REPUBLIC OF ARMENIA
ADMINISTRATIVE COURT OF APPEALS

Decision of the Administrative Court Republic of Armenia
Presiding Judge: Ruzanna Hakobyan

Administrative Case № VD/3361/05/10

DECISION
FOR REPUBLIC OF ARMENIA

December 12th 2011 Yerevan

The Administrative Court of Appeals of the Republic of Armenia (hereinafter referred to as the Court of Appeals) with the following staff:

Presiding Judge:	Arthur Arakelyan
Judge:	Hovsep Bedevyan
Judge:	Galoust Gharibyan
Participated by:	Vardan Safaryan, representative of Marjan-Caldera Mining LLC, and Tigran Khurshudyan, representative of Caldera Resources Inc. Representatives of Armenia branch of Global Gold Mining LLC Ashot Boghossian and Hrayr Ghukasyan

Investigating the appeal cases submitted by the representative of Marjan-Caldera Mining LLC Vardan Safaryan, the representative of Marjan Mining Company LLC Tigran Khurshudyan and the representative of Caldera Resources Inc. Tigran Khurshudyan against the decision of the Administrative Court of the Republic of Armenia (hereinafter referred to as the Administrative Court) №VD/3361/05/10 dated 29.07.2011 issued based on the claim of the Armenia branch of Global Gold Mining LLC against the Agency for State Registry of Legal Entities of the RA Ministry of Justice (third parties: Marjan Mining Company LLC, "Marjan-Caldera Mining LLC) against Nork-Marash territorial division of the agency for state registry of legal entities of the RA Ministry of Justice for annulling the registration of the changes of the sole shareholder of Marjan Mining Company LLC in the register of the

shareholders of the company dated 11.08.2010, as well as invalidating the state registration of the changes of the charter of Marjan Mining Company LLC dated 26.08.2010.

ESTABLISHED

1. **The judicial prehistory of the case**

The Republic of Armenia Administrative Court (Judge: R. Hakobyan) satisfied the claim by its decision dated July 29th 2011.

In 26.08.2011 the representative of Marjan-Caldera Mining LLC Vardan Safaryan, in 29.08.2011 the representative of Marjan Mining Company LLC Tigran Khurshudyan and in 27.08.2011 the representative of Caldera Resources Inc. Tigran Khurshudyan submitted appeal cases by postal mail against the above decision.

The case was received by the Court of Appeals on August 31st 2011, and it was handed over to the judicial staff on September 1st 2011.

The three cases were returned by the decisions of the Court of Appeals dated September 5th 2011.

Within 15 days after receiving the decision on the return of the case, the appellants have removed the violations, under which conditions the cases were accepted as proceedings by the decision of the Court of Appeals dated 28.09.2011.

The Global Gold Mining LLC has submitted a response to the Court of Appeals concerning the Appeal Cases.

2. **The facts, grounds and the claim of the appeal case of the representative of Marjan-Caldera Mining LLC Vardan Safaryan**

In 27.07.2011 the RA Court of Appeals commenced to investigation of the administrative case over the claim of the Armenia branch of Global Gold Mining LLC against the Agency for State Registry of Legal Entities of the RA Ministry of Justice (third parties Marjan Mining Company LLC, "Marjan-Caldera Mining LLC) against Nork-Marash territorial division of the agency for state registry of legal entities of the RA Ministry of Justice for annulling the registration of the changes of the sole shareholder of Marjan Mining Company LLC in the register of the shareholders of the company dated 11.08.2010, as well as invalidating the state registration of the changes of the charter of Marjan Mining Company LLC dated 26.08.2010, and the Court satisfied the claim over the administrative case VD/3361/05/10.

He finds that the above decision of the administrative court should be reversed and modified issuing a new legal act with the following motivation:

1. The judicial prehistory of the case.

By the decision of the RA Administrative Court /presided by the Judge Kristine Mkoyan/ dated 30.09.2010 proceedings were adopted on the claim of the Armenian branch of the Global Gold Mining LLC against the agency for state registry of legal entities of the RA Ministry of Justice on annulling the registration of the changes of the sole shareholder of Marjan Mining Company LLC in the register of the shareholders of the company dated 11.08.2010 by the Nork-Marash territorial division of the agency for state registry of legal entities of the RA Ministry of Justice, as well as the changes of the articles of the Marjan Mining Company LLC dated 26.08.2010.

By the decision of the RA Administrative Court dated 24.12.2010 Marjan-Caldera Mining LLC were involved as third parties in the legal process of the administrative case.

Granting the petition of the representative of the third parties Marjan Mining Company LLC, Marjan-Caldera Mining LLC, the judge K.Mkoyan announced a self-disqualification in 18.05.2011.

To set the above case going in accordance with the procedure established by the law in 19.05.2011 the chairman of the RA Administrative Court handed over the case to the judge R.Hakobyan, who took as proceedings in 23.05.2011 and appointed a trial.

The trial over this case was announced completed in 15.06.2011. Based on the part 2 of article 113 of the administrative legal proceedings code of the Republic of Armenia the proceeding over the case resumed in 29.06.2011 and announced completed in 27.07.2011. The court satisfied the cased by the decision dated 29.07.2011.

2. The facts and grounds submitted by the claimant

Global Gold Mining (GGM) is an international company, a foreign investor in the Republic of Armenia, specializing in mineral mining in Armenia and Chile. GGM has already invested about 10 million US dollars in Armenia. GGM carries out operations in Armenia being as a participant, shareholder and investor of the companies licensed by the Ministry of Nature Protection of the Republic of Armenia. The company has four exploration properties in Armenia: Toukhmanuk (Aragatsotn Region), Getik (Gegharkunik Region), Hankavan (Kotayk Region) and Marjan (Syunik Region).

The Special Mining License of the Marjan deposit belongs to Marjan Mining Company LLC, and 100% interest in the Marjan property is held by Global Gold Mining LLC.

In 2009, within the framework of making investments for the Marjan deposit exploration and further mining, the company Global Gold Mining LLC has entered into a joint venture agreement with the Canadian company Caldera Resources Inc. As a result, on March 24th 2010 in the USA, the parties entered into Joint Venture Agreement (hereinafter referred to as the Agreement) and established and incorporated the joint venture Marjan Mining Company in the US State of Delaware

Relating to further economic activities the parties entered into a series of agreements, including written agreement, and they exchanged documents.

On August 11th 2010, the Nork-Marash regional division of the Agency for state registry of legal entities of RA Ministry of Justice made a change in the register of the

shareholders of the company, and registered Marjan Caldera Mining LLC as the sole shareholder of Marjan Mining Company LLC, and gave the share ownership certificate №038281.

On August 26th the Nork-Marash regional division of the Agency for state registry of legal entities of RA Ministry of Justice also carried out a state registration of the changes of the charter of Marjan Mining Company LLC, under which 100% interest in the property of Marjan Mining Company" LLC belongs to Marjan Caldera Mining LLC, and Azat Vartanyan is the director of the company.

He finds that the registration of the changes in the register of the shareholders of the company by the Nork-Marash regional division of the agency for state registry of legal entities of the RA Ministry of Justice has been carried out by violating the law, they are illegitimate administrative acts and should be annulled.

3. The facts proved by the case

For the purpose of forming a joint venture Global Gold Mining LLC has entered into written agreement with the Canadian company Caldera Resources Inc. to form a joint venture, after which in 24.03.2010 signed the "Joint Venture Agreement" in the USA and established and incorporated the joint venture Marjan-Caldera Mining Company LLC in the State of Delaware.

Relating to further economic activities the parties entered into a series of agreements, including by e-mail, writing, and exchanged documents.

In 11.08.2010 the Nork-Marash regional division of the Agency for state registry of legal entities of RA Ministry of Justice made changes in the register of the shareholders of the company, and registered Marjan Caldera Mining LLC as the sole shareholder of Marjan Mining Company LLC and gave the share ownership certificate.

The Nork-Marash regional division of the Agency for state registry of legal entities of RA Ministry of Justice also carried out a state registration of the changes of the charter of Marjan Mining Company LLC, under which 100% interest in the property of Marjan Mining Company LLC belongs to Marjan Caldera Mining LLC, and Azat Vartanyan is the director of the company.

On behalf of Marjan Caldera Mining LLC Azat Vartanyan has submitted an application for making the above changes in the charter. Azat Vartanyan was given a power of attorney in Armenian by the chairman of the board of directors of the above LLC, and the power of attorney was sent by facsimile and signed by the post delivery service of the Republic of Armenia.

The Armenian branch of Global Gold Mining LLC is not a legal entity and was not entitled to submit a statement of claim to the court.

The Armenian branch of Global Gold Mining LLC has not enclosed to the statement of claim the articles of the branch, power of attorney, by which it was granted a right to submit a statement of claim. The statement of claim entered the court in 23.09.2010, and there is no apostil on the power attorney given in the name of the director of the Armenian branch in 11.12.2010, as well as on the letter addressed to the judge, also no evidence has been submitted to the court that Van Z. Krikoryan is the manager of Global Gold Mining LLC.

In 22.07.2011, Marjan Mining Company submitted a letter to the court and informed that it declines the services of Vardan Safaryan.

The lawyer Tigran Khurshudyan appears to be the representative of Marjan Mining Company, who submitted the power of attorney during the sitting of the court held in 27.07.2011.

4. Basis and arguments of the appeal case

The court has passed the decision with violation of the standards of the material and procedural rights stipulated by paragraph 4 of part 1 of clause 4 of article 117 of the RA Administrative Procedure Code, which affected the result of the case.

Hereby part 1 of article 16 of the RA Administrative Procedure Code defines that the third parties are the physical or legal entities, whose rights are concerned or can be concerned by the judicial act being adopted as a result of examination of the case.

The joint venture agreement signed between Global Gold Mining LLC and Caldera Resources Inc. in 24.03.2010 is included in the case. The above agreement has arisen rights and obligations for the parties signing it, Marjan Caldera Mining Company LLC has been established, which as a result of the change in the register of the shareholders of the company made by the respondent over this case in 11.08.2010 became the sole shareholder of Marjan Mining Company LLC, and after the change of the articles of Marjan Mining Company LLC it became the holder of 100% interest in the shares.

An application was submitted to the administrative court in 17.05.2011 to involve a third party, and a solicitation was made by the same claim during the judicial sitting of 27.07.2011 to involve Caldera Resources Inc. as the third party in the trial, but the court has not involved Caldera Resources Inc. as the third party in the trial and thus violated the requirements of the above article.

Part 1 of the article 19 of the RA Administrative Procedure Code defines that the party is entitled to conduct legal actions personally or by one or several representatives, except for the cases stipulated by this code, and the part 7 defines that the cases of legal entities in the administrative court are conducted by the persons authorized to represent the legal entity by law or other standard legal acts or the charter of the legal entity.

During the judicial sitting in 27.07.2011 the court did not give an opportunity to the new representative of Marjan Mining Company LLC to review the materials of the case, express his opinion about the statement of the claim, by which the requirements of the above article have been violated.

Article 24 of the Administrative Procedure Code defines: 1. Directly assessing all the evidences in the case, by moral certainty the court decides the issue on the fact's being proved, based on explicit, full and impartial investigation 2. In its decision the court must motivate the formation of such conviction.

The court has not examined and assessed at all 1) The letter of Caldera Resources Corporation addressed to Global Gold Corporation in 18.12.2009; 2) The letter of Bill Mavridis addressed to Azat Vartanyan in 11.08.2010; 3) The Decision of the managers of Marjan Caldera Mining LLC as of 18.08.2010; 4) The letter of John Mavridis addressed to Van Krikoryan in 19.08.2010; 5) The letter of Van Krikoryan dated 19.08.2010; 6) The letter of John Mavridis addressed to Van Krikoryan in 19.08.2010; 7) The letter of Bill Mavridis

addressed to Van Krikoryan in 23.08.2010; 8) The letter of Bill Mavridis addressed to Azat Vartanyan in 18.08.2010; 9) The decision of the American Arbitrary Association as of 29.04.2011, by which the requirements of the above article have been violated.

Part 1 of article 79 of the RA Administrative Procedure Code defines that the administrative court refuses accepting the statement of claim, if 1) The claim is not subject to investigation in the administrative court.

The article 12 of the same code defines that the plaintiff is the physical or legal entity, administrative body or state official, who has appealed to the RA Administrative Court.

It follows from the word for word interpretation that physical or legal entities have the right to apply to RA Administrative Court.

Part 3 of article 61 of the RA Civil Code defines that the representative offices and the branches are not legal entities, and act based on the articles approved by the legal entity.

The representative offices and branch heads are appointed by the legal entity, and act based on the power of attorney.

It proceeds from the above stated that the Armenian branch of Global Gold Mining LLC could be as a plaintiff, since the RA Administrative Procedure Code clearly defines that legal entities are entitled to apply to the court, and according to article 12 of the same code only legal entities are plaintiffs. It means, in this situation, on the basis of not being a legal entity Global Gold Mining LLC is not also a subject having an authority to apply to the administrative court.

Besides, for submitting the claim, the Armenian branch of Global Gold Mining LLC should act based on the charter approved by Gobal Gold Mining LLC, within the authorities defined herein. On the other hand, the branch head must have an authority from the legal entity Global Gold Mining LLC to submit a claim to a special court or give a power of attorney for that. It must include the power to apply to the court with a claim to represent the interests of Global Gold Mining LLC.

It is mentioned in the motivation part of the Court decision that as regards the attendance of the Armenian branch of Global Gold Mining LLC in the administrative trial on behalf of Global Gold Mining LLC there is the power of attorney granted by the manager of the LLC in 11.12.2010 given in the name of the director of the Armenian branch for representing the interests of the company to the RA courts, as well as there is the letter addressed to the judge.

Therefore, the Administrative Court records that the Armenian branch of Global Gold Mining LLC is wholly competent to represent over this case the interests of the company in the administrative court and in this respect the Armenian branch of Global Gold Mining comes as a plaintiff over this case.

Such findings of the court are groundless, as the statement of claim entered the court in 23.09.2010, and adopted as legal proceedings 10 days later, the power of attorney to the director of the Armenian branch by the manager of Global Gold Mining was granted in 11.12.2010, i.e. approximately 2 months 18 days after entering the statement of claim, and a letter was sent to the judge the same day – 11.12.2010.

There is no apostil on the above power of attorney and the letter, also no evidence has been submitted to the court enclosed to them, saying that Van Z. Krikoryan is the manager of Global Gold Mining.

The court has not examined comprehensively, in full and impartially the statement of claim, the mentioned power of attorney and the letter, and has not assessed correctly in accordance with article 24 of the administrative procedure code, as a result of which it came to wrong conclusion and passed an incorrect decision.

It is mentioned in the motivation part of the Court decision that Azat Vartanyan was given a power of attorney in Armenian and in the USA in the name of Azat Vartanyan, by the chairman of the board of directors of the above LLC, and the power of attorney was sent by facsimile and signed by the post delivery services of the Republic of Armenia.

Whereas, it follows from the logic of part 6 of article 321 of the Republic of Armenia Civil Code that the power attorney being a subject of matter, should be approved by the US post (communication) officer, because this circumstance would confirm the validity of this document – power of attorney.

Part 6 of the article 321 of the RA Civil Code defines that a power of attorney sent by telegraph, as well as other means of communication, if the delivery of the document is carried out by the post officer, it is endorsed by the communication body.

Part 1 of article 8 of the same code defines that the civil legal standards should be interpreted word for word contained in these standards.

Pursuant to the mentioned article, if we interpret part 6 of the article 321 of the same code, then it follows that saying “sent power of attorney” we understand that the RA Post Service has already received it, the latter delivers the document and it had to endorse the power of attorney.

Therefore, the Court has misinterpreted part 6 of article 321 of the RA Civil Code, thus violating the standards of material rights.

Passing such a decision the Court has hereby violated also the requirements of the Constitutional standards.

Article 14.1 of the RA Constitution defines: everyone shall be equal before the law.

Article 18 of the RA Constitution defines: Everyone shall be entitled to effective legal remedies to protect his rights and freedoms before judicial bodies. Everyone shall have the right to protect his rights and freedoms by any means not prohibited by the law.

Article 19 of the RA Constitution defines: Everyone shall have a right to restore his violated rights, and to reveal the grounds of the charge against him in a fair public hearing under the equal protection of the law and fulfilling all the demands of justice by an independent and impartial court within reasonable time.

Article 47 of RA Constitution defines: Everyone shall be obliged to honour the Constitution and laws, to respect the rights, freedoms and dignity of others.

The violation of the standards of material and judicial rights by the RA Administrative Court also resulted in the violation of the fair trial right safeguarded by article 6 of the European Convention on Human Rights and Fundamental Freedoms.

Taking into consideration the above stated and guided by the standards of chapter 19.1 of the RA Administrative Procedure Code he requests to annul and modify the RA Administrative Court decision №VD/3361/05/10 as of 27.07.2011 and reject the claim of the Armenian branch of Global Gold Mining LLC.

2.1. The facts, grounds and claim of the appeal case of the representative of Caldera Resources Inc. Tigran Khurshudyan

Investigating the administrative case №VD/3361/05/10 based on the claim of the Armenian branch of Global Gold Mining LLC against the Agency for State Registry of Legal Entities of the RA Ministry of Justice, third parties Marjan Mining Company LLC, Marjan-Caldera Mining LLC against Nork-Marash territorial division of the agency state registry of legal entities of the RA Ministry of Justice for annulling the registration of the changes of the sole participant of Marjan Mining Company LLC in the register of the shareholders of the company dated 11.08.2010, as well as invalidating as a whole the state registration of the changes of the chapter of Marjan Mining Company LLC dated 26.08.2010, the Administrative Court of the Republic of Armenia (hereinafter referred to as the Court) has wholly satisfied the claim by its decision (hereinafter referred to as Decision) passed on 29.07.2011.

Caldera Resources Inc. (hereinafter referred to as the Appellant) has not attended the trial despite the circumstance that the Court has made a Decision on the Rights and Obligations of the Appellant. The following grounds regarding the rights and obligations of the Appellant is provided below:

"The Joint Venture Agreement" (hereinafter referred to as the Agreement) was signed between Global Gold Mining LLC and Caldera Resources Inc. on 24.03.2010. Pursuant to the Agreement, the parties establish Marjan-Caldera Mining LLC, to the ownership of which the 100% interest in shares of of Marjan Mining Company LLC (hereinafter referred to as the Company) registered in the Republic of Armenia were transferred. The Agreement has been submitted to the Nork-Marash regional division (hereinafter referred to as the State Registry) of the Agency for State Registry of Legal Entities of the RA Ministry of Justice, which based on the Agreement registered in 11.08.2010 the property right for the 100% of the shares belonging to Marjan-Caldera Mining LLC arose hereby. Based on this administrative case the Plaintiff has made a claim to annul the registration of the change of the sole participant in the register of the shareholders of the company, as well as the state registration of the changes of the charter of the Company conditioned with the change of the shareholder.

In fact, the administrative act, which is the matter of dispute in this case– the registration made by the State Registry, is related to the existence, validity of the Agreement, interpretation of its provisions and containing deals herein, since the Agreement has been as a basis for the arguable registration in the register of the participants of the company. The State Register considered the Agreement as a deal of disposal of the shares of the Company, which is disputed by the Plaintiff by the substantiation that the Agreement does not include a deal of the shares of the Company.

When satisfying the claim in the motivation part the Court has concerned the provisions of the Agreement, in particular noting that the State Registry has considered the Agreement as a basis for alienation, has applied the law of the Republic of Armenia, which in the Court's opinion, testifies that the State Registry has fulfilled improperly its obligation on estimation of the proofs.

The vast majority of the grounds to the Court by the Plaintiff, as well as the Appellee and the attending third parties concern the interpretations of the provisions of the Agreement, in particular, the circumstances on considering or not considering the Agreement as a deal for alienation of the shares of the Company. The Court has analyzed the provisions of the Agreement and made conclusions regarding the existence of the Agreement.

