

OFFICIAL GAZETTE OF ROMANIA

Year 171 (XV) – No. 772

PART I

LAWS, DECREES, DECISIONS AND OTHER ACTS

Wednesday, November 4, 2003

DECISIONS OF THE GOVERNMENT OF ROMANIA

GOVERNMENT OF ROMANIA

DECISION

concerning the approval of the Norms for applying the

Mining Law no. 85/2003

In virtue of art. 107 of the Constitution and of art. 62 of the Mining Law no. 85/2003, the Government of Romania adopts this decision.

Art.1. – There are approved the Norms for applying the Mining Law no. 85/2003, set out in the annex, which does constitute an integrant part of this decision.

Art. 2. – On the date when this decision is brought into operation, there is abrogated the Governmental Decree no. 639/1998 regarding the approval of the Norms for applying the Mining Law no. 61/1998, published in the Official Gazette of Romania, Part I, no. 381 of October 6, 1998, with the subsequent modifications and appendage.

PRIME-MINISTER

Adrian Năstase

Counter-signatures:

For the Minister of Economy and Commerce

Mihai Berinde – State Secretary

Minister of Public Finances

Mihai Nicolae Tănăsescu

President of the National Agency for

Mineral Resources

Maria Iuliana Stratulat

Bucharest, October 14, 2003

No. 1.208

NORMS
for applying the Mining Law no. 85/2003

CHAPTER I
General provisions

Art. 1. – For the purpose of these norms the terms herein are defined as follows:

- a) *N.A.M.R.* – National Agency for Mineral Resources;
- b) *Data and Information* – data and information regarding the mineral resources/reserves;
- c) *Technical-Economic Documentation* shall mean, in the case of exploitation licenses, the following:
 - feasibility study regarding the development of the mineral resources and deposit protection, including the initial termination activity plan;
 - exploitation development plan;
 - impact study on the environment and environmental report, as the case might be;
 - environmental rehabilitation plan and technical project;
 - evaluation study on the social impact and attenuation plan of the social impact;
- d) *N.G.F.* – National geological fund;
- e) *N.F.R./R.* – National fund of mineral resources/reserves;
- f) *Confidential Information* – information, data and documentation, which could be characterized as a state secret or professional secret, in the sense of the Law no. 182/2002 regarding the protection of the classified information;
- g) *Mining Law* – Mining Law no. 85/2003, published in the Official Gazette of Romania, Part I, no. 197 of March 27, 2003;
- h) *Competent Ministry* – Ministry of Economy and Commerce;
- i) *Offerer* – a Romanian or foreign legal person who would have submitted at the public auction an offer for carrying out the mining activity;
- j) *Alternative Offer* – if an offerer would have submitted two or more offers for the same perimeter.

CHAPTER II

Data and information concerning the mineral resources/reserves

PART I

Access to data and information

Art. 2. – The data and information, irrespectively of their manner of storage, concerning the Romanian mineral resources, located on the territory and in the subsoil of the country and of the continental shelf in the Romanian economic area of the Black Sea, do belong to the Romanian State.

Art. 3. – Data and information obtained from the mining activities, irrespectively of their manner of storage, does constitute N.G.F.

Art. 4. – The entirety of the mineral resources/reserves, pointed out and registered by the N.A.M.R. for each type of the Romanian mineral resources, does constitute N.F.R./R.

Art. 5. – N.A.M.R. organizes, manages and turns into value the N.G.F. and N.F.R./R.

Art. 6. – The data and information, which do constitute the N.G.F. and N.F.R./R., are characterized as classified information or as information of public interest, as the case might be.

Art. 7. – (1) The classification of data and information from N.G.F. and N.F.R./R. is made according to the legal provisions.

(2) The classification of data and information from N.G.F. and N.F.R./R., which are characterized as classified information, is made according to the list of state secret information per industrial levels of secrecy, approved through a Governmental Decree, according to the law.

Art. 8. – The protection, conservation, management and circulation of data and information from N.G.F. and N.F.R./R. is made complying with the legal provisions.

Art. 9. – The protection of classified data and information from N.G.F. and N.F.R./R. is devolved, through security structure, upon the involved institutions, economic agents or natural persons, issuing them, using them or taking possession over them, according to the law.

Art. 10. – (1) The data and information from N.G.F. and N.F.R./R. are preserved, stocked and protected in the archives of N.A.M.R. or in the archives of the economic agents or public authorities/institutions, which would have drawn them up or at which they are preserved.

(2) The data and information from N.G.F. and N.F.R./R., characterized as classified information, are preserved and stocked in the departments with the classified documents of

the involved institutions, complying with the regulations of physical protection, according to the law.

Art. 11. – (1) The access to data and information shall be made on the grounds of an application in writing, approved by the N.A.M.R., complying with the conditions set out by the legislation concerning the classified information, within 10 days' time after its submitting, having signed an agreement on confidentiality and having paid the fees for data consultation and acquisition, established by the N.A.M.R.

(2) The application in regard to the access to data and information could be made for drawing up the technical documentation, previously to the concession or within the validity term of the latter.

Art. 12. – (1) For the preservation, storage and protection of the data and information already existent in the archives or which would have been stored afterwards in the archives of the economic agents or in those of the public authorities/institutions, the N.A.M.R. shall make with these institutions contracts for the preservation, storage or protection of the respective data and information. The data and information, making the object of the contracts, shall be stored in the separate archives. If the data and information are characterized as classified information, the contracts of preservation, storage and protection shall also comply with the provisions of the normative acts related to this kind of documents.

(2) The economic agents or public authorities/institutions, which do keep, possess or which shall ask for the right to use the classified data and information, shall also get the approval of the competent authority in the field of classified information protection.

Art. 13 – The owners of the archives shall be obliged to hand over to the N.A.M.R. the records, which do constitute the object of the contract of preservation, storage and protection of a number of classified data and information, at the location established by the N.A.M.R., without the possibility to invoke the right of holding these archives back for the eventual expenses or damages occasioned by carrying out the contract, except the damages brought about by the N.A.M.R.

Art. 14. – (1) The N.A.M.R. is entitled to verify the manner of conservation, storage and protection of the data and information, and also the mode in which the owners of the archives do use them.

(2) The N.A.M.R. is entitled to use the data and information, irrespectively of the place of storage, freely and without restraint.

Art. 15. – The data and information kept in the archives of the economic agents or public authorities/institutions are confidential and shall not be let out without a previous authorization in writing of the N.A.M.R.

PART II

Mode in which there is given an account of the data and information concerning the mineral resources/reserves

Art. 16. – The concessionaires/administrators of the mining activities shall note down the data and information concerning the mineral resources/reserves, which constitute the N.F.R./R., and shall hand them over to the N.A.M.R. for registration.

Art. 17. – (1) The concessionaires/administrators of the mining activities shall be obliged annually to give an account of the evidence and move of the mineral resources/reserves.

(2) The report shall be made in a special form, to which there shall be annexed a note, which structure and mode of filling up shall be set out in the technical instructions issued by the N.A.M.R. The note shall include the elements, which are necessary for the grounding of mineral resources/reserves registered in the form at the end of the reference period, and their move during the year in regard to which the report is made.

(3) There shall be given an account in regard to all deposits, which are afferent to the mining activities of the concessionaires/administrators.

4) The report shall be submitted at the latest until the March 1 of the year, subsequent to the one to which the reference is made.

Art. 18. – The N.A.M.R. shall annually draw up the centralized accounts on the national level concerning the mineral resources/reserves.

Art. 19. – (1) The titleholders shall be obliged to submit to the N.A.M.R. semester, annual and final reports on the activity carried on, as well as on the expenditures afferent to the latter.

(2) The semester, annual and final reports, including the reports on the prospecting activities, together with the data and information related to the mineral resources/reserves obtained before these regulations, do constitute a part of the N.G.F.

