

**Convention on the Conservation of
European Wildlife
and Natural Habitats**



COMPLAINT FORM

Bern Convention Secretariat

Directorate of Democratic Participation

Council of Europe

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1. Please state the reason of your complaint (refer also the Contracting Party/es involved and the Articles of the Convention which might be violated).

Armenian Government has violated Article 4, point 1 and 2, Article 5 and Article 6 of the Bern Convention by issuing permits to the Amulsar Gold Project and allowing significant impact on protected habitats and species from Resolution No. 4 (1996) and Resolution No. 6 (1998) of the Standing Committee. The project is situated within and has already impacted territories of Emerald Site "Djermuk" area AM0000009 and could have further significant impacts on other Emerald sites: "Sevan" National park AM0000002 and "Gorhajok" area AM0000002, all three adopted as candidate sites by the Standing Committee of the Bern Convention. Armenian Government disregarded procedures for evaluation of projects impacting Emerald sites by not doing proper assessment on protected species and habitats, and the EIA reports applied methodologies that violate the Bern Convention and are incompatible with the Emerald Network¹.

The construction stage of the Amulsar Gold Project is 70% completed. The project foresees excavating metal ore from open pits and extracting gold with cyanide in a heap leach facility. The project has already

¹ <https://bankwatch.org/publication/biodiversity-offsetting-and-other-problems-of-the-esia-of-amulsar-gold-project-in-armenia>

damaged the Emerald sites by pollution of the Arpa River² and could cause further damage to species and habitats through pollution of waters that flow into the three candidate sites, including the reservoir that reverts water into Sevan Lake.

The construction stage started in 2016³ but since June 2018 has been stopped by local people blocking access roads. The Armenian Government should cancel environmental and construction permits to avoid further damage to Emerald sites. No mitigation and remediation measures can be implemented before that.

2. Which are the specific specie/s or habitat/s included in one of the Appendices of the Bern Convention potentially affected? (Please include here information about the geographical area and the population of the species concerned, if applicable)

Habitats (with EUNIS codes) - 1946 hectares total assumed area of the project:

E1.11 Euro-Siberian rock debris swards; E2.3 Mountain hay meadows; E3.3 Sub-mediterranean humid meadows; E3.4 Moist or wet eutropic and mesotrophic grassland; E4.3 Acid alpine and subalpine grassland; E5.4 Moist or wet tall-herb and fern fringes and meadows; F9.1 Riverine scrub; G1.11 Riverine *Salix* woodland; H1 Terrestrial underground caves, cave systems, passages and waterbodies; H2.3 Temperate-montane acid siliceous scree; H3.1 Acid siliceous inland cliffs.

Species:

Mammal species: Persian leopard (*Panthera pardus saxicolor*), grey wolf (*Canis lupus*); bezoar goat (*Capra aegagrus*); Eurasian otter (*Lutra lutra*); Eurasian lynx (*Lynx lynx*); brown bear (*Ursus arctos*); marbled polecat (*Vormela peregusna*); common bent-wing bat (*Miniopterus schreibersii*); lesser mouse-eared bat (*Myotis blythii*); Geoffroy's bat (*Myotis emarginatus*); Mediterranean horseshoe bat (*Rhinolophus euryale*); greater horseshoe bat (*Rhinolophus ferrumequinum*); lesser horseshoe bat (*Rhinolophus hipposideros*); Mehely's horseshoe bat (*Rhinolophus mehelyi*); IUCN Red List Vulnerable: mouflon (*Ovis orientalis*).

