5% versus 5.0%), they were more reluctant to stop company representatives when they spoke over the 5 minute limit – 8.4% versus 2.5%.

¹¹⁵⁵ Câmpeni Public Meeting

¹¹⁵⁶ Câmpeni Public Meeting

¹¹⁵⁷ Alburnus Maior, 2007d; 4

¹¹⁵⁸ Alburnus Maior, 2007d

¹¹⁵⁹ Field Notes 25 July 2006

¹¹⁶⁰ Field Notes 24 July 2006

	Supports			Opposes			Company		
Total Num of Speakers	121		Secs Over or (Under) ¹¹⁶¹	120		Secs Over or (Under)	107		Secs Over or (Under)
Spoke Over & Stopped	10	8.3%	28.4	14	11.7%	21.1	9	8.4%	11.3
Spoke Over & Not Stopped	3	2.5%	34.0	3	2.5%	24.0	9	8.4%	31.7
Stopped Early ¹¹⁶²	7	5.8%	(23.6)	6	5.0%	(23.0)	7	6.5%	(23.0)

Table 7: Moderators' Time Keeping

At the meetings where opposition members were not present, the moderator was much more lax about enforcing the 5 minute rule. During the Deva meeting, participants were given extra time after the 5 minute warning to sum up their comments. At the Bistra meeting, because only 8 people had registered to speak, the moderator allowed people to speak for more than 5 minutes – ‘close to 10 minutes’ would be acceptable. However, the one person who attended the Bistra meeting to oppose the project was cut off at 354 seconds; the company’s response was 400 seconds and the company’s representative was not interrupted 8 times by the audience.

INCLUSIVE

Deliberative legitimacy depends on open and inclusive deliberations; all those who are subject to a policy decision ought to be given an opportunity to participate in the deliberations.¹¹⁶³ Larger and more diverse forums can

¹¹⁶¹ Average number of seconds over or under the 5 minute time limit

¹¹⁶² I neutral person was stopped at 209 seconds at the Zlatna meeting.

¹¹⁶³ Cohen, 1997; 72; Cohen, 1989b; Dryzek, 1990; 41; ; Dryzek, 2000; xiv, 39, 72; Dryzek, 2001; 651; Dryzek and Niemeyer, 2008; 485; 30; Benhabib, 1996a; 68-9, 79, 87; Estlund, 1997; 180; Hendricks, 2006; 492; Hendriks, 2009; Freeman, 2000; 382; Young, 1996; 121; Young, 1999; 155; Mendonça, 2009; 211; Hendriks, Dryzek and Hunold, 2007; 366; Gould, 1996; 177; Mansbridge, 1999; 225-6; Mansbridge, 2007; 253; Bohman and Rehg, 1997; xiii, xix; Fung, 2004; 52; Deveaux, 2003; 787; Johnston, 2011; 392; Gaventa, 2006a; 11; Gaventa, 2007; xiv ; Cohen and Fung, 2004; McCoy and Scully, 2002; Gastil and Keith, 2005; 16; Melville, Willingham, and Dedrick, 2005; 51; Barber, 2003; 120; Button and Ryfe, 2005; 25; Cornwall and Coelho, 2007; 2; Soneryd and Weldon, 2003; 22; Parkinson, 2003; 190; Gutmann and

improve the quality of deliberations and outcomes.¹¹⁶⁴ Hybrid forums are rarely fully inclusive. Given the poor economic environment in Romania, the opportunity costs of public participation and deliberation might be out of reach for many citizens – limiting the inclusivity of Romanian public participation.¹¹⁶⁵ Romania’s political elite has a long history of using nationalism to exclude groups of people, weaken society and to divert attention away from its corrupt activities and often incompetent administration.¹¹⁶⁶

This research confirms Shapiro’s concerns that ‘there is great variation in the impact of a decision’ and that disparity exists in the capacities of different groups to escape the effects of individual public decisions.¹¹⁶⁷ The authorisation decision for RMGC’s proposed gold mining project demonstrates that determining policy impact is not straight forward. The costs, benefits and risks of the RMGC project proposed project are distributed unequally based on geographical distance. Many of the benefits described by the project title owner will remain local to those communities near Roşia Montană: jobs, environmental clean-up, social investments and infrastructure improvements.¹¹⁶⁸ According to RMGC, the Romanian state will benefit from their profit share, from tax

Thompson, 1996; 8, 128-129, 144-7, 163, 227-8 351; Habermas, 1998; 315; Metze, 2009; Elster, 1998; 8; Rosenberg, 2007; 9; Shapiro, 1999; 33; Levine, Fung and Gastil, 2005; 273; Stringer, Scriciu and Reed, 2009; 77; Diduck and Sinclair et al., 2007; 220

¹¹⁶⁴ Bonner, Carlitz, et al, 2005; 148; Cheng and Fiero, 2005; 169; Sokoloff, Steinberg and Pyser, 2005, 187; Lukensmeyer, Goldman and Brigham, 2005; 161; Scully and McCoy, 2005; 204

¹¹⁶⁵ Calinescu and Tismăneanu, 1991; 293; Gallagher, 2005; 16

¹¹⁶⁶ Phinnemore and Light, 2001; 7; Gallagher, 2005; 14

¹¹⁶⁷ Shapiro, 1999; 34

¹¹⁶⁸ RMGC, 2006a; Chapter 4.8: Social and Economic page 26, Chapter 2 page 49, Chapter 9 page 7; Câmpeni Public Meeting; Alba Iulia Public Meeting ; RMGC, 2007; Volume 4 page 6, 68, Volume 3 page 97, Volume 5 page 144; Gabriel Resources, 2009b; page 2; RMGC, 2006a; Chapter 9 pages 2, 19-23; RMGC, 2006a; Water Management and Erosion Plan; RMGC, 2006a; Mine Rehabilitation Plan; RMGC, 2007; Volume 3 page 101; Câmpeni Public Meeting

revenues and from the influx of money the project will spend in the country.¹¹⁶⁹ The company asserts that all of Europe has benefited from their investment in archaeological research at the site.¹¹⁷⁰ The negative impacts of the project are also distributed unevenly. The industrial noise, vibrations and dust will be most felt by the local residents.¹¹⁷¹ The relocation or destruction of homes, local graveyards and churches will impact local residents more than others.¹¹⁷² The risks of a dam leak or burst or of a traffic accident involving cyanide transportation will be directly felt by those communities near to and downstream of Roșia Montană – perhaps as far away as Hungary (595 km downstream).¹¹⁷³ The landscape alteration and loss of yet to be discovered Roman archaeological artefacts might be considered as a negative impact for all of Europe.¹¹⁷⁴ Those who will experience no direct impacts of the project, who may never even visit Roșia Montană, may have an interest in the fate of the commune for ideological, value-based reasons. The Roșia Montană villagers who relocate or resettle more than 25 km away (75% of the residents who have already sold their property) will likely not experience any of the local costs or benefits of the project - except for the costs and benefits of relocation or

¹¹⁶⁹ RMGC, 2007; Volume 3 page 20, 96; RMGC, 2007; Volume 4 page 60; RMGC, 2006a; Sustainable Development Plan pages 52-53

¹¹⁷⁰ RMGC, 2006a; Management Plan for Archaeological Heritage page 24, 50; Alba Iulia Public Meeting; RMGC, 2007; Volume 4 page 22; RMGC, 2006a; PACE, 2004; 2

¹¹⁷¹ Alburnus Maior; 2006b; 6; Câmpeni Public Meeting

¹¹⁷² Bucharest Public Meeting; Alburnus Maior, 2006b; 3 Roșia Montană Public Meeting

¹¹⁷³ RMGC, 2007; page 27; Roșia Montană Public Meeting; State Environmental Resource Centre 'Banning Cyanide Use in Mining' Retrieved 10 December 2011 from <http://www.serconline.org/mining/talking.html>; AMEC, UTCB, UBB *et al*, 2010; According to the company, Abrud is approximately 2 km downstream from the proposed TMF site. (RMGC, 2007; Volume 4 page 104)

¹¹⁷⁴ Alburnus Maior, 2006, 3, 7; Alba Iulia Public Meeting; Ciugudean, 2006 and RMGC, 2007; Volume 2 page 100; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; PACE, 2004; 1; Olaru-Zăinescu, 2006; 14; Szabo, 2006; 1; Pulitzer Center (2011) Retrieved 11 December 2011 from <http://pulitzercenter.org/reporting/romania-gold-mining-industry-history-profits>; Pulitzer Center (2011) Retrieved 11 December 2011 from <http://pulitzercenter.org/reporting/romania-gold-mining-industry-history-profits>

resettlement itself. Residents from nearby communities (for example, Abrud) will gain the local benefits without having to relocate or resettle.

Of the people who spoke at the public meetings 137 live within 50 kilometres of the project, 138 live beyond 50 kilometres of the project and 5 live outside of Romania.¹¹⁷⁵ My analysis indicates¹¹⁷⁶ that those who live nearer to Roşia Montană are more supportive of the project than those who live further away. This may be explained by the fact that those who live closer to the project are more likely to gain from the local benefits. Additionally, those who oppose mining projects might be more willing to travel further distances to express their opposition.

	Support ¹¹⁷⁷		Neutral		Oppose		Total
Roşia Montană	31	62%	0	0%	19	38%	50
Abrud	16	64%	2	8%	7	28%	25
<25km	66	60%	7	6%	37	34%	110
25 - 50km	14	52%	2	7%	11	41%	27
50 - 100km	17	22%	7	9%	53	69%	77
>100	7	11%	8	13%	46	75%	61
Foreign	0	0%	0	0%	5	100%	5
Total	104	37%	24	9%	152	54%	280

Table 8: Position and Distance from Project

Even in the diverse community of Roşia Montană - which has Romanian, Hungarian and Roma populations - participants sometimes resorted to nationalistic and isolationist arguments. This argument can work to exclude

¹¹⁷⁵ Because a number of the 491 people who spoke during the RMGC public meetings spoke at more than one meeting, a total of 282 individuals spoke at the 14 meetings. The location of residence of 2 of the speakers was not recorded in the Ministry of the Environment's speaker list.

¹¹⁷⁶ These numbers should be considered an indication of a phenomenon. Because of the small sample size and because the speakers self-selected to speak at the public meetings, these numbers should not be considered a valid representation of the opinions of these communities.

¹¹⁷⁷ For this analysis, project support, opposition or neutrality was derived from the speaker questions raised during the public meetings and noted in the Ministry of the Environment's question list and the transcripts of the meetings.

minorities. After a Hungarian woman spoke during the Roșia Montană meeting, meeting participants began chanting, ‘*noi suntem Români*’ (We are Romanians).¹¹⁷⁸

During the public meetings, company representatives and those who support the mine often argued that the decision should be left with the locals.¹¹⁷⁹ At the Alba Iulia meeting, a participant from Roșia Montană said, ‘we don’t want them to come from Baia Mare or Cluj or other parts’ to comment about the proposed project.¹¹⁸⁰ He added:

*I don’t want Mr. Santimbreanu [...] an old man [originally] from Roșia Montană who has a peaceful life in Alba Iulia to give us advice.*¹¹⁸¹

When speaking about churches that are likely to be moved as a result of the project the RMGC representative John Aston said, ‘the community and the congregation must decide what happens to the church.’¹¹⁸² One participant asked that the associations opposing the project to:

*See to their own business. Go back where they came from and leave us alone, because we know best the needs of Roșia Montană. [...] Why don’t they just leave us alone to live our lives as we want?*¹¹⁸³

Another supporter of the project demanded that those who come to oppose the project should:

¹¹⁷⁸ Roșia Montană Public Meeting

¹¹⁷⁹ Alba Iulia Public Meeting; Bucharest Public Meeting

¹¹⁸⁰ Alba Iulia Public Meeting

¹¹⁸¹ Alba Iulia Public Meeting

¹¹⁸² Alba Iulia Public Meeting

¹¹⁸³ Alba Iulia Public Meeting

*Please stay in your shoes and see to your own problems, your own business, because you are paid to intentionally cause us harm.*¹¹⁸⁴

On the other hand, one participant from Alba Iulia pointed out that they were attending a public meeting, in Alba Iulia, to discuss the environmental impact.¹¹⁸⁵ She added that the project proposal was a national issue because 'we are talking about immense wealth'.¹¹⁸⁶ Another participant asserted that the Roşia Montană gold did not belong only to the people of Roşia Montană but that 'it belongs to the State.'¹¹⁸⁷ She argued that the Roman ruins are 'the evidence of our existence as a people and how the people started here.'¹¹⁸⁸ Later at that meeting, a participant said that,

*Environmental problems are not local; they affect us all. Environmental problems will affect not only those that create the problems, but others as well. So we, who come from other parts, have the same rights to express our opinions as long as the Constitution guarantees a clean and healthy environment.*¹¹⁸⁹

In the RMGC case, both those who support the project and those who oppose it accuse the other side of being outsiders. Gabriel Resources' headquarters are based in Canada; 3 of its major shareholders of Gabriel Resources are companies based in the U.S. and the fourth is based in Switzerland.¹¹⁹⁰ At the

¹¹⁸⁴ Alba Iulia Public Meeting

¹¹⁸⁵ Alba Iulia Public Meeting

¹¹⁸⁶ Alba Iulia Public Meeting

¹¹⁸⁷ Alba Iulia Public Meeting

¹¹⁸⁸ Alba Iulia Public Meeting

¹¹⁸⁹ Alba Iulia Public Meeting

¹¹⁹⁰ Gabriel Resources, 2000; RMGC, 2006a; Chapter 1 page 6; Gabriel Resources Press Release 11 November 2009

time of the EIA Public Meetings, RMGC's CEO was an Englishman.¹¹⁹¹ John Aston, the company's vice president who spoke on behalf of the company at the public meetings, is Irish and he spoke in English with Romanian interpretation during the public meetings.¹¹⁹² Alburnus Maior represents families in Roșia Montană; its president owns property in the commune.¹¹⁹³ However, the driving force behind the NGO is French/Swiss; Ms Roth spoke in Romanian at the public meetings.¹¹⁹⁴ According to the NGO, its funders come from the U.S., Romania, Hungary, Switzerland and England.¹¹⁹⁵

As with most public meetings, participants were invited to the RMGC EIA hybrid forums by open invitation. According to RMGC, its EIA Process 'allows whoever is interested the opportunity to understand, comment and take part in the decision-making process on the proposed development.'¹¹⁹⁶ Romanian legislation provides an announcement template and requires that EIA announcements are published in mass media, but it doesn't specify a minimum set of announcement requirements.¹¹⁹⁷ Without specific requirements, these announcements can be buried within the paper making it difficult to find the announcement even if you are looking for it – much less if you are relying on the announcement to be informed about the project.¹¹⁹⁸ For RMGC's proposed project, the Ministry of the Environment published the opportunity to participate

¹¹⁹¹ Bloomberg Business week Retrieved 19 August 2012
<http://investing.businessweek.com/research/stocks/people/person.asp?personId=1507232&ticker=TGZ:CN>

¹¹⁹² Alba Iulia Public Meeting

¹¹⁹³ Alburnus Maior, 2011

¹¹⁹⁴ Alba Iulia Public Meeting; Roșia Montană

¹¹⁹⁵ <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32836&cmd%5b316%5d=x-322-32848&x=32848&set%5b319%5d=selected-32836&set%5b321%5d=selected-32848>

¹¹⁹⁶ RMGC, 2006a; Chapter 9 page 1

¹¹⁹⁷ Romanian Ordinance 860/2002 Ch 3 Article 35

¹¹⁹⁸ Okello and Beevers et. al., 2009; 222

announcements in three national newspapers on one day, 6 June 2006: România Liberă page 13; Evenimentul Zilei page 5 and Adevărul page A5.¹¹⁹⁹ The announcements include the location, date and time of the public debates; the locations and viewing times of hardcopies of the EIA Report; and the address and start and end dates for the public comment period.¹²⁰⁰ The Ministry of the Environment also claims that it published the announcement on its website and on the website of the National Agency for the Protection of the Environment.¹²⁰¹ Although I was not able to find the announcement on the Ministry of the Environment's website in July 2006 and I looked for it there.¹²⁰² I also did not receive a response from the Ministry of the Environment to my request for information about the public meetings.¹²⁰³ At the Bistra public meeting, the company said that it had announced the schedule for the public meetings in the newspapers, radio and TV; the Ministry of the Environment did not mention these announcements in their response to my Freedom of Information request. While I saw the 'True Story' television advertisements for the proposed RMGC project I did not see or hear TV or radio spots specifically announcing the public meetings.¹²⁰⁴

¹¹⁹⁹ Freedom of Information Request 121367/40517/20.03.2007

¹²⁰⁰ Freedom of Information Request 121367/40517/20.03.2007

¹²⁰¹ Freedom of Information Request 121367/40517/20.03.2007

¹²⁰² Field Notes 12 July 2006; Field Notes 23 July 2012

¹²⁰³ Esko/Ministry of the Environment 12 July 2006 Email; Field Notes 23 July 2012

¹²⁰⁴ Bistra Public Meeting; Freedom of Information Request 121367/40517/20.03.2007

Source of Announcement		
Newspapers	73	29.2%
RMGC Directly - Caravan, Publicity or Invitations	50	20.0%
Word of Mouth - Friends	41	16.4%
Word of Mouth - Work or Work Colleagues	13	5.2%
Internet	21	8.4%
Posters	14	5.6%
Civil Society Organisations	13	5.2%
Personal Invitation	8	3.2%
Local Information Centres	6	2.4%
TV or Radio	9	3.6%
Passing By the Venue	2	0.8%
Total ¹²⁰⁵	250	

Table 9: Source of Announcement

Of the people who responded to the survey I distributed at the public meetings, most said that learned about the public meetings through newspaper announcements. However, 70% learned about them another way. Most of those who support the project heard about the meetings either through the newspapers (30%) or through direct invitations from RMGC (29%). Those who oppose the project heard about the meetings from the newspaper (28%) or from friends (20%). Those who are neutral about the project heard about the meetings from the newspaper (32%). 28% of those who oppose the project heard about the meetings from civil society associations and the internet, while 6% of those who support the project did. While the newspapers were predominately responsible for drawing people to the meetings, this analysis and the low local turnout for the meetings raises a concern for those potential participants – especially the neutral ones – who did not attend the meetings

¹²⁰⁵ Some people referred to more than one source of information about the public meetings.

because they missed the newspaper announcements.¹²⁰⁶ This analysis also demonstrates that RMGC provided direct meeting invitations to those who support the project, but not to others.

With the exception of company employees and professional members of civil society associations, those who attended the public meetings participated as volunteers and covered the costs of participation – travel, child care etc. – out of their own pocket. This means that open invitations for public meetings can favour those with the most resources.¹²⁰⁷ Depending on a participant's resources and the strength of his/her feelings or commitment regarding a public decision, the direct and indirect costs of participation may be too high for some.

The RMGC EIA public meetings addressed some of the costs of participation by holding 14 meetings in 14 different locations. The schedule and locations for the public meetings were set by the Ministry of the Environment with agreement by RMGC, but not with agreement by civil society associations or by the communities impacted. For the most part the meeting locations followed the Roşia Montană and Corna catchment areas and the Abrud, Arieş and Mureş rivers. The communities along this path would be impacted if the Tailings Management Facility (TMF) dam were to burst and release toxins into the water system.¹²⁰⁸ However, members of the opposition complain that the choice of locations for the public meetings included some communities that would not be impacted or were not at risk of impact and omitted others that would be directly

¹²⁰⁶ Okello and Beevers et. al., 2009; 222

¹²⁰⁷ Cornwall and Coelho, 2007b; 15

¹²⁰⁸ Whitehead, 2007; AMEC, UTCB, UBB et al, 2010

impacted by the project.¹²⁰⁹ The seven villages in the nearby commune of Bucium Valley were not included in the public debate schedule even though RMGC's Roșia Montană exploitation license extends into the Bucium commune.¹²¹⁰ Opposition members claim that the company did not want to hold a public meeting for the Roșia Montană project in Bucium, because it holds a separate exploration license there and has applied for an exploitation license in the commune.¹²¹¹ Members of the opposition also complain that RMGC EIA public meetings were held in Zlatna and Brad.¹²¹² Both towns are further away from Roșia Montană than the commune of Bucium and neither town lies along the waterways that could be impacted by the RMGC project.¹²¹³ Opposition members accuse the company of selecting these communities for public meetings because they are old mining communities – whose residents have been promised jobs by RMGC and would likely support a project like the one proposed by RMGC.¹²¹⁴

Members of the opposition and participants of the public meetings complained about the timing of the RMGC EIA hybrid forums. The month of August is a slow time in Romania because many people are away on vacation; but more importantly, the hay harvest season is at its peak during late summer in the

¹²⁰⁹ Alburnus Maior, 2007d; 11

¹²¹⁰ Alburnus Maior, 2007d; 4; RMGC, 2006b; 9; This commune is adjacent to the valley where RMGC plans to build its TMF. The RMGC Urbanism Certificate describes the construction of a road between Bucium and the Corna Valley TMF and a topsoil dump at Bucium. Similar changes have been planned by the company in Abrud and Câmpeni, where public meetings were held, but no meetings were scheduled for Bucium.

¹²¹¹ Gabriel Resources 2010 Annual Information Form page 5; Gabriel Resources 2008 4th Qtr Report page 57; Gabriel Resources 2009 1st Qtr Report page 17; Alburnus Maior, 2007d; 4; The Ministry of the Environment has indicated that the authorization process for the Bucium project has been delayed because of the Roșia Montană EIA Process. They have further stated that approval of the Bucium project is dependent on the Roșia Montană authorisation.

¹²¹² Alburnus Maior, 2007d; 11

¹²¹³ Alburnus Maior, 2007d; 11

¹²¹⁴ Alburnus Maior, 2007d; 11

Apuseni Mountains.¹²¹⁵ The public meetings started at 4:30pm, the time of evening when the cows need to be milked.¹²¹⁶ During the Bistra public meeting, a participant complained about the low turnout of people from the local village.¹²¹⁷ This participant accused the company of intentionally organising the meeting in a way that most of the locals could not attend so that the company could claim support of the community.¹²¹⁸ One participant admitted that:

*I was a also a department manager and whenever I wanted to pass something, like different problems, I was organizing a department meeting in such a way, that most of the members couldn't attend, so the project I wanted to pass, would pass.*¹²¹⁹

According to him:

*The people in this moment are working on the fields.*¹²²⁰

Mr. Aston explained to the participant that, according to law, the company had made public announcements about the public meetings in the written press and on the radio and television.¹²²¹ He said that as required by law, there had been more than 30 working days since the public debate was announced.¹²²²

¹²¹⁵ Field Notes 24 July 2006; Heidebroek 20 June 2006 Email; Field Notes 16 August 2006; Bistra Public Meeting; Formula AS August 2006 Retrieved 12 August from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹²¹⁶ Field Notes 24 July 2006; Field Notes 16 August 2006

¹²¹⁷ Bistra Public Meeting

¹²¹⁸ Bistra Public Meeting

¹²¹⁹ Bistra Public Meeting

¹²²⁰ Bistra Public Meeting

¹²²¹ Bistra Public Meeting

¹²²² Bistra Public Meeting

Romanian legislation requires that the public meetings are held after working hours.¹²²³ However, working hours are different for different occupations; farmers do not work regular nine to five hours – especially in the summer. The dispute over the proposed RMGC project could be categorised as a dispute between the miners and the farmers of Roşia Montană. The schedule developed by the company and the Ministry of the Environment could work to exclude Roşia Montană's farmers from participating in the meetings.

While overall turnout appeared large – even in the small villages - local participation was actually low.¹²²⁴ Opposition organisations brought their members to some of the bigger meetings and the company brought their employees to every meeting.¹²²⁵ Participants seemed suspicious of the attendance; at more than one meeting a participant asked for a show of hands by local residents.¹²²⁶ At the Lupşa meeting I estimated about 120 people attended.¹²²⁷ When a participant asked for people to raise their hands if they lived in Lupşa only about 8 hands were raised.¹²²⁸ At the Câmpeni meeting, only 2 people raised their hands.¹²²⁹ As can be seen by the number of people that spoke at the public meetings, the people from Roşia Montană and Abrud often outnumbered the locals. This was especially true in Bistra, Bucharest, Câmpeni, Lupşa and Turda.

¹²²³ Romanian Ordinance 860/2002 Ch 3 Article 41

¹²²⁴ Câmpeni Public Meeting; Lupşa Public Meeting; Câmpeni Mayor; Câmpeni Council Member; Roşia Montană Council Member 2

¹²²⁵ Public Meeting Field Notes; Roşia Montană Council Member 1

¹²²⁶ Câmpeni Public Meeting; Lupşa Public Meeting

¹²²⁷ Lupşa Public Meeting

¹²²⁸ Field Notes 16 August 2006

¹²²⁹ Field Notes 26 July 2006

	Roşia Montană & Abrud		Local		Other		Total
Abrud	25	76%	NA	NA	8	24%	33
Alba Iulia	20	43%	16	35%	10	22%	46
Arad	9	27%	12	36%	12	36%	33
Baia d'Arieş	4	57%	3	43%	0	0%	7
Bistra	5	63%	3	38%	0	0%	8
Brad	4	29%	9	64%	1	7%	14
Bucharest	37	43%	22	25%	28	32%	87
Câmpeni	21	62%	5	15%	8	24%	34
Cluj	31	32%	46	47%	20	21%	97
Deva	8	35%	11	48%	4	17%	23
Lupşa	6	60%	2	20%	2	20%	10
Roşia Montană	23	62%	NA	NA	14	38%	37
Turda	18	46%	10	10%	11	28%	39
Zlatna	7	32%	15	15%	0	0%	22
Total	184	38%	188	38%	118	24%	490

Table 10: Percentage of Locals Speaking at Meetings



Photo 36: Buses Bringing Project Supporters (Esko, 2006)

Levine, Fung and Gastil worry that, when open invitations are used and the stakes are high, organisations will work to stack the forum with their own partisans.¹²³⁰ This was the case with

the RMGC EIA hybrid forums. There were no process rules limiting attendance or participation in the public meetings; therefore, people were able to attend and speak at more than one meeting.¹²³¹ The company used 3 to 4 buses to bring RMGC employees and project supporters from Roşia Montană and nearby Abrud to each meeting venue.¹²³² At most meetings the people attending the

¹²³⁰ Levine, Fung and Gastil, 2005; 278

¹²³¹ Field Notes 25 July 2006; Alburnus Maior, 2007d; 12

¹²³² Cluj County Environmental Protection Agency; A participant who introduced himself as the Vice-President for the Future of Mining Union claimed that the people who were attending the meeting were brought from his union, from the Pro Roşia Montană NGO and from Dreptatea Roşia Montană. According to this participant, 'they all brought people here, because we all care.' He addressed those that claimed that these participants should not be allowed to

meetings from Abrud and Roşia Montană outnumbered the people from the local area. According to one Alba Iulia resident during the Alba Iulia meeting, this:

*is no longer a debate with the citizens of Alba Iulia and it is a way to create false impressions and images that will manipulate public opinion.*¹²³³

A Bistra local complained about the RMGC employees at the meeting, who he had suspected were paid to attend.¹²³⁴ He said,

*I don't really see locals from Bistra here. I see mostly employees of this company. I am sure they are paid to come here and vote.*¹²³⁵

Two of the meetings lasted 12 hours; the Cluj and the Bucharest meetings began at 4:30pm in the afternoon and ended at 4:30am the next morning.¹²³⁶ By midnight only the people who had arrived by bus were left at the meeting.¹²³⁷ Because so many of the people who had arrived by bus spoke earlier in the meeting, a number of people who had signed up to speak had already left when their name was called.¹²³⁸ One participant at the Bucharest meeting complained that he had more to say, but that he thought 'people have pretty much lost their interest.'¹²³⁹ He was only the 87th speaker out of 107 speakers

participate in the Alba Iulia meeting because they were not from Alba Iulia by saying that, 'I want to debate the problems that we have had for a very long time.' (Alba Iulia Public Meeting)

¹²³³ Alba Iulia Public Meeting

¹²³⁴ Bistra Public Meeting; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹²³⁵ Bistra Public Meeting

¹²³⁶ Field Notes 7 August 2006; Field Notes 21 August 2006

¹²³⁷ Field Notes 7 August 2006; Field Notes 21 August 2006

¹²³⁸ Field Notes 7 August 2006; Field Notes 21 August 2006; Alburnus Maior, 2007d; 12

¹²³⁹ Bucharest Public Meeting; Formula AS Retrieved 13 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

(including company speakers) at that meeting.¹²⁴⁰ The Câmpeni public meeting was so crowded with participants from Abrud and Roșia Montană that the members of the opposition could not get into the venue.¹²⁴¹ I could not get into the venue either; I had to record the meeting – which was broadcasted through loudspeakers – from outside of the venue.¹²⁴²

Many participants accused the company of paying employees to attend the meetings.¹²⁴³ At the Câmpeni public meeting a participant argued:

*The company's employees that you take with you everywhere. I have nothing against the students that you have hired. It's normal; they should make some money. Simple. The State should take care of this problem, not the company. Maybe of these young people, if the project goes forward at Roșia Montană, they will be ashamed to have participated in the ecological disaster that is brewing in the Apuseni Mountains area.*¹²⁴⁴

Mr. Aston responded:

*The students that we have hired are very intelligent people. And if you think that they would let themselves be bought with 2 months worth of salary, then we think that you are the ones offending their intelligence.*¹²⁴⁵

However later at the Alba Iulia meeting, Mr. Aston said, 'let's talk facts. Somebody said that the company pays these people to be present here. I think

¹²⁴⁰ Bucharest Public Meeting

¹²⁴¹ Alburnus Maior, 2007d; 12; Field Notes 26 July 2006

¹²⁴² Field Notes 26 July 2006

¹²⁴³ Câmpeni Public Meeting; Field Notes 16 August 2006; Roșia Montană Public Meeting; Bistra Public Meeting; Alba Iulia Public Meeting

¹²⁴⁴ Câmpeni Public Meeting

¹²⁴⁵ Câmpeni Public Meeting

you should look at the facts.’¹²⁴⁶ He never actually denied it. During the Bistra meeting a woman claimed that she wanted to keep working in mining and that was why she was expressing her opinion regarding the project, ‘not because, as several people said, I was paid to speak.’¹²⁴⁷

The speakers were only permitted to speak once at each individual meeting, but they were allowed to speak at more than one meeting. While there were 489 speakers recorded by the Ministry of the Environment, only 284 individuals actually spoke at the 14 public meetings. If the public consultations are supposed to influence government decision making, these practices can skew the results of the consultation. About 70% of those who spoke during the public meetings were men.¹²⁴⁸ Without accounting for duplicates, it would have appeared that 51% of the men support the project, 41% were against, and 8% of the men were neutral regarding the mine. However accounting for the men who spoke more than once at the debates, those numbers shift to 35% in favour of the project, 53% against the project and 12% were neutral. Without accounting for duplicates, it would have appeared that 42% of the women who spoke support the project and 52% of the women who spoke were against the project. The remaining 6% of the women appeared to have been neutral. However, after taking into consideration the women who spoke more than once, only 36% of the woman who spoke support the project, 54% were oppose it and nearly 10% of the women asked neutral questions.

¹²⁴⁶ Alba Iulia Public Meeting

¹²⁴⁷ Bistra Public Meeting

¹²⁴⁸ Suggesting that speaking at public debates is still a male activity in Romania.

RECIPROCAL

Legitimate hybrid forums are characterised by reciprocity – participants listen to and consider the views of others, treat each other with mutual respect and search for ‘fair terms of social cooperation’ even when participants do not share the same values, preferences and opinions.¹²⁴⁹ In adversarial systems, participants seek to score points and to overcome their opponents; in this way speech becomes a form of aggression and power.¹²⁵⁰ Without listening, deliberations are raucous, impatient and insistent.¹²⁵¹ In this thesis, legitimate deliberations in hybrid forums are grounded in a balance of reciprocity and authenticity – participants are not restricted from offering self-interested arguments, but seek to maintain relations of mutual respect.¹²⁵² Romania’s competitive win/lose approach to conflict leaves no room for tolerance or respect among participants, eliminating opportunities for collective problem solving.¹²⁵³

The deliberations of the RMGC hybrid forums were not guided by reciprocity.¹²⁵⁴ The university professor, Mr. Mihăilescu who acted as moderator for some of the larger meetings, more than once called on the

¹²⁴⁹ Cohen, 1997; 72; Cohen, 1989b; 30; Benhabib, 1996a; 68-9, 79, 87; Gutmann and Thompson, 1996; 2, 37, 55, 134; Parkinson, 2004; 379; Sanders, 1997; 348; Dryzek, 2000; 11, 149; Freeman, 2000; 380, 382, 395; Rawls, 2005a; 49; Dryzek, 2001; 651; Medearis, 2005; 62; Sanders, 1997; 348; Thompson, 2008; 498; Mansbridge, 1999; 222, 225; Young, 1996; 126

¹²⁵⁰ Barber, 2003; 175

¹²⁵¹ Barber, 2003; 175

¹²⁵² Gutmann and Thompson, 1996; 55; Mansbridge, 1996; 49; Mansbridge, 2007; 264; Sanders, 1997; 370; Young, 1996; 122-5; Young, 1999; 155; Hendriks, 2006; 493; Deveaux, 2003; 781; The principle of reciprocity only applies when all deliberators are ‘similarly motivated’. It can be a mistake to attempt to deliberate with others who are dishonest, not open to reflection or who refuse to offer claims in terms that might be acceptable to others. (Gutmann and Thompson, 1996; 55; Simon, 1999; 53) ‘At best it could be a waste of time and at worst you could help the person present himself to others as more reasonable than he is.’ (Simon, 1999; 53)

¹²⁵³ Shafir, 2001; 80; Gallagher, 2005; 79; Phinnemore and Light, 2001; 7

¹²⁵⁴ Field Notes 26 July 2006

participants to respect each other and to listen to each other.¹²⁵⁵ At Roșia Montană, he began the question and answer part of the public meeting with:

*I would like for us all to show mutual respect, to listen to each other and to see what each of us has to say.*¹²⁵⁶

Other than these general periodic requests, the moderators never sought to use meeting facilitation methods to help the parties reach any sort of mutual understanding or agreement. At each of the public meetings, both the company and the participants questioned each other's competence and insulted and accused each other. The moderators never called individual speakers to order. For example, during the Bucharest meeting, a participant questioned the accuracy of a company representative's claim.¹²⁵⁷ Earlier in the meeting, the representative had said that the soils of Roșia Montană were contaminated with heavy metals and could not sustain agricultural activities.¹²⁵⁸ The participant then referred to page 32 of the Soil Baseline Report of the RMGC EIA which says:

*The clear conclusion that may be drawn is that the overburden analyzed in the Roșia Montană area is not polluted with heavy metals.*¹²⁵⁹

After the participant caught the discrepancy, the RMGC interpreter interpreted Mr. Aston's comments:

¹²⁵⁵ Alba Iulia Public Meeting; Roșia Montană Public Meeting

¹²⁵⁶ Roșia Montană Public Meeting

¹²⁵⁷ Bucharest Public Meeting

¹²⁵⁸ Bucharest Public Meeting

¹²⁵⁹ RMGC, 2006; Soil Baseline Report page 32

*The last time John saw that [kind of speech] were in films from Germany in the years '40 through '46. [...] Maybe you should read the impact study a bit more carefully.*¹²⁶⁰

Also during the Bucharest meeting, after a participant from Alburnus Maior spoke, Mr. Aston accused her of working for a railway company that, he said, wanted to expropriate property in Roșia Montană.¹²⁶¹ Ms. Heidebroek was indeed working on Romanian railway projects, but not anywhere near Roșia Montană.¹²⁶² Because the participants were not permitted to respond, the false accusation was left in the room.¹²⁶³

After a former Minister of the Environment spoke against the project at the Bucharest meeting, Mr. Aston confronted him by saying:

*In 2002, when you were the Minister of the Environment you made a declaration to the media that year that you agree with an investment in a disadvantaged zone that had the chance to resurrect mining in Romania.*¹²⁶⁴

As far as I can tell, the former minister had been critical of the mine from the beginning.¹²⁶⁵ Mr. Aston accused the minister of attempting to prove himself inside his political party.¹²⁶⁶ The participant was not given an opportunity to

¹²⁶⁰ Bucharest Public Meeting

¹²⁶¹ Bucharest Public Meeting

¹²⁶² The Diplomat Retrieved 20 August from http://www.thediplomat.ro/features_1106_1.htm; Formula AS

<http://www.formula-as.ro/2005/650/ecologie-14/francoise-heidebroek-economista-din-bruxelles-belgia-5689>

¹²⁶³ Bucharest Public Meeting

¹²⁶⁴ Bucharest Public Meeting

¹²⁶⁵ Formula AS Retrieved 20 August 2012 from <http://www.formula-as.ro/2002/522/spectator-38/spectator-3324>

¹²⁶⁶ Bucharest Public Meeting

defend himself. Later in his response, Mr. Aston said, 'we prefer to develop projects responsibly, instead of raising political issues.'¹²⁶⁷

When a participant complained about the miners who had been bused in from Abrud and Roșia Montană, Mr. Aston replied,

*I think the miners came from Roșia Montană because of speeches like that – politicians who use their 5 minutes for their own personal agendas.*¹²⁶⁸

Once during the Alba Iulia meeting a participant argued that Roșia Montană's *inactive* population of 60% was less than the national average, 61%.¹²⁶⁹ Mr. Aston responded with:

*Bravo! Congratulations! Someone who comes from Cluj wants the unemployment in Roșia Montană to stay at 61%. Once more, congratulations!*¹²⁷⁰

The procedural ground rules prevented the participant from correcting Mr. Aston, so his false attribution (inactive versus unemployed) remained.¹²⁷¹

During the Roșia Montană meeting, Mr Aston complained:

*I almost fell asleep, because I've heard this accusation for the past 5 years and I got bored.*¹²⁷²

¹²⁶⁷ Bucharest Public Meeting

¹²⁶⁸ Bucharest Public Meeting

¹²⁶⁹ Alba Iulia Public Meeting; Inactive population refers to those who are not counted in unemployment figures – students, pensioners, homemakers, etc.

