

JUDr. Roman Kvasnica, advokát, s.r.o.

Sad A. Kmeťa 24, 921 01 Piešťany

tel.: 033/7622959, fax: 033/7742283, e-mail: kvasnica@kvasnica.sk

BIN: 36 866 598, TIN: 2022969542, VAT Reg. No.: SK2022969542

registered in the Commercial Register of the District Court Trnava, Section: Sro, Insertion No. 24959/T

Ministry of Economy of the Slovak Republic

Mierová 19

827 15 Bratislava

In Piešťany, on 29 June 2015

RE: Motion pursuant to Section 65(1) of Act No. 71/1967 Coll. to review a decision outside an appellate proceeding

The company, Rozmin, s.r.o., with its registered office at Karadžičova 8/A, Bratislava 82108, Business Identification No.: 36 174 033, represented by the law firm of JUDr. Roman Kvasnica, advokát, s.r.o., files a motion pursuant to the provisions of Section 65(1) of Act No. 71/1967 Coll. to review a decision of the Principal Mining Office dated 1 August 2012, No. 808-1482/2012, which became valid and effective on 6 August 2012 (the "**Decision**") outside of appellate proceedings, specifically for the reason that the Decision has been issued in breach of the law, and also in breach of a generally binding legal regulation, as justified in detail legally and in terms of merits.

On 30 March 2012 the District Mining Office in Spišská Nová Ves issued a decision number 157-920/2012 on the determination of the extraction area, "Gemerská Poloma" to another organization (the "**First-instance Decision**"), by which it ruled in such a manner that under Section 27(12) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act) as amended, it awarded the extraction area "Gemerská Poloma" to the organization:

VSK MINING s.r.o., with its registered office at: Hlavná 8, 040 01 Košice, Business Identification No: 35 837 659. It has simultaneously ruled out the postponing effect of an appeal.

The company, Rozmin s.r.o., as the entity filing this motion, has filed an appeal dated 17 April 2012 against the First-instance Decision, delivered to the District Mining Office in Spišská Nová Ves on 19 April 2012 (the "**Appeal**").

The Principal Mining Office has ruled, by the Decision which we challenge by this motion, in such a manner that it “dismisses the appeal and confirms the challenged decision of the District Mining Office in Spišská Nová Ves”.

The fact that the Decision was issued in breach of a generally binding legal regulation, and also in breach of the law, we

justify as follows:

The Principal Mining Office, as an appellate administrative body, in breach of the provisions of Section 59(1) and (2) of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), evidently failed to review in full the First-instance Decision challenged by the Appeal, failed to remedy the defects of the First-instance Decision and in breach of the law confirmed the First-instance Decision and dismissed the Appeal, even though reasons were established to revoke the First-instance Decision and to terminate a proceeding to award the extraction area, “Gemerská Poloma”, to another organization.

Pursuant to the provisions of Section 59(1) of Act No. 71/1967 Coll. an appellate body shall review a challenged decision in full; if necessary, it shall supplement the current proceeding or remedy any ascertained defects.

Pursuant to the provisions of Section 59(2) of Act No. 71/1967 Coll. if the reasons therefor exist, an appellate body shall amend or revoke the decision, or it shall dismiss an appeal and confirm the decision.

The First-instance Decision is unlawful, or issued in breach of the legal regulations, for the following reasons:

- 1. In breach of the provisions of Section 27(12), second sentence, and the provisions of Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, the District Mining Office awarded the extraction area to the company VSK MINING s.r.o., which has not been a party to the tender at all, nor it filed a proposal to award the extraction area, has never been assessed as a submitting party of the proposal from a perspective of the tender criteria set forth in Section 24(7) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, with a natural consequence that a proposal of VSK MINING s.r.o. has never been determined in the tender as a proposal being first in the order. The law has clearly stipulated an option of the administrative body to carry on in the proceeding for the awarding of an extraction area only in respect to a proposal which was determined in the tender as the first one,**

specifically, strictly under Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (Mining Act), in the wording effective until 31 May 2007.

Pursuant to Article 2(2) of the Constitution of the Slovak Republic, public authorities may only take actions on the basis of the Constitution, within its limits and to the extent of and in the manner as prescribed by law.

