

# MADNEULI ABOVE THE LAW



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The opinions expressed in the present publication represent the position of Green Alternative and do not necessarily reflect the positions of Open Society Georgia Foundation or partner organizations.

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## Introduction

Madneuli gold-copper-barite-complex ore mine is located in Bolnisi region, 80 km to the south-east away from Tbilisi. Exploration of Madneuli mine began in the forties of the last century. In 1956 the mine was approved and construction of Madneuli - one of the largest non-ferrous metals plant in Georgia began in 1959. In connection with construction of the complex, a large industrial settlement was founded on the unpopulated territory-Kazreti borough. In 1975 the enterprise brought into operation started mining quartzite and complex ore deposits containing copper, barite, gold, and silver, their initial processing, enrichment and selling the obtained products. In 1990 mining of barite was ceased. In 1994 Quartziti LTD was founded to start gold and silver recovery from stockpiled gold-containing quartzite ore, using cumulative leaching method. Since 1996 Ecology LTD enterprise operates at Madneuli JSC plant to collect and process part of quarry and under-alluvial acidic waters to extract copper from it.

In 2005 Madneuli JSC and Quartziti LTD were privatized by “Stanton Equities Corporation”, company registered in British Virgin Islands (offshore zone), a subsidiary of Russia’s “Promishleny Investor”. In 2012 another Russian company “Capital Group” became the owner of the enterprises. With the change of owner in 2012 Madneuli JSC was renamed to RMG Copper JSC, and Quartziti LTD – to RMG Gold LTD.

Different commissions and law enforcement agencies studied economic and environmental problems of the enterprises, but nothing could be or, rather, would be improved due to very difficult situation there.

Economic and environmental problems of Madneuli were the subject of investigation by different commissions and law enforcement agencies, though extremely hard situation at the enterprise could not be (or was not) improved.

Madneuli and Quartziti were among the first where, after 2003 “Rose Revolution”, the government started uprooting corruption and improving the management. Today there is no question about corruption in the enterprises. However, special “favor” and loyalty of government agencies towards these enterprises is suggestive of elite corruption.

In the following chapters we will show how government agencies had been violating and/or not fulfilling the requirements of law in regard of these enterprises since 2003, and what kind of privileges the owners of these businesses enjoyed.

## Privatization in violation of law

After 2003 “Rose revolution” National Agency for State Property Management started assigning supervisory boards at large companies, one of the first being Madneuli JSC and Quartziti LTD. New supervisory boards were supposed to ensure fighting with corruption, change management and prepare the enterprises for privatization. In October 2004 Koba Nakopia was appointed director general of the enterprises. This person was vice-president of a Russian company “Promishleny Investor” since 2003.

8 months after Koba Nakopia’s appointment, in May 2005 Georgian Ministry of Economic Development published an announcement/invitation for expression of interest for privatization of Quartziti Ltd (50%), Madneuli JSC (97,25%) and its subsidiary companies: Mining Company LTD (100%), Belazakavkaztransservice LTD (100%; the activity – transportation of the ore mined), Guard LTD (100%; the activity – transportation of the ore mined), Transpetkmzidi LTD (100%; the activity – boring and blasting), ECOLOGY Ltd (51%; the activity – Water filtration/neutralization for copper concentrate preparation), Football Club Sioni LTD (50%), Trans Georgian Resource LTD (50%. The Company owns Sakdrisi deposit mining license), Tbilisi Jewelry Factory Ltd.

21 local and foreign companies expressed interest for privatization. The Ministry had three months negotiations with these companies. In September 2005 Ministry disrupted the negotiations and announced the sale on a competitive basis. 21 September 2005 competition was announced for privatization of 97, 25% of state-owned shares of Madneuli JSC (12 477 682 one-dollar stocks) and 50% of state-owned shares of Trans Georgian Resource Ltd. The initial unit rate amounted to 32 500 000 USD. Terms of competition were as follows:

- Preservation of Madneuli JSC present profile for at least 3 years;
- Pay 50% of privatization amount before 15 November 2005, and the other 50% - before 15 December 2005;
- Not reduce Madneuli JSC wage fund for at least 3 years;
- Strict fulfillment of provisions of the law on environment protection and use of mineral resources in order to comply with the license and the design objectives of minerals use, avoid a negative impact on the environment;
- Within 3 months after privatization present the environment security program, developed on the basis of consultations with Ministry of Environment to be approved by the above mentioned ministry. The program shall cover the protection of air, waste water treatment, waste management, avoid accidents and implementation of environmental management systems;
- The approved program shall be implemented stage by stage not later than within 21 months after its agreement with Ministry of Environment and Natural Resources;
- Bidder shall submit in an envelope the specifically fixed purchase amount.

It was also indicated in the announcement that receivables of the enterprise is 43 614 831 GEL, and accounts payable – 28702 266 GEL.

It should be mentioned herewith that Tbilisi Jewelry Factory had been removed from competitive bidding. It later was sold at auction. Tbilisi Jewelry Factory Ltd, whose authorized capital stock equaled to 8 691 010 GEL was bought at auction on 16 May 2006 at 2 020 000 USD by the only auction participant – Goldinvest Ltd, founded by Koba Nakopia, then chairman of Madneuli JSC supervisory board.

February 2011 Green Alternative requested from Georgian Ministry of Economy and Sustainable Development a copy of privatization agreement, signed with Goldinvest as a result of 16 May 2006 auction. Almost 3 months after the inquiry for public information Green Alternative was informed<sup>1</sup> that *“the requested information could not be found in Ministry of Economy and Sustainable Development archive”*. It is noteworthy that the Agreement is available on the Register of Entrepreneurs and Noncommercial Persons’ web-page where Tbilisi Jewelry Factory (now Zaraphkana Development) registration documents are posted.

On 25 October 2005 privatization packages were opened at Ministry of Economy and Sustainable Development. It turned out that the list of interested companies had significantly reduced and there were only two bidders– Stanton Equity Corporation and Energy and Industry Complex.

On 1 November 2005 Ministry of Economy and Sustainable Development declared Stanton Equity Corporation a British Company, the winner. Only after the announcement of the results it turned out that Stanton Equity Corporation is a subsidiary company of Russian Promishleny Investor<sup>2</sup>. At the same time it should be remembered that former vice-president of “Promishleny Investor” occupied the post of the Director General from 2004 October until the date of the announcement of Madneuli JSC privatization<sup>3</sup>.

Irakli Chogovadze, former Minister of Economic Development explains: “35 100 000 USD of the sum paid by the winner will be used to buy shares and 16 000 000 will cover the debt on the budget. Georgian company “Energy and Industry Complex” offered 36 000 000 USD provided the debt on the budget would not exceed 8.6 million USD. Hence 10.5 million USD paid in excess of the amount offered by the other bidder determined the decision in favor of Stanton Equity Corporation”

The losing Company stated that the Ministry’s decision in favor of British-Russian Stanton Equity Corporation was unfair. Terms of Energy and Industry Complex were much better and legally more competent. Energy and Industry Complex intended to appeal in court against the decision of the Ministry. However, in view of future business interests, they decided not to sue.

Most interesting in this situation was that the criteria for the best proposals in compliance with Order #1-1/1013 of 19 September 2005 “On privatization of 97,25% of state-owned shares of Madneuli JSC (12 477 682 one-dollar stocks) and 50% of state-owned shares of LTD Trans Georgian Resource (on the basis of which the tender was announced on 21 September 2005) were: (a) offer maximum procurement amount exceeding the initial sale price and (b) undertake to meet the terms of the tender. Taking into account these criteria, it would be logical that Energy and Industry Complex won due to the fact that it offered 900 000 USD more than the other bidder. Respectively, Ministry of Economic Development took the decision in violation of its own order. However, the winner company “improved” this mistake later: privatization agreement of 11 November 2005 between Stanton Equity Corporation and Georgian Ministry of Economic Development provides: *“The sides agree, that total assets are thirty five million one hundred (35 100 000) USD equivalent in GEL. This equals to the sum, offered by the “bidder”, plus nine hundred ten thousand (910 000) USD equivalent in GEL, the amount voluntarily added by the “bidder”, which totals to thirty six million ten thousand (36 010 000) USD”*.

As a matter of fact the Ministry should have not considered either of the companies’ bids, because both of them put forward the debt reduction as one of the terms of the agreement. The tender announcement provided that this issue shall not become a subject of discussion. The Ministry in fact changed the criteria for identifying the best after having opened the packages of offers.

<sup>1</sup> Letter #08/9865 of 19 May 2011 from a person responsible for giving out public information of Ministry of Economy and Sustainable Development to Green Alternative in response to its 25 February 2011 request.

<sup>2</sup> <http://www.prominvestors.com/>

<sup>3</sup> From 20 September 2005 (a day prior to the announcement of competition) Lasha Akhaladze was acting Director General of “Madneuli” SC.

## Fulfillment of privatization conditions

Madneuli JSC privatization was the first out of all recent privatizations, when tender conditions provided for the obligations of a new owner to meet the environmental requirements. Privatization Agreement of 11 November 2005 between Stanton Equity Corporation and Georgian Ministry of Economic Development provides for the company's responsibility to develop, within three months after signing the Agreement, and submit for the approval of Ministry of Environment and Natural Resources the environment security program to include protection of air, waste water treatment, waste management, avoid accidents and implementation of environmental management systems, and to be implemented within 21 months after its approval.

The above privatization condition was met with 11-month delay. However, the company was not penalized for breach of contract. On the contrary, David Tkeshelashvili, then Minister of Environment presented "Environmental Security Program" (a document, listing the intended activities in 17 sentences), as the company's initiative and confirmed the approval of the Program on 10 February 2007 by signing Memorandum of Understanding with Stanton Equities Corporation (Koba Nakopia, Director General by that time).

According to the Memorandum, the document aimed at fulfillment of the terms of Agreement between Stanton Equities Corporation and Ministry of Economic Development, and meeting the requirements of p.2 of Article 15 of the "Regulations and Terms of Issuing Environmental Impact Permit" (the company was supposed to take Environmental Impact Permit before 1 January 2009 in compliance with the agreed with the Ministry plan).