All this gives a basis to conclude that the Agreement is the most significant written evidence for this administrative case, and the resolution of the administrative case is associated with analysis of the Agreement and the interpretations of its provisions.

As T. Khurshudyan had already mentioned, the Agreement has been signed between the Plaintiff and the Appellant, which proves the circumstance that the Agreement has created rights and obligations for the Appellant. Signing the Agreement with the Plaintiff the Appellant becomes an interested party in the deals included in the Agreement, particularly the deal of alienation of the shares of the Company. In particular, it is clearly mentioned in the Agreement about transferring the shares of the Company from the Plaintiff to Marjan-Caldera Mining LLC, which has not been refuted by the Court. And in that case, as regards the alienation of the shares of the Company, the Plaintiff appears to be as a debtor, and the Appellant, which is the only demander of proper fulfilment of the obligations assumed by the Plaintiff – lender. It means that the Appellant has had a direct interest in the deal of transferring the shares of the Company to Marjan-Caldera Mining LLC, and appeared as the demander (lender), i.e. the administrative act on the State Registry's registering the shares of the Company by the name of Marjan-Caldera Mining LLC, had a direct relation to the Appellant's rights.

The registration of the "Marjan-Caldera Mining" LLC and transferring 100% of the shares of the Company to that company, are actions to be carried out under the Agreement in the interests of the Appellant. The Appellant has gained rights by force of the Agreement, a part of which is subject to fulfilment by Marjan-Caldera Mining LLC, where the Appellant has a predominating participation. It means that the Appellant appeared as real interested party, and Marjan-Caldera Mining LLC – as an intermediate organization for fulfilment of certain rights of the Appellant, proceeding from the Agreement.

The Appellant is entitled to demand from the Plaintiff not to hinder the state registration of the property right of Marjan-Caldera Mining LLC for the shares of the Company, proceeding from the deal of alienation of the shares of the Company. And in case of not fulfilling that obligation by the Plaintiff or hindering the registration of the rights proceeding from the deal, the Appellant has the right to get a judicial protection on restoring his violated rights.

He also wants to draw attention to the fact that the Court has not refuted by the Decision the circumstance that the Agreement contains a deal on alienation of the shares of the Company. Therefore, the Court has not ruled out the fact that the rights of the Appellant may be concerned as a result of investigation of this administrative case.

Over this case the Plaintiff has presented as a circumstance of violation of his rights the change in the register of the shareholders of the Company by the State Registry based on the Agreement. The Plaintiff tried to ground his claim by the interpretation of the provisions of the Agreement, saying the Agreement does not appear as an agreement of alienation of the shares according to the RA legislation (see the statement of claim as of 22.09.2010, pages 3-4). It means that the interpretations of the provisions of the Agreement, in particular, the fact of the Agreement's being or not being a deal of alienation of the shares, have become a subject of discussion within the grounds of the claim.

Therefore, the Agreement has turned to be the most important proof for solving the administrative case. When analyzing and estimating the Agreement it was possible to clarify the circumstance of the lawfulness of the disputable administrative acts. Under such conditions, being a party of the Agreement the Appellant appeared to be the person, on whose rights and obligations the legal acts passed over this case, has a direct influence.

Basically, at the initial stage of the legal proceedings of dispute of state registration of the right carried out based on any agreement, when preparing the case for trial the court is obliged to involve all the parties of the agreement as a participant of the legal proceedings, as in case of invalidation of the administrative acts on state registration of the rights proceeding from the agreements, the rights of any party of the above agreements are directly concerned

by those legal acts, moreover, when these legal acts will inevitably or directly apply to all the parties of the agreements.

In addition he notes that besides the provisions on the transfer of share ownership of the Company, the Agreement also includes the basic principles of joint activities and the order of carrying out these activities, the mutual obligations of the parties and other provisions. Under the Agreement the Appellant has assumed an obligation to make some investments in the Company, for the purpose of performing appropriate operations within the framework of the development license of the mine of the Company. Making investments by the Company for the development of the mine is a condition of the license, in case of non-fulfilment of which the license of the Company will be terminated. As one can see from the content of the Agreement, the company Marjan-Caldera Mining LLC was established by the Appellant and the Plaintiff for the purpose of making joint investments in the Company, and the Appellant bore the load of the investments.

After the State Register's registering the transfer of the shares of the Company the Appellant has made investments in the amount of at least 1,000,000 (one million) USD. The Appellant has made the investments exceptionally taking into consideration the fact of state register of the deal of alienation of the shares of the Company.

The Appellant has organized his activities taking as a basis the administrative acts adopted by the administrative body of the Republic of Armenia, and he had bases to trust the latter. The rights of the Appellant have been directly considered by the Decision of the Court, as in case of fulfilment of the Decision the investments made by the Appellant will be endangered, and the latter will have to be involved in long lasting arbitrary legal proceedings for claiming back the investments made and recover damages. Additionally, taking into consideration the fact that the investments of the Appellants are made as a result of trusting the administrative act of the RA administrative body, the Court's Decision will concern the Appellant's rights that the latter will have to apply for judicial protection of his violated rights and with a claim of recovery of damages not only to the court of arbitration, also other instances taking as a basis the article 9 of RA law on the foreign investments, as well as the provisions of agreement between the RA Government and the Government of Canada on encouragement and protection of the investments. This proves one more time that the Court's Decision will inevitably and directly apply to the rights and obligations of the Appellant.

By its numerous decisions the Cassation Court of the Republic of Armenia has concerned the issues of violation of the rights of persons not attending the trials. According to the decision made in 11.08.2009, based on the administrative case of the Cassation Court № VD/4107/05/08 over the claim of Laura Mkrtchyan against the Compulsory Enforcement Service of Judicial Acts of the RA Ministry of Justice on disputing the idleness of the government body:

"According to part 1 of article 16 of the RA Administrative procedure code, the third parties are the physical or legal entities, whose rights are concerned or can be concerned by the judicial act being adopted as a result of examination of the case. According to part 3 of the same article, if the judicial act inevitably and directly also applies to certain persons, the then the court is obliged to involve these persons as third party.

In its decisions passed previously the Cassation Court has already concerned and made as a subject of assessment the cases, when the court has passed a decision regarding the rights and obligations of the persons not attending the case.

In particular, based on the article 19 of the RA Constitution and the article 6 of the European Convention (hereinafter referred to as the Convention) on Human Rights and Fundamental Freedoms the Cassation Court has recorded a violation of equal rights of parties and fair trial fundamentals and reversed the judicial act (see the RA Cassation Court's Decision) dated 17.11.2006 over the civil case №3-2343 (VD) on the claim of

Gyumri municipality against Felix Torosyan on evicting the members of his family from the apartment):

By the decision of the RA Cassation Court as of 17.11.2006 over the civil case №3-2343 (VD) by the claim of the Gyumri municipality against Felix Torosyan on evicting members of the family from the apartment it was protocoled:

"According to Article 19 of the RA Constitution Everyone shall have a right to restore his violated rights, and to reveal the grounds of the charge against him in a fair public hearing under the equal protection of the law and fulfilling all the demands of justice by an independent and impartial court within reasonable time."
"According to Article 6 of the European Convention on Human Rights and Fundamental Freedoms", In the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

By this case the Municiality of Gyumri has brought in an action against Felix Torosyan claiming the latter to evict from the territory he was occupying. Satisfying the claim the court made a decision on evicting the respondent and members of his family from the apartment. In fact the members of the family of the respondent: Nubar, Romik and Arthur Torosyans have not been involved in the investigation of the case. As a result the right for fair trial safeguarded by article 19 of the Constitution and article 6 of the European convention on the human rights and fundamental freedoms have been violated.

According to paragraph 3 of the part 2 of article 227 of the RA Civil Procedure Code, the decision (verdict) is subject to cassation in any case if the court has passed a decision on the rights and obligations of the persons who have not become participants in the case. Therefore in the first basis of the cassation claim the violation of the mentioned judicial law by satisfying partially the cassation claim by force of paragraph 3 of article 227 of the RA Civil Procedure Code, and the decision of the Court of the First Instance of Kotayk Region over Numar, Romik, Arthur Torosyans, is a basis for cassation".

As far back 17.05.2011 V.Safaryan, the representative of the Appellant submitted a written application to the Court to involve by this administrative the Appellant –Caldera Resources Inc." as a third party. The application was submitted in writing to the office of the RA Cassation Court in 17.05.2011. However, the application has not been considered by the Court at all. During the sitting of the court in 27.07.2011 the representative of the Appellant Vardan Safaryan, who at the same time is the representative of Marjan-Caldera Mining LLC, has reminded the Court about the above mentioned application, requesting to make it a subject of consideration. However, even that time the Court did not make the application a subject of consideration motivating that the investigation of the case has been resumed with another motivation and in this stage such a petition cannot be examined by the Court (voice record of the sitting of the court in 27.07.2011: voice record – part 06:40-07.15). At the same time the Court noted that "the representative has not insisted the application". The above stated is a violation of the judicial rights of the appellant by the Court, since the appellant has submitted the application to the office of the Court (in case of not being a participant in the trial the application could not be submitted in other way); neither the appellant nor his representative have refused the application, but the Court has not considered the above application, as a result it has violated the requirements defined by articles 16 and 99 of the RA Administrative Procedure Code. Therefore, taking into consideration the requirement of part 3 of article 117.4, he is suggesting his position about the appealed issue.

The Appellant raises an objection against the claim, he finds that it is groundless and is subject to rejection.

In fact, the Court has violated the procedural rights of the Appellant, in particular, Article 19 of RA Constitution, Article 6 of the European Convention on the Human Rights and Fundamental Freedoms, parts 1, 2, 3 and 4 of article 16, and article 99 of the RA Administrative Procedure Code, as a result of which the right for fair trial of the Appellant has been violated, i.e. the Appellant has not become a participant in the trial over the administrative case, he was deprived on the opportunity of defending his rights, which affected the result of the case.

Based on the mentioned legal and factual circumstances, he request to reverse the decision of the RA Administrative Court №VD/3361/05/10 dated 29.07.2011 and send the case to RA Administrative Court for new investigation.

2.2. The facts, grounds and claim of the appeal case of the representative of Marjan Mining Company LLC Tigran Khurshudyan

The judicial prehistory of the case

"The Joint Venture Agreement" (hereinafter referred to as the Agreement) was signed between Global Gold Mining LLC (hereinafter referred to as the Plaintiff) and Caldera Resources Inc. on 24.03.2010. Pursuant to the Agreement, the parties established in the US State of Delaware the Joint Venture Marjan-Caldera Mining LLC, to the ownership of which the 100% interest in shares of of Marjan Mining Company LLC (hereinafter referred to as the Company) registered in the Republic of Armenia were transferred.

The company Marjan-Caldera Mining LLC has submitted the Agreement to the Nork-Marash regional division (hereinafter referred to as the Registry) of the Agency for State Registry of Legal Entities of the RA Ministry of Justice, which based on the Agreement registered in the register of the shareholders of the Company the property right for the 100% of the shares belonging to Marjan-Caldera Mining LLC arose hereby.

Then in 26.08.2010 the Nork-Marash regional division of the agency for state registry of legal entities of the RA Ministry of Justce made the state registration of the changes of the charter of the Company, according to which 100% interest in the shares of the Company belongs to Marjan-Caldera Mining LLC.

The Plaintiff submitted a statement of claim to the RA Administrative Court in 23.09.2010 against the Agency for state registry of legal entities of the RA Ministry of Justice, (third parties: Marjan Mining Company LLC, Marjan-Caldera Mining LLC) against Nork-Marash regional division of the agency for state registry of legal entities of the RA Ministry of Justice for annulling the registration of the changes of the sole shareholder of Marjan Mining Company LLC in the register of the shareholders of the company dated 11.08.2010, as well as invalidating the state registration of the changes of the charter of Marjan Mining Company LLC dated 26.08.2010.

By its decision dated 29.07.2011 (hereinafter referred to as the Decision) the Court satisfied the claim as a whole.

In the page 17 of the Decision the Court has marked questions to be clarified for the settlement of the dispute.

Is the registration over this case legitimate?

Is there a basis for annulling the mentioned registration?

In the page 19 of the Decision the Court has mentioned:

"In this case, as an evidence serving as a basis for state registration of Marjan-Caldera's ownership of the shares of Marjan Mining Company LLC (hereinafter referred to as Marjan) the Nork-Marash regional division of the Agency for state registry of RA Ministry of Justice has assessed the Joint Venture Agreement signed between Global Gold Mining LLC and Caldera Resources Inc. in 24.03.2010 the agreement of the Marjan Mining Company LLC with Armenian translation, whereby the parties had agreed to establish

Marjan-Caldera Mining LLC and all the shares of Marjan Mining Company LLC will be transferred to Marjan Caldera Mining LLC, and the regional division has considered it as a mixed agreement, including share alienation contract.

According to part 2 of article 1277 of the RA Civil Code, the origin and termination of the right of ownership of and other property rights to property be shall determined according to the law of the state where this property was located at the time when the activity or other circumstance happened that served as the basis for the origin or termination of the right of ownership and other property rights, unless otherwise provided by the statutes of the Republic of Armenia.

According to part 1 of article 1281 of the RA Civil Code the form of a transaction shall be determined by the law of the state where it is made.

It proceeds from the comparison analysis of the above legislative regulations that for determining the form of a transaction it is necessary to specify and use the right of the state concerning which the parties have reached an agreement, as well as where it has been signed.
Chapter 18 (Governing Law) of the Joint Venture Agreement signed between GGM and Caldera provides for "this Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without regard to conflict of law principles"

Thereby, for the Registry's considering the agreement submitted for registration of the ownership of the shares as a mixed agreement stipulating alienation of shares, as well as main or preliminary contract, it should be interpreted in accordance with the laws of the State of New York.

Whereas, over this case considering the Joint Venture Agreement (signed in the USA between Global Gold Mining and Caldera Resources Inc. on 24.03.2010) as a basis for alienation of the shares, Nork-Marash regional division of the agency for state registry of legal entities has applied the Republic of Armenia law, considering it as a mixed agreement stipulated by part 3 of article 437 of the RA Civil Code, finding that it contains also regulations of share alienation contract.

In fact Nork-Marash regional division of the agency for state registry of legal entities of RA Ministry of Justice has fulfilled its obligation on assessment of the evidence of the administrative proceedings improperly and it has not ensured explicit, full and impartial discussion of the facts".

Violations of the material law standards and their influence on the result of the case

A) The court has misinterpreted the section 2 of article 12 of the RA Law on state registration of legal entities, and section 2 of article 16 of the RA law on state registration of legal entities.

According to section 2 of article 12 of the RA Law on state registration of legal entities, the regional units of the State Registry shall verify the compliance of the submitted documents with the requirements of the laws. The compliance of the amendments or additions to the charter of commercial organizations with the law shall not be verified

According to section 2 of article 16 of the same law, the violation of the procedure provided for by the Law for the formation of legal entities or the incompliance of the charter with the Law shall be deemed as valid grounds for the refusal of state registration.

Basically the article 16 of the RA Law on state registration of legal entities defines of the grounds for refusal of the state registration.

For the investigation of the case it is very important whether the Registry had a basis for refusing the state registration defined by article 16 of the law or not.

To fully present the interpretation of this issue we consider it necessary to refer to the RA Law on state registration of property rights and the case practice adopted by the RA Cassation Court regarding the grounds of refusal for state registration of the rights and the scope of powers of the registering body.

Hereby, By the case decision №3-1640(VD) dated 28.09.2006 the RA Cassation Court has recorded that in accordance with the article 43 of the RA Law on state registration of property rights the state registration is rejected if the documents submitted for registration do not meet the requirements of the Republic of Armenia laws, it means:

a) They do not comply with the legislation, or the requirements of the laws are violated hereby, they are prepared not in accordance with the procedure established by law;
b) The receipt for state registration fee is lacking.

It is prohibited to refuse state registration of the property right for other reasons, including with the motivation of inexpedience.

In accordance with article 42 of the RA Constitution no one shall bear obligations not stipulated by the law.

In this case Cadastre is a state body, which registers the arisen rights and it cannot define documents not stipulated by the RA Law on state registration of property rights or obligations for submitting grounds.

The volume of the powers of both the bodies carrying out state registration of legal entities and property is the same. It means both administrative bodies carry out state registration verifying the compliance of the papers with the law and can refuse the state registration only in the cases stipulated by the law.

Now, since the Court finds that the Registry should have rejected the application of Marjan-Caldera Mining LLC for registration of its ownership of the 100% shares of the Company, let’s analyze how and on what basis should the Respondent pass an administrative act concerning the refusal of the application. According to the Court, the Registry should have refused the person submitting the application, noting that he cannot fulfil his obligation for comprehensive review of the documents, cannot interpret the agreement governed by the New York laws. One can suppose from this interpretation of the Court that the contents of the Agreement, title, transactions contained in the Agreement or other papers available in the case submitted to the Registry are not of significant importance, the problem is only in the application of the foreign law, which has not been applied by the Registry.

Now let’s understand the juridical regulations that oblige the RA administrative bodies, who carry out the registration, to apply and interpret the foreign law when conducting bureaucratism. So, the RA Central Bank (the purchase and sale contracts of the shares of almost all the banks are governed by foreign law), the RA Intellectual Property Agency, RA State Committee of Real Estate Cadastre, State Registry deal with the registrations. All the mentioned government bodies have dealt many times with agreements with the selection of the foreign law (purchase and sale of shares, franchising contracts, license agreements, joint venture agreements, etc.) and with the registration of the rights arising from these agreements, as well as with acceptance of the power of attorneys issued in another country

(many foreign legal entities are conducting transactions and operations in notary offices, real estate cadastre), but the administrative body has never performed a function of interpretation of the submitted document in accordance with the law of foreign country.

In accordance with section 1 of article 1284 of the RA Civil Code, a contract shall be regulated by the law of the state chosen by agreement of the parties.

In accordance with section 2 of the same article, the parties to a contract may choose the law subject to application both for the contract as a whole and for individual parts of it. And in accordance with section 5 of the same article, an agreement of the parties on the choice of the applicable law must be clearly expressed or directly follow from the conditions of the contract.

It follows from the above stated that the application of the law can be chosen by agreement of the contract parties, which is significant for the latter, but it is not compulsory fpr the administrative body when registering the agreement.

In this case, pursuant to the Agreement, 100% interest in the shares of Marjan Mining Company LLC (hereinafter referred to as the Company) is transferred with a property right to Marjan-Caldera Mining LLC, thereby that right arising from the Agreement is subject to registration in the Republic of Armenia, from which it follows that the RA laws apply to that part of the Agreement, since its selection directly proceeds from the Agreement.

In his opinion, the administrative body carrying out state registration, does not have an obligation and right to interpret the submitted documents based on the foreign law mentioned in the document.

If the administrative body has such obligation or power, then this power will be defined by law. If on this basis the administrative rejects the registration, then the rejected party may appeal the rejection. When carrying out state registration by the Cadastre, the application of any grounds out the rejection grounds of the law has been finally assessed and interpreted by the RA Cassation Court and it is impossible to pass an administrative act on refusal by any other grounds except for the grounds defined by the law.

When carrying out the state registration the only function of all the mentioned administrative bodies is to verify the compliance of the documents with the RA laws. Thus, for example, an entity has submitted to the Registry a share purchase and sale contract signed unilaterally, which he has received by e-mail. It is possible that in accordance with the legislation of the place of signing of the contract the unilateral signing and sending by e-mail complies with form of signing of the contract. Nevertheless, the registry assesses the submitted document from the viewpoint of compliance with the RA laws. If the RA laws require bilateral signing and submission of the original document, then the registry refers to the requirements of the RA laws and rejects the registration.

Basically the Court has reserved a power to the Registry, which is not defined either RA Constitution or RA laws, thus actually making the Registry violate article 5 of the RA Constitution, according to which state and local self-government bodies and public officials are competent to perform only such acts for which they are authorized by Constitution or laws.

