

DELEGATION OF THE EUROPEAN UNION TO ARMENIA

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Summary

Prime Minister Nikol Pashinyan has come under enormous pressure related to the future of the Amulsar goldmine. A criminal case was opened against the US-UK owned Lydian International mining company a year ago (shortly after the Armenian "Velvet Revolution") in connection with the gold mining project at the Amulsar mountain near a resort town in the south of Armenia. Its outcome is still unclear. The results of an environmental impact assessment commissioned by Armenia's Investigative Committee are not straight forward. Protests against the mine's operations by environmental activists and locals who have blocked all access roads to the construction site have continued for over a year, the company suffering significant financial losses as a result (the reported amount of FDI in this project is approx. 300 000EUR). Prime Minister Nikol Pashinyan has been under pressure from the different stakeholders, including US and UK governments, having to weigh environmental considerations against the economic benefits of the project. Against the background of Lydian's warning of taking international legal action against the Armenian government, Prime Minister Pashinyan, who had been saying that environmental considerations would always come first, called on the protesters to unblock the roads on 9 September stating he saw no legal grounds for keeping the mine's operation on hold. The protestors did not leave. On 27 September, the Vice President of the Investigative Committee of Armenia Arsen Ayvazyan said the investigation into the Amulsar gold mine criminal case would continue because of the recently emerged new information. The situation is heavily politicised, with opponents (but also some supporters) of the revolutionary Armenian authorities uniting around this issue, albeit pursuing different goals.

1. Background

The mining sector accounts for the largest share of Armenian exports (25%¹). The biggest corruption case of around €12.5 million is also related to mining sector.² Amulsar is the name of a mountain in Armenia translated as "barren mountain". Some experts claim it contains uranium and some other radioactive deposits, raising concerns about the environmental impact of the extraction of gold.³ It is estimated that Amulsar contains about 31 million tons of ore and 40 tons of pure gold, making it the second largest gold deposit in Armenia after Sotk which is operated by a Russian company.

Lydian Armenia was founded in 2005 by *Lydian International* which controls 100% of shares. It is an Anglo-American mining company, which is registered in Jersey in the British Channel Islands with headquarters in the U.S. and IPO in Canada. It is developing a gold deposit at Amulsar in close proximity to the touristic town of Jermuk, famous for its mineral water springs. The Amulsar goldmine is *Lydian's* first project in Armenia. Should it start operations, it is believed to pose a serious environmental threat to Jermuk and its surroundings. The operations of the yet-to-be-inaugurated mine are currently facing a long-term disruption because of the ongoing protest whereby citizens (environmental activists and residents of nearby communities) have blocked all access roads to the mine's construction site. The protesters are concerned that the mine would contaminate air, soil and ground waters of the Jermuk springs and Lake Sevan – the largest fresh water deposit in Armenia, as well as endanger public health.

For more than a year, the situation around Amulsar has been at the top of the agenda in Armenia, with its political, environmental and economic aspects. The issue is multidimensional and has many stakeholders, including the U.S. and UK governments and *Lydian*, the Armenian authorities and those who stand against the construction of the mine and commencement of mining operations.

Lydian International voiced the possibility of taking international legal action against Armenia in case the government decided to revoke their license. The company claims it has already invested more than €310 million⁴ into the project (which is among the largest foreign direct investments in the country at the moment.⁵ The U.S. and UK governments hope *Lydian* would not be discriminated and a similar approach towards other mining companies operating in Armenia would be applied. While initially rather doubtful as to the outcome of the standoff, Armenia's Prime Minister Nikol Pashinyan last month adopted the stance that prohibiting Amulsar's operations would be discriminatory.

2. Environmental aspects –

¹ https://www.eiti.am/files/annul_reports/main/1/EITI_Report_Armenia_EY_Eng_2018.pdf

² <https://news.am/eng/news/491220.html>

³ <https://news.am/eng/news/529471.html>

⁴ https://www.eiti.am/files/annul_reports/main/1/EITI_Report_Armenia_EY_Eng_2018.pdf

⁵ <https://am.usembassy.gov/lydian-internationals-amulsar-site/>

Shortly after coming to power, the new Armenian authorities launched a comprehensive analysis of Armenia's mining sector. Initially, it revealed €1 million worth of breaches by 127 companies operating in the industry. The Government withdrew the operation licenses of five companies. The mining sector's environmental protection record is notoriously poor. The Government requested the law enforcement bodies, in particular the Investigative Committee, to verify the accuracy of the allegations that Lydian obtained its mining licence for the Amulsar gold mine illegally. The environmental concerns were the initial base for the protest against the operation of Amulsar. [REDACTED]

[REDACTED] A particular concern is the contamination of waters in the mineral springs of Jermuk as well as in rivers and canals flowing into Lake Sevan.