Art. 20. – The semester and annual reports shall be submitted within 30 days' time after the end of the period for which the report is made. The semester reports shall be submitted to the divisions of territorial inspection, the annual reports on their turn being submitted to the divisions of territorial inspection and to the office of the N.A.M.R., to which there shall be annexed the endorsement of the respective divisions of territorial inspection.

Art. 21. – The final report shall be submitted within 60 days' time after the termination of the mining concession/administration to the office of the N.A.M.R., to which there shall be annexed the endorsement of the divisions of territorial inspection within the limits of which the perimeter of reference is located.

Art. 22. – The content-framework of the semester, annual and final reports shall be set out through technical instructions, issued by the N.A.M.R.

CHPATER III

Turning mineral resources/reserves into value

Art. 23. – (1) The prospecting, exploration or exploitation perimeters are defined through topo-geodetic coordinates in the Stereo'70 system and are set out through the documents of giving into administration or concession.

(2) The delimitation or foundation of the prospecting, exploration or exploitation perimeters shall be made in the documentation, whose contents shall be set out in the technical instructions, issued by the N.A.M.R.

Art. 24. – (1) The following are the main documents of giving into administration or concession set out by the Mining Law, depending on the mode of operation to be carried out:

- a) prospecting permit;
- b) license for giving into administration for exploration;
- c) concession license for exploration;
- d) license for giving into administration for exploitation;
- e) concession license for exploitation;
- f) exploitation license;
- g) agreement of the N.A.M.R. concerning the association of the titleholder with other legal persons for carrying out the mining activities, which would have been licensed/given into administration;
- h) approval of the N.A.M.R. concerning the assignment of the concession license for exploration or exploitation to the other legal person;

(2) The N.A.M.R. shall set out the provisions and conditions for drawing up the documents of giving into administration or concession, for the negotiation with the concessionaire/administrator.

Art. 25. – On the grounds of the prospecting permit, there could be carried out the evaluation and interpretation studies of the pre-existent information and the works of geological classification, geochemistry, magnetometry, radiometry, electrometric analysis, gravimetry, seismometry, remote sensing, boring, open-air excavation, laboratory analysis, preparation technological research at the laboratory stage, and other works for the establishment of the general conditions, favourable for the accumulation of the mineral resources.

Art. 26. – The prospecting works shall be carried out within a limited perimeter, on the grounds of a non-exclusive prospecting permit, issued by the N.A.M.R., at the request of the interested Romanian or foreign legal persons, within maximum 30 days' time after the fulfilment of the conditions set out in the technical instructions, issued by the N.A.M.R.

Art. 27. – (1) The titleholder of the prospecting permit who during its validity period or after submitting the final report, within 60 days' time, calls for the organization of a public auction for getting an exploration license, shall be obliged to submit, together with the application for the auction, a report on the applied investigation methods, works carried out, details on their value, as well as the obtained results, only for the perimeter for which the exploration license is requested.

(2) The titleholder of the prospecting permit, who requests an exploration license within the prospecting perimeter, shall get an additional score, established according to the provisions of art. 69 subsection (2).

(3) The titleholder of the prospecting permit who within 60 days' time after submitting the final report, shall not request an exploration license for the prospect perimeter or for a perimeter which does include the latter, or the titleholder who shall not participate in the public auction organized at the request of other legal persons or of the N.A.M.R., shall not benefit from the provisions of art. 14 subsection (5) of the Mining Law.

Art. 28. – (1) On the grounds of the exploration license, there could be carried out the specific studies and works, which are necessary for the identification of the deposits of mineral resources/reserves, for their evaluation from the quantity and quality point of view, and for the identification of the technical and economic conditions of their turning to good account.

(2) The exploration works shall be carried out for grounding the decision concerning the appropriateness of turning the deposit to good account, for supplying data, which are necessary for the design and carrying out of the opening, preparation and exploitation works, by maintaining the level of mineral resources/reserves necessary for exploitation.

(3) The exploration works shall include geochemical and geophysical works, works of geological classification, mining works (cover trenches, open pits, coal faces, mine shafts, barrow-ways, rise headings, etc.), boring (outside and underground drilling), documentation corresponding to these works, technological studies and research at the laboratory, pilot and semi-industrial stages, as well as at the stage of experimental exploitation.

Art. 29. – (1) By means of the exploration license there shall be established: its duration, exploration perimeter, works plan, including the measures of environmental protection to be applied, establishment of the stages and execution rhythm of the works, necessary documentation, rights and liabilities of the titleholder, according to the law.

(2) The adjustment or modification of the works plan during the exploration mining activities could be done, at the request in writing of the titleholder, with the approval of the N.A.M.R., within the exploration plan set out in the license.

(3) There shall not be diminished the exploration works physical plan for the first year.

(4) The carrying out of the works plan set out in the permit is obligatory, including the stages in regard to which there was made an agreement with the N.A.M.R.

(5) The titleholder of the exploration license who within at the most 90 days' time after submitting to the N.A.M.R. of the exploration final report, which would have been accepted by the aforementioned authority, shall not directly request an exploitation license shall not benefit from the provisions of art. 17 subsection (1) of the Mining Law.

Art. 30. – On the grounds of the exploitation license there could be carried the works, which are necessary for the opening of the mines and open pits: construction and assemblage of the plant, equipment and other specific tools, which are necessary for the extraction, procession, transportation and temporary storage of the mining products, tailings and residual products, outside and/or underground works for the extraction of the mineral resources/reserves, their procession and delivery in the specific forms, as well as the research works for the increase of the knowledge on mineral resources/reserves.

Art. 31. – By means of the exploitation license there shall be established: its duration, exploitation perimeter, quantity of reserve proposed to be exploited, types of mining products, liabilities of the titleholder on the grounds of the development plan of the exploitation and of the environmental rehabilitation plan, as well as other liabilities and rights of the titleholder, according to the law.

Art. 32. – (1) The titleholder of the exploitation permit shall be able to ask for the delay of its validity period, within the limits of the granted perimeter, by submitting to the N.A.M.R. the documentation set out at art. 20 subsection (1) of the Mining Law.

(2) The titleholder of the exploitation license who shall prove the extension of the deposit of useful mineral substances, making the object of the license, over the limits of the exploitation perimeter granted by the license, shall be entitled to ask for the extension of the perimeter only after the expiry of the initial validity period of the license or after the exhaustion of the mineral resources/reserves from the initially granted perimeter, in the case the extension does not cover the other concession/giving into administration.

(3) The titleholder of the exploration license shall be able to ask for the delay of its validity period, within the limits of the granted perimeter, by submitting to the N.A.M.R. the report covering the initial validity period of the license, accompanied by the additional exploration plan for the requested period, if the exploration plan agreed through the license

would have been integrally carried out, complying with the provisions of art. 16 subsection (1) of the Mining Law.

(4) The applications for the delay of the exploitation/exploration license shall be submitted minimum 90 days before the expiry of the license duration, under the sanction of the termination of the concession/giving into administration, according to art. 31 letter a) of the Mining Law.

CHAPTER IV

Requirements for the organization and carrying out of the public auction for the concession of the mining activities

PART I

Organization and carrying out of the public auction for the concession of the exploration activities

Subdivision 1 – *Principles of the public auction*

Art. 33. – The following are the principles of the organization and carrying out of the public auction for the concession of the exploration activities:

- a) the efficient turn into value of the mineral resources, which are in a public possession of the state;
- b) transparency of the organization and carrying out of the public auction for the concession of the exploration activities;
- c) equality of the offerers, irrespectively of their nationality and of the origin of their capital;
- d) competition in getting the concession of the exploration activities;
- e) confidentiality of the known data and information or made known along with the carrying out of the public auction for the concession of the exploration activities.

Art. 34. – For keeping a record of the documents and information concerning the organization and carrying out of the public auction for the concession of the exploration activities, the N.A.M.R. shall organize, fill up and keep the following record instruments:

- a) register concerning the applications for the concession of the mining activities;
- b) register concerning the submitted offers for the concession of the mining activities;
- c) register concerning the evidence of the documents related to the opening and evaluation of the offers and negotiation of the concession licenses of the mining activities;

- d) concession file, in which there are kept all the documents related or in regard to the public auction.

