

# *SAKDRISI-KACHAGIANI*

## *FROM THE CULTURAL HERITAGE TO THE CONTEMPORARY GOLD MINING*



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## 1. INTRODUCTION

### 1.1. Goals and Reasons

Within the last couple of months, the public discussions have been permanently evolving around the pre-historic era mine, discovered and studied by the German and Georgian scientists and located at the hill of Sakdrisi-Kachagiani in the Bolnisi Municipality. According to a large number of the scientists, the mine is unique, because it is the oldest of the discovered pre-historic gold mines in the world and dates back to IV-III millenium B.C.

Naturally, GYLA cannot engage in the component of the discussion that exceeds the legal scope and that requires specific knowledge of the field. However, while the archaeologists and geologists argue about the actual value of the Sakdrisi-Kachagiani and the issue has long exceeded the purely scientific dispute, it is rather important to analyze the legal aspect of the Sakdrisi-Kachagiani issue.

GYLA covers the two important issues under this report. The first issue relates to the developments around Sakdrisi-Kachagiani, as the object of Cultural Heritage. The second aspect relates to the issue that has been little-known to the public up to the moment: the issuance (prolongation) of the license by the state, which is highly important to know for having a comprehensive understanding of the Sakdrisi-Kachagiani issue. The present research also includes the information about the companies, which have been closely related to the mining of the precious metals for the past few years.

Thus, through the present research GYLA, on the one hand, aims at informing the public of the legality of the developments around Sakdrisi-Kachagiani, as the object of Cultural Heritage, which has been the topic of the permanent public discussions lately. On the other hand, GYLA draws attention to the outcomes of the issuance and prolongation of the license on the use of the natural resources.

It is also important to consider that the mining companies that are directly or indirectly related to the developments around Sakdrisi-Kachagiani, represent an interesting object for the research in terms of impact on the environment, implementation of ecologic obligations and protection of the labor rights of the workers, employed at those companies. This issue may easily become the topic of the separate research.

### 1.2. Methodology

In terms of methodology the research includes a number of components, specifically: the analysis of the FOIA documents, received from the public institutions and processing the data stored in the Public Registry of Commercial Entities and applying the processed data for the research purposes. In addition, the research includes the examination of various documentaries and reports, prepared by the media outlets and partner organizations, interested in the issue.

All of the issues mentioned in this research and the information based on which the research was prepared, is supported by the documentation available to GYLA.

### 1.3. The Main Findings

The important issues, revealed as a result of the research, may be divided into two parts according to the structure of the research. The first part relates to the developments around Sakdrisi-Kachagiani, as an object of Cultural Heritage. The second part leads us to the licene, issued and prolonged by the state in the Sakdrisi-Kachagiani context. The mentioned part also includes the information on the companies that for the past few years are actively related to the mining of the natural resources.

- ↳ According to the documentation, available to GYLA, Sakdrisi-Kachagiani was the reason for the Government's decision, according to which the term of the license of the "RMG Gold" was prolonged for free until January 1, 2015. The actions of the Government institutions in the prolongation of the license raise suspicions that there might have been corruption involved or other type of illegal actions committed by specific persons;
- ↳ For the means of obtaining minerals, "RMG GOLD" should not have had the significant economic estimates related to Sakdrisi-Kachagiani, as in 2009 when the license was transferred to the company, Sakdrisi-Kachagiani was already the object of national cultural heritage, therefore broad-scale works was restricted.
- ↳ All of the companies, related to Sakdrisi-Kachagiani that were examined by GYLA within the research are linked to each other, and behind all of them, overall, is the "PAMTILON HOLDINGS LIMITED". However, it is unknown who owns the "PAMTILON HOLDINGS LIMITED".
- ↳ All of the companies examined by GYLA have the advisory councils composed of the same persons, while the functions of a director are divided among the two persons;
- ↳ The companies founded by the "PAMTILON HOLDINGS LIMITED" and the subsidiaries of those companies have the management bodies and the advisory bodies represented by the individuals, who worked (for years) in those state institutions, which were directly involved in issuing the license on the natural resource mining.

- ↪ On May 28, 2013, for the purpose of studying the issues on Sakdrisi-Kachaghiani, as an object of cultural heritage Graded “National Significance”, the Ministry of the Culture and Monument Protection of Georgia created the commission, composed of eleven persons, which contradicts the law of Georgia on the “Cultural Heritage”. According to the mentioned law, it is impermissible to move the Site of the National Significance (at the time when the Commission was created, the Site had the Grade of National Significance). In addition, moving Sakdrisi-Kachaghiani, as the Site of National Significance may only be considered if the Status of the Site changes and if the Cultural Heritage Protection Agency (advisory body of the Minister) discusses the issue;
- ↪ The Commission, composed of eleven (11) persons exceeded its competence and considered the issues, such as: technological and mining issues, non-correspondence of the Status of the Site in geological terms, the possibility of ensuring the security of the Site, as a tourist destination – in engineering-geological and mining-technological terms, as well as ecologic and economic issues. The Commission was never tasked to consider those issues;
- ↪ The conclusion of the Commission, which was the basis for the Ministry of Culture and Monument Protection to invalidate the Site Status of the Sakdrisi-Kachaghiani did not represent the obligatory document at all, and the Ministry, within its competence, could have easily examined the relevance of the evidences, referred to in the conclusion; the Ministry could have examined validity of those evidences both through the Cultural Heritage Protection Council operating within its auspices (the advisory body of the Minister), as well as with the assistance of the Georgian-German archaeological expedition members;
- ↪ During the preparation of the positive conclusion by the Ministry, allowing the LLC “RMG Gold” to conduct the broad-scale works on the Sakdrisi-Kachaghiani archaeological Site, the requirements under the legislation of Georgia were significantly violated. Specifically, the rules of the administrative procedures, prescribed under the General Administrative Code;
- ↪ The Ministry allowed the “RMG Gold” to conduct broad-scale works at Sakdrisi-Kachaghiani without taking into consideration the conclusion of the Archaeological Division of the Cultural Heritage Protection Council, according to which the report of the works, conducted by the LLC “Archaeological Union” was evaluated negatively on the previous time;
- ↪ Despite the promise of the Ministry, given to the Temporary Trustee of the Federal Republic of Germany, according to which the Ministry shared the position of the German side in relation to creating the international commission composed of the independent experts, the Ministry did not make any steps in this regard;
- ↪ The law-enforcement bodies did not conduct proper and effective activities for starting an investigation on the fact of demolishing Sakdrisi-Kachaghiani archaeological object and did not charge specific individuals on the offence;
- ↪ Despite the positive recommendation of the Strategic and Methodological Division of the Cultural Heritage Protection Council (dated January 27, 2014) on granting Sakdrisi-Kachaghiani the Status of the Site, the Minister of Culture and Monument Protection of Georgia did not share the decision of the Council and did not grant the archaeological object of Sakdrisi-Kachaghiani the Status of the Site;

In the present research, all of the above issues are analyzed in detail and the arguments are supported by the official documentation.

## **2. SAKDRISI-KACHAGHIANI: CULTURAL HERITAGE ASPECT OF THE ISSUE**

### **2.1. The Beginning**

In 2004, the German and Georgian scientists made an important archaeological discovery on the Sakdrisi-Kachaghiani hill, located at the territory of the Bolnisi Municipality. Later on, the Georgian and foreign media outlets started discussing the world-wide scale and uniqueness of the pre-historic mine.<sup>1</sup> Sakdrisi-Kachaghiani has been recognized to be the oldest pre-historic gold mine in the world. In 2006, the status of the Cultural Heritage and the Grade of the National Significance was granted to the Sakdrisi-Kachaghiani.

The cultural value of the Sakdrisi-Kachaghiani, as of the oldest gold mine in the world, has not been questioned up to the end of the 2012. Strangely enough, the uniqueness of the mine was recognized even by the company, which later came out against the status of Cultural Heritage Site granted to the Sakdrisi-Kachaghiani.

On April 26, 2013, the LLC “RMG Gold” addressed the Prime Minister of Georgia with the letter and informed him that during the geological works conducted within the contour of the mine in 2004, the old mine workings (tunnels) were found at the licensed territory of the company, which were granted the Status of the Cultural Heritage, Graded “National Significance” in 2006; however, in the opinion of the “RMG Gold”, the fact that the discovered object was located on the territory, already covered under the license, was ignored.<sup>2</sup>

<sup>1</sup> [http://www.youtube.com/watch?v=iNOvkWtV\\_bo](http://www.youtube.com/watch?v=iNOvkWtV_bo); <http://www.youtube.com/watch?v=IfEN3YOhxMI>;

<sup>2</sup> Statement #034/13 of the LLC “RMG Gold”, April 26, 2013;

In the same letter the company stated that the Cultural Heritage Status, granted to the mine, made it impossible to conduct the works on the major part of the Sakdrisi mine, which minimized the economic significance of the mine and resulted in a great damage to both the state and investors' interests.<sup>3</sup> **However, the letter addressed to the Prime Minister said nothing of the specific amount of the mentioned economic damage.** Despite this, the letter also mentioned that the functioning of the mining enterprise would yield more than 160 million USD budgetary income in only first seven-eight (7-8) years, would employ up to 700 persons, the average salary of which would be 1'000 GEL.<sup>4</sup> Despite the impressive numbers, just like the previous time, the letter did not indicate the specific circumstances that would be a precondition and/or based on which it was possible to forecast those numbers.

In turn, the company expressed willingness to move the Site in such a way that would allow to preserve its historic-cultural value; the company expressed willingness to do so on its own expenses. The company underlined, that the legislation of Georgia allows to move the immovable Site while preserving its Status.<sup>5</sup>

**It is notable, that the legislation of Georgia does not prescribe the possibility to move the Cultural Heritage Site with the Grade of the "National Significance" and therefore, the proposal of the "RMG Gold" on moving the Site had no legal basis.**<sup>6</sup>

The April 26/2013 letter of the company was sent to the Ministry of Culture and Monument Protection of Georgia, according to the subordination rule. Therefore, the Ministry was tasked with making a decision on the issues mentioned in the letter of the LLC "RMG Gold".

## 2.2. Suspicious Decision of the Ministry of Culture and Monument Protection of Georgia on Sakdrisi-Kachaghiani

On May 28, 2013, under the decision of the Ministry of Culture and Monument Protection of Georgia, the Commission was created for examining the two important issues relating to the oldest mining Site (the Cultural Heritage Site) in borough Sakdrisi of the Bolnisi Municipality, specifically:

- ↳ The Commission should have examined the documentation on granting the Status of a Site to Sakdrisi-Kachaghiani;
- ↳ The Commission should have elaborated the necessary recommendations for moving the Site.<sup>7</sup>

The Commission was tasked to prepare the conclusion on the mentioned issues by June 30, 2013.<sup>8</sup>

**From the outset, it should be noted that such a decision of the Ministry contradicts the law of Georgia on the "Cultural Heritage"** and unfortunately, leaves the question - why did the Ministry make such a decision and why didn't it act within the law-prescribed scope of authority? What we mean is that, as already mentioned, the legislation of Georgia does not prescribe the right to move the Site Graded "National Significance";<sup>9</sup> before the Commission was created the Site already had had the Grade of the National Significance. In addition, the law prescribes that discussing the issue of moving Sakdrisi-Kachaghiani, as the Site of National Significance, would be allowed only in case if the Grade of the Site changes and only if the advisory body of the Ministry – the Council of Cultural Heritage Protection, composed of the field experts and public figures discusses the issue.<sup>10</sup>

As for examining the documentation relating to granting the Status to the Site, there was no need of creating any commission for this purpose. **Moreover, if there was such a need, the Legal Division of the Ministry could have examined the legality or accuracy of the documentation or brought the documentation in compliance with the regulations.** It is also notable that the 2013 letter of the LLC "RMG Gold" mentioned nothing of the need to examine the documentation on the granting of the Status to the Sakdrisi-Kachaghiani. Therefore, the decision of the Ministry leaves the following question unanswered: why was the Commission tasked with examining the documentation on the granting the Status of a Site and were the processes on Sakdrisi-Kachaghiani pre-planned? The following developments deepen these suspicions.