¹²⁷⁰ Alba Iulia Public Meeting

¹²⁷¹ Alba Iulia Public Meeting

¹²⁷² Roșia Montană Public Meeting

Mr. Aston would question the competence of meeting participants by insinuating that they had not read the EIA Report.¹²⁷³ For example in Alba Iulia, Mr. Aston said:

*Everyone who is interested in the tailing pond, we once more ask that you read the chapters from the impact study.*¹²⁷⁴

A participant of the Deva meeting complained:

*Ladies and gentlemen, we are at the 12th meeting and I tell you one thing: most of the time, the questions I've heard from some, who actually never read the project or have no idea about it, make me think that we're playing some theatre of absurdity.*¹²⁷⁵

More than once, Mr. Aston asked participants to please read the study and then they could talk.¹²⁷⁶ He said it 4 times at the Bucharest meeting.¹²⁷⁷ Mr. Aston even said this to participants who were referring directly to diagrams and pages in the EIA Report.¹²⁷⁸

Meeting participants would ridicule and insult each other.¹²⁷⁹

*Why aren't these clowns from Greenpeace coming with viable alternatives so we can collaborate and not tie themselves in front of the Environment Ministry, hoping to impress someone?*¹²⁸⁰

¹²⁷³ Moran, 2006; 9

¹²⁷⁴ Alba Iulia Public Meeting

¹²⁷⁵ Deva Public Meeting

¹²⁷⁶ Câmpeni Public Meeting; Deva Public Meeting; Alba Iulia Public Meeting; Roşia Montană; Bucharest Public Meeting

¹²⁷⁷ Bucharest Public Meeting

¹²⁷⁸ Alba Iulia Public Meeting

¹²⁷⁹ Field Notes 24 July 2006

¹²⁸⁰ Alba Iulia Public Meeting

Another supporter of the project complained:

*We see that a bunch of vagrants from all over the country have gathered here.*¹²⁸¹

One participant said:

*Thank you, Mr. Aston. We are used to investors like you. We had one before, Mr. Perez the great investor from ARO, who left 11,000 families on the streets and who led ARO to bankruptcy. Now we buy foreign cars instead of producing our own.*¹²⁸²

A participant from Alburnus Maior argued that the European Parliament's report on Roşia Montană's Cultural Heritage could not be considered conclusive, because Mr. O'Hara had only spent 3 days in Roşia Montană.¹²⁸³ Mr. Aston replied:

*It's incredible that Mr. O'Hara has been able to understand what was going on in Roşia Montană in 3 days and you haven't been able to in 4 years.*¹²⁸⁴

At one point in a meeting, Mr. Aston mentioned Vanessa Redgrave's one square meter of land in Roşia Montană.¹²⁸⁵ A participant from Alburnus Maior taunted him saying:

¹²⁸¹ Alba Iulia Public Meeting

¹²⁸² Bucharest Public Meeting; Peter Perez is an American investor. He was sued by the Romanian state for a failed privatisation scheme of the Romanian national auto manufactory, ARO - causing the state to lose €2 Million. (Newspad Retrieved 21 August 2012 from <http://www.newspad.ro/Americanul-care-a-falimentat-ARO-este-urmarit-penal,80885.html>)

¹²⁸³ Mr. O'Hara actually spent 3 days in Romania, only a day and a half was spent in Roşia Montană.

¹²⁸⁴ Câmpeni Public Meeting

¹²⁸⁵ Alba Iulia Public Meeting

*She has the land in Roşia Montană and that annoys you so much that you need to buy publicity in some big newspapers. And because it annoys you so much, we have to continue this strategy. We have many well-known actors that in a few [days] will announce themselves as land owners in Roşia Montană.*¹²⁸⁶

Mr. Aston did not once reply to participants who supported the mine.¹²⁸⁷ When a participant who supported the mine stepped up to the microphone, Mr. Aston would not receive Romanian to English interpretation.¹²⁸⁸ This meant that he could not listen to, much less respond to, the arguments presented by those who support the mine.¹²⁸⁹

Participants at the RMGC public meetings expressed their distrust of the company. One participant predicted that the company will leave after exploiting the gold without rehabilitating the site.¹²⁹⁰ At one point during the Câmpeni meeting, the microphone went out during a participant's comments.¹²⁹¹ The audience could be heard speculating that:

*When someone talks against [the project owner], they cut off the power.*¹²⁹²

During the meeting held at Alba Iulia, a participant complained that:

*The promises are always high, but I am not sure if anyone studied the actions of the company from a legal point of view.*¹²⁹³

¹²⁸⁶ Alba Iulia Public Meeting

¹²⁸⁷ Field Notes 25 July 2006

¹²⁸⁸ Field Notes 25 July 2006

¹²⁸⁹ Field Notes 25 July 2006

¹²⁹⁰ Alba Iulia Public Meeting – Speaker 107

¹²⁹¹ Câmpeni Public Meeting

¹²⁹² Câmpeni Public Meeting

¹²⁹³ Alba Iulia Public Meeting – Speaker 122

She was worried that after the company had received its authorisation, state actors would not be able to monitor the company and there will be no way to ‘fix this unfairness’.¹²⁹⁴ Another participant – who claimed to have met Mr. Frank Timiș, the founder of Gabriel Resources who had been convicted of drug charges¹²⁹⁵ – complained that nobody admitted the irregular behaviour at Gabriel Resources at the time.¹²⁹⁶ He added:

*So please allow me to have serious doubts about the honesty [...] of those who lead this company.*¹²⁹⁷

TRANSFORMATIVE

Evidence shows that, as a result of legitimate deliberation, participant views are more informed, consistent and more measured – resulting in preference shifts.¹²⁹⁸ Preference shift should not be the goal of deliberation, but they can be viewed as an indicator of deliberative legitimacy.¹²⁹⁹ When deliberations are guided by reciprocity, as people are exposed to the knowledge, views and needs of others, preference shifts can be expected.¹³⁰⁰ These preference shifts require that participants listen to each other with open minds and listen to each other with mutual respect.¹³⁰¹

¹²⁹⁴ Alba Iulia Public Meeting – Speaker 122

¹²⁹⁵ Frank Timiș Website Retrieved 6 July 2010 from

http://www.franktimis.com/Background/Early_Years/Default.aspx?id=7; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

¹²⁹⁶ Alba Iulia Public Meeting – Speaker 124

¹²⁹⁷ Alba Iulia Public Meeting – Speaker 124

¹²⁹⁸ Melville, Willingham, and Dedrick, 2005; 50

¹²⁹⁹ Cohen, 1996; 100

¹³⁰⁰ Rawls, 2005a; 30; Dryzek, 2000; 1; Hendriks, 2009; 174; Cohen, 1997; 75; Dodge, 2009; 228; Habermas, 1998; 337; Mansbridge, 1996; 47; Young, 1996; 125; Levine, Fung and Gastil, 2005; 274

¹³⁰¹ Gutmann and Thompson, 1996; 50. 55, 79, 83; Cohen, 1989b; 35; Cohen, 1996; 100; Habermas, 1998; 305; Hendriks, 2002; 70; Hendriks, 2006; 493; Hendriks, Dryzek, and Hunold

Once, in the seven meetings analysed for this thesis, a participant expressed the idea that the meeting deliberations had provided her with a new perspective:

*I would like to thank to all those that have spoken before me. I learned something from each of them.*¹³⁰²

However, in general, preference shifts – in light of a better argument - were not apparent at the RMGC EIA hybrid forums. During the Alba meeting one participant complained:

*It seems to me, that the previous speakers - and I fear those that will follow – have [prewritten] texts and preconceived ideas. From their speeches I think that they were either not paying any attention to what was presented to them or they have fixed ideas. [...] Their intellectual condition requires that they should at least pay attention to what has been presented to them and to edit a bit the texts they created at home and that were not changed after [the company's] presentation. Maybe they will reflect on the things that have happened here and they will change their attitude a bit.*¹³⁰³

Also during that meeting, a supporter of the project complained that:

*Unfortunately [opposition members] didn't come to negotiate; they never listen to what is being said about the investor.*¹³⁰⁴

One participant complained:

2007; 366; Dryzek, 2000; 2, 16; Parkinson, 2003; 180; Gutmann and Thompson's condition of preference transformation is part of their condition of reciprocity.

¹³⁰² Alba Iulia Public Meeting

¹³⁰³ Alba Iulia Public Meeting

¹³⁰⁴ Alba Iulia Public Meeting

They took "no" in their arms and they keep saying, "no, we must not make this project".¹³⁰⁵

In my field notes, I observed that 'People are here with already formed opinions. No debate, just heckling. No one is here for new information.'¹³⁰⁶ I also observed that none of the participants really held out any hope that they would change the preferences of others.¹³⁰⁷

The RMGC spokesperson would provoke members of the opposition by feigning to offer partnership, while dismissing all comments and suggestions. More than once, Mr. Aston asked participants to express their ideas and their worries and to work with the company to build a better project.¹³⁰⁸ Each time, the participant's comments were dismissed. During the Alba Iulia meeting Mr. Aston exclaimed:

For God's sake, all of you who have good ideas make them public and let's incorporate them in a good project.¹³⁰⁹

At Bistra, Mr. Aston offered:

If someone has a good idea, even if he is from the opposition, we will certainly work together with those persons – as long as their ideas are good for the community. If, however, we are talking about those who just make noise, we will try to ignore them and go on and make this project happen.¹³¹⁰

¹³⁰⁵ Roșia Montană Public Meeting

¹³⁰⁶ Field Notes 24 July 2012

¹³⁰⁷ Field Notes 24 July 2006

¹³⁰⁸ Alba Iulia Public Meeting; Bistra Public Meeting; Cămpeni Public Meeting; Roșia Montană Public Meeting; Bucharest Public Meeting

¹³⁰⁹ Alba Iulia Public Meeting

¹³¹⁰ Bistra Public Meeting

At Câmpeni, Mr. Aston complained:

*Alburnus Maior's policy not to speak with the company deprives us of the benefits of their ideas. And we're very sorry for that.*¹³¹¹

While he did not provide any examples, Mr Aston asserted that the people of Roşia Montană:

*saw that when we listened to their opinion, if there were enough good reasons, we changed the project for them.*¹³¹²

Yet in the 14 public meetings that I attended not one argument was accepted from either side. Nor could I find any references to changes made to the project design - after the RMGC EIA hybrid forums - in the EIA Annex.¹³¹³

After my experience at the public meetings, I was surprised to find that a good proportion (41%) of those who completed the survey administered as part of this research claimed to have changed their views as a result of their participation. It should have been obvious to me that those who spoke at the meetings were less likely to have been open to preference shifts. Of those who both spoke at the meetings and completed a survey (18% of speakers), 78% did not shift their position as a result of meeting participation. Of those who did not speak, 54% did not change their position. This meant that the participant preference shifts that did occur were concealed in the silence of the audience.

¹³¹¹ Câmpeni Public Meeting

¹³¹² Deva Public Meeting

¹³¹³ RMGC, 2007

		Shift		No Shift		No Response		Total
Speaker	Support	10	38.5%	16	61.5%	0	0.0%	26
	Neutral		0.0%	1	100%	0	0.0%	1
	Oppose	1	4.5%	21	95.5%	0	0.0%	22
	Total	11	22.4%	38	77.6%	0	0.0%	49
Non Speaker	Support	67	56.3%	44	37.0%	8	6.7%	119
	Neutral	12	40.0%	10	32.3%	9	30.0%	30
	Oppose	14	25.9%	34	64.2%	5	9.3%	54
	Total	93	45.8%	88	43.3%	22	10.8%	203
Total	Support	77	53.1%	60	41.4%	8	5.5%	145
	Neutral	12	38.7%	11	34.4%	9	29.0%	31
	Oppose	15	19.7%	55	73.3%	5	6.6%	76
	Total	104	41.3%	126	50.0%	22	8.7%	252

Table 11: Preference Shift based on Participation Type

Of those who left a meeting opposing the project, 73% of them came into the meeting opposing the project. In other words, most of those who came into a meeting opposing the project (speaker or non-speaker) also left the meeting opposing the project; those who oppose the project were less likely to change their views as a result of participating in a meeting. On the other hand, of those who left the meeting supporting the project 53% came into the meeting with a different view. This would suggest that the company managed to persuade some people to support the project.

Those meetings where opposition members attended were more partisan than the meetings where they did not attend. When we compare the partisan meetings to the less partisan meetings, we find that attendance by opposition members may have made a difference in the preference shifts experienced by participants. For those meetings with opposition members present, 41% of the participants who left the meeting supporting the project arrived at that position as a result of their participation. While for those meetings without members of the opposition present, 60% of the participants who left the meeting supporting the project arrived at that position as a result of their participation.

		Shift		No Shift		No Response		Total
Opposition Presence	Support	22	40.7%	29	53.7%	3	5.6%	54
	Neutral	4	36.4%	4	36.4%	3	27.3%	11
	Oppose	9	19.6%	36	78.3%	1	2.2%	46
	Total	35	31.5%	69	62.2%	7	6.3%	111
No Opposition Presence	Support	55	60.4%	31	34.1%	5	5.5%	91
	Neutral	8	38.1%	7	33.3%	6	28.6%	21
	Oppose	6	20.7%	19	65.5%	4	13.8%	29
	Total	69	48.9%	57	40.4%	15	10.6%	141
Total	Support	77	53.1%	60	41.4%	8	5.5%	145
	Neutral	12	38.7%	11	34.4%	9	29.0%	31
	Oppose	15	19.7%	55	73.3%	5	6.6%	76
	Total	104	41.3%	126	50.0%	22	8.7%	252

Table 12: Preference Shift based on Opposition Presence

Both those who support and those who oppose the project appear less open to preference shifts as a result of their participation in partisan meetings. At the partisan meetings 54% (versus 34% at non-partisan meetings) of those who left the meeting supporting the project arrived at the meeting supporting the project. While at the partisan meetings 78% (versus 66% at non-partisan meeting) of those who left opposing the project arrived with that position.

It is evident from the analyses described in this chapter that the RMGC hybrid forums convened as part of the RMGC EIA process cannot be considered legitimate based on the legitimacy conditions of free from coercion, equal, inclusive and reciprocal. Participants used threats and interruptions to intimate others and to alter the content of their arguments. Logistically and procedurally the meetings were structured to ensure that the company's arguments dominated the deliberations. While public meetings were held in 14 different locations, company employees travelled from meeting to meeting in some cases literally crowding out local participants and effectively crowding out the arguments of the locals at other meetings. The participants did not treat each other with mutual respect; rather, they insulted and accused each other. There

was, however, some evidence that participants transformed their preferences toward project support as a result of meeting participation – especially at those meetings where the opposition was not present.

CHAPTER 11: CONDITIONS THAT SHAPE DELIBERATIVE CONTENT

In this chapter, I continue the critical assessment of the legitimacy claims of the hybrid forums that were employed as part of the Roşia Montană Gold Corporation (RMGC) Environmental Impact Assessment (EIA) Process. This assessment is based on the standard of deliberative legitimacy for hybrid forums drawn from deliberative democracy theory and practice and developed in chapters 6 and 7 of this thesis. In this chapter, I assess the three conditions that shape deliberative content: deliberative participants ought to be informed; deliberations ought to be guided by reason; and deliberations ought to occur early in the decision-making process when all options are still on the table.

Hybrid Forum Legitimacy Standard	
Conditions that Guide Deliberator Relations Chapter 10	
Free from Coercion	Yes
Equal	Yes
Inclusive/Representative	Representative
Reciprocal	Reciprocal/Authentic
Transformative	Yes
Conditions that Shape Deliberative Content Chapter 11	
Informed	Yes
Reasonable	Expanded
Early Participation	Yes
Conditions that Link the Forum the to Deliberative System Chapter 12	
Influenced	Yes
Justifiable/Accountable/ Influential	Influential
Public/Transparent	Yes

INFORMED

In order for deliberations to be legitimate, they must be conducted by informed and competent participants.¹³¹⁴ Participants must have access to the most complete, accurate and relevant empirical evidence about current conditions and about the feasibility and possible consequences of alternative proposals.¹³¹⁵ Empirical claims must be consistent with and verifiable by reliable methods of enquiry.¹³¹⁶ 'By using the most reliable methods of inquiry, we demonstrate our mutual commitment to reach deliberative agreement in the empirical realms that are relevant to moral argument.'¹³¹⁷ UN conventions and European and Romanian legislation all emphasise the importance of public access to environmental information in order for the public to participate in legitimate public debate.¹³¹⁸ The Aarhus Convention and European legislation assign the responsibility for the provision of information to signatories and member states.¹³¹⁹ However, in Romanian legislation, this responsibility is mainly assigned to the project owner – RMGC in this case - and its consultants.¹³²⁰

¹³¹⁴ Benhabib, 1996; 71; Dryzek, 1990; 55; Dryzek, 2000; 12, 134; Dryzek, 2001; 660, 666; Hendriks, 2002; 70; Hendriks, 2006; 502; Gutmann and Thompson, 1996; 43, 95, 173-4, 216, 356; Chambers, 2003; 316; Levine, Fung and Gastil, 2005; 274; Habermas, 1996; 23; Cohen, 1996; 99; Barber, 2003; 137; Melville, Willingham, and Dedrick, 2005; 41; Scully and McCoy, 2005; 200; Fishkin and Farrar, 2005; 71; Carson and Hartz-Karp, 2005; 127; Stringer, Scricciu and Reed, 2009; 87; Almer and Koontz, 2004; 476; Rojanamon, Chaisomphob, and Bureekul, 2010; 3; Pretty and Shah, 1997; 54; Okello and Beevers et. al., 2009; 218; Diduck and Sinclair et al., 2007; 220; Soneryd and Weldon, 2003; 23; Sokoloff, Steinberg and Pyser, 2005, 186

¹³¹⁵ Gutmann and Thompson, 1996; 15; Benhabib, 1996; 71; Papadopoulos and Warren, 2007; 456; Moran, 2006; 4

¹³¹⁶ Gutmann and Thompson, 1996; 14-15, 55-6; Medearis, 2005; 62

¹³¹⁷ Gutmann and Thompson, 1996; 15

¹³¹⁸ UNECE, 1998; 5; UNDESA, 1992; European Directives 85/337/EEC, 2001/42/EC, 2003/4/EC; 2003/35/EC, 2004/35/EC; Romanian Ordinance 860/2002; Romanian Environmental Law 137/1995

¹³¹⁹ UNECE, 1998; 5; European Directives 85/337/EEC, 2001/42/EC, 2003/4/EC; 2003/35/EC, 2004/35/EC

¹³²⁰ Romanian Ordinance 860/2002; Romanian Environmental Law 137/1995

While Romanian public administration has become more transparent since the EU accession process and the correlated alignment of Romanian law, Romanian authorities have refused to provide official information related to the Roşia Montană case in the same way that they never formally investigated and reported on the events of the Revolution.¹³²¹ Administrators talk about participating in local radio and television interviews; distributing press releases to the local press and about publishing flyers and informational materials for various sectors.¹³²² The Freedom of Information Law of 2001 requires public officials to provide information to the public on request.¹³²³ However, under the communist regime government officials had grown accustomed to finding ways to conceal information from the public.¹³²⁴ The lack of official information about the RMGC proposed project, just like the lack of an official investigation about the events of the revolution, has left the public uninformed, confused, divided and forced to rely on biased opinions, rumours and lies.¹³²⁵ This lack of transparency and the manipulation of public information by unaccountable associations make it difficult for Romanians to work together to form powerful associations and to trust that their efforts at public participation can actually influence public decision and action.

¹³²¹ Romanian Transparency Law 52/2003, Ch II; Article 6; Arad County Council; Alba County Environmental Guard; Hunedoara County Environmental Guard; Alba County Council; Cluj County Sub Prefect; Confidential 1; Hunedoara Prefect; Ministry of Economy and Commerce; Ministry of Culture and Religion; National Agency for Mineral Resources

¹³²² Interviews: Alba County Environmental Guard; Hunedoara County Environmental Guard; Alba County Council; Alba County Culture and Religion; Alba County Sub Prefect; Cluj County Sub Prefect; Confidential 1; National Agency for Mineral Resources

¹³²³ Romanian Freedom of Information Law 544/2001, Ch II; Article 3; National EPA; Cluj County Sub Prefect; Ministry of Culture and Religion; National Agency for Mineral Resources; Alba Culture and Religion

¹³²⁴ Almer and Koontz, 2004; 489

¹³²⁵ Siani-Davies, 2001; 21

Here, I review the some of the information that was provided for the RMGC hybrid forum deliberations. There is not sufficient space in this chapter to document a comprehensive review of all of the information that was provided for the forums. Instead I analyse the information sources that were most raised by the hybrid forum participants.

In general, the primary source of information for EIA hybrid forums is the EIA Report.¹³²⁶ According to LA21, governments should facilitate the participation of research facilities and local experts who ought to manage environmental impact assessment processes.¹³²⁷ Governments should ensure the independence of the scientific community to investigate and publish without restriction.¹³²⁸ However, in reality, EIA Reports are generally prepared by project owners or their consultants.¹³²⁹

Project owners want their projects to be approved.¹³³⁰ The selection, interpretation and presentation of information can be used to 'ignore or downplay negative impacts or risks, and to exaggerate potential project benefits'.¹³³¹ In particular project owners may exaggerate a project's economic benefits - usually the most important justification for large industrial projects.¹³³² Neutrality is difficult to discern when a policy decision includes many variables, few certainties and constant change. The authors of the RMGC EIA Report are individuals and companies authorised by the state but selected and

¹³²⁶ O'Faircheallaigh, 2010; 21

¹³²⁷ UNDESA, 1992

¹³²⁸ UNDESA, 1992

¹³²⁹ O'Faircheallaigh, 2010; 21; Almer and Koontz, 2004; 490

¹³³⁰ O'Faircheallaigh, 2010; 21

¹³³¹ O'Faircheallaigh, 2010; 21; Almer and Koontz, 2004; 490

¹³³² O'Faircheallaigh, 2010; 21

compensated by the project manager.¹³³³ The director of the Alba EPA defended this process as neutral, arguing that the RMGC EIA Report had not been influenced by government and political factors.¹³³⁴

In May 2006, RMGC submitted its 33 volume EIA Report for its Roşia Montană gold mine project.¹³³⁵ The document contains more than 3,000 pages in 3 sections: 10 Chapters¹³³⁶, 9 Baseline Reports¹³³⁷ and 14 Plans¹³³⁸. According to the RMGC EIA Report, the report was 'prepared by an independent team of Romanian and International consulting companies.'¹³³⁹

Various groups published evaluations of the EIA Report. In August 2006, Alburnus Maior partnered with the Romanian Academy and the Romanian Open Society Foundation to commission - what they called - an expert assessment of the RMGC EIA Report.¹³⁴⁰ In September 2006, a group of Hungarian experts – invited or employed by the Hungarian Ministry of the

¹³³³ Romanian Ordinance 860/2002 Ch II § 3 Article 26; Romanian Environmental Law 137/1995 Ch II § 1 Article 11; Moran, 2006; 9

¹³³⁴ Interview - Alba APM

¹³³⁵ RMGC, 2006a

¹³³⁶ The Chapters are: General Information, Technological Processes, Waste, Potential Impacts, Assessment of Alternatives, Monitoring, Risk Cases, Description of Difficulties, Non-Technical Summary and Transboundary Impacts.

¹³³⁷ The Baseline Reports are: Air Quality, Aquatic, Biodiversity, Cultural, Health, Hydrogeology, Meteorological, Noise and Vibration and Soil.

¹³³⁸ The Plans are: Air Quality, Biodiversity, Cultural Heritage, Cyanide Management, Emergency Preparation, Environmental and Social Monitoring, Environmental and Social, Mine Rehabilitation, Noise and Vibration, Public Consultation, Sustainable Development, Tailings Facility, Waste Management and Water Management and Erosion.

¹³³⁹ RMGC, 2006a; Chapter 9 page 9

¹³⁴⁰ Moran, 2006; 4; This team included botanists from Great Britain, a biologist from Switzerland, a hydrogeologist from the United States and an ornithologist, a sociologist and archaeologist all from Romania. (Alburnus Maior, 2006g) Robert Moran, the U.S. hydrogeologist, published his assessment of the Roşia Montană EIA Report. His report was prepared after spending the month of August 2006 in Roşia Montană, reviewing the project documentation and the project area and meeting with RMGC representatives, local citizens and Romanian public officials. (Moran, 2006; 4) This report was prepared for Alburnus Maior and funded by Staples Trust, U.K. and the Open Society Foundation. (Moran, 2006; 4)

Environment - published their assessment of the RMGC EIA Report.¹³⁴¹ The Romanian and Hungarian Joint Commission on Environmental Protection commissioned an evaluation by the Independent Group of International Experts (IGIE) that was published in November 2006.¹³⁴² In February 2007, Alburnus Maior commissioned Robert Moran¹³⁴³ to prepare a response to the IGIE Report.¹³⁴⁴ Each of these evaluations highlighted weaknesses in the EIA Report.¹³⁴⁵

The Alburnus Maior assessment of the EIA Report concludes that the EIA Report 'is poorly organised, confusing and not comprehensive'.¹³⁴⁶ They claim that the report is not technical and does not use scientific arguments or statistical comparisons of other similar mines in operation, but rather relies on public relations arguments to justify its project.¹³⁴⁷ Dr. Moran worries that this use of language minimises the negative aspects of the project.¹³⁴⁸ This assessment asserts that the report is not at all independent.¹³⁴⁹ The authors claim that the baseline condition study is not sufficient and does not adequately describe the damage done by past mining activities – making it impossible to

¹³⁴¹ Hungarian Ministry of the Environment, 2006; 1; Alburnus Maior 7 October 2006 Press Release Retrieved 2 September 2012 from http://www.ngo.ro/site_item_full.shtml?x=27091

¹³⁴² IGIE, 2006; Moran, 2007; 2; The IGIE panel was comprised of 6 mining and environmental experts – 2 from Romania, 2 from Hungary, one from Sweden and one from Germany. (IGIE, 2006; IX; Gabriel Resources 2 March 2007 Press Release Retrieved 2 September 2012 from <http://www.newswire.ca/fr/story/11781/independent-expert-panel-calls-rosia-montana-project-well-developed>) The expert group reviewed certain sections of the EIA Report – including the chapters that relate to the cyanide process, transportation, TMF construction and management, water cycle management, environmental management, audits and transparency and mine closure activities. (IGIE, 2007)

¹³⁴³ According to Mr. Moran, he has 35 years hydrogeological and geochemical experience. He has worked at 'hundreds of mining sites.' (Moran, 2007; 2)

¹³⁴⁴ Moran, 2007; 2

¹³⁴⁵ Focus groups convened by RMGC also concluded that information about the RMGC Project is 'insufficient, unclear and, sometimes, contradictory'. (RMGC, 2006f; 40)

¹³⁴⁶ Moran, 2006; 1

¹³⁴⁷ Moran, 2006; 1, 9

¹³⁴⁸ Moran, 2006; 9

¹³⁴⁹ Moran, 2006; 1, 9

evaluate and therefore hold RMGC responsible for – the impact of RMGC proposed operation.¹³⁵⁰ Moran concludes that a similar project would not be authorised if it were proposed in Canada, the United States or the EU.¹³⁵¹

The Hungarian Ministry of the Environment's assessment committee assert that the RMGC EIA Report has major deficiencies and contradictions and presents inaccurate conclusions.¹³⁵² In general, the committee concluded that the EIA Report does not describe the impacts of the proposed project in an 'appropriate professional manner'.¹³⁵³ The quality of the data used to support the EIA Report is 'insufficient, deficient, inaccurate or not considered to be representative'.¹³⁵⁴ The material uses the terms 'very low probability' or 'very unlikely' in relation to risks, even to support essential final conclusions.¹³⁵⁵ The committee concludes that the document does not completely answer the questions raised in the Scoping Stage Guidelines document.¹³⁵⁶ In this document, the Hungarian Ministry of the Environment proposes that the Romanian authorities reject the environmental agreement for the RMGC project.¹³⁵⁷

The IGIE concluded that the RMGC EIA Report was 'well developed' and identified 12 *concerns*, 36 *recommendations* and 57 *remarks* for the report.¹³⁵⁸

¹³⁵⁰ Moran, 2006; 2

¹³⁵¹ Moran, 2006; 3

¹³⁵² Hungarian Ministry of the Environment, 2006; 1

¹³⁵³ Hungarian Ministry of the Environment, 2006; 1

¹³⁵⁴ Hungarian Ministry of the Environment, 2006; 1

¹³⁵⁵ Hungarian Ministry of the Environment, 2006; 1

¹³⁵⁶ Hungarian Ministry of the Environment, 2006; 1; Their assessment identified 122 critical observations. (Hungarian Ministry of the Environment, 2006; 1)

¹³⁵⁷ Hungarian Ministry of the Environment, 2006; 1

¹³⁵⁸ IGIE, 2006; II-IX; Soon after the IGIE Report was publically released, Gabriel Resources distributed a press release drawing attention to the IGIE conclusion that the RMGC EIA Report was 'well developed'. (Gabriel Resources 2 March 2007 Press Release Retrieved 2 September

For example, while the IGIE found that the construction of the Corna Dam is in principle feasible; they expressed concerns that the EIA did not include a quantitative analysis of the 'storage, sediment- and dam fill-volumes' over time.¹³⁵⁹ The IGIE found that the general concept and design of the Tailings Management Facility (TMF) complies with existing recommendation and regulations and that the height of the main dam appears safe.¹³⁶⁰ However, they worry that the potential effects of climate change have not been considered in the report.¹³⁶¹ The IGIE argues that the transportation impacts have not been detailed in the report and go as far as to say:

*Despite of the [sic] transport management system described in the EIA, the review group has doubts if the present provincial road conditions from any direction to Roşia Montana would satisfy the safety requirements for such transport. This refers especially to the conditions during winter and during intense rainstorms, which are becoming more and more frequent during the springtime in the Carpathians.*¹³⁶²

The IGIE appears especially concerned about the proposed rehabilitation plan and the lack of details provided in the EIA Report regarding the Environmental Financial Guarantee (EFG).¹³⁶³ The IGIE recommends that the closure and

2012 from <http://www.newswire.ca/fr/story/11781/independent-expert-panel-calls-rosia-montana-project-well-developed>)

¹³⁵⁹ IGIE, 2006; 15

¹³⁶⁰ IGIE, 2006; 14, 23

¹³⁶¹ IGIE, 2006; 22

¹³⁶² IGIE, 2006; 10-12; This comment was classified as a remark rather than a concern.

¹³⁶³ IGIE, 2006; 20, 32-3; The IGIE specifically worries that the type of holding company (bank, bonding, insurance or financial institution) has not been named and that the process of fund accumulation has not been mentioned. (IGIE, 2006; 33)

remediation of the Minvest mining facilities ought to be considered as a prerequisite to the proposed RMGC project.¹³⁶⁴

In Dr. Moran assessment of the IGIE evaluation he complains that the selection process of the IGIE participants, as well as, their compensation and experience were not made available to the public.¹³⁶⁵ Dr. Moran questions the actual independence of the experts and criticises the selection process that did not include the participation of civil society associations.¹³⁶⁶ Moran asserts that many of the IGIE *recommended changes* and *remarks* were significant enough to be categorized as *concerns*.¹³⁶⁷ Moran complains that the IGIE report ignores some of the inadequacies of the RMGC EIA Report and expresses his concern about what he considers an inadequate EFG in the event of an environmental crisis.¹³⁶⁸

The RMGC EIA Report is very large.¹³⁶⁹ A professor from the Polytechnic University of Timișoara and a Deva meeting participant complained that:

I consider this a mockery. Please note this word, even though it is so tough. Posting on the official website of the National Institute of Weather and Hydrology a huge quantity of information, packed so

¹³⁶⁴ IGIE, 2006; 26, 37; When the IGIE Evaluation was released the group issued a public statement describing their report as a 'working document' and not the 'official opinions of the Hungarian and Romanian ministries'. (IGIE, 2007)

¹³⁶⁵ Moran, 2007; 2

¹³⁶⁶ Moran, 2007; 3; Moran actually accuses two members of the IGIE of conflict of interest - one member (Mr. Ioan Bica a Civil Engineering professor from the Technical University in Bucharest) who had previously contributed to the RMGC project design and EIA Study and another member (Dr. Philip Peck) who is also a representative of the UNDP Bratislava Regional Centre, which had been linked to Gabriel Resources. (Moran, 2007; 3)

¹³⁶⁷ Moran, 2007; 5

¹³⁶⁸ Moran, 2007; 14

¹³⁶⁹ Bucharest Public Meeting; Moran, 2007; 4; Haiduc, 2006; Moran, 2006; 7; Field Notes 31 July 2006; Roșia Montană Council Member 2; Formula AS August 2006 Retrieved 5 September 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

*tight, that it couldn't be downloaded on your PC in weeks! That's something to be ashamed of.*¹³⁷⁰

To download the entire 3,134 pages of EIA Report requires 462 downloads and 740 megabytes of memory.¹³⁷¹ This figure does not include the figures, exhibits, photos, drawings, maps, diagrams, appendices, annexes, tables and timelines that are part of the chapters, reports and plans but separate documents.¹³⁷² RMGC did provide a 92 page Non-Technical Summary Chapter for the EIA Report.¹³⁷³ However, it would be very difficult for an individual - especially a citizen who works full-time - to read, study and understand the report in a way that allows for a sufficient evaluation of the project.