B) The Court has misinterpreted the section 1 of article 1281 of the RA Civil Code, it has not fully applied the section 1 of article 1281 of the RA Civil Code, which it should have applied.

In the issue of the assessment of the legitimacy of the actions (administrative act) of the Registry the Court had to take into consideration the following:

Whether the Agreement complies with the RA laws and contains provisions of alienation of 100% interest in the shares of the Company.

For presenting more clearly the violations of the above standards of material law by the court, he refers to the regulations of the RA Civil Code:

In accordance with sections 1 and 2 of article 3 of the RA Civil Code:

Civil legislation is based on the principles of equality, autonomy of will, and property independence of the participants in the relations regulated by it, the inviolability of ownership, freedom of contract, impermissibility of arbitrary interference by anyone in private affairs, the necessity of the unhindered exercise of civil law rights, the guaranty of restoration of violated rights and their judicial protection.

Citizens and legal entities acquire and exercise their civil law rights by their own will and in their own interest. They are free in the establishment of their rights and duties on the basis of contract and in determining any conditions of contract not contradictory to legislation.

In accordance with sections 1 and 3 of article 437 of the RA Civil Code:

Citizens and legal entities are free in the conclusion of a contract. Compulsion to conclusion of a contract is not allowed with the exception of cases when the obligation to conclude a contract is provided by the present Code, a statute, or a voluntarily accepted obligation.

The parties may conclude a contract that contains elements of various contracts provided for by a statute or other legal acts (a mixed contract). The rules on contracts whose elements are contained in the mixed contract shall be applied to the relations of parties under the mixed contract unless otherwise follows from an agreement of the parties or the nature of the mixed contract.

In accordance with sections 1 and 2 of article 447 of the RA Civil Code, in the interpretation of the terms of a contract a court shall take into account the literal meaning of the words and expressions contained in it. The literal meaning of a term of a contract, in case the term is not clear, shall be established by comparison with the other terms and the sense of the contract as a whole.

If the rules contained in the first part of the present Article do not allow the determination of the content of the contract, the real common will of the parties must be ascertained, taking into account the purpose of the contract. In such a case all surrounding circumstances shall be taken into account including negotiations and correspondence preceding the contract, the practice established in the mutual relations of the parties, the customs of trade, and the subsequent conduct of the parties.

In accordance with section 1 of article 1281 the form of a transaction shall be determined by the law of the state where it is made. However a transaction made abroad may not be recognized as invalid as the result of non-observance of form if the requirements of the law of the Republic of Armenia were observed.

In accordance with part 1 of article 15 of the RA Law on limited liability companies, the alienation of the share shall be conducted through an explicit written contract if the Civil Code of the Republic of Armenia or the Company Charter does not stipulate its notary validation.

Thereby,

RA legislation defines that

a) The share alienation contract is signed in the simple written form,
b) When singing an agreement the parties are free in choosing the law, concluding an arbitration agreement, in the issue of settlement of the relations containing elements of several agreements,
c) RA legislation does not define a legislative rule on not including the share alienation contract in the mixed contract.

The Joint Venture Agreement, which has been registered by the Registry, complies with the RA laws in the part of regulations on share alienation, and the state registry did not have any basis to reject the registration of the agreement.

The Court has misinterpreted the section 1 of article 1281 of the RA Civil Code, using only the first sentence of that section. Whereas, the second part of the same section defines: however a transaction made abroad may not be recognized as invalid as the result of non-observance of form if the requirements of the law of the Republic of Armenia were observed. It is obvious that by this article the legislative power confirms that the government bodies of the Republic of Armenia must recognize as valid the agreements, which comply with requirements of the RA laws, irrespective of the requirements of the suggested form of the agreement governed by the legislation.

In fact, the Court has interpreted the whole article in separate, changing its meaning, as a result of which it has come to a wrong conclusion.

Whereas, in accordance with part 1 of article 86 of the RA law on legal acts a legal act shall be interpreted according to the literal meaning of the words and expressions contained therein, taking into account the requirements of the law.

An interpretation of a legal act shall not change its meaning

C) The Court has not applied the article 1282 of the RA Civil Code, it has misinterpreted paragraph 1 of section 6 of article 321 of the RA Civil Code and has not applied the second paragraph of the same part, as well as the Court has not applied the articles 5, 6 and 7 of the RA law on fundamentals of administrative actions and administrative proceedings.

In the page 20 of the Decision the Court has mentioned:

“In accordance with article 1282 of the RA Civil Code, the form and time period of effectiveness of a power of attorney shall be determined by the law of the state where the power of attorney was issued.”

“In accordance with section 6 of article 321 of the RA Civil Code, a power of attorney sent by telegraph and also by other forms of communication, when the sending of the document is conducted by the communications employee shall be confirmed by the agencies of communications”.

As evidence certifying the powers to appear on behalf of the company Azat Vartanyan has submitted the power of attorney in Armenian issued in the USA by the chairman of the board of managers of Marjan-Caldera Mining LLC and in the name of Azat Vartanyan, which was sent by facsimile and signed by the postal delivery service of the Republic of Armenia.

Whereas, it follows from the logic of part 6 of article 321 of the Republic of Armenia Civil Code that the power attorney being a subject of matter, should be approved by the US

post (communication) officer, because this circumstance would confirm the validity of this document – power of attorney.

In fact, the person not having such power has submitted the application for making the state registration of the property right of Marjan-Caldera Mining LLC for the shares of Marjan Mining Company LLC".

The Court has noted that accepting this power of attorney, the state registration has been carried out by violating the articles 37 and 42 of the RA law on the fundamentals of administrative actions and administrative proceedings, articles 15 and 21 of the RA law on state registration of legal entities, paragraph 9 of the procedure approved by RA Government decree №1396 dated 14.08.2003, therefore it is an invalid administrative act.

He mentions that in its Decision the Court has not mentioned that

a) The Court recognizes the power of attorney as invalid,
b) The Court considers that the form of issue of the power of attorney is not observed,
c) The Court considers that the Registry could not assess the availability of powers of the authorized person by this document.

For this reason all the arguments provided by them relate all the three bases.

According to article 1282 of the RA Civil Code, the form and time period of effectiveness of a power of attorney shall be determined by the law of the state where the power of attorney was issued. However, a power of attorney may not be recognized as invalid as the result of the non-observance of form if the requirements of the law of the Republic of Armenia were observed.

By the Decision the Court has admitted that the power of attorney is sent by facsimile, it means that it was issued in the state of the person who has signed the power of attorney. Taking into consideration the fact that the power of attorney was issued for performing operations on behalf of the company incorporated in Delaware, the form and the validity date of the power of attorney are determined by the Delaware laws. The Court has not applied the article 1282 of the RA Civil Code and the requirements to the form of the power of attorney.

First of all the Court should have clarify whether the form of issuing the power of attorney complies with the laws of Delaware or not. In their opinion, the Court has this power in accordance with article 11 of the RA Civil Procedure Code. Nevertheless, if the RA Administrative Court of Appeals finds that the Court is not obliged to clarify the legislation of a foreign country, then the in the Decision (Paragraph 2, page 20) the Court should not mention this article, since it is applicable only in the case when the Court interprets the power of attorney based on the principles of foreign law, it finds that it does not comply with the Delaware legislation and in accordance with the second sentence of the same article it decides to apply the requirements of the RA law.

Hereby, the Court has not implemented the first sentence of article 1282 of the RA Civil Code, and on the basis of not applying it the Court has misapplied the second sentence.

The Court has misinterpreted the first paragraph of article 321 of the RA Civil Code.

Thus, in accordance with section 6 of article 321 of the RA Civil Code, a power of attorney sent by telegraph, as well as other means of communication, if the delivery of the document is carried out by the post officer, it is endorsed by the communication body.

Third parties are entitled to consider as valid the power of attorney issued for performing actions related to them, which the authorizing person has sent to the authorized person without official bodies of communication, by facsimile or other means of communication.

When interpreting the first paragraph of the mentioned article the Court has misinterpreted the word “delivery”, which has resulted in misapplication of the above article.

Thus, the Court has mixed up the word “delivery” with the word “sending”. To clarify the interpretation of the word “delivery” in the meaning of the above article the Court should interpret it within the frameworks of the concepts of the RA laws regulating corresponding field of communication. Taking into consideration the fact that the power of attorney is certified by the employee of the post service, the correct interpretation of the word “delivery” should be looked up in the RA Law on postal communication. In accordance with article 3 of the mentioned law: Postal delivery - receipt, handling, transportation and delivery of the items to the addressee.

Addressee - Physical person or organization to which postal items, postal money transfers, telegraphic or other messages are addressed.

In fact, the power of attorney, which has been sent to Azat Vartanyan by facsimile was accepted in the Republic of Armenia by the postal service employee, certified and delivered (handled) to the addressee (Azat Vartanyan). It is obvious that using the word “delivery” in the article 321 of the RA Civil Code, the legislative power meant the word “deliver” by the logic of the RA Law on postal communication. Otherwise it will appear that in the USA the person sending the power of attorney goes to the postal officer, the postal officer certifies this power of attorney, sends by facsimile to any fax of the Republic of Armenia. In this case a piece of paper in the form of a copy would be submitted to the Registry, which would contain two seals the authenticity of which could not be assessed by the Court and/or the Registry. Apparently the Court has not taken into account what did the document look like as a result of its interpretation and the possibility of verification of its authenticity. And if the legislative power required the power of attorney was certified both by the US and the RA post service, then in the article 321 of the RA Civil Code it would be stipulated: by the employees of sending and delivering postal service. It should be noted that non-observance of the requirement of the section 6 of article 321 of the RA Civil Code does not result in the invalidity of the power of attorney.

Nevertheless, if the opinion of the Court is correct and the form is not observed in the meaning of the first paragraph of the section 6 of article 321 of the RA Civil Code, then the Court should have applied the second paragraph of the same section. It is apparent from this paragraph that non-observance of the requirement of the first paragraph does not result in the invalidity of the power of attorney and does not deprive the authorized person of the right to apply it, since the legislative power entitles third parties to accept the power of attorney not keeping the form. In this connection there is no prohibition by the RA legislation for the RA Registry to apply this paragraph. If there is no such prohibition, then the Court should consider the issue on the Registry’s accepting or not accepting the power of attorney taking into consideration the articles 5, 6 and 7 of the RA Law on the fundamentals of administrative actions and administrative proceedings.

The Court should have discussed how much the non-observance of the form of the power of attorney was a formal violation and assessed whether the requirements defined by the law in the respect of facts are fulfilled by the applicant.

By the case decision №VD/4114/05/08 in 2009 the RA Cassation Court came to a conclusion that the absence of the signature of an applicant submitting an application to the municipality, is a formal violation. The interpretations of this case decision are applicable over this case also. Over this case, when submitting an application to the Registry, in terms of facts Marjan-Caldera Mining LLC has fulfilled the requirement of the law: it has submitted the original agreement, share ownership certificate and other documents, which are a basis for making the state registration. As an administrative body the Registry could consider that the requirement of submission of the package of documents of the registration is fulfilled in the respect of facts, and non-observance of the form of the power of attorney can be considered as a formal violation, especially that the second paragraph of the section 6 of article 321 of the RA Civil Code entitles third parties to accept that power of attorney.

Hereby, the Court has not applied the article 5 of the RA law on the fundamentals of administrative actions and administrative proceedings.

When applying the articles 6 and 7 of the same law the Court will come to a conclusion that in the part of the second paragraph of the section 6 of article 321 of the RA Civil Code the Registry fulfils a discretionary right and if it has always fulfilled that discretionary right in the territory of the Republic of Armenia in case of availability of the same circumstances by the certification of a postal service employee, then over this case it would show a similar approach. For clearing up this circumstance the Court should have clarified from the Registry whether under similar conditions in the case of other applicants the Registry has ever accepted powers of attorney legalized in the same way like Azat Vartanyan's. Only after clearing up this question the Court could give an assessment to the actions of the Registry. According to their information, the Registry has made many registrations with similar powers of attorney, but during the hearings this dispute was not submitted, since no such a question has been raised by the Court, whereas the principle of comprehensive investigation assumes that the Court should have clarified from the respondent the similar application.

Moreover, in accordance with section 1 of the article 6 of RA Administrative Procedure Code, the administrative court shall clear up the facts of the case ex officio. In accordance with the section 2 of the same article, the court shall point out the facts, which, for solving the significant argument and if necessary requires from the parties to submit evidences of these facts, and in accordance with the section 3, for moral certainty necessary for solving the dispute, the court is authorized not confining itself to the petitions of the participants of legal proceedings, their evidences and other materials over the case to undertake reasonable measures, in particular, to request proofs, additional explanations, to commission the parties to attend the hearings personally.

In this case the Court has not cleared up ex officio the circumstances subject to disclosure, it has not undertaken any action towards clearing up these circumstances.

Regarding the issue of the power of attorney he wants also to add the very different approaches of the Court to the observance of the requirements of the form of the power of attorney, which certifies the powers of the representative. When in 22.09.2010 the statement

of claim by Hrayr Ghukasyan entered in the Court and only the signature of Ashot Boghossian was on his power of attorney, the Court has not considered that the power of attorney issued by the Regional director is a sub-power of attorney, that this power of attorney should be notarized. In addition, few months later, receiving a letter from the Global Gold Mining the Court considers that the issue of proper powers of Hryr Ghukasyan is considered and his powers are valid. And when the matter concerns the correct interpretation and enforcement of the section 6 of article 321 of the RA Civil Code, then the Court considers the violation of the form so much significant that it considers as a basis for annulling the registration made by the Registry.

Violations of the procedural law standards and their influence on the result of the case

A) The Court has violated the part 1 of the article 24 of the RA Administrative Procedure Code:

The Court has not directly assessed all the proofs available in the case, and has not solved the issue on the facts being proved by the moral certainty based on explicit, full and impartial investigation.

Specifically, the Court has not properly examined the Joint Venture Agreement (hereinafter referred to as the Agreement) signed between Global gold Mining LLC and Caldera Resources Inc. in 24.03.2010, which is an important evidence for the settlement of the case, as well as it has not examined duly the other papers directly associated with the Agreement. In case of proper investigation of the Agreement and the associated other papers, the Court would have paid attention to the following circumstances:

The original of the Agreement has been endorsed by Van Krikoryan, Manager of the Plaintiff's company in 20.07.2010 and sent to Armenia (case 167 pages). The text of the endorsement is as follows:

"Hereby it is confirmed that the enclosed documents are the true and proper copies of the constituent instruments and documents of the Marjan-Caldera Mining JV, which has been formed for obtaining the shares of the Armenian company Marjan Mining LLC on behalf of Global Gold Mining LLC and Caldera Resources as a joint venture".

The Plaintiff and Caldera Resources Inc., which is not involved over the case, have entered into a joint venture agreement for exploitation of the deposit in the territory of the Republic of Armenia,

The Preamble of the Agreement says:

"**WHEREAS** GGM and Caldera have entered into a letter agreement dated December 18, 2009 to form a Joint Venture for the financing, exploration and development of the rights, title and interest in the Marjan Mining Property in southwestern Armenia (the "Property" as defined below and in Appendix I) subject to, and in consideration of, the terms of this Agreement;

WHEREAS the rights, title and interest for the Property have been transferred to Marjan Mining Company, a limited liability company incorporated under the laws of the Republic of Armenia ("Marjan RA") (as indicated in the Transfer documents attached as Appendix II);

WHEREAS all the shares of Marjan RA are to be transferred to "Marjan-Caldera Mining LLC" which are to be held by Caldera and GGM in the proportions outlined in this Agreement;

WHEREAS GGM and Caldera agree to form a Joint Venture relating to the "Marjan-Caldera Mining LLC" and the Property on the terms of this agreement and the Appendices attached hereto, subject to the approvals of the TSX Venture Exchange, the respective boards of directors and the payments provided in s. 4.2 and s. 4.3 of this Agreement (the "Effective Date").

Section 1.1.1. of the Agreement says:

1.1.1. Establishing Marjan-Caldera Mining LLC, a limited liability company (the "LLC") under the laws of the State of Delaware, USA, which will own all the shares of Marjan RA with an operating agreement (the "LLC Agreement"), which Caldera and GGM are signing concurrently herewith, and a copy of which is attached hereto as Appendix III.

In accordance with section 6 of the Agreement:

"Operator

Caldera shall act as the Operator under this Agreement and as such, subject to the discretion and control of the Management Committee, shall have full right, power and authority to do everything necessary or desirable to carry out the purposes of the parties in connection with this Agreement. Caldera, as of the Effective Date, shall be solely responsible for all insurance, government charges, costs and obligations associated with holding the license and conducting operations related to the Property. In addition, subject to the terms of section 10 hereof, Caldera and its representatives and consultants shall have complete access to the core shack to review, examine, sample core and samples from the Property, including the right to remove such core or samples for testing".

By the decision (signed by the manager of the plaintiff's company Van Kirkoryan) of the 18.06.2010 meeting of the third party "Marjan-Caldera Mining LLC" , Vasilius Mavridis was appointed the representative of that company in the Republic of Armenia. It is mentioned in the same section that Marjan-Caldera Mining LLC is the sole shareholder of Marjan Mining Company LLC.

Decisions passed by the written consent of the shareholder of Global Gold Mining LLC dated 18.06.2010, the document concerning Marjan joint venture hereby it was decided:

"It is decided that signing of the Marjan-Caldera Joint Venture Agreement between the Company and Caldera Resources Inc. and relevant documents (Marjan JV) and fulfilment, dated March 24th 2010 (copies are attached) are certified hereby.

It is decided that pursuant to Marjan JV, all the shares of Armenia's Marjan Mining Company are transferred hereby to the joint venture Marjan-Caldera Mining LLC formed in the State of Delaware, in accordance with the terms and regulations of the Marjan JV, as of June 18th 2010".

The above proofs indisputably confirm as follows:

1. The Plaintiff and the party to the Agreement, Caldera Resources Inc. (hereinafter referred together to as Parties) have passed a decision to establish a joint venture for the exploitation of the Property in the territory of RA (summary in Appendix 1 of the Agreement, case page 157).

Under the Agreement the Parties have governed all the conditions, one of which is the transfer of the shares of Marjan Mining Company LLC incorporated in the Republic of Armenia to Marjan-Caldera Mining Company incorporated in Delaware by the Parties signing the Agreement.

Under the Agreement, as well as under other document signed between the Parties, the Parties have not defined a possibility or necessity or an obligation to sign a separate

agreement for the transfer of the shares of Marjan Mining Company LLC, as well as they have not determined a separate fee for the transfer of the shares.

The Agreement is a comprehensive document for one common transaction, the implementation of which is dependent on several follow-up transactions, one of which is the transfer of the shares of the Company incorporated in the Republic of Armenia.

The transfer of the shares registered in the Republic of Armenia to Marjan-Caldera Mining LLC is not an end in itself, since the license for the Property belongs to the company of RA and the purpose to establish Marjan-Calder Mining Company as a joint venture and gain profits from its activities is the exploitation of the Property, it means, without obtaining the Property rights the Parties could not undertake actions conditioned with the Agreement.

It is stipulated in the section 6 of the Agreement that as of the Effective Date, Caldera shall be solely responsible for all obligations related to the Property.

In 18.06.2010 the Parties passed decisions in accordance with which they had considered transferred the shares of the Company incorporated in RA to Marjan-Caldera Mining, as well as considered Vasilius Mavridis as the authorized person of Marjan-Caldera Mining Company.

In 20.07.2010 the manager of the Plaintiff's company Van Krikoryan endorsed the original of the Agreement, sent to Armenia for translation and submission to the Registry for state registration.

According to the Agreement, the transfer of the shares of Marjan Mining Company LLC incorporated in RA to Marjan-Caldera Mining LLC (45% interest in the shares of which belong to the Plaintiff) incorporated in Delaware has been exceptionally by the expression of will of the Parties and as the result of the conditioned defined by the agreement.

The Court or any person, who examines the above arguments, can never find a proof refuting the mentioned evidences and arguments. Everything is clear.