It should be noted, that *Lydian* was the initiator of the process of Armenia's membership of the Extractive Industries Transparency Initiative (EITI) which monitors the practices of mining companies in member states. *Lydian* has declared its readiness to adopt environmental best practices in their operations at Amulsar. This ran counter to the interests of established foreign mining operations in Armenia that are not similarly prepared to match EITI standards.

The final approval of the Amulsar mine and moves to enforce the requirements of EITI membership are set to anger and damage *Lydian's* competitors. Without mentioning any names, the PM has suggested that those companies want to thwart the Amulsar project in order to prevent the Government from enforcing stricter environmental standards in Armenia.

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There are also environmental questions over Armenia's largest gold mine at Sotk (previous name Zod) operated by Russian company GeoPromMining (GPM). Sotk is in closer proximity to Lake Sevan than Amulsar and similarly to Zangezur traces its roots to the Soviet era. Sotk's reserves amount to 31,141 tons of ore, 133.5 tons of gold and 175.6 tons of silver.

As part of its investigation into the circumstances in which *Lydian* obtained its mining licence, the Investigative Committee hired Earth Link & Advanced Resources Development (ELARD), a Lebanon-based consultancy company, to carry out a €351 000-worth comprehensive expert examination of the Amulsar project. It reviewed, among others, the results of the previous two environmental impact assessments. After the report was released on 14th August 2019, the Investigative Committee concluded that *Lydian's* mining licence was obtained without violation of environmental protection law.

The Government of Armenia reviewed the report by ELARD to ascertain whether there is a need of conducting an additional environmental impact assessment of the Amulsar mine. According to the ELARD report, the toxic waste from the would-be mine is extremely unlikely to contaminate mineral water sources in Jermuk or rivers and canals flowing into Lake Sevan. At the same time, ELARD questioned previous assessments presented by *Lydian* but suggested additional measures, concluding that, if implemented in a proper way, the environmental risks would be manageable. Regarding biodiversity, the report noted that there had been no violation of national or international legal standards. After further government consultations with representatives of ELARD and *Lydian*, *Lydian* agreed to government inspections of the mine and to implement ELARD's recommendations. Furthermore, the Minister of Nature Protection, Erik Grigoryan, in September announced plans to carry out environmental inspections of all metal ore mines in Armenia.

3. Economic aspects –

The mining sector still plays a major role in the economy. However, several mining companies are experiencing troubles. For instance, the mine at Teghut suspended operations last year and was only reopened once its creditors took over management of the mine.

Fitch Ratings International in its recent release on Armenia mentioned the unresolved issue with the Amulsar mine operated by the Lydian International mining company. It was highlighted as a negative factor for foreign investments. The PM while commenting the Armenia's increased rating by Moody's, voiced the importance of the situation around Amulsar for Armenia's ratings.

The International Finance Corporation (IFC) and the European Bank for Reconstruction and Development (EBRD) were among the shareholders of *Lydian Armenia* at its establishment. The IFC left the project two years ago and EBRD continues to have an exposure of €20 million in *Lydian* shares. Thanks to these two organizations *Lydian* entered the Canadian stock exchange with virtually unsecured shares bought by Western investment funds, especially pension funds. The money from the IPO was invested in the Amulsar project.

The company predicts an initial turnover/profit of €220-265 million with a target average production of 225,000 ounces of gold annually. According to estimates, the direct impact on GDP will amount to between 1% and 1.4%. *Lydian* will pay around €44 million in annual taxes and employ about 750 people. Another 3,000 indirect jobs will be created by local companies linked to the mining operation. *Lydian* states it will pay €432 million to the Armenian state budget in taxes and royalty contributions through the ten-year operation of the mine. Cumulative effect, taking into account the economic operations linked with the mine, will bring this figure to €708 million in ten years. *Lydian* announced its commitment to good international industry practices in all aspects of its operations including production, sustainability, and corporate social responsibility.

Frustrated with the ongoing investigations, the UK and Canadian subsidiaries of *Lydian* issued a formal notification to the Armenian government on 11th March 2019 that a dispute exists between them and Armenia. This prompted a waiting period, after which *Lydian* would be able to apply for international arbitration in accordance with Armenia's Bilateral Investment Protection treaties with the UK (3-month waiting period) and Canada (6-month waiting period). *Lydian* is yet to act despite the elapsing of these periods. Reports in Armenian media have suggested that *Lydian* could demand as much as €900 million in compensation, if the final decision will be to stop the operation of the mine. However, some legal analyses question whether an arbitration court would accept jurisdiction over the matter, on the basis that *Lydian* restructured its ownership structure to make *Lydian Armenia* answerable to its UK and Canadian subsidiaries after the investigations began.

The community population around Amulsar is divided. Many of the villagers in the immediate vicinity support the project - they trust in assurances given by *Lydian* and see it as an employment opportunity. According to one of the supporters, the project is good for the economy, the budget needs revenues, young people need jobs, and the army needs more funding.