Bird species: common kingfisher (*Alcedo atthis*); tawny pipit (*Anthus campestris*); European nightjar (*Caprimulgus europaeus*); corncrake (*Crex crex*); Syrian woodpecker (*Dendrocopos syriacus*); ortolian bunting (*Emberiza hortulana*); red-backed shrike (*Lanius collurio*); lesser grey shrike (*Lanius minor*); woodlark (*Lullula arborea*); bluethroat (*Luscinia svecica*); red-billed chough (*Pyrrhocorax pyrrhocorax*); barred warbler (*Sylvia nisoria*); ruddy shelduck (*Tadorna ferruginea*); lammergeier (*Gypaetus barbatus*); Egyptian vulture (*Neophron percnopterus*); golden eagle (*Aquila chrysaetos*); lesser spotted eagle (*Aquila pomarina*); booted eagle (*Hieraaetus pennatus*); short-toed eagle (*Circaetus gallicus*); European honey buzzard (*Pernis apivorus*); long-legged buzzard (*Buteo rufinus*); Montagu's harrier (*Circus pygargus*); peregrine falcon (*Falco peregrinus*); lesser kestrel (*Falco naumanni*); eagle owl (*Bubo bubo*); greater short-toed lark (*Calandrella brachydactyla*).

Reptile species: Armenian steppe viper *Vipera eriwanensis* (synonyms *Vipera ursinii*, *V. u. eriwanensis*); Eastern four-lined rat snake *Elaphe sauromates* (synonyms *Elaphe quatorlineata*, *E. q. sauromates*).

Fish species: 1130 *Aspius aspius*; 6168 *Luciobarbus comizo*; 1146 *Sabanejewia aurata*

Invertebrate species: 6199 *Euplagia quadripunctaria*

Plant species: 4067 *Echium russicum*

3. What might be the negative effects for the specie/s or habitat/s involved?

- Direct destruction of habitats during earthworks and site clearance (599 ha), topsoil storage (40 ha), construction of cyanide heap leach facility (165 ha), barren rock storage (139 ha), workers camp (6,3 ha), roads (79 ha), conveyers, transmission lines, ADR plant etc.

² http://www.cao-ombudsman.org/cases/document-links/documents/CAOCompliance_MonitoringReport_Lyidian_Armenia-01and02_10022018.pdf

³ <https://www.lyidianinternational.co.uk/news/2016-news/330->

- Deterioration of habitats due to dust from excavation and blasting and emissions from vehicles (691 ha), introduction of alien species, erosion, water pollution, change in surface and groundwater hydrology.
- Direct killing of animals and plants during construction and exploitation, by traffic, collision, etc.
- Direct destruction of breeding and wintering habitats (including feeding areas).
- Deterioration of habitats due to change in land use (lack of grazing), altered topography and substrate, change in hydrological regime, leaks, spills and other pollution.
- Fragmentation of populations due to infrastructure and fencing on the Amulsar Mountain biocorridor.
- Disturbance and increased poaching on species populations, because of 24-hour noise and light and enhanced permeability of the habitat with all-year-round maintained roads and human presence.
- Cumulative effects with other mining projects: 8 working metal mines in Armenia.

4. Do you know if potentially affected species or habitats also fall under the scope of other international Conventions, (for instance: RAMSAR, CMS, ACCOBAMS, Barcelona Convention, etc) or if the area has been identified as a NATURA 2000/Emerald network site?

3 Emerald sites and 3 Important Bird Areas: "Jermook", "Gorayk" and "Lake Sevan and environs".
 1 wetland of international importance according to RAMSAR Convention: Lake Sevan.
 3 mammals, 6 birds, 1 reptile and 14 plants are CR, EN, VU or NT in the IUCN Red List.
 1 Key Biodiversity Area (KBA) proposed: "Jermuk-Eghegis" 76286 ha.

5. Do you know if there are any pending procedures at the national or international level regarding the object of your complaint?

2012 the whole area of Emerald site "Djermuk" was proposed as National Park but procedure is stopped at the Ministry of Environment.⁴
 2017 IFC pulled out of the project following protests from local people.⁵ EBRD is still investing in it.
 2018 working group on mining problems was established under Prime Minister's order, but it's not active since that year. 13 expert opinions were given on Amulsar Gold Project.
 2019 Republic of Armenia has indicated in Biogeographical seminars its intention to change the Emerald network, potentially excluding parts of some sites.