Subdivision 2 – Concession initiation

Art. 35. – The concession of the exploration activities could be initiated by the interested Romanian or foreign legal persons, or by N.A.M.R.

Art. 36. – (1) The interested Romanian or foreign legal persons could initiate the concession by submitting an application for the concession of the exploration activities to the N.A.M.R., to which there shall be annexed the perimeter file, drawn up in conformity with the technical instructions, issued by the N.A.M.R.

(2) The concession applications shall be registered, by order of their receipt, in the register indicated at art. 34 letter a).

Art. 37. – The N.A.M.R. shall verify and establish the surface of the perimeter, its topo-geodetic coordinates and shall decide on the appropriateness of the concession, within 45 days after the registration of the concession application.

(2) The applicant shall be informed in regard to the decision of the N.A.M.R.

Art. 38. – If the area proposed for carrying on the exploration activities shall include the plots of land from the category foreseen at art. 11 subsection (1) of the Mining Law, the N.A.M.R., together with the authorities in the field, shall analyse the appropriateness of the concession of these activities and shall decide if this exception is to be submitted to the Government for approval, through a decree, according to art. 11 subsection (2) of the Mining Law.

Art. 39. – The N.A.M.R. shall propose the concession of the exploration activities through a topo-geodetic identification of the perimeter and shall initiate the draft decree of the Government concerning the exception set out at art. 11 subsection (2) of the Mining Law, as the case might be.

Art. 40. – The list of the perimeters for the concession of the exploration activities shall be approved by an order of the chief of the N.A.M.R. and shall be published in the Official Gazette of Romania, Part I.

Subdivision 3 – Advertising

Art. 41. – The order concerning the approval of the list of the perimeters for the concession of the exploration activities shall mandatory include the following:

- a) name and registered office of the N.A.M.R.;
- b) category of the mining activities to be licensed;

- c) perimeters in the framework of which there shall be licensed the mining activities, with pointing out the topo-geodetic coordinates and the mineral resource;
- d) term and place where the offers shall be submitted;
- e) documents and information requested by the offerers;
- f) date, time and place where the offers shall be opened;
- g) other data and information considered as being necessary.

Subdivision 4 – Contents of the offers

Art. 42. – (1) The offers shall be drawn up in the Romanian language and shall be submitted in two copies, hard copy and photocopy, respectively.

(2) The photocopies shall not be returned to the offerers, having been kept by the N.A.M.R.

Art. 43. – (1) For each perimeter included in the list approved at art. 40, one offerer shall be able to submit a single offer.

(2) Alternative offers are not permitted.

Art. 44. – (1) The offers shall consist of one outside envelope and of one inside envelope, containing the mentions and documents required through the present regulations.

(2) On the outside envelope there shall be indicated the perimeter from the published list, to which the offer is related, as well as the date established for the opening meeting. The envelope shall contain the following:

- a) participation declaration, signed and sealed by the offerer, without any corrections or additional remarks, which shall include the engagement for maintaining the validity of the offer, specification of the perimeter to which the reference is made, that is the name, position in the list foreseen at art. 41 and topo-geodetic coordinates, as there were published, as well as the assuming of the responsibility of the offerer upon the data and declarations included in the offer;
- b) data and information concerning the offerer, that is the name, registered office, single registration code, registered capital, associates/shareholders, as well as the name, position, telephone/fax of the person empowered by the offerer, that is contact person;
- c) authenticated copies of the offerer's constitutive act and registration certificate;
- d) certificate of findings, issued by the Trade Register, within the validity period;
- e) list of data and information included in the N.G.F. and N.F.R./R., used for drawing up the offer. In the case of using the public data and information related to the mineral resources, there shall be indicated the used sources;

- f) proof concerning the legal holding of the data and information included in the N.G.F. and N.F.R./R., used for drawing up the offer, respectively the invoice issued by the N.A.M.R. and the payment order or corresponding receipt;
- g) documents set out at art. 60 subsection (1) and at art. 63.

(3) In the case of the offerers, who are foreign legal persons, the outside envelope shall contain the following:

- a) participation declaration, according to subsection (2) letter a);
- b) data and information concerning the offerer, according to subsection (2) letter b);
- c) list of data and information included in the N.G.F. and N.F.R./R., used for drawing up the offer, according to paragraph (2) letter e);
- d) proof concerning the legal holding of the data and information included in the N.G.F. and N.F.R./R., used for drawing up the offer, respectively the invoice issued by the N.A.M.R. and the payment order or corresponding receipt, according to paragraph (2) letter f);
- e) reliability letter, without providing the indicators indicated at art. 59 paragraph (1);
- f) audited annual report;
- g) documents indicated at art. 63.

(4) If the participation declaration shall contain the topo-geodetic coordinates other but the ones published in conformity with art. 41 letter c) shall disqualify the offer, without opening the inside envelope.

Art. 45. – The inside envelope, on which there shall be indicated the name and registered office of the offerer, shall actually contain the offer, the proposed exploration plan and the environmental rehabilitation plan.

Subdivision 5 – The offer handing in

Art. 46. – (1) The offers shall be submitted to the office of the N.A.M.R. and shall be registered, by order of their receipt, in the register indicated at art. 34 letter b).

(2) The offers could be sent by post.

(3) The offerers shall be responsible for the integrity of the offers and for their handing in under the terms set out at art. 41 letter d).

Art. 47. – Until the public session of opening the offers, the latters shall be sealed and kept by the N.A.M.R., under the terms of confidentiality.

Art. 48. – The offers submitted after the deadline of the N.A.M.R., according to art. 41 letter d), shall not be registered in the register indicated at art. 34 letter b), and shall be returned to the offerers without having been opened.

Subdivision 6 – Opening, valuation and negotiation committee

Art. 49. – The opening, valuation and negotiation committee, appointed through the order of the chief of the N.A.M.R. for each public auction, herein named *committee*, shall carry out the opening and valuation of the offers, as well as the negotiation of the conditions and provisions of the concession licenses, including the exploration plan and the environmental rehabilitation plan.

Art. 50. – (1) The committee shall consist of 5 members and 2 deputy members, representatives of the N.A.M.R.

(2) A president, appointed by the chief of the N.A.M.R. shall supervise the committee.

Art. 51. – (1) The valuers of the N.A.M.R. especially appointed by its chief under the terms of art. 49, shall analyse the offers.

(2) The evaluators shall not act in the capacity of the members of the committee.

Art. 52. – (1) A secretary, who shall not have the capacity of the member of the committee, shall register the activity of the latter.

(2) The secretary of the committee shall be appointed under the terms of art. 49.

Art. 53. – (1) The husbands/wives, relatives or kinsmen up to the fourth level, including the associates, shareholders, who hold the control positions in the organization framework of the offerers or their administrators or auditors, shall not be able to act in the capacity of the member of the committee or in that of the evaluator.

(2) After the deadline, but not later than the public opening session of the offers, the members of the committee and evaluators shall give an affidavit on their own responsibility in regard to the compatibility.

(3) If the state of incompatibility shall occur after the session of the offer opening, the involved persons shall immediately inform about it the president of the committee, who shall take all necessary measures for their replacement.

(4) Any interested person can inform the president of the committee in regard to a certain state of incompatibility, the provisions of the subsection (3) being applicable correspondingly.

Art. 54. – (1) The following main prerogatives are devolved upon the committee:

- a) opening and selection of the offers admitted for the evaluation;
- b) evaluation of the offers, according to the evaluation principles;
- c) selection of the winning offer;
- d) negotiation of the provisions and conditions of the concession, including the exploration plan and environmental rehabilitation plan;
- e) drawing up of the documents required by law and by the present regulations;
- f) other prerogatives set out by the chief of the N.A.M.R.

(2) The prerogatives of the committee, including those of its president, as well as those of the evaluators and of the secretary of the committee shall be set out by the chief of the N.A.M.R, in conformity with the provisions of art. 49, together with the appointment of the committee.