In its 2007 report Green Alternative informed that the Ministry failed to timely exercise its right under 11 November 2005 Privatization Agreement between Stanton Equities Corporation and Ministry of Economic Development – the Ministry did not respond to nonfulfillment of the provision of the above Agreement falling within the Ministry's competence. Besides, the grounds of signing the Memorandum with the company were absolutely unclear, since it did not imply any new commitments of the sides. Most likely the Memorandum was just a PR action, to demonstrate to the public the Ministry's good work and the Company's good will.

Unfortunately, the Green Alternative's assumptions proved to be correct – in reply to Green Alternative's inquiry, head of the Ministry's Department for Integrated Management of the Environment and Biodiversity wrote<sup>4</sup>: *"The Memorandum is not a legally binding document and its signing aimed at expression of both sides' good will to ensure timely fulfillment of legal obligations ... Proceeding from the above the Ministry does not carry out the analyses of the activities under the Memorandum"*.

## Environmental Impact Permit

Under the adopted in 2007 Law of Georgia "On Environmental Impact Permit"<sup>5</sup> both, Madneuli JSC and Quartziti Ltd, as economic players whose activity, subject to environmental expertise, started prior to the enforcement of the Law of Georgia "On Environmental Permit", were supposed to receive Environmental Impact Permit before 1 January 2009. In order to receive the permit they had to present environment impact assessment report, reflecting the analyses of present situation (environmental audit) and the plan of impact reducing measures.

It should be mentioned that the environmental impact permit issuance procedure changed after the adoption of the Law "On licenses and Permits" in 2005. It shall be issued through simple administrative proceedings instead of a public administrative proceeding, as provided for in general administrative code (which excludes public participation in decision-making, and availability of information not only about the issue, but also about the process). Administrative authority is not obliged to publish the materials of administrative proceedings and the deadlines. However, pursuant to General Administrative Code of Georgia, administrative authority is obliged to involve the stakeholder in administrative proceedings on the basis of written request of the latter. Green Alternative took advantage of this provision and, as one of the stakeholders, appealed to Ministry of Environment and Natural Resources with written request to be involved in administrative proceedings of issuance of environmental impact permit and /or of environmental expertise with regard to these specific companies<sup>6</sup>, as well as to any other entity. Despite repeated request the Ministry did not notify Green Alternative on starting administrative proceedings for issuance of environmental impact permit to Madneuli and Quartziti. Neither did it provide the documents to be considered.

Green Alternative received Madneuli JSC and Quartziti Ltd Environmental Impact Assessment (EIA) reports only on 27 January 2008. Attached to the reports was the following explanatory letter signed by head of public relations department of the Ministry: *"This is to inform that Madneuli JSC and Quartziti Ltd submitted the permit request to the Ministry on 30 December. Since the above companies are undergoing environmental expertise procedure you are requested to submit the comments in the shortest possible time"*. "The shortest possible time" was not specified but given the fact that the

<sup>4</sup> Letter No. 06-13/265 of 15 April 2008 signed by Head of the Department for integrated management of the environment and biodiversity of Ministry of Environment and Natural Resources

<sup>5</sup> Article 22

<sup>6</sup> Letters No.04/09-55 of 7 November 2008 and No. 04/09-58 of 15 January 2008 of Green Alternative to Ministry of Environment and Natural Resources

procedure, under the law, shall not last more than 20 days, Green Alternative, in fact, had no time to do so. Thus Green Alternative was not given an opportunity to fully participate in administrative proceedings of issuing environmental impact permit to Madneuli JSC and Quartziti Ltd.

Due to the above, Green Alternative appealed to Goga Khachidze, Minister of Environment with the request to inquire into this particular case. Green Alternative noted in its letter that the permits and licenses department should be interested in Green Alternative's participation in decision making process. Receiving its comments on permit applications would help, and not impede taking correct and well founded decisions. The delayed submission of EIAs suggests that the department was not interested either in a help through public participation, or in correct decision in terms of environment protection.

Despite the above difficulties, related to the submission of EIAs, Green Alternative still presented its comments with regard to both, Madneuli JSC and Quartziti Ltd documents and the permit issuance procedure. In particular Green Alternative deemed that the documents submitted for consideration – reports on environmental impact as a result of Madneuli JSC and Quartziti Ltd activities – did not meet the requirements under the law of Georgia and, hence, positive expert opinion and issuance of permits on the basis of these documents were impermissible.

Green Alternative reminded to the Minister that under Article 22 of the Law of Georgia "On Environmental Impact Permit" Madneuli JSC and Quartziti Ltd. had to present Environmental Impact Assessment report containing the analysis of present environment (Environmental Audit) and the plan of impact reducing measures.

Madneuli JSC EIA report, submitted to the Ministry just stated that environmental audit had been carried out. As for Quartziti Ltd report, environmental audit was not even mentioned there, and could not have been, as this was almost complete copy of 1999 report. Green Alternative believed that Environmental Impact Assessment of Madneuli and Quartziti activities necessarily needed environmental audit. The same is provided in the Law of Georgia "On Environmental Impact Permit" according to which EIA report shall contain both, the analysis of present state of environment (environmental audit) and plan of measures reducing environmental impact.

Given the fact that issuance of Environmental Impact Permit is the Ministry's only leverage to avoid the pollution caused by industrial activities, Green Alternative urged the Minister to refrain from making hasty and non-transparent decision. It would be important and very appropriate that the Ministry requested appropriate documents from the companies and took the decision ensuring adequate, timely and efficient public information and participation in compliance with the provisions of Aarhus Convention.

In its letter to the Minister Green Alternative also expressed the hope that the Ministry would disregard the companies' speculations about the threat to the whole Bolnisi region if the work is suspended due to the failure to receive the permit (this idea was voiced several times at public discussions). Green Alternative argues that Bolnisi region is already experiencing negative impact of industrial activities and the threat will increase if the permits are issued in violation of the procedures (as it often happens, unfortunately). At the same time, the amount of penalty for failing to timely receive the permit, as well as the expenses for drafting quality documentation was not so high as to cause a suspension of works.

Regrettably Ministry of Environment and Natural Resources did not agree to Green Alternative's above arguments and issued Environmental Impact Permits on the basis of environmental analysis, carried out within the Ministry. It turned out that for the experts, drafting the conclusion of environmental assessment, unimpeded work of Madneuli and Quartziti was more important than the damage caused to Georgian environment and people's health.

## **Agreement Against Environment**

After the Rose Revolution in 2003, the government policy directed to economic liberalization has exerted its influence on the legislation regulating the environmental protection and management of natural resources. Most of the legislative amendments were related to the government policy aiming at full economic liberalization and deregulation as well as the willingness to increase the budgetary revenues by all possible means (including through maximum exploitation of natural resources). Besides the fact that these amendments were implemented non-transparently and without consultations with all stakeholders, they were aimed at minimizing the existing possibilities of raising public awareness and their participation in a decision making process.

Furthermore, proper law enforcement has remained an insuperable obstacle, as under conditions of strong patronage in the state structures, it provided the enterprises with an opportunity of environmental pollution without assuming any responsibility for it. After March 2011, when the environmental monitoring functions were distributed between the Ministry of Environment Protection and the Ministry of Energy and Natural Resources, this sphere descended into deep chaos.

In early 2012 the situation in terms of monitoring the environmental protection and management of natural resources reached its limits so that any further aggravation seemed to be impossible, but... In March 2012 the Parliament of Georgia adopted the law, according to which in exchange for paying compensation in favor of the state, a person will be discharged from liability for the violations committed in the sphere of environmental protection and natural resources. The country, which tops the world rankings in terms of democratic development and combating corruption, has adopted the law, which contradicts the Georgian constitution, undertaken international commitments, all key environmental principles secured or defined by international and national environmental legislation. In addition, the law contains environmental, corruption, economic, social and political risks and threats.

While adopting the law, the public agencies were arguing that agreements could only be concluded on minor violations and that it was the only solution to protect small enterprises against bankruptcy. However, as it turned out later, the very first agreement was concluded with one of the largest enterprises of the country (that, simultaneously, are the largest environmental polluters) – Madneuli JSC and Quartzite Ltd.

Law on Making Amendments to Some Legislative Acts of Georgia, which led to the introduction of the agreement on violations committed in the sphere of environmental protection and natural resources, has been in force since March 30, 2012. The law is so much obscure, unjustified and controversial that it was quite clear that like many other amendments it also served the interests of certain persons and like in other cases, “an interested person” would make use of these amendments quite soon. Owing to the promises given by then Energy Minister Alexander Khetaguri and then Environment Minister Goga Khachidze, the society was expecting an open, public process of concluding an agreement.

Two months after the law came into effect, particularly in late May 2012, Green Alternative applied to the Ministry of Energy and Natural Resources and requested information about the agreements concluded in the sphere of environmental protection and natural resources or about the ongoing negotiations on concluding an agreement. In addition, in case of signed agreements, the organization was requesting the copies of documents reflecting the administrative procedures for making a decision on concluding an agreement, including an application submitted by a person on concluding an agreement, the text of the agreement and all official conclusions, assessments and reports prepared in the process of concluding an agreement.