The rights of the real owner of Marjan Mining Company LLC, guaranteed by the RA Constitution, can be violated as the result of the Court's not considering the above evidences, since the Court's decision makes impossible the implementation of the rights of the entity obtained the share ownership under the agreement, considering as invalid on formal bases the administrative act passed by the Registry.

Hereby, it becomes apparent that if the Court examined properly the Agreement, which is a very important evidence, it would come to the above conclusions and as a result it would come to the conclusion that the Agreement includes a transaction of alienation of the shares of the Company, in such case the registration of Marjan-Caldera Mining LLC, as the owner of 100% interest in the shares of the Company, in the register of the Company is lawful.

B) The Court has misinterpreted the section 1 of article 3 of the RA Administrative Procedure Code.

The Plaintiff is not an interested party in the part of the grounds for the statement of claim, in the meaning of the section 1 of article 3 of the RA Administrative Procedure Code.

When concerning the powers of the persons signing the statement of claim they have mentioned that the powers of attorney are improper and the subsidiary not considered as a legal entity or the natural person Hrayr Ghukasyan, who does not have a proper power, have been considered as a Plaintiff.

However, if the RA Administrative Court of Appeals considers that the claim is filed by due plaintiff, makes no difference, Global Gold Mining LLC is not an interested party over the bases of this claim, so the claim should be rejected on this basis. The mentioned argument needs a detailed analysis.

Thus, when interpreting the relationship of the administrative body and plaintiff legal or physical entities within the frameworks of the disputes concerning the transfer,

acknowledgement of the property right, the Court should take into consideration not only the lawfulness of the actions of the administrative body, but must assess the content of the agreement being a basis for the actions of the administrative body and the legal relationship between the parties signing the agreement. Here is an example which will elucidate to a certain extent the mentioned argument:

For example,

A natural person A has entered into a purchase and sale agreement of real estate with the natural person B, which includes a contract of donation of movable property (for example, donation of a movable property in the apartment) and the parties have named this agreement as a movable property donation contract.

Natural person A is the seller and the grantor, and the natural person B is the purchaser and presentee.

Natural person B submits the agreement to the Cadastre for state registration by an authorised person whose power of attorney is incomplete, as well as when making the state registration the cadastre breaches the law and instead of the purchase he writes down the name of the authorized person in the register, and it writes the area of the apartment in the certificate of the property right smaller than it is in actuality.

Being informed about the above violations the natural person A has disputed the administrative act of the cadastre, but as of the moment he has received in full the selling price of the apartment from the natural person B, and handled the apartment to the buyer under the acceptance act.

Not having information about the facts on paying the price of the apartment to the natural person A and handling the apartment to the buyer, the Administrative Court takes the application to proceedings. But during the investigation of the case being informed that the buyer B has fulfilled all his commitments to the seller and the rights of the seller are not violated hereby, it rejects the claim mentioning that in the part of the grounds submitted by the plaintiff in the statement of claim the buyer if the interested party and the plaintiff did not prove that his property right has been violated as the result of the administrative act of the cadastre.

The above sample is projected on another sample on alienation of the shares of a LLC:

A seller A has alienated his shares under a simple written agreement (Title: Share Alienation Contract), and a buyer B has discharged his obligations to the seller A under the contract. Unlike the real estate, the property right of the seller has arisen as from the moment signing of the agreement and discharge of the obligations relating to the seller. The Registry's state registration or rejection cannot result in arise or termination of the property right of the seller.

The seller submits the share alienation contract to the registry without submitting the original of the certificate of the shareholder (a requirement of the registration procedure) and the registry registers the mentioned agreement violating the procedure established by the RA government decree.

Again on the basis of the procedure established by the RA Government decree the seller disputes the administrative act passed by the registry, the court takes this claim to proceedings, later being informed from the seller that the commitments to the seller under the share alienation contract are fulfilled, and it rejects the claim, since the possibility of violation of the rights of the seller based on the fact of fulfilment of the contract disappears.

By the above samples he wants to note that the registration of the change of the immovable property right, changing the name of the shareholder in the register the rights of the previous owner of the real estate or of the shares are not violated if the buyer submits proper proofs to the court about that the transfer of the rights of the seller or previous owner

has been carried out in accordance with the agreement, and for the implementation of such transfer the buyer has discharged all his commitments to the seller.

He asks the RA Administrative Court of Appeals to take into consideration the fact that by the above interpretation they do not insist the administrative court to consider within the framework of the disputed claim of the administrative body as a dispute proceeding from the civil legal relationship between two persons. They insist that on the basis of the submitted statement of claim for considering the Plaintiff as an interested party, for making the registration by the administrative body the Court must examine the documentary facts and circumstances, and clarify the Plaintiff's position on the circumstances of violation of his rights by these documents. In case if the Court does not analyse in the above manner, the property right of the buyer, who has fulfilled all commitments to the seller, will be violated. The administrative body's act confirming the right of the buyer who has discharged his olbligations relating to the seller, may be recognized as invalid over the claim of the person not being the owner of the mentioned property.

Now he notes that Marjan-Caldera Mining LLC incorporated in the State of Delaware is considered the holder of 100% interest in the shares of Marjan Mining Company LLC incorporated in the Republic of Armenia under the Agreement signed between the Plaintiff and Caldera Resources Inc. As from the moment of signing the Agreement the Plaintiff has transferred his responsibility for the Property (in the meaning of the Agreement) to Caldera Resources Inc., which would fulfil its powers via the company established in Delaware in accordance with the Agreement. The license for the Property belongs to Marjan Mining Company LLC incorporated in RA, the share ownership of which has been transferred to Marjan-Caldera Mining LLC. The parties have confirmed this fact by the decisions in 18.06.2010, which are included in the materials available in the proceedings of this case. He insists that at the moment of submission of the claim, the Plaintiff did not appear as the holder of the shares of Marjan Mining Company LLC, since he has alienated these shares, and the alienation of the share ownership has taken place on the basis of the Agreement irrespective of the fact making the state registration, so the property right of the Plaintiff has not been violated and could not be violated by the registration of the Registry.

Thus, taking as a basis the above mentioned he states that the Plaintiff is not an interested part with two bases of the Court's annulling the registration by the Registry, and he cannot be a due plaintiff in the meaning of the section 1 of article 3 of the RA Administrative Procedure Code. Moreover, during the investigation of the case the Plaintiff has declared that the Agreement is not a share alienation contract, trying to note that it was not a basis for the transfer of the share ownership (later the Plaintiff realized that this statement supposes interpretation of the Agreement by the arbitration and during the investigation of the case he has reported to the court that this agreement is not interpreted within the frameworks of this case). However, the Court has not considered this argument at all. In spite of that argument Third Parties have submitted satisfactory proofs regarding the Agreement, which confirm that the share ownership has been transferred to Marjan-Caldera Mining LLC incorporated in the State of Delaware.

The Court has sufficient proofs to believe that the share ownership has been transferred from the Plaintiff to the present holder of the shares. Instead of restoring his so-called “violated rights” within the arbitration going on in accordance with the procedure established by the Agreement the Plaintiff just formally disputes the actions of the Registry, submits a claim to institute criminal proceedings for hindering the actions of the Third Parties.

By its decision №VD/432/05/09 dated 29.10.2010 the RA Cassation Court has noted that the claim of the person demanding administrative justice can be satisfied only in the case

of his being an interested party, i.e. if his rights and freedoms stipulated by RA Constitution, international agreements, laws and other legal acts, have been violated or can be violated.

The Court should have also applied the article 12 of the RA Civil Code: it should consider that the claim was submitted with the intention of causing damage to the companies Caldera Resources Inc. and Marjan-Caldera Mining LLC by the person who has alienated the share ownership under the agreement, and reject the Plaintiff in the issue of receiving judicial protection. Another basis for applying the article 12 of the RA Civil Code is that relating to the same argument the Plaintiff has applied to the RA Administrative Court and RA law-enforcement bodies upon various grounds, and the latter in their turn are investigating the same issue in administrative and criminal proceedings.

C) The Court has violated the section 2 of article 113 of the RA Administrative Procedure Code:

The Court has violated the section 2 of article 113 of the RA Administrative Procedure Code passing the decision in 29.06.2011 on resumption of the investigation of the administrative case.

The investigation of the case was resumed by the Court on formal basis. In the decision the Court has mentioned: “reviewing the materials of the case the court concluded that it is necessary to examine the proofs additionally and continue clearing up of the circumstances being important for the case, so the investigation of this administrative case should be resumed”.

In the decision the Court has not mentioned especially which evidence needs to be examined additionally. Later, during the sitting of the court in 27.07.2011 it became clear that Court has resumed the case for clearing up the questions, which the respondent is obliged and has the right to answer. However, the employee of the Registry did not attend that judicial sitting, and the Court asked these questions to the representative of the third party, Vardan Safaryan. Meanwhile he mentioned that the Registry must answer these questions, nevertheless, by additional questions the Court created a formal impression that it is examining additional evidences, whereas during that sitting the Court has not cleared up any significant circumstance. The same day the Court finished investigation of the case and left to pass a decision (verdict).

Hereby, after resuming the case the Court has not investigated additional evidences. The same day he as a representative of third party, submitted an application (petition) to the Court, entering it into the office at 16:58.

It was mentioned in the application that the Court has asked questions to the representative of the third party, answering which is within the competence of the respondent. The third party has solicited for the inviting the representative of the respondent to the court and ask him the questions not cleared up or disputable by the Court. However, the Court has not again resumed the investigation of the case and has not discussed this solicitation.

D) The Court has violated the rights of the person attending the case guaranteed by paragraph 1 of the section 1 of article 15 of the RA Administrative Procedure Code.

During the sitting in 27.07.2011 the Court has rejected his solicitation to postpone the judicial sitting for a few days for reviewing the materials of the case. He informs that he was authorized by the Marjan Mining Company LLC the day of the sitting, in 27.07.2011. As the result of rejecting the solicitation by the Court Marjan Mining Company LLC has been deprived of the right to receive juridical support guaranteed by RA Constitution, as well as he could not fulfil his judicial rights. In fact, as the result of such position of the Court and not being familiar to the materials of the case, I didn’t have an opportunity during the judicial sitting in 27.07.2011 to express any position regarding the issues and solicitations.

The Court has violated the paragraph 1 of the part 1 of article 15 of the RA Administrative Procedure Code in the meaning that the judicial rights of Marjan Mining Company LLC were restricted in the part of reviewing the materials of the case.

E) The Court has violated the article 105 of the RA Civil Procedure Code:

The Court has rejected the solicitation of the third party "Marjan Mining Company LLC" dated 14.04.2011 concerning the suspension of the investigation of the case. By this solicitation the third party has submitted to the Court the copy of the decision of the prosecutor of Yerevan's Kentron and Nork-Marash administrative districts A.A. Afandyan dated 03.11.2010 and asked to suspend the case proceedings. Criminal case was instituted by this decision "over the fact of embezzlement of property in immense amounts by fraud and abuse of their managing authorities by the employees of the organization. The criminal case was instituted in connection with the Marjan-Caldera Mining LLC representative Azat Vartanyan's submitting for registration the property right of Marjan-Caldera Mining LLC for the 100% shares of Marjan Mining Company LLC, which had direct relations with the investigation of this case.

In accordance with the first part of article 105 of the RA Civil Procedure Code, the court shall suspend the proceedings, if it is impossible to consider the given case until a decision has been made on other considered issue or case in terms of constitutional, civil, criminal or administrative proceedings.

In this case, from the content of A. Afandyan's decision in 03.11.2010 it is apparent that it has direct relation to the subject of this case, and within the framework of the above criminal proceedings there could arise circumstances, in case of which absence the investigation of the case was impossible.

But the Court has rejected the above solicitation.

By its decision №3-1762/VD the RA Cassation Court has noted that in accordance with the paragraph 1 of the article 105 of the RA Civil Procedure Code, the Court was obliged to suspend the proceedings, if it is impossible to consider the given case until a decision has been made on other considered issue or case in terms of constitutional, civil, criminal or administrative proceedings.

In the meaning of the above article it was the duty of the court to suspend the case proceedings, suspend the proceedings, if it is impossible to consider the given case until a decision has been made on other considered issue or case in terms of constitutional, civil, criminal or administrative proceedings.

F) The Court has violated the article 76 of the RA Administrative Procedure Code, it has not applied the paragraph 1 of the section 1 of article 78 of the RA Administrative Procedure Code.

Pursuant to article 76 of the RA Administrative Procedure Code, within a week after receiving the statement of claim, the court passes one of the following decisions:

On taking the statement of claim to proceedings,

On returning back the statement of claim,

On refusing to accept the statement of claim.

Over this case, the statement of claim was submitted in Sept 22nd 2010 with the signature of Hrayr Ghukasyan. The Court passed the decision on taking the claim to proceedings on September 30th 2010, it means it has violated by 1 day the one-week term for

returning the statement of claim. The violation is not a mere chance. It is purposeful and confirms the impartiality of the investigating court and the relationship between the Plaintiff and the judge Kristine Mkoyan, who had accepted the self-disqualification. Thus, in accordance with paragraph 6 of the section 1 of article 73 of the RA Administrative Procedure Code, the copies of the documents are attached to the statement of claim, which confirm the respondents' receiving the statement of claim. The Plaintiff has not attached the above papers to the statement of claim. Instead, he has submitted these documents in September 30th 2011 by an additional application. Apparently on Sept 29th 2011 the Court should return back the statement of claim on the basis of non-observance of the requirements of the article 73 of the RA Administrative Procedure Code. However, violating the term defined by article 76 of RA Administrative Procedure Code, it waited for the submission of additional documents by the Plaintiff, received them and violating the term it has passed a decision to take the statement of claim to proceedings. It is obvious that the actions of the Plaintiff and the Court have been mutually agreed. He notes that the RA Administrative Procedure Code does not define a procedure for submission of additional documents after submitting the statement of claim.

In this case the Court was obliged to apply the paragraph 1 of the part 1 of article 78 of the RA Administrative Procedure Code and pass a decision to return the statement of claim.

G) The Court has violated and misinterpreted the articles 12 and 21 of the RA Administrative Procedure Code; it has not applied the first section of article 3, article 12, paragraphs 1 ad 2 of the section 1 of the article 78 of the RA Administrative Procedure Code.

During the investigation process of the case the third party has submitted explicit arguments on that the person submitting the claim has not had appropriate power to act on behalf of the Global Gold Mining LLC. However, in the page 21 of the decision the court has noted:

"As regards the issue discussed during the investigation of the case that the Armenian branch of Global gold Mining LLC has applied to the Court over this case, the administrative court considers it necessary to note the following:

In the administrative proceedings the plaintiff is the physical or legal entity, administrative body or the official, who has applied to the administrative court (RA Administrative Procedure Code, article 12)".

Global Gold Mining LLC is an interested party over this case, and the Armenian branch of that company has acted in the administrative proceedings on behalf of GGM. For the GGM Armenia's having such powers there are the power of attorney issued in 11.12.2010 in the name of the regional director of Armenian branch by the manager of Global gold Mining LLC for representing the interests of the company before RA courts, as well as the letter sent to the judge.

Thus, the facts concerning the authorities of the person, who has signed the statement of claim over this case, are as follows:

- A statement of claim was submitted to the Court in 22.09.2010, where the names of Regional Director of Global Gold Mining Armenia Ashot Boghossian, representative Hrayr Ghukasyan are mentioned as a plaintiff.

- Hrayr Ghukasyan has signed the statement of claim, who has acted in accordance with the power of attorney issued by Ashot Boghossian.
- Later the Court received the powers of attorney granted to Ashot Boghossian and Hrayr Ghukasyan by Global gold Mining LLC in 11.12.2010, and a letter from the same company that the claim is filed on his behalf.

In accordance with the first part of article 3 and article 12 of the RA Administrative Procedure Code, physical or legal entity may act as a plaintiff. According to section 3 of article 61 of the RA Civil Code, the branch is not a legal entity.

Taking into consideration this, the Armenian branch of Global gold Mining LLC which submitted a statement of claim in 22.09.2010, is not a legal entity and it cannot be a plaintiff, and in the meaning of the RA Administrative Procedure Code it cannot possess judicial legal capacity.

In accordance with part 1 of article 4 of the RA Administrative Procedure Code, the capacity for having judicial rights and bearing judicial duties (judicial legal capacity) is recognized for all physical and legal entities equally.

The regulations for legal entities defined by this code also concern the institutions.

It proceeds from the above stated that the legislative power has imperatively defined the scope of the entities possessing judicial legal capacity, where the branch is not included, therefore, the latter cannot act as a participant of the administrative proceedings, especially with the state of a plaintiff.

Moreover, Hrayr Ghukasyan has signed the statement of claim. In accordance with part 3 of article 61 of the RA Civil Code, the director of the branch acts by a power of attorney. It means that Ashot Boghossian, who acts by a power of attorney, has reauthorized his rights to Hrayr Ghukasyan, so in accordance with the part 3 of the article 323 of the RA Civil Code, the power of attorney issued to Hrayr Ghukasyan should be notarized. Besides, the copy of Ashot Boghossian's power of attorney has not been submitted to the court along with the power of attorney of Hrayr Ghukasyan, and the Court was not able to consider the presence of powers of the Regional director.

Whereas, in accordance with section 3 of article 94 of the RA Administrative Procedure Code, the presiding judge of the sitting checks the identity of the attendants of the trial and other persons, checks the powers of the representatives.

RA Administrative Procedure Code and basically, the RA laws do not envisage a possibility to approve after submission of the claim the powers of the person who has submitted a claim without proper powers. The Court was not entitled to give the Plaintiff such an opportunity.

Hereby, the claim over this case has been filed by the branch not being a legal entity or the physical person Hrayr Ghukasyan, who is not competent to submit the claim. In the first case the statement of claim should be returned, and in the second case the claim should be rejected, since Hrayr Ghukasyan is not an interested party in the meaning of the article 3 of the RA Administrative Procedure Code. He also noted that in the page 16 of the decision in the circumstances cleared up by the hearings the Court has misinterpreted the article 1.4 of the law of the Limited Liability Company of the State of Delaware. The decision suggests that the managers may any time apply to other offices of the company in Delaware or abroad. The managers may establish offices and authorize the activities of the company outside the

United States. Basically, in paragraph 1.4 the word “managers” is used in plural, which supposes that the issue of the power of a person to act on behalf the company should be solved by the managers. Whereas the Court has not taken into account this circumstance and it has considered s a power of attorney the document signed only by one person, Van Krikoryan.

In fact, accepting the statement of claim as proceedings the Court has not applied the section 3 of article 61, section 3 of article 323 of the RA Civil Code, section 1 of article 3, article 12, paragraphs 1 and 2 of the section 1 of article 78 of the RA Administrative Procedure Code, and it has not returned back the statement of claim.

Even if the Court has accepted the statement of claim as proceedings by violation of law, then when investigating the case it should take into consideration the issue of protection of the rights of the Respondent and Third Parties, give proper assessment to the powers of the Plaintiff and the person signed the statement of claim, and taking as a basis the above mentioned articles, consider confirmed that the claim has been submitted by the branch not being a legal entity or the physical person Hrayr Ghukasyan, who is not an interested party, and on this basis reject the statement of claim. The judicial mistake should not result in the violation of the rights of the Respondent or Third Parties, which circumstance is apparent and gross in this case.

However the Court did not want to admit the judicial mistake; Instead of it, not having such opportunity, in 11.12.2010 the Court accepted powers of attorney and a letter from the Plaintiff by which the Global Gold Mining LLC confirms the powers of its representatives. In fact, Global Gold Mining LLC has only in 11.12.2010 informed the Republic of Armenia court that when submitting a statement of claim to the RA Administrative Court the people signing it, have acted on his behalf, it means that the Republic of Armenia can consider the claim as filed on behalf of that company only as from the moment of submission of the powers of attorney to the court with a new date, and non-acknowledgement of such fact violates the rights of the Third Party and the Respondent defined by the RA Constitution and legislation, at the same time it brings to violation of the judicial rights of the Third Party. Besides, it gives an opportunity to Marjan-Caldera Mining Company which has trusted the Registry, and the interested parties of that company to submit a claim for compensation against the Republic of Armenia.