## 2.3. The Conclusion of the Commission on the Cultural Heritage Site

According to the official information, the Commission, tasked with examining the documentation on granting the Status to Sakdrisi-Kachaghiani and creating necessary recommendations for moving the Site, conducted total of two

<sup>3</sup> Statement #034/13 of the LLC "RMG Gold", April 26, 2013;

<sup>4</sup> Statement #034/13 of the LLC "RMG Gold", April 26, 2013;

<sup>5</sup> Statement #034/13 of the LLC "RMG Gold", April 26, 2013;

<sup>6</sup> Sub-Paragraph "b" of the Paragraph 3 of the Article 26 of the law of Georgia on the "Cultural Heritage";

<sup>7</sup> Ordinance #03/82 (dated May 18, 2013) of the Minister of Culture and Monument Protection of Georgia;

<sup>8</sup> Ordinance #03/82 (dated May 18, 2013) of the Minister of Culture and Monument Protection of Georgia;

<sup>9</sup> Sub-Paragraph "b" of the Paragraph 3 of the Article 26 of the law of Georgia on the "Cultural Heritage";

<sup>10</sup> Sub-Paragraph "a" of the Paragraph 6, Paragraphs 4 and 5 of the law of Georgia on the "Cultural Heritage";

sessions. The first session was conducted two days after issuing the Ordinance on creating the Commission, during which the Commission concluded that granting the Status of the Cultural Heritage Site to Sakdrisi-Kachaghiani gold mine in 2006 was conducted in violation of the “General Administrative Code of Georgia” and the law of Georgia on the “Cultural Heritage Protection”.<sup>11</sup> Therefore, the Commission decided to forward the session protocol to the Minister of Culture and Monument Protection of Georgia to undertake relevant actions.<sup>12</sup>

The Commission held its second session on June 18, 2013 and concluded that:

- ↳ The existence of the oldest mining production Site on the territory of Kachaghiani in borough Sakdrisi of Bolnisi Municipality, specifically – the existence of the oldest gold mine is not geologically well-grounded. The arguments and material evidences, presented to the Commission in the form of the archaeological reports and other materials do not confirm the existence of the oldest (and therefore unique) gold mine. It is believed that the subject matter relates to the copper mining in small amounts;
- ↳ Therefore, “Sakdrisi Oldest Mine” is in reality a regular old copper mine, the analogues of which are frequently spotted throughout the territory of Georgia, originating in both the Bronze Age and in later periods and clearly does not represent a unique archaeological object;
- ↳ Current condition of the mining Site is dangerous for the health and life of not only the potential visitors, but also for the researchers and for the personnel employed there. Therefore, according to the incumbent legislation of Georgia, the security and engineering-geological norms require fast and emergency measures.<sup>13</sup>

In the final (and undated) conclusion, prepared under the name of the Commission, the Commission underlined nine (9) components, specifically:

- ✓ The condition of the mining Site and the circumstances of its discovery;
- ✓ The period prior to granting the Status to the object;
- ✓ Legal aspect of granting the Status to the object;
- ✓ Archaeological aspects;
- ✓ Mine processing and technological issues;
- ✓ Non-correspondence of the Status of the Site in geological terms;
- ✓ The possibility of ensuring security of a site, as of a tourist destination, in engineering-geological and mining-technological terms;
- ✓ Ecological issues;
- ✓ Economic aspects;

***Out of the nine components mentioned in the Commission conclusion, only the first four (4) issues more or less fall within the authority of the Commission,*** because no-one tasked the Commission to discuss/examine the issues such as: mining works and technological aspects, non-correspondence of the Status in geological terms, possibility of ensuring security of the Site as of a tourist destination in engineering-geological and mining-technological terms, as well as the ecological and economic aspects.<sup>14</sup>

Considering the above nine components the Commission mentioned, that based on the obtained documentation and the conclusion presented by the legal department of the Ministry it was revealed that the oldest mine of Sakdrisi-Kachaghiani was granted the Status of a Cultural Heritage Site and the National Significance Grade in violation of the legislative norms; while the discussion of moving the Site revealed absolutely different circumstances.<sup>15</sup>

As a result, the Commission considered the following five main issues to be a fact (grouped by the main topics):

- ↳ Granting the Status of an oldest Cultural Site to the Mine and afterwards, granting the National Significance Grade to the Site was conducted without proper scientific and legislative grounds and in grave violation of the legislation which resulted in the significant damage to both the license-owning company and the state budget;
- ↳ The justification, arguing the existence of the oldest mining industry site at the Kachaghiani territory of the Sakdrisi mine, specifically, of the oldest gold mine, is flawed and is not convincing;

<sup>11</sup> The mentioned law was declared invalid under the new law of Georgia on the “Cultural Heritage” (Article 60); enacted on May 8, 2007;

<sup>12</sup> The Session Protocol #1 (dated May 30, 2013) of the Commission, tasked with examining the issues relating to the Cultural Heritage Site (the oldest mining production) located in the borough Sakdrisi of the Bolnisi Municipality;

<sup>13</sup> The Session Protocol #2 (dated June 18, 2013) of the Commission, tasked with examining the issues relating to the Cultural Heritage Site (the oldest mining production) located in the borough Sakdrisi of the Bolnisi Municipality;

<sup>14</sup> Ordinance #03/82 (dated May 28, 2013) of the Minister of Culture and Monument Protection of Georgia;

<sup>15</sup> The Conclusion of the Commission, tasked with examination of the issues relating to the Cultural Heritage Site – the oldest mining production located in Bolnisi Municipality, Sakdrisi Borough, dated 2013;



- ↪ Major part of the old mining production remnants is represented in narrow, uneven and lean tunnels and is not and cannot be available neither for visitors, nor for researchers;
- ↪ RMG should be asked to arrange the Bolnisi branch of the state historic museum with the support of the state and, as possible, to move the archaeological artefacts there;
- ↪ The Commission considers it undoubtful that it is impermissible to further artificially interrupt the operation of the company without justification, because such an approach significantly damages both local and state budgets and directly contradicts the state interests.<sup>16</sup>

#### 2.4. Invalidation of the Site Status Granted to Sakdrisi-Kachaghiani

Based on the conclusion of the Commission, the July 5/2013 Ordinance of the Minister of Culture and Monument Protection recognized the part of the bylaw to be invalid (the part that granted Sakdrisi-Kachaghiani the Status), which, in the opinion of the Ministry, had granted the Cultural Heritage Status to Sakdrisi-Kachaghiani illegally. Simultaneously, it was decided to start working towards implementation of the necessary activities for changing the Status of a rather important Immovable Site to the Movable Cultural Heritage Site. In addition, the draft agreement should have been prepared for moving the Movable Site, which later would have been signed by the company and the state. Studying the archaeological object of Sakdrisi-Kachaghiani should have been conducted by September 15, 2013.<sup>17</sup>

A number of issues are important in the above decision of the Ministry, proper consideration of which would have made it possible to make a different decision on the disputed matter. Specifically, what we mean is:

According to the information publicized on the official web-page of the Ministry, the Ministry says that: *as a result of 35-day work, the Commission, composed of eleven (11) highly qualified specialists of various fields, concluded that the Status of the Cultural Heritage Site was granted to the oldest gold mine of Sakdrisi-Kachaghiani in violation of the "General Administrative Code of Georgia" and the law of Georgia on the "Cultural Heritage Protection" (1999-2007).*<sup>18</sup>

***Even if we assume, that in 2006 the Sakdrisi-Kachaghiani was granted the Cultural Heritage Site Status in violation of law, this would not mean at all that the Status should have been unconditionally invalidated and that Sakdrisi-Kachaghiani should have been left without a Status.*** The legislation of Georgia prescribes possibility of making both significant amendments to the bylaws and the possibility of making additions.<sup>19</sup>

In addition, the conclusion of the Commission that served as the basis for invalidation of the Site Status of Sakdrisi-Kachaghiani did not represent the mandatory document and the Ministry, within its competence, could easily have re-examined the validity of the evidence referred to in the presented conclusion both through the advisory body of the Ministry – the Council of Cultural Heritage Protection<sup>20</sup> and through requesting the opinions of the Georgian-German archaeological expedition on the conclusion of the Commission. Proper application of those two preconditions by the Ministry would have significantly supported comprehensive examination of the subject matter and would have increased the possibility of making an objective decision on the disputed topics; especially that the Commission has worked for only 35 days,<sup>21</sup> which, in difference with the many years of the Georgian-German expedition's archaeological work, yielded radically opposing evaluation of the Sakdrisi-Kachaghiani mine, as of the object bearing the value of the Cultural Heritage.

Apart from the invalidation of the Cultural Heritage Site Status of Sakdrisi-Kachaghiani, it is also notable, that the Ministry tasked its subordinate division to undertake measures for granting the Status of Movable Site to the object,<sup>22</sup> without having exhaustive information on whether it was possible to separate and move the object of especial importance for the Cultural Heritage.

Another issue, which should be regarded in the same context and which gave Ministry an additional opportunity to make at least a temporary decision on the subject matter is prescribed under the legislation of Georgia on the Cultural Heritage. According to the mentioned law: *if it is not possible to fully define the nature of an object, as well as when the data relating to its historical or cultural value requires re-examination or additional study, the Ministry is authorized to inscribe that object on the list of the Cultural Heritage Sites anyway.*<sup>23</sup> It is important to consider that issuance of the

<sup>16</sup> The Conclusion of the Commission, tasked with examination of the issues relating to the Cultural Heritage Site – the oldest mining production located in Bolnisi Municipality, Sakdrisi Borough, dated 2013;

<sup>17</sup> The Ordinance #03/108 (dated July 5, 2013) of the Minister of Culture and Monument Protection of Georgia;

<sup>18</sup> <http://www.culture.gov.ge/topicdetails-1.7405.html>;

<sup>19</sup> Part 2 of the Article 59 and Article 63 of the General Administrative Code of Georgia;

<sup>20</sup> Paragraph 4 of the Article 5 of the law of Georgia on the "Cultural Heritage";

<sup>21</sup> <http://www.culture.gov.ge/topicdetails-1.7405.html>;

<sup>22</sup> Ordinance #03/108 (dated July 5, 2013) of the Minister of Culture and Monument Protection of Georgia;

<sup>23</sup> Paragraph 4 of the Article 15 of the law of Georgia on the "Cultural Heritage";

relevant Ordinance by the Minister of Culture and Monument Protection and re-granting the object the Status would have automatically resulted in the extension of the law-prescribed regime to the Site,<sup>24</sup> which would have represented temporary measure and would have significantly increased the possibility of protecting Sakdrisi-Kachaghiani prior to the final objective decision.

According to the law of Georgia on the “Cultural Heritage”, it was possible to inscribe Sakdrisi-Kachaghiani on the list of the Cultural Heritage Sites under the above option for six (6) months. One-time prolongation of this term is possible, for no more than another six (6) additional months.<sup>25</sup>

Simultaneously, while such a decision would have allowed to ensure proper protection of Sakdrisi-Kachaghiani, the Ministry could easily have created the international commission, composed of experienced experts and specialists, the proper conclusion of which would have established the true cultural value of Sakdrisi-Kachaghiani.

Unfortunately, the Ministry of Culture and Monument Protection has not applied any of the above possibilities.

At the end of the discussion on the invalidation of the Status of Sakdrisi-Kachaghiani, it should be noted that the decision of the Ministry was appealed by the “Green Alternative” at the Government of Georgia through the administrative procedures, which requested invalidation of the decision.<sup>26</sup> The Government of Georgia refused to consider the complaint of the “Green Alternative”, saying that the complaint author could not have been considered as the interested party.<sup>27</sup> Later, the dispute among the sides has continued at the Tbilisi City Court.<sup>28</sup>

## 2.5. Sakdrisi-Kachaghiani as the Archaeological Object

Following the invalidation of the Site Status of the Sakdrisi-Kachaghiani, the only protection mechanisms left for Sakdrisi-Kachaghiani were the relevant archaeological protection zone and the Status of an Archaeological Site.

On September 11, 2013, the LLC “RMG Gold” addressed the Prime Minister of Georgia with the letter and asked to invalidate the protection zone of the Archaeological Site.<sup>29</sup> On October 7 of the same year, the request of the company was satisfied and the relevant protection zone of Sakdrisi-Kachaghiani was invalidated.<sup>30</sup> Such a decision further decreased the possibility of protecting the object. As a result, in order to start the broad-scale works on the Archaeological Site of Sakdrisi-Kachaghiani, the “RMG-Gold” needed to satisfy the last requirement prescribed under the law - which is the receipt of the relevant conclusion by the Ministry.<sup>31</sup> Receipt of the positive conclusion required the company to submit the results of the properly conducted archaeological research.<sup>32</sup>

On November 28, 2013, “RMG Gold” presented the final report of the archaeological research conducted by the LLC “Archaeological Union” to the Ministry and requested to be given the conclusion, which would have given it the possibility to conduct the mining works at the Sakdrisi-Kachaghiani territory.<sup>33</sup>

## 2.6. Rejected Report on the Archaeological Works Conducted by the LLC “Archaeological Union” and Appealing the Refusal by the “RMG Gold”

At the time when “RMG Gold” submitted the final report of the archaeological research on November 28, 2013, the legislation of Georgia prescribed that consideration of the report on the presented archaeological works should have been conducted by the Archaeological Division of the Cultural Heritage Protection Council, operating under the Ministry.<sup>34</sup> Therefore, the report, presented by the company to the Ministry was forwarded for consideration to the Archaeological Division. The protocol of the Division’s session, conducted on January 9, 2014, says that: ***the Council considered that the report on the conducted research by the LLC “Archaeological Union” on the territory of Sakdrisi-Kachaghiani in Bolnisi Municipality (October 21, 2013 – November 12, 2013) is not comprehensive and the examination of the archaeological site should resume.***<sup>35</sup> As a result, considering this and other factors,

<sup>24</sup> Paragraph 4 of the Article 15 of the law of Georgia on the “Cultural Heritage”;

<sup>25</sup> Paragraph 5 of the Article 15 of the law of Georgia on the “Cultural Heritage”;

<sup>26</sup> Administrative complaint #29018 of the “Green Alternative” (dated September 9, 2013);

<sup>27</sup> Resolution #1433 of the Government of Georgia (dated October 4, 2013);

<sup>28</sup> The complaint of the association “Green Alternative” (dated November 18, 2013);

<sup>29</sup> Statement of the “RMG Gold” #550 (c) (dated September 11, 2013);

<sup>30</sup> Resolution #1436 of the Government of Georgia (dated October 7, 2013);

<sup>31</sup> Paragraph 1 of the Article 14 of the law of Georgia on the “Cultural Heritage”;

<sup>32</sup> Paragraph 2 of the Article 14 of the law of Georgia on the “Cultural Heritage”;

<sup>33</sup> Statement of the “RMG Gold” (dated January 28, 2013);

<sup>34</sup> Sub-Paragraph “b” of the Paragraph 5 of the Article 3 of the Ordinance #3/192 of the Minister of Culture and Monument Protection of Georgia (dated October 22, 2007);

<sup>35</sup> Session Protocol #1 of the Archaeological Division of the Cultural Heritage Protection Council (dated January 9, 2014);

on January 13, 2014 the Ministry of Culture and Monument Protection of Georgia notified the LLC “RMG Gold” of its refusal to grant the company a right to conduct broad-scale works.<sup>36</sup>

The above decision of the Ministry was appealed by the company through the administrative procedures at the Government of Georgia, which, along with invalidation of the disputed decision, requested to be granted the necessary conclusion, enabling the company to conduct the mining works.<sup>37</sup>

On February 20, 2014, the Government of Georgia partially satisfied the administrative complaint of the “RMG Gold” and indicated non-compliance with the rules of preparing and issuing the Council’s decision as the arguments. The Government of Georgia tasked the Ministry to **examine the documentation submitted by the LLC “RMG Gold” and to make a law-prescribed decision, based on the objective examination of the issue under the administrative consideration.**<sup>38</sup>

Therefore, the Ministry was tasked to once again re-consider the disputed subject matter; to take into consideration the decision of the Government of Georgia and to conduct the administrative process in full compliance with the law; as a result, the Ministry should have made a well-grounded decision based on objective and unbiased consideration of the subject matter.