6. Any other information (existence of an Environmental Impact Assessment (EIA), size of projects, maps of the area, etc)

Additional information included in Attachment 1 report.

⁴ <https://www.ecolur.org/files/uploads/pdf/jermuknationalpark.pdf>
⁵ <https://tinyurl.com/ybqu8lwf>

Appendix1

SUMMARY REPORT ON AMULSAR GOLD PROJECT

1. Information about the Amulsar Gold Project

The Amulsar Gold Project is located in the provinces of Vayots Dzor and Syunik in Southeast Armenia, 6 kilometers from the spa town of Jermuk. The project promoter “Lydian Armenia” has submitted an Environmental and Social Impact Assessment (ESIA) that was approved by the Ministry of Nature Protection (MNP) in mid 2016 and an operation permit was issued. According to the ESIA the Project will comprise:

- The extraction of gold (and silver) ore from three open pits, Artavazdes, Tigranes and Erato, using standard open-pit mining techniques including drilling and blasting;
- Transport of the ore to a crusher facility for size reduction;
- Transport of the crushed ore via a covered conveyor to the processing area known as the heap leach facility (HLF);
- Transport of barren rock material by haul trucks to the barren rock storage facility (BRSF);
- Placement of layers of crushed ore on the heap leach pad followed by the dripping of a cyanide solution through the heap to dissolve the gold and silver, to be collected via a drainage system; and
- Extraction of the metals from the cyanide solution at the Adsorption-Desorption Recovery (ADR) plant and processing to an alloy of semi-pure gold and silver (doré).

Financing of the project was approved by the European Bank of Reconstruction and Development (EBRD) and so it should comply with the Environmental and Social Policy (ESP) of the bank. The construction of the Project started in 2016 but has stopped since June 2018 when people, mainly from Jermuk town and Gndevaz village, started blocking the access roads.

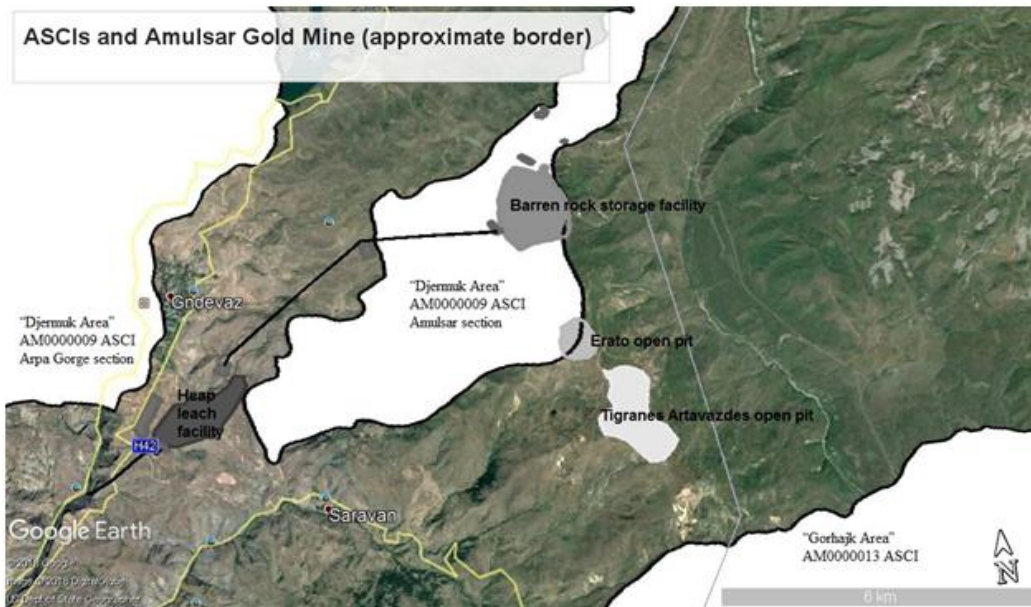
2. Noncompliance of Amulsar Project with the Bern Convention