Art. 55. – (1) The committee shall be considered as legally gathered only in the presence of all its members.

(2) The decisions of the committee shall be adopted autonomously, with the vote of the majority of its members. The divergent opinions shall be registered in separately.

Art. 56. – The activity of the committee shall be recorded in the session official reports, signed by all its members and by the secretary.

Art. 57. – The members of the committee, evaluators and its secretary shall be obliged to keep the confidentiality over the data and information incorporated in the offers.

Subdivision 7 – Selection criteria and corresponding score

Art. 58. – The committee shall evaluate taking into account the financial and technical capacity of the offerers, the proposed exploration plan, environmental rehabilitation plan, as well as the prospecting reports, if the offerer would have had the capacity of the titleholder of the prospecting permit within the perimeter on which the exploration activities are to be licensed.

Art. 59. – (1) The assessment of the financial power shall mean the financial reliability, in the perspective of the indicators concerning the global liquidity, patrimonial solvency, rate of the gross profit and of the financial profitability of the offerer, as well as the

financial-fiscal discipline, in the perspective of the execution by the offerer of the obligations to the public budget, social insurance, sole national health insurance, unemployment insurance, workmen's compensation insurance, and local budgets.

(2) The assessment is made separately for each element set out at paragraph (1).

Art. 60. – (1) For the evaluation of the financial power, the offerers shall submit in the outside envelope the following documents:

- a) reliability letter, containing the situation of the indicators mentioned at art. 59 paragraph (1);
- b) certificates of findings, issued by the public authorities/institutions, which do administer the budgets indicated at art. 59 subsection (1).

Art. 61. – The financial power score shall include the scores concerning the financial reliability of the offerer, in the perspective of the global liquidity, patrimonial solvency, of the rate of gross income and of the financial profitability, as well as the offerer's financial-fiscal discipline, in the perspective of the payment of the obligations to the budgets set out at art. 59 subsection (1).

Art. 62. – (1) The assessment of the technical capacity shall take into account the technical endowment of the offerer, meaning the equipment and specialized personnel, which are specific to the mining activity, and the experience of the personnel in carrying on this kind of activities.

(2) The assessment shall be carried out separately for each element set out in the subsection (1).

(3) The offerers, who are specialized and licensed by the N.A.M.R., according to art. 4 of the Mining Law, to carry out the mining activities, shall be considered as being technically endowed and shall receive the maximum score for this element of the evaluation of the technical capacity.

(4) The offerers with their own technical endowment, who are not licensed by the N.A.M.R., according to art. 4 of the Mining Law, as well as the offerers without their own technical capacity shall be evaluated, according to the provisions of art. 69 subsection (1).

(5) The offerers without their own technical capacity shall be able to carry out mining activities only together with the specialized legal persons, who are licensed by the N.A.M.R., under the terms of art. 4 of the Mining Law for the carrying out of mining activities.

Art. 63. – For the evaluation of the technical capacity, the offerers shall submit in the outside envelope the following documents, as the case might be:

- a) certificate of attestation concerning the technical capacity and memo including the presentation of the mining activities which were or are to be carried out, in the case of the specialized offerers, licensed by the N.A.M.R.;

- b) documentation concerning the offerer's technical endowment and a memo including the presentation of the mining activities which were or are to be carried out, in the case of the offerer's with their technical endowment, who were not licensed by the N.A.M.R.;
- c) copy of the certificate of attestation concerning the technical capacity of the legal person with which the mining activities are to be carried out, authenticated through signature and seal, a memo including the mining activities who were or are to be carried out by it, as well as the legal deed through which there would have been made a firm agreement in regard to the carrying out of the mining activities, if the latter would have been licensed to it, in the case of the offerers without their own technical capacity.

Art. 64. – The memo including the presentation of the mining activities shall comprise at least the following information regarding the offerer, or, as the case might be, the specialized and licensed legal person with which there would have been agreed the execution:

- a) mining activities which were or are to be carried out;
- b) perimeters within which the mining activities were or are to be carried out;
- c) mineral resource to which the mining activities do refer.

Art. 65. – The documentation concerning the technical endowment of the offerer, drawn up on his own responsibility, shall comprise at least the following information:

- a) equipment and tools which are specific to the mining activities owned by the offerer and the title of their possession;
- b) staff of the offerer, per categories of professional competence, including the specialized staff, specific to the mining activities, for which there shall be submitted authenticated graduation documents, certificates.

Art. 66. – The score related to the technical capacity shall include the scores concerning the technical endowment of the offerer and the experience of the latter in carrying out the mining activities.

Art. 67. – (1) Evaluation of the proposed exploration plan shall take into account the following elements:

- a) physical volume of the exploration works and their scheduling per years;
- b) quality assessment for the characterization of the mineral resource;
- c) its duration.

(2) The score related to the proposed exploration plan shall include the scores concerning the physical volumes of the exploration works and their scheduling per years, quality assessment for the characterization of the mineral resource and its duration.

Art. 68. – (1) The assessment of the environmental rehabilitation plan shall take into account the following elements:

- a) works which are necessary for the environmental protection and rehabilitation;
- b) funds which are distributed for the works that are necessary for the environmental protection and rehabilitation;
- c) correlation of the environmental rehabilitation project with the proposed exploration plan.

(2) The score related to the environmental rehabilitation plan shall include the scores concerning the works, which are necessary for the environmental protection and rehabilitation, the funds which are distributed for the works, which are necessary for the environmental protection and rehabilitation, and the ones concerning the correlation of the environmental rehabilitation project with the proposed exploration plan.

Art. 69. – (1) The scores related to the criteria foreseen at art. 58, other assessment elements, as well as the mode of assessment shall be established, including the offerers – legal foreign persons, by the order of the chief of the N.A.M.R., for each public auction.

(2) The offerer, who would have carried out prospecting activities within the perimeter from which the exploration activity shall be licensed, in virtue of prospecting permit issued by the N.A.M.R., shall benefit, at the offer evaluation, from an additional score representing at the most 20% of the maximum score established for the proposed exploration plan.

Art. 70. – (1) The evaluation of the prospecting reports shall take into account the following elements:

- a) physical and value volumes of the executed prospecting works;
- b) quality evaluation for the characterization of the mineral resource;
- c) results of the prospecting activities.

(2) The score related to the prospecting reports shall include the scores concerning the physical and value volumes of the executed prospecting works, quality evaluation for the characterization of the mineral resource, and results of the prospecting activities.

(3) The prospecting reports shall be evaluated by the N.A.M.R. at the latest until the publication of the list under the terms of art. 40.

Art. 71. – The drawing up of the offer using the data and information included in the N.G.F. and N.F.R./R., without paying the consulting and using fees, shall lead to its disqualification at the evaluation stage.

Subdivision 8 – Offer opening

Art. 72. – (1) The session of offer opening is public.

(2) The closed and sealed offers shall be handed over to the committee on the date, time and place, set out at art. 41 letter f).

(3) At the opening of the outside envelope, the committee shall verify the existence of the requested documents and shall register the found situation in an official report, signed by all the members of the committee and secretary, as well as by the representatives of the offerer.

(4) The non-availability of any document from the outside envelope shall lead to the disqualification of the offer, without opening the inside envelope.

(5) The opening of the inside envelope and the verification of the requested documents shall be registered in the official report, signed under the terms of subsection (3).

(6) The non-availability of any document from the inside envelope shall lead to the disqualification of the offer.

7) The hard copy of the disqualified offer shall be sent to the offerer's.

8) In the case of absence of the offerer's representatives or if the latter shall refuse to sign the official reports, these latter documents shall be signed by the members of the committee and 2 witnesses participating at the public opening session, other than the representatives of the N.A.M.R.

9) The absence of the witnesses or their refusal to sign the official reports shall be registered in the latter documents, this circumstance being afterwards confirmed, through a signature, by the members of the committee and its secretary.