Pursuant to the provisions of the second sentence of Section 27(12) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, the District Mining Office shall revoke an extraction area or shall award the same to other organization based on a tender (Section 24 (4) to 10), if the organization to which it was awarded, has failed to mine the reserved deposit within three years from the awarding of the extraction area or its transfer, or has interrupted the mining for a period more than three years.

*Pursuant to the provisions of Section 24(7) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, **the commission shall assess proposals for the awarding of an extraction area in particular from the perspective of technical and financial options of the submitting parties, the proposed manner of the mining of a reserved deposit and resolving of conflicts of interests, and shall designate an order of parties to the tender.** An integral part of the tender is a report on the course and results of the tender, which together with other documentation forms the basis for a decision of the District Mining Office in the proceeding for the awarding of an extraction area.*

*Pursuant to the provisions of Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, **in respect to a proposal which has been designated in a tender as the first one, the District Mining Office shall carry on in the proceeding for the awarding of an extraction area;** the District Mining Office shall notify other parties to the tender that their proposals have not been successful in the tender.*

Pursuant to the provisions of Section 43a (Temporary provisions effective as from 1 June 2007) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), any proceedings commenced prior to the effectiveness of this Act shall be completed under the current regulations.

In breach of Article 2(2) of the Constitution of the Slovak Republic and in breach of the above quoted statutory provisions, the District Mining Office in a proceeding for the awarding of an extraction area failed to carry on in a proceeding for the proposal which has been designated in the tender as the first one, because according to the contents of the First-instance Decision, as the first in the order was assessed a proposal of the company, Economy agency RV s.r.o., which was dissolved on 11 January 2006 without liquidation and the extraction area

“Gemerská Poloma” was awarded to the company VSK MINING s.r.o. despite the following legal obstacles:

- a) VSK MINING s.r.o. has never filed a proposal for the awarding of the extraction area “Gemerská Poloma”, which would have been designated as the first one in the order in a tender (discrepancy with the provisions of Sections 24(3) and (4) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007);
- b) VSK MINING s.r.o. has never been, in a tender for the designation of a wining proposal for the awarding of the extraction area “Gemerská Poloma”, assessed and evaluated pursuant to the criteria stipulated by the provisions of Section 24(7) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, hence the company had not passed through a statutory system of the assessment of criteria placed on organizations intending to participate by the filing of a proposal for the awarding of an extraction area;
- c) **by the application of provisions of a private law standard on a merger of limited liability companies contained in the Commercial Code, it is not possible to circumvent a public standard being Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act); in particular, it is not possible to transfer a position following from a public law standard (i.e., the determination of a proposal as the first one in a tender) according to private law regulations to a third person that has neither been assessed nor evaluated in the carried-out tender at all, and hence failed to meet the criteria placed on the selection of a wining proposal according to the provisions of Section 24(7) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007;**
- d) the District Mining Office failed to resume the proceedings for the awarding of an extraction area concerning the proposal which was designated in the proceeding as the first one, because the company, Economy agency RV s.r.o., was dissolved on 11 January 2006 without liquidation (discrepancy with the provisions of Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007).

No doubts exist in respect to the correctness of the legal opinion discussed above under letter (c), because the same opinion is also held by the Principal Mining Office, based on the guidance of the Principal Mining Office provided to us of 25 July 2013, number 708-984/2013, contained in file number 708-984/2013.

According to that guidance, the Principal Mining Office is of such opinion that the right to mine a reserved deposit, arising out of the awarded extraction area, cannot be included into the business assets of an enterprise, hence not even into assets, because it cannot be appraised by money and cannot be converted into cash. Therefore, the extraction area and the right arising therefrom to mine a

reserved deposit cannot pass, under Section 68(2) of the Commercial Code, together with assets to a legal successor.

It shall also apply, in accordance with the legal opinion of the Principal Mining Office that is expressed as part of the guidance of 25 July 2013, number 708-984/2013, that the right arising out of the determination of a proposal being designed in a tender as the first one is not part of the business assets of a limited liability company, because this does not relate to a property value; such right cannot be included into the business assets of an enterprise, hence not even to assets, because it cannot be appraised by money and cannot be converted into cash.

There is therefore no doubt that the company VSK MINING s.r.o. is not a legal successor in relation to the right of the winner of a tender according to Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007. Such a legal conclusion is supported by a known fact that VSK MINING s.r.o. failed to participate in a tender for the awarding of the extraction area “Gemerská Poloma” and had not passed through a statutory system of the assessment of criteria under Section 24(7) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007.