Within the frameworks of the RA Civil Procedure, the actions of the Court could be carried out by substituting the Plaintiff for a proper plaintiff. Nevertheless, the RA Administrative Procedure does not define an opportunity to substitute the plaintiff for a proper plaintiff. The only chance to correct the mistake by the Court was the rejection of the claim, and the protection of its rights by Global Gold Mining LLC could be carried out only by submission of a new statement of claim.

The gross violation of the above regulations by the Court has resulted in unfavourable for the Respondent and Third Parties and unrecoverable consequences. Thus, in accordance with paragraph 1 of the part 1 of article 71 of the RA Administrative Procedure Code, the disputed claim can be submitted within two months after the effectiveness of the disputed act. In fact, Global Gold Mining LLC can act as a real plaintiff over the case only starting from 11.12.2010, i.e. LLC has missed the term of submission of the disputed claim in the part of

the administrative act passed in 11.08.2010 Global Gold Mining, and on this basis the Court should reject the claim.

By its decision №VD 0214/05/09 dated 12.03.2010 the RA Cassation Court has mentioned that envisaging wide opportunities for protection of the rights of entities in accordance with the order of RA Administrative Procedure, defining different types of claims and giving an opportunity to the entity during protection of rights to select one or another claim, at the same time it has defined certain conditions for applying to the court by one or another claim.

In this case the Plaintiff has submitted a disputed claim to the Court, and from the above article it follows that the Legislative Power has imperatively defined compulsory conditions for applying to the Court with a disputed claim, which were not observed by the Plaintiff.

Possible occurrence of grave consequences as a result of the judicial sitting

The parties to the Joint Venture Agreement have assumed certain obligations to each other; they have incorporated in Delaware Marjan-Caldera Mining LLC and in the territory of the Republic of Armenia they will make investments connected with the operation of the Property (the rights are certified by the mining special license HA-L-14/526) and gain profits. Making investments for the development of the mine by the Company is a condition of the mining license, which may be terminated in case of non-fulfilment of the above condition.

As one can see from the content of the Agreement, Marjan-Caldera Mining LLC had been established by Caldera Resources Inc and the Plaintiff for the purpose of making joint investments in the Joint Venture and Caldera Resources, which is not a participant over the case, bears the burden of the investments via the third party Marjan-Caldera Mining LLC and jointly with it (hereinafter all together referred to as the Investor).

After the State Register's registering the transfer of the shares of the Company the Investor has made investments in the amount of at least 1,000,000 (one million) USD. The investments were made exceptionally taking into consideration the fact of state register of the deal on alienation of the shares of the Company.

The Investor has organized his activities taking as a basis the administrative acts adopted by the administrative body of the Republic of Armenia, and he had bases to trust the latter. The rights of the Investor have been directly considered by the Decision of the Court, as in case of fulfilment of the Decision the investments made by the Investor will be endangered, and the latter will have to be involved in long lasting arbitrary legal proceedings for claiming back the investments made and recover damages.

Additionally, taking into consideration the fact that the investments of the Investor are made as a result of trusting the administrative act of the RA administrative body, the Court's Decision will concern the Investor's rights that the latter will have to apply for judicial protection of his violated rights and with a claim of recovery of damages not only to the court of arbitration, also other instances taking as a basis the article 9 of RA law on the foreign investments, as well as the provisions of agreement between the RA Government and the Government of Canada on encouragement and protection of the investments.

On the basis of the mentioned legal and factual circumstances he wants to satisfy his appeal case, to fully annul the RA Administrative Court's decision №VD/3361/05/10 dated 29.07.2011, and send the case to the RA Administrative Court for new investigation.

2.3. Legal position and groundings of Global Gold Mining LLC

The prehistory of the case

The Plaintiff is an international company incorporated in the US State of Delaware and the Republic of Armenia (www.globalgoldcorp.com), a foreign investor, specializing in mineral mining in Armenia and Chile. The Plaintiff carries out operations in Armenia, in particular in the properties Toukhmanuk gold deposit (Aragatsotn Region), Getik exploration property (Gegharkunik Region), Marjan gold-silver polymetallic deposut (Syunik Region) and in other properties under relevant licenses.

The Special Mining License of the Marjan deposit belongs to Marjan Mining Company LLC, and 100% interest in the Marjan property is held by the Plaintiff. For the exploration and development of the Marjan deposit the Plaintiff has invested about $4.5 million.

In 2009, for the purpose of exploitation and further development of the Marjan deposit, Plaintiff reached a written agreement with the Canadian company Caldera Resources Inc. for establishment of a joint venture in the USA. As a result, on March 24th 2010 in the USA, the parties entered into Joint Venture Agreement (hereinafter referred to as the Agreement) for establishing and incorporating the joint venture Marjan Mining Company in the US State of Delaware. This Agreement obeys the laws of the US State of New York (this Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without regard to conflict of law principles Article 18 of the Agreement), as well as the exclusive jurisdiction for the settlement of any dispute with respect to interpretation of the Agreement, was given to the American Arbitration Association in New York (the Agreement cannot be investigated in any other instance, Article 5 of the Agreement). The aim of the Agreement was just to establish and incorporate a joint venture in the USA, and in accordance with the laws of the State of New York and the clear regulations on granting the exclusive jurisdiction, the Agreement can an shall be interpreted only by the legislation of the State of New York, and any disagreement, controversy with respect to interpretation hereto can be solved only by the single arbitrator appointed by the American Arbitration Association. Based on these clear regulations, this Agreement cannot be interpreted, or as a result of it to be taken as a basis by any agency of the Republic of Armenia, including executive administrative bodies or the courts of the Republic of Armenia.

Relating to further economic activities the parties entered into a series of agreements, including written agreement, and they exchanged documents. One of the conditions of these activities among others was the transfer of the shares of the plaintiff in Marjan Mining Company to the joint venture. With regard to the transfer of the shares of Marjan Mining Company LLC the parties have agreed and entrusted their lawyers to work on drafting a share alienation contract defined by Republic of Armenia laws, as well as to prepare all documents necessary for alienation of the shares, for their further consideration, approval, mutual signing, and only in the case when the remaining opposite conditions were fulfilled, the contract of alienation of the shares of Marjan Mining Company LLC should be provided to the Agency for State Registry of Legal Entities of the RA Ministry of Justice (the

correspondence between the parties concerning the above are available in the materials of the Case).

But without the application, without the knowledge, presence, power and participation of the plaintiff, i.e. of the shareholder of Marjan Mining Company LLC, without the share alienation contract and other documents required by the Republic of Armenia laws for alienation of the shares, using the copy of the power of attorney issued by a foreign entity not being a shareholder, interpreting the Agreement with the violation of the law as a "mixed contract" defined by the Republic of Armenia laws or as a "share alienation contract", then accepting the Agreement per se for the purposes of registration in August 11th Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of the RA Ministry of Justice made a change in the register of the shareholders of the company, and registered the plaintiff's 100% interest in the shares of Marjan Caldera Mining LLC in the name of Marjan-Caldera Mining Company LLC, and gave the share ownership certificate №038281. Then the officials of Marjan-Caldera Mining LLC, who have actually organized the illegal registration, firstly concealed the fact of the registration from the Global Gold Mining LLC, and few days after the date of receiving the registration certificate they tried to get a consent from Global Gold Mining LLC backdate and give signing documents backdate. Global gold Mining LLC has refused this request (relevant correspondence is there in the Case).

Meanwhile, making additional numerous violations of the simple regulations defined by the Republic of Armenia laws, without appropriate documents, on August 26th 2010 Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice also made the state registration of the changes of the charter of Marjan Mining Company LLC, under which it registered 100% of the shares of Marjan Mining Company LLC in the name of Marjan-Caldera Mining LLC, and registered Azat Vartanyan as the director of the company, who has been an official of Marjan-Caldera Mining LLC.

Responding to the inquiry of the plaintiff dated 10.09.2010 the head of Nork-Marash Regional Division of the State Registry of Legal Entities of RA Justice Ministry informed by his letter №760 dated 14.09.2010 that for the registration of the changes in the register of the shareholders of the company the Agreement was taken as a basis for the alienation of the shares. It is clear also that for the registration of the alienation of the shares of Marjan Mining Company LLC not the holder of these shares or the founder of the company, but the holder of other shares and not the founder – the president of Marjan Caldera Mining LLC has applied to the Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice. It was found out also that Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice has accepted the copy of the power of attorney without an apostile, which is required by the Hague Convention "On abolishing the requirement of legalisation for foreign public documents" and the order 501 dated 10.08.200 of the Republic of Armenia Minister of Justice. It was found out also that the documents for the disputed registration were accepted, verified, the registration was made and the share ownership certificate in the name of Marjan-Caldera Mining LLC was given only within two working hours (the receipt of the state duty required for registration with the fixed time is there in the Case).

After being informed about the above violations by Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice Global Gold Mining LLC

submitted a claim to the Court on September 22nd 2010, and the claim was taken as proceedings by the court in 30.09.2010.

It was clearly mentioned in the statement of claim that the registration of the changes in the register of the shareholders has been made by numerous violations of the article 15 of the RA law on Limited Liability Companies, requirements of the RA Government Decree №1396-N dated August 14th 2003 on approval of the procedure of the registration of the rights of ownership and pledge of the shares in the authorized capital of a limited liability company, the requirements of the RA law on the state registration of legal entities, regulations of the RA law on the fundamentals of administrative actions and administrative proceedings, as well as other legislative requirements (the Claim with enclosed documents is available in the Case).

The Court has investigated the issue from September 30th 2010 to July 27th 2011 (about 10 months), and pronounced the judgement on July 29th 2011.

The violations of the registration disputed over this case, are apparent, numerous and irrefutable, so the attendance of the Respondent over the Case, the representative of Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice in the sittings was of a formal nature (the representative has not attended the sittings). The Respondent has reported to the Court that he has not verified the authenticity of the documents submitted for registration (Decision, page 5, paragraph 7A), also the Case contains the letters of the Respondent concerning the refusal to take part in the investigation of the Case, i.e. the administrative body's actual waiver of the obligation to prove the legality of the registration. As a result the Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice has not appealed the case.

Whereas and since the violations of the registration are apparent, numerous and irrefutable, the third parties involved over the Case, mostly and mainly tried to delay by artificial and formal actions or suspend the investigation of the Case and making a decision by the court, as a result of which the investigation of the simple case lasted about 10 months.

Thus, during in total 14 sittings Third Parties over the Case have found time to solicit to delay the judicial proceedings 17 times, including submitting groundless solicitations for self-disqualification of the judge.

Investigating the facts and evidences of the Case, in the Decision the court has marked two questions to be clarified: (i) Is the registration over this case legitimate? (ii) Is there a basis for annulling the mentioned registration?

For the purpose of discussion of these questions, investigating all the factual circumstances of the Case, the Court has fairly and reasonably has found as follows:

Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice is considered as an administrative body (Decision, page 18, paragraph 5);

The disputed registrations are considered as administrative acts (Decision, page 18, paragraph 8);

The administrative body is obliged to ensure comprehensive, full and impartial consideration of the facts of the case (Decision, page 18, paragraph 9), and the comprehensive consideration is the duty of the administrative body (Decision, page 18, paragraph 9).

Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice has performed improperly its duty on the assessment of the evidences of the administrative proceedings and has not ensured comprehensive, full and impartial

consideration of the facts (Decision, page 20, paragraph 1). As a grounding of the above stated the Court has mentioned specifically the following main violations of the regulations of the Republic of Armenia law by the administrative body:

a) Against the regulation of the law applicable with regard to the Agreement (against the regulation of chapter 18 of the Agreement concerning the governing and interpretation by the State of New York laws) the administrative body under the Republic of Armenia laws has considered the Agreement as a "mixed contract", interpreted and applied it as a "share alienation contract" (Decision, page 19, paragraphs 6, 10, 11, 12);
b) The administrative body has violated the procedure established by the Republic of Armenia legislation, making a registration without the participation or interference of the owner of the shares, on the basis of the power of attorney issued to the person not being authorized by the founder of the legal entity or the head of the executive board or the founder, in addition, for the purposes of registration using and accepting the power of attorney by obvious violations of the regulations defined by the Republic of Armenia laws (Decision, page 20, paragraphs 7, 8 and 9).
c) The property rights of Global Gold Mining LLC for the shares of Marjan mining Company LLC have been violated by the administrative acts of the Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice (Decision, page 21, paragraph 5).

So, the Court found that the state registration of the share ownership of Marjan Mining Company by the Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice has been carried out by violations of a series of regulations of the RA law on the fundamentals of administrative actions and administrative proceedings and the RA Government decree №1396 dated 14.08.2003, therefore the mentioned registration is an invalid administrative act (Decision, page 20, paragraph 11) and so the changes of the charter of Marjan Mining Company LLC made by Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice in 26.08.2010 are invalid.

Taking as a basis numerous violations of the simple and clear regulations of the Republic of Armenia legislation, by its decision the Court decided to satisfy as a whole the Claim submitted to the Court by the Plaintiff, and to annul the registration of the changes of the sole shareholder of Marjan Mining Company LLC in the register of the shareholders of the company in 11.08.2010, and the state registration of the changes of the charter of Marjan Mining Company in 26.08.2010 carried out by Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice.

The decision is clear and indisputable; it is grounded by simple and clear regulations of the Republic of Armenia legislation.

The facts and grounds of the Complaint's being unacceptable, groundless and contradictory to the simple and clear requirements of the Republic of Armenia legislation

Instead of taking into consideration the simple, clear and undisputable regulations of the Republic of Armenia legislation governing the issues of the Case, the Complainant has used formal, artificial, incorrect from the viewpoint of the legislation, contradictory to the regulations of legislation and in many cases just false statements. In many cases the regulations of the legislation are mentioned in the Complaint, which contradict the statements made in the Complaint, but the Complain even does no concern the important provisions of the regulations, so it is apparent that they were just included for the purposes of giving an artificial volume to the Complaint. Moreover, numerous simple and clear regulations of the

Republic of Armenia laws regulating the issues of the Case have not been taken into consideration at all or they were not mentioned at all. The references to the regulations of the Republic of Armenia legislation mentioned in the Complaint either obviously refute the statements contained in the Complaint, or they are pretentiously interpreted apparently incorrect or nonexistent point of view, contradict or have no relation at all to the materials of the Case.

Thus,

1. It is apparent that the parties appearing with the Complaint are interrelated, they supervise each other, and so, basically they represent one person. This fact is proved by the power of attorney given to the representative of third parties Vardan Safaryan in 04.11.2010 by the Caldera Resources Inc. president and Marjan Caldera Mining LLC president Vasilius Mavridis. By the way, the power of attorney is certified by the seal of the other company, Marjan Mining Company LLC which also acts as the third party over this Case. Thus, the Canadian company Caldera Resources Inc., which is not incorporated in the Republic of Armenia at all, is the shareholder of the Marjan-Caldera Mining LLC incorporated in the US State of Delaware, which the representative of the third party confirms in the Complaint (Caldera Resources Inc. Appeal Case, page 2, paragraph 1). At the same time Vasilius Mavridis is the president of Caldera Resources Inc. and Marjan Caldera Mining LLC, and the person, who has given powers of attorney to the representatives of the two companies for attending the trials over this Case. In its turn, as a result of disputed illegal registration Marjan-Caldera mining LLC has appeared as the holder of 100% interest in the shares of the other third party over this Case, Marjan mining Company LLC, Caldera Resources Inc. supervises the third parties over this case, Marjan Caldera Mining LLC and Marjan Mining Company LLC, and so, in fact, during the administrative proceedings of this Case Caldera Resources Inc. has been represented by two different third parties.

However, this simple fact has not prevented the opposite side to submit not one (common) appeal complaint, or at least two (corresponding to the number of the third parties involved in the Case), but three different appeal complaints, including on behalf of the company not acting as the third party over the Case, through which they apparently tried to give the Complaint quantitative artificial multiplication simple illusion.

Taking into consideration the clear circumstance that the violations of the registration disputed by the Case, are apparent, numerous and irrefutable, continuing in the Court the adopted simple tactics, which was to delay the investigation of the Case and to subject it to continuous investigation, the third parties over the Case have created an illusion as if Caldera Resources Inc. had the right for acting as a third party during the administrative proceedings of the Case, and as if the rights of that company have been violated. However, this statement of the Complaint is not only artificial and groundless, but also directly contradicts the simple and clear regulations of the Republic of Armenia legislation that regulate this issue.

Thus, article 11 of the RA Administrative Procedure Code (hereinafter referred as the Code) defines that third parties are participants of the administrative proceedings. Paragraph 3 of article 16 of the Code clearly defines: “If the judicial act inevitably and directly applies also to certain parties, then the court is obliged to involve these parties in the trial as third party”. Pursuant to this clear provision of the Code, the Court is obliged to involve only those parties, to which the judicial act applies directly. Whereas, the judicial act over this Case does not directly apply to Caldera Resources Inc. in any way, since that company does not have a share in Marjan Mining Company LLC. In accordance with the simple provision of the Republic of Armenia law defining the criteria of third parties, Caldera Resources Inc. could not be involved by the Court as a third party over this case. Caldera Resources Inc. has

appeared as the shareholder (and supervisor) of Marjan-Caldera Mining LLC , and during the process of the Case Marjan-Caldera Mining LLC has acted as a third party, enjoying all the rights envisaged for third party stipulated by the Code. Moreover, as a result of the disputed illegal registration and during the process of this Case Marjan-Caldera Mining LLC has acted as the shareholder supervising Marjan Mining Company LLC, which acts as the other third party over this Case. In fact, all the third parties acting over the case, have been supervised by the company Caldera Resources Inc., they have represented each other and Caldera Resources Inc. Such clear and artificial multiplication of the participants is inadmissible from the point of view of the simple provisions of the law, since the law clearly defines that such mode of action just contradicts the law. If, presumably, it was possible to "propagate itself" in this way and Caldera Resources Inc was given a state of a third party (participant) over this case, then any entity, who for one or another purpose would wish to be involved in the Case as a third party without taking into consideration the clear condition of the administrative act's indirectly applying to the third parties of the paragraph 3 of article 16 of the Code, then this any person, including any shareholder, official, agent, representative, employee, contractor, subcontractor, members of their families and mutually related persons of Caldera Resources Inc, Marjan Caldera Mining LLC, Marjan Mining Company LLC, can act as a third party over the Case, and enjoying the rights of a participant of the administrative proceedings, to demand to start the proceedings of the case from the beginning in accordance with paragraph 6 of article 16 of the Code. In this case the Code will become meaningless, its application just impossible, and the authority of the administrative court – actually invalid. It is obvious that the artificial and groundless claim of Caldera Resources Inc. to involve as third party, pursues an aim to make impossible the application of the Code over this case, and the competence of the Court – invalid. However, at the same time, the clear provision of paragraph 3 of article 16 of the Code rules out such possibility, and so during the investigation process of the Case, in any circumstances the fact of not involving Caldera Resources Inc. as a third party over the Case, as well as the fact of the company's not being involved as the third party over the Case, is lawful and is directly based on the letter of the simples provisions of the Code regulating the problem.

From the judicial point of view, the statements in the Complaint give rise to doubt as if during the investigation process of the Case Caldera Resources has acted as the participant of the administrative proceedings only on the basis of the fact of having submitted an application to the Court, and the fact of non-consideration of the company's "solicitation" by the court (citation) "requirement defined by articles 16 and 99 of the RA Administrative Procedure Code" – violation (Caldera Resources Inc. appeal case, page 5, paragraph 6). They think that the quick reading of the Code by the author of the Complaint will show that in accordance with the simple and clear provisions of the Code, third parties are involved over the Case by the decision of the Court in the event of satisfaction of the clear condition defined by paragraph 3 of article 16 of the Code, and only in case of being involved has third parties they appear as participants of the administrative proceedings, and the articles 16 and 99 of the Code concern the rights of the participants of the administrative proceedings. The Complaint artificially supposes that if the Court has not considered the applications of the parties not meeting the necessary conditions, for involving them as third parties, it means as if the rights of that entity as a participant of the administrative proceedings, have been violated, and so, the decision must be supposedly reversed. So they simply have to state that such an approach makes apparent the fantastic statements on fulfilment by violations of the clear requirements of the law, or blaming the Court for not paying due attention to the apparent mode of action to make the investigation everlasting.