Much more time has passed than defined by the law since the date of requesting public information; however, Green Alternative has not received any answer so far. Therefore, the organization sent an administrative complaint to the Ministry of Energy and Natural Resources. A week after the complaint was sent<sup>7</sup> Green Alternative received a letter from Deputy Minister, Nino Enukidze, which said: “One agreement has been concluded in the sphere of environmental protection and natural resources between Madneuli JSC and Quartziti Ltd, on the one hand, and the Ministry of Energy and Natural Resources, on the other. We are sending the documents available at the Ministry with respect to the mentioned agreement in a form of an annex”. The following was enclosed to the letter:

1. A joint two-sentence application sent by Madneuli JSC and Quartziti Ltd to Minister of Energy and Natural Resources of Georgia, Alexander Khetaguri, which noted: “We apply to you on the basis of article 57<sup>11</sup> of the Law of Georgia on Environmental Protection and ask you to conclude an agreement envisaged by 57<sup>10</sup> of the same law from April 1, 1994 to May 14, 2012. In addition, in exchange of the mentioned agreement we are ready to pay compensation totaling GEL 13 (thirteen) million to the state budget proportionally no later than March 2014, under mutually agreed scheme.” Payment scheme and plan of measures to be implemented by the enterprises are also enclosed to the application.
2. Order by Prime Minister of Georgia, Nika Gilauri dated May 14, 2012 on concluding an agreement.
3. Contract document concluded between the Ministry of Energy and Natural Resources, on the one hand, and Madneuli JSC and Quartziti Ltd, on the other, under the Order of the Prime Minister, together with the scheme of payments and planned actions.

Since the submitted documents did not fully reflect the administrative procedures carried out for making a decision on concluding an agreement, Green Alternative did not withdraw its complaint and demanded the delivery of remaining documents. It is quite unclear how the administrative body managed to do it, but as it turned out while discussing the complaint, no other documents related to this process were available at the Ministry of Energy and Natural Resources (conclusion, assessment, report or document authorizing the application).

According to the documents submitted to Green Alternative and official explanation of the Head of Law Department of the Ministry of Energy and Natural Resources, the events have developed in the following sequence:

1. On May 14, 2012 the management of Madneuli JSC and Quartziti Ltd applied to the Energy Minister with a request to conclude an agreement. The enterprises did not indicate those violations, which they wanted to be considered lawful in exchange of paying GEL 13 million to the state budget. Only a period of time – 18 years – was indicated in the application; just the actions carried out during this period should have been considered lawful.
2. The Minister of Energy and Natural Resources discussed the application on the same day; without asking any questions (for example, about what kind of violations the enterprises wanted to be considered lawful), he approved the application and sent it to the Prime Minister for making a final decision.
3. Neither did it take the Prime Minister much time to make a decision; he issued order No 624 on concluding an agreement in the sphere of environmental protection and natural resources on the same day, May 14, 2012. By the Prime Minister’s order, the Ministry of Energy and Natural Resources was instructed to conclude an agreement with Madneuli JSC and Quartziti Ltd in the sphere of environmental protection and natural resources as envisaged by article 57<sup>10</sup> of the Law of Georgia on Environmental Protection.
4. As it seems, it was already late on that day and therefore, the agreement between the Ministry of Energy and

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<sup>7</sup> The letter is dated July 10, 2012. Green Alternative sent a letter requesting information on May 25, 2012.

Natural Resources, on the one hand, and Madneuli JSC<sup>8</sup> and Quartziti Ltd<sup>9</sup>, on the other, was concluded only on the next day, May 15, 2012.

Based on the agreement concluded on May 15, 2012, all the actions carried out by Madneuli JSC and Quartziti Ltd in the sphere of environmental protection and natural resources from April 1, 1994 to May 14, 2012 shall be considered lawful and respectively, no civil and/or administrative liabilities before the state and/or local self-government bodies shall be imposed on the enterprises.

The agreement envisages only two types of obligations: (1) payment of GEL 13 million by Madneuli JSC and Quartziti Ltd jointly before March 2014 under the agreed scheme, and (2) implementation of coordinated environmental measures before expiration of the term of license.

It should also be noted that the agreement envisages a liability for violating a scheme of payment of compensation. If the total number of days overdue is 10, the agreement shall be considered unfulfilled and canceled, whereas the agreement envisages no sanctions for unfulfilled plan of environmental measures attached to the agreement. Thus, we should suppose that attaching this so called plan to the agreement is a mere formality. The same is confirmed by the list of measures envisaged by the plan (see below, insertion 1 and insertion 2). Besides the fact that the enterprises had been instructed to fulfill all the actions enlisted in the plan, description of measures is quite general, overlapping and in some cases, absolutely senseless. For example, 10 paragraphs in the list are about the issue of waste management. One out of ten paragraphs is "waste management", which should be fulfilled by 12.04.2014. It is unclear, how the fulfillment of this paragraph should be expressed, if according to the plan "waste separation" and "liquid waste management" should also be fulfilled by the same period.

Insertion 1. Plan of measures to be implemented by Madneuli JSC before the expiration of its license

#	List of Measures	Period of fulfillment
1	To make up a cadaster of land areas belonging to Madneuli JSC and to specify their outlines together with the state authorized agencies	31.10.2012
2	To prepare and coordinate the project on processing gold ore-barite-copper fields	30.06.2012
3	To impose monitoring on general slope angle and diffusivity coefficient	12.04.2014
4	To develop the environmental policy of the company Madneuli	31.07.2012
5	Waste management	12.04.2014
6	Waste separation	12.04.2014
7	Solid municipal waste management	12.04.2012
8	To make a list of solid waste formed in the pit	15.08.2012
9	Liquid waste management	12.04.2014
10	To make a list of liquid waste formed when processing the ore deposit	15.08.2012
11	To develop internal system of environmental management	30.08.2012
12	To make a registry of ecological risks	15.08.2012
13	To organize solid waste separation and their temporary storage	30.09.2012
14	To prepare/conclude a relevant agreement on transportation/processing of solid waste	30.10.2012
15	To organize liquid waste separation and their temporary storage	20.03.2012
16	To prepare/conclude a relevant agreement on transportation/processing of liquid waste	30.10.2012
17	To develop a re-cultivation project	30.06.2012

<sup>8</sup> Madneuli JSC: license on the use of minerals (series 053, number 0011, type IIAC), complex processing of gold ore, copper, barite, poly-metal fields, term of validity – from April 12, 1994 to April 12, 2014; license on extracting of minerals 06.12.2011; No 1000281 on exploring and extracting non-ferrous, noble, rare metals and barite in the Bolnisi Municipality; term of validity: from December 6, 2011 to April 12, 2014; 06.02.2009 #00174 environmental impact permit.

<sup>9</sup> Kvartsiti Ltd: license on the use of minerals (series 53, number 0010, type VI ABC), exploring and extracting minerals from the Bolnisi fields; term of validity – from April 7, 1994 to April 7, 2014; 06.02.2009. #00172 environmental impact permit.

18	To select areas for seasonal re-cultivation works and to buy plant materials	05.11.2012 05.04.2013 05.11.2013 05.04.2014
19	To organize seasonal re-cultivation works	15.11.2012 15.04.2013 15.11.2013 15.04.2014
20	To develop environmental programs for structural divisions	30.09.2012
21	To develop a program of ecological self-monitoring system	15.07.2012
22	To systemize weekly data of ecological self-monitoring system	12.04.2014
23	To rehabilitate sewerage system	15.04.2013
24	To arrange/build temporary fields for separate placement of waste formed at the enterprise	30.10.2012
25	To restore/build emergency cascade	15.05.2013
26	To build/arrange carwash facility with the use of returned water	30.10.2012
27	To build emergency facility for fuel and lubricants	15.09.2012
28	To arrange a field for ore storage	30.11.2012
29	To purchase composting toilets	15.08.2012

Insertion 2. Plan of measures to be implemented by Quartziti Ltd before the expiration of its license

#	List of Measures	Period of Fulfillment
1	To make up a cadaster of land areas belonging to Madneuli JSC and to specify their outlines together with the state authorized agencies	31.10.2012
2	To prepare and coordinate the project on processing the Sakdrisi field	31.07.2012
3	To impose monitoring on general slope angle and diffusivity coefficient	07.04.2014
4	To develop the environmental policy of the company Quartziti	01.07.2012
5	Waste management	07.04.2014
6	Waste separation	07.04.2014
7	Solid waste management	07.04.2012
8	To make a list of solid waste formed in the Sakdrisi field	15.08.2012
9	Liquid waste management	07.04.2014
10	To make a list of liquid waste formed when processing the Sakdrisi deposit	15.08.2012
11	To develop internal system of environmental management	30.09.2012
12	To make a registry of ecological risks	15.09.2012
13	To organize solid waste separation and their temporary storage	30.10.2012
14	To prepare/conclude a relevant agreement on transportation/processing of solid waste	15.11.2012
15	To organize liquid waste separation and their temporary storage	15.08.2012
16	To prepare/conclude a relevant agreement on transportation/processing of liquid waste	15.11.2012
17	To develop a re-cultivation project	30.08.2012

18	To select areas for seasonal re-cultivation works and to buy plant materials	05.11.2012 05.04.2013 05.11.2013 05.04.2014
19	To organize seasonal re-cultivation works	15.11.2012 15.04.2013 15.11.2013 15.04.2014
20	To develop environmental programs for structural divisions of Quartziti Ltd	30.09.2012
21	To develop a program of ecological self-monitoring system	15.07.2012
22	To systemize weekly data of ecological self-monitoring system	07.04.2014
23	To arrange/rehabilitate sewerage system	15.09.2012
24	To arrange/build temporary fields for separate placement of waste formed at the enterprise	30.09.2012
25	To build/arrange carwash facility with the use of returned water	15.05.2013
26	To build emergency facility for fuel and lubricants	30.03.2013
27	To arrange a field for ore storage	30.08.2012
28	To purchase composting toilets for the pit	15.08.2012

One more circumstance is also interesting in respect of this agreement. According to the agreement on privatization of the enterprises signed between the owner of the enterprises, the company GeoProMining<sup>10</sup> and the Ministry of Economic Development on November 11, 2005, the company was released from any liability for the harm caused to the environment in the past (before sale). In particular, the agreement notes: "A seller' assumes an obligation that 'a buyer' will not have to answer and will not be obliged to clean or improve otherwise, or pay a certain amount for cleaning or improving otherwise 'before the date of completion' for any harmful substances emitted on the territory of 'the companies of the group' or for other environmental pollution on the adjacent territory." Considering this circumstance, it is unclear why the company decided to pay compensation for the violations committed in a period between 1994 and 2005.