It is astounding that despite that, by the Decision, the Principal Mining Office confirmed the unlawful First-instance Decision, even though the substantive presumptions for its issuance had not been fulfilled, because the proceeding for the awarding of an extraction area should have been terminated for a reason of the dissolution of Economy agency RV s.r.o., and the District Mining Office could not have continued in the proceedings with VSK MINING s.r.o., which was not assessed in the tender and its proposal was not designed as the first in the tender.

Despite that the Principal Mining Office in the Decision understandably avoids these facts and fails to deal with them, just like the District Mining Office in the First-instance Decision, because they would not be able to explain that the extraction area was awarded to VSK MINING s.r.o., which has never filed a proposal for the awarding of the extraction area, failed to participate in a published tender, failed to submit to the assessment and evaluation of criteria under Section 24(7) of the Mining Act, in the wording effective until 31.5.2007 and that they awarding the extraction area to an organization the proposal of which was not designated in the tender as the first one.

Such an unlawful procedure could not have led to the occurrence of the authorization to mine the area “Gemerská Poloma”, in particular with a reference to a legal opinion of the Supreme Court of the Slovak Republic expressed in a different matter, file no. 5 SŽ 107/99, 6 SŽ 124/00, 6 SŽ 125/00, by its judgment dated 27 September 2000, according to which: “The one which does not become an operator in a manner prescribed by the law could not have become an operator under other law, nor in any other manner.”

The disposal of a business of the company Economy agency RV s.r.o., which was dissolved on 11 January 2006 without liquidation and was supposed to merge with VSK MINING s.r.o., could not have avoided the provisions of public law regulations, namely Sections 24(7) and (8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007. Thus, in the administrative proceedings for the awarding of the extraction area "Gemerská Poloma" together with the dissolution of Economy agency RV s.r.o., the subject-matter of the proceeding ceased to exist.

In the case of this breach of legal regulations, this breach is a breach of substantive law regulations which provide for the right to sue of a person with which the District Mining Office is supposed to hold further proceedings. VSK MINING s.r.o. has never become such a person for the reason of its failure to participate in the tender.

At the end of this point we would like to point out, that based on our proposal made under Act No. 211/200 Coll., the Principal Mining Office has not denied the existence of the guidance of the Principal Mining Office dated 25 July 2013, number 708-984/2013, contained in file number 708-984/2013, nor it denied the correctness of the legal opinion contained in that guidance. Although the Principal Mining Office by its decision dated 19 June 2015, number: 680-1044/2015, refused to make available to us the information required pursuant to Act No. 211/2000 Coll., manifest efforts can be seen from this decision of the Principal Mining Office to avoid application of the opinion of a professional employee of the Principal Mining Office dated 25 July 2013, number 708-984/2013, which is evidently inconvenient to the officials of the office and they seek to deny its existence, even though they acknowledge its preparation.

It is evident that the efforts to avoid application of this expert guidance, or to create confusion over its existence, has been affected by the fact that the expert guidance demonstrates the unlawfulness of steps taken by the District Mining Office and the Principal Mining Office in the matter of awarding of the extraction area "Gemerská Poloma" to a different organization. Such a course of action is astounding also for the reason that all other current professional opinions of the professional employee of the Principal Mining Office, who has prepared the opinion, have not been questioned in the past.

Evidence: contents of the Decision;

Guidance of the Principal Mining Office dated 25 July 2013, number 708-984/2013;

Judgment of the Supreme Court of the Slovak Republic, in the matter, file no. 5 SŽ 107/99, 6 SŽ 124/00, 6 SŽ 125/00, dated 27 September 2000;

Decision of the Principal Mining Office dated 19 June 2015, number: 680-1044/2015.

- 2. In breach of the provisions of Section 27(3) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007 (this wording is the same to date), the District Mining Office in the First-instance Decision failed to specify the term of commencement of the mining of the reserved deposit and the Principal Mining Office failed to remedy such unlawful status by the Decision.**

Pursuant to the provisions of Section 27(3) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, the decision on the awarding of an extraction area shall also specify the date of commencement of mining of a reserved deposit.