## **2.7. Positive Conclusion Granted to the “RMG Gold” Application by the Ministry of Culture and Monument Protection of Georgia**

Based on the Ordinance of the Government of Georgia,<sup>39</sup> the Ministry addressed the National Agency for Cultural Heritage Preservation of Georgia on February 25, 2014 and requested to re-consider the application and make proper and competent conclusion on the reports of the archaeological works conducted at the Sakdrisi part of the “RMG Gold” license territory and the Sakdrisi-Kachaghiani archive bibliographic materials.<sup>40</sup>

In response to the request under the February 25/2014 letter of the Ministry, the Agency shortly presented the March 6/2014 conclusion and considered that: *“as a result of complex examination of the materials on the case, the existence of the oldest gold mine or the site of universal importance to the humankind at the Sakdrisi-Kachaghiani territory was not confirmed. Since the archaeological studies conducted in 2013 do not confirm an existence of a cultural layer at the territory, it is reasonable for the Ministry of the Culture and Monument Protection to provide the “RMG Gold” with the proper conclusion to enable the company to continue the works.”*<sup>41</sup>

Based on the above conclusion of the Agency, on March 13, 2014 the Ministry sent the LLC “RMG Gold” the notification, informing the company that it was allowed to conduct the works.<sup>42</sup>

The positive conclusion issued by the state to the LLC “RMG Gold” for the purpose of conducting broad-scale works at the Sakdrisi-Kachaghiani archaeological site raises a number of questions and in a number of cases, contradicts the law. Specifically, the Ministry conducted the administrative proceedings in violation of legislation, which resulted in illegal decision at the end.

We refer to the following obligations prescribed under the General Administrative Code of Georgia:

- ↳ An administrative body is obliged to examine all of the circumstances important for the case and make a decision based on evaluation and reconciliation of these circumstances.<sup>43</sup>

***The Ministry did not examine all of the important circumstances for the case. The Ministry did not evaluate nor reconcile those circumstances, based on which the final decision should have been made.***

- ↳ It is impermissible to base the individual administrative-legal act (bylaw) on the circumstance or fact which is not properly examined by the administrative body in accordance with the legislative requirements.<sup>44</sup>
- ↳ For the purpose of proper examination of the case circumstances, the law grants the Ministry a right to request documentation, gather data, listen to what other stakeholders have to say, to observe the event or location under consideration, to initiate an expertise, to use all of the necessary documents and acts, to apply other legally prescribed measures for gathering, examining and evaluating evidence.<sup>45</sup>

<sup>36</sup> Correspondence #01/08-107 of the Minister of Culture and Monument Protection of Georgia (dated January 13, 2014);

<sup>37</sup> Session Protocol of the oral session conducted by the Chancellery of the Government of Georgia on January 29, 2014 for considering the administrative complaint (dated January 15, 2014) of the LLC “RMG Gold”;

<sup>38</sup> Resolution #313 of the Government of Georgia (dated February 20, 2014);

<sup>39</sup> Resolution #313 of the Government of Georgia (dated February 20, 2014);

<sup>40</sup> The letter #02/08-931 of the Ministry of Culture and Monument Protection of Georgia dated February 25, 2014;

<sup>41</sup> Correspondence #05/09/221 of the National Agency for Cultural Heritage Preservation of Georgia (dated March 6, 2014);

<sup>42</sup> Correspondence #01/01-1227 of the Ministry of Culture and Monument Protection of Georgia (dated March 13, 2014);

<sup>43</sup> Part 1 of the Article 96 of the General Administrative Code of Georgia;

<sup>44</sup> Part 2 of the Article 96 of the General Administrative Code of Georgia;

<sup>45</sup> Article 97 of the General Administrative Code of Georgia;

Despite this, the Ministry did not properly apply the above measures while deciding on the disputed case, which was rather important for making an objective decision on the case. During the administrative proceeding the Ministry only analyzed the part of the pre-existing documentation and did so non-comprehensively. The mentioned fact naturally creates doubts on the objectiveness of the decision made by the Ministry on the Sakdrisi-Kachaghiani issue.

It is important to consider that the decision of the Ministry, granting the company a right to conduct the works is not based on such evidence, reports or other official documentation that did not exist before and that could have significantly changed the negative decision of the Ministry on the same issue, made in relation to the LLC "RMG Gold" on January 13, 2014. Therefore, while considering the same case based on the same documentation, the Ministry made contradictive decisions. In the first case the LLC "RMG Gold" was rejected to be given a positive conclusion for conducting the broad-scale works on Sakdrisi-Kachaghiani, while in another case the Ministry issued positive conclusion.

***It is also to be noted that there were no discussions/considerations held while preparing the conclusion by the Agency and while making the decision by the Ministry and the circumstances, indicated in the January 9, 2014 session protocol of the Cultural Heritage Council under the Ministry were not evaluated.*** As it is known from the conclusive part of the protocol – *the Council considers that the report of the LLC "Union of Archaeologists" on the research conducted at the Sakdrisi-Kachaghiani territory in Bolnisi Municipality (October 21, 2013-November 12, 2013) was not comprehensive and the examination of the archaeological site should have continued.*<sup>46</sup>

In addition, it is unclear, why did the Ministry and the Agency took into consideration the report of the research conducted by the LLC "Union of Archaeologists" and why did they give the permission to conduct the works, while the Archaeological Division of the Cultural Heritage Protection Council at the Ministry of Culture and Monument Protection negatively evaluated the mentioned report (the report was never re-examined by the Division). It is also important to consider that the negative evaluation of the report was made by the Ministry itself at some point.<sup>47</sup>

***Therefore, despite violating a number of the legislative requirements, on March 13, 2014, the Ministry of Culture and Monument Protection of Georgia gave positive conclusion to the LLC "RMG Gold" for conducting the broad-scale works at the Sakdrisi-Kachaghiani territory.***

It should be noted, that the March 13, 2014 decision of the Ministry was appealed by Kakha Kozhoridze and Dali Mamulashvili at the Government of Georgia on April 11 of this year, who requested invalidation of the decision through the administrative process.<sup>48</sup> In this case appealing the decision through the administrative complaint results in suspension of the appealed act (decision) from the moment of registering the complaint.<sup>49</sup> Despite this, the information has spread in the society that the LLC "RMG Gold" still continued conducting works on the territory of the Archaeological Site of the Sakdrisi-Kachaghiani which clearly, may not be considered to be legal.

Later, with the decision dated May 5, 2014, the Government of Georgia informed the claimants that the Government would not consider the submitted complaint because, according to the Government, the complaint was submitted by the unauthorized persons. In addition, the Government considered that:

- ✓ The decision on permitting broad-scale works on Sakdrisi-Kachaghiani did not affect the interests and rights of the claimants and did not directly harm them;
- ✓ The claimants did not have legal, legitimate and valid interest in relation to Sakdrisi-Kachaghiani;
- ✓ Sakdrisi-Kachaghiani did not have the Status of an Archaeological Site and did not represent the Cultural Heritage Site;
- ✓ Sakdrisi-Kachaghiani did not have the cultural layer.<sup>50</sup>

According to GYLA the above decision of the Government of Georgia was made in violation of law, because:

- ✓ *According to the Constitution of Georgia, each citizen is obliged to take care and maintain the cultural heritage.*<sup>51</sup> In addition, the Constitution states, that *everyone has a right to live in the healthy environment, enjoy natural and cultural environment.*<sup>52</sup> *Everyone is obliged to take care of the natural and cultural environment.* The mentioned provision grants each citizen (and not a limited group of persons) a right to request the state to protect the common cultural, as well as natural resources.
- ✓ On February 11, 2000 the Parliament of Georgia has ratified the United Nations Convention on Access to

<sup>46</sup> Session Protocol #1 of the Archaeological Division of the Cultural Heritage Protection Council (dated January 9, 2014);

<sup>47</sup> Correspondence #01/13-321 of the Ministry of the Culture and Monument Protection of Georgia (dated January 24, 2014);

<sup>48</sup> Administrative complaint of Kakha Kozhoridze and Dali Mamulashvili (dated April 11, 2014);

<sup>49</sup> Article 184 of the General Administrative Code of Georgia;

<sup>50</sup> Correspondence #14990 of the Chancellery of the Government of Georgia (dated May 5, 2014);

<sup>51</sup> Paragraph 2 of the Article 34 of the Constitution of Georgia;

<sup>52</sup> Paragraph 3 of the Article 37 of the Constitution of Georgia;

Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (so-called Aarhus Convention). According to the mentioned convention, “Environmental Information” also means an information that is related to the condition of the cultural object. Therefore, according to the Convention, such value, as the cultural heritage relates to everyone.<sup>53</sup>

- ✓ As of now, Sakdrisi-Kachaghiani has the Status of the Archaeological Site.<sup>54</sup> Therefore, Sakdrisi-Kachaghiani is the object of Cultural Heritage, and the enjoyment and protection of the cultural heritage is the right/authority of not only one specific state institution or a private company, but of each citizen of Georgia.
- ✓ It is also important to consider, that up to now, none of the decisions of the Ministry of Culture and Monument Protection of Georgia mentioned that Sakdrisi-Kachaghiani no longer represents the Archaeological Site. The decision, according to which, apparently, the existence of the cultural layers was not confirmed, was appealed against and represents a disputed documentation.

In the same context it should be mentioned that if we assume, that Sakdrisi-Kachaghiani indeed does not represent an Archaeological Site and there is no cultural layer there, then the logical question arises – why did the state invite foreign experts that, along with other issues, should have monitored the works conducted by the “RMG Gold”?

The above decision of the Government of Georgia (refusing to consider the administrative complaint of Kakha Kozhoridze and Dali Mamulashvili), was appealed at the Tbilisi City Court.

The claimants requested to invalidate the decision of the Ministry, according to which the Ministry of Culture and Monument Protection of Georgia grants the company “RMG Gold” a right to conduct the broad-scale works at Sakdrisi-Kachaghiani. The decision of the Government of Georgia on refusing to consider the administrative complaint was appealed as well. In addition, the claimants requested to suspend the disputed decision until the final decision on the case is made.

***According to the May 30, 2014 judgment,<sup>55</sup> the Tbilisi City Court upheld the motion of Kakha Kozhoridze and Dali Mamulashvili and suspended the decision of the Ministry of Culture and Monument Protection of Georgia (dated March 13, 2014), according to which the company “RMG Gold” received a right to conduct broad-scale works in Sakdrisi-Kachaghiani. Therefore, under the court decision, the company is prohibited to conduct the mining works at Sakdrisi-Kachaghiani prior to the final decision on the case.***

The Court shared the position of the claimants that non-suspension of the disputed administrative legal act may result in damaging the above object, which will make it impossible to recover its original condition and archaeological value; therefore, it will be impossible to protect the interest, for the protection of which the claimants submitted the complaint to the Court. The Court has also indicated that in the present case, due to the specifics of the subject matter, it is important to preserve the features of the object, as well as to preserve the environment, which is the precondition for the object’s historic, cultural and archaeological value.

***As of now, the right of the “RMG Gold” to conduct the broad-scale works at Sakdrisi-Kachaghiani is suspended.***

### **3. SIMULTANEOUS DEVELOPMENTS AROUND SAKDRISI-KACHAGHIANI**

#### **3.1. January 8/2014 Statement on Granting Sakdrisi-Kachaghiani Archaeological Site a Status of the Cultural Heritage Site**

On January 8, 2014, the statement was submitted to the Ministry of Culture and Monument Protection of Georgia along with the attached documentation, under which it was requested to grant Sakdrisi-Kachaghiani Archaeological Site the Status of a Cultural Heritage Site.<sup>56</sup>

During the session of the Strategic and Methodological Division of the Cultural Heritage Protection Council, held on January 27, 2014, the Council made the decision on the submitted application; according to the decision – *based on the presented documentation the Commission members support granting the Status of the Immovable Cultural Heritage to the Archaeological Site, located at the Sakdrisi-Kachaghiani hill and to confirm the finalized borders of the Site.*<sup>57</sup>

However, despite the positive recommendation of the Council, the Ministry of Culture and Monument Protection of Georgia did not share the opinion of the Council and rejected granting the Status to the Sakdrisi-Kachaghiani Archaeological Site.

<sup>53</sup> United Nations Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (so-called Aarhus Convention) Article 2, Paragraph 3.