A Bucharest participant complained that in many cases information is repeated in the 33 chapters of the RMGC EIA Report.¹³⁷⁴ According to his analysis, chapter 13 has the same information as chapters 4 and 27.¹³⁷⁵ This participant pointed out that:

*We had the patience to study this [document...] with the assistance of civil society [activists]. In my opinion, the impact study is illegal.*¹³⁷⁶

My analysis confirms that the EIA Report contains a number of duplications – with enough format changes to make it difficult to notice the similarities between chapters.¹³⁷⁷ For example, duplications were found between Chapter 4.8 Social

¹³⁷⁰ Deva Public Meeting

¹³⁷¹ RMGC, 2006a

¹³⁷² RMGC, 2006a

¹³⁷³ The Technical Summary Chapter includes information on the planned operation, environmental and socio-economic baseline conditions and possible impacts on the environment. (RMGC, 2006a; Chapter 9)

¹³⁷⁴ Bucharest Public Meeting

¹³⁷⁵ Bucharest Public Meeting

¹³⁷⁶ Bucharest Public Meeting

¹³⁷⁷ Moran, 2007; 4, Moran, 2006; 7

and Economic Environment of Roşia Montană and the Community Sustainable Development Programme chapter.¹³⁷⁸ In total 38 pages of Chapter 4.8 were duplicated in the Sustainable Development chapter.¹³⁷⁹ If the title page, the table of contents and the nearly blank pages (6 pages) are not counted, 85% of the substantive portion of Chapter 4.8 was duplicated in another chapter. An initial scan indicates that similar duplications can be found between many of the Report's Plan and the Baseline Chapters.¹³⁸⁰ While some duplication may be necessary - for people who read only one of the two reports - such duplication might be highlighted in some way so as not to overburden the reader.

During the public meetings, participants complained about the quality of the EIA Report. At the Alba Iulia public meeting, a participant and a geologist complained that the EIA Report uses words like 'improbable' and 'likely'.¹³⁸¹ He complains that the report is based on probabilities rather than on facts.¹³⁸² According to a former Minister of the Environment who participated in the Bucharest meeting, the potential impact sections of the EIA Report were made 'superficially'.¹³⁸³ He added that in order to diminish the perception of the possible impact, the Plan Chapters were 'filled with general stuff'.¹³⁸⁴ Another participant of the Bucharest meeting expresses concern that the potential negative impacts of the project have been minimised.¹³⁸⁵ Also at that meeting a participant complained that the EIA Report was not neutral; he argued, 'it is a

¹³⁷⁸ RMGC, 2006a

¹³⁷⁹ RMGC, 2006a; Chapters 4.8 and the Sustainable Development Chapter

¹³⁸⁰ RMGC, 2006a

¹³⁸¹ Alba Iulia Public Meeting

¹³⁸² Alba Iulia Public Meeting; Mr. Aston replied that, 'nothing in the life we live is 100% certain'. (Alba Iulia Public Meeting)

¹³⁸³ Bucharest Public Meeting

¹³⁸⁴ Bucharest Public Meeting

¹³⁸⁵ Bucharest Public Meeting

study signed by those who benefit from it'.¹³⁸⁶ Another participant complained about the quality of the EIA Report:

*I don't think this is a serious study that says that 4 substances are sent into the atmosphere and then you make a small map of those substances, with how they spread. I don't know which specialists made this study, but I consider it pretty poor. I repeat. I have enough experience in other substances from other industries, not necessarily from the extracting one. And from my experience I consider this study very poor.*¹³⁸⁷

Some participants found that the EIA Report lacked important information:

*Where can I find a financial analysis from where you can see, clearly, what are the investments, what are the operating costs and what is the profit? And if I cannot find this analysis, why can't I find it? On the other hand, I would like the Ministry of Environment to note that in case the agency did not consider including this analysis [in the EIA Report] necessary, then the Technical Analysis Committee should not consider any number published by the company regarding investments and the gains of the Romanian state.*¹³⁸⁸

One participant argued that the EIA Report was not consistent with the Roșia Montană exploitation license.¹³⁸⁹ According to him the RMGC's license allowed for the exploitation of 400 thousand tons per year, but the EIA Report is proposes a production schedule of 13 million tons per year.¹³⁹⁰ The company admitted to the discrepancy, but asserted that the National Agency for Mineral

¹³⁸⁶ Bucharest Public Meeting; Câmpeni Public Meeting

¹³⁸⁷ Deva Public Meeting

¹³⁸⁸ Bucharest Public Meeting

¹³⁸⁹ Bucharest Public Meeting

¹³⁹⁰ Bucharest Public Meeting

Resources would modify the license to meet the capacity described in the EIA Report once the company received environment authorisation.¹³⁹¹

One participant questioned the figure the company estimates (\$73 million) is required to close the project and rehabilitate the environment.¹³⁹² During the Roşia Montană meeting, this participant used the same cost figures the company uses to close the Roşia Montană site to calculate the cost of closing just the tailings dam.¹³⁹³ She estimates that it will cost the company \$768 million just to rehabilitate the environment of the Corna valley after the project.¹³⁹⁴ At the meeting, the company argues that because the rehabilitation will take place during the project operations (starting in the 7th year of operations) some of the rehabilitation costs will be covered by normal operations.¹³⁹⁵ In the EIA Annex, the company raises the rehabilitation costs to \$76 million and argues that the estimate is credible.¹³⁹⁶

OPUS, an architectural firm, complained that the EIA Report misrepresented its findings.¹³⁹⁷ This firm had been commissioned to write the 'Cultural Heritage Management Plan for the Historical Centre of the Village of Roşia Montană' that was included in the RMGC EIA Report.¹³⁹⁸ According to OPUS, fragments of its report were pieced together – 'radically distorting the conclusions'¹³⁹⁹. The firm

¹³⁹¹ Bucharest Public Meeting

¹³⁹² Roşia Montană Meeting

¹³⁹³ Roşia Montană Meeting

¹³⁹⁴ Roşia Montană Meeting

¹³⁹⁵ Roşia Montană Meeting

¹³⁹⁶ RMGC, 2007; Volume 5 page 11

¹³⁹⁷ OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf

¹³⁹⁸ OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf

¹³⁹⁹ OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf

alleges that the important conclusions of their report are 'missing, incomplete or have been used in a context different from their original one.'¹⁴⁰⁰ RMGC blamed the misrepresentation of the OPUS report on the National History Museum of Romania, which had been contracted by RMGC to conduct the study and to write the report for the cultural aspects of the EIA Report.¹⁴⁰¹ The Museum sub-contracted the cultural management plan to OPUS.¹⁴⁰² According to RMGC, the Museum then merged different fragments from the documents of various sub-contractors into a single report.¹⁴⁰³

Participants complained that it was not clear which EIA Report authors were liable for which sections of the EIA Report.¹⁴⁰⁴ A list of the authors of the EIA Report can be found in chapters 1 and 9.¹⁴⁰⁵ However, the authors for each chapter, study or section are not designated.¹⁴⁰⁶ Moran argues that without knowing which consultants produced which report, it is impossible to verify their experience and credentials.¹⁴⁰⁷ He says:

*It is clear in several sections that many of the authors, whoever they are, do not have the requisite specific experience.*¹⁴⁰⁸

Participants wanted the:

¹⁴⁰⁰ OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf

¹⁴⁰¹ RMGC, 2007; Volume 5, page 5

¹⁴⁰² OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf; RMGC, 2007; Volume 5, page 5

¹⁴⁰³ RMGC, 2007; Volume 5, page 5; OPUS Open Letter 12 August 2006 Retrieved 24 July 2012 from http://www.simpara.ro/rm_en/letter.pdf

¹⁴⁰⁴ Bucharest Public Meeting; Roşia Montană Meeting; Moran, 2006; 1, 8

¹⁴⁰⁵ RMGC, 2006a; Chapter 1 page 7-9; RMGC, 2006a; Chapter 9 page iii-vii; Moran, 2006; 1, 8; RMGC at Bucharest Public Meeting

¹⁴⁰⁶ RMGC, 2006a

¹⁴⁰⁷ Moran, 2006; 1, 8

¹⁴⁰⁸ Moran, 2006; 1, 8

*name of the responsible person who developed the study and who guarantees that nothing will go wrong.*¹⁴⁰⁹

Another participant explained it this way:

*I didn't see written anywhere [in the EIA Report] the [names of the] people who will be accountable when the tailing pond breaks and Abrud is wiped off the face of earth. 10,000 people live in Abrud. When the people in the Corna Valley and Abrud die and when the ecological disaster takes place, who will be accounted for all this? I want a list with names and not an organization with the headquarters in Barbados. More exactly, who will go to jail when the ecological disaster takes place? Who are these people? The specialists? In the EIA Report, lots of chapters aren't even signed by a certain person. We don't know who is held responsible for those chapters.*¹⁴¹⁰

At the Alba Iulia meeting, Mr. Aston replied that the names of the authors and designers of the projects would be listed on the actual permits once they are issued.¹⁴¹¹ At the Bucharest meeting, Mr. Aston said that 'a straight yes or no answer cannot be given' concerning liability.¹⁴¹² He argues that the responsibility is shared; the company is responsible for providing correct data to the designers of the EIA Studies; the authors of the EIA Report are responsible for the information in the document; the government is responsible for law enforcement.¹⁴¹³ He says, 'a single person cannot be responsible'.¹⁴¹⁴

¹⁴⁰⁹ Alba Iulia Public Meeting

¹⁴¹⁰ Roşia Montană Meeting

¹⁴¹¹ Alba Iulia Public Meeting

¹⁴¹² Bucharest Public Meeting; This is a particularly poignant issue for Romanians, because liability for the Baia Mare disaster was never assigned. The Romanian state was forced to pay the Hungarians nearly \$100 million in compensation for damages. (Cyanide Free Romania, 2011; FAQ Page)

¹⁴¹³ Bucharest Public Meeting

¹⁴¹⁴ Bucharest Public Meeting

A Bucharest participant pointed out that the author of the Biodiversity Baseline Study for the EIA Report (Stantec) was not accredited by the Ministry of the Environment.¹⁴¹⁵ At the meeting, Mr. Aston asserted that the authors do not have to be certified to conduct the baseline studies for the EIA Report.¹⁴¹⁶ I could not find anywhere in the Romanian legislation that stipulates that accredited authors are required for certain sections of the EIA Report and not others.¹⁴¹⁷ Later in the EIA Annex, the company responds that Stantec did not prepare the Biodiversity Baseline Study; rather the Forests Research and Development Institute (FRDI) authored that section.¹⁴¹⁸ The first page of the Biodiversity Baseline Study lists Stantec as the author.¹⁴¹⁹

Each quarter and at each year end, Gabriel Resources is required by the Toronto Stock Exchange (TMX) to publish an honest report of the company's activities.¹⁴²⁰ These quarterly reports include both financial and project information. In Romania, Non-Governmental Organisations (NGOs) are not required to publically publish their financial reports. Formally constituted associations are required to publish their financial reports with the government and this information is accessible by Freedom of Information Request.¹⁴²¹ Sometime in 2008, Alburnus Maior began posting a list of their major donors on their website.¹⁴²² Alburnus Maior accuses the company of intentionally misrepresenting court decisions and ministerial actions in their financial reports

¹⁴¹⁵ Bucharest Public Meeting

¹⁴¹⁶ Bucharest Public Meeting; Alburnus Maior, 2007d; 8

¹⁴¹⁷ Romanian Order 978/2003; Romanian Order 863/2002

¹⁴¹⁸ RMGC, 2007; Volume 5 page 10

¹⁴¹⁹ RMGC, 2006a; Biodiversity Baseline Study

¹⁴²⁰ These reports are available, in English, through the Ontario Securities Commission's (OSC) company database run on SEDAR. (www.sedar.com)

¹⁴²¹ Alburnus Maior Freedom of Information Request Response 14 March 2007

¹⁴²² Alburnus Maior, 2011

in order to influence Gabriel Resources investors and share prices.¹⁴²³ Members of the opposition complain that Gabriel Resources provides information to investors, in English only financial reports, that is different from the information that is provided to the Romanian public in the EIA Report and at the public meetings.

In 2003 there are 3 pages of risks that Gabriel recognizes for this project. In 2004 there are 6 pages of risks; and in 2005 there are 5 pages of risks. Let's see what it says in the 2005 yearly report, about the upcoming year 2006. "We don't have the money required to start the exploitation". It says, "We do not have the financial resources to construct the mine in Roşia Montană". It says in the yearly report on pages 22 and 32. "The failure to obtain additional financing could result in delay or indefinite postponement of further development of our project, with the possible loss of such properties", says Gabriel. Can the Government of Romania approve a project that tomorrow [the company] says it doesn't want anymore?¹⁴²⁴

The company complains that opposition members take this information out of context.¹⁴²⁵

There are no codes of conduct or ethical, methodological or quality standards that must be met legally by public officials, companies or civil society organisations who publish the results of their studies. There are no restrictions or guidelines that require researchers to employ methods that ensure the validity and reliability of their conclusions. Many studies do not describe the

¹⁴²³ Alburnus Maior, 2007b; Alburnus Maior 29 September 2010 Press Release Retrieved 4 September 2012 from <http://rosiamontana.org/en/index.shtml?cmd%5b314%5d=x-314-39367&cmd%5b316%5d=x-322-39367&cmd%5b300%5d=x-299-39367>

¹⁴²⁴ Bucharest Public Meeting

¹⁴²⁵ Bucharest Public Meeting

data collection and analysis methods used to reach their conclusions. Reports based on questionable evidence have been published as scientific by voluntary associations in press releases, investor reports, public meetings and on websites to justify their position and the support they receive - confusing the public and ultimately the public debate. Members of the opposition and a local archaeologist accuse the company's consultants of conducting only superficial studies of the Roşia Montană's archaeology so that RMGC can obtain the approval it needs to continue with its proposed project.¹⁴²⁶ One meeting participant complains about the sampling methods used by the company to identify the baseline health conditions of the community:

The study about initial conditions regarding health is not representative at all for the community in Roşia Montană and I will tell you why. The study is structured in two parts. It is about a survey that was applied to 141 people and an evaluation of the population's health based on the medical records of each patient who has made a visit to his family doctor in a certain amount of time. About the first aspect, there is no sample, which means that this study, from the perspective of a sociologist, the statistic information is not relevant. I can also find 141 people from Roşia Montană that are against the project and make them say yes and then tell everyone that this is the will of the people from Roşia. On another note, statistical speaking, this medical records that have been consulted cannot be generalized, not at the level of the whole community.¹⁴²⁷

¹⁴²⁶ Deva Public Meeting; Alba Iulia Public Meeting; Alburnus Maior, 2006; 7; Ciugudean, 2006 and RMGC, 2007; Volume 2 page 100; Paul Kingsnorth Retrieved 13 August 2012 from <http://grist.org/climate-energy/nijhuis-roth/>; PACE, 2004; 1; PACE, 2004; 1

¹⁴²⁷ Alba Iulia Public Meeting

Meanwhile, the company complains that opposition members are misleading the public.¹⁴²⁸ The company complains that members of the opposition announced their positions on the project even before the EIA Report was published.¹⁴²⁹ A supporter of the RMGC project calls the campaign against the RMGC project the ‘biggest Romanian and International misinformation campaign.’¹⁴³⁰ For example, the company complains that members of the opposition call the TMF a cyanide lake, when according to the EIA Report, the waste water will be treated and much of it reused.¹⁴³¹ This means, according to the company, that the TMF will only be filled with rain water and with only low concentrations of cyanide.¹⁴³² At the Bucharest public meeting, Mr. Aston complained:

*We will not destroy 7 kilometres [of Roman Galleries]. There will not be a cyanide lake of 100 hectares. We will not destroy 10 churches. We would have surely opposed the project that these NGOs have created. It's easy to be against something, but at least be against something that exists. The project as it is described by the NGOs, it doesn't exist.*¹⁴³³

At one point during the Alba Iulia meeting, a company representative requested,

*As we strive to give honest and fair answers, please be honest. Please.*¹⁴³⁴

¹⁴²⁸ Roşia Montană Meeting; Bucharest Public Meeting, Deva Public Meeting,

¹⁴²⁹ Deva Public Meeting; Câmpeni Public Meeting; Bucharest Public Meeting

¹⁴³⁰ Deva Public Meeting

¹⁴³¹ Deva Public Meeting; Bucharest Public Meeting; Alba Iulia Public Meeting

¹⁴³² Deva Public Meeting

¹⁴³³ Bucharest Public Meeting; Mr. Aston was the only participant who referred to the destruction of 10 churches during the public meetings analysed for this thesis.

¹⁴³⁴ Alba Iulia Public Meeting

Unfortunately, according to Mr. Aston, the press picks up the misinformation and distributes it to the public.¹⁴³⁵

Meeting participants complained that it was difficult to find the EIA Report on the internet.¹⁴³⁶ Project documentation was supposed to have been published on websites the Ministry of the Environment's, the Alba Agency for the Protection of the Environment, the RMGC and Gabriel Resources websites and 5 other websites.¹⁴³⁷ In reality, during the time of the public meetings, the report could only be accessed, inexplicably, on the National Institute of Weather and Hydrology's website and on the company websites.¹⁴³⁸ Now the Ministry of the Environment's Environmental Protection page includes a link to a Roşia Montană page, which now includes a summary description of the events and status of the RMGC authorisation process and several project documents.¹⁴³⁹

¹⁴³⁵ Deva Public Meeting

¹⁴³⁶ Heidebroek 20 June 2006 Email; Alburnus Maior, 2007d; 4

¹⁴³⁷ Alburnus Maior, 2007d; 8; Romanian Ministry of the Environment, 2006b

¹⁴³⁸ Deva Public Meeting; Heidebroek 20 June 2006 Email; Alburnus Maior, 2007d; 8; In reality the documents were difficult to find even on the company's websites. The project reports can be found on the Gabriel Resources website, but only in English; the links to the Romanian versions of the project documents malfunction. The original Project Presentation Report and Relocation and Resettlement Action Plan and Annex cannot be found on this site. To access the EIA Documents on the RMGC website, the user must first click on the Sustainable Development heading (not very obvious), click on the Reporting heading and then click on the Environmental Impact Assessment link. There the EIA Report chapters and the questions and responses are posted in English and Romanian and sorted by topic. Given the location of the proposed project it is important for project information to be provided in Romanian, English and Hungarian. RMGC plans to build and operate its gold mine in Transylvania, a region of Romania with a large Hungarian population. In addition, the project presents risks to the States that border the country – including Hungary - and the project is being monitored at the European level.

¹⁴³⁹ <http://www.mmediu.ro/>; http://www.mmediu.ro/protectia_mediului/schimbari_climatice.htm; It includes access to RMGC's Security Report (in Romanian only), the official list of people who expressed an interest in the project, RMGC's original Project Presentation Report (in Romanian and English), the Scoping Stage Guidelines (in Romanian and English), the Official Minutes of the public meetings (in Romanian only), the EIA Annex Questions (in their original language), a copy of the International Group of Independent Experts' (IGIE) evaluation of the EIA Report (in English and Romanian), video clips of the press conferences related to the suspension of the EIA Process (in Romanian only), a document describing the suspension of the EIA Process (in English only) and a link to some of the volumes of the EIA Report (in Romanian only) and the EIA Annex (in Romanian and English). The English version of the website is under construction

Since the RMGC public meetings, much of the material provided on websites about the project - by both public authorities and private associations - has been moved, changed, deleted and in some cases added again. There seems to be no legislation regulating the archival of this information on websites. Earlier versions of the Relocation and Resettlement Action Plan (RRAP) have been deleted and are impossible to find. Many of the public authorities, whose websites originally held information on the case, have deleted all content.



Photo 37: Gabriel Resources Caravan (Esko, 2006)

During the period of public debates between 24 July and 25 August 2006, RMGC operated what it called its *Caravan*.¹⁴⁴⁰ The caravan was a trailer truck kitted out with an exhibit of the RMGC project.¹⁴⁴¹ The caravan travelled around the

country to the locations of the public meetings.¹⁴⁴² It operated its exhibit 2 or 3 days prior to the public meeting. It was staffed mostly by students hired for the summer.¹⁴⁴³ Staff distributed promotional materials, CDs of the EIA Report and

and has been, for the most part, since the 2nd half of 2006 when I first started to attempt to access the site. The search engine for the website does not work. The user has to know that the RMGC EIA Documents can be found under the 'Protecția Mediului' link. On that page is a link to a Roșia Montană page. At the bottom of the Roșia Montană page is a link to the EIA Document page. From that page, the user can download 10 Chapters of the EIA Report (in Romanian only); the baseline reports and the plans in any language are not on this page. Also on that page, the user can download the 74 Volumes of the EIA Annex (in Romanian and English). Volumes 60, 68, 70, 71, 76 and 77 of the EIA Annex are corrupted and cannot be downloaded from this page. The EIA Annex can also be found sorted by 27 topics on this page. The RMGC Security Report is only available (in Romanian only) on the Ministry of the Environment's webpage and was not published until sometime in August 2006. The Security Report for the EIA was not published until 5 weeks after the EIA Process had been initiated – in Romanian only. This meant that the public only had 6 weeks to read and comment on the Security Report before the end of the comment period. (Alburnus Maior, 2007d; 8)

¹⁴⁴⁰ The caravan gave out large green Gabriel Resources carrier bags. I remember when I first arrived in Alba Iulia I noticed many people walking around with these carrier bags. My first thought was, 'wow, this community must support the RMGC project.' That was until I learned that carrier bags are a commodity in Romania. A good strong carrier bag has some value in Romania. (Field Notes 8 August 2006; Field Notes 4 August 2006; Field Notes 28 July 2006)

¹⁴⁴¹ Field Notes 24 July 2006

¹⁴⁴² Field Notes 2 August 2006; Field Notes 31 July 2006; Field Notes 8 August 2006; Field Notes 4 August 2006; Field Notes 28 July 2006

explained the project to the public who visited the caravan.¹⁴⁴⁴ Mr. Holton Burns from the RMGC called the caravan their 'propaganda mobile'.¹⁴⁴⁵



Photo 38: EIA Volumes at Arad City Hall (Esko, 2006)

In Romania, the project owner must organise the schedule and locations for viewings of the EIA Report.¹⁴⁴⁶ According to the RMGC public participation announcement, hardcopies of the 33 volume EIA Report could be found (in Romanian City Hall (Esko, 2006) only) in 47 locations in 19 villages, towns and cities around Romania.¹⁴⁴⁷ However, at some locations, the entire EIA Report was missing and at others some of the volumes were missing.¹⁴⁴⁸ According to opposition members, 21 of these locations were university libraries that were either closed for the summer

¹⁴⁴³ Field Notes 24 July 2006; RMGC says that it hired 60 students for the summer of 2006 to staff the caravan and help out with the RMGC public meetings. (Bucharest Public Meeting)

¹⁴⁴⁴ Field Notes 28 July 2006; Field Notes 24 July 2006; Field Notes 25 July 2006; I was not able to get an English language version of the EIA Report from the Caravan.

¹⁴⁴⁵ Field Notes 24 July 2006.

¹⁴⁴⁶ Requirements for the Public Announcement are included in Annex II.4 of Ordinance 860/2002.

¹⁴⁴⁷ Romanian Ministry of the Environment, 2006b; Alburnus Maior, 2007d; 8; Alba County Environmental Guard

¹⁴⁴⁸ Heidebroek 20 June 2006 Email; I checked a few locations - that had been included in the public announcement about the EIA comment period - for copies of the EIA Report. There were no volumes at the Library of Economic Studies Academy in Bucharest (21 August 2006); the library had been closed for the summer for renovations. Deva City Hall had a display of the documents (23 August 2006), but volume 13 was missing. The volumes were not available at the Deva County Library (24 August 2006) at the address in the public announcement. The documents had been moved to another branch. I found the EIA Report at the other branch, but volume 30 was missing. The volumes of the report could not be checked out, but the library had a small booklet about the project that people could borrow and return. Also on 24 August, the documents could not be found at the Arad Library. The library was open, but was going through major reconstruction. The information desk knew nothing about the documents. That same day, I found part of the document at Arad City Hall, but volumes 1, 2, 3, 6, 7, 19, 21, 22, 23 and 31 were missing. The reception desk knew nothing about the documents and the City Hall registrar did not know if the documents could be checked out. A register showed that 3 people had viewed the document. In October 2006, I found 31 of the 33 volumes and 2 CDs at the Bucharest Central University Library. However by that time, the documents had been removed from the Cluj Prefect's office, Cluj City Hall and the Cluj Agency for the Protection of the Environment. I still managed to find all 33 volumes at the Cluj Technical University. (Field Notes 23 August 2006; Field Notes 25 August 2006)

or inaccessible for non-students.¹⁴⁴⁹ Some of the locations closed at 4:30pm, making it difficult for working people to access the report. The report chapters could not be checked out and at many locations a place to sit and review the report had not been arranged.¹⁴⁵⁰ According to the company, it distributed more than 250 hard copies of the report and 6,000 CDs of the EIA Report in Romanian and English.¹⁴⁵¹



Photo 39: Brad Public Meeting (Esko, 2006)

From time to time, company representatives provided misleading and inconstant information to the audiences of the public meetings. Sometimes the misinformation was minor and other times it was substantial. Because members of the public were not permitted to follow up with questions, they were not able to highlight these inconsistencies during the public meetings. Because the responses given by the developer were not documented it would be difficult for the public to verify the accuracy of the information provided at the public meetings.¹⁴⁵² Also because the responses were not documented, it would be difficult for members of the opposition to provide evidence of these inaccuracies to the public authorities at a later date.¹⁴⁵³ For example, at the Alba meeting, Mr. Aston said that Frank Timiș had been removed from the company because 'he is a

¹⁴⁴⁹ Alburnus Maior, 2007d; 8

¹⁴⁵⁰ Field Notes 23 August 2006

¹⁴⁵¹ Deva Public Meeting

¹⁴⁵² Romanian Ministry of the Environment, 2006a; RMGC, 2007; Field Notes 26 July 2006; The responses of the developer were summarised very superficially in the Official Minutes of the public meetings published by the Ministry of the Environment. The responses of the developer were not documented in the more formal and more accurate EIA Annex Questions document.

¹⁴⁵³ Romanian Ministry of the Environment, 2006a; RMGC, 2007; The responses of the developer were summarised very superficially in the Official Minutes of the public meetings published by the Ministry of the Environment. The responses of the developer were not documented in the more formal and more accurate EIA Annex Questions document.

business man, not a project developer.¹⁴⁵⁴ In fact Mr. Timiș resigned during a Gabriel Resources internal investigation into his conduct.¹⁴⁵⁵ At the Alba meeting RMGC representatives claim that they will invest \$800 million in Romania before the first pour; at other meetings this figure became 'nearly \$1 billion'.¹⁴⁵⁶ During the Alba meeting, Mr. Ashton responding to a question said, 'two churches will be moved, probably'.¹⁴⁵⁷ This was after his colleague had just informed the audience during his presentation that the 2 Corna churches and 2 Corna prayer houses would definitely be impacted by the construction of the TMF.¹⁴⁵⁸

As part of the Community Sustainable Development Programme Report, the company reports that 60% of the population in Roșia Montană is inactive.¹⁴⁵⁹ Rather than the unemployment rate, this figure is used to emphasise the employment needs of the community that would be met by the project.¹⁴⁶⁰ In fact while the inactive figure is quoted in 3 chapters of the EIA Report, I could not find a current unemployment rate anywhere in the Report nor was the rate quoted at any of the public meetings.¹⁴⁶¹ However as a participant at the Alba Iulia meeting pointed out, the percentage of Romania's inactive population at

¹⁴⁵⁴ Alba Iulia Public Meeting; In 2007, Mr. Timiș was declared 'an unsuitable person to act as a director, officer or major shareholder of a listed company after it was discovered he had not declared two previous convictions for heroin possession.' Telegraph.co.uk (2010) <http://www.telegraph.co.uk/finance/newsbysector/industry/mining/7591059/Australian-Stock-Exchange-blocks-Frank-Timis-deals.html>

¹⁴⁵⁵ Gabriel Resources 1st Qtr Report 2004.

¹⁴⁵⁶ Alba Iulia Public Meeting; Deva Public Meeting; Bucharest Public Meeting

¹⁴⁵⁷ Alba Iulia Public Meeting

¹⁴⁵⁸ Alba Iulia Public Meeting

¹⁴⁵⁹ RMGC, 2006a; Sustainable Development Plan page 42

¹⁴⁶⁰ RMGC, 2006a; Sustainable Development Plan page 42; In fact while the inactive figure is quoted in 3 chapters of the EIA Report, I could not find a current unemployment rate in the Report.

¹⁴⁶¹ RMGC, 2006a

the national level is 61%, higher even than Roșia Montană.¹⁴⁶² Additionally as the RMGC report describes, 58% of the population in Roșia Montană are elderly women and nearly half the population of Roșia Montană are widows on a pension.¹⁴⁶³ Roșia Montană's inactive population probably has no interest in working for the company anyway.

During the RMGC presentation at the Câmpeni, Mr. Aston declared,

*We have not identified any adverse impacts on the Environment in the locality of Câmpeni. [...] So we repeat to you, they did not identify any adverse effects on the environment in Câmpeni.*¹⁴⁶⁴

This claim is misleading. The EIA states that Câmpeni is part of the potential impact area in the event of an emergency; the company plans to build a landfill in Câmpeni and a pipeline from Câmpeni that will provide water for the project.¹⁴⁶⁵ The company also did not admit to certain social impacts of the project on nearby communities.¹⁴⁶⁶ Only at the Lupșa meeting did Mr. Aston

¹⁴⁶² Alba Iulia Public Meeting

¹⁴⁶³ RMGC, 2006a; Sustainable Development Plan page 41; In conversations with Romanian students, I found that it is not uncommon for Romanian retirees to settle – often seasonally - in rural villages.

¹⁴⁶⁴ Câmpeni Public Meeting

¹⁴⁶⁵ RMGC, 2006a; Chapter 9 page 49; RMGC, 2006a; Chapter 1 page 30; RMGC, 2006a; Chapter 9 page 20; Câmpeni sits alongside the Abrud River, which flows from Abrud to Câmpeni, and receives waters from the Roșia, Săliște, and Corna Valley tributaries. In the event of an emergency – particularly a dam breach - the town of Câmpeni will be impacted. Additionally, the town of Câmpeni is less than 9 km away from Roșia Montană. While there may not be any adverse impacts to the town during the normal operations of the mining project, there might be certain conditions when the noise and dust will travel the 9 km from Roșia Montană to Câmpeni.

¹⁴⁶⁶ RMGC, 2006a; Chapter 9 page 50; The population may experience changes in their traffic patterns, especially given that Roșia Montană lies along the single road that runs between Alba Iulia and Câmpeni. Those who chose to re-settle from Roșia Montană may consider moving to Câmpeni thus impacting school congestion and other public services. The company anticipates new tourism activity in the region with an increase in leisure and business travellers. While hotel owners might find that this is a positive impact on the community, other locals might view this as a negative impact.

admit that because the village of Lupșa lies on the Arieș River there are potential risks from the RMGC project to the village.¹⁴⁶⁷



Photo 40: Arieș River (Dragomir, 2007)

The company claims credit for the public improvements that may or may not result from the taxes it pays to the local and state authorities. Sometimes it isn't clear if the company plans to provide these services directly or if the company expects the state to provide the services using the tax revenue it receives from RMGC. When a public meeting participant asked the company if it planned to restore the Arieș River and the Roșia Montană ponds, the company spokesman replied that

*Surely there will be a regional cleaning programme that will help clean the watercourses.*¹⁴⁶⁸

Much later he adds:

*The fact that RMGC will pay taxes to the Romanian State will help to develop this programme.*¹⁴⁶⁹

During one public meeting, in order to raise the hopes of the unemployed in that community, the spokesman suggested that Zlatna jobs would be created 'if we will build the railroad that goes to Zlatna'.¹⁴⁷⁰ While the EIA Report does mention vulnerable areas on the Alba Iulia to Zlatna and the Zlatna to Roșia Montană routes¹⁴⁷¹, I couldn't find any mention in the EIA Report that RMGC

¹⁴⁶⁷ Lupșa Public Meeting

¹⁴⁶⁸ Câmpeni Public Meeting

¹⁴⁶⁹ Câmpeni Public Meeting

¹⁴⁷⁰ Zlatna Public Meeting

¹⁴⁷¹ RMGC EIA Chapter 7: Risks

plans to repair or rebuild the railroad.¹⁴⁷² When a university professor from Broșov raised issues about the project, the company spokesman replied that Romanian universities are short of funds because the government does not receive enough income from taxes.¹⁴⁷³ He then argued that if the RMGC project is approved ‘over \$1 billion will go to the state’s account just from taxes’, perhaps suggesting that the RMGC might indirectly fund Romanian universities.¹⁴⁷⁴

During the Alba Iulia meeting, the company admitted that ‘if the population from Corna Valley does not wish to move, we will have to use a different site [for the TMF].’¹⁴⁷⁵ According to Mr. Aston, the company has 13 possible alternatives for the tailings pond.¹⁴⁷⁶ Mr. Aston said that, ‘this means a delay of approximately one year for the project.’ The Assessment of Alternatives Chapter identifies nine sites that were considered alternatives to the Corna Valley TMF.¹⁴⁷⁷ Six of those sites would also impact other communities and require resettlement and five of the sites would not have sufficient storage capacity for the life of the mine.¹⁴⁷⁸ Only two of the alternatives would have sufficient storage capacity and would not impact local settlements, but TMFs have not yet been designed for these sites.¹⁴⁷⁹ Mr. Aston argued that ‘there is a mechanism in the process of the environmental impact assessment that allows for switching to

¹⁴⁷² RMGC, 2006a

¹⁴⁷³ Bistra Public Meeting

¹⁴⁷⁴ Bistra Public Meeting

¹⁴⁷⁵ Alba Iulia Public Meeting

¹⁴⁷⁶ Alba Iulia Public Meeting; Roșia Montană Public Meeting

¹⁴⁷⁷ RMGC, 2006a; Chapter 5 page 25-27

¹⁴⁷⁸ RMGC, 2006a; Chapter 5 page 25-27

¹⁴⁷⁹ RMGC, 2006a; Chapter 5 page 25-27

alternatives'.¹⁴⁸⁰ I have not seen such a mechanism – other than a restart of the EIA process - in the Romanian legislation.¹⁴⁸¹

Mr. Aston would exaggerate the amount of support the project receives for the Roşia Montană project. At the Alba meeting Mr. Aston said, 'if you look around you, you will see that 99% of the population from Roşia Montană want this project.'¹⁴⁸² At Deva, he asserted that:

*We had over public meetings, similar to this. All were filmed, recorded. And on these recordings you can see that they've already voted. The large majority of the people from Roşia Montană want this project.*¹⁴⁸³

Meeting attendance is not a valid indicator of project support. The company brought busloads of employees to each of the meetings. Many of the people the company brought from meeting to meeting came from nearby Abrud rather than Roşia Montană. During the Bucharest meeting, Mr. Aston responded to questions from a priest by saying, 'we are sorry that the honourable priest did not come to the debate from Bistra, where the people from there said that they desperately needed jobs.'¹⁴⁸⁴ Of the eight people that spoke during the Bistra public meeting, only 3 were from Bistra and one of them was passionately against the authorisation of the project.¹⁴⁸⁵ In response to a particularly difficult question from a participant, Mr. Aston argued,

¹⁴⁸⁰ Alba Iulia Public Meeting

¹⁴⁸¹ Romanian Ordinance 860/2002; Romanian Environmental Law 137/1995

¹⁴⁸² Alba Iulia Public Meeting

¹⁴⁸³ Deva Public Meeting

¹⁴⁸⁴ Bucharest Public Meeting

¹⁴⁸⁵ Bistra Public Meeting

*People say that Alburnus Maior represents over 350 locals from Roşia Montană. And yet, not even 30 people were present in Roşia Montană [...] to support the noise that Alburnus Maior made.*¹⁴⁸⁶

In fact of the 36 people who spoke at the meeting, 11 supported the project, 2 made neutral statements and 22 opposed the project.¹⁴⁸⁷ If 22 of the speakers oppose the project and the number of people that spoke at each meeting was a small percentage of the people who actually attended, there were likely more than 30 people at Roşia Montană meeting who oppose the project.¹⁴⁸⁸ It would have been difficult for Ms. Aston to estimate the number of people at the Roşia Montană who oppose the mine.¹⁴⁸⁹