Moreover, in a month after signing the agreement, on June 14, 2012, GeoProMining made a statement on selling its assets in Georgia<sup>11</sup>. According to the statement, the company was carrying out negotiation on the sale of its assets for several months. Taking this fact into consideration, we should suppose that the agreement was signed in order to enoble the history of activities of the enterprises on the part of GeoProMining, to be exempted from the responsibility for environmental damages and subsequently, sell them profitably. Strange as it may seem, the new owner of the enterprises declares<sup>12</sup> today that when buying the enterprises, he knew nothing about the agreement and respectively about the obligation to pay a certain amount envisaged by the agreement. It is hardly believable that the company participating in a 120-million deal signed the agreement without studying the obligations thoroughly or maybe the deal does not envisage any sanctions concerning newly discovered obligations. However, the statements made by the new owner do not change anything in this respect. The agreement has been signed and before complete payment of the sum by Madneuli JSC and Quartziti Ltd before May 14, 2012, all the actions carried out in the sphere of environmental protection and natural resources will be considered lawful – that cannot but be profitable for the new owner of the enterprises.

As we have already mentioned above, imposing an obligation of implementing the above mentioned measures is a mere formality and no sanctions are envisaged in case of non-fulfillment of this condition. Moreover, as Green Alternative clarified<sup>13</sup>, the Ministry of Energy and Natural Resources does not have any information about the fulfillment of the plan envisaged by the agreement and neither has it implemented any measures to obtain this information. The situation did not change after 2012 change of government. According to Ministry of Environment and Natural Resources (by July 2013) the Ministry has no information on the implementation of commitments under the Agreement.

Thus, the agreement concluded on May 15, 2012 with Madneuli JSC and Quartziti Ltd in the sphere of environmental protection and natural resources has further strengthened the situation created by the state when privatizing the enterprises in 2005 by exempting the new owner from the responsibility for the damages caused to the environment in the past – the

<sup>10</sup> In the period of signing an agreement "Stanton Equities Corporation"

<sup>11</sup> <http://www.geopromining.com>; Statement on the sale of assets of GeoProMining in Georgia; June 14, 2012, Moscow

<sup>12</sup> <http://liberali.ge>, "Environment Lost in Calculation", 08.02.2013

<sup>13</sup> On December 6, 2012 Green Alternative received an answer from Irakli Khmaladze, the head of the Law Department of the Ministry of Energy and Natural Resources; the organization was requesting information about the fulfillment of the plan of actions agreed on the basis of the agreement signed with Madneuli JSC and Quartziti Ltd on May 15, 2012 in the sphere of environmental protection and natural resources (most part of actions envisaged by the plan should have been fulfilled already).

situation, where nobody (neither the state nor the owners of the enterprises) assume the responsibility for recovering and compensating for damages caused to the environment.

It should be mentioned that one of the first initiatives of the new government in environment sector after 2012 parliamentary elections was cancellation of changes to the Law of Georgia "On Environment Protection", under which the negotiation in environment and natural resources sectors was permitted. Green Alternative hoped that the cancellation would take place on the basis of appropriate assessment and conclusion, on the one hand in order to finally introduce the practices of justification of legislative changes and, on the other hand to avoid the possibility of initiating such changes in future. However, the law was repealed by the Parliament on 25 March 2013 without any discussion.

It is noteworthy that the Constitutional Court, by its 10 April Decision No.2/1/524<sup>14</sup> declared the already repealed rule unconstitutional with respect to p.p. 3 and 4 of Article 37 of Georgian Constitution<sup>15</sup>. In contrast with the Parliament and Ministry of Environment the Court held extensive discussions on the divergence of the norm to be cancelled. Below are some extracts from Constitutional Court decision:

*"... Two mechanisms of cumulative effect have been defined by the State to response to violations in environment and natural resources sector. In particular, on the one hand a lawbreaker will be punished as provided by law, and on the other hand he is obliged to compensate the damage caused to the environment in cash or/and through specific activities aimed at repairing the damage done to the environment. With concluding an agreement an interested party is released from both responsibilities through payment of state compensation.*

*... It is noteworthy that the agreement is concluded not with regard of a specific action of an interested party, but it covers unspecified amount of possible offenses committed during the whole period of his activity. The law does not provide for any responsibility of government agencies to check up, prior to concluding the agreement, on violations during the period under the agreement and take the decision on the basis of the amount of damage therein and the nature of the violation. Besides, in compliance with p. 4 of Article 57<sup>9</sup> of the Law of Georgia "On Environment Protection" "It is impermissible to check up on the concerned person's activities taken/implemented in environmental and natural protection sector within the period stipulated by the agreement." Proceeding from the above one can conclude that the law allows for the agreement, when it is not specified how much of the alleged violation of the law by an interested person will be legitimate. Besides, the alleged infringements are not investigated after concluding the agreement as well. Proceeding from the above the law allows for a possible exempt from liability for any violations in exchange for paying state compensation.*

*... In compliance with p.p. 3 and 4 of Article 37 of Georgian Constitution the government's obligation is to establish certain prohibitions and mechanisms of legal responsibility for the fulfillment of these prohibitions. It is true the government enjoys a wide view of the range of sanctions for certain offense, but the sanction shall not be applied so that it loses its purpose and objective. Main objective of prohibition under the law and the definition of sanctions for certain activities is prevention of crime. Conclusion of an agreement with a person on his exempt from liability for a certain period of time in future will have the effect of virtual abolition of restrictions in the field of environmental protection and natural resources. An interested person loses the sense that he can be held legally responsible for environmental damage. He is given the freedom to operate freely in the use of natural resources. Respectively, legal provisions that define the content of specific violations, lose function of prevention of negative impact on the environment. "Encouraging of violations"- that is what the plaintiff referred to as a main problem of conformity with the constitution. The court shares the plaintiff's arguments regarding the fact that as a result of agreement, prohibitions imposed by the state lose their "restrictive effect". Giving someone a free hand of impact on environment comes into conflict with the state's positive liabilities to ensure environment protection in order to preserve the environment non-threatening to human health.*

*...Even if there are certain legitimate objectives for the existence of institute of agreement, given current wording of controversial provisions it will be impossible to argue that reasonable balance between the restriction of a human right to live in healthy environment and positive effect of the controversial provision is maintained. In this case the agreement is drawn so, that damage caused to nature by the person concerned is unknown, moreover it is impossible to identify future damage. Respectively, one cannot speak of a reasonable balance when the damage to environment is unmeasurably great. Even the fairest judge could not determine compensation for the environmental damage if he does not know the size of that very damage. In this case the state cannot claim that it is protecting commensurable common good to balance the issuance of environmental impact permit. Respectively, the reasonable balance between restriction of the right granted under controversial provision of the law and positive results obtained by its adoption. By adopting controversial norms the state violates its own commitments under p.p. 3 and 4 of Article 37 of Georgian Constitution".*

It is interesting that the parliament representative who appeared as a defendant in the litigation fully shared the plaintiff's position and admitted the constitutional claim. The defendant stated that "conclusion of an agreement under controversial

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<sup>14</sup> Composition of the Board: Zaza Tavadze – Chairperson of the Session, speaker judge; Otar Sichinava – a member; Lali Papiashvili – a member; Tamaz Tsabutashvili – a member; the case – Georgia Gachechiladze, Georgian citizen vs. Parliament of Georgia; subject of controversy – Constitutionality of p.p. 1 and 3 of Article 57<sup>9</sup> of the Law of Georgia "On Environment Protection" in respect to p.p. 3 and 4 of Article 37 of Georgian Constitution, and constitutionality of p. 4 of the same article in respect to p.5 of Article 37 of Georgian Constitution.

<sup>15</sup> Point 3. "Everyone shall have the right to live in healthy environment and enjoy natural and cultural surroundings. Everyone shall be obliged to care for natural and cultural environment"; p.4. "With the view of ensuring safe environment, in accordance with ecological and economic interests of society, with due regard to the interests of the current and future generations the state shall guarantee the protection of environment and the rational use of nature". 5. A person shall have the right to receive complete, objective and timely information as to a state of his/her working and living environment.

*norm implies granting “indulgences” to an individual and any person is free to illegal actions, unauthorized use of natural resources and impact the environment, which conflicts with basic human right to live in harmless to health environment as guaranteed under Article 37 of the Constitution”.*

Mamuka Ivanishvili, Chief specialist of lawsuits division of Ministry of Environment legal department, who was a witness in the case, stated that *“when the agreement has been signed the Ministry is not allowed to audit the person, with whom the agreement is concluded. Respectively it is not possible to obtain information on specific violations in the field of environment”.*

Nely Korkotadze, head of minerals management department of Agency for Natural Resources, LPPL under Ministry of Energy and Natural Resources, and Constantine Khachapuridze, deputy head of the above department who also appeared in court as witnesses noted that: *“In compliance with the Law of Georgia “On Licenses and Permits” persons having licenses and permits, and working in environmental sector are accountable to the Agency. In particular, persons exploiting minerals shall report yearly to the Agency on their activities, and permit holders also shall present the information in regard of air and water yearly. The witnesses also noted that in when there exist disputed norms they have no opportunity to double-check the report. Besides, it is almost impossible to identify whether a specific violation took place during the agreement stipulated period or after it, which makes it difficult to obtain objective information. According to the witnesses the disputed norms do not allow regulatory authorities to get the trustworthy, complete and grounded evidences, which prevent collecting full and objective information on the environment and presenting it to the public. The witnesses also said that the contested provision is problematic since interested party, when signing the agreement, has no liability to state the type and volume of the damage he had caused to the environment. Respectively, the above mentioned may become a cause for a corrupt deal, make the process nontransparent, be harmful to the environment and violate basic human rights”.*

In any case abolition of the provision, allowing for the agreement in environment and natural resources sector shall be assessed as a positive step. The only concern is that the government that came to power after 2012 parliamentary elections was content with only abolition of unconstitutional norm and failed to investigate the legality of the agreements concluded while the norm was in force<sup>16</sup>.