(10) The copy of the official reports, approved by the chief of the N.A.M.R., shall be handed over, under private signature, to the offerer's representatives, or, in the case of their absence, shall be conveyed within two working days' time from the date of the public opening session.

Subdivision 9 – *Analysis and evaluation of the offers. Announcement of the winner and of the result of the public auction*

Art. 73. – (1) The analysis of the offers by the evaluators shall be done before and independently of the evaluation of the offers by the committee.

(2) The offers shall be analysed taking into account the evaluation criteria and elements set out in the present regulations.

Art. 74. – (1) In virtue of the analysis of the offers, the evaluators shall draw up a report comprising the:

- a) name and topo-geodetic coordinates of the perimeters indicated in the list, as well as the mineral resource the analysis refers to;
- b) essential elements of the analysed offer;
- c) scores proposed for each evaluation criteria and element;

- d) grounding of the proposed scores;
- e) other mentions set out by the chief of the N.A.M.R.

(2) Structure-framework of the report concerning the analysis of the offers shall be set out through an order of the chief of the N.A.M.R.

(3) If the offer is analysed by more than one evaluator, the proposed scores and their grounding shall be presented for each evaluator.

(4) The report shall be submitted to the committee within the term set out in conformity with the present regulations.

(5) The deadlines for the analysis and handing over of the report to the committee shall be set out, depending on the mineral resource, by the chief of the N.A.M.R., under the terms of art. 49.

Art. 75. – (1) The evaluation of the offers shall be carried out taking into account the evaluation criteria and elements set out in accordance with the present regulations, as well as with the report set out at art. 74.

(2) The score shall be decreased if the offer shall not include data concerning the execution by the offerer of any liability to the funds set out at art. 59 subsection (1) or of any indicator concerning the financial reliability, or of any evaluation element of the technical capacity, of the proposed exploration plan or of the environmental rehabilitation plan.

(3) The decrease of the score shall be proposed by the evaluator and shall be approved by the committee.

Art. 76. – (1) The evaluation of the exploration plan and its pointing with less than a half of the maximum score set out under the terms of art. 69 subsection (1) shall lead to the disqualification of the offer, without the evaluation of the environmental rehabilitation plan.

(2) The evaluation of the environmental rehabilitation plan and its pointing with less than a half of the maximum score set out under the terms of art. 60 subsection (1) shall lead to the disqualification of the offer.

(3) The disqualified offers shall be conveyed to the offerers after the fulfilment of the evaluation term and the announcement of the winner of the public auction.

(4) In the case of equal scores between the offerers situated on the first position, there shall be declared as a winner the offerer who would have received the best score at the evaluation of the proposed exploration plan.

Art. 77. – (1) In virtue of the evaluation, the committee shall draw up a report on the evaluation and selection of the winner of the public auction.

(2) The structure-framework of the report on the evaluation and selection of the winner of the public auction shall be established by the order of the chief of the N.A.M.R.

(3) The report on the evaluation and selection of the winner of the public auction shall be submitted to the approval of the chief of the N.A.M.R.

(4) Under the terms of art. 49, the chief of the N.A.M.R. shall set out the terms for the evaluation and for the report, mentioned in subsection (1), to be handed over for approval.

Art. 78. – The result of the public auction shall be announced by the N.A.M.R. to all the offerers, within 5 days' time after the handing over of the report on evaluation and selection of the winner.

Art. 79. – The documents issued by the evaluators and committee shall be registered and kept under the terms of art. 34 letters c) and d).

Subdivision 10 – *Contestation of the public auction*

Art. 80. – The offerers could formulate contestations concerning the observance of the legal provisions related to the organization and carrying out of the public auction, separately, both concerning the opening stage and the stage of the evaluation of the offers.

Art. 81. – In the case of contestations made in regard to the evaluation stage, the offerers could ask the N.A.M.R., within 3 working days' time from the day of announcement of the result of the public auction, for a copy of the analysis report set out at art. 74 and of the evaluation report set out at art. 77.

Art. 82. – (1) The contestations concerning the opening stage shall be formulated within 3 working days' time from the day of announcement of the documents set out at art. 72 subsection (10).

(2) The contestations concerning the stage of evaluation and selection of the winner shall be formulated within 5 working days' time from the announcement of the documents set out at art. 74 and 77.

(3) Within 10 working days' time from the receipt of the contestation, the N.A.M.R. shall be obliged to resolve the contestation and to send its answer to the contesting offerer.

Art. 83. – (1) A contestation committee, consisting of 3 members representing the N.A.M.R., shall resolve the contestations.

(2) The members of the contestation committee shall be appointed, through order, by the chief of N.A.M.R.

(3) The husbands/wives, relatives or kinsmen up to the fourth level, including the associates, shareholders, who hold the control positions in the organization framework of the offerers or their administrators or auditors, as well as the persons being in the capacity of the evaluator or of the member of the opening, evaluation and negotiation committee, shall not be able to act in the capacity of the member of the contestation committee.

(4) Immediately after the receipt of any contestation, the members of the committee shall give, on their own responsibility, an affidavit of compatibility.

(5) If the state of incompatibility shall occur during the settlement of the contestation, the members of the committee shall immediately inform about this situation the chief of the N.A.M.R., who shall take the necessary measures for their replacement.

(6) Any interested person can inform the chief of the N.A.M.R. in regard to a certain state of incompatibility, the provisions of the subsection (5) being applicable correspondingly.

Art. 84. – (1) The contestation committee shall analyse all the documents, issued by the opening, evaluation and negotiation board, and by the evaluators, as the case might be, and shall verify the observance of the regulations concerning the public auction for the concession of mining activities.

(2) In the case the contestation shall be found as being well-grounded by the contestation committee, the latter shall recommend the chief of the N.A.M.R. to revoke the disqualification decision, in the case of the contestations brought on during the opening stage, or to revoke the decision of the selection of the winner and to organize a new public auction for the concession of the mining activities related to the respective perimeter, in the case of contestations brought on during the evaluation stage.

(3) The contestation committee shall not carry out a new evaluation of the offers.

(4) All the offerers who have submitted the renders for the respective perimeter shall be informed in regard to the contestation admittance.

(5) If the contestation was rejected, the offerer shall be able to resort to the competent legal court, according to the law.

(6) The contestation, including the one before the court, shall postpone the concession of the mining activities until the final and irrevocable settlement.

Art. 85. – In the case of admittance of the contestation concerning the opening of the outside envelope, the opening of the inside envelope shall be carried out under the terms of art. 72, which shall be applied accordingly.

Art. 86. – (1) On the basis of the analysis of the contested aspect, referring to the regulations applied in regard to the organization and carrying out of the public auction for the concession of the mining activities, the contestation committee shall draw up a report through which there shall be recommended the mode of settlement of the contestation.

(2) The report of the committee shall be approved by the chief of the N.A.M.R., within the period set out at art. 82 subsection (3).

(3) The structure-framework of the report of the contestation committee shall be set out through the order of the chief of the N.A.M.R.

Art. 87. – The original copies of the offers shall be returned to the offerers, except the winner.

Subdivision 11 – *The negotiation proceedings of the exploration plan and of the environmental rehabilitation plan*

Art. 88. – (1) The committee, set out at art. 49, shall negotiate with the winner of the open auction the conditions and provisions of the concession license, including the exploration plan and environmental rehabilitation plan.

(2) The elements of the technical-economical documentation, set out in the previous subsection, shall be set out through the order of the chief of the N.A.M.R.

(3) The conditions accepted after negotiation could not be lower than those proposed in the offer submitted for the participation in the public auction.

(4) The accepted exploration plan shall be integrally carried out, by stages, until the expiry of the concession license.

Art. 89. – The negotiated aspects shall be registered in a negotiation official report, signed by the members of the committee, by the secretary and by the offerer, being submitted to the approval by the chief of the N.A.M.R.

Art. 90. – The offerer-winner shall draw up and convey to the N.A.M.R. the technical-economic documentation, set out by the Mining Law for granting the license, within an agreed period of time.