Pursuant to the provisions of Section 3(1), first sentence, of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), in a proceeding, the administrative bodies shall proceed in accordance with laws and other legal regulations.

*Pursuant to the provisions of Section 46(1) of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), a decision must be issued in accordance with laws and other legal regulations, must be issued by the competent body, must be based on a reliably ascertained status of the matter **and must contain the prescribed prerequisites.***

In breach of the law, the statement part of the First-instance Decision fails to contain a statutory prerequisite, namely the date of commencement of mining of the reserved deposit "Gemerská Poloma" by VSK MINING s.r.o..

This statutory prerequisite must be specified directly in the statement part of a decision. Despite evident absence of the date of commencement of mining of a reserved deposit, the Principal Mining Office confirmed by its Decision the unlawful and incomplete First-instance Decision and failed to remedy this unlawfulness in any manner.

Evidence: First-instance Decision;
Decision;

- 3. During the administrative proceedings, the Principal Mining Office has violated the two-instances principle of administrative proceeding and beyond its powers gave an instruction to the District Mining Office how to make a decision concerning the awarding of the extraction area "Gemerská Poloma" in favor of another organization - VSK MINING s.r.o. The Principal Mining Office did so even before any evidence was presented in the administrative proceedings.**

Pursuant to Article 2(2) of the Constitution of the Slovak Republic, public authorities may only take actions on the basis of the Constitution, within its limits and to the extent of and in the manner as prescribed by law.

Pursuant to the provisions of Section 3(1), first sentence, of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), in a proceeding, the administrative bodies shall proceed in accordance with laws and other legal regulations.

After the revocation of decision of the Principal Mining Office number 26-34/2009 dated 12 January 2009, decision of the District Mining Office in the city of Spišská Nová Ves No. 329-1506/2008 dated 2 July 2008 and after returning the case for further proceedings by judgment of the Supreme Court of the Slovak Republic file No. 2Sžo/132/2010 dated 18 May 2011, The Principal Mining Office was not authorized to take any action in the administrative proceeding other than returning the case (file) back for proceedings to the first-instance body.

Therefore, it had no authority to express any legal opinion, assessments of facts or to determine the procedure of the first-instance body as it did by its letter dated 20 June 2011, number 205-1257/2011. Neither the Administrative Procedure Rules nor the Mining Act allow such a course of action.

Despite that, the Principal Mining Office blatantly issued a binding opinion addressed to the District Mining Office, according to which: “After the expiration of the period designated to get acquainted with the underlying documentation of the decision, the District Mining Office should again make a decision in the matter, **hence to award the extraction area Gemerská Poloma to another organization.**” By this opinion, in the proceedings, it has determined the decision to be taken by the District Mining Office.

Evidence: Letter of the Principal Mining Office dated 20 June 2011, number 205-1257/2011;

- 4. In breach of the legal regulations, the First-instance Decision fails to contain a reference to the legal regulation according to which the District Mining Office made its decision, and the Principal Mining Office failed to remedy this unlawful status by its Decision.**

Pursuant to the provisions of Section 3(1), first sentence, of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), in a proceeding, the administrative bodies shall proceed in accordance with laws and other legal regulations.

*Pursuant to the provisions of Section 46(1) of Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Procedure Rules), a decision must be issued in accordance with laws and other legal regulations, must be issued by the competent body, must be based on a reliably ascertained status of the case **and must contain the prescribed prerequisites.***

Pursuant to the provisions of Section 47(1) of Act No. 71/1967 Coll. on Administrative Proceedings, a decision must contain a statement, justification and

note on an appeal. The justification is not required if all parties of the proceeding are satisfied in full.

*Pursuant to the provisions of Section 47(2) of Act No. 71/1967 Coll. on Administrative Proceedings, **the statement shall contain a decision in the matter with specifications of the legal regulation according to which the decision has been made**, or a decision on a duty to compensate the costs of the proceedings. If a party to the proceeding is imposed a duty to perform in a decision, the administrative body shall specify a deadline for it; the deadline may not be shorter than as prescribed by special law.*

Pursuant to the provisions of Section 43a (Temporary provision effective as from 1 June 2007) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), the proceedings commenced prior to the effectiveness of the Act shall be completed under the current regulations.