RMGC company representatives would make claims throughout the meetings that would be unverifiable. Because the Ministry of the Environment only captured the comments made by the participants – and then even only those who oppose the project – there is no way for the public to check on these claims after the meetings. Rather than citing his claims or elaborating on the content of the EIA Report, Mr. Aston would bring in additional claims without providing any evidence. For example in Alba Iulia when speaking about the TMF dam, Mr. Aston said that their dam design was best ‘because dry rocks are more secure than wet rocks.’¹⁴⁹⁰ At that same meeting, Mr. Aston said that there is ‘no other dam in the whole world that can contain, that can collect two times the maximum probable precipitation level’ as the RMGC dam will do.¹⁴⁹¹ It is nearly impossible for a participant – after the fact – to determine if it is true that dry

¹⁴⁸⁶ Alba Iulia Public Meeting

¹⁴⁸⁷ Roşia Montană Public Meeting

¹⁴⁸⁸ Roşia Montană Public Meeting

¹⁴⁸⁹ Roşia Montană Public Meeting

¹⁴⁹⁰ Alba Iulia Public Meeting

¹⁴⁹¹ Alba Iulia Public Meeting

rocks are more secure than wet rocks and that no other dam in the world can hold two maximum probable precipitation levels. During the Bistra meeting, in response to a participant's concerns about the opportunities for tourism after the mine closes, Mr. Aston claimed that 12,000 tourists visit a New Zealand gold mine every year.¹⁴⁹² While I did find a few New Zealand gold mine tourist attractions¹⁴⁹³, I was not able to confirm the numbers of people who visit New Zealand mines each year. A claim that is very difficult to verify. During the Alba Iulia meeting Mr. Aston accused Alburnus Maior of telling lies. During that meeting he said that,

*There is something called NGO Watch, in the United States. On their website you can find those NGOs that are telling lies.*¹⁴⁹⁴

He claimed that Alburnus Maior was on that list.¹⁴⁹⁵ The next day, I checked the NGO Watch website¹⁴⁹⁶. I could not find Alburnus Maior mentioned on the website.¹⁴⁹⁷

The Romanian public relies heavily on voluntary associations – economic and civil - to provide information about the project and the authorisation decision. It is fair to say that, Romanian public authorities make almost no effort to provide the public with neutral official information about the project.¹⁴⁹⁸ The Ministry of the Environment has not published its own evaluation of the EIA Report or responded to the public comments that were raised that the RMGC EIA hybrid

¹⁴⁹² Bistra Public Meeting

¹⁴⁹³ Coromandel Activities Retrieved 4 September 2012 from <http://www.thecoromandel.com/goldmines.html>

¹⁴⁹⁴ Alba Iulia Public Meeting

¹⁴⁹⁵ Alba Iulia Public Meeting

¹⁴⁹⁶ <http://www.globalgovernancewatch.org/>

¹⁴⁹⁷ 08-01 Alba Free Day Field Notes

¹⁴⁹⁸ Moran, 2007; 7

forums. The participants of the focus groups organised by RMGC suggested that:

*Trusted public persons (such as the Minister of the Environment or Romanian scientists and specialists on environmental problems) could disseminate credible information about the project.*¹⁴⁹⁹

While one may argue that the Romanian authorities are fulfilling European and Romanian legislation regarding the provision of public information, the Romanian government is providing very little support to the Romanian public to enable its participation in the authorisation of the project.¹⁵⁰⁰ Romanian public authorities do not seem to have the responsibility to analyse the substantive benefits, costs or likely impacts of proposed development projects.¹⁵⁰¹ With only a couple of exceptions, none of the public officials that I interviewed had analyzed or even read the RMGC EIA Report¹⁵⁰² - even those officials whose jurisdictions are directly impacted by the proposed project.¹⁵⁰³ State actors have not conducted any independent polls or suggested a referendum; state actors have not organised focus groups or public meetings. They have not provided official analysis or opinions about the benefits, costs, risks or

¹⁴⁹⁹ RMGC, 2006f; 40

¹⁵⁰⁰ Moran, 2007; 7

¹⁵⁰¹ Gallagher, 2009; 104

¹⁵⁰² Interviews: Alba County Environmental Guard; Arad County Council; Hunedoara County Environmental Guard; Confidential 2; Câmpeni Mayor; Alba County Sub Prefect; Cluj County Environmental Guard; Cluj County Sub Prefect

¹⁵⁰³ Many of the possible impacts of the project will follow river basins. (RMGC, 2006a; Chapter 10 page 4) The surface streams of Roşia Montană and Corna Valley flow southwest into the Abrud River. (RMGC, 2006a; Chapter 10 page 17) The Abrud River flows north into the Arieş River at Câmpeni. (Feycart Sevimpex, 2005) The Arieş River flows east and northeast, passing Bistra, Lupşa and Baia de Arieş. (Feycart Sevimpex, 2005) The river leaves Alba County and flows into Cluj County northeast up to Turda. (Feycart Sevimpex, 2005) At Turda, the Arieş turns southeast until it hits the Mureş River again in Alba County. (Cartographia, 2006; 31, 44, 43) The Mureş flows southwest and south, running past Alba Iulia and entering Hunedoara County. (Cartographia, 2006; 43) The Mureş passes Deva and flows west to Arad. (Cartographia, 2006; 40-42) The Mureş then flows west into Hungary. (Cartographia, 2006; 26, 39, 40) It is not clear why public meetings were held in either Zlatna or Brad.

opportunities of the project for the Romanian people. A Deva public meeting participant complained:

*Of course, the company's representatives have their own interests, but, in my opinion, the Ministry's point of view should have been known long ago.*¹⁵⁰⁴

The Ministry of the Environment is waiting until the end of the EIA process, at its announcement of the authorisation decision, before it provides independent analysis of the proposed RMGC project.¹⁵⁰⁵ This means that it has been left up to individual residents to question, research and sort through the validity of the vast and contradicting claims made by competing associations.

In Romania, while the project manager is responsible for the accuracy of the information disclosed to the EIA authors, the authors – authorised by the state, but selected and compensated by the project owner - are liable for the accuracy of the EIA report.¹⁵⁰⁶ Nonetheless, it would be difficult to assign liability in the event of an environmental crisis.¹⁵⁰⁷ Legally, voluntary associations – civil society and economic – are under no obligation to provide comprehensive, clear, organised and relevant information to the public. With the exception of advertising legislation which regulates against providing misleading information in television advertisements, associations are free to offer almost any claims about a particular public decision. I could find no legislation that assigns criminal penalties for the provision of misleading, incomplete or disorganised environmental information by voluntary associations or indeed for information

¹⁵⁰⁴ Deva Public Meeting

¹⁵⁰⁵ Deva Public Meeting

¹⁵⁰⁶ Romanian Environmental Ordinance 18/2007

¹⁵⁰⁷ Bucharest Public Meeting; Romanian Environmental Ordinance 18/2007

inaccuracies that result in an environmental accident. This can lead to exaggerated and escalated claims by the parties on both sides of the argument. Daren Brisco from Newsweek complains 'that it's impossible for a layperson to wade through enough evidence to reconcile all of the competing claims' made about the RMGC project.¹⁵⁰⁸

Romanian Laws require public authorities to provide environmental information to any requesting applicant, without justification, and to guarantee access to environmental information held by public authorities in any form.¹⁵⁰⁹ Requests for information must be fulfilled as soon as possible and within ten days of the request.¹⁵¹⁰ EU member states and signatories of the Aarhus Convention agree to remove barriers to information access (e.g. financial, convenience) and to support, guide and advise the public seeking information.¹⁵¹¹ EU's Directive 2003/4/EC and Romanian Law 544/2001 include provisions for individuals to appeal an authority's decision to refuse to provide requested public information.

While public authorities are required - by the Aarhus Convention and other similar Romanian and European legislation - to provide access to public information on request, voluntary associations are not regulated by Freedom of Information Acts.¹⁵¹² As a matter of fact, some of the information held by voluntary associations is considered proprietary and the reproduction and distribution of this information can be restricted by the owner. While state

¹⁵⁰⁸ Brisco, D. (2007) Newsweek 2 Feb. 2007 Retrieved 2 September 2012 from http://www.sporttaco.com/rec.sport.pro-wrestling/Even_corporations_can_make_BS_documentaries_2144.html

¹⁵⁰⁹ Article 31 of the Romanian Constitution and Laws 137/1995, 544/2001 and 52/2003

¹⁵¹⁰ Romanian Laws 137/1995, 544/2001 and 52/2003

¹⁵¹¹ UNECE, 1998; 5; European Directives 97/11/EC and 85/337/EEC

¹⁵¹² UNECE, 1998; 5; European Directives 97/11/EC and 85/337/EEC; Article 31 of the Romanian Constitution and Laws 137/1995, 544/2001 and 52/2003

actors are required to collect and store environmental information, voluntary associations are not. Under Romanian law ‘the public authority for environmental protection shall make available to the public, on request, the relevant documents for the considered project, *other than those supplied by the project developer*, as applicable.’¹⁵¹³ This is an especially important issue given the reluctance by Romanian state actors to voluntarily provide information on the RMGC project and the degree to which the Romanian public relies on voluntary associations to provide information. This research demonstrates that those who hold information in Romania continue to hesitate, and in some cases refuse, to provide requested information. Even those public agencies that are bound by Freedom of Information laws show a reluctance to provide public information when it is formally requested. During this experiment we also encountered public authorities who refused, illegally, to provide public information. My Romanian research assistant informed me that it was only our uncharacteristic persistence that resulted in our ability to obtain most of the information requested in this section.

As part of this research, I filed a number of Freedom of Information requests - with the Ministry of the Environment, RMGC and Alburnus Maior - about the RMGC hybrid forums – with mixed success. Before the public meetings, I sent an informal email to a member of Alburnus Maior for information related to the RMGC public meetings.¹⁵¹⁴ That same day, I received a response with information about the public meetings and a link to the EIA Report.¹⁵¹⁵ On 12 July, I sent a series of questions about the public meetings to the email address

¹⁵¹³ Romanian Ordinance 860/2002 Ch 3 Article 35;

¹⁵¹⁴ Email to f.heidebroek@tuc.ro 20 June 2006

¹⁵¹⁵ Email from f.heidebroek@tuc.ro 20 June 2006

on the RMGC website.¹⁵¹⁶ That same day, I received an email response with the answers to my questions from a staff member of RMGC.¹⁵¹⁷ On 12 July 2006, I sent an email to the address posted on the Ministry of the Environment's webpage.¹⁵¹⁸ I initially sent this request because I was trying to get information about the public meetings.¹⁵¹⁹ I informed the authority that I planned to attend the RMGC public meetings for my research and asked questions about my ability to observe the meetings and distribute my questionnaires.¹⁵²⁰ I never received a response from the Ministry.¹⁵²¹

On 15 December 2006, I rang and spoke with the Ministry of the Environment's Aarhus Convention representative.¹⁵²² I requested information about the public announcements for the RMGC participation process.¹⁵²³ She said that she was very busy and asked me to send her an email.¹⁵²⁴ I emailed her, but never heard back.¹⁵²⁵ On 1 February 2007, Ramona, my research assistant, sent a request for information regarding the public announcements for the RMGC consultation period.¹⁵²⁶ We did not hear back from the authority. Then on 7

¹⁵¹⁶ Email to povesteadevarata@mail.rmgc.ro 21 July 2006

¹⁵¹⁷ Email from holton.burns@rmgc.ro 12 July 2006; On 17 July, I received another email from a different staff member at RMGC again responding to my questions. I received another response, clarifying some of the answers from RMGC on 19 July.

¹⁵¹⁸ Email to the Ministry of the Environment 12 July 2006; Email address used mmediu@mmediu.ro I only later learned that this email did not go to the Ministry's Public Relations Office.

¹⁵¹⁹ Email to Ministry of the Environment 12 July 2006; I could not find the announcement for the public meetings on the Ministry's website. (Field Notes: 07-23 Alba Arrival)

¹⁵²⁰ Email to Ministry of the Environment 12 July 2006

¹⁵²¹ This was likely due to the same IT error that caused a delay in my request for information in February 2007 about the RMGC Public Meeting announcements.

¹⁵²² Field Notes 15 December 2006

¹⁵²³ Field Notes 15 December 2006; I requested the dates when and the publications where the public announcements for the public meeting and the public comment period had been published.

¹⁵²⁴ Field Notes 15 December 2006

¹⁵²⁵ Email to daneala.prineta@mmediu.ro 15 December 2006

¹⁵²⁶ Email from Ramona 1 February 2007; The request was sent to the contact email on the Ministry of the Environment's webpage: mmediu@mmediu.ro. Ramona asked when and where the public meetings for the RMGC project had been announced. She asked for a description of

March, Ramona and I visited the Ministry of the Environment.¹⁵²⁷ There we spoke with an employee in the public information office and learned that the email address on the Ministry of the Environment's webpage was wrong.¹⁵²⁸ The public official instructed us to submit another request to the correct email address.¹⁵²⁹ While we were there, I asked her for a copy of the RMGC EIA Report on CD.¹⁵³⁰ She explained that they did not have copies of the report in their office and that I would have to contact RMGC.¹⁵³¹ The day of our visit to the Ministry of the Environment's public information office, Ramona forwarded the original information request to the new email address.¹⁵³² On 20 April, Ramona received the response which included photocopies of the announcements from 3 Romanian papers.¹⁵³³

On 14 March, Ramona sent an email to Alburnus Maior requesting information; about 20 minutes later Stephanie Roth called Ramona.¹⁵³⁴ Ramona had asked

the media (press, radio or television) the name of the publications, the radio or TV stations and a copy of the content.

¹⁵²⁷ Field Notes 7 March 2006

¹⁵²⁸ Field Notes 7 March 2007 The woman at the office said that she didn't remember our request from 1 February. She asked us what address we used for the request. We told her the contact address on the website. She told us that that address was incorrect and she gave us the correct address for Freedom of Information requests. While we were there, the public official investigated the error. She called to see if our request had been registered at a different office. Then the woman called IT. She explained to the IT person that the wrong email address had been published on the website and that a response to our request should have been made in 10 days after the receipt of the request and that it had now been more than a month. She told the IT person that this was an important problem.

¹⁵²⁹ Field Notes 7 March 2007; The correct email address was relatii.cupublicul@mmediu.ro. I checked the website a year later, on 2 January 2008, and found that the address on the contact page had been changed to this email address.

¹⁵³⁰ Field Notes 7 March 2007

¹⁵³¹ Field Notes 7 March 2007

¹⁵³² Email from Ramona 7 March 2007

¹⁵³³ Package from Ministry of the Environment 20 April 2007; On 20 March, someone from the Ministry of the Environment's Public Relation's office called Ramona to confirm her email address. On 16 April, someone from the Ministry of the Environment called Ramona to tell her that they had sent the package to her address, but that it had been returned. Ramona gave her a fax number and a different postal address.

¹⁵³⁴ Email to alburnusmaior@ngo.ro 14 March 2007; Romania posed as a university student conducting research for a paper. See Appendix H for a copy of the email in English and Romanian.

for the names of the NGO's main financial contributors – those who had donated more than 10% of their budget – for the years 2006 and 2007.¹⁵³⁵ Ms. Roth told Ramona that the accountant was currently working on the 2006 report and that the 2007 report would not be ready until 2008.¹⁵³⁶ Ms. Roth promised to contact their accountant to ask him to forward the information to Ramona.¹⁵³⁷ It wasn't until 20 July 2007 (after a number of intervening attempts to get the information) that we finally received the 2005 and 2006 financial reports for the NGO.¹⁵³⁸ At that time another research student, Cris, called Stephanie to request a copy of Alburnus Maior's financial reports.¹⁵³⁹ Stephanie told Cris that she still didn't have a copy of the reports.¹⁵⁴⁰ She offered that Cris could wait until she received the reports from her account manager or that he could file an information request with the Finance Department in Abrud.¹⁵⁴¹ That afternoon, Cris received the scanned versions of the 2005 and 2006 reports in an email attachment from Eugen David.¹⁵⁴² While the reports do list a total

¹⁵³⁵ Email to alburnusmaior@ngo.ro 14 March 2007

¹⁵³⁶ Email from Ramona 14 March 2006; Ms. Roth told Ramona that they are required to file two financial reports every year in April – one for the NGO and one for Fanfest. The reports are filed at the financial administrative offices in Câmpeni. Ms Roth said that 'off the top of her head' funding for the NGO came from the Soros Foundation and Staples Trust in Great Britain. Funding for Fanfest came from the Soros Foundation, Staples Trust and online donations.

¹⁵³⁷ Email from Ramona 14 March 2006

¹⁵³⁸ One month (16 April 2007) after the first email, Ramona called Stephanie to get the financial reports for 2006. According to Stephanie, they were still putting the information together for the reports because the deadline was not until 31 April. However, Stephanie offered to meet with Ramona after 20 April to provide Ramona with all the information she needed. (Email from Ramona 16 April 2007) On 21 May, Ramona called Stephanie – who hadn't responded to Ramona's emails requesting a meeting. During that call Stephanie said that the reports had been submitted, but that she had not yet received a copy of the reports. She complained that she had much more important things to worry about at the moment and that was why she hadn't responded to Ramona's email. She promised that she would email Ramona to schedule a time to meet when she did receive copies of the report. (Email from Ramona 21 May 2007)

¹⁵³⁹ Email from Cris 20 July 2007; Cris said that he was a classmate of Ramona's and that he needed the reports.

¹⁵⁴⁰ Email from Cris 20 July 2007; Stephanie told Cris that she remembered Ramona.

¹⁵⁴¹ Originally she had said that the reports had been filed in Câmpeni. Ms. Roth complained about having more important things to worry about. In early May 2007, the RGMC EIA Annex had been submitted.

¹⁵⁴² Email from Cris 20 July 2007

figure for donations, I do not see a list of contributors anywhere on the reports.¹⁵⁴³

We were not able to obtain the EIA Report from RMGC. On 7 March 2007, Ramona sent a request for an electronic copy of the EIA Report in English to the contact email on the RMGC webpage.¹⁵⁴⁴ By 21 March we had tried the telephone number on the RMGC webpage 3 times; there was no answer each time.¹⁵⁴⁵ On that date we sent another email to the RMGC contact email requested a copy of the EIA Report in English. We never received a reply.

In 2007, the Romanian National Agency for Environmental Protection attempted to restrict access to the background reports of the EIA Report.¹⁵⁴⁶ The Romanian government argued that the EIA Reports were protected by copyright law and could only be made available to the public with the agreement of the author.¹⁵⁴⁷ The agency also pointed out that the Aarhus Convention did not define the EIA documentation that was to be made publically available.¹⁵⁴⁸ They argued that only the outcome of the EIA Report, but not the entire study,

¹⁵⁴³ Email from Cris 20 July 2007; Alburns Maior Website Retrieved 20 October 2012 from <http://rosiamontana.org/en/categorii.shtml?cmd%5b321%5d=c-1-32836&cmd%5b316%5d=x-322-32848&x=32848&set%5b319%5d=selected-32836&set%5b321%5d=selected-32848>; This information is now provided by the NGO on their website.

¹⁵⁴⁴ Email from Ramona 7 March 2007; I wanted the report because it was difficult to download all of the files of the EIA Report from the Gabriel Resources website.

¹⁵⁴⁵ +40.258.806.750

¹⁵⁴⁶ Alburnus Maior, 2007d; 2; UNESCO Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁴⁷ UNESCO Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁴⁸ Response from Romania with Regard to the Public – UNECE; UNESCO Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

should be provided to the public.¹⁵⁴⁹ After a petition by Alburnus Maior, the Aarhus Compliance Committee concluded that EIA Reports 'are prepared for the purposes of the public file in administrative procedure'.¹⁵⁵⁰ Therefore, the author or developer should not be entitled to keep the information from public disclosure on the grounds of intellectual property law.¹⁵⁵¹ Ultimately, the Romanian National Agency for Environmental Protection amended its administrative procedures to allow for the full disclosure of EIA Reports.¹⁵⁵²

The Romanian National Agency for Mineral Resources has refused to provide requested information to the Soros foundation. In 2007 and 2009, The Soros foundation submitted a total of at least four requests to the National Agency for Mineral Resources for access to the Roşia Montană concession license (47/1999) and to all documents related to the Roşia Montană project.¹⁵⁵³ The foundation asserts that the exploitation of natural resources must be conducted with maximum transparency and within the national interest.¹⁵⁵⁴ The response to these requests was a series of 9 documents (3 from RMGC) listing the legal justification for the classification of the concession license.¹⁵⁵⁵ The reasons for

¹⁵⁴⁹ UNESC Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁵⁰ UNESC Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁵¹ UNESC Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁵² UNESC Report by the Aarhus Compliance Committee Retrieved 5 September 2012 from http://www.unece.org/fileadmin/DAM/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_add_7_e.pdf

¹⁵⁵³ Soros Foundation Press Release 29 November 2007 Retrieved 5 September 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=60

¹⁵⁵⁴ Soros Foundation Press Release 29 November 2007 Retrieved 5 September 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=60

¹⁵⁵⁵ National Agency for Mineral Resources Response to Soros Foundation Retrieved 5 September 2012 from http://www.namr.ro/Comunicate_ANRM/RosiaMontana.pdf

the classification of the license are themselves confidential.¹⁵⁵⁶ RMGC refuses to waive the confidentiality agreement.¹⁵⁵⁷ Like the Soros Foundation, I was not able to obtain a copy of the RMGC exploitation license. Ramona sent two Freedom of Information (FOI) requests to the National Agency for Mineral Resources on my behalf.¹⁵⁵⁸ We asked for the terms and conditions for the RMGC exploitation license and a copy of the license.¹⁵⁵⁹ But unlike the Foundation, who received a refusal letter with a justification, my request was simply ignored.

On 19 October 2007, my research assistant Cris, sent an official request for information about the RMGC CAT meetings via email to the Ministry of the Environment.¹⁵⁶⁰ We received an email response on 5 November.¹⁵⁶¹ This response included some, but not all, of the requested information and omitted information about RMGC's participation in the meetings.¹⁵⁶² On 5 November

¹⁵⁵⁶ Soros Press Release 13 December 2007 Retrieved 5 September 2012 from http://www.soros.ro/en/comunicate_detaliu.php?comunicat=63; National Agency for Mineral Resources Response to Soros Foundation Retrieved 5 September 2012 from http://www.namr.ro/Comunicate_ANRM/RosiaMontana.pdf

¹⁵⁵⁷ Hotnews 23 December 2009 Retrieved 5 September 2012 from <http://english.hotnews.ro/stiri-business-6758409-the-race-for-the-rosia-montana-gold-romanian-politicians-the-controversial-project-and-gabriel-resources.htm>

¹⁵⁵⁸ Email from Ramona 20 March 2007; Email from Ramona 9 May 2007; Email addresses used were namr@namr.ro and bgabudeanu@namr.ro respectively.

¹⁵⁵⁹ Email from Ramona 20 March 2007; Email from Ramona 9 May 2007

¹⁵⁶⁰ Email from Cris 19 October 2007 to relatii.cupublicul@mmediu.ro; In this request, Cris asked for the dates and duration of each of the CAT meetings that had convened to discuss the RMGC project. He asked for a list of the participants for each meeting – including their names, the institution or company they represented and their position. Finally he requested a copy of the minutes for each meeting. See Appendix I for a copy of the email in English and Romanian.

¹⁵⁶¹ Email from Ministry of the Environment 5 November 2007; In their response the Ministry of the Environment provided a list of the institutions that were represented at the meetings, but would not give the names of the representatives citing Law 677/2001. According to the response, the representatives were at the Secretary of State or Director level in their respective authorities. The response said that the meetings lasted between 2 and 5 hours depending on the complexity of the topic. According to the Ministry's response the CAT had met four times - on 26 June, 10 July, 19 July and 9 August 2007. The response provided the general topic for each meeting. However, the Ministry refused to provide the minutes of the meetings because the authorities had not completed their deliberations on the EIA Report. The response did not include RMGC on the list of the participants.

¹⁵⁶² Email from Ministry of the Environment 5 November 2007

2007, Cris sent an informal follow-up request for information about the RMGC CAT meetings to the Ministry of the Environment.¹⁵⁶³ By 13 November, Cris had not received a reply to this request so he submitted another formal request for information to the Ministry.¹⁵⁶⁴ On 21 November, the Ministry of the Environment's response addressed all of Cris' requests for information.¹⁵⁶⁵

Ramona and I struggled to get demographic data from the Alba County's Statistics office. Access to this data required much persistence and some – what Ramona considered – rudeness.¹⁵⁶⁶ On 1 February, Ramona completed an online request for demographic, employment, health and education data for Roşia Montană and the villages¹⁵⁶⁷ near Roşia Montană where the public meetings were held.¹⁵⁶⁸ On the form, Ramona was required to submit contact information as well as the reason for her request - contrary to European and Romanian law. The day after submitting the request for information, Ramona was called by the office and subject to a number of probing questions.¹⁵⁶⁹

¹⁵⁶³ Email from Cris 5 November 2007; In this request he asked if the meetings were open to the public. This request was simply an informal email reply to the emailed response from the Ministry that we had received that day.

¹⁵⁶⁴ Email from Cris 13 November 2007; In this request, he asked if representatives from RMGC attended the CAT meetings. He also asked if representatives of the NGOs opposing the project attended the meetings. Finally he asked if the meetings were open or closed to the public.

¹⁵⁶⁵ Email from the Ministry of the Environment 21 November 2007; According to the Ministry, RMGC representatives did attend all four of the CAT meetings; they were accompanied by the authors of the EIA Report. The CAT meetings are not public and the NGOs were not invited to attend. Although the response assures Cris that the NGOs could participate in the public debates and submit proposal and comments at all stages of the EIA Process.

¹⁵⁶⁶ At one point, Ramona asked the public official, 'are you telling me that as a Romanian citizen I cannot get access to this data?' It was difficult for Ramona to be so assertive with a public official.

¹⁵⁶⁷ Abrud, Câmpeni, Zlatna, Baia de Arieş, Roşia Montană, Lupşa and Bistra

¹⁵⁶⁸ The website has been changed since then and does not appear to include the online information request form although some of the data seems to be accessible online. <http://www.alba.insse.ro>

¹⁵⁶⁹ The office called Ramona and asked her why she needed the data. Ramona responded that she needed it for a research paper. She told the woman that she was a student and a Romanian citizen. The woman continued to probe for information from Ramona. At that point the woman asked Ramona if she needed the data for each village or for the entire commune. Ramona responded that she needed it for each village. The woman at the Alba office complained that she was asking for a lot of data. Ramona asked if she could get it in CD format

Finally, on 23 February, after a visit to the Alba County Statistics office, a long argument with a public official and a brief conversation with the director of the office we received the requested data on CD.¹⁵⁷⁰ According to Ramona, a Romanian would have given up and would not have pressed the woman to provide us with the information because they would have just been resigned to the fact that they would never have gotten it.

The United Nations Development Programme (UNDP) has refused to provide requested public information to Alburnus Maior. When asked in-person for information by Alburnus Maior about a possible collaboration between the UNDP and RMGC and for a set of 3 UNDP reports on Roşia Montană, UNDP representatives deflected the question and ignored the request for copies of the reports.¹⁵⁷¹ Alburnus Maior wants a copy of the UNDP ‘Sustainable Development Perspectives Report’, because the report is dated May 2006, but the UNDP had only visited Roşia Montană in June 2006.¹⁵⁷² The NGO accuses the UNDP of publishing a report that had been written by RMGC as its own

and the woman said no. Ramona asked if she could photocopy the data and the woman replied that it was .50 RON per page. Ramona replied that we were willing to pay. The woman suggested that we go to the Cluj office to photocopy the data, because the Cluj office was also the regional centre. On 13 February, Ramona and I went to the Cluj office. The staff there showed us their volumes of data, but informed us that they didn't have data for Alba County. Alba County is part of the Sibiu region, not the Cluj region. The woman at the Alba office had sent us to the wrong location to access the information.

¹⁵⁷⁰ First we spoke with the same woman that Ramona had spoken with on the telephone. Again the woman asked Ramona what data she was looking for. Again the woman asked Ramona why she wanted the data. The woman told Ramona that before she would provide the data to her, Ramona needed a letter from the university – contrary to law. The woman told Ramona that she should do her research in Cluj, because Ramona lived in Cluj. She warned Ramona that it would take a long time to get the data. She brought out large volumes of data. She said that we couldn't look at the volumes ourselves because the information needed to be protected. She said that they didn't have the health and education demographic information for the villages. She said the files would be too large to put on a CD. We spent about 45 minutes arguing with the woman to provide us with the information. The director, told the woman to take us upstairs to the computer department to get the data. We went upstairs and a staff member gave us all the information that we had requested on a CD.

¹⁵⁷¹ Alburnus Maior, 2007c; Alburnus Maior UNDP Request for Information Retrieved 5 September 2012 from <http://www.indymedia.org.uk/en/2007/02/363769.html>

¹⁵⁷² Alburnus Maior, 2007c; Greenpeace 27 February 2007 Open Letter Retrieved 5 August 2012 from <http://www.bothends.info/mfi/02-03-07Open%20Letter%20to%20UNDP-1.pdf>

report.¹⁵⁷³ The UNDP told Alburnus Maior that the Roşia Montană reports were 'internal reports' and that they would not be released to anyone.¹⁵⁷⁴ In February 2007, Alburnus Maior submitted a formal information request to the UNDP.¹⁵⁷⁵ UNDP's sent its reply on 2 March 2007; this reply also ignores the NGO's request for copies of the reports.¹⁵⁷⁶

REASONABLE

Legitimate hybrid forums require that deliberations are guided by reason.¹⁵⁷⁷ Participants ought to be expected to clarify and justify their claims and positions with substantive and thoughtful arguments.¹⁵⁷⁸ Unlike formal representative institutional forums that reach binding decisions, the reasons offered in hybrid forums can be expanded to include subjective, self-interested and normative, as well as objective, arguments.¹⁵⁷⁹ As long as arguments induce reflection, are relevant and non-coercive, reasoned arguments may be presented in

¹⁵⁷³ Alburnus Maior, 2007c; Alburnus Maior has been trying to access this report, but the UNDP refuses to provide it.

¹⁵⁷⁴ Alburnus Maior, 2007c

¹⁵⁷⁵ Alburnus Maior UNDP Request for Information Retrieved 5 September 2012 from <http://www.indymedia.org.uk/en/2007/02/363769.html>

¹⁵⁷⁶ UNDP Request for Information Reply Retrieved 5 September 2012 from http://www.rosiamontana.ro/UNDP_action/Greenpeace%20response.pdf; In its reply, the UNDP Bratislava Region Centre said that it is not considering entering into a commercial arrangement with Gabriel Resources and that the Regional Centre only provides advisory services for their country level UNDP offices. The responder then states that any decision to collaborate with Gabriel Resources would be taken by the UNDP office in Romania. There is no indication that the information request was forwarded to the Romanian office, nor any mention of the Fact Finding Mission Reports. Alburnus Maior claims that it was never given access to the UNDP Roşia Montană reports. (Alburnus Maior Open Letter to UNDP Retrieved 5 September 2012 from <http://rosiamontana.ngo.ro/en/index.shtml?cmd%5B314%5D=x-314-32758&cmd%5B316%5D=x-322-32758&cmd%5B300%5D=x-299-32758>)

¹⁵⁷⁷ Dryzek, 2000; 1; Benhabib, 1996; 68; Hendriks, 2009; 174; Mendonça, 2009; 211; Connelly, 2009; 186

¹⁵⁷⁸ Levine, Fung and Gastil, 2005; 274; Melville, Willingham, and Dedrick, 2005; 41; Scully and McCoy, 2005; 200; Fishkin and Farrar, 2005; 71; Carson and Hartz-Karp, 2005; 127; Potapchuk, Calson and Kennedy, 2005; 263; Sokoloff, Steinberg and Pyser, 2005, 191; Okello and Beevers et. al., 2009; 218

¹⁵⁷⁹ Mansbridge, 1996; 49; Mansbridge, 2007; 264; Sanders, 1997; 370; Young, 1999; 155; Benhabib, 1996a; 83; Young, 1996; 122-5; Hendriks, 2006; 493; Deveaux, 2003; 781; Melville, Willingham, and Dedrick, 2005; 45; Sokoloff, Steinberg and Pyser, 2005, 187; Karpowitz and Mansbridge, 2005; 245; Diduck and Sinclair et al., 2007; 226; Rojanamon, Chaisomphob, and Bureekul, 2010; 2, 6; Habermas, 1984; 106; Soneryd and Weldon, 2003; 19-20

communication forms like greetings, rhetoric, testimony and storytelling.¹⁵⁸⁰ Given the authoritarian nature of the Ceaușescu regime, the Romanian public has very little experience with reasoned public argument and agreement.¹⁵⁸¹ This means that Romanian public debate is often unproductive and can sometimes turn violent.

This research confirms Soneryd and Weldon's concern that subjective and normative claims are not considered on the same terms as reasons put in legal or scientific terms.¹⁵⁸² Objective factual, scientific and legal arguments dominate deliberations and public decision making.¹⁵⁸³ Even those objective world arguments that are presented by lay people are dismissed because they have not been presented by experts.¹⁵⁸⁴ For Soneryd and Weldon, legal and scientific expert systems are incapable of incorporating contextual knowledge and values – ultimately favouring objective arguments in final decisions.

The arguments most used by the company to support their proposed project were those that emphasised legal¹⁵⁸⁵ and technical aspects of the project¹⁵⁸⁶. The company argued that their proposed project ought to be authorised because:

¹⁵⁸⁰ Dryzek, 2000; 1, 52-3, 67-9, 76, 167; Dryzek, 2001; 660; Hendriks, 2006; 493; Hendriks, 2009; 178; Young, 1996; 120, 122-5, 132; Mansbridge, 1999; 222; Mansbridge, 2007; 261; Sanders, 1997; 370; Zapata, 2009; 199; Rosenberg, 2007; 10; Fishkin and Farrar, 2005; 74; Sokoloff, Steinberg and Pyser, 2005, 191; Melville, Willingham, and Dedrick, 2005; 42; Scully and McCoy, 2005; 200; Charles, Sokoloff and Satullo, 2005; 65

¹⁵⁸¹ Deletant, 2001; 35; Gallagher, 2005; 6, 79; Turnock, 2001; 153; Ianoș, 2001; 195; Gallagher, 2009; 1; Shafir, 2001; 80; Phinnemore and Light, 2001; 7

¹⁵⁸² Soneryd and Weldon, 2003; 32; Stringer, Scriciu and Reed, 2009; 87

¹⁵⁸³ Soneryd and Weldon, 2003; 33

¹⁵⁸⁴ Soneryd and Weldon, 2003; 30

¹⁵⁸⁵ Zlatna Public Meeting; Roșia Montană Public Meeting; Lupșa Public Meeting; Alba Iulia Public Meeting; Bucharest Public Meeting; Câmpeni Public Meeting

¹⁵⁸⁶ Lupșa Public Meeting; Alba Iulia Public Meeting; Bucharest Public Meeting; Câmpeni Public Meeting; Deva Public Meeting

*One, it respects all Romanian and foreign [European and International] legislation and two it implements the best international technology.*¹⁵⁸⁷

The company defended the use of cyanide in their project with this argument¹⁵⁸⁸:

*The [cyanide] wastes will be unloaded in the pond with concentrations between 5 and 7 parts per million. Today's European legislation sets the limits for the concentration to be 10 parts per million, at the maximum.*¹⁵⁸⁹

When moving the graves, the company also promises to respect existing legislation.