Whereas, in the Complaint the representative of Caldera Resources Inc. has himself admitted the illegality and inadmissibility of involving the company as the third party over

this Case with respect to the Code, other provisions of the Republic of Armenia legislation and the obligations assumed internationally. Thus, in the Complaint the author has referred to the decisions of the RA Cassation Court №VD/1407/05/08 dated 11.08.2009 and №3-2343 (VD) dated 17.11.2006 (Caldera Resources Inc. Appeal Case, page 4, paragraphs 3, 4, 5,6; page 5, paragraphs 1, 2, 3, 4, 5). Despite the attempt to present in the Complaint the texts of these decisions selectively, hopefully it will pass without being noticed and without attention, however in the Complaint it was referred to the cassation court's decision about that where the condition of that the judicial act directly applies to third parties pursuant to paragraph 3 of article 16 of the Code (Caldera Resources Inc. appeal case, page 4, paragraph 4). In fact, even the Complaint confesses that the decisions of the cassation court have been made applying the above provision of the law, and so they are not applicable in the case of Caldera Resources Inc.

In accordance with the simple and clear provisions of the decisions of the cassation court and the Code, referred in the Complaint, the company Caldera Resources Inc. could not and also now cannot act as a third part over the Case or a separate participant, so the right for submission of an appeal complaint stipulated by paragraph 7 of article 15 of the Code cannot apply to Caldera Resources Inc. So and therefore the appeal case of Caldera Resources Inc. Must be rejected as a whole.

The Complaint contains contradictory statements regarding the interpretation of the Agreement, including its consideration, analysis, acceptance and making a decision on its basis by the administrative bodies and courts of the Republic of Armenia (Caldera Resources Inc. Appeal Case page 2, paragraphs 1, 2, 3, 4, 5, 6, 7; page 3, paragraphs 2, 3, 4, 5, 6, 7; Appeal Case of Maran Mining Company LLC page 4, paragraphs 5, 6, 7; page 5 as a whole; page 6 paragraphs 1, 2, 3, 4; page 10 as a whole; page 12 as a whole; page 13 paragraphs 1; page 17 paragraph 3, the appeal case of Marjan Caldera Mining LLC, page 5, paragraph 2). The mentioned parts of the Complaint contain numerous groundless statements, contradictory to the requirements of the law, including incompatible statements, but the intention is apparent: an unsuccessful attempt is made by violating the law to create an illustration as if the interpretation of the Agreement is pivotal within the framework of this Case.

This statement not only groundless and illegal, but also contains a hidden trend to involve the administrative bodies and courts of the Republic of Armenia in arguments between separate organizations in international judicial instances.

Thus, the Complaint confesses that in accordance with the clear provisions in the Agreement, the Agreement shall be governed and interpreted by the State of New York laws (Section 18 of the Agreement). At the same time, the Complaint does not mention the paragraph 7 of the Agreement, in accordance with which the exclusive jurisdiction for the settlement of any dispute with respect to interpretation of the Agreement, was given to the American Arbitration Association in New York. These pivotal sections of the Agreement directly prohibits any specialist having less or more juridical knowledge, a civil servant of the administrative body, or the lawyer of one or another party to interpret or state any other provision of the Agreement, except for the case when the interpreter is (a) a specialist authorized to interpret and elucidate the State of New York law (licenses lawyer for interpretation of the New York law) or (b) an arbitrator appointed by the American Arbitration Association. The clear fact is that however neither the authors of the Complaint, nor the employee of the administrative body, who has interpreted the Agreement by the Republic of Armenia law as a “mixed contract” or a “share alienation contract”, have either of these two qualifications. Nor the employee of the administrative body, who has interpreted the Agreement by the Republic of Armenia law as a “mixed contract” or a “share alienation contract”, are competent to state that at least (a) actually the Agreement is a “mixed contract” or a “share alienation contract” , (b) the Agreement is in force and (c) the Agreement is

effective, whereas the Complaint contains numerous similar statements. So, such "interpretation" of the Agreement by the author of the Complaint and the employee of the administrative body, is groundless, conjectural, artificial, end in itself and void and cannot be taken as a basis by any instance. In its decision the Court has also clearly and fairly mentioned that the Agreement is not possible and should not be interpreted by any other law, so such interpretations and statements are considered void.

Whereas the Complaint states that the administrative bodies of the Republic of Armenia "are obliged" to apply and interpret the foreign law just for the reason that the article 1284 of the RA Civil Code entitles the parties of the agreement to sign agreements by choosing the foreign law (Appeal Case of Marjan Mining Company, page 4, paragraphs 6, 7 and 8). Surprisingly, and at the same time, however, the Complaint also confesses that the rights defined by the above articles of the RA Civil Code, are essential only for the parties to the Agreement, rather than another party. At the same time the Complaint states that as if the application of the right defined by the Agreement (citation) "it is not mandatory for the administrative body when registering the agreement", and moreover, the Complaint apparently without any grounds states that since the Agreement contains a note concerning the transfer of the shares, then (citation) "the RA legislation applies to part of the Agreement, since its choosing directly proceeds from the Agreement". In addition, the Complaint states as if (citation) "the administrative body making the state registration, is not entitled to interpret the submitted documents according to the foreign law mentioned in the document" (Appeal Case of Marjan mining Company, page 5, paragraphs 1, 2 and 3).

The statements contained in the Complaint obviously contradict each other. In one case they state that the administrative body is obliged to apply the foreign law, and the other case the state that the administrative body does not have such commitment. Apparently, the author of the Complaint has been enmeshed by presenting a clear position concerning this simple judicial problem, and mainly tried to present just fictitious statements, in this case written.

It should be noted that the above statements are not only fictitious, groundless and an end in itself, but contradict the simple and clear requirements of the Republic of Armenia legislation. For example, the authors of the Complaint at least must be competent to state whether the Agreement has come into force or not, if yes, then is it effective or not. It is obvious that for example in accordance with the section 18 of the Agreement the authors of the Complaint are not competent to make such statements. The simple, clear and well-known regulations of the Republic of Armenia Civil Code concerning the interpretation of the agreements that the agreements shall be interpreted (understood, realized, explained, fulfilled, applied, etc.) based on the literal meaning of the words and expressions contained in it (RA Civil Code, article 447). In accordance with the literal meaning of the words and expressions contained in the Agreement, the Agreement is governed and interpreted by the State of New York laws, and the exclusive jurisdiction for the settlement of any dispute with respect to interpretation belongs to foreign arbitration instance. Any other statement against this simple judicial situation contradicts both the Agreement and the clear and well-known provision of the law regarding the literal interpretation. The statement contained in the Complaint as if the administrative body is competent not to obey the simple and elementary provisions of the law defining the interpretation of the agreement, without taking into consideration the literal meaning of the expressions contained in the Agreement, according to which the Agreement cannot be interpreted by any other law, except for the State of New York law, is just groundless, end in itself and unlawful. Similar statements are not only unacceptable and

groundless, but also contradict the simple requirements of the Republic of Armenia legislation, particularly the elementary requirements of the law. It is funny that the Complaint has referred to the well-known article 447 of the RA Civil Code concerning the interpretation of the agreements (Marjan Mining Company LLC appeal case, page 5, paragraphs 5 and 6), but the Complaint has not even concerned the simple provision of that article. In addition, the Complaint has also referred to the article 86 of the RA Law on legal acts (Marjan Mining Company LLC appeal case, page 6, paragraph 4), according to which the judicial acts shall also be interpreted literally, and in any case the interpretation should not contradict the law. Including only these simple and clear articles of the Law in the Complaint the author of the Complaint apparently has fully refuted any and all the statements contradicting these judicial acts contained in the Complaint.

For example, mentioning the article 1281 of the RA Civil Code, which provides for "a transaction made abroad may not be recognized as invalid as the result of non-observance of form if the requirements of the law of the Republic of Armenia were observed" (this provision of the law is bold and underlined in the Complaint, obviously trying to draw attention to this provision) (Marjan Mining Company appeal case, page 5, paragraph 7). The Complaint has concluded as if (citation) "The Joint Venture Agreement, which has been registered by the Registry, in the part of the provisions of the share alienation fully complies with the RA legislation and the State Registry did not have any basis to reject the registration of the agreement" (Marjan Mining Company LLC appeal case, page 6, paragraph 1). This conclusion is at least strange, and actually groundless and unlawful. First of all the author of the Complaint obviously mixes the concepts a form of transaction and interpretation of the agreement (contents, meaning, letter), which are apparently different judicial concepts. Usually the form of the transaction includes the form of the agreement (written or verbal, presence of seal, authorized signing or endorsing bodies and officers), the procedures necessary for the conduct of the transaction (notarization, registration or certification by a state or any public body), etc. Whereas, the provisions on interpretation of the agreement include the range of admissibility to use the meaning of the agreement and provisions hereof. Secondly, it is apparent that the Complaint does not realize the main condition mentioned in the above article of the RA Civil Code (if the requirements of the law of the Republic of Armenia were observed), since with respect to the most important requirement of the Republic of Armenia law, the Republic of Armenia Administrative Court has the exclusive jurisdiction to pass decision concerning the appeal of the administrative acts made by Republic of Armenia administrative bodies (Republic of Armenia Judicial Code, article 35; RA Administrative Procedure Code, article 8). The Republic of Armenia administrative body, particularly in this case, the State Registry of Legal Entities of RA Justice Ministry, cannot simply carry out a transfer of the shares under the agreement, by which the exclusive jurisdiction of the settlement of the disputes is reserved to other instance besides the Administrative Court of the Republic of Armenia, especially to a foreign instance. Such mode of action not only contradicts the irrefutable and unambiguous provisions of the Republic of Armenia legislation defining the exclusive jurisdiction of the Administrative Court, it not only violates the intrastate and sovereign principle conditioned with the exclusive jurisdiction of the Court, but also with the legal consequences of the administrative act given by the administrative body involves this administrative body in the possible arguments between private companies, creating legal inadmissible consequences regarding the executive

power in the foreign instance, which has been given an exclusive jurisdiction under the agreement. It is obvious that the meaning and the trend of the Complaint is just that, however this trend contradicts the regulations of the Republic of Armenia legislation and the fundamental principles of the sovereignty of the Republic of Armenia. So the relevant statements of the Complaint are just illegal and unacceptable.

The statement of the Complaint on that the administrative body and the Court of the Republic of Armenia (in this case the State Registry of Legal Entities of the RA Ministry of Justice, and the Administrative Court of Appeals of the Republic of Armenia) during the administrative proceedings and administrative trial should take as a basis the Agreement, interpret the regulations of the Agreement and based on that to pass decisions, also contradicts the obligations of the Republic of Armenia assumed internationally. In particular, the Convention on recognition and enforcement of foreign arbitral awards signed in New York in 1958, which Armenia acceded to in November 18th 1997 (hereinafter referred to as the New York Convention); in accordance with the regulations of the clause 1 of article 2 of the Convention "Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration". According to clause 2 of article 2 of the New York Convention "The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams". In accordance with the clause 3 of article 2 "The Court of Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties, to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed". In fact the author of the Complaint exhorts Republic of Armenia not to recognize, not to obey and violate this obligation assumed internationally. Taking into consideration these simple regulations of the New York Convention, which has a legal status of international agreement of the Republic of Armenia, as well as predominates over the Republic of Armenia legislation, the administrative body and the Court of the Republic of Armenia could not by recognize the "written agreement" (in this case the Agreement or its simple provisions) (it means to act against the meaning of the Agreement), and violating the obligation assumed internationally, to interpret it at will (to use, take the Agreement as a basis for registration or other function) instead of handling the interpretation to the arbitration, as provided for by the Convention. So in these administrative proceedings the Agreement cannot be accepted as a part of the proceedings. The conclusion of the Court regarding the Agreement, according to the decision, was fairly that the Agreement could not be interpreted in accordance with the Republic of Armenia legislation (including in accordance with the Convention), and so any action regarding the Agreement or any proceedings using it, contradicts the obligations of the Republic of Armenia assumed internationally.

The other similar statement contradictory to the law contained in the Complaint is that as if the power of attorney issued by the president of Marjan Caldera Mining LLC Vasilius Mavridis and used in the registration of the alienation of the shares of Marjan Mining Company LLC (hereinafter referred to as the Power of Attorney of Mavridis) is considered as lawful and could not be rejected by the administrative body. The authors of the Complaint have obviously

tried to insist in the lawfulness of the Power of Attorney of Mavridis, forming hypotheses concerning the "delivery" of the power of attorney by the employee of the postal service (Marjan Mining Company LLC appeal case page 6, paragraphs 6, 7, 8, 9, 10; page 8 as a whole; page 9 paragraphs 2, 3, 4; Marjan Caldera Mining LLC appeal case, page 4, paragraph 2; page 7 paragraphs 6,7, page 8 paragraphs 1, 2, 3): Thus, the Complaint states as if the decision and the Plaintiff have just taken into consideration the form or place of delivery of the Power of Attorney of Mavridis (whether it has been delivered by the US postal service and the postal service of the Republic of Armenia). This statement is not true and it is artificial.

First of all both the Plaintiff and the decision have grounded the unacceptability of the Power of Attorney of Mavridis in respect of the fact that it has not been issued by the founder or the head of the executive board of Marjan Mining Company LLC, which contradicts the simple and basic provisions of the Republic of Armenia. It is clearly mentioned in the Claim and the Decision that the elementary requirements of the Republic of Armenia law on state registration of legal entities have been violated by accepting the power of attorney of Mavridis and using it for the purposes of state registration of the legal entity.

Thus, in accordance with the clause 1 of article 21 of the Republic of Armenia law on state registration of legal entities "For the purpose of state registration the following documents shall be submitted by legal entities a) an application of a person authorized by the founder(s) or head of the executive board of the legal entity. In this case Marjan mining Company is the legal entity. However, during the disputed registration no application has been submitted by the authorized person of the founder of Marjan Mining Company LLC or the head of its executive board. The person, who has submitted the application for the state registration of Marjan Mining Company LLC, has been authorized by the president of another entity Marjan-Caldera Mining LLC Vasilius Maviridis, who is not the founder of Marjan Mining Company LLC or the head of the executive board of it. The text of the Power of Attorney of Mavridis is at least simple and clear that the president of Marjan Caldera mining LLC Vasilius Mavridis authorizes Azat Vartanyan (citation) "on behalf of the company to act in the State Registry of Legal Entities of the Republic of Armenia during the registration of the property right for the shares of Marjan mining Company LLC and when receiving the share ownership certificate, to sign all necessary documents associated with the operations mentioned in the power of attorney, to make payments, as well as to submit applications, receive documents and carry out other legal operations within the framework of this power of attorney."

The Case contains the Power of Attorney of Mavridis and based on this power of attorney Azat Vartanyan's application to the state registry of legal entities of the RA Justice Ministry for registration of the rights of ownership of the shares of Marjan Mining Company LLC. The Decision also states that (citation) "In fact, the person not having such power have submitted the application for state registration of the ownership right of Marjan Mining Company LLC" (Decision, page 20, paragraph 9).

Either the authors of the Complaint are not aware of the basic principles of the clause 1 of article 21 of the Republic of Armenia law on state registration of legal entities, which defines the authority of state registration, or they pretend that as they see, actually the article is written as follows: "For the purpose of state registration the following documents shall be submitted by legal entities shall submit (a) an application of a person authorized by the

founder(s) or the head or founder(s) of the executive board of the legal entity. In no country of the world it is possible to transfer the ownership from one entity to another without the presence of the application of the person authorized by the application of the owner or power of attorney of the owner. However, the authors of the Complaint not only are trying in vain to persuade that in the issue of application of this basic principle of the law the Republic of Armenia must be an exception, also by unfounded and violation of the clear condition of the law they are trying to persuade as if the Republic of Armenia law allows such exception. If such an exception was allowed by the Republic of Armenia law, then any entity having an ownership in the Republic of Armenia, could not be sure of the protection of his rights for ownership, since in that case the property could possibly transferred by the power of attorney issued by another entity, without the participation of the owner. In addition, the meaning of the clause 6 of article 321 of the RA Civil Code is that if a power of attorney is sent by postal service, then it shall be confirmed by the employee of the postal service of the state where it is sent from. Otherwise, according to the Complaint, it is not important whether the power of attorney has been sent from the country where it should be sent from, it is important that it has been received from some place, which is at least unacceptable and contradicts the requirements of the article 321 of the RA Civil Code.

In one case it seems that the authors of the Complaint are not aware of the simple and clear regulations of the Hague Convention on abolishing the requirement of legalization for foreign public documents (hereinafter referred to as the Hague Convention), which the USA and Republic of Armenia have acceded to (Republic of Armenia acceded to the Convention in 14.08.1994), as well as of the simple provisions of the Order of Justice Minister of the Republic of Armenia №501 dated 10.08.2000 in accordance with the Hague Convention, whereas, in another case the authors of the Complaint mention the condition in the Complaint that the public documents defined by the Hague Convention and the Order can be considered as lawful and acceptable in the territory of the Republic of Armenia only if they are certified by apostile (Marjan Caldera Mining LLC appeal case, page 7, paragraph 4).

Thus, in accordance with the paragraph 1 of the procedure established by the Order (citation) “In accordance with the Hague Convention of 5 October 1961 on abolishing the requirement of legalization for foreign public documents, instead of diplomatic or consular legalisation of the foreign public documents, an apostile is put by authorized bodies on the documents given by the signatory countries of the convention, by which it legalizes the authenticity of the title of the signatory person, his signature, as well as of the seal or the stamp put on this document” .

The Complaint admits that Marjan Caldera Mining LLC is a company incorporated in the US State of Delaware (Marjan Caldera Mining LLC appeal case, page 2, paragraph 7; Marjan Mining Company LLC appeal case, page 1, paragraph 2). At the same time, Marjan Caldera Mining LLC is not incorporated in the Republic of Armenia, and so it has not been recognized by the Republic of Armenia in accordance with the clause 1 of article 3 of the Republic of Armenia law on state registration of legal entities, in accordance with the clause 3 of article 56 of the Republic of Armenia Civil Code and in accordance with the clause 4 of the article 52 of the Republic of Armenia Civil Code it has not a legal capacity in the Republic of Armenia. Marjan Caldera Mining LLC also does not have a seal defined by the Republic of Armenia Government Decree №1445-N dated 04.12.2008. In the case of absence

of the above details any document provided by Marjan Caldera Mining LLC is subject to legalization by the US authorized body in accordance with the regulations of the Hague Convention and the Order. Whereas, the power of attorney of Mavridis has not also complied with the requirements of the Hague Convention predominating over the Republic of Armenia legislation, as well as the requirements of the Order. No administrative body of the Republic of Armenia has been testified either about the legal capacity of Marjan Caldera Mining LLC, or the authenticity of the signature of Vasilius Mavridis, or the seal on the Power of Attorney of Mavridis or the competence of Vasilius Mavridis to sign to the Power of Attorney of Mavridis. So the Power of Attorney of Mavridis is invalid and unacceptable for making any registration. In spite of the apparently groundless statements in the Complaint this violation cannot be considered as formal, since it is clearly defined by the obligation of the Republic of Armenia assumed internationally by the Hague Convention.

The Complaint insists unreasonably as if the Armenian Branch of the Global gold Mining LLC was not entitled to apply to the Court. This unprecedented unlawful and false statement has been presented not only to the Court and the Court of Appeals, also has been used by mass media for the purpose to exert pressure on the Plaintiff and the Court.