PART II

Organization and carrying out of the public auction for the concession of exploitation activities

Art. 91. – The provisions concerning the organization and carrying out of the public auction for the concession of the exploration activities could be applied to the public auction for the concession of the exploitation activities accordingly, as long as they do not contradict the provisions of the present part.

Art. 92. – (1) The list of perimeters tendered through a public auction, in which there shall be proposed mining activities which would have an effect on the quality of the underground waters, their underpinning, as well as those from the minor river beds and lake basins, shall be analysed by the competent authorities in the field of the water management, which shall give their agreement, according to the provisions of art. 19 subsection (5) of the Mining Law.

(2) This approval shall not exclude the liability of getting the approval and authorization of the water management afterwards, according to the legislation in the water field.

Art. 93. – (1) The inside envelope, on which there shall be mentioned the name and registered office of the offerer, shall comprise the proper offer, development-exploitation plan of the mineral resources/reserves respectively.

(2) The development-exploitation plan of the mineral resources/reserves shall comprise the proposals of the offerer for the following parameters of the future exploitation:

- a) proposed reserve quantity to be exploited;
- b) proposed concession duration;
- c) production capacity set out for turning into value of the mineral resources/reserves;
- d) period of reaching the maximum production capacity;
- e) physical and value capacity of investments;
- f) level of recovery of the resources/reserves;
- g) mining products to be obtained;
- h) volume of geological research for the increase of the knowledge on mineral resources/reserves;
- i) physical and value volume of environmental rehabilitation works;
- j) volume and value of the monitoring works of the environmental factors for the close and post-close period;
- k) other parameters established by order of the chief of the N.A.M.R.

(3) The proposals related to the parameters of the development-exploitation plan of the resource/reserve shall be minimum and obligatory for the offerer-winner.

(4) The provisions of subdivision 4 from the part 1 shall be applied accordingly, except the provisions of art. 45.

Art. 94. – (1) The opening and evaluation of the offers made at the public auction for the concession of exploitation activities, as well as the negotiation of the provisions and conditions of the concession licenses, including the technical-economic documentation represented by the feasibility study, comprising also the initial plan of activity cessation, development plan of the exploitation, environmental rehabilitation plan, technical project and attenuation plan of the social impact shall be carried out by a committee appointed through the order of the chief of the N.A.M.R., for each public auction.

(2) The provisions of subdivision 6 from the part 1 shall be applied accordingly, except the provisions of art. 54 letter d).

Art. 95. – (1) The committee shall evaluate the offers made in the public auction for the concession of the exploitation activities, taking into account the financial power and

technical capacity of the offerers, as well as the development-exploitation plan of the mineral resources/reserves.

(2) The scores related to the criteria set out in the previous subsection, other assessment elements, as well as the mode of assessment shall be established through the order of the chief of the N.A.M.R., for each public auction.

(3) The provisions of subdivision 7 of the part 1 shall be applied accordingly, except the provisions of art. 58 and of art. 67-70.

Art. 96. – (1) The evaluation of the development plan for the exploitation of the mineral resources/reserves shall take into account the proposals made by the offerer, corresponding to the parameters established at art. 93 subsection (2).

(2) The score corresponding to the development plan for the exploitation of the mineral resources/reserves shall include the scores corresponding to each parameter.

Art. 97. – (1) The score shall be decreased if the offer shall not include data concerning the payment by the offerer of any liability to the funds foreseen at art. 59 subsection (1), of any indicator regarding the financial reliability, or of any element concerning the evaluation of the technical capacity, or of the proposal corresponding to the parameters set out in accordance with art. 93 subsection (2).

(2) The decrease of the score shall be proposed by the evaluator and shall be approved by the committee.

Art. 98. – (1) The evaluation of the development plan for the exploitation of the mineral resources/reserves and its pointing with less than a half of the maximum score, set out under the terms of art. 95 subsection (2), shall lead to the disqualification of the offer and its conveyance to the offerer, after the fulfilment of the evaluation term and announcement of the winner of the public auction for the concession of the exploitation activities.

(2) In the case of equal scores between the offerers situated on the first position, there shall be declared as a winner the offerer who would have received the best score for the development plan for the exploitation of mineral resources/reserves.

(3) The provisions of subdivision 9 from the part 1 shall be applied accordingly, except the provisions of art. 75 subsection (2) and of art. 76.

Art. 99. – (1) The committee indicated at art. 94 subsection (1) shall negotiate with the offerer -winner the conditions and provisions of the concession license, including the technical-economic documentation set out at art. 94 subsection (1).

(2) The documents indicated in the subsection (1) shall be drawn up, taking into account the minimum and obligatory character of the proposals made by the offerer-winner, corresponding to the parameters set out at art. 93 subsection (2).

(3) The technical-economic documents reworked as a result of the negotiation shall be submitted by the offerer-winner within the term agreed with the N.A.M.R.

(4) The terms for the negotiation and reworking of the technical-economic documents shall be set out through the order of the chief of the N.A.M.R., under the sanction of disqualification.

(5) If the offerer-winner shall be responsible for the impossibility to finish the negotiation, he shall be disqualified, and a new public auction for the concession of the exploitation activities shall be organized.

(6) The offerer shall be immediately informed about the disqualification proposed by the committee and approved by the chief of the N.A.M.R.

(7) The disqualification could be contested under the terms of the subsection 10 from the 1 part, which shall be applied accordingly.

Art. 100. – (1) The elements of the technical-economic documents set out at art. 93 subsection (1), which should be negotiated, shall be set out through the order of the chief of the N.A.M.R.

(2) The provisions of subdivision 11 from the part 1 shall be applied accordingly, except the provisions of art. 88 subsections (2) and (4).

Art. 101. – The concession license of the exploitation activities shall be made at the request in writing of the offerer-winner, addressed to the N.A.M.R., accompanied by the documents indicated at art. 20 subsection (1) of the Mining Law, redrafted according to art. 99.

CHAPTER V

Documents for turning into value of the mineral resources/reserves

Art. 102. – Documents for turning into value of the mineral resources/reserves shall be drawn up in accordance with the provisions of the Mining Law and of the present regulations.

Art. 103. – (1) The feasibility study shall comprise:

- a) general presentation of the economic agent;
- b) situation of the mineral resources/reserves, including their move;
- c) technical-economic indicators regarding the opening, preparation and exploitation of the mineral resources/reserves;
- d) production capacities and their structure;
- e) situation of the staff and expenses with the live labour;
- f) analysis of the products and market;
- g) risk analysis;
- h) set up and management;

- i) initial plan of the termination of the mining activity, which shall include the monitoring plan of the post-close environmental factors;
- j) management plan of the mining residues;
- k) financing of the investment;
- l) general estimate of the investment;
- m) annexes:
 - I. documents containing the calculation of the mineral resources/reserves;
 - II. technical documents containing the demarcation of the exploitation perimeter.

(2) The management plan of the mining residues shall include: treatment, recovery and storage of the residues resulted from the mining activities during the license and at the close and post-close stages of the mine/open pit for the decrease of the impact over the environment and human communities.

(3) The technical instructions, issued by the N.A.M.R. shall be the basis for the content-framework of the feasibility study.

(4) For carrying out, putting into service and exploitation of the investments, afferent to the turning into value of the mineral resources/reserves, there shall be obtained the necessary approvals and agreements, according to the law.

Art. 104. – (1) The exploitation development plan shall be divided into the annual exploitation plans, which shall be conveyed for the approval to the departments of territorial inspection of the N.A.M.R., in December of the year, previous to the one for which they have been drawn up.

(2) The development plan and the annual exploitation plans shall be drawn up according to the technical instructions, issued by the N.A.M.R.

Art. 105. – The impact study on the environment and environmental report, as the case might be, shall be drawn up in accordance with the provisions of the legislation in the environmental field.

Art. 106. – The expert assessment of the evaluation documents of the mineral resources/reserves shall be carried out only at the request of the N.A.M.R., according to the technical instructions, issued by the latter.