<sup>54</sup> Paragraph “k” of the Article 3 of the law of Georgia on the “Cultural Heritage”;

<sup>55</sup> Tbilisi City Court decision, granted on May 30, 2014, #3/1654-14;

<sup>56</sup> Statement #141 of the doctor Giorgi Mindiashvili (dated January 8, 2014);

<sup>57</sup> Session Protocol #2 of the Strategic and Methodological Division of the Cultural Heritage Protection Council (dated January 9, 2014);

### **3.2. Reaction of the Law-Enforcement Bodies on the Fact of Damaging the Archaeological Site of Sakdrisi-Kachaghiani**

The information on damaging Sakdrisi-Kachaghiani as an Archaeological Site was made known on January 8, 2014; according to the information, an old water basin carved inside the rock and the nearby prehistoric concentrating pits (so-called Ambosses) carved inside a rock were demolished at the Sakdrisi-Kachaghiani Archaeological Site.<sup>58</sup> The National Agency for Cultural Heritage Protection very soon informed the Ministry of the Internal Affairs of the above fact and requested to examine the fact within its competence.<sup>59</sup> In its address to the Ministry of the Internal Affairs, the National Agency for Cultural Heritage Protection indicates that the Agency itself sees the signs of a crime in the fact of demolishing the Archaeological Site of Sakdrisi-Kachaghiani.

Simultaneously, on March 14, 2014, the “Studio Monitor”, during the preparation of the investigative documentary, made video records of the fact of demolition of Sakdrisi-Kachaghiani Archaeological Site. The mentioned video records were frequently aired by the channel “Maestro” in the form of previews, shortly after the records were made.<sup>60</sup> Final film was made available to the broad public on April 6, 2014.<sup>61</sup>

***The mentioned two cases should have been enough for the relevant state institution to start an investigation.*** However, the public has not received the information about whether the investigation has started or not.

On March 21 of this year, GYLA itself addressed the Ministry of Internal Affairs and requested the information, on whether the investigation on the fact of Sakdrisi-Kachaghiani demolition has started or not.<sup>62</sup> According to the Ministry of Internal Affairs of Georgia, the documentation was sent to the Central Prosecution of Georgia.<sup>63</sup> Therefore, GYLA attempted to receive the information from the Prosecution on whether the investigation has started or not; and if yes, under which Articles of the Criminal Code was the investigation being conducted and whether the issue of responsibility of specific persons was raised.<sup>64</sup>

Unfortunately, the Prosecution did not provide GYLA with the requested information. On May 6 of this year, GYLA once again addressed the Prosecution and along with requesting the information under the April 11/2014 FOIA, called upon the Prosecution to start an investigation.<sup>65</sup>

It is important to consider that the basis for the GYLA's request is provided under the legislation of Georgia. Specifically, according to the Criminal Code of Georgia: *“conducting any works on Archaeological Site or intentional impact on Archaeological Site without permission to conduct archaeological works, which caused damage or destruction or as a result of which it is impossible to date the Site, identify the Site or obtain other important scientific information on the Site – is punishable with a fine or imprisonment for up to two (2) years. The same action, committed by negligence, is punishable with a fine or imprisonment for up to one (1) year.”*<sup>66</sup>

In addition, according to the same code: *“In case of receipt of an information on the possible violation/crime, the investigator and prosecutor are obliged to start an investigation. The Prosecutor should be immediately notified of a start of an investigation by an investigator.”*<sup>67</sup>

***Overall, despite a number of addresses towards the Prosecution, GYLA is still not informed of whether the investigation on the fact of demolition of Sakdrisi-Kachaghiani Archaeological Site has started or not and whether specific persons were charged or not.***

### **3.3. The Letter of the Temporary Trustee of the Federal Republic of Germany in Georgia and the Response of the Ministry of Culture and Monument Protection**

Many of the official documents were revealed in the course of working on the issue of Sakdrisi-Kachaghiani; although many of those documents are not directly connected to the decision-making in relation to Sakdrisi-Kachaghiani, but, in their essence, represent rather important information and underline the cultural value of Sakdrisi-Kachaghiani.

Naturally, GYLA does not aim at analyzing all of the official documentation that was submitted to the Government of Georgia, Ministry of Foreign Affairs and the Ministry of Culture and Monument Protection of Georgia in relation to

<sup>58</sup> The report card of the member of the Archaeological Division of the Cultural Heritage Protection Agency – Giorgi Narimanishvili (dated January 9, 2014);

<sup>59</sup> Statement of the National Agency for Cultural Heritage Protection (dated January 14, 2014);

<sup>60</sup> Film preview: <https://www.youtube.com/watch?v=FueBxZvF8I0>;

<sup>61</sup> <https://www.youtube.com/watch?v=oAQcmApCmso>;

<sup>62</sup> GYLA statement #c-04/121.14 (dated March 21, 2014);

<sup>63</sup> Correspondence #651757 of the Ministry of Internal Affairs of Georgia (dated April 4);

<sup>64</sup> GYLA statement #c-04/149/14 (dated April 11, 2014);

<sup>65</sup> GYLA statement #c-01/177.14 (dated May 5, 2014);

<sup>66</sup> Article 259<sup>1</sup> of the Criminal Code of Georgia;

<sup>67</sup> Article 100 of the Criminal Code of Georgia;

Sakdrisi-Kachaghiani in 2013-2014 (especially that many of them exceed the legislative scopes and require specific knowledge of the field). However, the letter of the Temporary Trustee of the Federal Republic of Germany in Georgia<sup>68</sup> requires special attention. The letter was submitted to the Ministry of Culture and Monument Protection of Georgia through the Ministry of Foreign Affairs of Georgia on September 24, 2013.<sup>69</sup> The letter of the Trustee, with which the Ministry of the Foreign Affairs agreed, mentions that: *it would have been reasonable to create an international commission composed of independent experts to examine the issue of Sakdrisi-Kachaghiani*, based on the conclusions of which the decisions should be made.<sup>70</sup>

In response to the letter of the Temporary Trustee of the Federal Republic of Germany in Georgia, the Ministry of Culture and Monument Protection, in its correspondence, dated October 7, 2014, notes, that *the Ministry shares the position of the German side* and considers that the conclusion of the international experts on the oldest mine of Sakdrisi-Kachaghiani would have significantly contributed towards resolving the existing problem.<sup>71</sup>

Despite expressing readiness and sharing the position of the German side in its October 7, 2013 letter, international experts were not invited for a long time.

### 3.4. Instead of the Conclusion

*The developments around Sakdrisi-Kachaghiani, as the object of Cultural Heritage demonstrate that the state should approach each issue with particular attention. Such an attention should be especially keen when the issue exceeds interests of any one public institution or a private company and represents the interests of an entire society or of its large part.*

*The case of Sakdrisi-Kachaghiani clearly demonstrates that thorough implementation of the legal requirements and objectiveness are especially important in the decision-making.*

*Unfortunately, very often, in relation to Sakdrisi-Kachaghiani, as the object of the Cultural Heritage, the approach of the Government was not consistent and exceeded the scope of obligations provided under the law.*

## 4. COMPANIES AND LICENSES RELATING TO SAKDRISI-KACHAGHIANI

### 4.1. Prior to the Prolongation of the License

According to the official documentation available to GYLA, the license, which, among others, included the Sakdrisi-Kachaghiani territory, dated back to December 30, 1996.<sup>72</sup> According to this license, it was granted to the LTD “Trans-Georgian Resources” and related to the “Geological Research and Mining of the Well-Known Bolnisi Group Mining Natural Resources”. The license, in its turn, covered the period from April 7, 1994 to April 7, 2014 and lasted for a total of 20 years.<sup>73</sup>

According to the records, stored at the Registry of Commercial Entities, the company named “Trans-Georgian Resources” was established on September 8, 1995.<sup>74</sup> However, the license is in force from April 7, 1994.<sup>75</sup>

The above license granted on the “Geological Research and Mining of the Bolnisi Natural Resources” which among others, included Sakdrisi mine (at that time Sakdrisi-Kachaghiani did not represent the Cultural Heritage Site), was transferred to the LTD “Quartzite”, formed as a result of the company merger<sup>76</sup> in 2009.<sup>77</sup>

The company named LLC “RMG Gold” first appeared in the Registry of Commercial Entities on September 5, 2012, when the LTD “Quartzite” changed its name and became “RMG Gold”.<sup>78</sup> At that time the partner, registered in the Netherlands – “Rich Metals Group B.V.” owned 84,47% of shares and the partner - Joint Stock Company “RMG Copper”

<sup>68</sup> Correspondence of the Temporary Trustee of the Federal Republic of Germany in Georgia, dated September 13, 2013;

<sup>69</sup> Correspondence #01/38779 of the Ministry of Foreign Affairs of Georgia (dated September 24, 2013);

<sup>70</sup> Correspondence #01/38779 of the Ministry of Foreign Affairs of Georgia (dated September 24, 2013);

<sup>71</sup> Correspondence #01/08-4277 of the Ministry of Culture and Monument Protection of Georgia (dated October 7, 2013);

<sup>72</sup> The License on the use of natural resources #0010, dated 30.12.96;

<sup>73</sup> The License on the use of natural resources #0010, dated 30.12.96;

<sup>74</sup> [https://enreg.reestri.gov.ge/main.php?state=search\\_by\\_name&value=%E1%83%92%E1%83%A4%E1%83%92%E1%83%A4](https://enreg.reestri.gov.ge/main.php?state=search_by_name&value=%E1%83%92%E1%83%A4%E1%83%92%E1%83%A4;);

<sup>75</sup> The License on the use of natural resources #0010, dated 30.12.96;

<sup>76</sup> Extract from the Registry of Commercial Entities:

[https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=662351&app\\_id=747784](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=662351&app_id=747784);

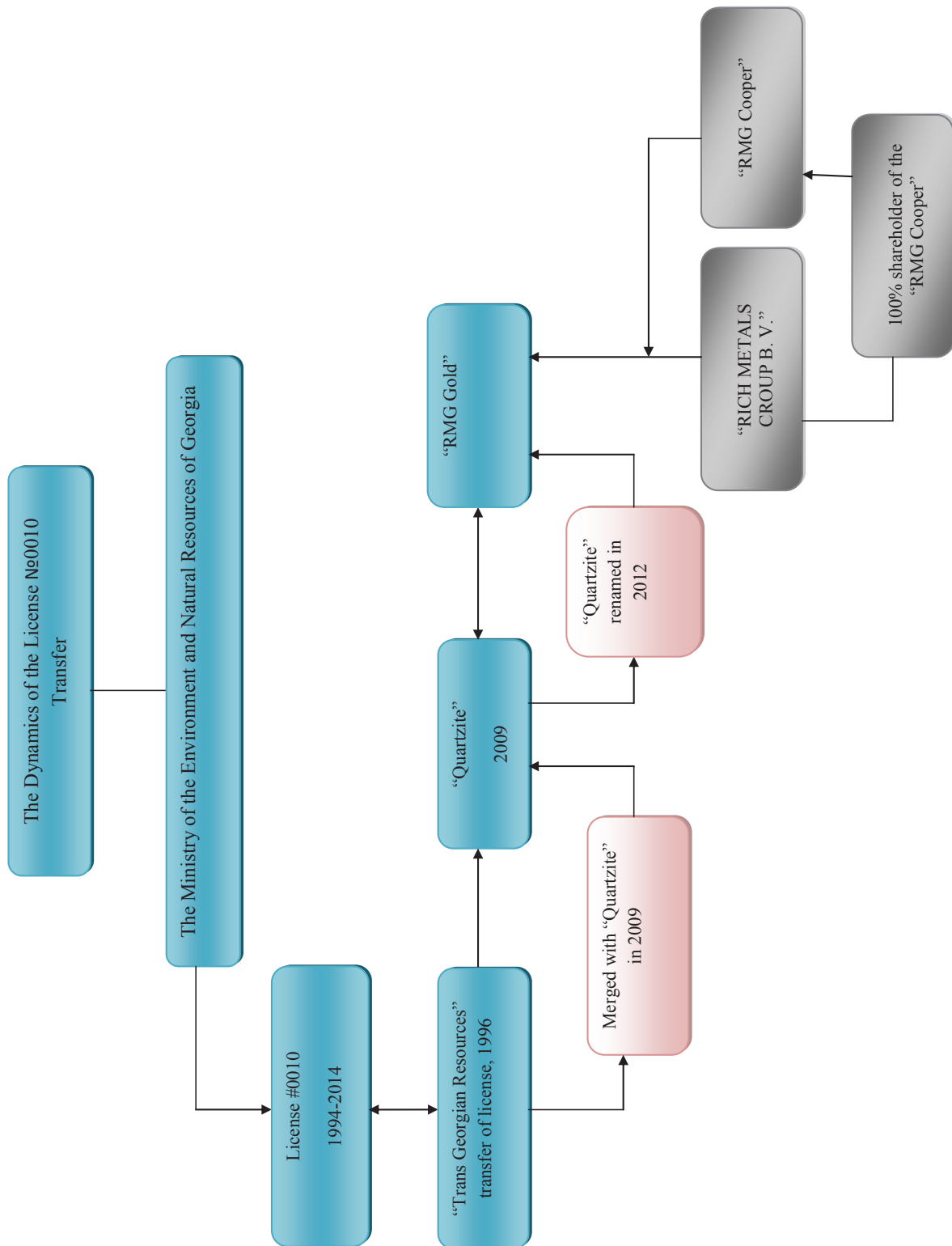
<sup>77</sup> Ordinance #1-1/291 of the Minister of the Economy and Sustainable Development of Georgia (dated February 11, 2009);

<sup>78</sup> Decision of the LTD “Quartzite” partner (dated August 20, 2012); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=510574&app\\_id=528539](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=510574&app_id=528539) and the extract from the Registry of Commercial Entities (dated September 5, 2012) [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=454192&app\\_id=528539](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=454192&app_id=528539);

owned 14,53%,<sup>79</sup> - 99,1% of which were owned by the mentioned “Rich Metals Group B.V.”<sup>80</sup>

Therefore, the owner of the LLC “RMG Gold” (which is former “Quartzite”) was in reality the company registered in the Netherlands – “Rich Metals Group B. V.”<sup>81</sup>

The transfers of license ownership throughout 1994-2014 is the following:



<sup>79</sup> Extract from the Registry of the Commercial Entities (dated September 5, 2012); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=454192&app\\_id=528539](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=454192&app_id=528539);

<sup>80</sup> The decision of the shareholder of the JSC “Madneuli”, dated August 20, 2012; [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=510565&app\\_id=528514](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=510565&app_id=528514);

<sup>81</sup> “Rich Metals Group B.V.”, just like other companies, are presented in the separate paragraph of the present research;



#### 4.2. Sakdrisi-Kachaghiani – Precondition for the Prolongation of the License to the “RMG Gold”?

On April 4, 2014 three (3) days prior to the expiration of the license, the Government of Georgia made a decision on providing confirmation, according to which the Environment Protection Agency was given a right to prolong the license #0010 to the LLC “RMG-Gold”.<sup>82</sup>

On April 4, 2014, the Government of Georgia made one more decision, according to which the date of the enactment of the license owned by the LLC “Mining Investments Gold” (obtained by the founder of this company – “Mining Investments”<sup>83</sup> in 2012) was moved nine (9) days earlier.