## **Exempt from Control**

Green Alternative is following compliance of Madneuli and Quartziti with law provisions and with privatization agreement since the moment of their privatization in 2005. It should be noted that the businesses have been fined many times for damage to environment. However no verification of compliance with obligations under the license and the environment impact permit had been carried out.

One may assume that loyalty towards Madneuli and Quartziti is Koba Nakopia’s merit. This person was manager of the businesses in 2004-2008, and since 2008 – Member of Parliament of the 8th convocation and member of National Movement party. One of the proofs of such an assumption was the fact that in two months after the change of government in 2012, Ministry of Finances’ investigation department took an interest in RMG Copper (former Madneuli) and RMG Gold (former Quartziti) financial documentation. Nodar Khaduri, Minister of Finances stated that there were certain questions to the businesses, including those regarding the taxes. *“There is certain information, which is being double-checked now”*<sup>17</sup> – said the Minister. He also stated that the information on the causes and the results of the tax audit would be communicated to the public by investigation department. However, neither the Ministry, nor any of its departments did disseminate the information on audit results.

During 2013 the management of the businesses earned the favor of new government. Bidzina Ivanishvili, the Prime-Minister himself became interested in removing barriers and ensuring unimpeded work of RMG Copper and RMG Gold, and solved the problem without any complications. The problem, in this case was the existence of Sakdrisi-Kachagiani ancient gold mines – national monument of cultural heritage. The history of settling this problem can be found in next chapter. Here we will briefly note that it was solved very simply – first the monument was deprived of the status of immovable monument of cultural heritage, then the status of nationally important monument, and finally archaeological monument protection zone was eliminated and thus the RMG problem of exploiting mineral resources in the protected zone was removed.

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<sup>16</sup> Three agreements were concluded while the norm was in force. In two other cases parties to agreements were: 1. “Saknakshiri” Ltd. (GIG group). The company, in regard with mining licenses #100752, #01018 and #00885 paid 40 thousand GEL in recognizing the damage, it caused to the environment from 6 January to 12 October 2011, legitimate. 2. “Polat Oil Iafi Sanaii Ve Tijareti” (Turkish Company) Branch office in Georgia paid 20 thousand GEL in recognizing the offence committed during the period 8 to 20 July 2012 legitimate.

<sup>17</sup> “Investigation Department of Ministry of Finance is auditing former Madneuli SC and Quartziti Ltd” – “24 saati” newspaper, 28.12.12.

## Sakdrisi – Settled Problem

Center of Archeology of Georgian National Museum, together with German colleagues are carrying out the study<sup>18</sup> of the world's oldest center of gold production in Sakdrisi and Balichi-Dzidzebi settlement of Bolnisi region. The oldest gold mines found in archeological excavations, together with about 10000 stone sledge hammers and other tools excavated there, prove that gold in Sakdrisi was mined manually by mining method.

According to information available on Georgian National Museum web-page *“Sakdrisi gold production center, by its historic and scientific significance is one of the oldest in the world. Its importance exceeds Georgian boundaries. It is a demonstration of cultural and economic contacts of the Caucasus with oldest world civilizations”*<sup>19</sup>.

Gold mines discovered in Sakdrisi were granted a status of immovable monument of culture by 30 March 2006 Order by Minister of Culture, Protection of Monuments and Sports<sup>20</sup>.

On 17 July 2006 a joint order by Minister of Culture, Protection of Monuments and Sports, and Minister of Economic Development was issued<sup>21</sup>, which established archeology zone around the monument of mining industry in Sakdrisi settlement.

And by Presidential Decree No. 665 of 7 November 2006, Sakdrisi monument of mining industry (3018-2929 BC) was granted the status of immovable monument of national culture.

## Sakdrisi oldest gold-mining

The territory of Sakdrisi, having been granted the status of oldest monument of gold-mining industry, was part of the area, allotted to Trans Georgian Resources Ltd on 7 April 1994 under 20-years license for exploration and extraction of minerals. In 2005 Trans Georgian Resources Ltd was sold together with Madneuli and Quartziti; and in 2009 it merged with Quartziti. Respectively now RMG Gold (former Quartziti) is the license owner.

It is noteworthy that mining activity for minerals extraction contributed to the discovery of the monument. According to Madneuli and Quartziti information-geological reports, several mining and geological monuments were found during mining-geological works, carried out by Trans Georgian Resources Ltd in 2004. The Company informed appropriate competent authority, as required by the Law of Georgia “On Mineral Resources”, and provided financial support to archeological expedition working there.

During years the discovery of Sakdrisi oldest mines was a matter of pride for Madneuli and Quartziti. The companies, in their reports to the Ministry of Environment, kept pointing to the value of the monument and its importance for the whole country. The following information was available on RMG GOLD web-page<sup>22</sup> until August 2013: *“Sensational finding of Sakdrisi in Lesser Caucasus, in Southern Georgian province of Shida Kartli in 2004-2007 puts Georgia on a par with Egypt, oldest gold-processing country where gold was mined by mining method. Whereas it was hitherto considered that gold production in early Bronze Age was carried out by washing, now it became evident that already in the beginning of III millennium BC more labor-intensive method was used. According to the available archeological data, gold production in Georgia started immediately by mining method. Hence, the knowledge of how the gold-vein could be detected and mined on the edge of IV-III millenniums BC underpins the argument that ancient miners had completely mastered difficult technology of gold production...”* Apparently, in 2013 the company's attitude to the monument changed drastically.

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<sup>18</sup> “Gold in Georgia” project is being implemented on the basis of Memorandum of Cooperation between Georgian National Museum, Bochum Museum of Mining, Bochum Ruhr University and German Mining Technologies Corporation. The project is funded by Volkswagen Foundation, German Science Foundation and French National Science Center.

<sup>19</sup> [http://museum.ge/index.php?lang\\_id=GEO&sec\\_id=100&info\\_id=12288](http://museum.ge/index.php?lang_id=GEO&sec_id=100&info_id=12288)

<sup>20</sup> Order No.3/133 of 30 March 2006 by Minister of Culture, Monuments Protection and Sports “On granting the status of immovable monuments of culture to properties, enjoying the status of historic and cultural monuments during the period of validity of 1977 Law “On the protection and use of historic and cultural monuments” (Georgian Law Gazette, No.9 27.04.2006, part IV, page 49)

<sup>21</sup> Joint Order No.3/225-No.1-1/616 of 17 July 2006 by Minister of Culture, Protection of Monuments and Sports, and Minister of Economic Development “On establishment of Archeology zones of Gonio-Apsarosi architectural-archeology complex and Sakdrisi Monument of Mining Industry”

<sup>22</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex6.pdf>

## A letter to Prime-Minister

Zurab Kutelia, Chairman of RMG Gold (Quartziti) Supervisory Board, one year prior to expiry of the term of 20 year license appealed to Prime-Minister of Georgia with the request to help in settling the company's problem related to fossil-use.

It is interesting that Zurab Kutelia worked at the Ministry of Environment as head of mineral resources protection and mining department. The 20-years license for exploration and excavation of minerals, issued to Trans Georgian Resources Ltd on 7 April 1994 is signed by Mr. Kutelia. Besides, Mr. Kutelia (until 2004) was a chairman of Interagency Experts' Council under Ministry of Environment and Natural Resources. The Council was in charge of monitoring the fulfillment of terms of the license. Permanent member of the same Council was Solomon Tsabadze (now RMG company advisor on environmental issues) who, until 2003 was head of environment permits and state environmental expertise department of Ministry of Environment and Natural Resources.

In his letter Mr. Kutelia, states: *"In 2004, during the geological work within the deposit contour, old mine openings (tunnels) were found, which in 2006 were granted the status of national monument of culture. At the same time totally ignored was the fact that it was located in the territory of already licensed deposit. The above mentioned fact makes it impossible to work most of Sakdrisi deposit thus minimizing its economic importance and causing serious harm to both, state interests and the interests of the investor... Although there are discrepancies among scholars and archeologists with regard to the age, significance and status of the monument, we would like to raise pure economic aspect of the issue. Budget revenue from operation of the mine during initial 7-8 years will exceed 100 million USD, up to 700 jobs will be opened (mainly local population will be recruited) and average salary will be 1000 GEL".* Ibid Mr. Kutelia offers the Prime-Minister the way out of the situation. In particular the Company stood ready to relocate the monument (i.e. mine) at its own expenses *"so that not to diminish its historical and cultural value"*.

It is noteworthy that no national or international law allows for neglecting archeological value of a monument for the purpose of economic benefits; both national and international laws bind natural and legal persons to protect and wary about cultural heritage (Law of Georgia on Mineral Resources, Law of Georgia on Cultural Heritage, European Convention on the protection of archeological heritage<sup>23</sup>, Council of Europe framework convention on the role of heritage in society<sup>24</sup> etc.). Hence it was groundless to talk about neglecting economic interests of the company 7 years ago, when the monument was granted the status.

Besides, as mentioned above, term of RMG Gold's gold mining license expires 14 April 2014. In 29 February 2012 auction, held by LPPL Natural Resources Agency, another company – Mining Investments – won the 27 years mining license and will start operating there on 15 April 2014. It is noteworthy that Director General of Mining Investments is Solomon Tsabadze, advisor of RMG group for the environment. So, the conclusion suggests itself that Mining Investments Ltd, founded 2 weeks prior to the auction is somehow associated with the interests of RMG group. They might have common plans as well. But the whole point is that Mining Investments' license does not cover Kachagiani area of Sakdrisi deposit that enjoyed the status of cultural heritage monument.