*We will try to answer the question about moving the graveyards. I want to say that we will conduct these activities according to the law. Of course, it's an unpleasant activity; we admit that. But it's necessary for the project to go on.*¹⁵⁹⁰

RMGC promises to use the best available technology¹⁵⁹¹:

Before being unloaded in the decantation pond, the tailings will be treated in an INCO installation that today is considered the best available technology. Other methods of treating the tailings have been analyzed. This one has proved to be the most efficient. It's considered the best technology available according to the "Best Available Techniques for Management of Tailings and Waste-Rock in Mining

¹⁵⁸⁷ Câmpeni Public Meeting

¹⁵⁸⁸ Câmpeni Public Meeting; Deva Public Meeting; Lupșa Public Meeting; Roșia Montană Public Meeting

¹⁵⁸⁹ Roșia Montană Public Meeting

¹⁵⁹⁰ Roșia Montană Public Meeting

¹⁵⁹¹ Alba Iulia Public Meeting; Bucharest Public Meeting; Câmpeni Public Meeting; Deva Public Meeting

*Activities” document elaborated by the European Integrated Pollution Prevention and Control Bureau.*¹⁵⁹²

The company promises that this technology has been tested.¹⁵⁹³

*The ore resulted from the exploitation will be processed in a metal works that uses the most modern technology that functions in over 400 similar projects across the world.*¹⁵⁹⁴

During the company’s initial presentation at each of the public meetings it might use the word *modern* between 9 and 12 times.¹⁵⁹⁵ For example:

*The mine from Roşia Montană will be a modern mine, which will use modern technology.*¹⁵⁹⁶

Just the same, one Deva public meeting participant objects to the use of cyanide in Roşia Montană.

*I was shocked, however, by the use of cyanides. No matter what the limits are. No matter the final values of the cyanide composition in the wastes, in the substances used. No matter how low these limits are ensured by the project. Life has shown us, has proved to us, that accidents are always possible, accidents that may have very very serious effects.*¹⁵⁹⁷

The General Director of Cepromin Deva (an extraction engineering firm) addressed that participant’s concerns with these remarks:

¹⁵⁹² Lupşa Public Meeting

¹⁵⁹³ Deva Public Meeting; Câmpeni Public Meeting

¹⁵⁹⁴ Câmpeni Public Meeting

¹⁵⁹⁵ Câmpeni Public Meeting; Lupşa Public Meeting; Alba Iulia Public Meeting; Deva Public Meeting

¹⁵⁹⁶ Deva Public Meeting

¹⁵⁹⁷ Deva Public Meeting

*The specialists' role, our role, is to minimize any risk that may rise when using cyanides, because it is well known and accepted. There is not a single activity that doesn't pose any risks. The main idea is to accept this risk.*¹⁵⁹⁸

Those who oppose the proposed RMGC project relied on legal arguments too. They were particularly concerned about legislation that regulated waste sites.

*It's been also said that we will have no more cyanide concentrations in that tailing pond than the European Union allows us to. They did not mention, though, that in the EU Directive about depositing wastes, which corresponds to Romanian Government Decision 349/2005, states that you cannot build a waste deposit, in other words a tailings pond, at a radius of less than 1000 meters from a community. How will you handle this issue, considering the cities of Abrud and Gura Podului are so close?*¹⁵⁹⁹

When talking about the population relocations that will be required for the implementation of the project, one participant argues:

*There is no law that allows the forced relocation of the villagers from there.*¹⁶⁰⁰

One participant referred to a law that regulates the movement of graveyards¹⁶⁰¹:

*I want to know how you can run the project if according to Romanian Law 98/1994 you have to wait 30 years after the last person was buried [before you can] move a graveyard.*¹⁶⁰²

¹⁵⁹⁸ Deva Public Meeting

¹⁵⁹⁹ Roşia Montană Public Meeting

¹⁶⁰⁰ Alba Iulia Public Meeting

¹⁶⁰¹ Alburnus Maior, 2006b; 6 The NGO cites Romanian Law 98/1994.

¹⁶⁰² Roşia Montană Public Meeting

At the same time, company representatives complained that members of the opposition offered emotional rather than technical arguments.¹⁶⁰³

*So we really ask you to come up with more technical questions.*¹⁶⁰⁴

This was Mr Aston's response to a geologist quoting the EIA Report. The participant was concerned that, according to the EIA Report, the surface rocks that would form the base of the Corna Valley TMF were occasionally 'weak'.¹⁶⁰⁵ He also had questions about the EIA Report's description of the soil coverings that would reduce Acid Rock Drainage (ARD).¹⁶⁰⁶

Also at the Alba Iulia public meeting, Mr. Aston responded to a participant with:

*If we are going to continue this discussion using emotional arguments and not facts, not technical realities, then the experts that are here will not have a chance to answer your questions.*¹⁶⁰⁷

This comment was in response to a participant who questioned the company's assertion that alternatives to mining are not possible in Roşia Montană; who complained that a 60% inactive population statistic is not a sufficient or relevant argument supporting the community's need for the proposed RMGC project; who criticised the methodology for the EIA's Report's health baseline study; and

¹⁶⁰³ Alba Iulia Public Meeting; Roşia Montană Public Meeting; Bistra Public Meeting

¹⁶⁰⁴ Alba Iulia Public Meeting

¹⁶⁰⁵ Alba Iulia Public Meeting; Quoting RMGC, 2006a; Tailings Management Facility Plan page 19

¹⁶⁰⁶ Alba Iulia Public Meeting; Quoting RMGC, 2006a; Water Management Plan

¹⁶⁰⁷ Alba Iulia Public Meeting

finally who questioned the company's motives for taking advantage of the state incentives offered to the company as an investor in an *unfavourable zone*.¹⁶⁰⁸

At the Bucharest, Mr. Aston complained,

*If we have such a poor, bad impact study, why have none of the questions so far required a response from these experts?*¹⁶⁰⁹

This comment was in response to a participant, who complained about the quality of the EIA Report; who was concerned that the project's benefits would not outweigh the negative impacts of the project; and who wondered who would assume the high risks of the project in the event of an accident.¹⁶¹⁰

At Bistra a participant worried that a foreign company would reap the benefits of Romanian gold; that local participation at the Bistra meeting was low; that the number of jobs promised by the company was not enough to jeopardise Roşia Montană's archaeology; and that tourism would not be possible in the area after the use of cyanide in the mining operations. Mr. Aston responded,

*We think that we could have discussions based on real facts about the project and not based on emotions and feelings.*¹⁶¹¹

In fact many of the arguments presented during the public meetings – by company representatives and by those who support and those who oppose the proposed project - were based on subjective or normative claims. For example, during the Alba Iulia meeting, one participant asked Mr. Aston and Mr.

Gligor:

¹⁶⁰⁸ Alba Iulia Public Meeting

¹⁶⁰⁹ Bucharest Public Meeting

¹⁶¹⁰ Bucharest Public Meeting

¹⁶¹¹ Bistra Public Meeting

*Would you agree for your churches to be moved respectively with the graves that belong to your dead?*¹⁶¹²

Mr. Aston responded that about 2 months ago an inhabitant of Roșia Montană told him that:

*Either his parents will pray in the church to God for him to find a good job in town, or they will pray to God and thank Him for his good Roșia Montană job in a new church. John Aston is from Ireland and his religion is catholic. The church means people not the building itself.*¹⁶¹³

When a participant at the Alba Iulia meeting complained about the 80/20 percent split of the profits in the Gabriel Resources and Romanian State partnership, Mr. Aston replied:

*If we talk about gold, we talk about cyanides and then you already have a cocktail of emotions - life and death, richness and poverty.*¹⁶¹⁴

The company accuses members of the opposition for holding inconsistent positions. Company representatives claim that there are between 23 and 27 sites with Roman galleries near Roșia Montană.¹⁶¹⁵ According to the company, no one is conducting research at those sites, but people are only complaining about the possible impact to the Roman galleries at Roșia Montană.¹⁶¹⁶ The company complains that the Orthodox Church is 'fighting with Hungary to obtain

¹⁶¹² Alba Iulia Public Meeting

¹⁶¹³ Alba Iulia Public Meeting

¹⁶¹⁴ Alba Iulia Public Meeting

¹⁶¹⁵ Deva Public Meeting; Bucharest Public Meeting; Alba Iulia Public Meeting

¹⁶¹⁶ Bucharest Public Meeting

the gold of the Orthodox Church'.¹⁶¹⁷ Mr. Aston asks, 'if the Church thinks that gold should be left in the ground, why are they trying to get their gold back?'¹⁶¹⁸

On more than one occasion, the company declared that the participants' role was to ask their questions so that the company could respond to them.¹⁶¹⁹

According to Mr. Aston, the purpose of the public meetings was to:

*allow the public to understand the project and raise questions concerning the impact study.*¹⁶²⁰

At Bucharest, Mr. Aston declared:

*As far as we know, according to the law, these meetings are organized to allow the public to understand the project and to raise questions concerning the study of the [project's] impact.*¹⁶²¹

These statements made it clear that the purpose of the public debates was to inform the public about the project, rather than to debate, consider and determine the best ways to improve the social, environmental and economic conditions of the community or even to consider ways to improve the project. More than one participant felt the need to phrase their arguments in the form of a question – not a very powerful way to present an argument. At Câmpeni, the company complained, 'it's difficult to answer questions, which are in fact not questions'.¹⁶²² It also meant that the company's role was to respond to questions not to consider arguments or address concerns. State signatories of

¹⁶¹⁷ Bucharest Public Meeting

¹⁶¹⁸ Bucharest Public Meeting

¹⁶¹⁹ Câmpeni Public Meeting; Bucharest Public Meeting; Alba Iulia Public Meeting; Lupșa Public Meeting

¹⁶²⁰ Bucharest Public Meeting

¹⁶²¹ Bucharest Public Meeting

¹⁶²² Câmpeni Public Meeting

Aarhus Convention guarantee that the public has opportunities to participate in environmental decision making. According to Arnstein, simply being informed about public outcomes is the least powerful way for the public to participate.¹⁶²³

The members of the opposition complain that the company did not sufficiently respond to their questions.¹⁶²⁴ At the Câmpeni public meeting, one participant complained,

*I asked some questions at Roșia Montană, questions that were never answered. I graded the answer I received a 2.5.*¹⁶²⁵



Photo 41: Alburnus Maior, 2007d

A participant from the Bucharest meeting began her comments with, 'as usual, I will not receive a straight answer'.¹⁶²⁶ One participant complained, 'I have another question that was raised earlier and an answer was avoided.'¹⁶²⁷ By Bucharest,

members of the opposition would chant, 'answer the questions!' and raise red cards when they felt that the company was avoiding a question.¹⁶²⁸ Their banner reads, 'Answer the question. Don't beat around the bush'.¹⁶²⁹

Opposition members complained of one tactic used by the company to avoid answering participant questions,

¹⁶²³ Arnstein, 1969

¹⁶²⁴ Alburnus Maior, 2007d; 4, 13; Câmpeni Public Meeting; Bucharest Public Meeting; Alba Iulia Public Meeting

¹⁶²⁵ Câmpeni Public Meeting

¹⁶²⁶ Bucharest Public Meeting

¹⁶²⁷ Bucharest Public Meeting

¹⁶²⁸ Bucharest Public Meeting; Alburnus Maior, 2007d; 14

¹⁶²⁹ Bucharest Public Meeting; Alburnus Maior, 2007d; 14

*First of all I would like to caution the Ministry of the Environmental, the representatives from the Ministry of the Environmental that are here. We are already in the 3rd day here and something extremely bothersome is going on - for public participation around this project and for fair play of these debates. Every time the project manager has to answer a more difficult or a more puzzling question, he answers by diverting the attention to Alburnus Maior. We are not discussing Alburnus Maior here. We are talking about a mining project that is proposed for Roşia Montană, which could be the biggest gold mine in Europe.*¹⁶³⁰

I analysed the questions and responses for the first 16 speakers of the Câmpeni meeting.¹⁶³¹ Over that time, I captured 87 questions and comments from the participants; the company responded to 42 (48%) of them. Here I am not analysing the quality of the responses, just looking at the degree to which the company acknowledged and responded to the questions and comments of the participants. It is also interesting that the company gave an additional 22 responses to questions not asked.

Participants complained because the company would avoid responding to questions by promising to respond to participant questions in writing after the public meeting.¹⁶³² In Alba Iulia, the company instructed a participant:

*If you have something specific to say, please do so in writing and we will reply you in writing.*¹⁶³³

At Bucharest, one participant complained:

¹⁶³⁰ Câmpeni Public Meeting

¹⁶³¹ Speakers 72 through 88; The microphone went out so I missed the questions and responses for speakers 83, 84 and 85. For speaker 86, I missed the questions but captured the responses. For this speaker, I was able to compare the responses to the questions captured by the Ministry of the Environment.

¹⁶³² Roşia Montană Public Meeting

¹⁶³³ Alba Iulia Public Meeting

*The questions that are raised, some of them are answered here; others are answered in writing. It feels un-right that any citizen from this room would be deprived of receiving an answer to any question they might have. Therefore I think that the honoured president who moderates this debate should announce that [the company must respond to the questions].*¹⁶³⁴

At Cluj, a participant expressed her frustration with the process:

*I would ask Mr. Aston to stop saying that he will provide written answers [to our questions]. Because we have not come here to receive written answers; we have come to see how he answers [our questions] in front of the public. We could have all sent written letters to the company or to the ministry and the meetings wouldn't have been organized. We have come here to receive verbal answers, here in this place.*¹⁶³⁵

The company would also avoid responding fully to questions by suggesting dialogue in other venues. At Bucharest, the company suggested:

*Those who are against the project can come to workshops, seminars, meetings and let's discuss.*¹⁶³⁶

During one encounter with a participant, the Mr Hosu interpreted Mr Aston's comment:

*As Mr. Aston says, he thinks that it would be best if you and he would meet for a beer and talk.*¹⁶³⁷

¹⁶³⁴ Bucharest Public Meeting

¹⁶³⁵ Alburnus Maior, 2007d; 13

¹⁶³⁶ Bucharest Public Meeting

¹⁶³⁷ Alba Iulia Public Meeting

Rather than discuss the project at the RMGC EIA hybrid forums, Mr. Aston suggested another venue where participants could meet and discuss the project:

*Cepromin is an institute for mining designs and research. They can do a lot of people a favour if they'd organize a workshop or a seminar where we could discuss the project and nothing else.*¹⁶³⁸

EARLY PARTICIPATION

The Aarhus Convention and European Directives require that the public is invited to participate early – when options are still available.¹⁶³⁹ For deliberations to be legitimate they must occur before important decisions have been made that constrain hybrid from debates.¹⁶⁴⁰ Unfortunately, in reality, information is often withheld and EIA hybrid forums are not convened until after the goals of the project have been developed and the project owner has narrowed in on a project design.¹⁶⁴¹

The RMGC EIA hybrid forums were convened late in the process. By the time of the forums so much had already been invested into the project design, which meant that meaningful public participation was nearly impossible.¹⁶⁴² RMGC had already designed the ore extraction and the gold processing methods – open pit and cyanide leaching; according to the company this design, and this

¹⁶³⁸ Deva Public Meeting

¹⁶³⁹ European Directives 85/337/EEC, 96/82/EC, 2001/42/EC, 2003/4/EC, 2003/35/EC and 2004/35/EC ; Romanian Laws 50/1991, 137/1995, 350/2001, 544/2001, 34/2002 and 52/2003 and Government Decisions 137/1995 and 1076/2004 and Ordinance 860/2002; Soneryd and Weldon, 2003; 23

¹⁶⁴⁰ Hendriks, 2005a; 96; Diduck and Sinclair et al., 2007; 225; Rojanamon, Chaisomphob, and Bureekul, 2010; 13; Bonner, Carlitz, et al, 2005; 148; Soneryd and Weldon, 2003; 30; Almer and Koontz, 2004; 476; Okello and Beevers et. al., 2009; 218

¹⁶⁴¹ Diduck and Sinclair et al., 2007; 225; Okello and Beevers et. al., 2009; 223; Almer and Koontz, 2004; 476

¹⁶⁴² Field Notes 7 August 2006

design only, is economically viable. Meanwhile, the NGOs oppose the mine because open pit mining and the use of cyanides will impact the landscape, endanger communities and the environment and force the resettlement of families. Because the public was not invited to participate in the design of the RMGC project the deliberations are now restricted to those arguments that support or oppose the project design as is, rather than to develop and improve the project. The framing of the deliberations in this way has led to the irreconcilable dispute experienced by the commune rather than to healthy public debate.

The public was not invited to participate in the bidding process for the Roșia Montană exploitation license.¹⁶⁴³ According to Jurnalul National, on 5 September 1995, Regia Autonomă a Cuprului (RAC) Deva published an advertisement on the eighth page of the newspaper *Adevarul* announcing its intention to form a partnership with a foreign company in order to process the remaining tailings from the Roșia Montană gold mine.¹⁶⁴⁴ The announcement invited tenders for the next 30 days.¹⁶⁴⁵ However, the newspaper alleges that RAC Deva signed the agreement with Gabriel Resources one day before the newspaper announcement – 4 September 1995.¹⁶⁴⁶ According to a journalist from Alba Iulia, there was never an auction for the partnership or for the transfer of the exploitation license from Minvest to RMGC in 2000.¹⁶⁴⁷ The Romanian National Agency for Mineral Resources will not release the content of the

¹⁶⁴³ Field Notes 7 August 2006

¹⁶⁴⁴ Jurnalul National 23 June 2005 Retrieved 11 September 2012 from <http://www.jurnalul.ro/observator/viata-secreta-a-lui-vasile-frank-timis-42433.htm>

¹⁶⁴⁵ Jurnalul National 23 June 2005 Retrieved 11 September 2012 from <http://www.jurnalul.ro/observator/viata-secreta-a-lui-vasile-frank-timis-42433.htm>

¹⁶⁴⁶ Jurnalul National 23 June 2005 Retrieved 11 September 2012 from <http://www.jurnalul.ro/observator/viata-secreta-a-lui-vasile-frank-timis-42433.htm>

¹⁶⁴⁷ Field Notes 7 August 2006

agreement or details of the tender process to the public so the public cannot comment on the license or the tender process even in retrospect.

According to members of the opposition, Roșia Montană residents were not invited to participate in the development of the 2002 General Urban Plan (PUG).¹⁶⁴⁸ It is in this plan that the community could have created an economic plan for itself.¹⁶⁴⁹ Alburnus Maior states that in 2002 the local residents had not given the local council 'permission to transfer their private properties into an industrial area.'¹⁶⁵⁰ They assert that the commune's development plan would have been different if the public had been allowed to participate.

Opposition members complain that they were not able to provide input into the RMGC's *Scoping Stage Guidelines* during the Scoping Stage of the EIA process.¹⁶⁵¹ The Scoping Stage Guidelines guide the developer during the EIA Study and EIA Report; they describe the baseline studies, the research methods, the criteria for assessing impact and the potential environmental impacts that ought to be included in the EIA Report.¹⁶⁵² While the Aarhus Convention and EU Directives require public participation during the Scoping Stage, the Ministry of the Environment interpreted Romanian law in a way that

¹⁶⁴⁸ Alburnus Maior, 2008c

¹⁶⁴⁹ Field Notes 7 August 2006

¹⁶⁵⁰ Alburnus Maior 30 January 2008 Press Release Retrieved 11 September 2012 from http://www.ngo.ro/site_item_full.shtml?x=32786

¹⁶⁵¹ Alburnus Maior, 2008a; 1; Alburnus Maior, 2007d; 4; Alburnus Maior Aarhus Compliance Committee Contestation 20 June 2005 Retrieved 11 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/Communication%20and%20main%20references/Alburnus%20Maior%20communication%20to%20ACC.pdf>; Alburnus Maior 20 June 2005 Open Letter Retrieved 11 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/Communication%20and%20main%20references/RM%20NGO%20EIA%20Contestation%20June.pdf>

¹⁶⁵² Romanian Ordinance 863/2002 § 2.1

meant that the public did not have a right to comment during this stage.¹⁶⁵³ Ultimately, civil society activists did include written comments to be added to the Scoping Stage document, but these comments were not considered in the RMGC Scoping Stage Guidelines, which had already been published.¹⁶⁵⁴ By refusing to allow the public to participate in this important early stage of the EIA process and project design, the EIA Study and EIA Report were weakened.¹⁶⁵⁵

This analysis demonstrates that the RMGC hybrid forums convened as part of the RMGC EIA process cannot be considered legitimate in terms of the legitimacy conditions that shape deliberative content based on the normative claims made by deliberative theory and practice. The information provided to participants was disorganised, repetitive, superficial and sometimes misleading. According to the company, the purpose of the RMGC EIA hybrid forums was to inform the public. This meant that the public was instructed to phrase their comments in the form of questions – not a very powerful way to present an argument. Legal and technical arguments were favoured over normative and subjective claims. The hybrid forums were convened very late in the process, after the company had made significant investments in the project's design. This limited the range of arguments possible for the forums.

¹⁶⁵³ EU EIA Directive 97/11/EC; EU Directive 2003/35/EC; Alburnus Maior, 2007d; 6

¹⁶⁵⁴ Alburnus Maior, 2007d; 4

¹⁶⁵⁵ Alburnus Maior, 2007d; 6; Alburnus Maior Scoping Stage Contestation Retrieved 11 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/Communication%20and%20main%20references/Alburnus%20Maior%20communication%20to%20ACC.pdf>; Alburnus Maior 20 June 2005 Open Letter Retrieved 11 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/Communication%20and%20main%20references/RM%20NGO%20EIA%20Contestation%20June.pdf>

CHAPTER 12: CONDITIONS THAT LINK THE FORUM TO THE DELIBERATIVE SYSTEM

The chapter concludes the critical analysis of the legitimacy claims of the Roşia Montană Gold Corporation (RMGC) Environmental Impact Assessment (EIA) Process hybrid forums. This assessment employs the claims of the hybrid forum participants to compare the reality of the RMGC hybrid forums with the hybrid forum deliberative standard developed from deliberative theory and practice in chapters 6 and 7 of this thesis. Hybrid forums are those micro deliberative venues that include more than one type of political actor – state, commercial, civil society activist and lay citizen. Because hybrid forums are rarely fully inclusive, they are usually representative. This means that the legitimacy conditions that link the forum to the deliberative system apply for hybrid forums. In this chapter I critically assess the RMGC EIA hybrid forums against the conditions that link the forum to the deliberative system: hybrid forums ought to be influenced by the deliberative system; hybrid forums ought to influence the deliberative system; and hybrid forums ought to be public.

Hybrid Forum Legitimacy Standard	
Conditions that Guide Deliberator Relations Chapter 10	
Free from Coercion	Yes
Equal	Yes
Inclusive/Representative	Representative
Reciprocal	Reciprocal/Authentic
Transformative	Yes
Conditions that Shape Deliberative Content Chapter 11	
Informed	Yes
Reasonable	Expanded
Early Participation	Yes
Conditions that Link the Forum the to Deliberative System Chapter 12	
Influenced	Yes
Justifiable/Accountable/ Influential	Influential
Public/Transparent	Yes

INFLUENCED

Because hybrid forums are representative, rather than fully inclusive, it is important that hybrid forum participants consider and respond to the claims of the public sphere and other deliberative forums. As part of deliberations, participants must consider the issues raised by other forum colleagues as well as the members of the public who are not able to attend the hybrid forum. In this way, the hybrid forum can justify its outcomes to the non-participating members.

The participants of the RMGC EIA hybrid forums made only a few references to other deliberative venues and arenas that had debated the proposed RMGC gold mining project. On the occasions that forum participants did refer to other arenas, it was not to demonstrate that the forum was considering the views of association members who were not present at the forum. Rather, participants of the RMGC EIA hybrid forums used references to other arenas to support

their own position. It does not appear that the forum participants had reliable data or information about the ‘constellation of discourses’ that exist in the deliberative system for the RMGC project authorisation. For example, some participants referred to the public sphere when they asserted that a majority of Roşia Montană residents support the project.¹⁶⁵⁶ One project supporter asserted:

*We, the majority of people and rightful landowners from Roşia Montană, from the project area, 80% of us agree to this project.*¹⁶⁵⁷

The Alba County Council President told me that:

*Not all of them [agree with the project], but the large majority yes.*¹⁶⁵⁸

However, according to the public official form the Alba County Culture and Religion office:

*The community is divided. In Roşia Montană, statistically speaking, 40-50% accepted the money for moving. Others don't want to leave.*¹⁶⁵⁹

In fact, according to the focus groups convened by RMGC, while local business owners ‘have a good image of the company’, in general, ‘adults, [both] males and females, have a negative impression of the company’.¹⁶⁶⁰

Participants at the Câmpeni meeting referred to Mr. O’Hara’s site visit to Roşia Montană. A representative from RMGC read two excerpts of Mr. O’Hara’s

¹⁶⁵⁶ Deva Public Meeting; Zlatna Public Meeting; Roşia Montană Public Meeting

¹⁶⁵⁷ Roşia Montană Public Meeting

¹⁶⁵⁸ Alba County Council President

¹⁶⁵⁹ Alba County Council

¹⁶⁶⁰ RMGC, 2006f; 40

report that support the proposed project.¹⁶⁶¹ A member of Alburnus Maior referred to this speech during her five minutes. She argued:

*Mr. O'Hara came to Roşia Montană to see if sacrificing the [commune's archaeological potential] [...] is legal or not. He stayed for one day. And after that he made a very detailed social, economic and cultural study. Something he hardly would have noticed in one day. It is still a coincidence that he isn't a mining archaeologist; he is an underwater archaeologist.*¹⁶⁶²

One participant referred to a 1994 European Parliament resolution outlining the particular risks associated with the use of cyanide in gold processing operations.¹⁶⁶³ That same participant gave an example of a Greek mine that was approved by their Ministry of the Environment based on legal grounds.¹⁶⁶⁴ However, the Greek courts overturned that authorisation because the benefits of the project were not 'proportional to the damage inflicted on the environment' and the authorisation did not 'respect the principles of sustainable development'.¹⁶⁶⁵

Finally, the company dismissed a participant's argument about the legality of the RMGC urbanistic certificate with the following comment:

*About the decision you were saying is illegal, the Alba Iulia Court has already made a decision.*¹⁶⁶⁶

¹⁶⁶¹ Câmpeni Public Meeting
¹⁶⁶² Câmpeni Public Meeting
¹⁶⁶³ Câmpeni Public Meeting
¹⁶⁶⁴ Câmpeni Public Meeting
¹⁶⁶⁵ Câmpeni Public Meeting
¹⁶⁶⁶ Alba Iulia Public Meeting

INFLUENTIAL

In order for deliberative hybrid forums to be legitimate they must influence either the public sphere or other deliberative forums – perhaps especially institutional forums with the authority to make binding decisions.¹⁶⁶⁷ Given the high costs of participation, especially for volunteer participants, it is important the hybrid forums make a difference.¹⁶⁶⁸ Because hybrid forums do not result in binding outcomes, the value of hybrid forums is the difference they make.¹⁶⁶⁹ The Aarhus Convention, European Directives and Romanian law all require public officials to consider the public's comments and analysis when taking environmental agreement decisions.¹⁶⁷⁰ According to these conventions and laws, public participation ensures more transparent decisions and comprehensive and reliable consideration of the impacts, risks and benefits of a particular decision. According to the statement read by the debate president at the beginning of the RMGC EIA hybrid forums, the Ministry of the Environment and the Review Stage CAT would take the public's suggestions and comments into consideration when they make their decision about the authorisation of the proposed RMGC gold mine.¹⁶⁷¹ However while Romania's public institutions have become more transparent since the communist era, its public officials have a long way to go before they are willing to include the opinions and ideas of the public in public decision making.

¹⁶⁶⁷ Scully and McCoy, 2005; 202; O'Faircheallaigh, 2010; 19; Rojanamon, Chaisomphob, and Bureekul, 2010; 2; Okello and Beever et. al., 2009; 218; Diduck and Sinclair et al., 2007; 220

¹⁶⁶⁸ Button and Ryfe, 2005; 24; Cornwall and Coelho, 2007b; 9

¹⁶⁶⁹ O'Faircheallaigh, 2010; 19; Rojanamon, Chaisomphob, and Bureekul, 2010; 2; Okello and Beever et. al., 2009; 218; Diduck and Sinclair et al., 2007; 220

¹⁶⁷⁰ European Directives 85/337/EEC, 96/61/EC, 2001/42/EC, 2003/35/EC and 2004/35/EC; Romanian Law 50/1991, 350/2001, 52/2003; Romanian Environmental Protection Law 137/1995 Ch IV § 1; Ordinance 860/2002 and Government Decision 1076/2004

¹⁶⁷¹ Câmpeni Public Meeting

Many of the people who returned a questionnaire during the RMGC Public Meetings doubt that they can influence the RMGC project authorisation decision. Of those people who returned a questionnaire, 46% believed that their opinions about the project authorisation would be taken into consideration.¹⁶⁷² Among those who support the project 68% believed their opinions mattered, while less than 12% of those who oppose the project felt that way. According to Alburnus Maior:

*In Romania the voice and rights of civil society in decision-making only seem to matter when they are useful to top-level political decision makers*¹⁶⁷³

Even the Mayor of Câmpeni wonders if the opinions, values and preferences of his community will be considered in the authorisation decision.

*That remains a question even for me, if someone will take into consideration our opinions or not, or if the decision will be made at the high level.*¹⁶⁷⁴

In Romania, final authorisations for development projects are granted or refused based on the legality of the company's EIA process and its project design.¹⁶⁷⁵

An authorization is approved as long as the company follows the authorization process rules and none of the project design elements break Romanian law. The task of public officials is simply to apply the law to the EIA process and the

¹⁶⁷² The remaining 10% didn't respond to the question.

¹⁶⁷³ Alburnus Maior, 2007d; 2

¹⁶⁷⁴ Câmpeni Mayor Interview

¹⁶⁷⁵ Interview: Alba County EPA; Confidential 1; Alba County Environmental Guard; Confidential 2; Alba County Culture and Religion; Cluj County Environmental Guard; Alba County Sub Prefect; Hunedoara County Sub Prefect; Cluj County Sub Prefect; World Wide Legal Directories Retrieved 10 September from http://www.hg.org/articles/article_1911.html

substantive project design.¹⁶⁷⁶ This approach leaves very little room for the public to contribute to substantive policy decisions. More than one public official emphasised the strict rules, regulations and procedures that guide the activities of his/her organisation.¹⁶⁷⁷ The official at the Alba County Environmental Protection Agency says that he is only responsible for verifying that the EIA process and documents follow legal procedure; he is not responsible for considering the public comments or for analysing the possible substantive impacts of a project in Alba County.¹⁶⁷⁸

*I am interested in my part here; so whether this project, for example, follows the legal procedures and whether the documents and everything is at the right place. We follow the law.*¹⁶⁷⁹

Another official stated that:

*The environmental authorization is not obtained, unless all procedures are passed and if all the requirements mentioned in the laws are met.*¹⁶⁸⁰

The developer is not required to change the design of the project based on public comment, as long as the design meets current legislation. This process almost guarantees that project authorisations for projects like RMGC will be granted based on strategic - rather than practical or communicative – rationality. Rather than on the preferences, life experiences, values and opinions of the

¹⁶⁷⁶ Peters, 2005; 6; Gallagher, 2009; 104

¹⁶⁷⁷ Interviews: Alba County EPA; Alba County Environmental Guard; Confidential 2; Alba County Culture and Religion; Cluj County Environmental Guard; Alba County Sub Prefect; Hunedoara County Sub Prefect; Cluj County Sub Prefect; Confidential 1

¹⁶⁷⁸ Alba County EPA Interview

¹⁶⁷⁹ Alba County EPA Interview

¹⁶⁸⁰ Confidential 1 Interview

public, project authorisations are based on existing legislation. For example, Mr. Aston explained to the Deva public meeting participants that:

*[Romanian Government Officials] told us, "as long as you respect the current legislation, it is 100% sure you will receive a mining license". We spent a lot of money just to be sure that our project totally respects the legislation. More than this, the project was examined by over 100 experts from Romania and from abroad, who also ensured that the project respects the legislation.*¹⁶⁸¹

In other words, regardless of the arguments presented during the RMGC EIA hybrid forums, the RMGC proposed project will be authorised as long as it respects the legislation. This approach explains why strategic litigation and legislative lobbying have proven to be the most successful methods for civil society activists to influence the authorisation of a project. Associations must, in a court of law, provide arguments and evidence that demonstrate that a proposed project violates or meets some statute. Alternatively, in order to influence the authorisation of a project, civil society activities must lobby legislators to approve legislation that either permits or prohibits certain activities – effectively granting or refusing project authorisation.

Given Romania's dismal economic environment, economic development and foreign investment seem to be the dominate considerations, even at the expense of other public priorities, in determining local and state level policy in Romania.¹⁶⁸² This approach to public policy decision making relates back to Dryzek's notion of state imperatives.¹⁶⁸³ Dryzek argues that state imperatives –

¹⁶⁸¹ Deva Public Meeting

¹⁶⁸² Light, 2001; 72; Alba County Council Interview

¹⁶⁸³ Dryzek, 2000; 83

including those to encourage investment, prevent capital flight and raise revenues - prevail over all other policy outcomes.¹⁶⁸⁴ Given this deterministic approach, policy outcomes are limited. According to Dryzek, state imperatives make it difficult for the public to influence decision makers.¹⁶⁸⁵ Romania's poor economic situation forces state actors to concentrate on its economic imperatives. This means state actors must passively exclude individuals and civil society actors while simultaneously actively including investors and economic actors - distorting the opportunities for public deliberation and ultimately policy outcomes.¹⁶⁸⁶ The Alba County Council President told me that proposed economic development projects have surpassed all other considerations when allocating funds for infrastructure development.¹⁶⁸⁷ During the Alba Iulia public meeting the spokesperson for RMGC told the audience that:

*The government certainly wants economic development in Roșia Montană; that is why they launched this invitation to foreign investors.*¹⁶⁸⁸

He also warned that:

*International companies are waiting to see what happens with our project so they can see if it is possible to invest in mining in Romani.*¹⁶⁸⁹

¹⁶⁸⁴ Dryzek, 2000; 138

¹⁶⁸⁵ Dryzek, 2000; 83, 138; Soneryd and Weldon, 2003; 27, 35

¹⁶⁸⁶ Dryzek, 2000; 138; The state continues to actively include service provider NGOs, ensuring the low cost delivery of public services and demonstrating that the state involves – indeed supports - civil society in public decision making.

¹⁶⁸⁷ Alba County Council Interview

¹⁶⁸⁸ Alba Iulia Public Meeting – Company Response to Speak 123

¹⁶⁸⁹ Bistra Public Meeting – Company Response to Speaker 325; The Alba County Council President agrees that an environmental agreement for the RMGC will attract other foreign investors. (Alba County Council Interview)

A meeting participant reminded the audience that:

*The only solution, not only for the mining in Roșia Montană but for the entire national economy, is investments. If we do get these investors, let's support them. Let's support them with all our powers.*¹⁶⁹⁰

Meanwhile a participant of the Bucharest meeting complained that some of the ancient Roșia Montană Roman mining galleries were to be destroyed and replaced with 3D computer generated models. He asked:

*The authentic work is dispensable if the material interest is greater?*¹⁶⁹¹

All public officials, regardless of their competency, consider economic development when making policy decisions. When I asked one public official which ministry was responsible for the creation of state-level economic development strategy, she said,

*All the Government, the entire Government is responsible for that.*¹⁶⁹²

The director of the Alba County Environmental Protection Agency said that he has to be a 'balanced man'.¹⁶⁹³ Rather than only favouring environmental protection considerations, the director of the Alba Environmental Protection Agency stated that he must:

find a balance between economic development and the protection of the citizen and the community. He has to find the right balance, so as

¹⁶⁹⁰ Roșia Montană Public Meeting – Speaker 15

¹⁶⁹¹ Bucharest Public Meeting – Speaker 393

¹⁶⁹² National EPA Interview; I have not been able to find, and none of the public officials I interviewed could tell me, the name of the Ministerial, regional or local level authority with the mandate and expertise to develop and implement balanced and sustainable economic strategies for their jurisdiction.