Significant part of the planned Amulsar Gold Project is inside the territory of the “Djermuk Area” AM0000009 ASCI. More particularly inside this territory are the following parts of the gold mine project: barren rock storage facility, Erato open pit mine, transportation line/facility. The heap leach facility (HLF) is situated in the immediate vicinity of the “Djermuk Area” AM0000009 ASCI at 50-650 m from the Amulsar section of the site and at 250-550 m from the Arpa Gorge section of the site. “Djermuk Area” AM0000009 was officially proposed as ASCI more than six months before completion of the ESIA report in May 2016 and the adoption of revised EIA permit in April 2016. “Sevan National Park” AM0000002 - eight years before. The “Gorhajak Area” AM0000013 was proposed six months after the completion of the ESIA report and revised EIA permit.

The location of the area of Amulsar Gold Project within ASCI and the possible impacts on other ASCIs bring important legal consequences as of April 2016, when the revised EIA permit was approved. According to the Articles 1, 2, 3, 4, 6.b and 9 of the Convention, Paragraphs 1-3 of the Resolution No. 1 (1989), Recommendation No. 14 (1989), Recommendation No. 16 (1989), Resolution No. 3 (1996), Resolution No. 4 (1996), Article 2 and 4 of the Resolution No. 5 (1998), Resolution No. 6 (1998), Paragraph 1 of the Recommendation No. 157 (2011) and Paragraphs 1-2 of the Resolution No. 8 (2012) and the Calendar for the Implementation of the Emerald Network 2011-2020 (2015), all of them adopted by the Standing Committee on the ground of article 14, the Republic of Armenia is responsible for the following:

1. Designation of a network of Areas of Special Conservation Interest (ASCIs) called “Emerald Network” according to objective criteria set-up by the Recommendation No. 16 (1989);
2. The candidate ASCIs shall be also designated by the governments according to national legislation or otherwise;
3. Ensuring that all appropriate and necessary administrative measures are undertaken to ensure the conservation of all species and natural habitats listed in Resolutions 4 and 6 which are found in the particular ASCI. Armenia in its planning and development policies shall avoid or minimise, as far as possible, any deterioration of ASCIs;

4. In light of the above obligations, Armenia shall take the necessary protection and conservation measures in order to maintain the ecological characteristics of the candidate Emerald sites (ASCIs);
5. Exceptions from taking appropriate and necessary measures to protect the ASCI (Article 9 of the Convention) may be made and justified only on condition that it is in the interests of public health and safety, air safety or other overriding public interests; it is aiming to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property; it is taken for the protection of flora and fauna or for research and education, of repopulation, of reintroduction of species;
6. Armenia also shall identify endangered species on its territory requiring recovery plans and develop and implement such plans;
7. Armenia shall undertake surveillance of the conservation status of species and natural habitats in designated ASCIs and shall inform the Convention Secretariat of any important changes likely to affect negatively in a substantial way the ecological character of the designated ASCIs or the conditions having justified their designation.



Balkani Conservation Society prepared a report¹ for CEE Bankwatch Network at the end of 2018 and the main conclusions after the review of the ESIA are:

- The Emerald network and Bern Convention are not given due consideration in the ESIA report;
- In the ESIA report there is no assessment on the impacts of Amulsar Gold Project on the ecological characteristics of the “Djermuk Area” ASCI and potentially on the “Gorhajak Area”, “Sevan National Park” ASCIs, etc. Thus achieving the aims and provisions of the Bern Convention and ensuring the conservation of wild flora and fauna species and endangered natural habitats under protection in the ASCIs by taking appropriate and necessary administrative measures was jeopardized;
- Particularly such an assessment is missing for 11 natural habitats and 47 species included from Resolutions 4 and 6 in the accepted Standard Data Form of the “Djermuk Area” AM0000009 ASCI and/or described in the ESIA and/or possibly negatively affected from the Project (see Complaint Form).