With this in mind it is unclear why should the chairman of RMG Gold supervisory board has planned 7-8 years activity in Sakdrisi territory. As for the Company's proposal to relocate the monument so that be able to mine in that territory is absolutely unlawful, since, as provided in Article 26 of the Law of Georgia "On Cultural Heritage":

1. Dismantling of an immovable listed property or its part is admissible only within the scope of work (rehabilitation) allowed under the present Law and on condition of restoring a listed property.
2. Alteration of an immovable listed property, or of a part of it is admissible only in the interests of a listed property unless it causes damage to a listed property or reduces its historic and cultural value.
3. Relocation of an immovable listed property or its part is admissible only when a listed property faces a danger of irrevocable damage or destruction due to force majeure or, when the displacement of a listed property is in public interests, unless it concerns a listed property of national significance;
4. An immovable listed property may be relocated only into such environment that is best compatible with the original settings, and through reconstruction by using authentic material, on condition of its restoration.
5. Alternation or fragmentation of a listed property is prohibited unless it is essential for the preservation or rehabilitation of a listed property.

All the above provisions refer to Sakdrisi ancient immovable monument of mining industry proceeding from its national value and the status.

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<sup>23</sup> Georgia joined the Convention under the Parliament Resolution No. 158 of 23 February 2000

<sup>24</sup> Approved by Georgian President's Resolution No.813 of 6 October 2010

## The Prime-Minister's assignment and the President's consent

On 1 May 2013 the Prime-Minister readdressed the above mentioned letter of 6 April 2013, signed by chairman of RMG Gold supervisory board to Mr. Miriane Odisharia, Minister of Culture and Monuments Protection, for consideration and further response.

It is unknown to us whether Minister of Culture received any additional oral tasks or explanations but the fact is that he started consideration of and responding to the issue not by studying the lawfulness of the Company's request<sup>25</sup>, but by setting up a commission for the study of status documentation and (irrespective to the lawfulness of granting the status) drafting recommendations for relocating the monument. In particular, the Minister on 28 May 2013 passed Order No.03/82. Its Article 1 provides for setting up a commission in the composition of: Alexander Tvalchrelidze, Omar Kutsnashvili, David Lomitashvili, Vakhtang Licheli, Guram Mirtskhulava, Besik Matsaberidze, Temur Cikhradze, Lali Akhalaia, Paata Gafrindashvili, Guram Kipiani, and Guram Grigolia for the purpose of studying Sakdrisi monument status documentation and development of recommendations for its relocation. Article 2 of the Order tasks the commission with preparing and presenting the conclusion by 30 June 2013, i.e. within one month.

It should be mentioned here that the commission included at least two representatives of RMG contactors i.e. of the interested party: 1. Omar Kutsnashvili, owner of Geoengineering Ltd. 36% share. He, on request of license-owner, carried out mining-geological studies in Sakdrisi territory; and 2. Vakhtang Licheli who, on request of the Company performed archeological research in Sakdrisi territory, as is clear from RMG Director General's letter of 27 May 2013 (#341) to Georgian Minister of Culture and Monuments Protection.

The goal of the commission set pursuant to Ministerial order contradicted to Article 26 of the Law of Georgia "On Cultural Heritage" not permitting relocation of monuments of national importance.

On 5 July 2013 Minister of Culture and Monument Protection issued Order #03/108. He ordered to remove "Sakdrisi-Kachagiani ancient gold mines" from the attachment to Order #3/133 of 30 March 2006 by Minister of Culture, Monuments Protections and Sports. In accordance with Articles 60<sup>1</sup> and 62 of General Administrative Code of Georgia, and on the basis of the Sakdrisi Commission's conclusion its inclusion in the list of the monuments of national importance was recognized unlawful. With the purpose of its removal from listed monuments, the Minister ordered:

1. Invalidate No.2042 (Sakdrisi ancient gold mines, Bolnisi municipality) in the Attachment to Order #3/133 of 30 March 2006 by Minister of Culture, Monuments Protection and Sports "On granting the status of immovable monuments of culture to listed property, which was declared monuments of history and culture during the period of validity of 1977 Law of Georgia "On protection and use of historic and cultural monuments".
2. In order to ensure compliance with this Order, cultural heritage strategy, coordination and permits department and legal department of Ministry of Culture were charged with preparing, within 3 days, appropriate documentation to be presented to the President's Administration for introducing respective changes in the Decree No.665 of 7 November 2006.
3. Cultural heritage strategy, coordination and permits department of Ministry of Culture was tasked with implementation of the arrangements of granting the status of movable listed property to monuments located in Sakdrisi-Kachagiani archeological zone.
4. Legal department of Ministry of Culture was tasked with preparing draft agreement between "RMG" and the Ministry on creating appropriate museum space and exhibiting there movable monuments of cultural heritage from Sakdrisi-Kachagiani zone.
5. Study of Sakdrisi-Kachagiani archeological monument was supposed to be finalized before 15 September 2013.

Evidently the necessary documents, as tasked in the Order, were shortly sent to President's Administration and, strange as it is (against the background of reluctance to approve any initiative of the Government and Parliament) the President already on 10 July 2013 (five days after Minister of Culture's order) issued a Decree (No.563) on the exclusion of the monument from the attachment to 7 November 2006 Decree No. 665.

It is noteworthy that all the above mentioned processes became known to the public after publication of the Ministerial order on deprivation of Sakdrisi of immovable monument's status. Against the background of public dissatisfaction, 11 days after the issuance of the Order, on 16 July 2013 an explanatory note<sup>26</sup> was posted on Ministry's web-page:

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<sup>25</sup> The more so that the Ministry was informed about the facts of violations of the law and attacks on the monument by RMG Gold. This can be proven by letter #01/01-200 of 21 February 2013 and signed by Zurab Makharadze, head of archeology center of Georgian National Museum, to Ms. Marine Mizandari, First Deputy Minister of Culture. There Mr. Zurab Makharadze is informing the Deputy Minister on the facts damaging the monument and requests to protect the territory in accordance with the law. <http://greenalt.org/wp-content/uploads/2013/08/annex9.pdf>

<sup>26</sup> <http://www.culture.gov.ge/topicdetails-1.7405.html>

*“Based on application No034/13 of 26 April 2013 of RMG Company, at the initiative of Georgian Government and under the Order No.03/82 of 28 May 2013 by Minister of Culture and Monuments Protection an Ad Hoc Commission was set up to study the issues related to Bolnisi municipality Sakdrisi ancient mining industry monument. The Commission was in charge of studying the documentation on granting cultural heritage status to the mentioned monument.*

*The commission, consisting of 11 top class specialists, as a result of 35-days work concluded that Sakdrisi-Kachagiani ancient gold mines was granted the status of the monument of cultural heritage in violation of “General Administrative Code of Georgia” and Law of Georgia “On Protection of Cultural Heritage” (1999-2007).*

*A separate administrative-legal act was issued only due to the fact that 25 June 1999 a Law of Georgia “On Protection of Cultural Heritage” was passed. Its Article 77 provides for invalidation of 1977 Law of the Georgian SSR “On Protection and Use of Historic and Cultural Monuments”. As a result, in compliance with Articles 5 and 6 of the Law of Georgia “On Statutory Acts”, all the bylaws adopted on the basis of 1977 Law of Georgian SSR “On protection and use of historic and cultural monuments” including those declaring specific objects the monuments of history and culture were deemed invalid.*

*Due to the fact that the monuments stipulated in the above statutory acts had not lost their cultural value they were granted (practically renewed) their status by 30 March 2006 Order No.3/133 according to the list attached to the Order. Sakdrisi-Kachagiani ancient gold mines appeared there too. However it should be stressed that this particular monument never appeared as a monument of cultural heritage in old statutory acts. Respectively, it should have not been included in the attachment to 30.03.2006 Order No.3/133 due to the fact that it was not subject to regulation by this order. Hence, its inclusion in the above mentioned statutory act was absolutely illegal.*

*The above action is violation of p.5 of Article 53 (administrative authority had no right to base its decision on circumstances, facts, proofs or arguments that were not investigated during administrative proceedings) and part 2 of Article 96 of “General Administrative Code of Georgia” (It is impermissible to base the issuance of statutory act on circumstance or facts that are not investigated by administrative authority”).*

*Also violated is p.2 of Article 16 of the Law of Georgia “On protection of Cultural Heritage” which was in force at that time. The status shall be granted to a monument only on the basis of a conclusion by the commission. In this case we failed to find any document that would serve as a basis for such a decision.*

*Scientific evidence of the existence of ancient gold mines in Sakdrisi-Kachagiani area is not convincing and contains significant deficiencies from archeological point of view. Arguments and facts presented to the commission fail to confirm the existence of ancient and unique mines.*

*Geologic, geo-technical, metallurgic and strength of materials conclusions were very similar and their contents gives reason to the assumption that, from geological viewpoint, the existence of gold-mines in Sakdrisi-Kachagiani area cannot be confirmed.*

*On the basis of Ministry of Culture’s request National Agency for Environment, LPPL under the Ministry of Environment and Natural Resources, as a result of on-site verification drafted a conclusion that termination of mining activities in Sakdrisi area would unconditionally entail negative environment impact and uncontrollable effect.*

*In view of the above circumstances on 5 July 2013 the Order No.03/108 on invalidating the decision on granting to Sakdrisi the status of the monument was issued.*

*According to the same Order construction of a museum in Bolnisi was envisaged to exhibit culturally valuable artefacts discovered at Sakdrisi-Kachagiani archeological site.*

*“Sakdrisi-Kachagiani archeological site keeps the status of the protected zone. Respectively, in compliance with the Law of Georgia “On Cultural Heritage” (p.3 of Article 40) “Any activity that may damage and cause the destruction of cultural heritage protected in a zone or impede its interpretation and implementation of a high-quality scientific study shall be prohibited”. Hence, security of Sakdrisi-Kachagiani archeological site is fully protected until the end of excavations”.*

*This explanation would be convincing if not for one circumstance. 35 days might be enough for the commission for detecting procedural irregularities and invalidating administrative authority’s decision on that basis. But it is clear that even “11 top specialists” would not be able to decide on the value of the monument. The wording of the conclusion also gives rise to some doubts regarding its credibility. This will be discussed in the next chapter.*

## Conclusion of the Commission

Order No. 03/108 of 5 July 2013 was passed on the basis of the conclusion<sup>27</sup> submitted by Ad Hoc commission set up to study Bolnisi municipality Sakdrisi ancient mining monument related issues.