The authors of the Complaint state groundlessly as if the Claim of Global gold Mining LLC has been taken as proceedings by violations of the clause 3 of article 61, clause 3 of article 323 of the RA Civil Code; clause 1 of article 3; article 12; subparagraphs 1 and 2 of the clause 1 of article 78 of the RA Administrative Procedure Code (Marjan Mining Company LLC appeal case, page 16, paragraph 2), as well as by violations of the clause 1 of article 79 of the RA Administrative Procedure Code (Marjan Caldera Mining LLC appeal case, page 6, paragraph 2). The statement in the Complaint concerning this issue is that as if the Armenian Branch of Global Gold Mining LLC is not a legal entity, and so taking into consideration the provision of the Administrative Procedure Code concerning that physical and legal entities can apply to the Court, the Armenian Branch of Global Gold Mining LLC did not have the right to apply to the Court.

This statement is fictitious and unlawful, and it just serves the main and clear purpose adopted by the Complainants during this Case, which is: taking into consideration that the violations of the registration disputed by the Case are apparent, numerous, undisputable and irrefutable, then it is necessary at any price (including unlawful and groundless statements) to obstruct the justice over this Case.

However, this statement contradicts the simple and clear regulations of the Republic of Armenia legislation, which regulate this issue.

Clause 2 of article 61 of the Republic of Armenia Civil Code defines as follows: “A branch is a separate subdivision of a legal person located outside the place of location of the legal person and conducting all its functions or part of them, including the function of representation”. The clause 1 of the same article, which defines the representative offices, defines as follows: “A representative office is a separate subdivision of a legal person located outside the place where the legal person is located which represents the interests of the legal person and conducts their protection”. In accordance with the clause 3 of the same article “Representative offices and branches are not legal persons, and they act on the basis of statutes approved by the legal person” The clear definition of this simple provision is that the

branches (i) are a part of legal entity, and (ii) conduct all the functions of the legal entity, including the legal entity's interests and their protection".

First of all, in accordance with this provision of the law, the branches' not being a legal entity is conditioned with the fact that they are already a separate subdivision of a separate legal entity, and so they cannot have a separate status of a separate legal entity, since the legal capacity proceeding from the status of legal entity already applies to them as a subdivision of the legal entity, otherwise believing the clear statement of the authors of the Complaint, the law should grant a status of a separate legal entity to the branches as a separate subdivision of the legal entity, thus mechanically multiplying the legal capacity of the legal entities having a branch compared with the legal capacity of the legal entities not having a branch. Besides, opposing to the clear provision of the law, the authors of the Complaint are clearly trying to present the branches as a separate unit, which doe s not make a part of the legal entity, then they persuade as if they are not legal entities. This supposition directly contradicts the clear provision of the law, in accordance with which the branches being a separate subdivision of the legal entity perform all the functions of the legal entity, which also includes the presentation of the interests of the legal entities and their protection. Moreover, the authors of the Complaint actually persuade as if the right reserved to the branches for presentation of the interests of the legal entities and their protection is limited, since, according to the Complaint, the branches cannot protect the interests of the legal entities in the Court, which is an absurd statement and directly contradicts the competence reserved to the branches under these regulations. In fact, the authors of the Complaint unreasonably state as if article 61 of the RA Civil Code defines that the branches conduct all the functions of legal entities, represent the interests of legal entities and their protection, except for the right to apply to the court on behalf of the legal entity, which directly contradicts the definition of the clear clause of the law. The authors of the Complaint also persuade groundlessly as if the law allows physical entities (for example, the authors of the Complaint) to apply to the court on behalf of legal entities, but as if the same law prohibits the branches of legal entities to apply to the court on behalf of legal entities. This persuasion is at least groundless and it is only an unsuccessful attempt for partial application of the law, since the clause of the law clearly defines that the branches are entitled to represent and protect the interests of the legal entities without any restriction, including in the Court.

Secondly, the paragraph 2 of section 2 of article 1 of the Republic of Armenia Civil Code defines: "The participants in relations regulated by civil legislation and other legal acts are physical persons (hereinafter—citizens) and legal persons and also the Republic of Armenia and communes". In accordance to this clear clause of the Law, the participants in civil relations of the Republic of Armenia, where all the statuses being a subject of civil relations in the Republic of Armenia, are physical entities, legal entities and the Republic of Armenia. Apart from those mentioned there cannot exist entities with another status in the Republic of Armenia. In fact, apart from the entities defined by the law the authors of the Complaint have detected some neutral entity, which, according to the authors of the Complaint, the law has not mentioned about for unknown reason, then they have given it a status not being as a legal entity, and attached this fictitious label to the Armenian branch of Global Gold Mining LLC. Such a statement is fictitious and is out the clear frame defined by the law. Based on the list of all the possible participants of the civil relations stipulated in the

Civil Code, the articles 3, 12 of the Administrative Procedure Code and all the remaining articles defining the participants of the trials mention physical and legal entities, since the law cannot define a status artificially detected in the Complaint. According to clause 3 of article 61 of the RA Civil Code, the branches act on the basis of the charters approved by the legal entity. However, the authors of the Complaint don't mention the paragraph 3.6.1. of the charter of the Armenian Branch of Global gold Mining LLC, which, by the way, has been approved by the Global Gold Mining LLC and registered by the state registry of legal entities of RA Ministry of Justice, has also entitled the branch to apply to the Court on its behalf, which has been implemented. So, the relevant statements of the Complaint are just groundless and unlawful.

It should be noted that the Complaint has also included the clause 7 of article 19 of the Administrative Procedure Code, under which the Global Gold Mining LLC reserves the right to Armenian Branch to act in the Court on behalf of Global Gold Mining LLC, but including this provision, the authors of the Complaint have not touched upon it. According to that clause, "In the Administrative Court the cases of legal entities are conducted by the persons authorized to represent the legal entity under the law and other standard acts or under the charter of the legal entity". Specifically, the clause 2 of article 61 of the Civil Code defines the right of the branch to represent and protect the interests of the legal entity in the Court. The clause 3.6.1 of the Armenian Branch of Global Gold Mining LLC also clearly mentions this right of the branch. So, apparently the Complaint contradicts itself referring to the above provision.

In accordance with article 10 of the Code, "In the cases stipulated by sections5-9 of this article the persons conducting the cases in the administrative court are considered representatives ex officio". In their turn legal representatives and ex officio representatives can authorize one or several representatives to conduct of the cases in the court. It means that the branches acting on behalf of the legal entity under the clause 7 of article 19 of the Code are considered ex officio representatives of the legal entity.

Using the above clear definitions of the Law the Armenian Branch of Global Gold Mining LLC has acted many times in the courts of the Republic of Armenia on behalf of Global Gold Mining LLC, including as a respondent in the same Court also. Based on the above clauses of the law, not only the Court, also the administrative bodies of the Republic of Armenia have acknowledged the competence of the Armenian Branch of Global gold Mining LLC to act in the court on behalf of Global Gold Mining LLC many times and unquestionably. So, such groundless and fictitious persuasion by the authors of the Complaint contradicts the clear principles defined by the law, and the mode of actions applying laws. Apparently the authors of the Complaint don't have any argument based on the circumstances of the Case, and so they are trying unsuccessfully to present groundless, nonexistent, unlawful statements contradicting the mode of actions under laws.

Thirdly, the powers of attorney in accordance with the law and the letter sent to the court by Global Gold Mining LLC also unambiguously confirm the authority of the branch and involved physical persons to apply to the Court on behalf of Global Gold Mining LLC. The Armenian Branch of Global Gold Mining LLC has submitted the above documents to the Court under its rights clearly reserved by the law to apply to the Court on behalf of legal entities. However and in spite of the statements of the authors of the Complaint, the dates of

the above documents' submission to the Court do not deprive the branch of the reserved rights to apply to the Court on behalf of legal entities, since these rights are defined clearly by law. Moreover, the Republic of Armenia law defines that the circumstance of the representative's acting without any authority or violating the authorities is confirmed only by just further disapproval of the authority by the representee. The section 1 of article 319 of the RA Civil Code defines “In case of the absence of power to act in the name of another person or in case of exceeding such power a transaction shall be considered concluded in the name and in the interest of the person who concluded it unless the other person (the represented person) later directly ratifies this transaction”. In accordance with the section 2 of the same article, “The later ratification of a transaction by the represented person shall create, change, or terminate for it the civil law rights and duties under the given transaction from the time of its making”. In accordance with the article 289 of the Civil Code, “Transactions are actions of citizens and legal persons directed at the establishment, change, or termination of civil law rights and duties”. It means, if even not taking into consideration the clear clauses of the law as if the branch has not had authority to apply to the Court on behalf of legal entities and so this authority should be given by the legal entity by his consent, then even in this case in accordance with the additional documents submitted to the Court by legal entities, the branch, as well as involved physical entities have had and have such authority in accordance with the clause of the law. So, the statements of the authors of the Complaint as if taking the Case as proceedings the Court has violated some right of some party presenting the Claim, are groundless and artificial. Also groundless and artificial are the statements in the Complaint as if the fact of accepting the Claim as proceedings before the date of the additional documents submitted to the Court, has violated the rights of the third parties and the Respondent defined by the Constitution and legislation, and at the same time as if it resulted in the violation of the judicial rights of the third party, besides, as it has created bases to demand compensation of damages from the Republic of Armenia (Marjan Mining Company LLC appeal case, page 16, paragraph 4). The clear clauses of the Republic of Armenia law define that the branch has acted and should act in the Court on behalf of the legal entity, and submitting additional documents to the Court in this respect has not only disapproved the competences reserved to the branch under the law, but approved them. The existence of additional documents submitted to the Court or any provision contained herein has not affected any evidence available in the Case and did not relate to the rights of any person involved in this Case. The Complaint does not only substantiate these statements, but also the statements are themselves groundless with respect clear clauses of the law.

Fourthly, it is surprising that along with illegally and at any price disputing the power of attorney of the Plaintiff, which ensures undisputed representation in the Court based on the clear and understandable regulations of the law, the authors of the Complaint do not mention their statements concerning the Plaintiff’s powers of attorney with regard to thepowers of attorney submitted to the Court by themselves. The fact is that, for example, The representative of Marjan Caldera Mining LLC acting in the Court has been given a power of attorney with the seal of Marjan Mining Company LL. The same was done in the part of Caldera Resources Inc. Even under the conditions, when the authorities of any official of the organizations not incorporated in the Republic of Armenia giving a power of attorney, have not been approved, the Plaintiff has never cast doubt on the competence of any entity or its

any representative appearing as a third party over the Case to act in the Court, taking as a basis the above clear and simple regulations of the law. The Court has acted in the same manner, giving an opportunity to representatives of third parties over the Case to present all their arguments and statements. The Court of Appeals have acted in the same manner despite the clear circumstance that for example, in the appeal case the representative of the company Caldera Resources Inc. has mentioned the address of his truster incorrectly (actually it differs from the address indicated on the official web site of the company). So the third parties over the Case have approved the manifestation of equal attitude to the parties of the trial by the Court and by force of that consent, any and all statements of the authors of the Complaint as if the representatives of the Plaintiff were not entitled to apply to the Court, are unacceptable and void, and only pursue an obvious aim to obstruct the justice over the Case, thus collecting revenues by using illegally the property of the Plaintiff to cause damages to the Plaintiff.

Unlike Marjan Caldera Mining LLC or Caldera Resources Inc., Global gold Mining LLC is a legal entity registered in the Republic of Armenia, whose legal capacity has been recognized by the force of all the clauses of the Republic of Armenia Law on state registration of legal entities; it has a seal defined by the RA law and other details, and so by the force of the legal capacity recognized by the Republic of Armenia, can use its certified details without the certification in accordance with the Hague Convention, and it has the right to act in the courts of Republic of Armenia by the force of the mentioned details, which is done for many years.

The Complaint contains a statement saying as if the “investor”, which appears as a third party over this Case, has organized its activities taking as a basis the administrative act passed by the administrative body of the Republic of Armenia, as if there had been bases to trust it. Additionally, the Complaint states as if the investments were made because of trusting the administrative body, which will supposedly make the third parties over the Case apply to foreign arbitrations with a claim of compensation of damages, and as if the investments were made exceptionally taking into consideration the fact of state registration of the transaction on alienation of the shares of the Company (Marjan mining Company LLC appeal case, page 7, paragraphs 4, 5, 6).

These statements are groundless as a whole, contradict the facts available in the Case, and based on the form of presentation they are assessed as a failed attempt to exert a pressure on the Court for the purposes of pursuing illegal decision.

First of all the Plaintiff has notified many times the third party over the Case that the actions of registration of the shares of Marjan Mining Company LLC in the name of Marjan Caldera mining LLC are illegal, the registration is void, and any action conducted by Marjan Mining Company LLC and Marjan Caldera Mining LLC on the basis of the above administrative act – actions carried out by the company with the own risk (relevant correspondence is available in the materials of the Case). Additionally, the internal correspondence of Marjan Caldera Mining LLC, which is also available in the Case, obviously shows that the third parties appearing over the Case, have not had any bases to trust the administrative act to register the shares of Marjan Mining Company LLC in the name of Marjan Caldera Mining LLC. The Case contains the letter of the lawyer of Marjan Caldera Mining LLC Arthur Margaryan, dated July 7th 2010, to the legal adviser and vice president of the same company John Mavridis, where in response to the statement of John

Mavridis that the agreement of the transfer of the shares is already included in the Agreement (in the letter – in JV Agreement) he asked to literally answer the following: (citation) “I don’t think the JV Agreement will be considered as satisfactory evidence for the transfer of the shares, since it has been mostly designed for forming a joint venture. There must be a separate agreement between the parties of the transaction, and the agreement must clearly stipulate such mandatory conditions as the price and terms of the transfer. This is one of ordinary requirements of government bodies”. The next day of this letter, on July 8th 2010, John Mavridis sent to Arthur Margaryan a draft agreement on transfer of the shares (the letter and the draft agreement are available in the materials of the Case) asking him to work on correction of the clauses of the agreement, including also with the representatives of the Plaintiff. Furthermore, on August 19th 2010, i.e. eight days after registration of the shares of Marjan Mining Company LLC in the name of Marjan Caldera Mining, John Mavridis sent a letter to the manager of Global Gold Mining LLC Van Krikoryan, where he asked Global Gold Mining LLC to sign a protocol backdate (12.08.2010) on approving the transaction of transfer of the shares of Marjan Mining Company LLC to Marjan Caldera Mining LLC (the letter is available in the Case along with the minutes (protocols)). In response to the letter on concerning the Global Gold Mining LLC's refusing to sign to the minutes, the same day, in August 19th 2010, i.e. eight days after transferring 100% interest in the shares of Marjan Mining Company LLC to Marjan Caldera Mining LLC and receiving an appropriate certificate, in his letter to Global Gold Mining LLC John Mavridis wrote as follows: (citation) “The transfer of the shares has not been registered so far and this decision is aimed to complete it, as well as to appoint three representative of Caldera for carrying out the activities of the Armenian subsidiary”. In the same letter John Mavridis wrote: (citation) “Caldera has made payments to you, given a certificate of the shares and expects that shares to be registered and the team of the managers commence to launch the Armenian subsidiary”. Also: (citation) “The transfer and the registration must be completed”.

The Case contains evidence on that the certificate of registration of 100% interest in the shares of Marjan Mining Company LLC in the name of Marjan Caldera Mining LLC has been sent to Vasilius Mavridis (brother of John Mavridis) by e-mail the day of giving the certificate, on August 11th 2010, by the representative of the same company Azat Vartanyan. Apart from obvious fact of concealing the fact of this illegal registration from the Plaintiff, the materials available in the Case confirm that before the registration and even after making this illegal registration the officials of Marjan Caldera Mining LLC have not trusted the legality of the registration. Before the registration, the lawyer of that company Arthur Margaryan has clearly notified that in accordance with the requirements of the Republic of Armenia laws, the Agreement cannot be considered as “an agreement of transfer of the shares”, after which the legal adviser and vice president of Marjan Caldera Mining LLC John Mavridis has commissioned him to work over the share alienation draft contract. Eight days after the registration the officials of the same company tried to get consent from the Plaintiff concerning the transfer of the shares, moreover even backdate. In fact the materials of the third party over the Case has been aware beforehand of the fact of the disputed registration's being illegal, and he tried obviously to obtain additional documents, at least to give some basis to the administrative act. It is impossible to persuade that Marjan Caldera Mining LLC, which acts as a third party over the Case, “had some bases to trust the administrative act”,

when the materials available in the Case obviously indicate that this party did not only have such bases at all, but also by concealing the administrative act from the Plaintiff he tried to obtain additional documents to report at least any legal basis to the administrative act. In fact “the investments” were made not trusting the lawfulness of the administrative act, but by own risk. Moreover, these “investments” were actually continued and their most part has been spent by the Plaintiff after applying to the Court during the administrative trial, and the considerable part were spent to pay salaries to the top officials of that company. All the funds were raised from the stock exchanges as a result of the selling of the shares of those companies. So it is not surprising that the officials of that company were just interested in receiving the illegal administrative act, by using this act to raise money from the stock exchanges and also to use the most part of these funds to pay their own salaries. By the way, the officials of that company not only have concealed from the exchanges and the public in Canada and the USA the fact about the trial underway in the administrative court, but also after the publication of the Court decision they have publicly appeared with statements that this decision does not have legal force (all the public statements are included and available in the official website of Caldera Resources Inc.).

Ata the same time and in fact the third parties over the Case not only neglected the simple considerations regarding the administrative act's being illegal and also the inevitability of considering that illegal act as void by the Court, but continued carrying out expenses considering them as an “investment”. So the Republic of Armenia or its administrative bodies cannot bear a responsibility for compensation for the damage as a result of adventure of a person, especially when the facts prove that the actions subject to “compensation” were conducted under conditions of the third parties’ being aware of the fact of the administrative act’s being illegal and neglecting all the legal consequences arising from it. Such apparent groundless and resounding statements contained in the materials of the Case characterize the persons who not only try obviously to lay all their own responsibility on the others, but also use them with an apparent intention to exert pressure on the Court and the Republic of Armenia,Besides, the statements contained in the Complaint contradict the requirements of the Republic of Armenia law, which regulates this problem. Thus, subparagraph (c) of paragraph 4 of article 63 of the Republic of Armenia Law on the fundamentals of administrative action and administrative proceedings defines as follows: “The addressee of an administrative act shall not be entitled to have legitimate expectations to the existence of the administrative act, if he or she: (c) knew in advance about the unlawful administrative act or, on the basis of information available to him or her, should have known about it”. The materials contained in the Case apparently suggest that the third parties over the Case knew about the administrative act’s being unlawful before the adopting of the administrative act by the administrative body, and they also tried to undertake actions against the administrative act’s not being lawful after receiving the administrative act. So, in accordance with this clear condition of the law, the third parties over the Case (i) were not entitled and are not entitled trust the existence of the administrative act, and so they are not entitled to demand compensation for any expenses carried out in the circumstance of not trusting the existence of the administrative act.

The statement contained in the Complaint, as if the representative of the Third Party has not been allowed to review the materials of the case, is obviously groundless and fake

(Marjan Mining Company appeal case, page 16, paragraph 8). In reality, during the sitting on July 22nd 2011, Marjan mining Company LLC submitted a solicitation to the Court (at 15:30, the time of starting of the sitting) stating that it has abolished the power of attorney of its representative Vardan Safaryan. The Court postponed the sitting for give an opportunity to the party to appoint a new representative, appointing the next sitting on July 27th 2011. Already a new representative Tigran Khurshudyan attended the court that day and declared that he was appointed the representative by Marjan Mining Company LLC the same day, on July 27th 2011, and trying to postpone already delayed trial he asked time to review the materials of the case. In fact, for five days running Marjan Mining Compamny LLC has not appointed a representative, and it has created and used the whole situation for abusing its judicial rights and for the purposes of continuously delaying the trial. By the way, the same Vardan Safaryan has continued representing Marjan Caldera Mining LLC in the Court, which as a result of the illegal registration supervises the shares of Marjan Mining Company LLC, and he continues acting as the representative of that company. So, the Court has only recorded a fact of abuse of the rights, and did not deprive any representative or a party of any rights. The bases are available in the materials of the Case.