Art. 107. – (1) For the authorization of the beginning of the mining activities indicated in the license, the titleholder shall submit to the N.A.M.R., within 150 days' time after the day of enforcement of the license, the documents presented at art. 22 subsection (1) of the Mining Law.

(2) The N.A.M.R. shall authorize the beginning of the mining activities within 30 days' time from the day of handing in the documents indicated in the subsection (1).

(3) The titleholder shall start the mining activities authorized under the terms of the present article within maximum 30 days from the date of authorization.

(4) For getting the authorization for the beginning of the mining activities, the titleholder shall present the agreement of the land owners or administrators regarding the access to the locations, which are necessary for the execution of the mining activities during the first year of activity, in accordance with the approval of the exploration/exploitation plan, the situation plan (drawn up in Stereo '70 coordinates system) of the exploration/exploitation perimeter, by identifying the obtained plots of land, approved by the institutions from which the plots of land have been taken over, and copies from the concession contracts. In the case of the private land owners, there shall be presented the proof of the purchase, lease of the respective plot of land, or any other modes of getting the right to use the land.

Art. 108. – The protection and safe exploitation of the deposits of the mineral resources/reserves shall be carried out under the technical instructions, issued by the N.A.M.R.

CHAPTER VI

Assignment of the concession licenses

Art. 109. – (1) The titleholder of the concession license could assign to another legal person the obtained rights and assumed obligations, only with the preliminary approval in writing of the N.A.M.R.

(2) The assignment made without the approval of the N.A.M.R. is de jure null.

Art. 110. – For the approval of the assignment, the cumulative fulfilment of the following criteria shall be done:

- a) concession license shall be valid;
- b) person to whom the concession license is to be assigned shall not have any debts to the funds indicated at art. 59 subsection (1), according to the certificates specified at art. 60 subsection (1) letter b);
- c) obligations assumed by the titleholder through the concession license shall be fulfilled as against the period of time carried out from the latter, or the legal person to whom the assignment shall be made shall oblige himself to take over all unfulfilled obligations;
- d) legal person to whom the assignment shall be made, shall have the technical capacity and financial power, which are necessary for taking over the obligations established through the concession license;

- e) through the assignment there shall be maintained the existent conditions of the concession, so as they have been established through the license;
- f) person, to whom the assignment is to be made, shall be specialized for the implementation of the mining activities and shall be authorized by the N.A.M.R

Art. 111. – (1) The assignment shall be requested in writing by the titleholder together with the legal person to whom the concession license is to be assigned.

(2) To the application, signed and sealed by the legal representatives of both legal persons, the following documents shall be annexed:

- a) certificate of findings, issued by the Trade Register concerning the legal person, to whom the concession license is to be assigned;
- b) memo, drawn up by the titleholder, including the reasons which would have led to the request for the approval of the assignment of the concession assignment;
- c) decisions of the management bodies of both legal persons, through which the assignment of the concession license is approved;
- d) authenticated copy of the constitutive act and registration certificate of the legal person, to whom the concession license is to be assigned;
- e) documents regarding the technical capacity and financial power of the legal person, to whom the concession license is to be assigned;
- f) report concerning the mining activity carried out by the titleholder until the request of the approval for the assignment, including the express mention of the fulfilment stage of the obligations established through the license and the obtained results;
- g) approval regarding the assignment, issued by the Ministry, which coordinates or at which orders one of the legal persons is.

Art. 112. – The N.A.M.R. shall analyse the request for the approval of the assignment of the concession license and shall decide in regard to the mode of settlement, within 60 days' time, under the terms of art. 110 and 111.

Art. 113. – The assignment of the concession license shall be approved through the order of the chief of the N.A.M.R., according to art. 24 subsection (1) of the Mining Law.

Art. 114. – (1) In the cases specified at art. 24 subsection (3) of the Mining Law, the license, so as it has been negotiated, shall be granted through an additional act, by the N.A.M.R., to the successor legal person who would have taken over, entirely or partly, the patrimony of the titleholder, including the rights and obligations agreed through concession license.

(2) For granting the concession license under the conditions of subsection (1), the succeeding legal person shall notify the N.A.M.R. in regard to the operation of taking over, entirely or partly, of the patrimony and shall expressly request the license.

(3) To the application there shall be annexed the copies of the legal documents regarding the operation of taking over, entirely or partly, of the patrimony.

Art. 115. – The N.A.M.R. shall analyse the application and shall give the resolution within 30 days' time from its registration.

Art. 116. – The file, in terms of which the assignment or concession license would have been approved, shall be recorded and kept for each operation.

CHAPTER VII

Taxes, dues, tariffs and financial guarantee for environmental rehabilitation

Art. 117. – (1) The titleholders of the licenses/permits shall be obliged to pay to the public budget the annual taxes, laid down by art. 44 of the Mining Law, which shall be covered as follows:

- a) for the last year of activity, on the day of entering into force of the act of giving into administration or concession, proportionally to the number of months remained until the end of the year;
- b) for the following years of activity, until December 31 of the current year, for the next year;
- c) for the titleholders of the exploitation license, on the date of its issuing, according to the provisions of art. 28 subsection (3) of the Mining Law.

(2) The annual taxes unpaid until the date of enforcement of the Mining Law shall not be modified.

(3) The annual taxes shall be applied to the prospecting, exploration or exploitation perimeters, registered in the documents of giving into administration or concession, taking into account the diminishing of the exploration perimeters as well, under the requirements of art. 16 subsection (5) of the Mining Law.

Art. 118. – The titleholders of the licenses/permits, who get the mining production, shall pay to the public budget mining due, according to art. 45 of the Mining Law, starting with the day of getting the production.

Art. 119. – The root for the calculation of the mining due shall be the value of the obtained mining production, set according to the practiced prices and obtained quantity of the mining products, for the period for which the calculation is made, without the value resulted from the processing of the extracted products, under the provisions of art. 45 subsection (3) of the Mining Law.

(2) The mode in which the proportion and calculation of the production value and of the mining due owed by the titleholders of the deeds of giving into administration or

concession shall be set out through technical instructions, approved by the order of the chief of the N.A.M.R., with the approval of the Ministry of Public Finances.

(3) The amounts, representing the annual tax and due owed to the public budget, according to the Mining Law, shall be declared by the payer to the competent revenue office, on the form set out under the provisions of the order issued by the Minister of Public Finances.

(4) For the documents of giving into administration or concession, concluded before the entering into force of the Mining Law and approved or in the process of getting the approval of the Government, the value of the mining production laying as a root for the calculation of the owed due, shall be established under the provisions of the normative acts in force at the date of their conclusion.

Art. 120. – The amounts, representing the equivalent value of the works set out in the plan of the prospecting/exploration works, set out through the prospecting permit/exploration license, due at the date of renouncing from the mining concession or giving into mining administration and not carried out because of the imputable reasons, shall be transferred to the public fund within 90 days' time from the date of the concession termination, according to art. 32 subsection (1) letter b) of the Mining Law.

Art. 121. – The carried out by the titleholder mining products, depending on the exploited mineral reserve, shall be designated in the deeds of giving into administration or concession, and shall be updated through additional acts assumed by the titleholder and N.A.M.R. whenever the case might be.

Art. 122. – The titleholders of the deeds of giving into administration or concession for exploitation, who are obliged to pay the mining dues, shall be obliged to calculate and register in the book-keeping, each month, the value of the mining production, processing expenditures and the value of the dues, and to pay them each trimester, the due day being the 20 day of the first month of the next trimester for which the due should be paid, according to art. 45 subsection (4) of the Mining Law.

Art. 123. – The liability of paying the mining due is also devolved upon the titleholders of the deeds of giving into administration or concession through exploration, who carry out mining production through an experimental exploitation, under the provisions of law and of the present regulations.

Art. 124. – The titleholders of the permits/licenses are obliged so as within 15 days' time after getting the deeds of concession/administration to submit to the revenue office, to which they belong, the declaration of being registered as payers of mining dues, according to the legislation in force.