The conclusion submitted by Georgian Ministry of Culture and Monuments Protection (undated) contains inaccuracies and incorrect interpretations. The discourse is often contradictory, biased and exceeds the commission's competencies:

According to Chapter 1 of the conclusion no detailed archeological study of the monument had been carried out, research-permitting documentation and official reports had not been provided to the commission. It is stressed that there is no evidence of the existence of 2004-2005 archeological research reports. However, the license-owning company confirmed the fact of archeological study on Sakdrisi mines. According to one of the conclusions<sup>28</sup> published by Ministry of Culture and Monuments Protection, Sakdrisi research materials, among them Ir. Gambashidze, T. Shtolner and others 2005 report - gold in South-East Georgia, mining excavations in Sakdrisi - had been handed over to two Professors, PhD N. Shekrlidze and PhD R. Michelson, for further assessment. A copy of the permit<sup>29</sup>, issued to Ms. Irene Gambashidze by Georgian Archeological Commission on agreement with Ministry of Culture, Monuments Protection and Sports on 16 May 2005 also deserves the attention. Presumably this copy shall be found at Ministry of Culture and Monuments Protection.

It is mentioned in the conclusion that, according to official notification from Georgian Academy of Sciences, reports of 2004-2005 Sakdrisi archeological expedition cannot be found in their archive. According to another official message these reports cannot be found either in Ministry of Culture, or in National Agency for the protection of cultural heritage. For unknown reason the documentation was not requested from Georgian National Museum, although the Ministry was well informed that on-site study had been conducted by this Museum. Besides, the Ministry was familiarized with 11 June 2013 letter<sup>30</sup> signed by Z. Makharadze, head of archeology center of National Museum. This letter describes in details the work already carried out and the present situation. Therein the willingness of archeology center to cooperate with the Ministry is expressed. This cooperation would help the commission to obtain external evidence based on long-term international research. Neither Ministry of Culture nor the commission set up under the Order of the Ministry availed themselves of this offer, and the commission wrote in its conclusion that archeological research had never been conducted.

2. The commission, without proper search of study materials concluded (chapter 3 of the conclusion) that *"since in 2006 there were no grounds for declaring so cold "ancient mines" a monument, since the existence of such a listed property was neither known nor confirmed, its listing occurred in gross violation of then in force law "On Protection of Cultural Heritage" and of the regulations and procedures established by General Administrative Code. (See the commission report #1 of 30.05.2013)"*. It is noteworthy that the documentation submitted by the Ministry does not include the commission conclusion. Only the minutes of 30 May 2013 meeting which heard the report by T. Chikhradze on the results of the study materials related to granting the monument status by legal department of the Ministry is included. No evidence of existence of a conclusion or of the facts contained in the report were attached to the minutes.

3. Despite the fact that 1st chapter of the conclusion refers to the absence of evidence of archeological study and the monument value, its 4th chapter notes *"justification for the existence of ancient gold mines is unconvincing from archeological point of view and contains significant and serious flaws"*. So, one may assume that the commission had considered some of the studies, though they are not specified.

4. In chapter 6 of the commission conclusion, titled *"Conformity of the monument to its status from geological point of view"* the key argument of the commission, determining the decision on depriving the monument of its status is presented. In particular it is noted that Sakdrisi deposit, namely its Kachagiani area is poor, with low or average grade. Visible gold is unknown to date. Copper, not gold could have been mined there. Hence *"Sakdrisi ancient gold mines"* in reality are simply old copper mines, of which Georgia is really rich and there is nothing unique about it. Studies and data that served as grounds for these observations are not indicated in the conclusion. This chapter is fully based on the report prepared by two commission members – A. Tvalchrelidze and O. Kutsnashvili. And their report, on its turn is based on A. Tvalchrelidze's previous publications and views on the monument, which gives rise to doubts about the reliability of conclusion. E.g. the following is stated on p. 6 *"Archeological monument "Sakdrisi ancient gold mines" in reality is not such. It is ordinary copper mines of Early Bronze age, which are many on the territory of Georgia"*<sup>31</sup>. Reference is made to: I Gambashidze, A Hauptmann, R. Slotta and Uyalcin (eds.), *Georgien Schatze aus dem Land des Goldenen Vlies*. Bohum, 2001. Besides the fact that 2001 report is referred to when discussing the status granted in 2006, this observation does not belong to the authors of the above publication.

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<sup>27</sup> <http://www.culture.gov.ge/misc/topic/1373981282.PDF>

<sup>28</sup> <http://www.culture.gov.ge/misc/topic/1373981312.PDF>

<sup>29</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex12.pdf>

<sup>30</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex13.pdf>

<sup>31</sup> <http://www.palitravt.ge/aq-da-akhla/30207-qaq-da-akhlaq-stumari-aleqsandre-thvaltcrelidze.html>

Another reason why Green Alternative doubts the credibility of Mr. Alexander Tvalchrelidze's observations is the information, he aired on "Palitra" TV, about the organization. In particular he stated in "Palitra" TV 23 April 2013 program "Here and Now" that Green Alternative conducted studies, proving that water flowing from Madneuli quarry is so pure that it is drinkable. Not only Green Alternative did not state so, but it never conducted any study in Mashavera river. There exists no similar report of any other organization either.

The commission did not discuss Quartziti and Madneuli (now RMG) information and geological reports that they annually present to the license issuing agency. These reports confirm that quite considerable stocks of gold can be found in Sakdrisi deposit. This contradicts to the commission conclusion and proves the idea that Sakdrisi really is a gold deposit.

5. Information in Chapter 7 of the conclusion confirms that the commission had considered the issue that goes beyond its competence. In particular, ensuring security of the monument, as a tourist site. It should be stressed that the possibility of using the monument as a tourist facility is by no way related to its archeological value. In compliance with Article 2 of European Convention on the Protection of Archeological Heritage<sup>32</sup>, La Valetta – 16.01.1992 *"Each Party undertakes to institute, by means appropriate to the State in question, a legal system for the protection of the archaeological heritage, making provision for the maintenance of an inventory of its archaeological heritage and the designation of protected monuments and areas; the creation of archaeological reserves, even where there are no visible remains on the ground or under water, for the preservation of material evidence to be studied by later generations"*. Under Article 5 of the same Convention the Ministry's liability is *"to ensure that the opening of archaeological sites to the public, especially any structural arrangements necessary for the reception of large numbers of visitors, does not adversely affect the archaeological and scientific character of such sites and their surroundings."*

6. The commission discussed the issue, not falling within its competence. From Chapter 8 of the conclusion and 27 June 2013 letter of the Head of National Environment Agency is evident that Ministry of Culture and Monuments Protection requested National Environment Agency to make its opinion on possible complication of engineering-geodynamic situation and environment pollution provided the RMG Gold company activities at "Sakdrisi-Kachagiani" licensed area are suspended. It should be stressed that environmental consequences of suspension of the use of natural resources exceeds the competence of not only the commission but of Ministry of Culture and Monuments Protection in general.

Above to that the commission had discussed this issue illegitimately, it used the Agency's views expressed in the visual inspection (not the conclusion, as indicated in the commission's final conclusion) to make biased wrong deduction. In particular, the Agency's views go as follows: *"Visual inspection showed that suspension of works in the mentioned area without re-cultivation will, unconditionally cause dramatic deterioration entailing the slope complete degradation, intensive soil washout in a nameless river. In case of rainfall, a complete blockage of the river bed shall not be ruled out, which may further form a flood. As for the four sections of the licensed facility, where temporary access roads are laid, they may cause overland sedimentation if left as they are."*

*We can confidently say that in case of termination of operation works at the mine (development, construction of sites for leaching, laying access roads etc.) we will get uncontrolled negative impact on the environment associated with contamination of waste water with heavy metals, dust generation and other unpredictable factors entailing inevitable and considerable environmental degradation. Suspension of operations without appropriate measures may cause ecocatastrophe."*

It should be mentioned that p.5 of Article 8 of the "Mining" Law of Georgia provides that "mine reclamation on completion of the use of mineral resources, or its termination for any other reason if there is no prospect of further use, shall be laid upon subsoil user except for any other case under Georgian law". Hence, it is not clear why should National Environment Agency have considered the prospect of termination without mine reclamation at all. Besides, given the fact that, according the Agency considerations access roads to four plots and search operations are already there; and maintenance works, including leaching sites - of which RMG Gold has no permission – are conducted on the 5th plot, it would be appropriate that the Agency talked over the facts of illegal activities rather than the suspension of works without mine reclamation, which is also illegal.

On 13 August 2013 Green Alternative requested Ministry of Environment to study the legality of building leaching site by RMG Gold. On 26 August Green Alternative was notified that the information had been forwarded to department of Environmental supervision for further response. On 18 September 2013 Green Alternative again appealed to the Ministry requesting the information on the measures taken by the department of environmental supervision, and on tentative dates for the completion of the examination. The organization also inquired whether the construction of leaching site had been suspended. On 1 October 2013 Ministry of Environment notified Green Alternative that *"the issue is under examination and appropriate measures under Georgian law will be taken if violations are revealed"*. It seems no violations had been revealed during 1,5 months of investigation. After 2,5 months Green Alternative still has no information on the results of the examination.

<sup>32</sup> Georgia joined under the Parliament resolution No 158 of 23 February 2000

7. The commission considered economic issues, though none of its members had appropriate competence. For unknown reason the state revenue in case of converting Sakdrisi into tourist site are compared with proposed replenishment through taxes after 7-8 years of the mines' operation. The income figures and allegedly planned investments are spun from the air which suggests questionable accuracy of the assessment. No supporting documents are attached to the conclusion. Besides, when calculating economic advantages, momentary value of environmental damage in the case of full development of deposits is not considered. Equally not considered are possible negative consequences and damage to country's international image when the monument of national value is deprived of its status under the pretext of mining minerals.