Both of the above decisions of the Government were directly linked to each other, because both licenses covered the same territory and therefore it would have been impossible for the two different companies to have license on processing the same territory. However, there was one important detail, specifically: the 1994 license (#0010), owned by the “RMG Gold”, covered Sakdrisi-Kachaghiani territory, among others,<sup>84</sup> while the license, procured by the “Mining Investments” (which is the founder of the “Mining Investments Gold”) in 2012, it is clearly and unambiguously stated, that the license did not cover the territory of the Kachaghiani mine that had Status of a Cultural Heritage Site.<sup>85</sup>

Therefore, if the license of the “RMG Gold” would not have been extended and the “Mining Investment Gold” would have started using the license, it would not have had a right to process the the Kachaghiani territory of the Sakdrisi mine, because the license, procured in 2012 excluded the possibility of mining at the Sakdrisi-Kachaghiani territory by the “Mining Investments Gold”.

Therefore, logically, prolongation of the license for one company and moving the date of enactment of the license few days earlier for another seems to represent an interest in Sakdrisi-Kachaghiani.

It is notable that legally, that LLC “RMG Gold” and the LLC “Mining Investments Gold” are not directly connected to each other. However, this is just on the cover. The exact nature of the connection among the two companies and the reason for prolongation of the “RMG Gold” license is described in the separate part of GYLA’s research.

#### 4.3. The Circumstances Based on Which the License of the “RMG Gold” Was Prolongated

According to the official information, on February 24, 2014, the LLC “RMG Gold” addressed the National Agency of Environment with a request to prolong the license. In the letter, signed by the executive director of the company – Sergey Eganov, apart from the developments around Sakdrisi-Kachaghiani, as an object of Cultural Heritage, it was also mentioned that *in July 2010 the gold and copper ores of the Sakdrisi mine were confirmed and inscribed at the state balance by the State Commission of the Natural Resources, as a result of which the relevant plan of processing the mine was presented to the relevant state institutions. As a result, the workplan for processing the mine was presented to the state agencies. The elaborated plan covers years, and foresees full-scale processing of the mine. Due to the above mentioned circumstances we did not have such a possibility (the possibility to process the mine).*<sup>86</sup>

In its letter, the company also indicated, that processing Sakdrisi was not possible for the reasons, not dependent on the company and which was the reason for the company to mediate for prolongation of the license for an additional year.<sup>87</sup>

In the above letter of the “RMG Gold” one important detail is mentioned. Specifically, that the plan was elaborated in 2010, which related to the full-scale processing of the Sakdrisi mine (including the Kachaghiani territory). Therefore, it means, that changing the legal Site Status of Sakdrisi-Kachaghiani was planned much earlier than it actually started in 2013 and which resulted in the invalidation of the Site Status in July of the same year.

Naturally, the sole letter of the “RMG Gold” could not have been the precondition for the prolongation of the status. It was also necessary for the “Mining Investments Gold” to express relevant consent to the “RMG Gold”. “Mining Investments Gold” gave consent to the “RMG Gold” within the short period of time, without any complicated procedures.

On February 24, 2014, simultaneously with the “RMG Gold” letter, one more letter was submitted to the National Agency of Environment. The author of the second letter was “Mining Investments Gold”. In the document, signed by the director of the company – Solomon Tsabadze, it was noted that the company expressed its consent to prolong the license granted to the “RMG Gold” for an additional year and in turn, to have the enactment of the “Mining Investments Gold” license moved for the same period.<sup>88</sup>

<sup>82</sup> Resolution #593 of the Government of Georgia (dated April 4, 2014);

<sup>83</sup> Resolution #592 of the Government of Georgia (dated April 4, 2014);

<sup>84</sup> The license #0010 for the use of the natural resources, dated 30.12.96;

<sup>85</sup> The license #1000577 dated May 21, 2012; the license #1001028 dated February 25, 2013;

<sup>86</sup> Statement #156 (c) of the “RMG Gold” dated February 24, 2014;

<sup>87</sup> Statement #156 (c) of the “RMG Gold” dated February 24, 2014;

<sup>88</sup> Statement #916 of the “Mining Investments Gold” dated February 24, 2014;

The statement submitted to the Agency by the company included the communication among the “Mining Investments Gold”, partner of this company and the “RMG Gold” in the attachment.<sup>89</sup>

“RMG Gold”, represented by the executive director – Sergey Eganov addressed “Mining Investments Gold” on the prolongation of the license on January 30, 2014 for the first time and requested their consent to prolongation of the license for a year.<sup>90</sup>

On February 2 of the same year the “Mining Investments Gold” informed the “RMG Gold” that the request exceeded the competence of the executive director and that it was necessary to be presented at the advisory board of the 100% owner of the “Mining Investment Gold” – “Mining Investments”. The mentioned letter is signed by the director of the “Mining Investment Gold” – Solomon Tsabadze.<sup>91</sup>

On February 6, 2014, the advisory body of the “Mining Investments”, composed of Zurab Qutelia, Dimitry Troitsky and Dimitry Korzhev, gave consent to the “Mining Investment Gold” to make all decisions that it deemed necessary.

Later on, Solomon Tsabadze, representing “Mining Investments Gold”, sent another letter to the “RMG Gold” and informed it that the issue was considered at the advisory council of the company founder and was resolved positively. In the same letter, the company expressed willingness to address/mediate with the the legal person of public law under the auspices of the Ministry of Environment and Natural Resources – the National Agency of the Environment.<sup>92</sup>

As a result, as already mentioned, the two letters – one regarding prolongation of the license, and another, on moving the enactment of the license, were submitted to the person of public law – the National Agency of the Environment under the auspices of the Ministry of the Environment and the Natural Resources on February 24, 2014.<sup>93</sup>

GYLA got interested, what were the developments following the receipt of the letters at the Agency and for this reason, addressed in writing both the Agency, as well as the Chancellery of the Government of Georgia.<sup>94</sup>

According to the official information, provided by the Chancellery of the Government of Georgia, the person of public law under the Ministry of the Environment and Natural Resources – the National Agency of the Environment, presented the projects of the two Ordinances to the Government of Georgia on April 1, 2014 along with the Explanatory Notes.<sup>95</sup>

The explanatory note prepared by the Agency on moving the enactment of the license of the “Mining Investments Gold” clearly says that “RMG Gold” was not able to process the mine on the licensed territory of Sakdrisi-Kachaghiani due to the reasons not dependent on the company and requested to prolong the license.<sup>96</sup>

Therefore, ***the Explanatory Note, prepared by the Agency once again confirmed that prolongation of the license to the “RMG Gold” was targeted at the Sakdrisi-Kachaghiani and its specific territory.***

***In this process, GYLA was not able to obtain such documents, which would have clarified whether the Agency requested any additional documentaion and argumentation from the “RMG Gold” prior to presenting the Ordinance project to the Government of Georgia, or whether the address of the company was enough to prolong the license.***

Unfortunately, up to date, it is unknown and there are no answers in the official documentation of the Government of Georgia or National Agency of Environment Protection to the questions, relating to the prolongation of the license of the “RMG Gold” such as:

- ✓ ***Why weren't mining works conducted prior to granting Sakdrisi-Kachaghiani the Status of a Cultural Heritag Site, while prior to granting the status, the license holder company had all the legal rights to process the mine up to 2006?***
- ✓ ***Why did “RMG Gold” start regular correspondence in 2013, while less than a year was left prior to expiration of the license?***
- ✓ ***How realistic it is for the company, to fully process the natural resources at the object within the license that was prolonged until January 1, 2015 and is it realistic that at the time of expiration of a license there will be no ecological and other problems that would endanger the population and the nature?***

In all of this process relating to the license prolongation, one more issue is important. Simultaneously with the

<sup>89</sup> Statement #916 of the “Mining Investments Gold” dated February 24, 2014;

<sup>90</sup> Statement #60 (c) of the “RMG Gold” dated January 30, 2014;

<sup>91</sup> Statement of the “Mining Investments Gold” dated February 2, 2014;

<sup>92</sup> Statement of the “Mining Investments Gold” dated February 7, 2014;

<sup>93</sup> Statements #916 of the “Mining Investments Gold” (dated February 24, 2014) and #156 (c) of the “RMG Gold” (dated February 24, 2014);

<sup>94</sup> Statements #c-04/189-14 and #c-04/190.14 of GYLA (dated May 2, 2014);

<sup>95</sup> Correspondences #1553 and #1554 of the person of public law – the National Agency of Environment of the Ministry of the Environment and Natural Resources of Georgia (dated April 1, 2014);

<sup>96</sup> Correspondence #1554 of of the person of public law – the National Agency of Environment of the Ministry of the Environment and Natural Resources of Georgia (dated April 1, 2014);

disputes around Sakdrisi-Kachaghiani, as the object of the Cultural Heritage, the information was being publicized frequently that without processing the Kachaghiani territory of the Sakdrisi mine, processing the rest of the territory would be detrimental and unprofitable for the company.<sup>97</sup> There were discussions that the largest bulk of gold was concentrated at the Kachaghiani territory of the Sakdrisi mine.

If we consider this to be true and agree, that the gold reserve at the Kachaghiani territory really exceeds the reserve at other territories, then logical question arises – why was the license of the “RMG Gold” prolonged, if the company did not pay any sum for prolongation of the license?

***In addition, considering the circumstance that the Sakdrisi mine (without the Kachaghiani territory) was sold by the state in 2012 in a form of a license for 110’500’000 GEL, the above question is much more acute and naturally leads us to the next question: why wasn’t the Kachaghiani territory sold independently by the relevant institutions?***

Here once again it should be underlined that the 2012 license did not include the territory of Sakdrisi-Kachaghiani that had the Status of a Cultural Heritage and therefore, the sum paid by the company did not reflect the value of Kachaghiani and the price would have been higher had it included the Kachaghiani territory. This circumstance multiplies the value of Kachaghiani mine and clearly indicates on the great profit that the state could have gained if it sold the territory separately.

Additionally, it shall be mentioned that from the very beginning “RMG GOLD” has no significant economic estimates related to Sakdrisi-Kachaghiani, as in 2009 when the license was transferred to the company, Sakdrisi-Kachaghiani was already the object of national cultural heritage, therefore broad-scale works was restricted.

Unfortunately, while discussing the license prolongation the state institutions did not have such questions and the license of the “RMG Gold” was prolonged without too many “difficulties”. The decision of the state on prolonging the license until January 1, 2015 raises a number of unanswered questions.

***The above developments cause the allegations that perhaps, in the Sakdrisi-Kachaghiani context, during the prolongation of the “RMG Gold” license, there were corruptional or other illegal actions committed by separate individuals, which definitely should become the object of interest to the law-enforcement bodies.***

#### **4.4. About the Procurement of the License by “Mining Investments” in 2012**

In this research, it has already been mentioned that in 2012 “Mining Investments” procured the license #1000577 and later on equally divided it among the two subsidiary companies.<sup>98</sup> Despite the fact that the license does not cover the part of the Sakdrisi-Kachaghiani that had the Status of the Site at the time of issuing the license, it is interesting to establish – how and in what circumstances did the “Mining Investments” procured the above license. Especially that in 2014, for the purpose of processing Sakdrisi-Kachaghiani, the subsidiary company of this company gave “RMG Gold” the consent to have its on license moved in time.