4. Political aspects –

Protests against Lydian's operations at Amulsar began following the Velvet Revolution in May 2018. The original opposition to the project in 2018 prompted Pashinyan's Government to delay making a decision on the issue and to instruct the Investigative Committee to ascertain the legality of the circumstances in which Lydian obtained its mining licence. The latter decided to seek an environmental audit of the proposed mine, the results of which were published in August 2019.

There appears to be genuine concern about contamination from residents of the nearby mineral springs resort town of Jermuk and surrounding areas, as well as environmental activists in Armenia more broadly. However, the scale and longevity of the opposition has prompted suspicions that it has been supported by Lydian's competitors in the mining industry and some political forces in and outside of the country.

The Amulsar issue has been one of the key points exploited by the domestic opponents of the Pashinyan Government including supporters of former President Robert Kocharyan who has been charged with overthrowing the constitutional order in light of state violence against protesters in March 2008. These opponents argue that the PM has no regard for protecting the environment and question why the British and Americans should exploit Armenia's natural resources. The largest parliamentary opposition party, Prosperous Armenia, with its ambiguous relationships both with the current authorities and the pre-revolutionary regime, has opposed the government on its backing of the project.

However, some supporters of the government's broader agenda have also come out against it on the Amulsar issue. The Sasna-Tser Party, a nationalist grouping that supports a pro-Western policy direction has backed the protestors and the government has faced opposition from within the ranks of its own My Step Alliance, including Vice-Speaker of the National Assembly, Lena Nazaryan.

International actors have also tried to influence the government's decision on the Amulsar mine, given the foreign commercial interests in the Armenian mining sector. Opponents of the Amulsar project wrote an open letter to the U.S., UK and Swedish Embassies in Yerevan complaining about their advocacy for *Lydian International*. Meanwhile, the Russian Ambassador to Armenia has made social media posts emphasising the need to preserve the natural beauty of Jermuk. On 11th September, the German outlet DW published an article in support of the protestors at Amulsar on its website.⁶

Given the involvement of the former-ruling Republican Party in approving the Amulsar project, some support for it has strangely also come from within its ranks. The chairman of Republic Party Aram Sargsyan while commenting the Amulsar case, voiced his concern regarding politicizing the gold mine project and underlined the difficulty faced by countries at war in attracting foreign investments. He said environmentalists do not have political nor economic responsibility. Furthermore in his opinion, the Russians control gold export from Armenia and jealously react on Amulsar. Russian banks (including the state-controlled Sperbank) are major stakeholders of Armenia's largest mine at Sotk as well as another major operation at Teghut. GeoPromMining, the operator of the Sotk mine, also controls the Ararat Gold Extraction Plant and the Agarak Copper-Molybdenum Mine Complex.

⁶ <https://www.dw.com/en/our-water-is-our-gold-armenians-blockade-controversial-mine/a-50324152>

Separately, *Lydian* accused the Zangezur Copper-Molybdenum Combine (ZCMC) of supporting the protests against mining at Amulsar. There was a video showing a car belonging to ZCMC providing food to the protesters blocking the roads to the mine.

Since mid-August the political controversy surrounding Amulsar has centred on different interpretations of the environmental impact assessment produced by Lebanese environmental consultancy ELARD. While the IC and the government at first sent signals that the environmental concerns had been abated, backlash from opponents of the project prompted the PM to visit the area around the mine and to conduct additional consultations with representatives of both ELARD and *Lydian* at the end of August. After the consultations, the PM tried to shift the burden of making the decision onto the Ministry of Nature Protection which eventually published an ambiguous statement on 4th September.

The Government's current official position was announced on 9th September, when the PM called on the activists to unblock all closed roads at Amulsar and asserted there were no legal grounds to prohibit the operation of the mine. The PM stressed that while the possibility of environmental damage was a concern, *Lydian* had agreed to government inspections and to fulfil the recommendations of the ELARD report. Referencing environmental issues elsewhere in the mining sector, he went on to say that "if we were to block the Amulsar mine site solely on the concerns of environmentalists, why then would we not also block the Zangezur and Teghut copper mines, which certainly do not abide by international environmental standards?" He underlined the issue of investor confidence being one of importance to Armenia – pointing to the recent upgrade of Armenia's credit rating by Moody's, he stressed that unless the government settles the Amulsar issue according to the law, it risks squandering opportunities for economic growth. This announcement came just two days before the waiting period prescribed in the Armenia-Canada treaty on Bilateral Investment Protection expired and litigation became a possibility for *Lydian International*.

The PM's call has not been accepted by opponents and a protest march against the mine was held in Yerevan on 11th September. During the march, some of the activists gave the PM a deadline of 20th September to meet their demands, vowing to make the date an "Environmental Mobilization and Justice Day" with intensified protest activity if he does not respond accordingly. On 14th September a protest convoy from Jermuk reached Yerevan and conducted a further demonstration. In accordance with the threat, on 20th September protests took place in Yerevan and strikes and school strikes were held in Jermuk. Amulsar opponents continue their roadblock on the access roads to the mine. However, the PM maintained the Government's line throughout these events and during his visit to the US.

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