¹⁶⁹³ Alba County EPA Interview

*neither of them to be favoured. So it should be both economic development and protection. So the director has to find that balance between the protection of the citizen and community and economic development.*¹⁶⁹⁴

According to the Romanian public officials interviewed for this thesis, all Romanian public officials consider the economic impact of policy.¹⁶⁹⁵ If all of the government – even those without competency in the area - considers the economic impact of policy, its ability to consider the public's other interests loses its focus. Without a specific economic development structure, the tension created between competing authorities - each representing various public interests - is lost. Without this tension, the public loses its ability to ensure the attainment of competing public priorities without one interest dominating all others.

Romanian participation and deliberation is hindered by the reluctance of public administrators to include the public in decision making. Government officials are reluctant to involve Non-Governmental Organisations (NGOs) in serious deliberation over policy issues.¹⁶⁹⁶ Romanian public authorities lack confidence in the technical analysis ability of the Romanian public. Many of the public officials interviewed for this research complained that citizen arguments during the RMGC public debates were not technical¹⁶⁹⁷ or relevant¹⁶⁹⁸. Most of the public officials spoke about an inability of 'ordinary citizens' to participate in a

¹⁶⁹⁴ Alba County EPA Interview; By the way, this statement contradicts his earlier statement that he just applies the law; apparently the director of an Environmental Protection Agency does have some authority to make decisions within the law.

¹⁶⁹⁵ National Environmental Protection Agency; Alba County EPA Interview

¹⁶⁹⁶ Gallagher, 2009; 100

¹⁶⁹⁷ Interviews: Hunedoara County Environmental Guard; National EPA; Alba County Culture and Religion; Arad County EPA

¹⁶⁹⁸ Interviews: Arad County EPA; Alba County EPA; National EPA; Alba County Culture and Religion; Hunedoara County Environmental Guard; Confidential 2; Ministry of Economy and Commerce; Ministry of Culture and Religion

technical debate¹⁶⁹⁹ – especially one as complex as the RMGC project.¹⁷⁰⁰

When describing the questions raised by the public at the Alba meeting, the Director of the Alba County EPA said:

*Well, of course [the questions] were not all pedantic, as they were put by simple people.*¹⁷⁰¹

One public official who had organised a public debate complained that:

*The participants talked of different things except the theme, the main theme of the discussion. So this is normal; it's for nothing. This kind of public debates is useless. It happens very often that they come up with personal issues. We lost, lose a lot of time. And we don't get any good information from this.*¹⁷⁰²

A public official at the National Environmental Protection Agency complained:

*We don't know exactly why they don't want this project because they have no, in my point of view, they have no technical arguments. Only, "we don't want!" They don't present technical arguments.*¹⁷⁰³

According to a public official from the Hunedoara National Guard:

Unfortunately, the ones against [the project], until now, have not brought any arguments to prove that this project is not good. So the only arguments they've brought are that the environment will be damaged - which in fact can be damaged even without the project - and that the archaeological site from Roşia Montană [will be damaged]. So they haven't brought any clear arguments, like the ones from

¹⁶⁹⁹ Interviews: Ministry of Economy and Commerce; Câmpeni Mayor, Câmpeni Local Council; Alba County Environmental Guard; Arad County EPA; Cluj County Environmental Guard; Alba County EPA

¹⁷⁰⁰ Interviews: Câmpeni Mayor, Alba County Environmental Guard

¹⁷⁰¹ Alba County EPA

¹⁷⁰² Ministry of Culture and Religion

¹⁷⁰³ National Environmental Protection Agency

RMGC brought: "yes, we will offer jobs to this many people; we will work [at the site] for this long; and we will create that many adjacent jobs".¹⁷⁰⁴

A public official who attended the Arad public meeting (one of the meetings not attended by formal opposition organisations) complained:

Neither one side, nor the other, had solid arguments. So, it was only words, with no careful analysis of the documentation or relevant justification.¹⁷⁰⁵

More than one public official worried that the debates did not focus on the potential environmental impacts of project.¹⁷⁰⁶

Indeed, many issues were raised that were related to environmental problems, but there were also many detours that dealt with completely other problems. But everyone has the right to speak his or her own mind at these debates.¹⁷⁰⁷

According to a director at the Ministry of Culture and Religion, the lobby groups - who claim that there are irregularities in the discharge certificates for the RMGC project - are mistaken:

These groups lacked scientific knowledge and [have] confused [the] issues.¹⁷⁰⁸

Rather than trusting the abilities of 'common citizens' to understand and analyse complex policy decisions, public administrators rely on their own knowledge and

¹⁷⁰⁴ Hunedoara Environmental Guard

¹⁷⁰⁵ Arad Environmental Protection Agency

¹⁷⁰⁶ Arad County Environmental Protection Agency; Confidential 2

¹⁷⁰⁷ Cluj EPA

¹⁷⁰⁸ PACE, 2004; 5

rely on information that moves up the hierarchy. More than one public official interviewed for this research spoke about ‘knowing’ the concerns and needs of the public.¹⁷⁰⁹ These officials argued that because they have lived in the area for so long, because they have done their job for so long, because of their frequent visits throughout their jurisdiction, they do not need the citizens to tell them their needs.¹⁷¹⁰ Public officials don’t need to hear from the citizens or to communicate with them. Public officials just know.¹⁷¹¹ When I asked the Alba County Council President how the council finds out about people’s opinions about the RMGC project, he said:

*So there are no opinion polls. And we kind of know what the people from the area want and not only the ones from Roşia Montană, but the ones from the neighbouring areas as well, who are affected one way or another by this project.*¹⁷¹²

One elected member of a county council argued that questionnaires and collecting information from the public is not part of his remit:

*I understand surveys and everything; these aren't really forms that suit our activities.*¹⁷¹³

Rather, the county council collects information from:

¹⁷⁰⁹ Interviews: Alba County Council, Alba County EPA, Alba County Culture and Religion, Alba County Environmental Guard, Alba County Sub Prefect; Hunedoara County Environmental Guard

¹⁷¹⁰ Interviews: Alba County Council; Alba County EPA; Alba County Environmental Guard; Alba County Sub Prefect

¹⁷¹¹ Interviews: Alba County Council, Alba County EPA, Alba County Culture and Religion, Alba County Environmental Guard, Alba County Sub Prefect

¹⁷¹² Alba County Council Interview

¹⁷¹³ Arad County Council Interview

*the local councils in the county - the 68 councils. And we mainly take in the issues brought forward to them, to the local level, to the city halls. We do not have a direct activity with the public.*¹⁷¹⁴

On the other hand, the Câmpeni Local Council did distribute a questionnaire that sought to learn about the public's views and priorities:

*Questionnaires were distributed by the local council and the city hall in which [the public] was asked to answer what they would like to change in the next 3 years in their life; what should be built in their town; what are the conditions that must be changed so that their life can improve.*¹⁷¹⁵

Romania's legal and bureaucratic framework sets the participatory and deliberative relationship between the public and the developer rather than between the public and its public authorities.¹⁷¹⁶ For the most part, deliberative theorists and practitioners envision a deliberative relationship between state actors and the public.¹⁷¹⁷ For Romanian EIA processes this relationship has been shifted. More than one participant seemed frustrated with his/her inability to speak with public officials during the EIA RMGC hybrid forums. The moderators told participants that they could only direct their questions to the project owner. At the Bistra session the moderator instructed a participant:

¹⁷¹⁴ Arad County Council Interview

¹⁷¹⁵ Câmpeni Local Council Interview

¹⁷¹⁶ The developer is responsible for releasing the public announcements about the various stages of the authorisation process. (Romanian Order 860/2002, Ch II; Articles 13, 22, 27, 31, 35, 47; Arad County EPA; National EPA) The developer organises and produces the public meetings. (Romanian Order 860/2002, Ch II; Articles 27, 39, 41, 42, 44; Confidential 2; Confidential 1) Public comments are sent to the public authority, but the developer responds to them. (Romanian Order 860/2002, Ch II; Articles 28, 44; National EPA) The developer presents the public's comments to the authority. (Romanian Order 860/2002, Ch II; Article 44; Alba County EPA)

¹⁷¹⁷ Dodge, 2009; Metze, 2009; Hendriks, 2006; 486; Hendriks, 2009; Cornwall and Coelho, 2007; 1

*I am not a Secretary of the State, but your message will be transmitted to the Secretary of the State. However, only the project owners, the representatives of the [company] will answer your questions. And if those of you who are about to hold a speech have questions for anyone else, but the project owner, please forget those questions. The representatives of Greenpeace or other NGOs cannot give you an oral answer, especially written [answers], at this time.*¹⁷¹⁸

During the Roşia Montană meeting, Mr. Mihăilescu explained:

*Your questions must be directed towards the project owner, not to the Ministry. I am not from the Ministry.*¹⁷¹⁹

These instructions were presented during the question and answer portion of the public meetings despite the fact that during the moderator's introduction the participants were informed that:

*The ones who will answer your questions and comments are counsellors of the Ministry of Environment and Water Management, counsellors of the Regional Agency of Environmental Protection Sibiu and those of the Regional Agency of Environmental Protection Alba.*¹⁷²⁰

It is doubtful that these representatives were even at the public meetings.¹⁷²¹

Of the 22 authorities interviewed, only 11 attended one of the RMGC public meetings.¹⁷²² Many of those who did attend participated as individuals observing the process rather than as public officials listening for and seeking

¹⁷¹⁸ Bistra Public Meeting

¹⁷¹⁹ Roşia Montană Public Meeting

¹⁷²⁰ Câmpeni Public Meeting

¹⁷²¹ Formula AS August 2006 Retrieved 12 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹⁷²² Interviews: Confidential 2; Hunedoara County Environmental Guard; Roşia Montană 1; National EPA; Alba County Environmental Guard; Alba County EPA; Arad County EPA; Cluj County Environmental Guard; Câmpeni Local Council; Confidential 1; Roşia Montană 2

understanding of the substantive impacts of the project or the public's opinions and perspectives about the project.¹⁷²³ Only the agencies responsible for the jurisdiction where the proposed project resides - Alba County EPA and Environmental Guard in this case- are responsible for managing the EIA process, attending the local public meeting and reviewing the project's documents – even if the project may possibly impact other jurisdictions.¹⁷²⁴

Participants seemed confused that public officials were not present, in any formal way, at the public meetings.¹⁷²⁵ In other empirical research, Alma and Koontz found that typically decision makers do not attend hybrid forums; rather, they rely on meeting transcripts.¹⁷²⁶ On the rare occasion that a public official spoke during a public meeting they spoke from the floor like a regular meeting participant.¹⁷²⁷ One participant expressed her confusion:

*The questions that I will ask are for the representatives of the government. I understood that we would have more people here from the Ministry of Environment.*¹⁷²⁸

Another participant complained:

¹⁷²³ Interviews: Confidential 2; Hunedoara County Environmental Guard; National EPA; Arad County EPA; Cluj County Environmental Guard; Confidential 1; Arad County Council; State Ministry of Culture and Religion

¹⁷²⁴ Interviews: Arad County Council; Confidential 2; Hunedoara County Environmental Guard; Confidential 2; Alba County Sub Prefect; Cluj County Environmental Guard; Cluj County Sub Prefect; Alba County Environmental Guard Interview; Confidential 1

¹⁷²⁵ Formula AS August 2006 Retrieved 12 August 2012 from <http://www.formula-as.ro/2006/733/spectator-38/farsele-lui-gabriel-7289>

¹⁷²⁶ Almer and Koontz, 2004; 490

¹⁷²⁷ The following 8 public officials introduced themselves as public officials and spoke at the RMGC public meetings: the Mayor of Arad, a staff member from the Câmpeni Mayor's Office, the Mayor of Zlatna, the Vice-Mayor of Brad, the Director of the Deva Archaeology Museum, Gheorghe Funar (a Romanian Senator), an employee of Minvest and a Bucharest Local Councillor.

¹⁷²⁸ Alba Iulia Public Meeting

*I ask myself, the Romanian Academy, why weren't they invited here today? They are the leaders of Romanian culture. Why weren't they invited here? The European Parliament, why aren't they here if they oppose this?*¹⁷²⁹

Later another participant expressed her disappointment with the public meeting:

*I was expecting, that at least from the county level, a series of high ranking officials would participate, responsible people from the Ministry of the Environment and other Ministries, because they all have subordinates here in our county.*¹⁷³⁰

Another participant said it this way:

*We thank the Prefect's office that didn't come here to listen to us. They really take care of us!*¹⁷³¹

Because public officials were not present at the meetings, the participants were forced to ask the moderator to pass on messages to the Ministry of the Environment:

*I beg of you one more time, Mr. Secretary of the State. Take this message there, in the capital of our country, to all the leaders of this country; take this message to all the government members, to all the members of the parliament, to all the politicians, to all our saintly priests, to all the wise men of our country, to give a green light to this investor, Gabriel Resources.*¹⁷³²

The absence of public officials at the public meetings makes the relationship between Romania's democratic citizenry and its government ambiguous. The

¹⁷²⁹ Rosia Montana Public Meeting

¹⁷³⁰ Alba Iulia Public Meeting

¹⁷³¹ Alba Iulia Official Minutes

¹⁷³² Bistra Public Meeting

Romanian public understood that for the meetings to influence decision makers, the decision makers must be involved in the process.¹⁷³³ Even in the EIA Annex, the Ministry of the Environment did not respond to the questions or comments that were raised at the public meetings and that were specifically directed to the government. It was the company that responded to the public arguments in the EIA Annex. For the RMGC EIA hybrid forums, state actors were not consulting the public, company actors were. For the authorisation of major development projects, Romanian officials claim neutrality and structure a participatory and deliberative relationship between the developer and the public – rather than a relationship between the public and its public administration.

According to a 2002 BankWatch Report¹⁷³⁴, Romania's regulatory authorities lack the resources, consciousness and competence for environmental management in the mining sector.¹⁷³⁵ The report claims that the authorities lack the technical and financial capacity to properly monitor a mining operation the size of the proposed RMGC project.¹⁷³⁶ Dr. Moran shares BankWatch's concerns about Romania's institutional ability to monitor the project if it is implemented.¹⁷³⁷ He argues that the public authorities have failed to adequately protect the public or to help it evaluate and understand the effects of

¹⁷³³ Scully and McCoy, 2005; 204; Hendriks, 2005a; 96; Coelho, 2007b; 37; Melville, Willingham, and Dedrick, 2005; 51; Cornwall and Coelho, 2007b; 18; Lukensmeyer, Goldman and Brigham, 2005; 161; Hendriks, 2005a; 96

¹⁷³⁴ BankWatch is an international NGO operating in 12 countries in Central and Eastern Europe. This organisation monitors the activities of international financial institutions (IFIs) that operate in the region. <http://www.bankwatch.org/>

¹⁷³⁵ Bara, 2002; 1

¹⁷³⁶ Bara, 2002; 5; Alba Iulia Public Meeting – Speaker 107; Formaldehyde Takes Romania Closer to the European Court of Justice Retrieved 7 March 2012 from <http://pollutionfreesebes.wordpress.com/>; The director of the Alba County Department of Culture and Religion also articulated this concern. (Alba County Department of Culture and Religion Interview)

¹⁷³⁷ Moran, 2007 Moran's report was commissioned by the project's opposition, Alburnus Maior.

the project on the environment and health.¹⁷³⁸ During the interviews for this research, public administrators almost never spoke about – even when prompted¹⁷³⁹ - formal or systematic analysis or policy evaluation when speaking about the development and implementation of public policy. Without internal analysis, Romanian public officials rely on outside experts – certified by the state, but paid for by the project owner – to analyse the substantive issues of development projects.¹⁷⁴⁰ Romania’s public officials do not have the ‘institutional capacity or the will’ to apply basic norms.¹⁷⁴¹

The public also questions the government’s competence and experience when it comes to the development and implementation of public strategy. During the public meetings, both those who support and those who oppose the RMGC project expressed concerns about the abilities of Romanian public decision makers. During the Bistra public meeting a participant stated:

*I do not know if the Ministry of the Environment has become so incompetent that it is unable to determine if a project has a negative impact on the environment.*¹⁷⁴²

A supporter of the project observed that

*Throughout Romanian history there have been many decisive mistakes made that have been repeated in time.*¹⁷⁴³

¹⁷³⁸ Moran, 2007; 7

¹⁷³⁹ Interviews: Alba County Sub Prefect; Confidential 1; Arad County EPA; Cluj County Environmental Guard; Câmpeni Local council

¹⁷⁴⁰ Romanian Environmental Protection Law 137/1995 Ch II § 1 Article 12; Interviews: Alba County EPA; Alba County Sub Prefect; Alba County Culture and Religion; National EPA; Confidential 1; Arad County EPA; Alba County Environmental Guard; Cluj County Environmental Guard

¹⁷⁴¹ Moran, 2007; 7

¹⁷⁴² Bistra Public Meeting – Speaker 327

¹⁷⁴³ Bucharest Public Meeting – Speaker 347

She worried that an authorisation refusal of the RMGC project would be another such mistake. More than one participant wondered ‘in what civilised state’ such a project would be authorised.

Based on the results of the questionnaire distributed during the public meetings¹⁷⁴⁴, 67% of the people who returned a questionnaire were not pleased with the way the authorities were making the decision about the gold mine. Of those who expressed support for the project 35% were pleased with the government decision making process while only 1% of those who oppose the project were pleased. When age was factored in, 75% of those less than 40 years old were not pleased with the decision making process.

		Yes		No		No Response		Total
Less Than 40 Years Old	Support	20	34%	36	61%	3	5%	59
	Neutral	0	0%	7	100%	0	0%	7
	Oppose	1	3%	36	97%	0	0%	37
	No Response	1	20%	2	40%	2	40%	5
	Total	22	20%	81	75%	5	5%	108
40 Years and Older	Support	31	36%	46	54%	8	9%	85
	Neutral	2	22%	5	56%	2	22%	9
	Oppose	0	0%	32	84%	6	16%	38
	No Response	2	20%	4	40%	4	40%	10
	Total	35	25%	87	61%	20	14%	142
Total	Support	51	35%	82	57%	11	8%	144
	Neutral	2	13%	12	75%	2	13%	16
	Oppose	1	1%	68	91%	6	8%	75
	No Response	3	20%	6	40%	6	40%	15
	Total	57	23%	168	67%	25	10%	250 1745

Table 13: Pleased with Authorisation Process

Both European and Romanian legislation call for public participation periods during environmental authorisation decisions; however, I could find no legislation that guides public authorities in the compilation, analysis,

¹⁷⁴⁴ Please note that the results of this survey cannot be used to generalise across the population but can be used only as an indication of the opinions of those who returned a questionnaire. See Chapter 6 for a description of the methodological issues with this questionnaire.

¹⁷⁴⁵ Two respondents did not report their age.

consideration and reporting of public argument. Should arguments be weighed based on the domicile location of the participant or based on the direct or indirect effects likely to be experienced by the participant? How should decision makers deal with a single argument offered by multiple participants?¹⁷⁴⁶ Should these comments be counted or weighed differently than those comments that are relevant but are only offered once? How should decision makers deal with conflict? Should the arguments of those who feel strongly about their claims be weighed more than the arguments of those who are not really bothered? Analytical methodologies must be developed that can guide decision makers as they try to understand, analyse and integrate the objective, normative and subjective arguments offered in deliberative venues.¹⁷⁴⁷

PUBLIC/TRANSPARENT

Because hybrid forums are representative, rather than inclusive, it is important that the procedural aspects and substantive arguments of hybrid forums are transparent. Hybrid forums must be made public so that those members of the association who do not attend the session can examine and challenge their outcomes.¹⁷⁴⁸ Public deliberation ensures that deliberations are guided by reciprocity and that participants approach the deliberations with open-minds.

¹⁷⁴⁶ Alburnus Maior complains that Romania's Ministry of the Environment combined written comments, from as many as 42 participants from 10 different countries, into a single registered entry. In another instance all 12,000 comments from Hungary were registered as a single entry. This meant that the Ministry of the Environment counted 5,610 comments, while Alburnus Maior counted 21,425. Alburnus Maior Public Meeting Contestation Retrieved 13 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>.

¹⁷⁴⁷ Soneryd and Weldon, 2003; 34

¹⁷⁴⁸ Gutmann and Thompson, 1996; 93, 114, 229, 308; Cohen, 1989b; 39; Cohen, 1997; 77; Parkinson, 2004; 379; Dryzek, 2000; 11, 149; Mansbridge, 1999; 221; Hendriks, Dryzek and Hunold, 2007; 366; Christiano, 1997; 262; Gaventa, 2006a; 17; Bohman and Rehg, 1997; xvi; Button and Ryfe, 2005; 28; Levine, Fung and Gastil, 2005; 275; Rosenberg, 2007; 6; Shapiro, 1999; 35; Young, 1999; 152

Transparent deliberations motivate participants to use reasoned arguments and discourage self-interested, immoral and unfair arguments.¹⁷⁴⁹ Only public forums have a hope of persuading others – either other forums or the public sphere - to accept their outcomes.¹⁷⁵⁰ No accurate and complete record of the RMGC EIA hybrid forums exists. The Ministry of the Environment published two documents that could have documented the meetings – the Official Minutes and the EIA Annex Questions document - but neither of these documents fully and accurately captures the claims and arguments presented during the meetings.

Soon after the RMGC EIA public meetings, Romania's Ministry of the Environment published the Official Minutes for 12 of the 14 RMGC EIA hybrid forums and posted them on the Ministry of the Environment's website.¹⁷⁵¹ Each of these documents includes the name of the Ministry's official presiding over the meeting and a summary of his opening comments.¹⁷⁵² They include the name of each speaker, a one line summary of his/her questions and comments and a one line summary of the RMGC response.¹⁷⁵³ The minutes were signed by a Ministry of the Environment's public official.¹⁷⁵⁴ According to the opposition, when compared with the audio-visual recordings of the meetings, the meeting minutes did not accurately and completely represent the comments

¹⁷⁴⁹ Gutmann and Thompson, 1996; 8, 97-100, 103, 126; Cohen, 1989b; 34; Benhabib, 1996a; 71; Thompson, 2008; 510; Chambers 2004, 2005; Hendriks, 2005b; 2; Hendriks, 2009; 174; Deveaux, 2003; 787

¹⁷⁵⁰ Gutmann and Thompson, 1996; 100, 103; Parkinson, 2004; 379

¹⁷⁵¹ Romanian Ministry of the Environment, 2011; The minutes can still be found on the Ministry of the Environment's webpage. The minutes for the Zlatna and the Brad meetings were not posted on the Ministry's website.

¹⁷⁵² Romanian Ministry of the Environment, 2011

¹⁷⁵³ Romanian Ministry of the Environment, 2011

¹⁷⁵⁴ Romanian Ministry of the Environment, 2011

and questions raised during the public meetings.¹⁷⁵⁵ The opposition claims that some questions were not recorded, some were summarized beyond recognition and others were summarized in a way that missed key points.¹⁷⁵⁶ The opposition called the minutes ‘a serious distortion’ of the meeting and accused the Ministry of deliberately distorting the comments made by people critical of the RMGC EIA Report.¹⁷⁵⁷

My analysis confirms the NGO’s conclusion. I compared the Official Minutes to my transcript for the first 12 speakers of the Câmpeni public meeting. According to my transcript these speakers offered 87 different comments or questions.¹⁷⁵⁸ The official minutes of the Câmpeni meeting missed 27 (31%) of them.¹⁷⁵⁹ In another example, according to the Alba Iulia meeting transcript, Speaker 107 introduced himself, asked ten questions and made four comments.¹⁷⁶⁰ His introduction, three of his questions and one of his comments were not recorded at all in the official minutes of the meeting.¹⁷⁶¹ His introduction might have been important to capture:

¹⁷⁵⁵ Alburnus Maior, 2007d; 5;; NGO Open Letter 7 December 2006 Retrieved 24 July 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>

¹⁷⁵⁶ NGO Open Letter 7 December 2006 Retrieved 24 July 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>

¹⁷⁵⁷ NGO Open Letter 7 December 2006 Retrieved 24 July 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>; The opposition expressed its concern that the official minutes would be used to record the questions and comments for the EIA Annex Questions document that would be forwarded to the company for its comment in the EIA Annex. Ultimately, the Ministry of the Environment did not use the official minutes of the public meetings to draw up the questions for the EIA Annex Questions document. (RMGC, 2007; Romanian Ministry of the Environment, 2007; Annex A)

¹⁷⁵⁸ Câmpeni Public Meeting

¹⁷⁵⁹ Romanian Ministry of the Environment, 2011; Câmpeni Official Minutes

¹⁷⁶⁰ See Appendix K for the Speaker 107 analysis.

¹⁷⁶¹ Romanian Ministry of the Environment, 2011; Alba Iulia Official Minutes

*Gentlemen, I am a geologist. I worked in the gold industry in the Apuseni Mountains for 45 years. Of those years, I spent 30 in Roşia Montană.*¹⁷⁶²

For example, this question was not recorded in the official minutes:

*What was the total expense paid by the National Agency of Mining Resources for the geological report regarding the reserve situation in Roşia Montană?*¹⁷⁶³

And this comment was not recorded in the official minutes:

*All that has been said about environmental reconstruction is in my opinion, useless. It implies huge expenses and a large work force that will never be covered by the sums allocated for this.*¹⁷⁶⁴

In the Official Minutes, the comments provided by the company are recorded as very superficial and meaningless summaries.¹⁷⁶⁵ For example, Mr Aston addressed five of Speaker 107's ten questions and one of his four comments, but the content of the response was not recorded. Instead, Mr. Aston's responses were summarised like this:

*The project manager answers: about the name change of the company and the money invested in the publicity campaign and about the quality of life in the areas.*¹⁷⁶⁶

Speaker 349 asked the following question about the Roşia Montană graves:

¹⁷⁶² Alba Iulia Public Meeting

¹⁷⁶³ Alba Iulia Public Meeting

¹⁷⁶⁴ Alba Iulia Public Meeting

¹⁷⁶⁵ Romanian Ministry of the Environment, 2007; Annex A; RMGC, 2007;

¹⁷⁶⁶ Romanian Ministry of the Environment, 2011; Alba Iulia Official Minutes

*There are so many churches and so many graveyards. What will you do with the dead from Roşia? And how will you take them out from their graves? And how will you move them?*¹⁷⁶⁷

Mr. Aston replied to Speaker 349 with the following:

*In the EU there are 350,000 happy miners. Why can't we [be happy] in Roşia Montană or in any other mining zone? Miners can also have cinemas, restaurants, to have hotels?*¹⁷⁶⁸

In the official minutes, this speech was summarised as:

*The project manager answers about mining in the EU.*¹⁷⁶⁹

Romania's Ministry of the Environment compiled the public's comments and questions from the public meetings - along with the written comments collected during the official comment period - in the EIA Annex Questions document.¹⁷⁷⁰

The EIA Annex Questions document is the official record of the public's concerns, objections, data, analysis and opinions related to the proposed RMGC project.¹⁷⁷¹ The questions and comments from the public meetings are recorded in Annex A of the document.¹⁷⁷² Annex A is comprised of 2

¹⁷⁶⁷ Bucharest Public Meeting

¹⁷⁶⁸ Bucharest Public Meeting; The meeting participant had said that there were 24,000 people in Roşia Montană in 1924, not when the company arrived in Roşia Montană.

¹⁷⁶⁹ Romanian Ministry of the Environment, 2011; Bucharest Official Minutes

¹⁷⁷⁰ Romanian Ministry of the Environment, 2007; Annex A; The written comments are not analysed in this thesis. The EIA Annex Questions document must have been created by viewing the video recordings of the public meetings, rather than from the official public minutes.

¹⁷⁷¹ Alburnus Maior Public Meeting Contestation Retrieved 13 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>

¹⁷⁷² Romanian Ministry of the Environment, 2007; Annex B includes the written questions and comments submitted to the Ministry of the Environment during the EIA Report comment period which began when the EIA Report was submitted in May 2006 and ended in 25 August 2006. This set of files has been published in 250 documents and includes 5,610 questions and contestations. Annex C is a set of 24 files that contains the Hungarian written questions and comments and the verbal questions and comments from the public meetings in Budapest (38 speakers) and Szeged (31 speakers). Annex D includes 186 written questions that were received after the comment period ended on 25 August 2006 and before the submission of the questions to the company at the end of January.

documents for a total of 116 pages, in Romanian only.¹⁷⁷³ Annex A is published in the form of a spreadsheet and it includes, for each of the 489 speakers listed, the speaker's name, location of residence, address and telephone number, the speaker's affiliations and the Ministry's summary of each speaker's questions and comments.¹⁷⁷⁴ The EIA Annex Questions document was forwarded to RMGC on 31 January 2007.¹⁷⁷⁵ The company's responses to the questions and comments raised in the EIA Annex Questions document were recorded in the EIA Annex which was published in May 2007.¹⁷⁷⁶

In February 2007, Alburnus Maior issued a press release stating what it called were 'substantial irregularities' in the way that the Ministry of the Environment captured, registered and recorded the comments from the public in the EIA Annex Questions document.¹⁷⁷⁷ The NGO complains that 4 speakers are not included in the EIA Annex Questions document.¹⁷⁷⁸ I did find one speaker at the Câmpeni meeting who was not included in the EIA Annex Questions

¹⁷⁷³ Romanian Ministry of the Environment, 2007; Annex A; Alburnus Maior Public Meeting Contestation Retrieved 13 September 2012 from <http://www.unece.org/fileadmin/DAM/env/pp/compliance/C2005-15/communication/LetterToMoEreMinutesOfPubHearings.pdf>; According to the question list compiled by the Ministry of the Environment, 489 speakers spoke at the 14 RMGC public meetings. This list includes a couple of counting errors and at least one missed speaker. According to my count 491 people spoke at the meetings.

¹⁷⁷⁴ Romanian Ministry of the Environment, 2007; Annex A; The speakers at each of 14 public meetings were required to register their name and contact details with the Ministry of the Environment (and sometimes with RMGC) before they spoke. This list was uploaded into a SPSS database for some of the analysis that has been used in this thesis.

¹⁷⁷⁵ Romanian Ministry of the Environment, 2011; 1

¹⁷⁷⁶ RMGC, 2007

¹⁷⁷⁷ Alburnus Maior 12 February 2007 Press Release Retrieved 13 September 2012 from <http://forum.politics.be/showthread.php?t=79965>

¹⁷⁷⁸ Alburnus Maior 12 February 2007 Press Release Retrieved 13 September 2012 from <http://forum.politics.be/showthread.php?t=79965>

document.¹⁷⁷⁹ However, I found each of the 4 speakers in the EIA Annex Questions document that Alburnus Maior claims are missing.¹⁷⁸⁰

However, I also found irregularities in the way speaker's comments were recorded. The comments offered by those who support the project and the company were not recorded at all. The content of the comments offered by the opposition are better reflected in the EIA Annex Questions document than in the Official Minutes. However, more of the comments offered by the opposition are not recorded at all.¹⁷⁸¹ For example, 40 (46%) of the 87 questions and comments offered by the first 12 speakers of the Câmpeni meeting were not recorded.¹⁷⁸² If we look at Speaker 107 again, the speaker's introduction was still not recorded, but the EIA Annex Questions document missed only one of that Speaker's questions and one of his comments and one of the questions recorded in the document was not captured exactly right.¹⁷⁸³ The question not recorded in the document is:

*Why don't you make public the names of the people who gave approvals for the house and land purchases and for the demolition of houses, even before the mining project was approved?*¹⁷⁸⁴

Many of the comments missing from the EIA Questions document refer to the quality of the EIA hybrid forums.¹⁷⁸⁵ This means that the public who did not attend the public meetings cannot know the opinions of the meeting participants

¹⁷⁷⁹ Câmpeni Public Meeting

¹⁷⁸⁰ Romanian Ministry of the Environment, 2007; Annex A

¹⁷⁸¹ Romanian Ministry of the Environment, 2007; Annex A

¹⁷⁸² Câmpeni Public Meeting

¹⁷⁸³ Romanian Ministry of the Environment, 2007; Annex A

¹⁷⁸⁴ Alba Iulia Public Meeting

¹⁷⁸⁵ Romanian Ministry of the Environment, 2007; Annex A

about the meetings themselves. For example, this statement was not captured in the EIA Annex Questions document:

*What is going on here at Câmpeni may not be fair. I don't know how many people here are from Câmpeni. It is very sad that others will get to decide for us.*¹⁷⁸⁶

The EIA Annex Questions document does not include the comments of project supporters.¹⁷⁸⁷ This means that the public who did not attend the public meetings cannot examine and challenge the arguments of those who support the project. For example:

*I think that the inhabitants of Câmpeni aren't here because they aren't interested. When there were problems, they gathered in front of the statue of Avram Iancu and they knew how to protect themselves. They knew how to protect their interests.*¹⁷⁸⁸

The speech was summarised in the EIA Annex Question document as:

*The questioner supports the project.*¹⁷⁸⁹

This speech does not appear in the EIA Annex Questions document:

I would like to thank those from the Romania Academy, who have suggested that we go pick mushrooms, weave wicker baskets and pick wild berries. But I would like them to come and arrange a guide for us. Where should we go picking? In which direction of the Apuseni Mountains should we pick for our living. I think they haven't come to the Apuseni Mountains. I think they haven't come to the Apuseni

¹⁷⁸⁶ Câmpeni Public Meeting

¹⁷⁸⁷ Romanian Ministry of the Environment, 2007; Annex A

¹⁷⁸⁸ Câmpeni Public Meeting

¹⁷⁸⁹ Romanian Ministry of the Environment, 2007; Annex A

*Mountains except on day trips to Câmpeni to see the Moți Village - to see the capital of the Moți Country.*¹⁷⁹⁰

The speech was summarised in the EIA Annex Question document as:

*The questioner supports the project.*¹⁷⁹¹

In May 2007, RMGC submitted its responses to the questions and comments published in the EIA Annex Questions document; this set of documents is referred to as the EIA Annex.¹⁷⁹² The document is 78 volumes and more than 15,113 pages.¹⁷⁹³ To download the documents requires 702 megabytes of memory.¹⁷⁹⁴ The responses to the questions raised at the public meetings and recorded in Annex A of the EIA Annex Questions document can be found in volumes 1 through 6.¹⁷⁹⁵ For each comment, the report includes the date of the written question or the meeting where the question was posed, the question or comment and the RMGC response.¹⁷⁹⁶ In the EIA Annex, the company's responses to meeting participant questions are very different from the actual responses provided by the company during the public meetings.¹⁷⁹⁷ Rather in the EIA Annex document, the company responses are 'cleaned-up' when compared to the actual meeting transcript. So for example, one of the comments made by Speaker 76 was:

You saw that the decision of the Holy Synod of the Romanian Church and of all bishops, both Roman-Catholic, Greek-Catholic, Unitarian and Calvin was very clearly definite because there still are

¹⁷⁹⁰ Câmpeni Public Meeting

¹⁷⁹¹ Romanian Ministry of the Environment, 2007; Annex A

¹⁷⁹² RMGC, 2007

¹⁷⁹³ RMGC, 2007

¹⁷⁹⁴ RMGC, 2007

¹⁷⁹⁵ RMGC, 2007

¹⁷⁹⁶ RMGC, 2007

¹⁷⁹⁷ RMGC, 2007

parishioners in Roşia Montană of those respective faiths. They will not sell a piece of land; they will not sell the churches. Those of us that don't want to leave Roşia Montană will stay there. You will build your project on top of us.

This comment was recorded in the EIA Annex Questions Document as:

The questioner wants to know how the project is going to be achieved, because both the Holy Synod of Romanian Church and all Episcopates: Roman Catholic, Greek Catholic, Unitarian and Calvinist ones, have decided that they will not sell their properties as long as a parishioner of the respective confession exists at Roşia Montană. Will the Project be achieved over locals?

At the public meeting, the company's response was:

These public debates should be based on the impact study that was developed by specialists and not on some people's accusations. Someone in the community told John this morning that yesterday Alburnus Maior received another €30,000 from the Soros foundation. The Soros Foundation was started to help development, not work against it. We ask you to respect what you are trying to do here. We need your questions to respond to, not your accusations.