29 additional species are protected under Red Book of Republic of Armenia and/or IUCN Red List. Out of a total of 11 protected habitats and 76 protected species only 2 habitats and 8 species are with effective measures in the ESIA, measures that are on time, specific and planned in accordance with Bern Convention, Habitats Directive and Armenian Law. For additional 2 habitats and 12 species ineffective measures are proposed in the ESIA² - either like

¹ <https://bankwatch.org/publication/biodiversity-offsetting-and-other-problems-of-the-esia-of-amulsar-gold-project-in-armenia>

² Table 6.11.10 in Natural and Critical Habitat Assessment, ESIA of Amulsar

unspecified intentions (Ex.: tree planting to compensate loss of natural habitat of Northern goshawk, lesser-spotted eagle, booted eagle) or as measures not complying with Bern Convention, Habitats Directive and/or Armenian Law (Ex.: prescribed fire in planned national park to compensate loss of habitat for reptiles in the HLF). **For 7 habitats and 56 species there are no measures at all proposed in the ESIA.**

3. Habitat suitability for IUCN red-listed mammals:

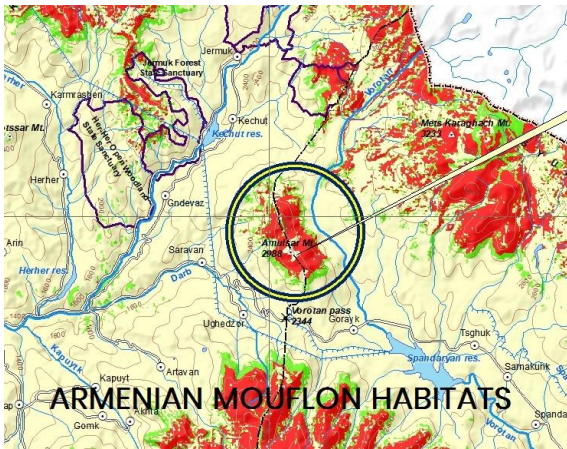
In 2018 WWF Armenia made a study of suitable habitats for large mammals in Southeast Armenia in order to protect their habitats and biocorridors. According to this study for 3 of the most vulnerable species the Amulsar Mountain (circle) is a suitable habitat (high suitability in red, low suitability in green):

Mouflon (*Ovis orientalis*) is assessed as Vulnerable in the IUCN Red List³ and Endangered according to the RA Red Book. According to habitat suitability model by WWF there are habitats with high suitability in the area of Amulsar Gold Project. In the “Conservation Strategy for Armenian Mouflon (*Ovis [orientalis] gmelini* Blyth and Bezoar Goat (*Capra aegagrus* Erxleben) in Armenia”⁴ it is stressed

that the principal conservation actions on these species should include preservation and restoration of suitable habitats, as well as enforcement of legislative and preventive measures to control mining and infrastructure development. Additionally, the mouflon is a prey species for the leopard (Sharbafi et al., 2016⁵).

Leopard (*Panthera pardus*) is Vulnerable in the IUCN Red List. *Panthera pardus saxicolor* is Critically Endangered in Armenia. According to master thesis of Lilit Simonyan: Study of the Diversity of Large Mammals in Jermuk and Surrounding Areas, Yerevan State University, Faculty of Biology, Department of Zoology, Yerevan, 2016: "*Panthera pardus* (Linnaeus, 1758) has been registered as one individual on the top of the mountain in 2014 in autumn" (page 30). It is unknown if there is an actual population in the area of “Djermuk Area” ASCI, but it is part of the former range (Gavashelishvili & Lukarevskiy, 2008⁶). According to WWF Amulsar Mountain has low suitability, but Arpa Gorge (250 meters from the HLF) also high. Armenia has obligation to develop and implement recovery plans for the leopard based on the protected under ASCIs potential habitats of the species, part of the former natural range.