On January 18, 2012, the Government of Georgia confirmed the research and mining-related license conditions for the upcoming auction on the natural resources (non-ferrous, precious, rare metals and baryte) and set the starting price of 110 million.<sup>99</sup>

According to the Government decision the auction should have been conducted on February 29, 2012. The auction winner would have been obliged to provide payment of the final auction offer no later than June 1, 2012. The term of license was defined to be 27 years and should have been enacted on April 15, 2014.<sup>100</sup>

***Within less than one month after announcing the auction by the Government, on February 13, 2012, LLC “Mining Investments” was registered in Tbilisi. Founder of the company and 100% shareholder is the citizen of Lithuania, living in Russia, St. Petersburg, Alvidas Brusokas.<sup>101</sup> Simultaneously, on March 27 of the same year (27 days after winning in the auction) Alvidas Brusokas sold 100% of shares of the company to the “NOONSTAR CO LTD” registered at the Cyprus for 1’000 GEL.<sup>102</sup> In other words, the company, that won the auction and procured the license for 110’500’000 GEL was sold for 1’000 GEL.***

<sup>97</sup> <https://www.youtube.com/watch?v=aLrH3KTY1bc>;

<sup>98</sup> #7 session protocol of the advisory body of the “Mining Investments” (dated February 8, 2013); „Mining Investments”; [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=560813&app\\_id=578091](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=560813&app_id=578091);

<sup>99</sup> Resolution #18 of the Government of Georgia (dated January 18, 2012);

<sup>100</sup> Resolution #18 of the Government of Georgia (dated January 18, 2012);

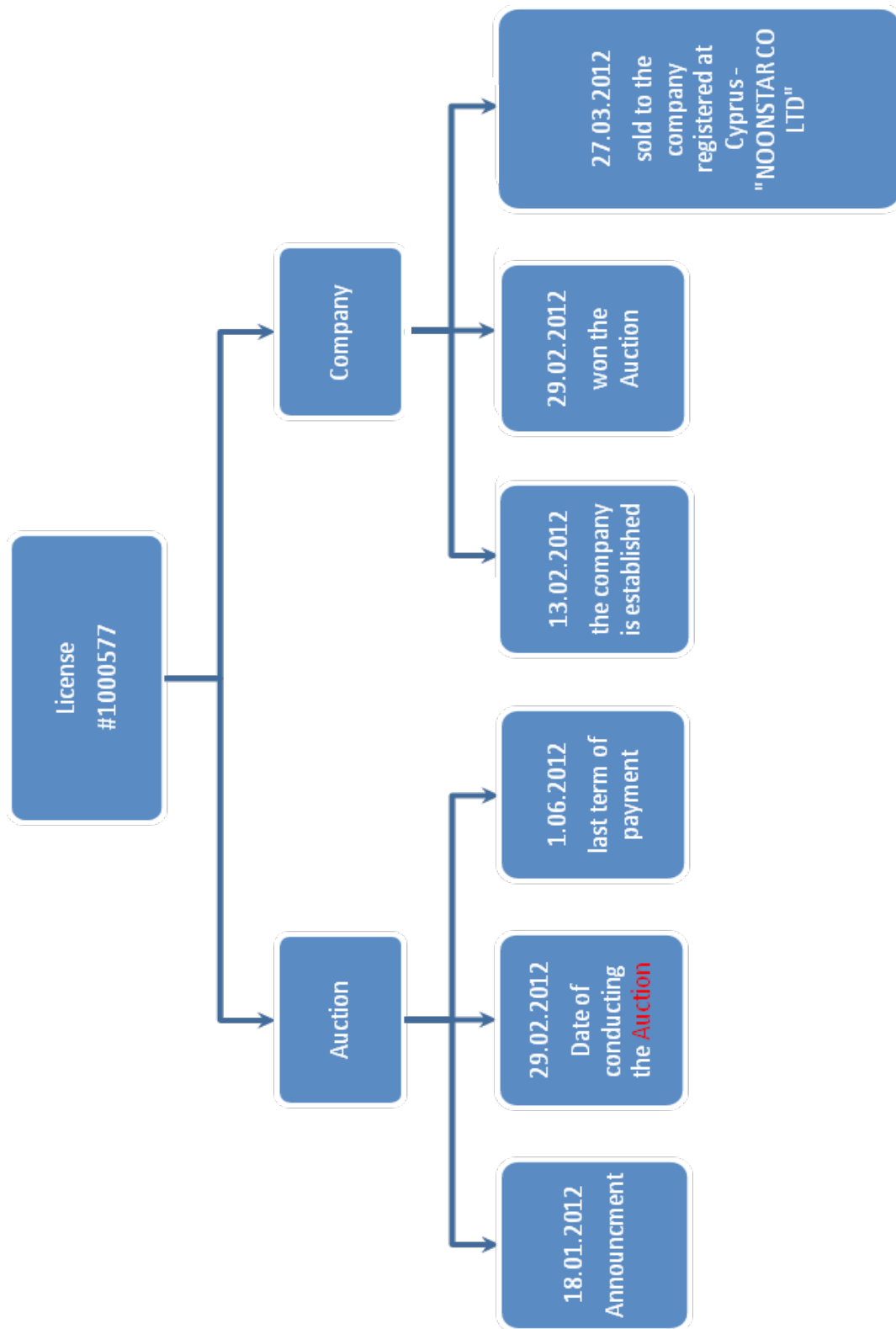
<sup>101</sup> The decision of the founding partner (dated February 13, 2012); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=432503&app\\_id=441406](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=432503&app_id=441406); extract from the Public Registry (dated February 13, 2012) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=381382&app\\_id=441406](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=381382&app_id=441406);

<sup>102</sup> Share purchase agreement (dated March 27, 2012) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=451540&app\\_id=463067](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=451540&app_id=463067);

In its turn, the share capital of the buyer – “NOONSTAR CO LTD” was 2’000 EUR. The founder of the company was “CYROMAN SERVICE LIMITED” registered in Cyprus as well.<sup>103</sup>

As a result, if on the one hand we compare the announcement, conducting and identifying the winner, the periods of providing payment, and on the other hand - establishing “Mining Investment”, dates of winning the auction and selling the shares, there is a high probability that all of these facts might be connected to each other.

For the illustration, see the below scheme:



<sup>103</sup> Memorandum and Statute of the “NOONSTAR CO LTD” - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=451540&app\\_id=463067;](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=451540&app_id=463067;)

On May 8, 2012, under the decision of the "NOONSTAR CO LTD", Solomon Tsabadze replaced Alvidas Brusokas at the post of the director of the LLC "Mining Investments".<sup>104</sup>

Therefore, by May 8, 2012 the scheme of establishing "Mining Investments" is the following:



Following the replacement of the director at the company, within less than a month, the "NOONSTAR CO LTD" made mortgage agreement with the Joint Stock Company "Bank of Georgia" and in exchange for mortgaging the LLC "Mining Investments", took the debt of 68'000'000 USD. The mentioned sum amounted to 111'356'800 GEL in national currency at the moment of making an agreement.<sup>105</sup> The maximum responsibility for the mortgage was set to be 150'000'000 USD.<sup>106</sup> At the time of making an agreement the owner of the 100% of the shares of the "NOONSTAR CO LTD" was "PAMTILON HOLDINGS LIMITED". Therefore, the scheme of founders of the "Mining Investments" by the June 4, 2012 is the following:



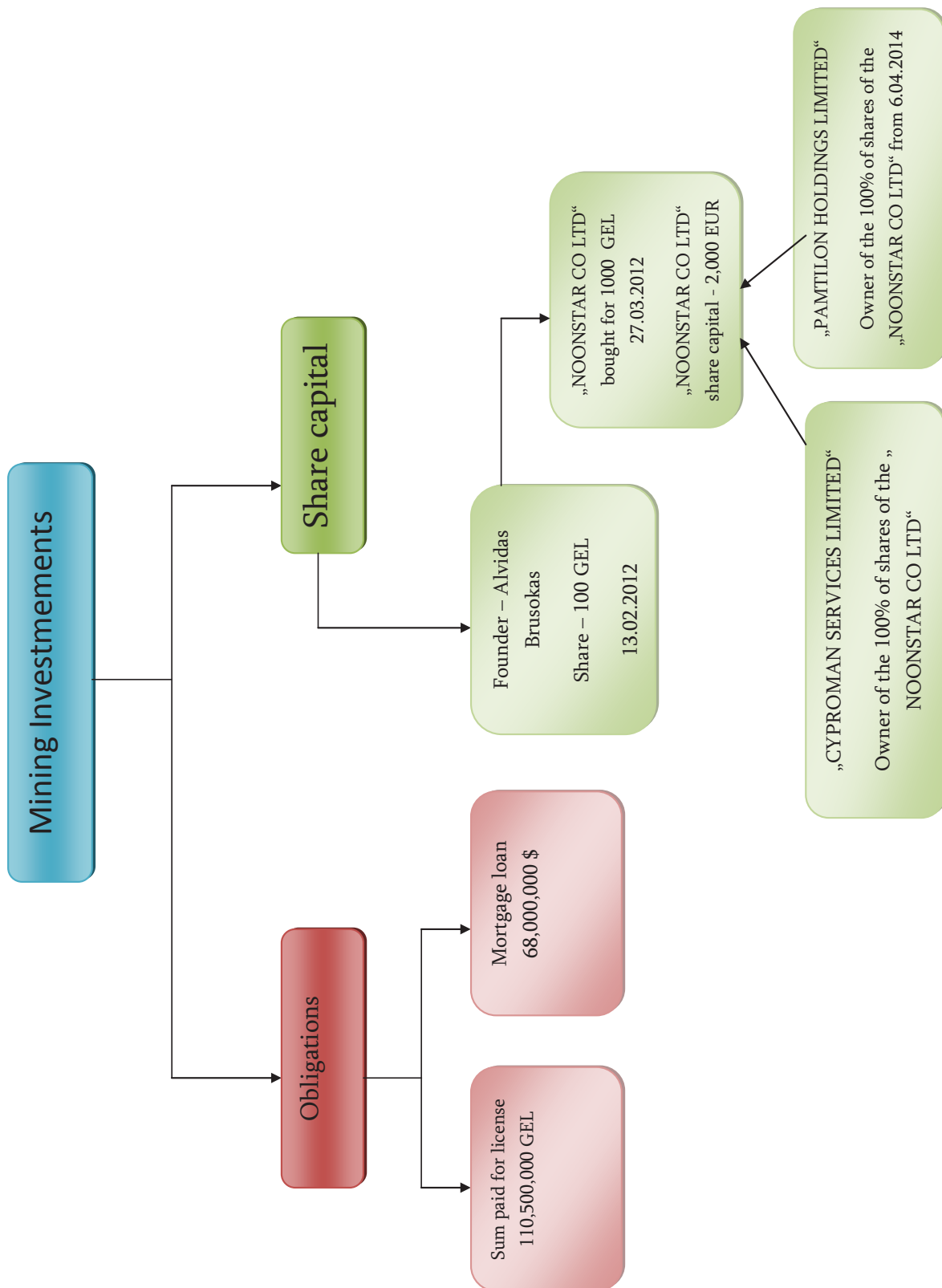
<sup>104</sup> [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=468849&app\\_id=484561](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=468849&app_id=484561); extract from the Public Registry (dated May 8, 2012); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=414606&app\\_id=484561](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=414606&app_id=484561);

<sup>105</sup> <https://www.nbg.gov.ge/index.php?m=582&lng=geo>;

<sup>106</sup> January 27, 2012 mortgage agreement; [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=489351&app\\_id=506226](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=489351&app_id=506226);

It is also notable, that the debt taken in exchange for mortgaging the “Mining Investments”, which amounted to 111’356’800 GEL (in national currency) by the time of making an agreement,<sup>107</sup> suspiciously resembles the starting price indicated in the license conditions – 110’000’000 GEL.<sup>108</sup>

For a more clarity, see the diagram on the share capital of the “Mining Investments” and financial obligations taken by the companies.



<sup>107</sup> <https://www.nbg.gov.ge/index.php?m=582&lng=geo;>

<sup>108</sup> Resolution #18 of the Government of Georgia (dated January 18, 2012);

It is also notable that on June 27, 2012, similarly to the founders of the LLC “Mining Investments”, the mentioned LLC “Mining Developments Georgia” was mortgaged at the “Bank of Georgia” and this time too, the representative of the mortgager was Solomon Tsabadze. According to the agreement, the Bank gave the company 50’000’000 USD.<sup>109</sup>

#### 4.5. A Few Words About the “Main Acting Characters”

Who are Solomon Tsabadze, Zurab Qutelia, Alvidas Brusokas, Sergey Eganov, Dimitry Troitsky and Dimitry Korzhev?

These persons are frequently seen at the top management positions and in advisory bodies of the “RMG Gold”, “Mining Investments Gold” and in other legal persons that are founders of these companies. Let’s see each of them.