The statement part of the First-instance Decision specifies that the Mining Office decided concerning the awarding of the extraction area under Section 27(12) of Act No. 44/1988 Coll., **as amended**; however, the administrative body could not have decided pursuant to Act No. 44/1988 Coll., **as amended, because under the temporary provision of Section 43a of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act)**, it should have completed proceedings commenced prior to the effectiveness of this Act pursuant to the current regulations, that is pursuant to the regulations in the wording of the Act effective until 31 May 2007.

The provisions of Section 27(12) of Act No. 44/1988 Coll., as amended (valid as of 30 March 2012 – the date of issuance of the First-instance Decision) only allowed to revoke a decision on the awarding of an extraction area if the mining of the reserved deposit had been terminated or permanently ceased and the main mining works and quarries have been liquidated.

The Mining Office should have proceeded under Section 27(12) of Act No. 44/1988 Coll., however, not in the wording of later regulations (as amended), but in the wording of regulations applicable until 31 May 2007.

Despite the fact that the First-instance Decision failed to contain the statutory prerequisite required by the provisions of Section 47(2) of Act No. 71/1967 Coll. on Administrative Proceedings, namely the statement containing the decision in the matter with the specification of the provisions of the legal regulations under which the decision has been made, the Principal Mining Office has failed to remedy such unlawful status by the Decision.

- 5. In breach of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), the District Mining Office in Spišská Nová Ves allowed in the proceeding, that the organization VSK Mining s.r.o., without any legal title, pursue activity under the Mining Act in the extraction area “Gemerská Poloma”.**

Pursuant to Article 2 (2) of the Constitution of the Slovak Republic, public authorities may only take actions on the basis of the Constitution, within its limits and to the extent of and in the manner as prescribed by law.

Pursuant to the provisions of Section 27(3) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, the decision on the awarding of an extraction area shall also specify the deadline for commencement of mining of a reserved deposit.

It is evident from a letter of the District Mining Office in Spišská Nová Ves dated 21 October 2011, number 617-2107/2011, that the company Rozmin s.r.o. demanded, after the revocation of decision of the Principal Mining Office number 26-34/2009 dated 12 January 2009 as well as decision of the District Mining Office in Spišská Nová Ves No. 329-1506/2008 dated 2 July 2008 and after returning the case for further proceedings by a judgment of the Supreme Court of the Slovak Republic, file No. 2Sžo/132/2010 dated 18 May 2011, in the administrative proceeding the issuance of a preliminary injunction to the following extent:

“The company VSK MINING s.r.o. shall refrain from the taking of any actions, including mining activities and the mining of a deposit, in the extraction area “Gemerská Poloma”, until the decision in the matter of awarding the extraction area of “Gemerská Poloma” becomes valid and effective.

The District Mining Office has rejected the motion in full and decided not to issue any preliminary injunction, which it has justified, *inter alia*, by saying that *“This office also believes that the current activities of VSK Mining s.r.o. in the extraction area of Gemerská Poloma do not put the purpose of the administrative proceeding at risk in any manner- quite the opposite is true, the work of VSK Mining s.r.o. contributes to rationally utilise the reserved deposit according to the Mining Act ...”*

The right to start the mining of a reserved deposit can only be exercised on the designated date for commencement of mining of the reserved deposit, which date must be stipulated under Section 27(3) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act) in a decision on the awarding of an extraction area.

When acting, the District Mining Office failed to consider these statutory requirements and allowed activity in the mining extraction area in an incompetent manner prior to the issuance of the First-instance Decision and prior to designation of the date for commencement of mining of the reserved deposit. By doing so, the District Mining Office has predetermined the result of its decision, without issuing the decision.

The Principal Mining Office has failed to remedy this unlawfulness by the Decision in the issuance of the First-instance Decision.

- 6. The District Mining Office in Spišská Nová Ves has commenced proceedings for the awarding of the extraction area to another organization on the basis of a tender (under Section 27(12) in connection with Section 24(4) to 10 of the Mining Act), by publishing a Notification of the commencement of a tender for the awarding of the extraction area of “Gemerská Poloma” in the Commercial Bulletin number 253/2004 on 30.12.2004; hence prior the day on which a three-year period prescribed in the second sentence of Section 27 (12) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31.05.2007, could have possibly expired, hence prior the day on which such proceedings could have possibly been commenced at all.**

The District Mining Office published a tender for the awarding of an extraction area under Section 27a of Act No. 44/1988 Coll. before (back in December 2004) the statutory period of three years under Section 27(12) of Act No. 44/1988 Coll. could have possibly expired on 01 January 2005.