Bezoar goat (*Capra aegagrus*) is included in the Standard Data Form of the “Djermuk” area, assessed as Vulnerable in the IUCN Red List and RA Red Book. The species has been recorded during the Baseline Biodiversity Surveys 2008 to 2015 within the ESIA, however no further surveys on it were undertaken, using up-to-date, robust methods. There are habitats in the area of Amulsar Gold Project and especially the Arpa Gorge. On the 6th of October 2018



3 <https://www.iucnredlist.org/species/15739/5076068>

4 <https://tinyurl.com/s6pqjqs>

5 <https://tinyurl.com/wofaf9l>

6 <https://tinyurl.com/vjj2hcq>

we spotted two groups of bezoar goats, with respectively 12 and 8 individuals. Adequate surveys and conservation activities of the species are crucial also, because it is main prey base for the leopard.

4. Noncompliance of Amulsar Project with Armenian Law

In the case of Amulsar Gold Project several Armenian legal acts are more stringent than EU law as described by two members of the working group to investigate the mining operations in Armenia created by Prime Minister Nikol Pashinyan in July 2018. In his “Expert Opinion on Biodiversity, its Conservation and Biodiversity Offset in EIA and Appendixes of Amulsar Gold Quartzite Deposit in the Republic of Armenia” **Karen Manvelyan, Director of WWF-Armenia**, emphasizes on the following texts of the RA legislation, according to which the Amulsar Gold Project is in noncompliance with the Armenian legislation:

- Article 18 of the RA Law on Fauna stipulates: *"The users of natural resources, who harm the species mentioned in the Red Book of the Republic of Armenia during economic or other activities, must undertake measures for their protection. Any activity that will result in the decrease of the quantity of animal species registered in the Red Book of the Republic of Armenia or will **deteriorate their habitat** is prohibited."*
- Article 17 of the RA Law on Flora stipulates: *"Those land users who have species of plants registered in the Red Book of the Republic of Armenia growing on their plots must undertake measures for the protection of such plants in a manner defined by Republic of Armenia Law. Any activity that will result in the decrease of the quantity of plant species registered in the Red Book of the Republic of Armenia or will **spoil their habitat** is prohibited."*
- Article 26 of the RA Mining Code stipulates the grounds for the prohibition of mining: *"The use of separate subsoil allotments shall be prohibited in a manner prescribed by Republic of Armenia Law aiming to ensure national security, protection of human life and health, historical and cultural values or nature and the environment, if the land plot on the claimed subsoil allotment:(...) 3) Accommodates **plants or animal settlements registered in the Red Book of Armenia**, or if it is on migration routes of animals."*

In her "Conclusion on Amulsar Gold Quartzite Deposit", Nazeli Vardanyan, environmental lawyer, writes about violation of other acts: according to Article 3 of the **Law on Lake Sevan** the Kechout and Spandaryan reservoirs, the catchment basins of Arpa and Vorotan Rivers make up a part of Lake Sevan catchment basin. Article 10 of the same law says: *"1. Any type of activity in central, direct impact and indirect impact zones that has a dangerous impact on Lake Sevan ecosystem is prohibited.*

2. Prohibited activities in the direct impact zone are:

- a) use of ecologically harmful technologies producing wastewater,*
- b) production, use, and storage of radioactive substances and wastes, as well as ecologically hazardous or **toxic substances**;*
- c) deployment of enterprises dealing with **ore processing**."*

5. Water pollution:

Possibilities to pollute Arpa river, measures to change water flow of tributary of Arpa river or other risks connected to change in water flow and quality are not discussed in the ESIA. Subsequently fish, birds, amphibians, reptiles, invertebrates nor otter in Arpa and Vorotan rivers were not studied at all. Impacts of the project over the water-related species and habitats of Emerald sites “Djermuk Area” AM0000009, “Tatev Area” AM0000016, "Gnishik Protected Landscape” AM0000012, "Sevan National Park”, Gorhajak Area” AM0000013 were not assessed.