According to the record, stored at the Registry of Commercial Entities, the executive director of “RMG Gold” is Sergey Eganov.<sup>110</sup> The members of the advisory council are:

- Zurab Qutelia;
- Dimitry Troitsky and
- Dimitry Korzhev<sup>111</sup>

In its turn, the founder of the “RMG Gold” is the “Rich Metals Group B.V.” registered at the Netherlands and the “RMG Copper” founded by that same company.<sup>112</sup>

The executive director of “RMG Copper” is the same person – Sergey Eganov and the advisory council are represented by:

- Zurab Qutelia;
- Dimitry Troitsky and
- Dimitry Korzhev<sup>113</sup>

As for the “Rich Metals Group B.V.” the official web-site of the company [www.richmetalsgroup.com](http://www.richmetalsgroup.com) only indicates that the site is under the “construction” regime and the information about the company may be found at the facebook page.<sup>114</sup> The official page on facebook indicates the following information: ***JSC RMG - Rich Metals Group (formally known as JSC Madneuli) is Georgia’s leading mining company, responsible for more than 10% of Georgian exports.***

***The company was established in 1975 in the Bolnisi region of Georgia. The mines of the company are located in the hills between upper Bolnisi village and Kazreti, approximately 80 km SW from Tbilisi the capital of Georgia. The company recovers gold and silver from stockpiled gold bearing secondary siliceous ore, known as quartzite. RMG as one of the world’s lowest cost gold producers takes a great part in development of Georgia and Georgia economy.***<sup>115</sup>

<sup>109</sup> Mortgage agreement dated June 27, 2012 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=489330&app\\_id=506212](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=489330&app_id=506212);

<sup>110</sup> [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=666819&app\\_id=752408](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=666819&app_id=752408);

<sup>111</sup> Session protocol of the advisory council of the “RMG Gold” (dated February 13, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=697831&app\\_id=717393](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=697831&app_id=717393);

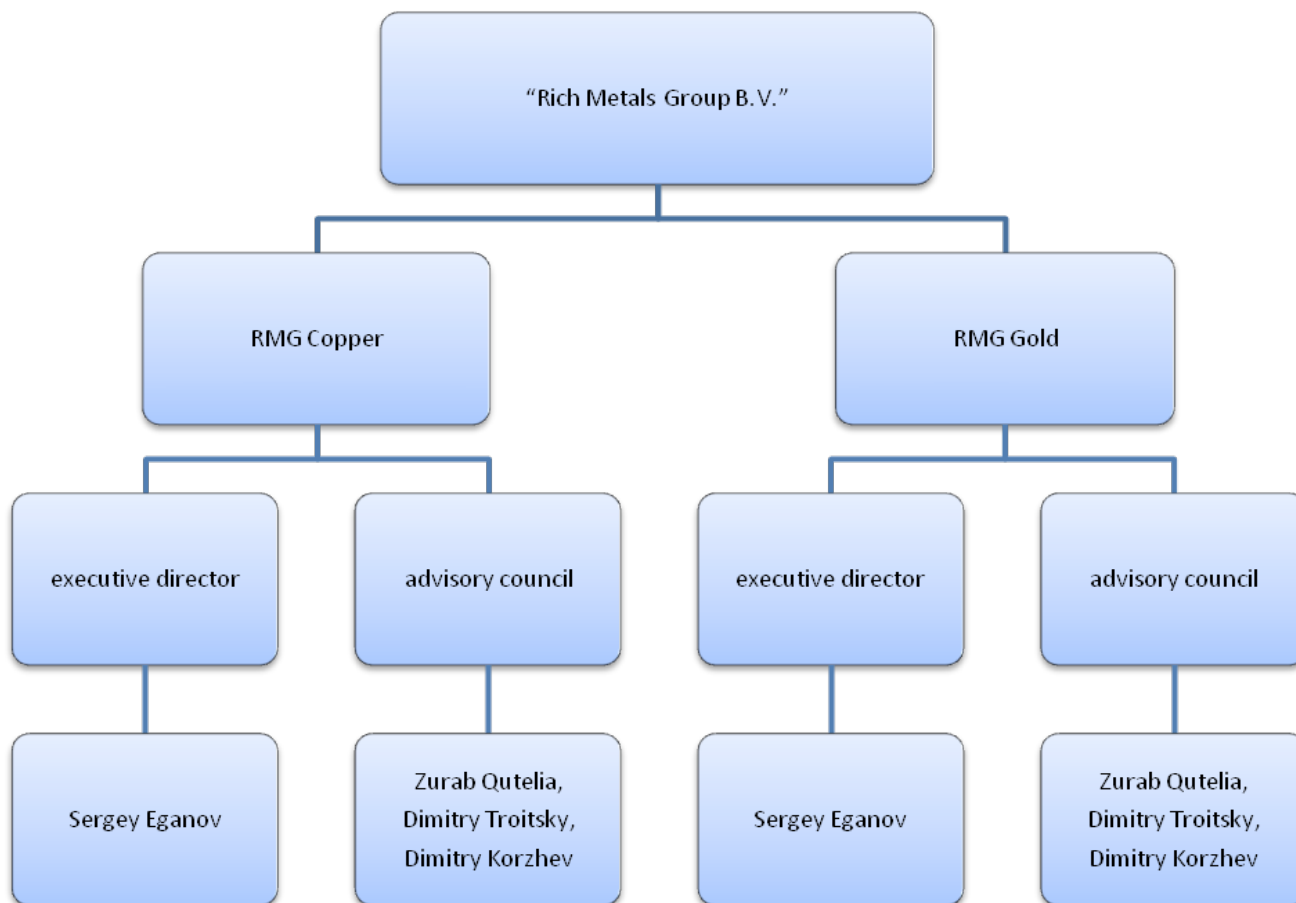
<sup>112</sup> [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=666819&app\\_id=752408](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=666819&app_id=752408);

<sup>113</sup> Extract from the Public Registry (dated May 6, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=665219&app\\_id=750123](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=665219&app_id=750123);

<sup>114</sup> <http://www.richmetalsgroup.com/>

<sup>115</sup> <https://www.facebook.com/richmetalsgroup/info>;

Schematically organized information of the directors and advisory bodies of the company are the following:



Who stands behind the “Rich Metals Group B.V.”? According to the information obtained by GYLA, the company named “Rich Metals Group B.V.” was registered on January 21, 2008 in the Netherlands and at first, was named “GPM Georgia B.V.” The share capital of the company was 9’000’000 million EUR, while the director and sole manager of the company was Alvidas Brusokas.<sup>116</sup>

According to the record dating back to January 8, 2013, stored at the Registry of the Netherlands Chamber of Commerce, the company registered at the Netherlands “NC Trust B.V.” has become a member of the company’s council.<sup>117</sup>

According to another document obtained by GYLA, the extract from the records of the Netherlands’ Chamber of Commerce on December 18/2013, issued to the “Rich Metals Group B.V.” it is made known that the sole shareholder of the company **from July 12 of the same year is the LLC “Mining Developments Georgia” registered in Georgia.**<sup>118</sup>

Who is the founder of the LLC “Mining Developments Georgia”? According to the Registry of Commercial Entities, by now, the 100% shareholder of the company is the LLC registered at Cyprus – “PAMTILON HOLDINGS LIMITED”,<sup>119</sup> about which it is only known that the company was founded on June 6, 2011,<sup>120</sup> while the director is Cristy Loizidou Hadgivaranova.<sup>121</sup>

<sup>116</sup> Extract from the Netherlands Commercial Chamber Registry (dated July 11, 2012) -[https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=498470&app\\_id=515676](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=498470&app_id=515676);

<sup>117</sup> Extract from the Netherlands Commercial Chamber Registry (dated January 8, 2013) -[https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=590948&app\\_id=607475](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=590948&app_id=607475);

<sup>118</sup> Extract from the Netherlands Commercial Chamber Registry (dated December 18, 2013) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=689261&app\\_id=708585](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=689261&app_id=708585);

<sup>119</sup> April 8, 2014 extract - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=654723&app\\_id=739836](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=654723&app_id=739836);

<sup>120</sup> <https://efiling.drcor.mcit.gov.cy/DrcorPublic/OrganizationFileContents.aspx?id=424748&nameid=682763&regno=288293&name=Pamtilon%20Holdings%20Limited&number=%&lang=EN&searchtype=optStartMatch&tname=%&type=%CE%97%CE%95&subtypecode=101>;

<sup>121</sup> [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=700324&app\\_id=720002](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=700324&app_id=720002);



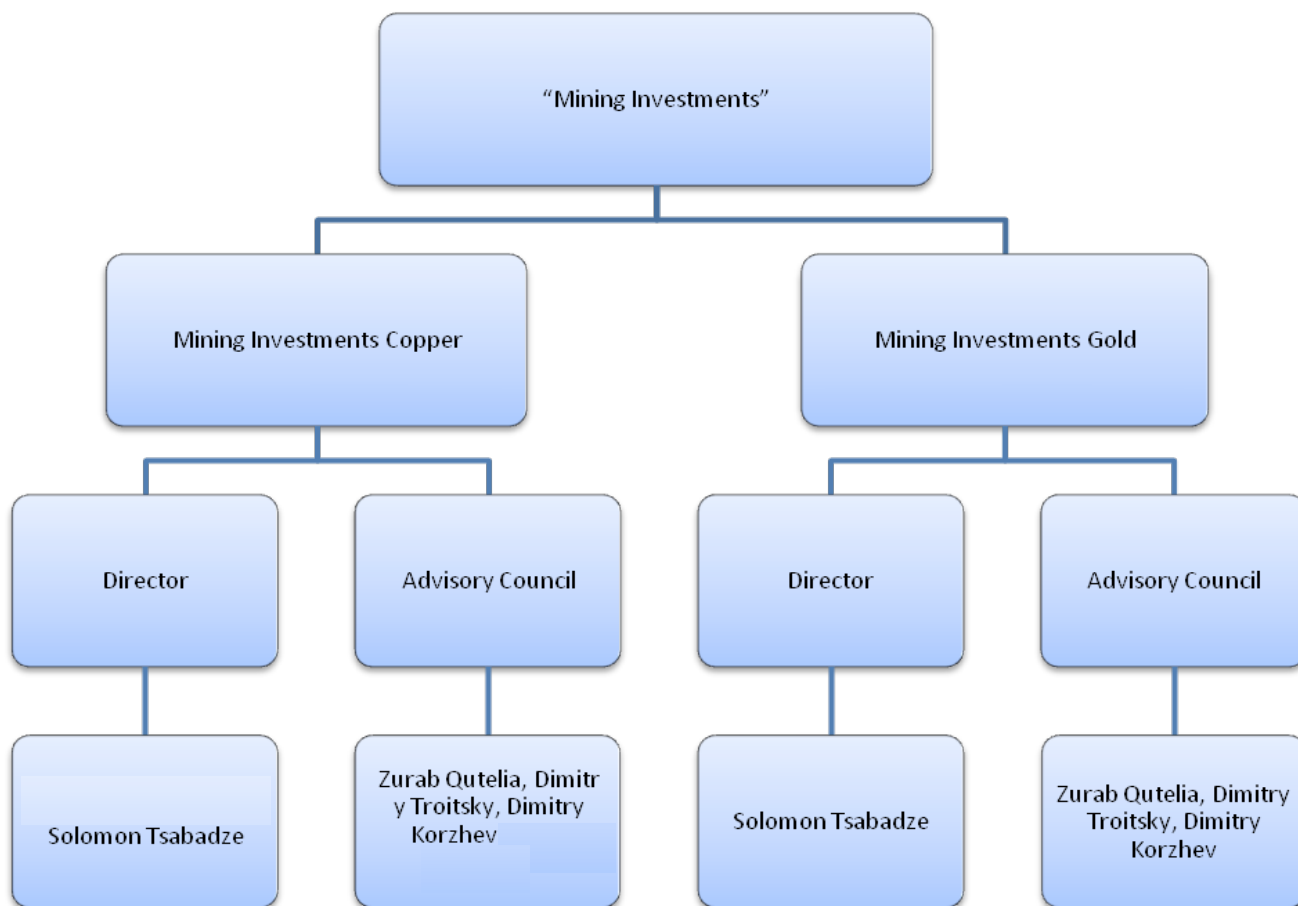
In its turn, the executive director of the “Mining Developments Georgia” is previously mentioned Solomon Tsabadze,<sup>122</sup> while the advisory council is composed of the same persons

- Zurab Qutelia;
- Dimitry Troitsky and
- Dimitry Korzhev.<sup>123</sup>

As for the LLC “Mining Investments Gold” – on February 12, 2012, the company, along with another subsidiary – LLC “Mining Investments Copper”, was founded by the “Mining Investments” and Solomon Tsabadze was assigned as the director of the both companies.<sup>124</sup>

In addition, the founder decided to set the share capital of the companies to be 55’250’000 GEL. The source of the capital was the license #1000577, granted to the “Mining Investments” in 2012, which was equally divided. The source for the share capital of the “Mining Investments Gold” was so-called “Sakdrisi Mine”, while the source of the share capital of the “Mining Investments Copper” was so-called mining ore.<sup>125</sup>

The records stored at the Registry of the Commercial Entities and the information obtained by GYLA show that by now the directors and advisory council members of the subsidiary companies of the “Mining Investments” are:<sup>126</sup>



<sup>122</sup> Extract from the Public Registry (dated April 8, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=654723&app\\_id=739836](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=654723&app_id=739836);

<sup>123</sup> Session protocol #21-3 of the advisory body (dated March 6, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=705725&app\\_id=725417](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=705725&app_id=725417);

<sup>124</sup> February 12, 2013 Extract from the Commercial Registry - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=501486&app\\_id=578082](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=501486&app_id=578082); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=501485&app\\_id=578091](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=501485&app_id=578091); #7 session protocol of the advisory body of the “Mining Investments” dated February 8, 2013 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=560813&app\\_id=578091](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=560813&app_id=578091);

<sup>125</sup> #7 session protocol of the advisory body of the “Mining Investments” dated February 8, 2013 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=560813&app\\_id=578091](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=560813&app_id=578091);

<sup>126</sup> Extract from the Commercial Registry (dated March 20 and April 10, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=645647&app\\_id=730116](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=645647&app_id=730116); [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=654997&app\\_id=739852](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=654997&app_id=739852); #7 session protocol of the advisory body of the “Mining Investments” dated February 8, 2013 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=560813&app\\_id=578091](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=560813&app_id=578091); session protocol of the “Mining Investments” advisory body, dated February 6, 2014 -