It is notable that the commission took up the discussion on economic issues not only in the overview but also in the final part of its conclusion thus it again exceeding its competence. The commission concluded that "further ungrounded, artificial impeding the operations is impermissible as it seriously damages both local and government budgets, and directly contradicts the interests of the state."

8. The below assessments of relevant institutions and scholars, according to which it is impermissible to downplay Sakdrisi ancient mines' importance, also question the commission's conclusion:

- Report prepared by Grigol Tsulukidze mining institute of "Delta" scientific-research center – LPPL under Georgian Ministry of Defense: "Reflections on the historical monument of Sakdrisi old mines"<sup>33</sup>;
- Report on Sakdrisi-Kachagiani ancient mining monument by Professor V. Geleishvili, head of Department of solid minerals of Caucasian Institute of Mineral Resources at Tbilisi Javakhsishvili State University and N. Kajaia, Full Professor of Applied Geology Department of Tbilisi Technical University<sup>34</sup>;
- Report prepared by Ferdinand Tavadze Institute of Metallurgy and Materials of "Delta" scientific-research center – LPPL under Georgian Ministry of Defense "Study of Sakdrisi old mines ore layers"<sup>35</sup>.

All the above mentioned proves the fact that the process was not transparent; the stakeholders not only did not participate, but even were not informed about it. Thus the Ministry violated one of the fundamental principles of CoE framework Convention (Faro, 2005)<sup>36</sup> "Value of Cultural Heritage for Society", which provides that the signatories thereto recognize that *"every person has a right to engage with the cultural heritage of their choice, while respecting the rights and freedoms of others, as an aspect of the right freely to participate in cultural life enshrined in the United Nations Universal Declaration of Human Rights (1948) and guaranteed by the International Covenant on Economic, Social and Cultural Rights (1966);"*

Ministry of Culture and Monuments Protection did not comply with requirements of Article 7 of the Convention and did not respect for diversity of interpretations of the value of Sakdrisi ancient mines, as well as did not establish processes for conciliation to deal equitably with situations where contradictory values are placed on the same cultural heritage by different communities. Moreover, contradictory ideas were not considered purposefully.

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<sup>33</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex17.pdf>

<sup>34</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex18.pdf>

<sup>35</sup> <http://greenalt.org/wp-content/uploads/2013/08/annex19.pdf>

<sup>36</sup> Georgian Parliament ratified on 2 April 2001

## Problem settled

On 8 August 2013 Minister of Culture and Monuments Protection issued new Order (#03/130) tasking LPPL National Agency for the Protection of Cultural Heritage with monitoring of Sakdrisi-Kachagiani archeological facility study process. For this purpose, within 5 days timeline, set up appropriate commission and select the head of this commission out of the candidates proposed by RMG.

The Order tasks the Ministry's legal department and the department of cultural heritage strategy, coordination and permits to implement legal measures with the view of abolition of Sakdrisi-Kachagiani archeological zone by 1 October 2013. The same Order permits RMG Company to conduct engineering and geological works within Sakdrisi-Kachagiani archeological zone so that it does not damage, or create a threat of damage to archeological facility there.

We would like to remind to the reader that 3 weeks prior to the issuance of this Order, 16 July 2013, the position of Ministry of Culture and Monuments Protection, posted on its web-page read that the existence of the zone of archeological protection would be the warranty of untouchability of archeological facility. However, proudly declared warranty did not last long. On 7 October 2013 Georgian Government Resolution No. 1436 "On cancellation of part of joint Order No.3/225-No.1-1/616 of 17 July 2006 of Minister of Culture, Monuments Protection and Sports, and Minister of Economic Development "On establishment of Archeological zones of Gonio-Apsarosi architectural-archeological complex and Sakdrisi mining industry monument" was passed. With it archeological zone of Sakdrisi mining industry monument was abolished.

## Legal controversy and the Prime-Minister's unlawful interference

On 5 August 2013 Green Alternative and Irina Gambashidze filed an administrative appeal with Georgian Government against Order No.03/108 of 5 July 2013 of the Minister of Culture and Monuments Protection which deprived Sakdrisi ancient gold mines of its monument status. Administrative appeal against the same ministerial Order was filed with government chancellery by David Sakhvadze, Marine Tsintsabadze, Jumber Khantadze, Gigo Jandieri, Raul Gvetadze, Givi Inanishvili, Vano Tvalavadze and Revaz Kaniashvili.

Georgian government considered the appeals in violation of timeframes set forth under General Administrative Code of Georgia. Oral hearing took place only on 26 September 2013. As for the Ministry's position regarding the appeals, they were communicated to the complainants few days prior to the hearing.

It is interesting that two documents, reflecting the Ministry's position were presented to the Chancellery.

The first letter, signed by Deputy Minister Marine Mizandari, was submitted on 10 September 2013. Deputy Minister describes the developments in relation to Sakdrisi-Kachagiani ancient gold mines, including the fact of receipt of opinions, differing from the one of the commission, from a range of competent national and international agencies. In the end of her letter Deputy Minister notes that "... on the basis of many scholars' argumentations and proceeding from specificity of Sakdrisi-Kachagiani architectural facility an opinion was shaped that there is a need of preserving the monument in its place."

Deputy Minister's letter did not satisfy the Chancellery. On 16 September 2013 head of legal department of the Chancellery sent a letter to Minister of Culture and Monuments Protection informing him that Deputy Minister was not authorized to represent the Ministry's opinion regarding administrative appeals. It was the Minister's competence to represent the opinion and the Ministry's legal assessment of the disputed issues. According to the Head of legal department of the Chancellery Deputy Minister's letter was just informative one. With no delay the Minister, on 17 September 2013 sent to the Chancellery a drastically different letter stating that the Ministry did not violate the law, and that the complainants were incompetent to file the appeal against ministerial order since this document had not directly affected their legitimate interests.

As mentioned above oral hearing of the appeals was penciled at Georgian Government Chancellery on 26 September 2013 at 4:00 p.m. The same day at 11:00 a.m. Prime-Minister of Georgia held working meeting on Sakdrisi-Kachagiani gold mines. Government members, scholars from National Academy of Sciences, Sakdrisi-Kachagiani archeological expedition members, RMG company representatives and Ms. Irina Gambashidze were invited to the meeting. Ms. Irina Gambashidze is author of archeological research on the basis of which Sakdrisi-Kachagiani mines were granted the monument status, and co-author of Green Alternative's appeal.

After the meeting Miriane Odisharia, Minister of Culture and Monuments Protection stated to journalists: "Sakdrisi-Kachagiani is one of the key issues. I passed several orders in its regard in my capacity of the Minister. The process related to Sakdrisi-Kachagiani is still on and it shall not stop. On the one hand we are dealing with a monument, and on the other hand – an enterprise that shall not stop working. That is why we were looking for the best way out and I think we have found it. At today's meeting with the Prime-Minister it was decided to set up a commission consisting of representatives of different agencies and sciences and we will develop a project regarding the relocation of the monument. ... When it a government interest that certain works are carried out in specific area, monuments are usually relocated. Here again, it will be relocated to appropriate landscape space, about 2-3 km from where it is now and this will be one of Bolnisi attractions" – Miriane Odisharia stated.<sup>37</sup>

<sup>37</sup> Guram Odisharia: Sakdrisi monument will be relocated to Bolnisi", 26 September, 2013 <http://www.epn.ge/?p=167043>

After the above mentioned meeting with Prime-Minister the appeals' consideration process at the chancellery found its logical development. Despite the fact that Shalva Tadumadze, head of legal department was listening to the complainants' arguments for five hours, on 3 October 2013 the Prime-Minister signed Georgian Government Resolution (No.1430) *"To dismiss the administrative action of David Sakhvadze, Marine Tsintsabaddze, Jumber Khantadze, Gigo Jandieri, Raul Gvetadze, Guivi Inanishvili, Vano Tvalavvadze, Revaz Kanashvili, Green Alternative Association and Irina Gambashidze"*.

Green Alternative and David Sakhvadze will continue the litigation at the board for administrative cases of Tbilisi city court. Green Alternative will describe the course and results of the litigation in its next report.

Association Green Alternative is a non-governmental, non-profit organization founded in 2000. The mission of Green Alternative is to protect the environment, biological and cultural heritage of Georgia through promoting economically sound and socially acceptable alternatives, establishing the principles of environmental and social justice and upholding public access to information and decision-making processes.

We organize our work around six thematic and five cross-cutting areas. Thematic priority areas include: energy – extractive industry – climate change; transport sector and environment; privatization and environment; biodiversity conservation; waste management; water management. Cross-cutting priority areas include: environmental governance; public access to information, decision-making and justice; instruments for environmental management and sustainable development; European Neighbourhood Policy, monitoring of the lending of the international financial institutions and international financial flow in Georgia.

Green Alternative cooperates with non-governmental organizations both inside and outside Georgia. In 2001 Green Alternative, along with other local and international non-governmental organizations, founded a network of observers devoted to monitoring of development of a poverty reduction strategy in Georgia. Since 2002 Green Alternative has been monitoring implementation of the Baku-Tbilisi-Ceyhan oil pipeline project, its compliance with the policies and guidelines of the international financial institutions, the project's impacts on the local population and the environment. Since 2005 the organization has been a member of the Monitoring Coalition of the ENP (European Neighbourhood Policy) Action Plan. In 2006 Green Alternative founded an independent forest monitoring network. Since establishment Green Alternative is a member of CEE Bankwatch Network - one of the strongest networks of environmental NGOs in Central and Eastern Europe. Green Alternative closely cooperates with various international and national organizations and networks working on environmental, social and human rights issues; Green Alternative is a member of the Coalition Transparent Foreign Aid to Georgia founded in 2008. In 2010 Georgian Green Network was established on the initiative of Green Alternative. This is informal association of civil society organizations and experts dedicated to protecting environment, promoting sustainable development and fostering principles of environmental and social justice in Georgia.

In 2004 Green Alternative received the Goldman Environmental Prize as the recognition of organization's incredible work for environmental protection, social justice and equity.

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