The response in the EIA Annex is recorded like this:

The comments by the Holy Synod and other churches date to 2003. Based on those comments, the Roşia Montană Project was redesigned to reduce impact on the churches in the community.

Two churches and two prayer houses out of a total of 10 places of worship located within the project's footprint must be relocated or restored under the mine plan. Those churches will be moved in accordance with the wishes of the congregation, at the expense of

RMGC. Churches construction is a central element in the new community of Piatra Albă being built by the company.

The fact is that 98% of people in the industrial zone of the village have scheduled surveys to assess their property - a sign that they are considering the sale of their properties. We trust that if the community indicates its support of the RMP, the churches in the community will reflect the preferences of their congregations. The churches have followed the human communities providing them religious service and support.

Neither the Official Minutes nor the EIA Annex document can be considered a record of the public meetings.

I could find no legislation or guidelines that regulate the hybrid meeting reporting. Recording more than 68 hours of public meetings in a way that reflects the opinions, concerns and ideas expressed during the meetings cannot be a simple task. The RMGC EIA Annex document is more than 15,000 pages. Are members of the public and public decision makers expected to read, absorb and be influenced by the comments and responses published in this document? The RMGC EIA public meetings were video recorded. Will decision makers review and analyse more than 68 hours of video? How can these arguments be published so that they provide a meaningful insight into the interests of the public – their needs, hopes, fears, concerns, knowledge and ideas? The results of non-deliberative polls and deliberations that result in consensus are easy to understand; however, deliberative forums do not result in simple, single concept outcomes, especially those hybrid forums that end in unresolved conflict.¹⁷⁹⁸ Deliberative outcomes based on objective, subjective and social world

¹⁷⁹⁸ Crosby and Nethercut, 2005; 114; Levine, Fung and Gastil, 2005; 276

arguments may be expressed both qualitatively and quantitatively.¹⁷⁹⁹ It is far simpler to understand the argument that \$25 million will be invested for cultural research, than it is to understand the experience of an unemployed miner, who had been considered a symbol of the nation, and who now has no means to feed, clothe and educate his family without government assistance. How should these inputs be recorded in a way that both the public and public decision makers can understand?

It is evident from the analyses described in this chapter that the RMGC hybrid forums are not legitimate based on the legitimacy conditions that link the hybrid forum to the deliberation system. The participants referred to the public sphere, not to ensure that the interests of those who could not attend the forums were considered, but to provide support for their own arguments. While many media outlets reported on the general character of the debate, there is no accurate and complete record of the public's comments or of the company's responses during the meeting. This means that neither the public sphere nor public officials can be influenced by the comments made during the public meetings. The decision-makers did not attend the meetings; they are forced to rely on the incomplete official documents published to capture the arguments presented in the public meetings.

¹⁷⁹⁹ Carson and Hartz-Karp, 2005; 124; Karpowitz and Mansbridge, 2005

CHAPTER 13: THE CONCLUSIONS

This project, as with all Critical Theory research, is a normative one. Dryzek argues that it is important for deliberative democrats to evaluate actual deliberative projects against the norms of deliberative democracy and to expose those projects that violate its principles.¹⁸⁰⁰ It is in the spirit of that challenge that this thesis critiques the legitimacy claims of the series of hybrid forums employed during the Roşia Montană Gold Corporation (RMGC) Environmental Impact Assessment (EIA) process against a deliberative standard developed from deliberative theory and practice. The intention is to demonstrate to Romanian hybrid forum participants that their attitudes and beliefs about public participation and governance frustrate their ability to realise their true political interests and legitimise the power and domination by economic actors. This frustration and domination manifested itself as part the RMGC EIA hybrid forums – for both those who support and those who oppose the gold mining project. While the actors are aware of both their frustration, as well as, the source of their frustration, the Romanian public is now faced with the daunting challenge of reforming political institutions that have their roots in the communist era. This critical theory offers an alternative deliberative standard that may better support the interests of future Romanian conveners, facilitators and participants of hybrid forums. If this critical theory is accepted, this research offers a tool for the design, facilitation and evaluation of future hybrid

¹⁸⁰⁰ Dryzek, 2000; 50

forums that hopes to further an improved experience of self-expression, self-determination and contribution in the public lives of the Romanian people.

This thesis addresses three research questions:

What deliberative venues were employed as part of the deliberative system for the zoning and project authorisation of the proposed RMGC gold mining project?

In what ways were the hybrid forums employed as part of the RMGC EIA process legitimate in terms of the normative claims made by deliberative theory and in what ways were they not legitimate?

How does the historical development of Romanian public participation and deliberation and its contemporary socio-economic context shape public participation and deliberation in Romania today?

Countries, like Romania, that are emerging from years of authoritarian governance 'are now struggling to make democratic institutions work and to provide new opportunities for citizen engagement'.¹⁸⁰¹ Gaventa argues that the primary course for democratic transition must be through the public's experience of citizenship as part of democratic action.¹⁸⁰² Rather than an investigation of the formal top-down political institutions of parliaments, ministries and courts, this thesis examines Romania's democratic transition from the grassroots bottom-up participation and deliberation of the public.

For this critical theory, I identify the social crisis that led to the frustration and suffering experienced by Romanian political actors and the ideologies and institutions that dominate the actors and frustrate their ability to fulfil their

¹⁸⁰¹ Gaventa, 2007; xi

¹⁸⁰² Gaventa, 2006a; 13

interests and to meet their needs. Historical institutionalism's notions of institutional inertia and punctuated equilibrium help to explain why even after Romania's popular revolt in December 1989 Romania's public sphere and civil society remain weak. Romania's inability to achieve an industrial revolution before the communist era and the country's long history of submission to foreign powers mean that Romania's public never developed the skills and the inclination to motivate and mobilise itself to challenge state authority. The totalitarian regimes of Gheorghiu-Dej and Ceaușescu crushed all forms of opposition and private association. The Romanians were left distrustful of each other and especially distrustful of the State. The submissive and conflict avoidant nature of Romanian society must be understood within the context of the harsh living conditions it was forced to endure during the communist regime. The painful transition from a centralised to a market economy has left the Romanian public worn out and disillusioned. Those groups that have managed to develop a sort of solidarity – miners, the church and civil servants – have sometimes abused the power that comes from group unity; the violence that was experienced during the *Mineriade* must remain an effective deterrent to organised opposition in the eyes of many Romanians. Other groups – students, professionals and communities – have been unable to sustain a coherent unified force. The lack of information and certainty that characterises the experience of the 1989 Revolution typifies many issues in the Romanian public sphere – including the Roșia Montană case. Public officials use this ambiguity to lower expectations and abdicate their responsibility. With its inexperienced, ineffective, under-resourced and often corrupt state, the Romanian public holds little hope of penetrating state institutions in a way that will influence public

decision making. State actors continue to resist the institutional reforms that allow for legitimate public participation and deliberation.

The harsh living conditions experienced by many Romanians and the lack of trust among them means that individual Romanians rely on strategic, rather than communicative, action. Individual - sometimes ad hoc - contacts (*cunoștințe*) beyond family association must be nurtured in order to ensure that certain basic needs are met. However, these relationships are not sufficient to guarantee the achievement of collective interests within the public sphere. Romanians continue to rely on strategic and subversive individualist tactics to succeed in life.¹⁸⁰³ The Romanian public is not motivated to pull together its resources in order to meet its collective needs. Unfortunately it is this approach that leaves Romanian society cynical and fragmented and weak against powerful state and economic actors. The aggressive pursuit of individual interests by Romania's political actors means that the Romanian public cannot build the solidarity it needs for a strong public sphere and healthy civil society.

However, the Roșia Montană case is different. All sides of the debate – the company and civil society associations - have managed to mobilise individuals to work together to articulate and fight for their collective needs. In this case, individuals can be seen combining their resources in a competitive struggle to ensure that their group needs are met. Actors are overcoming their fears and finding their political voices.¹⁸⁰⁴ This solidarity has strengthened the ability of individuals to sometimes look beyond their own financial or material needs and

¹⁸⁰³ I heard from more than one Romanian the story about getting needs met: The stupid ox tries to ram through the gate and fails. The clever fox tries to jump over the gate and fails. But the little puppies just dig under the gate and succeed.

¹⁸⁰⁴ Grist Retrieved 7 September 2012 from <http://grist.org/climate-energy/nijhuis-roth/>

to consider less quantifiable interests – for example the needs of home, lifestyle, tradition and community. However, while the participants know that the RMGC EIA hybrid forums were not legitimate, they are now confronted with the incredible challenge of reforming and expanding Romania's institutions of public participation and deliberation.

In addition to forming and sustaining the biggest, most active grassroots public action campaign seen in Romania since the 1989 Revolution, the citizen activists involved in the authorisation of the proposed Roşia Montană gold mine have also made some real progress in reforming Romanian EIA processes. As a result of a complaint filed by Alburnus Maior to the Aarhus Committee Compliance Committee, Romania modified Order 860/2002 with its Governmental Decision 1213/2006.¹⁸⁰⁵ This decision requires the environmental authority to accept and consider public comment during the Scoping Stage of an EIA process.¹⁸⁰⁶ GD 1213/2006 requires the environmental authority, rather than the project proponent, to provide information to the public about their opportunities to participate in EIA process and it requires the full disclosure of the EIA Report to the public.¹⁸⁰⁷

The activists involved in the Roşia Montană case have formed a rich and complex deliberative system that includes all five of the deliberative venues identified and distinguished in this research. As a matter of fact, the deliberative system that has been formed to debate the proposed RMGC gold mining

¹⁸⁰⁵ Romania's Comments with Regard to Aarhus Compliance Committee Communication ACCC/C/2005/15 Retrieved 24 October 2012 from www.unece.org/fileadmin/DAM/env/pp/...15/.../CommentsParty.doc; Alburnus Maior, 2007d

¹⁸⁰⁶ Romanian Governmental Decision 1213/2006 Article 11, Alburnus Maior, 2007d; 6

¹⁸⁰⁷ Romanian Governmental Decision 1213/2006 Article 15

project is a perfect case to illustrate the many diverse expressions of each of the five venues. While not formally investigated for this research, I witnessed individuals participating in informal, private interactive *everyday talk* in order to express their opinions and to test out ideas about the authorisation decision for the proposed project. During the communist era, activity in the *broadcasted discourse arena* that was not sanctioned by the state was banned. However, voluntary associations and individuals have been very active in this macro discursive arena for the Roşia Montană case. In order to express their opinions about the proposed project and to influence the public sphere and members of micro forums – especially the institutional forums with decision making authority – individuals and associations participated in demonstrations and marches; they organised and attended festivals, picnics and parties; they launched multi-million dollar advertising campaigns and graffiti tagged buildings; they produced award-winning films and courted celebrity endorsements; they built and updated websites, published press releases, broadcasted photos, and they distributed open letters and issued public statements. Members of *institutional forums* have deliberated about the Roşia Montană case. Many institutional forums have sought the authority to approve or reject the authorisation of the proposed gold mining project – the Ministries of Culture and of the Environment, Romania’s Parliament, the European Parliament and even Romania’s Supreme Defence Council. Associations that oppose the project’s authorisation have had some success participating in judicial institutional forums - winning cases that have ultimately resulted in the suspension the project’s EIA process. Individuals have formed and deliberated in *associational forums* to build alliances, share information and resources, raise money and to develop

strategy. Alburnus Maior has built international alliances with funders and environmental and rights based associations; they call their alliance the *Save Roşia Montană Campaign*. The company has formed alliances with investors, miners and labour unions and has even funded and registered NGOs as another way to have its views and arguments amplified and legitimated in the public sphere. Finally, of course, individuals and voluntary associations have participated in *hybrid forums* – like the hybrid forums highlighted for this thesis - in order to influence decision makers and the public sphere. Participants have met privately with decision makers in lobbying hybrid forums; they have been invited to sit on County Council committees, commissions and consultations; they have organised and participated in conferences; they have participated in public meetings to discuss the commune's General Urban Plan (PUG) and its Historical Area Urban Zoning Plan (PUZ), the company's Industrial Area PUZ, and the company's Relocation and Resettlement Action Plan (RRAP); the company has hosted site visits with Romanian, United Nations (UN) and European officials; and the company participates in the Technical Analysis Committee (CAT), which ultimately decides whether to approve or reject the authorisation of the proposed project.

While the civil society associations have been strong in the deliberative system that has formed to debate the authorisation of the proposed RMGC project, this research confirms the degree to which commercial interests can use their abundant resources and direct access to policy makers to dominate a deliberative system. Critical theorists worry that not only the state, but also

economic relations, are a potential threat to the freedom of the lifeworld.¹⁸⁰⁸ Outhwaite complains that now economic interests are even more explicitly repressing and displacing political and social systems.¹⁸⁰⁹ Since its revolution, this phenomenon has become evident in Romania. One public official, referring to the RMGC project authorisation process, said to me:

*Fifty years ago in Romania even if you had money you couldn't get what you wanted. Now like in the US and England you can only get what you want if you have money.*¹⁸¹⁰

Romania transitioned from a totalitarian communist regime, which used force to crush public participation and deliberation, to a liberal capitalist one that allows commercial interests to dominate and overrun civil society organisations and the public sphere. Economic relations seek 'profit, efficiency and instrumental success'.¹⁸¹¹ Civil society and social movements are the foundations of freedom, resistance and emancipation.¹⁸¹² When business works to 'capture, infiltrate or simply influence civil society' the lifeworld as the source of freedom and meaning is threatened.¹⁸¹³ When civil society is overwhelmed by economic interests 'our freedom is in jeopardy because the basis for a healthy democracy is undermined'.¹⁸¹⁴ Participatory processes managed by public relations firms, hired by project proponents, seek to minimize public opposition and eliminate negative press about development projects.¹⁸¹⁵ Deliberative systems that are

¹⁸⁰⁸ Chambers, 2002; 90

¹⁸⁰⁹ Outhwaite, 2009; 62; Dryzek, 2000; 94

¹⁸¹⁰ Field Notes 21 August 2006

¹⁸¹¹ Chambers, 2002; 93

¹⁸¹² Chambers, 2002; 96

¹⁸¹³ Chambers, 2002; 94

¹⁸¹⁴ Chambers, 2002; 95

¹⁸¹⁵ Hopwood Public Relations Retrieved 9 September 2012 from <http://www.hopwood.co.uk/services/consultation/>; Pendragon Public Relations Retrieved 9 September 2012 from http://www.pendragon-pr.co.uk/case-study-docs/Waste_management.pdf

dominated by commercial interests can overwhelm and colonise civil society associations, putting our democracies at risk.

This thesis has shown that, even while mostly complying with European and Romanian legislation, the RMGC EIA hybrid forums cannot be considered legitimate in terms of the normative claims made by deliberative theory and practice. This analysis is largely based on the legitimacy claims offered by the hybrid forum participants themselves. It is true that some evidence was found that suggests that the preferences of some participants at some of the public meetings were transformed as a result of their participation. However, in all other aspects, the forums did not meet the conditions of deliberative legitimacy. The meetings were characterised by coercion. In this case, coercion took the form of interruptions, threats of expropriation, threats of physical violence and unilateral actions and inactions (resettlements before the authorisation process began, a mono-industrial economic development plan and the neglect of the commune's infrastructure). The unilateral actions worked to distort the commune's political demographics, to restrict the commune's development options and to therefore limit the claims and arguments that could have been considered relevant during deliberations. Procedurally and logistically, the EIA hybrid forums were structured in a way that allowed the company to dominate individual and civil society meeting participants. The project's proponent convened the public meetings and the meeting procedures ensured that the opposition was not permitted to distribute information, offer evidence or to respond to participant questions and comments. The norms of deliberative democracy theory and practice insist that all those impacted by a public decision ought to be given an equal opportunity to participate in the

deliberations. However, this research shows that policy impact is not straight forward and that some participants may be impacted more than others. The public meetings were convened in 14 locations around Romania – reducing the travel costs for participants. However, the company brought to each of the meetings busloads of its employees. Many of these employees registered to speak during the meetings – crowding out the views of local participants. The meetings were convened during the time of year and at the time of day when farmers would have been working in their fields, effectively excluding them from the deliberations. Rather than reciprocal, those who spoke at the public meetings insulted and accused each other. Other than a few brief general statements about treating each other with mutual respect and listening to each others' views, the moderators were unable to help manage the tone of the meetings. While a number of those who completed the self-completed survey for this research stated that their preferences had shifted as a result of their participation, the EIA Annex published by the company ten months after the hybrid forums describes no modifications to the project design and the opposition associations have not altered the claims and arguments that they present in the broadcasted discursive arena. Participants complain that both the company and the opposition are providing incomplete, confusing and inaccurate information. Yet, the state has not offered any official information about the substantive risks and opportunities of the proposed RMGC project. Without clear and reliable information about the project, the public is forced to shift through the vast and contradictory claims of the competing associations. Relevant European Directives and Romanian laws do not include codes of conduct or ethical or methodological standards for the design of studies and the

publication of results related to the information used in hybrid forums. Romanian public authorities worked with the company to restrict the information that is made available to the public. Relevant information was not always accessible and, while the state is required to respond to formal requests for information, voluntary associations are not. In this case only the voluntary associations are producing substantive information about the proposed project; this means that the public is not guaranteed the information they need to competently participate in the deliberations about the authorisation of the RMGC project. While participants were free to offer normative and subjective claims during the hybrid forum deliberations, the participants relied on claims that rested on legal and technical objective arguments for credibility; normative and subjective claims were dismissed as 'emotional'. Those claims that related to the legality of the project's design outweighed any claims of unacceptable risk offered by participants. While convened by the project proponent, the EIA hybrid forums were the first opportunity the public had to deliberate about the RMGC project in a formal deliberative setting sanctioned by the state. However, by the summer of 2006, when the forums were held, the company had already invested a considerable amount of money in the project's design. By then, it would have been very difficult for the company to modify its project design based on the comments offered at the hybrid forums. This means that the opinions, values and ideas of stakeholders were not fully debated in a way that allowed for an elaboration of ideas, the emergence of creative solutions and some measure of agreement. The participants introduced arguments and positions raised in other forums and arenas, not to ensure that the public sphere was fully represented in the RMGC EIA hybrid forums, but to support their own

positions. It is impossible to comment on the ultimate influence the arguments raised in the RMGC EIA hybrid forums will have on the authorisation decision because the public authorities have not provided an official opinion or decision on the project. However, it is unlikely that the members of the Technical Analysis Committee (CAT) will have any knowledge of the arguments raised in the meetings; these officials did not attend the hybrid forums – at least in any official capacity - and, unless the CAT members have access to the more than 68 hours of meeting video tapes, a complete and accurate record of the public meetings does not exist. In general, while Romanian public officials recognise the public's democratic right to express its opinions, they do not see the value of listening and considering the public's claims and arguments in public decision making processes. Rather the decisions of Romanian public officials are restricted by state imperatives – especially economic ones – and by law and process; this means that the public has very little room to influence public decisions. While the EIA Questions document somewhat reflects the questions and comments raised by the opposition, many of their comments were not recorded – especially those comments that referred to the legitimacy of the hybrid forums themselves. The claims and arguments raised by those who support the project and by the company during the RMGC EIA hybrid forums not are recorded at all except in superficial and meaningless summaries.

While it may not be possible to convene ideally legitimate deliberative process, until EIA hybrid forums more closely represent the norms of deliberative democracy - non-coercive, equal, inclusive, reciprocal, transformative, informed, reasonable, early, influenced, influential and public – hybrid forums will not fulfil the promises of deliberative democracy. Gutmann and Thompson argue that

citizens care, not only about public outcomes, but also about the processes of political deliberation.¹⁸¹⁶ 'We care about not only what is decided but also how it is decided.'¹⁸¹⁷ At least some of us are seeking processes that offer genuine opportunities for debate.¹⁸¹⁸ Despite the costs of participation for voluntary participants, legitimate deliberative processes can provide an opportunity for individuals and communities to have a say in their lives. They can provide a sense of fulfilment and dignity for participants. Legitimate deliberative process can result in more just and more reasonable outcomes. Because legitimate deliberative processes have the consent – or at least the understanding - of those impacted by the decision, they can be more efficiently implemented. It is in the interest of those impacted by public decisions to demand legitimate deliberative processes.

It must be pointed out that proponent-led EIA hybrid forums are in general not considered legitimate.¹⁸¹⁹ Environmental groups are especially frustrated with EIA processes and hybrid forums that are driven by project owners.¹⁸²⁰ EIA hybrid forums typically favour project proponent interests over the interests of the local population.¹⁸²¹ As a commercial institution, the proponent often has the resources to develop and implement a comprehensive strategy to promote their interests and advance their arguments.¹⁸²² Company representatives are compensated to prepare for and participate in hybrid forums; while individual

¹⁸¹⁶ Gutmann and Thompson, 1996; 176

¹⁸¹⁷ Gutmann and Thompson, 1996; 176

¹⁸¹⁸ Gutmann and Thompson, 1996; 176

¹⁸¹⁹ Soneryd and Weldon, 2003; 29, 34; Diduck and Sinclair et al., 2007; 225; Sinclair and Diduck, 2001; 124

¹⁸²⁰ Sinclair and Diduck, 2001; 124; Soneryd and Weldon, 2003; 34

¹⁸²¹ Soneryd and Weldon, 2003; 29; Diduck and Sinclair et al., 2007; 225

¹⁸²² Coelho, Pozzoni and Montoya, 2005; 179; Mahmud, 2007; 58

residents and civil society actors often perform these activities as volunteers.¹⁸²³ Researchers of EIA hybrid forums complain that the information published for EIA hybrid forums is often inadequate; forums are often convened too late for participants to have any meaningful influence on the design of the project and that the substantive content of EIA hybrid forums rarely has any impact on policy decisions.¹⁸²⁴ Proponents have an incentive to convene small non-controversial forums and are often accused of minimally meeting legal standards while working to restrain authentic public participation and debate.¹⁸²⁵

States can allow proponents – especially proponents of projects that directly benefit the state – to convene unfair EIA hybrid forums because relevant UN and European conventions and directives do not mandate hybrid forums nor do they provide meeting format and procedural guidelines, oversight mechanisms or sanctions for those who convene forums that ignore, discourage or suppress public participation. While the Aarhus Convention and various European directives guarantee the public's right to participate in environmental decision making, this right is usually interpreted as public notification and public access to information.¹⁸²⁶ The regulations for these forms of public participation are clearly described; they provide minimum standards for their implementation; and they offer remedial processes for those participants who feel that their rights have been abused. On the other hand, when it comes to the

¹⁸²³ Coelho, Pozzoni and Montoya, 2005; 179; Mahmud, 2007; 58; Coelho, Pozzoni and Montoya, 2005; 179; Mahmud, 2007; 58

¹⁸²⁴ Diduck and Sinclair et al., 2007; 225; Soneryd and Weldon, 2003; 23; Okello and Beevers et. al., 2009; 223; Almer and Koontz, 2004; 476, 484

¹⁸²⁵ Soneryd and Weldon, 2003; 29; Okello and Beevers et. al., 2009; 221; Almer and Koontz, 2004; 476; Carson and Hartz-Karp, 2005; 136; Cornwall and Coelho, 2007b; 24; Pretty and Shah, 1997; 54; Dryzek, 2000; 50

¹⁸²⁶ Cherp, 2001; 346; UNECE, 1998; Directive 85/337/EEC; 97/11/EC, 2003/35/EC and 2009/31/EC; Stringer, Scriciu and Reed, 2009; 77, 86

opportunities for the public to provide comment – either in writing or through public enquiry – these conventions and directives are nearly silent.¹⁸²⁷ It is interesting to note that the Aarhus Compliance Committee – which oversees public participation and access to justice in *environmental* matters – is administered as part of the United Nations Economic Commission for Europe (UNECE), rather than say the United Nations Environment Programme (UNEP) or better yet a UN commission that is devoted to the promotion of public participation in governance.¹⁸²⁸ A new institutionalist would say that the parent organisation of a compliance committee might shape the worldviews, norms and behaviours of the committee members. Structurally, this might explain why EIA hybrid forums are proponent-led, allowing the project owner to dominate civil society activists and citizens who oppose the project. Diduck and Sinclair argue that the state – and I add transnational institutions - ‘should play a more assertive role’ to ensure meaningful participation and to protect the various public interests.¹⁸²⁹

The RMGC EIA hybrid forums did not meet several of the legitimacy conditions – reasonable, influential and public – largely for the same reason. Neither practitioners nor theorists provide hybrid forums participants much guidance for the process of reasonable deliberation; nor do they provide guidance for policy makers considering public comments when choosing alternative outcomes; nor do they provide guidance for hybrid forum conveners compiling participant contributions into Hybrid Forum Reports. With the exception of the collaborative

¹⁸²⁷ UNECE, 1998; Directive 85/337/EEC was amended with Directives 97/11/EC, 2003/35/EC and 2009/31/EC

¹⁸²⁸ UN Economic Commission for Europe Retrieved 24 October 2012 from <http://www.unece.org/env/pp/treatytext.html>

¹⁸²⁹ Diduck and Sinclair et al., 2007; 219

learning process, instructions for reasoned analysis have not gone much beyond ‘participants must consider all points of view’. Hybrid forum participants find it difficult to consider claims and arguments that are subjective or normative rather than objective. It is not clear how policy makers ought to fold the subjective and normative claims – usually presented in qualitative rather than quantitative terms - raised at hybrid forums into their consideration and analysis of alternative outcomes.¹⁸³⁰ Hybrid forum conveners typically have a difficult time incorporating both the quantitative and qualitative claims raised in hybrid forums into a comprehensive and comprehensible Forum Report – especially those hybrid forums that end in disagreement.¹⁸³¹ Melville, Willingham, and Dedrick argue that new innovative Forum Report formats need to be developed.¹⁸³² These reports must be more accessible and persuasive to public decision makers – especially given the complexity of forum outcomes.¹⁸³³ There seems to be room for the development of models, techniques and activities that will help participants and policy makers analyse the masses of qualitative and quantitative data and objective, subjective and normative information that is shared during collective reasoned debate. These challenges ought to be the subject of future research.

The methods developed and demonstrated for this thesis are offered as tools for the design, facilitation, reporting and evaluation of future hybrid forums. The hybrid forum deliberative standard presented here is offered as a practical and

¹⁸³⁰ Soneryd and Weldon, 2003; 34

¹⁸³¹ Melville, Willingham, and Dedrick, 2005; 54; Almer and Koontz, 2004; 476; Gutmann and Thompson, 1996; 91; Gutmann and Thompson suggest that legislators might adopt the practice of judges and explain in writing the claims they have accepted, those they have rejected and the reasons behind their judgments.

¹⁸³² Melville, Willingham, and Dedrick, 2005; 54; Almer and Koontz, 2004; 476

¹⁸³³ Melville, Willingham, and Dedrick, 2005; 54; Almer and Koontz, 2004; 476

constructive tool to be used by hybrid forum participants, sponsors, conveners and facilitators to design, implement and evaluate deliberative practices. The hermeneutic method used to interpret, understand and report on the participants' comments during RMGC public meetings is also offered to forum conveners or facilitators compiling participant comments for comprehensive and comprehensible Forum Reports. For this thesis, I compiled participant comments related to the procedural aspect of the authorisation process. However, the same process could be used to compile participant comments about the substantive aspects of any proposed policy, programme or project.

In addition to a critical theory's theories of *crisis*, *ideology* and *emancipation* a critical theory must also include a *theory of education*. A critical theory's theory of education illustrates the conditions necessary for the enlightenment of the actors.¹⁸³⁴ Actors freely accept a proposed critical theory under certain conditions: when the theory is expressed in a way that is understandable for the actors addressed¹⁸³⁵ when the actors agree that their present state is reflectively unacceptable for them; when they understand that they have been willing to accept their present state because they had unknowingly held a particular worldview that frustrated their ability to pursue their real interests; when the actors accept that this worldview was created under coercion, less than optimal conditions or in ignorance and is now reflectively unacceptable for them; when the actors agree that the proposed final state will offer the freedom they need to pursue their true interests.¹⁸³⁶ A critical theory must show that the final state of emancipation is possible – that it is theoretically possible to move

¹⁸³⁴ Fay, 1987; 32

¹⁸³⁵ Geuss, 1991; 85; Ritzer, 2008; 288; Dryzek, 1990; 31; Fay, 1987; 32

¹⁸³⁶ Geuss, 1991; 76; Fay, 1987; 28; Bernstein, 1990; 217

from the present to the final state; otherwise, the critical theory would be no more than a utopian fantasy.¹⁸³⁷ A critical theory includes an assertion that the transition from the initial state to the proposed final state can *only* be possible if the actors freely accept the proposed critical theory and act on it.¹⁸³⁸ It is not enough for the actors to stop voluntarily cooperating in their own frustration; there must be a change in the social institutions – even if it requires a ‘long course of political action’ - that eliminates the actors’ experience of frustration and pain.¹⁸³⁹ In order to promote that alternative state for hybrid forums described in this these, copies of this document will be forwarded to Alburnus Maior, the Roşia Montană Gold Corporation, Romania’s Ministry of the Environment and Drs. Gabriel Badescu and Cosmin Marian of Babeş-Bolyai University’s Political Science and Public Administration department. I will request and accept their comments on the substantive content of the thesis; answer their questions; and offer support for the design, facilitation and evaluation of future Romanian hybrid forums. Given the strides already taken by the participants of the RMGC EIA hybrid forums and the reforms they have already achieved, I assert that the theory of emancipation outlined in this thesis will be both understandable to the actors and will provide even more clarity for their efforts to reform Romanian hybrid forums. I further assert that if the actors do take action to eventuate the alternative deliberative legitimacy standards described in this thesis they will experience a deeper sense of freedom, self-expression, satisfaction and contribution in their hybrid forums.

¹⁸³⁷ Geuss, 1991; 76; Dryzek, 1990; 31

¹⁸³⁸ Geuss, 1991; 76; Fay, 1987; 28

¹⁸³⁹ Geuss, 1991; 75 and 86; Fay, 1987; 40 Geuss worries that the power of social institutions will not dissolve as a result of a process of reflection – especially if the social institution is tied up with the interests of some dominate group. (Geuss, 1991; 75)

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APPENDIX A – INTERVIEW INTRODUCTION GUIDE

INTERVIEW INTRODUCTION GUIDE

Thank you for agreeing to meet with me.

I am an American studying for my PhD in the U.K.

I am affiliated with the Babes-Bolyai University Political Science and Public Administration Faculty.

Ramona is a student at Babes-Bolyai University and she has agreed to help me as my research assistant.

I have been in Romania on an American Fulbright scholarship since July and will be here through March.

I am studying the way Romanian citizens participate in public policy decisions.

I am interviewing Romanian public administrators at the local, county and state level for my research.

The data from my interviews might be published in my thesis either

- in summary form
- as anonymous quotes
- and as attributed quotes only with your permission

At the end of this interview, I will ask you for your permission to attribute your statements to you.

As a researcher, I am obligated to provide anonymous data to other researchers if they request it.

I would like to record this session so that I can listen to your responses without having to take detailed notes.

APPENDIX B – SEMI-STRUCTURE INTERVIEW GUIDE

SEMI-STRUCTURE INTERVIEW GUIDE

Participant and Institution Information

1. What is your name? What is your position here? How long have you worked here?
2. How many people does your institution employ? In how many offices?
3. How often do you meet with the regional office? with the Prefect? with other environmental agencies?
4. What is your relationship with other sorts of agencies? Chamber of Commerce?
5. Will you give me some examples of some of the programs and projects your institution is currently responsible for?

Participatory Processes

6. What are some of the ways that citizens in rural areas communicate their ideas, proposals or complaints to officials? What are the ways in urban communities?
7. What do public officials typically do when a citizen makes a proposal or complains? Is it different in rural areas than in urban areas?
8. How do public administrators seek out how citizens feel about a particular project or program?
9. How do public administrators typically provide information to citizens?

Citizen Involvement

10. In what sorts of issues are citizens of rural communities most likely to become involved? What about in urban communities?
11. In rural communities, what sorts of citizens are more likely to be involved in community issues? Urban communities?
12. Do work mostly with formal organizations like NGOs or with individual citizens?
13. What are some of the reasons citizens give for not being involved?

Public Administrator

14. Do most public administrators value public input? Why or why not?
15. How do public administrators encourage citizens to be involved?
16. What do public administrators do when citizens disagree about a public policy?

17. How do public administrators use public input in their analysis?
18. What do you think needs to be done to increase public involvement?

Roşia Montană

19. Has your institution been asked to participate in the decision making process in any way?
20. Did you attend the Roşia Montană public meetings? Or did you hear about the meetings?
21. What is your opinion about the meetings?
22. What is your opinion about the quality of the questions and the debate?
23. Has your institution identified any benefits or risks for your jurisdiction from the Roşia Montană project? What are they?

Public Meetings in General

24. Do you regularly attend public meetings or public debates?
25. In what ways are these meeting similar to the Roşia Montană meetings? In what ways are they different?
26. Do mostly formal organizations or private citizens participate in public meetings?
27. Are there currently any public meetings scheduled for your jurisdiction?

If asked to participate in Roşia Montană decision making process

28. Do you feel that you have the information you need to analyze the Roşia Montană project?
29. How did the content of the public meetings influence your institution's decision-making process?
30. How are you working with other agencies regarding the project?

Follow-up

31. Are there any questions about participation in your jurisdiction that you think I've missed?
32. Do I have your permission to attribute quotes from this interview?
33. Is there anything else you would like to say?

APPENDIX C – PARTICIPANT THANK YOU

PARTICIPANT THANK YOU

Dear [Participant's Name]

I would like to thank you for your participation on [Interview Date] in one of the public administrator interviews for my PhD thesis. As a former civil servant, I know that your days can be very busy and I appreciate your willingness to take time out of your schedule to speak with me.

Your comments and ideas will be very helpful for my analysis of citizen input and influence in public policy decision-making in Romania. I hope that ultimately the results of this research will be used to strengthen democracy, not only in Romania, but also in democracies around the world.

I have noted that you have given me permission to quote you in my thesis. [or other confidentiality level]

Please feel free to contact Ramona or me if you have any questions or would like to add any comments to your interview.

Thank you again for your participation.

Best Regards,

Susan Esko
PhD Candidate
0728.776.586

APPENDIX D – SELF COMPLETED SURVEY (ROMANIAN)

SEE ENCLOSED

**Nu este obligatoriu să completați acest chestionar.
Nu fac parte din nici un guvern, companie sau organizație.**

Mă numesc Susan Esko. Vin din America și în prezent sunt studentă doctorat în Marea Britanie, la universitatea din Bradford. Tema cercetării mele este gradul de implicare al publicului larg în România. Mă interesează modul în care cetățenii dezbate probleme de interes general, precum și felul în care aceste dezbateri influențează luarea deciziilor de către autorități. V-aș fi recunoscătoare dacă ați completa acest chestionar. Răspunsurile dumneavoastră sunt confidențiale. Rezultatele studiului meu vor fi publicate și ar putea îmbunătăți felul în care autoritățile române vor lua decizii în viitor în probleme de interes general.