Art. 125. – (1) The verification of data, on the basis of which the mining taxes and dues are calculated, as well as the verification of their value and payment due days, is made by the N.A.M.R. and by the public authorities holding the competences in the field of financial control.

(2) The titleholders are obliged to convey to the N.A.M.R. data and information on the basis of which there would be calculated the mining due, according to the law, within the time set out by the chief of the N.A.M.R., under the provisions of art. 119 subsection (2).

Art. 126. – The non-observance of the report terms set out through the order of the chief of the N.A.M.R. shall be sanctioned under the provisions of art. 57 subsection (1) letter b) regarding the Mining Law, and the erroneous information supply concerning the value of the mining production and the value resulted from the processing of the mining products, which serves as a basis for setting out the equivalent value of the owed due, shall be sanctioned according to the provisions of art. 34 letter f) of the Mining Law.

Art. 127. – For the delayed payment of the taxes for the prospecting, exploration and exploitation activity and/or of the mining due, there shall be covered delay interests and penalties, in conformity with the regulations regarding the gathering of the budget dues, and there shall be applied a sanction under the provisions of art. 57 subsection (1) letter c) of the Mining Law.

Art. 128. – (1) The taxes gathered under the provisions of art. 48 subsection (1) of the Mining Law shall be administered, book-kept and used by the N.A.M.R., according to art. 48 subsection (2) of the Mining Law.

(2) The liquid assets existent on the account at the end of the year shall be carried forward as incomes for the next year, according to the provisions of art. 48 subsection (3) of the Mining Law.

(3) The incomes, constituted according to subsection (1) and the afferent to them expenditures, shall be approved as an annex to the Law of Public Budget.

(4) The display in detail of the expenses, covered from the incomes set out in subsection (1) for the purposes set out at art. 48 subsection (2) from the Mining Law shall be made through the order of the chief of the N.A.M.R.

(5) The monthly fund for granting the incentives to the staff set out at art. 48 subsection (2) from the Mining Law shall be constituted by applying a quota up to 40% over the monthly incomes carried out by the N.A.M.R., through gathering the dues in carrying out its activities, according to art. 48 subsection (1) of the Mining Law.

(6) The constitution and use of the fund for the incentive of the staff shall be carried out under the provisions of art. 10 subsection (2) of the Law no. 500/2002 regarding the public finances and of the order of the chief of the N.A.M.R.

Art. 129. – The amounts, afferent to the technology transfer and professional training, specified at art. 39 letter q) of the Mining Law, shall be administered through a separate account, opened at the State Treasury taken on the N.A.M.R. and shall be used, at the request of the N.A.M.R. and only with the agreement of the license titleholder regarding their destination, for the following type of actions:

- a) equipment and services acquisition for the accomplishment of the own activities;
- b) participation in the programmes of professional training in the specialized fields (geology, geophysics, mining activity), environmental issues, legislation, negotiations, etc.;
- c) experience exchange and participation at the events organized by the specialized companies, international associations and organizations, for the promotion of the international image of Romania in the mining field;
- d) know-how transfer.

Art. 130. – In the case of the exploration license, the financial guarantee for the environmental rehabilitation shall be constituted annually, during the first month of the period to which the reference is made, and shall be set out in the license so as to cover the works for the environmental rehabilitation itemized in the technical project.

Art. 131. – In the case of the exploitation license, the financial guarantee for the environmental rehabilitation shall be constituted annually, during the first month of the period to which the reference is made, and shall be set out in the license so as to cover the works for the environmental rehabilitation itemized in the environmental rehabilitation plan and in the technical project.

Art. 132. – In the case of the exploitation permit, the financial guarantee for the environmental rehabilitation shall be constituted at the date of issuing and there shall be set out through it so as to cover the rehabilitation works set out in the exploitation plan for the respective period.

Art. 133. – (1) The financial guarantee for the annual environmental rehabilitation could not be fewer than the value of the works for the environmental rehabilitation, afferent to the respective year.

(2) In the case of exploration/exploitation license and exploration permit, the financial guarantee for the environmental rehabilitation could be under the form of bank deposit, irrevocable trust letter or under other forms set out by the law. The bank deposit, representing the financial guarantee for the environmental rehabilitation, shall be constituted at a bank approved by the N.A.M.R.

(3) The N.A.M.R. shall draw up the technical instructions regarding the application and implementation of the measures, set out in the observance plan, environmental

rehabilitation plan and technical project, as well as the mode of operation with the financial guarantee for environmental rehabilitation in the areas affected by the mining activities.

Art. 134. – The titleholder of the license/permit shall not be liable for the environmental deterioration occurred because of the mining activities carried out before the concession/administration granting, the remedy in these situations being devolved upon the doer.

CHAPTER VIII

The close of the mines

Art. 135. – The technical annexes and facilities of the exploitation, which shall come back in the possession of the State under art. 37 subsection (2) of the Mining Law, are the ones set out in the technical plan of the close of the mines/pits, drawn up according to the technical instructions, issued by the N.A.M.R. and the competent Ministry.

Art. 136. – The titleholder of the annulled exploitation license shall be liable for the integrity of the technical annexes and facilities of the exploitation, which come back in the possession of the State, within 3 months' time from the termination of the concession or administration, set out at art. 37 subsection (4) of the Mining Law.

Art. 137. – The technical annexes and facilities of the exploitation, returned into the possession of the State as a result of the decision regarding the termination of the concession or administration, according to art. 37 of the Mining Law, shall be used through:

- a) giving them into use, as facilities integrated to the exploitation process, to the new titleholders of the exploitation license, got under the provisions of law. In this case these technological annexes and facilities shall be listed in the annex to the license;
- b) conservation, through the goods offices of the economic agent, and with the approval of the competent Ministry in the case of the national mining companies/firms, as regards the mines and pits for which there would have been taken a decision temporarily to cease the exploitation activity and their conservation.

Art. 138. – The termination of the mining activity shall be made according to the technical instructions set out by the National Agency for Mineral Resources and by the competent Ministry.

Art. 139. – The amounts representing the equivalent value to the non-executed conservation/close works, relinquished to the N.A.M.R. under the provisions of art. 32 subsection (1) letter d) of the Mining Law, shall be used according to the technical instructions set out under the conditions of art. 138.

CHAPTER IX

Final and transitory provisions

Art. 140. – The international classification of the mineral resources/reserves and the constitution, according to this classification, of the N.F.R./R., shall be experimentally applied up to December 31, 2005. Up to this date there shall be maintained simultaneously the

evidence and move of the reserves, according to the classification used up to the date of entering into force of the Mining Law.

Art. 141. – (1) The competent Ministry shall administer the execution of the national geological plan and, in the capacity of the chief accountant, shall ensure its financing also from the budgetary sources. The institution of the perimeters of geological investigation, as well as their organization shall be ensured under the provisions of the Mining Law.

(2) Until the date of entering into force of the exploitation and/or exploration licenses assigned directly, according to art. 46 of the Mining Law no. 61/1998, their titleholders shall carry out their activity according to the approvals to the annual exploitation and/or investigation plans, within the limits of existent perimeters.

Art. 142. There shall be considered as *exploitation licenses under the approval process by the Government*, in the sense of art. 60 subsection (1) of the Mining Law, the licenses made by the N.A.M.R. with the legal persons, which would have not entered into force.

Art. 143. – The titleholder of the exploitation license in force under the approval process shall draw up and convey to the N.A.M.R. the technical-economic documentation, as follows:

- a) initial plan of the activity cessation, constituting a part of the feasibility study;
- b) technical project of environmental rehabilitation;
- c) monitoring plan of the post-close environmental factors;
- d) evaluation study on the social impact and attenuation plan of the social impact.

Art. 144. – The technical instructions set out at art. 17, 22, 23, 26, 36, 103, 104, 106, 108, 119, 133, 135 and 138 shall be issued through an order of the chief of the N.A.M.R and shall be published in the Official Gazette of Romania, Part I.