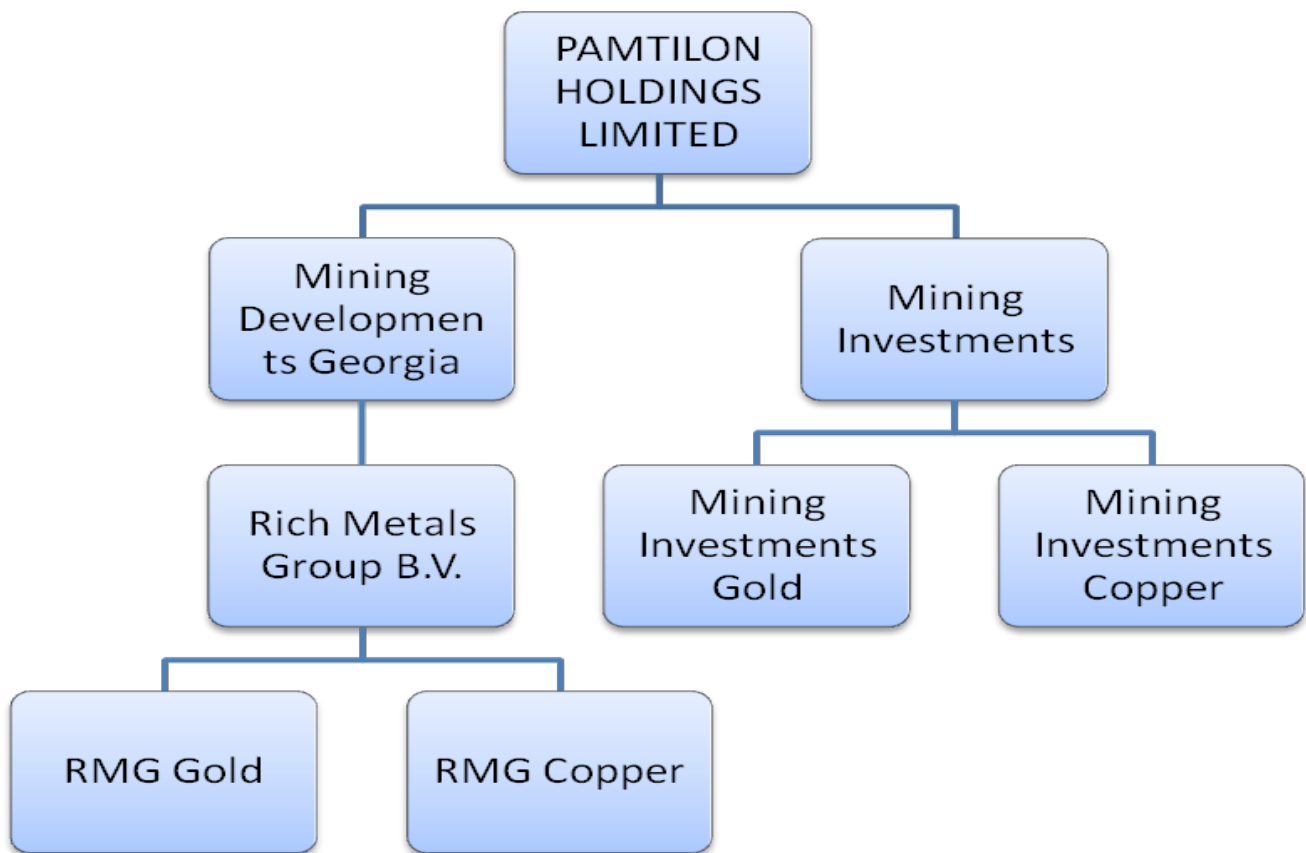
In its turn, the executive director of the “Mining Investents” is again Solomon Tsabadze and the advisory body is again represented by Zurab Qutelia, Dimitry Troitsky and Dimitry Korzhev.<sup>127</sup>

And finally, who is the founder of the “Mining Investments”? According to the Registry of the Commetcial Entities, by now, 100% shareholder of the company, as in the case of the “Mining Developments – Georgia” is the LLC “PAMTILON HOLDINGS LIMITED” registered at Cyprus.<sup>128</sup>

**Therefore, behind each company is in reality one company, registered in Cyprus, at so-called “offshore zone” – the LLC “PAMTILON HOLDINGS LIMITED”. In its turn, it is unknown who stands behind this company.**

GYLA got curious with the details of activity of the “PAMTILON HOLDINGS LIMITED” and sent an email to the department of company registration of Cyprus. One of the functions of the department is to store the registration documentation of the companies, various business unions, trademarks, patents and such registration documentation.

In its letter, GYLA tried to figure out the information about the company, such as: founders, shareholders and directors. However, GYLA did not receive a response from Cyprus.



<sup>127</sup> Extract from the Commercial Registry (dated April 8, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=654794&app\\_id=739841; session protocol #21-2 of the “Mining Investments” advisory body, dated March 6, 2014](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=654794&app_id=739841; session protocol #21-2 of the “Mining Investments” advisory body, dated March 6, 2014) - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=705588&app\\_id=725409;](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=705588&app_id=725409;)

<sup>128</sup> [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=642180&app\\_id=725409;](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=642180&app_id=725409;)

All of the information available to GYLA within the research shows that Zurab Qutelia is the member of the advisory councils of all companies. It is also important that the December 30, 1996 license, granted to “Trans Georgian Resource” (that included Sakdrisi-Kachagiani territory as well), is signed by Zurab Qutelia, representing the Ministry of the Environment and Natural Resources.<sup>129</sup> However, this is not the only case when the state institution was represented by Zurab Qutelia. Even earlier, on September 8, 1995, Zurab Qutelia confirmed the license on comprehensive processing of the gold-copper-baryte-polymetal mine to the Joint Stock Company – “Madneuli”.<sup>130</sup>

According to the information, obtained by “Green Alternative”, Zurab Qutelia chaired the inter-agency council of experts on license issuance for the use of natural resources, under the auspices of the Ministry of the Environment and Natural Resources up to 2004. The permanent member of the same Council was Solomon Tsabadze, which was the head of the department for the environmental licenses and state ecological expertise up to 2003 (under the auspice of the Ministry of Environment and Natural Resources).<sup>131</sup>

It is interesting – when did Zurab Qutelia officially appear in the advisory council of the “RMG Gold”? According to the records in the Registry of the Commercial Entities, the document, which reflects that Zurab Qutelia became the member of the advisory body of the “RMG Gold” dates back to June 7, 2012.<sup>132</sup> At that time the company was still named LLC “Quartzite”.<sup>133</sup>

As for appearance of Zurab Qutelia at the Joint Stock Company “Madneuli” advisory council it happened first in 2012, simultaneously with appearing in the advisory council of the “RMG Gold”.<sup>134</sup> The mentioned company now continues operating under the changed name and from August 20, 2012 is named “RMG Copper”.<sup>135</sup>

Therefore, Zurab Qutelia became the member of the advisory council of both companies at the same time.

The above fact confirms that finally, all of the companies and managing persons lead to the “PAMTILON HOLDINGS LIMITED” registered at Cyprus. However, it is unknown who is standing behind the company registered at Cyprus.

As a result of analysing a number of official documents, GYLA prepared the scheme, which clearly and comprehensively shows information on all of the companies and their managers.

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<sup>129</sup> License #0010, dated 30.12.96;

<sup>130</sup> License dated September 8, 1995;

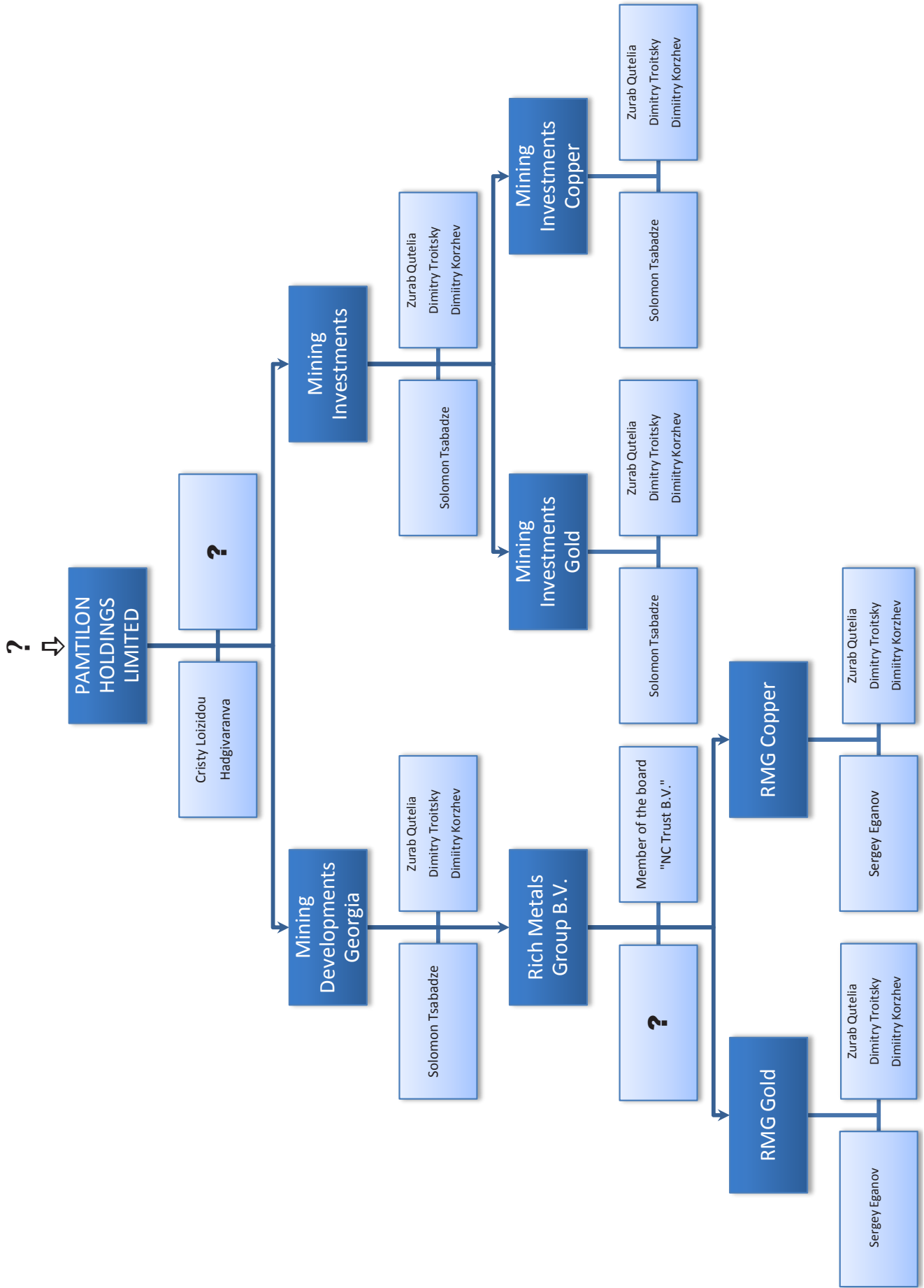
<sup>131</sup> Green Alternative report – “Madneuli Above the Law”; [http://www.osgf.ge/files/2013/2013/Madneuli\\_kanonze\\_magla.pdf](http://www.osgf.ge/files/2013/2013/Madneuli_kanonze_magla.pdf);

<sup>132</sup> Decision #05 of the LTD “Quartzite” shareholder, dated June 7, 2012; [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=483553&app\\_id=500270](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=483553&app_id=500270);

<sup>133</sup> Decision of the LTD “Quartzite” shareholder, dated August 20, 2012 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=510574&app\\_id=528539](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=510574&app_id=528539);

<sup>134</sup> Decision #3 of the JSC “Madneuli” shareholder, dated June 7, 2012 - ბბ - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=483561&app\\_id=500276](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=483561&app_id=500276);

<sup>135</sup> Decision of the JSC “Madneuli” shareholder, dated August 20, 2012 - [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=510565&app\\_id=528514](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=510565&app_id=528514);



It is still unknown to the public, who is mining such important natural resources as gold and other precious metals in Georgia and who is standing behind the “PAMTILON HOLDINGS LIMITED” registered at Cyprus.

#### 4.6. Conclusion

*As the present research shows, the developments around the state-issued licenses, aimed at mining the gold and other precious metals make it clear that the licenses are in reality in the hands of the same group. However, it is unknown who is standing behind this group.*

*It is difficult to obtain information about the license-owning companies. In a majority of cases, the mining companies do not have web-pages. In case of those companies that do have web-pages, it is practically impossible to obtain the information from them.*

*The companies, which own the licenses of the mining the gold and precious metals in Georgia, after obtaining this license, very often address the bank and take hundreds of millions GEL in debt for performing the obligations. Such cases naturally cause doubts on financial independence of the license-owning companies. In confirmation of the above, the research has shown a number of cases, in which the share capital of the license owning company was minimal and practically did not correspond to the precondition of undertaking the obligation. In addition, as it was revealed in the case of the “Mining Investments”, the company got registered after the auction on the license.*

*Mining the natural resources, as aspiration towards economic interests shows that such aspirations in Georgia might be used against the cultural heritage, in addition to causing ecologic or other problems.*

#### 5. RECOMMENDATIONS

The research presented by GYLA: “Sakdrisi-Kachaghiani: from the Cultural Heritage to the Contemporary Gold Mining” and the analysis presented in this research allows to draw recommendations as a conclusion, which are as follows:

- *The analysis of the material presented in the research clearly shows that both the legislative and executive governments need to undertake effective measures so that the openness of the information on the founders and real owners of the natural resource mining companies is obligatory.*
- *The law-enforcement bodies should immediately take an interest in the legal aspect of the decision on prolongation of the “RMG Gold” license and should examine, whether there was and corruptive agreement or other illegality during the decision-making. In addition, the Government should openly state what were the grounds for prolongation of the “RMG Gold” license up to January 1, 2015;*
- *While considering the issues relating to the cultural heritage and during the decision-making the Government should make maximum efforts to ensure that the broad-scale discussions are conducted, as well as to ensure the publicity of the decision-making process;*
- *The developments around Sakdrisi-Kachaghiani, as the object of Cultural Heritage clearly shows that the Government, Ministry or any other administrative body should be the major guarantee for protecting the law and should approach the decision making on the cultural heritage with proper attention;*
- *Within the cultural heritage context, we consider that it is important for the Government to ensure the engagement of the highly-qualified experts of international recognition and for the expert group to prepare objective conclusion;*
- *It is necessary for the Prosecution of Georgia to start investigation on the fact of demolition of the Sakdrisi-Kachaghiani archaeological object and to inform the public of charging specific individuals.*