Orașului/satului în care locuiți: _____ De cât timp locuiți în acest oraș/sat? _____

Sexul (F/M): _____ Vârsta: _____ Ocupația: _____

Studii (școală primară/generală/liceu/școală profesională/facultate (licență/master/doctorat)): _____

Dacă ați venit la această întâlnire ca reprezentant(ă) al unei organizații sau ca angajat al Gabriel Resources sau ca asociat, care este numele ei? _____

Dacă nu este prima întâlnire publică la care participați, la ce alte întâlniri a-ți mai participat? _____

Etnia: Română Maghiară Germană Romă Alta _____

Motivul pentru care ați venit la această întâlnire (alegeți una sau mai multe din variantele de mai jos):

- Pentru a afla mai multe despre proiect Pentru a-mi exprima părerea
 Pentru a înțelege cum m-ar afecta proiectul Din alte motive _____

Întâlnirea de astăzi s-a ridicat la nivelul așteptărilor dumneavoastră? Da Nu

Credeți că această întâlnire a fost bine organizată? Da Nu

Sunteți mulțumit(ă) de modul în care autoritățile au luat până acum decizii în ceea ce privește chestiunea minelor de aur? Da Nu

Credeți că se ține cont de părerile dumneastră? Da Nu

Întâlnirea de astăzi v-a făcut să vă schimbați anumite idei sau opinii? Da Nu

Va ajutat întâlnirea aceasta cu ceva, va fost de folos? Da Nu

Sunteți mulțumit(ă) de răspunsurile primite? Da Nu

Ce v-a plăcut cel mai mult din întâlnirea de astăzi? _____

Ce credeți că a lipsit din întâlnirea de astăzi? _____

De unde ați aflat de întâlnirea de astăzi? _____

Credeți că mina de aur (alegeți una sau mai multe din variantele de mai jos):

- va influența în mod pozitiv dezvoltarea economică a zonei va influența în mod negativ mediul înconjurător
 îmi va ajuta comunitatea nu îmi va ajuta comunitatea
 mă va ajuta personal nu mă va ajuta personal
 nu știu altă părere: _____

Dacă doriți să vorbiți cu mine, mă puteți găsi la întâlnirea de astăzi sau mă puteți contacta folosind informațiile de la sfârșitul chestionarului. Dacă doriți să vă contactez eu, vă rog să completați următoarele:

Nume: _____ Telefon: _____

Adresă: _____ Email: _____



If you would like to speak to me or if you have any questions about my research, you can contact me at:

Dacă doriți să vorbiți cu mine sau dacă aveți întrebări despre tema cercetării mele, mă puteți contacta astfel:

Email: s.a.esko@bradford.ac.uk

Telefon/Phone: 44 (0) 771 734 5464

Adresă/Address: Susan Esko
University of Bradford
Department of Peace Studies
Richmond Road
Bradford BD7 1DP
U.K.



If you would like to speak to me or if you have any questions about my research, you can contact me at:

Dacă doriți să vorbiți cu mine sau dacă aveți întrebări despre tema cercetării mele, mă puteți contacta astfel:

Email: s.a.esko@bradford.ac.uk

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Bradford BD7 1DP
U.K.

APPENDIX E – SELF COMPLETED SURVEY (ENGLISH)

SEE ENCLOSED

MAKING KNOWLEDGE WORK

This survey is optional.

I am not affiliated with any government, corporation or organization.

My name is Susan Esko. I am an American PhD student at the University of Bradford in the UK and I am researching public participation in Romania. I am interested in the way people debate public issues and the influence these debates have on public policy decisions. Will you please take a moment and complete this survey? The anonymous and confidential results of this research will be published and may be used to help to improve Romanian public processes in the future.

In what City/Village do you live? _____ How long have you lived there? _____

Sex (F/M): _____ Age: _____ Occupation: _____

Education (primary school/general/high school/professional/university (undergraduate/masters/doctorate): _____

If you are here as a member of an organization or as an employee or associate of Gabriel Resources, what is the name of the organization? _____

If this is not the first meeting that you have attended, what other meetings have you attended? _____

What is your background? Romanian Hungarian German Roma Other _____

Why did you come to this meeting today? (Please tick all that apply)

- To get more information about the project. To express my opinion.
 To learn how the project may affect me. For some other reason. _____

Did you get what you had hoped you would get from coming to today's meeting? Yes No

Do you feel that this event has been well organized? Yes No

Are you happy with the government's decision making process about the gold mine so far? Yes No

Do you feel like your opinions about the gold mine are being considered? Yes No

Did any of your ideas or opinions change after participating in today's meeting? Yes No

Did you learn anything new from today's meeting? Yes No

Are you pleased with the responses given? Yes No

No

What pleased about today's meeting? _____

What do you think was missing from today's meeting? _____

How did you hear about today's meeting? _____

I think the gold mine: (Please tick all that apply)

- will bring economic benefits to the area will negatively impact the environment
 is good for my community is not good for my community
 is good for me personally is not good for me personally
 I don't know something else: _____

If you would like to speak to me or if you have any questions about my research, I am here at the event or you can contact me using the information attached. Alternatively if you give me your contact details, I can contact you:

Name: _____ Telephone number: _____

Address: _____ Email address: _____



MAKING KNOWLEDGE WORK

If you would like to speak to me or if you have any questions about my research, you can contact me at:

Dacă doriți să vorbiți cu mine sau dacă aveți întrebări despre tema cercetării mele, mă puteți contacta astfel:

Email: s.a.esko@bradford.ac.uk

Telefon/Phone: 44 (0) 771 734 5464

Adresă/Address: Susan Esko
University of Bradford
Department of Peace Studies
Richmond Road
Bradford BD7 1DP
U.K.



MAKING KNOWLEDGE WORK

If you would like to speak to me or if you have any questions about my research, you can contact me at:

Dacă doriți să vorbiți cu mine sau dacă aveți întrebări despre tema cercetării mele, mă puteți contacta astfel:

Email: s.a.esko@bradford.ac.uk

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Department of Peace Studies
Richmond Road
Bradford BD7 1DP
U.K.

APPENDIX F – SPEAKER AND SURVEY DATABASE FIELDS

SPEAKER SURVEY DATABASE FIELDS

Speaker Database

- Unique Identifier
- Location of Residence
- Gender
- Approximate Age
- Meetings at which the speaker took a turn at the microphone
- A code that reflects the speakers position (pro, con or neutral) on the RMGC project
- Declared association affiliation

Survey Respondent Database

- Unique Identifier
- Location of residence
- Length of time at location of residence
- Gender
- Approximate age
- Meeting at which the participant return his/her survey
- Occupation
- Education
- Declared association affiliation
- Ethnicity
- Motivations for attending meeting
- How the participant learned about the meeting
- Attitudes about the RMGC decision-making process
- Attitudes about the RMGC project

APPENDIX G: KEYWORDS FOR NEWSPAPER SEARCHES

KEYWORDS FOR NEWSPAPER SEARCHES

Organization Keywords

Euro Gold, EuroGold
Roşia Montană Gold Corp, RMGC
Gabriel Resources
Alburnus Maior
Minexfor
Cuprumin, Cupru Min
Upsrueem
Cartel Bau
Foricon
Comat S.A., Comat SA
Starx
Gabriel Jersey
Minvest
Regia Deva

Places Keywords

Zlatna
Abrud
Câmpeni
Bistra
Brad
Baia de Arieş
Lupşa
Bucium

Other Keywords

Roşia Montană Aur
Roşia Montană Gold
Proiect Roşia Montană

People Keywords

Stephanie Roth
Eugen David
Frank Timiş
Virgil Narita

APPENDIX H – INFORMATION REQUEST 1

INFORMATION REQUEST (ALBURNUS MAIOR)

Buna ziua,

Ma numesc Ramona Dragomir si sunt studenta in cadrul Universitatii Babes Bolyai. In momentul de fata lucrez la un proiect pentru unul dintre cursuri si am nevoie de o serie de informatii in legatura cu organizatia dumneavoastra.

In acest sens, as dori o lista cu sursele dumneavoastra principale de finantare pentru anii 2006 si 2007. In mod specific, am nevoie de o lista cu numele indivizilor si oragnizatiilor care contribuie cu 10% sau mai mult de atat la bugetul dumneavoastra anual.

M-am uitat pe site-ul organizatiei dumneavoastra in sa nu am reusit sa gasesc acest tip de informatii acolo.

Daca aveti unele intrebari sau nelamuriri, va rog nu ezitati sa ma contactati.

Hello,

My name is Ramona Dragomir and I am a student at the University of Babes Bolyai. I am currently working on a project for one of my courses and I need some information about your organisation.

In this regard, I would like a list of your principle sources of funding the years 2006 and 2001. Specifically, I need a list of names of individuals and organisations contributing 10 % or more of your budget annually.

I looked on the website of your organisation, but could not find the information there.

If you have any questions or concerns, please do not hesitate to contact me.

APPENDIX I – INFORMATION REQUEST 2

INFORMATION REQUEST (MINISTRY OF THE ENVIRONMENT)

Buna ziua,

In atentia Departamentului de Relatii cu Publicul,

Aceasta este o cerere conforma cu Legea 544/2001, privind liberul acces la informatii de intreres public.

Ma numesc Ciupe Cristian si sunt student in cadrul Universitati Babes-Bolyai din Cluj Napoca si am nevoie de o serie de informatii pentru finalizarea licentei in acest an. Datele de care am nevoie tin de Comisia de Autorizare Tehnica (CAT) pentru Rosia Montana. Am inteles ca aceasta comisie trebuie sa examineze Studiul cu Privire la Impactul asupra Mediului, emis de compania Gabriel, in incercarea lor de a obtine avizul de mediu. Practic, aceasta comisie va autoriza sau nu va autoriza acest proiect, din cate am inteles eu. Din ce informatii mai detin, am inteles ca aceasta comisie sa intalnit de mai multe ori, incepand din Iunie acest an, dar de asemenea, am aflat ca intreaga procedura este suspendata, in momentul de fata.

Informatiile care vreau sa le accesez de la Ministerul Mediului:

- 1) Cand si de cate ori s-a intalnit Comisia de Autorizare Tehnica? Cat au durat aceste intalniri?
- 2) Cine a participat la aceste intalniri? As avea nevoie de numele lor, Institutiile/Comaniile pe care le reprezinta si pozitia lor in acea institutie/companie.
- 3) As dori si o copie a proceselor verbale pentru fiecare intalnire.

Tin sa mai mentionez ca voi suporta, daca este nevoie, cheltuielile legate de trimiterea acestor date (in cazul in care nu se poate face prin intermediul postei electronice). Adresa mea de corespondenta este: [...].

Va multumesc anticipat si sper sa primesc un raspuns pozitiv de la dumneavoastra cat mai curand.

Hello

For the Attention of the Public Relations Department

This is a request in compliance with Law 544/2001 on the free access of information in the public interest.

My name is Cristian Ciupe and I am a student at the University of Babes-Bolyai in Cluj. I need some information to complete my degree this year. I need data related to the Technical Analysis Committee (CAT) for Roşia Montană. I understand that this committee will examine the Environmental Impact Assessment issued by Gabriel Resources as part of the process to obtain an environmental permit. Basically, this board will authorise or not authorise this project, from what I understand. We understand that this committee has met several times, beginning in June of this year. We also understand that the process is currently suspended.

I would like to access information from the Ministry of the Environment:

- 1) When and how often did the Technical Analysis Committee meet? How long did the meetings last?
- 2) Who participated in these meetings? I need their names, the institutions/companies they represent and their position in that institution/company.
- 3) I would like a copy of the minutes for each meeting.

I want to mention that if needed the costs of sending the data to me can be transferred electronically. My address for correspondence is [...].

Thank you in advance and I hope to receive a positive response from you soon.

APPENDIX J – QUALITATIVE ANALYSIS CODES

QUALITATIVE ANALYSIS CODING HIERARCHY

Level 1: General Characteristics of Public Administration & Participation

- The EIA Process
 - Criteria and Stages
 - Permitting
 - Use of Experts
 - Technical Analysis Committee
 - Announcement Requirements
 - Press
 - Invitations
 - Websites
 - Posters
 - Document Access and Written Comments
 - Public Meetings
 - Requirements
 - Convener
 - Location
 - Attendees
 - Activities and Objectives
 - EIA Annex
- EIA Project Examples
- Corruption
- Participation Opportunities
 - County Level
 - Local Level
 - Council Meetings
 - Complaints
 - Field Visits
 - Audiences
 - NGOs
 - Surveys
 - Committees
 - Information Requests
 - Requests for Authorisation
 - Public Seminars
 - Volunteering
 - Property Restitution
 - Protests
 - Resource Concession Bidding
 - Written Comment
- Participation Levels
 - EIA Public Meetings
 - Not Well Attended
 - Satisfying Attendance
 - Directly Impacted
 - Associational Participation
 - Complaints

- Individual Petitions
- Participants Qualities
- Participation Quality
 - Project Complexity
 - Participant Abilities
 - Relevance
 - Conflict
 - Unreasonable
 - Sophisticated Questions
- Public Information
- Public Meetings
 - Deliberation
 - Announcements
 - Attendees
 - Level of Opportunity
- Lack of Experience
- Nationalism
- Public Administration
 - Activities
 - Public Debate Attendance
 - CAT Analysis
 - Institutional Deliberation
 - Use of Experts
 - Consideration of Public Input
 - We Know
 - Verification
 - Monitoring
 - Conflict
 - Recording
 - Responding
 - Remedying
 - Investigate
 - Research
 - Hierarchical Analysis
 - Observing
 - Deciding
 - Legal Analysis
 - Uphold the Law
 - Examples of Laws
 - Interpreting Laws
 - EU Laws Transposed
 - Policy vs Legal Analysis
 - Legislators vs Administrators
 - Procedural vs Substantive
- Paternalism
- State Imperatives

Level 2: RMGC EIA Process

Free from Coercion
Inclusive
Equal
Reasonable
Transparent
Influential
Transformative

APPENDIX K – ANALYSIS OF MEETING MINUTES

SEE ENCLOSED

Analysis of Meeting Minutes

	Speaker 107 Transcript	Speaker 107 Minutes	Response Transcript	Response Minutes
Intro1	Gentlemen, I am a geologist. I worked in the gold industry in the Apuseni Mountains for 45 years. Of those years, I spent 30 in Roşia Montană. I would like, the time is short, to give a few quick questions.		Mr. Santimbreanu, all that you haven't managed to ask, you can still write down the questions and you will receive a written answer.	
Quest1	Why did you change the name of the company?	What is the reason for the company changing its name?	The name of the company has changed a few times. There is not a hidden reason for this. It seemed more logical to have Roşia Montană Gold Corporation, instead of EuroGold and now Gabriel Roşia Montană. And it is called Gabriel Roşia Montană because Gabriel Resources, the Canadian partner who works with Roşia Montană Gold Corporation.	The project manager answers: about the name change of the company.
Quest2	Why was Franc Timiş removed from the management of this company?	And why have you separated from Frank Timiş?	Frank Timiş is the one that created Gabriel Resources; The one that started this company. He was removed from his position at the beginning of 2003 at the recommendation of the banks, because he didn't have the experience necessary for	

Quest3	Can you make public the amount of money spent on propaganda, on obtaining approvals, on hiring personnel just to obtain facilities regarding land sales? I think that a private company cannot afford to waste money this way.	Can you make public the expenses for the propaganda and buying the lands?	this project. He is a businessman, not a project developer.	
Quest4	Why don't you make public the names of the people who gave approvals for the house and land purchases and for the demolition of houses, even before the mining project was approved?		Propaganda is a big word. We know that we spend a lot of money on the media campaign - over half of million Euros. We think that by saying that we paid someone to obtain approvals and passes. Something like that never happened. And the fact is we bought lands and houses; that's what's happening. We gave them the money they gave us the houses in return. 42% of the population from the area said they wanted to move and sell them before the project was started. It's the right of every person to hold a property and sell that property.	and the money invested in the publicity campaign
Quest5	What was the total expense paid by the National Agency of Mining Resources for the geological report regarding the reserve situation in Roşia			

Quest6	Montană? What are you planning to do about the enhancement of the ponds, because the first step that you took in Roşia Montană was to research the tailing ponds and in the local press they said that you "want to enhance them".	What are your intentions regarding putting to good use the tailings ponds?		
Quest7	Describe the research program that you implemented in the years 1996-2004, where you concluded [that the reserve held] 352 million tons of material with 1.3 grams of gold per ton and 7 grams of silver per ton. From these you select 218 million tons with 1.52 grams of gold per ton and 7.47 grams of silver per ton. And you say that this quantity of 218 million, in the future, might be reduced.	You declared a content of gold and silver of 218 millions and this quantity will be reduced.	And about the research and geological exploration. It is based on drills made in the area of the reserves. We will not know precisely, how much gold or how much silver is in there until those reserves will be exploited.	
Quest8	What happens with the difference of reserved? The 134 million tons remaining and that are included in the mining process?	What happens to the rest in the reserve?	There is a mine in New Zealand, which until now functioned as a quarry, and it will become a subterranean mine. It is possible in the future, once we get to the bottom of the quarries, that we find enough gold and silver in the depths. Which means the extending the life of the project. But we will need another procedure, another authorization	

Quest9	About the research project you say that you will continue at a decreased pace. Why's that?	Why is the research program finished so soon?	process, if this will occur.	
Com1	The mineral reserves have been controlled until the gallery of Sfanta Cruce in Orlea, 714 meters. This mineral field, I might say, for everyone to understand, is basically "easy served", easy to be exploited. I want to tell you that gold minerals have been identified in the past with the research that we've done down to 800 meters underground. We were going to mine that reserve, with the creation of this huge hole that you can see on these sketches, under this level. I am not sure if in the future we can conduct any more research and mining.			
Quest10	Why don't you finish the research so you can say precisely, "this is the potential resource, down to this level we can exploit it. We will exploit it and from then on we will leave it be, creating conditions for the future generations to have access to it."	By this project a desert will be outlined in the Apuseni	We do not intend to make a desert in the middle of the	and about the quality of life in the areas.
Com2	With this mining project, I would like to say, in my opinion; a			

	desert will be created in the middle of the Apuseni Mountains.	Mountains.	Apuseni Mountains. And we think that the impact study about the environment proves very clearly and in a scientific way that this thing will never happen and that the project can be managed safely.	
Com3	All that has been said about environmental reconstruction is in my opinion, useless. It implies huge expenses and a large work force that will never be covered by the sums allocated for this.			
Com4	A part of Roşia Montană is intended to be protected, as we heard. Gentlemen, these protected areas are inside the quarries, because there is more than one quarry.	From Roşia Montană you intend to keep a part that will be protected.		

Analysis of EIA Annex Questions Document

	Speaker 107 Transcript	EIA Annex Questions	EIA Annex
Intro1	Gentlemen, I am a geologist. I worked in the gold industry in the Apuseni Mountains for 45 years. Of those years, I spent 30 in Roşia Montană. I would like, the time is short, to give a few quick questions.		
Quest1	Why did you change the name of the company?	What is the reason behind the change of company's name, for several times?	There were not several changes of name, but one, duly registered with competent authorities. The company was incorporated under the name Euro Gold Resources SA, and under the General Shareholders Meeting decision dated 09.12.1999 it was resolved the change of name into Roşia Montană Gold Corporation SA, in order to link the name of the company with the one of the project developed and of the commune with which the company has a commitment for sustainable development. The change of name was registered with the Trade Registry, as acknowledged by the Alba Trade Registry Resolution no. (64/01.02.2000).
Quest2	Why was Franc Timiș removed from the management of this company?	What is the reason behind Frank Timiș's removal from the company?	Mr. Timiș has no ties with either Gabriel or RMGC whatsoever. He stepped down in 2003 at the Board of Directors' request. The Board determined that new management of the Company was necessary to develop the Project.
Quest3	Can you make public the amount of money spent on propaganda, on obtaining approvals, on hiring personnel just to obtain facilities regarding land sales? I think that a private company cannot afford to waste money this way.	The questioner wants to see that expenses related to company's propaganda and the ones necessary to secure several permits, and those related to the fact that some people have been hired just to	Roşia Montană Gold Corporation SA benefits of no facilities in regard of the sale of the necessary lands for the development of the Roşia Montană Project. The company obtained and shall obtain the necessary lands for the development of the Project as per the legal provisions and by the means specified by art. 6 of the Mining Law no. 85/2003, published in the Romanian Official Gazette, Section I, no. 197/27.03.2003, respectively „(i) sale-purchase, for the price agreed upon by the parties; (ii) the land exchange, with the

		obtain several advantages for acquiring lands, are made public.	relocation of the affected owner and the reconstruction of the buildings on the newly granted land, on the expense of the titleholder benefiting of the cleared land, as per the convention between the parties; (iii) lease on determined duration, based on agreements between the parties, (iv) expropriation for cause of public utility, as per the law; (v) land concession”, etc. As for the expenses incurred by Roşia Montană Gold Corporation SA with the employees and the Project’s permitting process, these are public information included in the financial statements submitted to the Trade Register Office and to the local bodies of the Ministry of Public Finance, as per the applicable legal provisions.
Quest4	Why don't you make public the names of the people who gave approvals for the house and land purchases and for the demolition of houses, even before the mining project was approved?		
Quest5	What was the total expense paid by the National Agency of Mining Resources for the geological report about the situation of the reserves in Roşia Montană?	What was the total cost paid by National Agency for Mineral Resources for the geologic report of the reserves from Roşia Montană?	The National Agency for Mineral Resources did not pay for the geological report on the existing reserves at Roşia Montană. All the expenses related to the development of geological reports, technical documentation for the reserves/resources calculation, feasibility studies, mine development plans, closure plans, rehabilitation plans, etc. are covered by the mining operator or by the holder of the license based on which these documentations are developed.
Quest6	What are you planning to do about the enhancement of the ponds, because the first step that you took in Roşia Montană was to research the tailing ponds and in the local press they said that you "want to enhance them".	What are the intentions of the company with respect to the development of the tailings facilities, because its first step in Roşia Montană was the research of these facilities?	Until 2004, the disused tailings management facilities owned by RoşiaMin S.A., a subsidiary of the CNCAF Minvest S.A were included in the Roşia Montană mining license. Under the Mining Law no. 85/2003, the titleholder of the license was under the obligation to assess the potential of resources on the entire area covered by the mining license. Therefore, RMGC also assessed the potential of resources/gold content of the disused tailings management facilities by means of low-depth drillings. But, after 2004, these tailings ponds

			<p>were no longer included in the perimeter covered by the mining license. Consequently, no other works could be conducted on these surfaces (such as tailings processing surveys meant to establish a gold mining rate). The company does not plan to obtain a profit out of the material stored in these tailings ponds, first of all in order to comply with the legal framework, according to the mining license, and secondly, because the studies required in order to reach a decision as to their development have not been completed.</p>
<p>Quest7</p>	<p>Describe the research program that you implemented in the years 1996-2004, where you concluded [that the reserve held] 352 million tons of material with 1.3 grams of gold per ton and 7 grams of silver per ton. From these you select 218 million tons with 1.52 grams of gold per ton and 7.47 grams of silver per ton. And you say that this quantity of 218 million, in the future, might be reduced.</p>	<p>Through the exploration program conducted between 1997 and 2004, 352 million tons have been estimated, with a grade of 1.3 g of gold and 6 g/t of silver. Out of these, the company selected 218 million tons with a grade of 1.52 g of gold and 7.47 g of silver and states that this quantity could be reduced.</p>	<p>The research programs conducted between 1997 and 2006 have defined the Roşia Montană deposit and have lead to estimates regarding the existence of sufficient resources for the commencement of this deposit's exploitation</p>
<p>Quest8</p>	<p>What happens with the difference of reserved? The 134 million tons remaining and that are included in the mining process?</p>	<p>What will happen to the 134 million tons of reserves that are planned and are also included in the mined area?</p>	<p>The 350 million tones estimate refers to the estimated resources of the Roşia Montană deposit; but not the entire quantity of resources can be exploited in economically viable conditions. In order to obtain an efficient exploitation, it is necessary to produce an exploitation development study and a feasibility study (including the resource estimate) that determines which of the identified resources can be capitalized. These will become the exploitable resources and, specifically for the Roşia Montană deposit, they amount to 215 million tones, with an average content of 1.46 g/t Au and 6.9 g/t Ag and will be mined in the four proposed pits. The rest of the resources remain unexploited, as they are located in the extensions of the planned quarries or immobilized under the protection areas or under</p>

			<p>the protected areas established at Roşia Montană. The resources and reserves which are 2 different classifications of mineralized rock (one with an economic mine plan and one which just states the amount of mineralized rock) have been independently confirmed to conform to Romanian Mining Law (85/2003), EU codes (Mineral Reporting Code, 2002) and International Law (NI 43-101). These results have all been independently verified and audited as is required under all the relevant laws.</p>
Quest9	<p>About the research project you say that you will continue at a decreased pace. Why's that?</p>	<p>Why will the exploration program continue to be developed at a slower pace?</p>	<p>They will continue at a slower pace with the goal of further detailing the known areas. The geological research program will continue at a slower pace into the exploitation period of the Roşia Montană mining project. The geological research program aims to continuously improve the geological model of the deposit, delimiting the mineralized areas from the sterile ones. In this respect, samples will be obtained and chemical testings will be performed in advance of the exploitation activities, for a more thorough control of the deposit's contents of gold and silver. Moreover, geological research activities may be conducted after exploitation has begun in the planned quarries' extensions, in order to verify the extension of the mineralization in these areas. There will be also infill and grade control drilling in order to increase knowledge concerning the Roşia Montană deposit</p>
Com1	<p>The mineral reserves have been controlled until the gallery of Sfanta Cruce in Orlea, 714 meters. This mineral field, I might say, for everyone to understand, is basically "easy served", easy to be exploited. I want to tell you that gold minerals have been identified in the past with the research that we've done down to 800 meters</p>		

	<p>underground. We were going to mine that reserve, with the creation of this huge hole that you can see on these sketches, under this level. I am not sure if in the future we can conduct any more research and mining.</p>		
<p>Quest10</p>	<p>Why don't you finish the research so you can say precisely, "this is the potential resource, down to this level we can exploit it. We will exploit it and from then on we will leave it be, creating conditions for the future generations to have access to it."</p>	<p>Why don't mining operations cease?</p>	<p>Gold mining represents an issue of national strategic importance for Romania. This project meets all Romanian and European Union standards, provides new jobs for Romanians, especially in the Roşia Montană region, and will serve as a catalyst for reviving the important mining sector, which is strategically important for the Romanian economy and an important part of rural development. The Environmental Impact Assessment study report (EIA) indicates that the existing baseline conditions are characterized by widespread water pollution and the presence of large areas of derelict mined land and waste heaps. This presents a serious impediment to development other than that proposed under the Roşia Montană Project (RMP). Remediation of the area would be very expensive and certainly beyond the means of the local community. However, Chapter (5) of the EIA Report (Assessment of the Alternatives) examines alternative options for the RMP including the "no-project" option. The EIA considered alternative developments that include agriculture, grazing, meat processing, tourism, forestry and forest products, cottage industries, and flora/fauna gathering for pharmaceutical purposes. It concluded that none of these industries could provide the economic stimulus to assure sustainable prosperity for local communities as is forecast for the Project. However, it also noted that the Project would not halt development of alternative industries in parallel and would indeed remove some of the current obstacles for sustainable development, such as pollution and land dereliction. The Project would therefore support the community's initiatives to develop industries other than mining and this is central</p>

			<p>to the Community Sustainable Development Management Plan attached to the EIA report (Plan L).</p>
Com2	<p>With this mining project, I would like to say, in my opinion; a desert will be created in the middle of the Apuseni Mountains.</p>	<p>A desert will be created in Apuseni Mountains, through this project.</p>	<p>The statement that a desert will be created in Apuseni Mountains is unfounded. In fact, after completion of closure and rehabilitation, the 584 hectares (of the total 1646 hectares included in the PUZ) that compose the areas between the mine pits and processing facilities as well as the buffer zone will show no visual signs of the mining project. The infrastructure projects (i.e. roads, sewage treatment facilities, etc.) will be left for community use. In the case of the remaining 1062 hectares (see Chapter 4, Section 4.7 Landscape, table 3.1, from the EIA report), though they will be altered, they will also be remediate (reshaped, and revegetated) to blend with the surrounding covering system, and revegetated) to blend with the surrounding landscape to the greatest extent possible.</p>
Com3	<p>All that has been said about environmental reconstruction is in my opinion, useless. It implies huge expenses and a large work force that will never be covered by the sums allocated for this.</p>	<p>Everything said about environmental rehabilitation is worthless. It involves expenses and workforce that will not be covered by the assigned amounts.</p>	<p>RMGC's Mine Closure and Rehabilitation Management Plan (Plan J) sets out a series of measures to ensure that the mine leaves as small an imprint as possible on Roşia Montană's landscape. These measures are as follows:</p> <ul style="list-style-type: none"> • Covering and vegetating the waste dumps as far as they are not backfilled into the open pits; • Backfilling the open pits, except Cetate pit, which will be flooded to form a lake; • Covering and vegetating the tailings pond and its dam areas; • Dismantling of disused production facilities and revegetation of the cleaned-up areas; • Water treatment by semi-passive systems (with conventional treatment systems as backup) until all effluents have reached the discharge standards and need no further treatment; • Maintenance of the vegetation, erosion control, and monitoring of the entire site until it has been demonstrated by RMGC that all remediation targets have been sustainable reached. <p>The mine's rehabilitation will meet or exceed the standards set by the EU Mine Waste Directive, which dictates that RMGC must</p>

<p>“restore the land to a satisfactory state, with particular regard to soil quality, wild life, natural habitats, freshwater systems, landscape, and appropriate beneficial uses.” Currently, RMGC anticipates spending US\$ 76 million on closure and rehabilitation and our estimates assume international best practice, best available technology (BAT), and compliance with all Romanian and E.U. laws and regulations. We are committed to leaving the area—which is currently heavily polluted due to previous mining activities—in better environmental health than when we arrived. RMGC’s closure estimates, which were developed by a team of independent experts with international experience and will be reviewed by third party experts, are based on the assumption that the project can be completed according to the plan, without interruptions, bankruptcy or the like. They are engineering calculations and estimates based on the current commitments of the closure plan and are summarized in the EIA’s Mine Closure and Rehabilitation Management Plan (Plan J in the EIA). Annex 1 of Plan J will be updated using a more detailed approach looking at every individual year and calculating the amount of surety, which must be set aside year by year to rehabilitate the mine before RMGC is released from all its legal obligations. Most importantly, the current estimates assume the application of international best practice, best available technology (BAT) and compliance with all Romanian and European Union laws and regulations. While the aspects of closure and rehabilitation are many, we are confident in our cost estimates because the largest expense—that incurred by the earthmoving operation required to reshape the landscape—can be estimated with confidence. Using the project design, we can measure the size of the areas that must be reshaped and resurfaced. Similarly, there is a body of scientific studies and experiments that enable scientists to determine the depth of soil cover for successful revegetation. By multiplying the size of the areas by the necessary depth of the topsoil by the unit rate (also derived from studying similar earthmoving operations at</p>		
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			<p>similar sites), we can estimate the potential costs of this major facet of the rehabilitation operation. The earthmoving operation, which will total approximately US\$ 65 million, makes up 87% of closure and rehabilitation costs. Also, the necessity of additional technological measures to stabilize and reshape the tailings surface will be discussed in the update of the Economical Financial Guarantee (EFG) estimate, which leads to an increase the provisions for tailings rehabilitation, especially if the TMF is closed prematurely and no optimized tailings disposal regime is applied. The exact figures depend on the details of the TMF closure strategy which can be finally determined only during production. We believe that—far from being too low—our cost estimates are evidence of our high level of commitment to closure and rehabilitation. Just as a comparison, the world's largest gold producer has set aside US\$ 683 million (as of December 31, 2006) for the rehabilitation of 27 operations, which equates to US\$ 25 million on average per mine.</p>
<p>Com4</p>	<p>A part of Roşia Montană is intended to be protected, as we heard. Gentlemen, these protected areas are inside the quarries, because there is more than one quarry.</p>	<p>It is intended to preserve a part of Roşia Montană (the so-called protected areas). Will these be included in the open pits?</p>	<p>The protected areas are not located within the proposed open-pits. 41 buildings (39 houses and 2 churches) from Roşia Montană are currently classified as historical monuments, according to the List of Historical Monuments published by the Ministry of Culture and Religious Affairs in the Official Gazette of Romania no. 646 bis/16.07.2004 (code LMI 2004: AB-II-s-B-00269 and then from AB-II-m-B-00271 to AB-II-m-B-00311). The Historical Centre of Roşia Montană is also included on the List of Historical Monuments 2004 (code AB-II-s-B-00270), and the following details are mentioned as regards its location: „the Village Fair” (Târgul Satului), the Square (Piaţa), the Berg district, Brazilor Street and the area located upstream of the Square towards the lakes, all these being included in the B group, that is to say historical monuments of local interest. In accordance with current legislation, in 2001, RMGC contracted certified companies and initiated the drafting of these specific town-planning documentations, namely the General Urban Plan and the Zonal Urban Plan. The permit for the creation of the Protected Area</p>

		<p>Historical Centre of Roşia Montană was issued by the Ministry of Culture and Religious Affairs in 2002 (permits no. 61/14.02.2002 and no. 178/20.06.2002) as part of the procedure for the approval of the town planning documentations. On the basis of these permits, the Ministry of Culture and Religious Affairs requested the company to prepare a Zonal Urban Plan for the Historical Centre of Roşia Montană. Our proposal regarding this area has been illustrated in the EIA, volume 33 – the Plan M – Cultural Heritage Management Plan, part II – Management Plan for Historical Monuments and Protected Zone from Roşia Montană, Exhibit 6 The surface covered by this area has been extended from 52 ha to over 130 ha and includes 35 of the 41 historical monument houses. As for the heritage assets located within the proposed industrial area, they consist of 6 historic buildings and 4 archaeological sites – the Orlea area (codes LMI AB-I-m-A-00065.01, AB-I-m-A-00065.02); the Carpeni area (AB-I-m-A-00065.03); the Roman funerary precinct found in the „Hop-Găuri” area (AB-I-m-A-00065.04) and the Roman galleries from the Cârnic massif – Piatra Corbului area. Specific measures regarding the historical monuments and archaeological sites within the industrial area are described in the EIA, volume 32-33 – Plan M: Cultural Heritage Management Plan, part I – Management Plan for the Archaeological Heritage from Roşia Montană Area and part II – Management Plan for Historical Monuments and Protected Zone from Roşia Montană. These measures will also be included in the requirements of the Zonal Urban Plan for the Industrial Area of Roşia Montană. Note that none of the historic houses located within the RMP perimeter is going to be negatively impacted, and the 41 historic buildings are going to be included in a comprehensive restoration and rehabilitation program (see EIA, volume 33 – Plan M: Cultural Heritage Management Plan, part II – Management Plan for Historical Monuments and Protected Zone from Roşia Montană, pages 76-95). The proposed protected zone of Roşia Montană will cover over 130 ha. This area will include the architectural values of</p>
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<p>this village (to be restored and enhanced). These are going to be organized in a mining museum, which will include exhibits of geology, archaeology, ethnography (with an open-air section), industrial heritage as well as a significant underground section organized around the Cătălina Monulești gallery. In this part of Roșia Montană, the company plans to promote the development of traditional tourism activities (e.g. guesthouses; small pubs). The historic lakes of Tăul Mare, Tăul Brazi and Tăul Anghel are located in the eastern and southwestern parts of the old centre of the village-an area suitable for modern, recreational tourism. However, all the proposals submitted by the company in this respect have to be endorsed by the local community and approved by the authorities. The several hundred houses located within this area represent a highly significant component of this perimeter.</p> <p>The company wants to protect and promote all these elements. Therefore, special measures will be taken both inside the protected zone Historical Centre of Roșia Montană (restoration-consolidation-conservation) and in the industrial area (special blasting techniques, buffer areas between the 2 perimeters, permanent monitoring of vibrations and the blasting adjusted to the waves' propagation speed, etc.). The Technical University of Civil Engineering, Bucharest has conducted in co-operation with IPROMIN have conducted a series of studies and simulations regarding the specific measures for the mitigation of the impact caused by blasting on the historical monuments. For further details on this matter, please see the specific Annex. In conclusion, according to the status of the proposed protected zones for Roșia Montană, these are not located within the proposed open-pits, but outside them. We talk about 4 protected zones, namely the protected zone Historical Centre Roșia Montană (which includes 35 historical buildings, the Cătălina Monulești gallery), the archaeological reserve from the Carpeni hill area (including the Păru Carpeni mining sector); the Roman funerary precinct from Tăul Găuri and the mining remains from the open-cast</p>		
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		<p>mines in the Piatra Corbului area. For further details on the protected zone Historical Centre of Roşia Montană, including a series of remarks regarding the type of juridical protection and other legal provisions applicable in this case, please see the Annex called "Information on the Cultural Heritage of Roşia Montană and Related Management Aspects".</p>
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