During construction work of the heap leach facility (HLF) in June 2018 Arpa River was polluted. This was reported on 02.10.2018 by the Compliance Advisory Ombudsman (CAO)⁷. The pollution was first spotted in amateur video⁸ and subsequently official institutions of RA were alerted by citizens. After an investigation by Environmental Protection and Mining Inspection Body, Lydian confirmed:

⁷ http://www.cao-ombudsman.org/cases/document-links/documents/CAOCompliance_MonitoringReport_Lydian_Armenia-01and02_10022018.pdf

⁸ <https://goo.gl/9ZSudQ>

"... As a result of abundant precipitation, in the surface waters formed in the mining area of Lydian Armenia, there was an increased content of suspended particles. This water stream mixed with the Arpa river and reached the territory of the Arevadzug fisheries. The company invited ichthyologists from the Institute of Hydrology and Ichthyology of the National Academy of Sciences of the Republic of Armenia to study the situation, as a result of which 150 fish died." (Letter H/A-2018/59 from 19.06.2018)

During our study visit in October 2018 we documented a pipe that was placed by Lydian Armenia to change the natural water flow of the left tributary of the Arpa river. The tributary had temporary flow but brought lot of water after heavy rains or snow melting. The pipe bypassed the fish farm and reverted water directly in the Arpa river.

Further water pollution is expected as described in the **Independent 3rd Party Assessment of the Impacts on Water Resources and Geology, Biodiversity and Air Quality** by ELARD and TRC (July 2019)⁹ and in the report **Overview of Concerns with the Amulsar Gold Project, Potential Consequences, and Recommendations** by 3 consulting companies (January 2018)¹⁰.

6. "Jermuk" National Park biodiversity offsetting:

An important topic of the ESIA was the declaration of "Jermuk" National Park (JNP) as biodiversity offset for the residual impacts of the project. The company promised to invest 5,7 million euros in the establishment and management of the new national park according to a memorandum signed with MNP in December 2016. After analyzing the ESIA report and appendices, we conclude that the proposal to establish "Jermuk" National Park is a very negative example of biodiversity offsetting because of the following circumstances:

- a) The proposed offsetting measure to establish a national park **partially** on the territory of the ASCI (Emerald) site will prevent Armenia from fulfilling its national designation obligations to legally protect the entire ASCI (Emerald) site. The proposed boundaries of "Jermuk" National Park were changed to **exclude** all areas of Amulsar Gold Project.
- b) "Jermuk" National Park was not declared before the start of construction of the mining facilities and as by March 2020 the NP establishment process is stopped. As described in Chapter 5 of the **Balkani Wildlife Society report**, compensation measures should be taken before the impacts appear in order to maintain effectively the coherence of the ecological network (Emerald Network in the case of Armenia).
- c) Declaring "Jermuk" National Park, with boundaries modified to exclude Amulsar Gold Project, will not have a significant added value to ecosystems conservation. 27375 hectares (274 km²) of the area of the planned park¹¹ are already protected in three protected areas according to Armenian law:
 - Jermuk Hydrological Sanctuary (17371 hectares)
 - Herher Open Woodland Sanctuary (6139 hectares)
 - Jermuk Forest Sanctuary (3865 hectares).

⁹ <http://investigative.am/images/2019/lidian/porcaqnutyun/amulsar11.pdf>

¹⁰ http://amulsar.com/pdfs/Bronozian-Consultants_Concerns-Consequences-Recommendations-Appendices_4Jan2017_Final.pdf

¹¹ Please note that according to Armenian law national parks are not strict protected areas as parks IUCN category II. In some national parks in the country there are settlements, house and road construction, logging, etc.