By doing so, from the very beginning, the District Mining Office has encumbered the entire proceedings by a defect that could have not been remedied in any manner other than by declaring and organizing a new tender.

Pursuant to the provision of the second sentence of Section 27(12) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, the District Mining Office shall revoke an extraction area or shall award the same to another organization based on a tender (Section 24(4) to 10) if the organization to which it has been awarded failed to mine the reserved deposit within three years of awarding of the extraction area or its transfer, or has interrupted the mining for a period longer than three years.

The above quoted statutory provision which became effective on 1 January 2002 confirms that the District Mining Office could have commenced the proceedings only after the expiration of three years (not sooner than possibly 1 January 2005) and only within such proceedings to begin a review of the fulfilment of conditions under Section 27(12) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007.

Evidence: Notification of the commencement of a tender for the awarding of the extraction area of “Gemerská Poloma” in the Commercial Bulletin number 253/2004 on 30 December 2004;

- 7. The District Mining Office not only awarded the mining area to the organization the proposal of which did not win the tender commenced by publishing a Notification of the commencement of a tender for the awarding of the extraction area of “Gemerská Poloma” in the Commercial Bulletin number 253/2004 on 30 December 2004, but also in breach of the provisions of Section 24(8) of Act No. 44/1988 Coll. on Protection and Utilization of Mineral Resources (the Mining Act), in the wording effective until 31 May 2007, failed to resume the proceedings commenced on 30 December 2004,**

instead on 22 June 2011 commenced a further proceeding number 157/2012 about the same proposal and failed to complete to date the original administrative proceedings, in which it acted in respect to an allegedly winning proposal of Economy agency RV s.r.o., which was dissolved.

Evidence of such a procedure of the District Mining Office is also the contents of a photocopy of the file submitted to us by the District Mining Office, because it has submitted to us only file No. 157/2012.

Evidence: Official records dated 13.2.2012, file number 157, records number 613;

We request the administrative body competent to review the Decision to promptly revoke or amend the Decision, so that the proceedings is terminated, for the above discussed reasons, which demonstrate that the Decision has been issued in breach of the law and also in breach of the generally binding legal regulation.

We would like to notify the administrative body of the statutory three-year period under Section 68(1) of Act No. 71/1967 Coll., during which the administrative body may revoke or amend a decision outside of an appellate proceeding, which period expires on 06 August 2015 upon the expiration of three years from the validity and effectiveness of the challenged Decision.

We also forward this motion to the District Mining Office in Spišská Nová Ves and the Principal Mining Office for information and request the administrative bodies for the provision of prompt assistance and submission of files of the administrative bodies to the Ministry of Economy of the Slovak Republic, with a view to make a decision within the three-year period which will expire on 06 August 2015.

Sincerely,

Rozmin, s.r.o.
represented by:
JUDr. Roman Kvasnica, advokát, s.r.o.
JUDr. Roman Kvasnica, advocate and executive

Annexes:

- Power of attorney for the law office;
- Decision of the District Mining Office in Spišská Nová Ves number 157-920/2012 on the awarding of the extraction area of "Gemerská Poloma" to another organization;
- Decision of the Principal Mining Office dated 1 August 2012, No. 808-1482/2012;
- Notification of the commencement of a tender for the determination of the mining area "Gemerská Poloma" in the Commercial Bulletin number 253/2004 on 30 December 2004;

- Letter of the Principal Mining Office dated 20 June 2011, number 205-1257/2011;
- Guidance of the Principal Mining Office dated 25 July 2013, number 708-984/2013;
- Judgment of the Supreme Court of the Slovak Republic, in the matter, file No. 5 SŽ 107/99, 6 SŽ 124/00, 6 SŽ 125/00, dated 27 September 2000;
- Decision of the Principal Mining Office dated 19 June 2015, number: 680-1044/2015.

To the attention of:

1. Principal Mining Office, Kammerhofská 25, 969 50 Banská Štiavnica
2. District Mining Office in Spišská Nová Ves, Markušská cesta 1, 052 01 Spišská nová Ves.