The other statements contained in the Complaint, including those as if the Plaintiff is not an interested party; comparison of the functions of State Registry of Legal Entities of RA Ministry of Justice with the functions of the cadastre, “projecting” the circumstances of the Case on other situations, etc. contradict the clear provisions of the law suggested in this response, they are artificial as a whole and qualified as keen-wittedness of free time, unacceptable in respect to the facts of the Case, and considered as void.

Taking into consideration the above stated, they find that in all the submitted appeal cases the conditions defined by the Administrative Procedure Code to reverse the Court decision are not grounded and could not be grounded, they do not satisfy the requirements for reversing defined by the Code, and so all the appeal cases are subject to be rejected as a whole, and the decision will be left in legal force.

3. The facts of considerable importance for investigations of the Complaints

1. Pursuant to the August 18, 2003 agreement of the activities of Limited Liability Company, the participant has incorporated a company named Global gold Mining LLC in accordance with the State of Delaware Law on limited liability company, under the article 1.4 of which the managers shall be able any time to establish other offices of activities in Delaware or abroad. The managers can establish the offices of the company and authorize the activities of the company abroad the United States (volume 1, page 178-179) .
2. The Armenian Branch of Global Gold Mining LLC was registered in the State Registry of Legal Entities of the RA Ministry of Justice in 27.01.2004 – certificate of registration of separate subdivision of legal entity №01B001358, registration number 273,060,03699 (volume 1, page 14).

3. According to the above certificate Global Gold Mining LLC is the founder of the Armenian branch of Global Gold Mining LLC
4. Pursuant to paragraph 4.1 of the charter of Marjan Mining Company LLC, Global Gold Mining Company LLC is the sole shareholder of the company (volume 1, page 20).
5. In 24.03.2010 Global gold Mining LLC and Caldera Resources Inc. entered into joint venture agreement, paragraph 1.1.1. hereof defines: establishing Marjan-Caldera Mining LLC, a limited liability company (the "LLC") under the laws of the State of Delaware, USA, which will own all the shares of Marjan RA with an operating agreement (volume 1, page 32).
6. Nork-Marash Regional Division of the Agency for State Registry of RA Ministry of Justice has made a change in the register of the shareholders of the company and in 11.08.2010 registered Marjan-Caldera Mining LLC as the sole shareholder of Marjan mining Company LLC and issued the share ownership certificate №038281 (volume 1, page 16).
7. In 26.08.2010 Nork-Marash Regional Division of the Agency for State Registry of RA Ministry of Justice has made the state registration of the changes of the charter of Marjan Mining Company LLC, according to which 100% interest in the shares of the company belongs to Marjan-Caldera Mining LLC, and Azat Vartanyan is the director of the company (volume 2, pages 132-133).

4. The motivations and conclusions of the Court of Appeals concerning the appeal case submitted by the representative of Caldera Resources Inc. Tigran Khurshudyan

4.1. The Complainant finds that Caldera Resources Inc. should be involved in the trial as a third party, and the court has not made a subject of consideration the company's solicitation concerning the involvement as a third party, hereby violated the regulations of article 16 of the RA Administrative Procedure Code.

Regarding the above stated the Court of Appeal considers it necessary to point out as follows:

In accordance with section 1 of article 16 of the RA Administrative Procedure Code, third parties are the physical or legal entities, whose rights are concerned or may be concerned by the **judicial act to be adopted** as the result of the investigation of the case.

The claim submitted to the administrative court has clearly concerned the lawfulness of the registration of the sole shareholder of Marjan Mining Company LLC in the register of the company in 11.08.2010 by the Nork-Marash Regional Division of the Agency for State Registry of RA Ministry of Justice, and the state registration of the changes of the charter of Marjan Mining Company in 26.08.2010, what the Administrative Court has clearly and competently mentioned as an issue to be cleared up important for solving the dispute. The Administrative Court has also pointed out whether there is a legal basis for annulling the mentioned registration.

The Court of Appeals argues that the judicial act to be adopted regarding the disputed registration, in any case of settlement of the dispute could not concern the interests of Caldera Resources Inc, moreover, inevitably and directly apply to that company, since the mentioned company does not have interest in the shares of Marjan Mining Company. And only being a party to the joint venture agreement signed between Global gold Mining LLC and Caldera Resources Inc is not sufficient to argue the fact of Caldera Resource Inc. company rights and interests' being concerned over the judicial act to be adopted, since in this matter, the rights and obligations for Caldera Resources Inc. are defined under the agreement, and the subject of dispute here is to clear up the conformity of the state registration to natural laws rather than the agreement.

It means that in the opinion of the Court of Appeals, the consistency of the state registration with the natural laws could not have any relation to the interests of the company Caldera Resources Inc, so its involvement in the trial as a third party does not proceed from the regulations of article 16 of the RA Administrative Procedure Code.

The Administrative Court considers it necessary also to point out that in accordance with the section 5 of article 16 of the RA Administrative Procedure Code, the court passes a **motivated** decision on the **involvement** of third parties in the trial, so, in the opinion of the Administrative Court, the actions of the Administrative Court in connection with the decision on involving Caldera Resources Inc. as the third party, did not have and could not have any effect to the result of the case.

4.2 Based on all above stated the Court of Appeals finds that there is not a fact that the Administrative Court has passed a decision regarding the rights and obligations of the entity, i.e. Caldera Resources Inc. not becoming a participant in the case, so the claim of the claimant to reverse the judgement and send the case for new investigation, is groundless and subject to be rejected.

Under the conditions of the above legal position the Court of Appeals does not consider necessary to return to consideration of the remaining circumstances mentioned in the complaint submitted by the representative of Caldera Resources Inc. Tigran Khurshudyan.

5. The motivations and conclusions of the Court of Appeals concerning the appeal case submitted by the representative of Caldera Resources Inc. Tigran Khurshudyan

5.1. The Complainant finds that the joint venture agreement signed between Global Gold Mining LLC and Caldera Resources Inc. in 24.03.2010 has created rights and obligations for the signatory parties; Marjan-Caldera Mining LLC was formed, which as the result of the change made in the register of the shareholders of the company in 11.08.2010 by the respondent over this case, has become the sole shareholder of Marjan Mining Company LLC, and became the 100% shareholder after the change of the charter of Marjan Mining Company LLC. He notes that an application was submitted to the Administrative Court in 17.05.2011 to involve as third party, and a solicitation was made during the judicial

sitting in 27.07.2011 with the same claim to involve Caldera Resources Inc. in the trial as a third party, but the court has not taken it into consideration and thus violated the regulations of article 16 of the RA Administrative Procedure Code.

By the judicial position expressed in paragraph 4.1 of this decision the Court of Appeals considers the mentioned argument of the complainant as groundless.

5.2. The Complainant notes that during the judicial sitting in 27.07.2011 the Administrative Court did not give the Marjan Mining Company LLC new representative an opportunity to review the materials of the case, hereby, in the complainant's opinion, the regulations of the sections 1 and 7 of article 19 of the RA Administrative Procedure Code have been violated.

The Court of Appeals considers the mentioned statement as groundless with the following motivation.

The Court of Appeals finds that the clause concerning the rights given to the party to conduct judicial actions by one or several representatives, should conform to the principle defined by article 5 of the RA Administrative Procedure Code, pursuant to which the Administrative Court shall ensure that the parties have equal opportunities during the whole process of investigation of the case, including to give each party an opportunity to present its position concerning the case being investigated.

By interpretation of the mentioned clause the Court of Appeals find that the trial party must himself create a situation for his any representative review the whole volume of the materials of the case in time, and attending the trial to be able represent the rights of the party in full and properly.

Investigating the materials of the case, taking into consideration the fact that the statement of claim was submitted to the court as far back as 22.09.2010, Marjan Mining Company LLC was involved as the third party as of 25.10.2010, and the hearing of the case started in 23.05.2011, the Court of Appeals finds that in accordance with the principle stipulated by article 5 of the RA Administrative Procedure Code, the Court of Appeals has given sufficient opportunity to fulfil his rights and represent his interests within the possibilities given by the law.

Besides, the Court of Appeals considers it necessary to point out that this solicitation did not proceed from the clauses of article 98 of the RA Administrative Procedure Code and article 119 of the RA Civil Procedure Code.

5.3. The Complainant enumerates 9 documents, which, in his opinion, the court has not examined at all and did not evaluate and find that the article 24 of the RA Administrative Procedure Code has been violated hereby.

The Court of Appeals considers this statement as groundless with the following motivation.

The effective fulfilment of the applicability of the regulations defined by article 24 of the RA Administrative Procedure Code, in the opinion of the Court of Appeals, can take place by applying the regulations of paragraph 5 of the section 3 of article 86 of the same code, under which in the preliminary sitting the court discusses with the parties the scope of the facts to be proved, and in conformity to the rules of distribution of the burden of proving, distributes the proving burden between the parties. To the considered facts the Court adds facts, which, in its opinion, are **significant for solving the dispute**. Determining at the

preparation stage the scope of the facts to be proved does not limit the right of the court to request proving of new facts at each phase of the trial.

As a question subject to be cleared up, important for solving the dispute, the Administrative Court has mentioned as follows:

- Is the registration over this case legitimate?
- Is there a basis for annulling the mentioned registration?

The Court of Appeals finds that the evidences necessary for clarification of the above inquires significant for settlement of the dispute, have been examined in full and as a whole by the Administrative Court and evaluated and were put in the basis of the relevant conclusions.

5.4. The Complainant finds that the Armenian Branch of Global gold Mining LLC cannot act as a plaintiff.

In this connection the Court of Appeals considers it necessary to point out as follows:

"In accordance with paragraphs 3.1 and 3.1.6 of the charter of the Armenian representative office of Global Gold Mining LLC, the representative office is entitled to be engaged in any activities of the company, including without limitation... to represent the company to the courts and... other dispute solving agencies of the Republic of Armenia; to conduct cases aimed at passing and acknowledgement, fulfilment and acknowledgment of judicial decisions..."

By the power of attorney issued in 01.09.2010 for the term of one year, the Armenian Branch has authorized H. Ghukasyan to represent the interests of the organization in all the instances of the Republic of Armenia, including signing of the statement of claim. So, the Court of Appeals considers the Administrative Court's accepting the statement of claim submitted by the Armenian Branch of the company with the signature of H. Ghukasyan as conforming to natural laws, in addition, later in 11.12.2010 by powers of attorney and a letter addressed to the judge, the limited liability company Global Gold Mining has certified the presence of the mentioned powers.

Taking as a basis the regulations of article 63 of the RA Civil Code, as well as the provisions of paragraphs 3.1 and 3.1.6 of the charter of the Armenian Branch of Global gold Mining LLC, the Court of Appeals considers as well-founded the following conclusion of the Administrative Court.

"Global Gold Mining LLC is an interested party over this case. On behalf of the company the Armenian Branch has acted in the administrative court. As evidence of the Armenian Branch's having such powers there is the power of attorney issued in 11.12.2010 in the name of the regional director of the Armenian branch by the manager of Global Gold Mining LLC for representing the interests of the company before the RA courts, as well as the letter to the judge is available.

Therefore, the Administrative Court ascertains that "the Armenian Branch of Global Gold Mining LLC is fully competent to represent over this case the interests of the company in the administrative court, and in this respect the Armenian Branch of Global gold Mining LLC is a plaintiff over this case".

On the above bases the Court of Appeals argues that the submitted claim and all further judicial actions by the representative clearly conform to the expression of will expressed by Global gold mining LLC in this respect.

5.5. On the basis of all above stated the Court of Appeals finds that the complaint submitted by Marjan-Caldera Mining LLC representative Vardan Safaryan is groundless and subject to be rejected.

6. The motivations and conclusions of the Court of Appeals concerning the appeal case submitted by the representative of Caldera Resources Inc. Tigran Khurshudyan

6.1. As a violation of the rules of substantive law the complainant has pointed out that the court has misinterpreted the section 2 of article 12 and section 2 of article 16 of the RA Law on state registration of legal entities, and came to a conclusion that the state registering body does not have the right and obligation to interpret the documents under the foreign law contained in the documents.

The Court of Appeals considers this conclusion as groundless with the following motivation:

"In accordance with the section 2 of article 12 of the RA Law on state registration of legal entities, the regional units of the State Register shall verify **the compliance of the submitted documents with the requirements of the laws.**

In accordance with the section 2 of article 1277 of the RA Civil Code, The origin and termination of the right of ownership and other property rights to property that is the subject of a transaction shall be determined by the law of the state applicable to the given transaction **unless otherwise established by agreement of the parties.**

In accordance with the section 1 of article 1281 of the same code, the form of a transaction shall be determined by the law of the state where it is made.

Pursuant to chapter 18 ("Governing Law") of the Joint Venture Agreement, This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, **without regard to conflict of law principles.**

So, the Court of Appeals considers groundless the persuasion of the complainant concerning that from the application of the sections 1, 2 and 5 of the article 1284 of the RA Civil Code it follows that if the right arising from the agreement is subject to registration in the Republic of Armenia, therefore the RA legislation applies to that part of the agreement.

Taking into consideration all above stated the Court of Appeals considers well-grounded the judicial position of the Administrative Court on that "...Therefore, the Registry's evaluating the agreement submitted for registration of the share ownership also as a mixed agreement envisaging share alienation, as well as a main or initial contract, should be interpreted by the State of New York laws".

Whereas, over this case, considering the Joint Venture Agreement signed in the USA in 24.03.2010 between Global Gold Mining LLC and Caldera Resources Inc. LLC as a basis for alienation of the shares of Marjan Mining Company LLC, Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice has applied the Republic of Armenia law, considering it as a mixed contract stipulated by the section 3 of article 437 of the RA Civil Code, finding that it contains clauses of share alienation contract as well.

In fact, Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice has fulfilled improperly its obligation of evaluation of the evidences of the administrative proceedings and did not ensure comprehensive, full and impartial consideration of the facts.

On the basis of the above stated the Court of Appeals considers groundless the statement of the complainant on that the court has not duly examined the agreement and some documents related to it, so, the statement concerning violation of the clauses of the article 24 of the RA Administrative Procedure Code, is groundless.

As regards the idea expressed by the complainant that the Administrative Court as applied only the first sentence of the section 1 of article 1281 of the RA Civil Code and did not apply the section 1 as a whole, the Court of Appeals finds that for the settlement of this dispute the application of the second sentence of the section 1 of the article 1282 of the RA Civil Code cannot be of any importance, since it concerns the invalidity of the transaction, and the subject of this dispute is not the invalidity of the joint agreement, but the disputing of the consistency of the actions of Nork-Marash Regional Division of the Agency for State Registry of Legal Entities of RA Ministry of Justice with natural laws.

The Court of Appeals considers it necessary to point out also that the complainant's drawing parallels between state registration of legal entities and state registration of the property rights, as well as functions of a number of bodies (HH Central Bank, RA Intellectual Property Agency), does not have any legal or legislative reasoning.

6.2. The complainant finds that the court has not applies the article 1282 of the RA Civil Code, it has misinterpreted the paragraph 1 of the section 6 of article 321 of the RA Civil Code, as well as it has not applied the articles 5, 6 and 7 of the RA Law on the fundamentals of administrative action and administrative proceedings."

The Court of Appeals considers such conclusion as groundless with the following motivation:

In accordance with article 1282 of the RA Civil Code, The form and time period of effectiveness of a power of attorney shall be determined by the law of the state where the power of attorney was issued. However, a power of attorney may not be recognized as invalid as the result of the nonobservance of form if the requirements of the law of the Republic of Armenia were observed.

The Court of Appeals again argues that the Administrative Court has made conclusions concerning the proper legalization of the power of attorney and, on this basis, the applicability by Nork-Marash Regional Division of the State Registry of Legal Entities of RA Ministry of Justice, rather than concerning the invalidity of the power of attorney, since no such a claim has been examined and could not be examined by the Administrative Court, taking into consideration the fact that it could not be the jurisdiction of the Administrative Court.

In accordance with the section 6 of article 321 of the RA Civil Code, a power of attorney sent by telegraph and also by other forms of communication, when the sending of **the document** is conducted by the **communications employee** shall be confirmed by the **agencies of communications**.

By the enforcement of the regulations of the section 1 of article 86 of the RA Law on it is apparent that the legislative power means the **same** communication agency and its employee, otherwise the wording of this rule would be other. So, the matter may concern only about the employee of the communication agency **delivering** the documents **only**, and the employee of the **receiving** communication agency cannot be so.

Therefore, taking into consideration the clauses of paragraph (i) of the section 2 of article 15, paragraph (a) of the section 1 of article 21, as well as the RA Government Decree

№1396 dated 14.08.2003, the Court of Appeals considers conforming to natural laws the conclusion of the Administrative Court saying that "...The application for making a state registration of the right of ownership of Marjan-Caldera Mining LLC for the shares of Marjan Mining Company LLC" has been submitted by the person not having such power".

The Court of Appeals also finds that the judicial position of the Court of Appeals concerning the consistency with natural laws the issue on acknowledgement of A. Vartanyan's powers, does not contradict in any manner the position of the court concerning the powers necessary for submission of the statement of claim (in this connection the Court of Appeals has expressed an opinion in paragraph 5.4 of this decision), so the statement of the complainant concerning the violation of the articles 5, 6, 7 of the RA Law on the fundamentals of administrative action and administrative proceedings.

6.3. In connection with the Complainant's statements concerning the plaintiff's not being an interested party, as well as violations of his rights, the Court of Appeal has expressed an opinion in the paragraphs 5.4 and 5.2, respectively, herein.

The Court of Appeals considers groundless also the statements of the complainant concerning alleged violation of the article 105 of the RA Civil Code, since it considers conforming to natural laws the position of the Administrative Court concerning the lack of a fact of impossibility of investigation of this case on the basis of the criminal case mentioned by the complainant, as well as concerning the section 2 of article 113 of the RA Administrative Procedure Code, since on the basis of the mentioned article only the court reserves the power of considering necessary additional investigation of the proofs or clear up of important circumstances over the case.

As for the issue mentioned by the complainant that the statement of claim was taken as proceedings with 1 day delay, then the Court of Appeals considers it necessary to point out that the statement of claim was handled to K. Mkoyan in 23.09.2010, and in accordance with the section 2 of article 77 of the RA Administrative Proceedings, **the judge** shall accept within one week after **receiving the statement of claim,** the statement of claim as proceedings submitted with observance of the requirements defined by this code, if there are not bases to reject accepting the statement of claim or returning it back defined by articles 78 and 79 of the same code. Besides, the Court of Appeals finds that there is no clause defined

by RA acting legislation, that as a violation of the term of acceptance as proceedings, as a legal consequence, it envisaged occurrence of the effect of the mentioned issue on the result of the case, moreover, that judge K. Mkoyan has announced disqualification, and the legal actually solving this case has been passed by other judge.

6.4. On the basis of all above stated, the Court of Appeals finds that the complaint of the representative of Marjan Mining Company LLC Tigran Khurshudyan is subject to be rejected.

Based on the above stated and governed by articles 59, 117.13, 117.14 and 117.16 of the Republic of Armenia Administrative Procedure Code, the Court of Appeals

DECIDED

To reject the appeal cases (complaints) submitted by the representative of Marjan-Caldera Mining LLC Vardan Safaryan, the representative of Marjan Mining Company LLC Tigran Khurshudyan and the representative of Caldera Resources Inc. Tigran Khurshudyan, leave unchanged the decision of the Republic of Armenia Administrative Court passed in 29.07.2001 over the administrative case №VD/3361/05/10.

To consider as solved the issue of allocation of state dues.

The decision is effective one month after its publication and during the same period it can be appealed to the Cassation Court of the Republic of Armenia.

PRESIDING JUDGE	JUDGE	JUDGE
A. ARAKELYAN	H. BEDEVYAN	G. GHARIBYAN