



ENRC (now Eurasian Resources Group) failed to respect human rights, says UK government watchdog

(Oxford/Lubumbashi, March 14 2016) NGOs welcome the UK government's clear message to investors in high risk environments, like the Congo, that they cannot evade their human rights responsibilities.

In a blow to efforts to rebuild its reputation after an ignominious exit from the London Stock Exchange¹, the Eurasian Resources Group (ERG, formerly ENRC) has been publicly criticised by the UK Government for failing to address human rights impacts at mine sites under the control of its subsidiaries in the Democratic Republic of the Congo (DRC).² ENRC had tried – but ultimately failed – to get the adverse findings overturned.

Human rights organisations, Rights and Accountability in Development (RAID) and its Congolese partner, *Action contre l'impunité pour les droits humains* (ACIDH) had filed a complaint against ENRC almost three years ago.³ The complaint was examined by officials at the UK's National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, in the Department for Business, Innovation and Skills, who concluded:

- 'ENRC has not engaged effectively with two stakeholder communities on the concessions, and has not taken adequate steps to address impacts on the communities'.
- 'ENRC has not met the obligation to address human rights impacts with which it is involved'.
- 'One of the impacts that is not adequately addressed is a threat to the security of community access to safe drinking water. The right to safe water is a human right'.

According to the findings, ENRC - though not directly responsible - had been aware of the contamination of water sources at two mine sites in southern DRC controlled by its subsidiaries, Comide and Africo Resources Limited (a Canadian company). Several thousand people living in the remote villages of Lenge and Kisankala, which lie on neighbouring mine sites, were effectively

¹ Jack Farhy 'Eurasian Resources Group seeks to draw a line under scandals' Financial Times November 1, 2015. Available <http://www.ft.com/cms/s/0/0132c21e-7800-11e5-a95a-27d368e1ddf7.html#axzz42WOACfM5>. In April 2013 the UK's Serious Fraud Office launched a criminal investigation into ENRC focusing upon 'allegations of fraud, bribery and corruption around the acquisition of substantial mineral assets. The SFO investigation is continuing (see <https://www.sfo.gov.uk/cases/enrc/>).

² UK NCP Final Statement: Complaint by RAID against ENRC. Available at: <https://www.gov.uk/government/publications/uk-ncp-final-statement-raid-complaint-against-enrc-democratic-republic-of-congo>

³ At the time the complaint was filed, May 2013, ENRC plc was listed on the London Stock Exchange. In November 2013 ENRC was acquired by the Eurasian Resources Group (ERG), a privately-owned Luxembourg-based natural resources company, after which it delisted.

denied access to clean water. ENRC was also aware from its due diligence report that ‘the population in the vicinity of the Comide and Africo licences is largely poverty stricken’.⁴

Emmanuel Umpula, a Congolese researcher involved in bringing the complaint, observed:

‘The whole area was overrun with artisanal miners with the collusion of highly placed officials. Companies sourcing minerals from these concessions provided no sanitation or shelter for the workers and did not protect the environment.’

Many of the difficulties mining communities in the DRC face today can be attributed to the chaotic allocation of mine licences in the period during and after the Congo’s wars. Over the past 15 years there have been numerous reports questioning the legitimacy, financial basis and economic fairness of the DRC’s mining contracts.⁵

‘Concessions were given to operators who had neither the experience nor the means to develop the mines’, said Donat Ben-Bellah, ACIDH’s Executive Director.

The NCP proceedings are supposed to help parties resolve disputes through mediation rather than resorting to protracted and costly legal proceedings. The ENRC complaint has dragged on, partly because of the complexity surrounding the ownership of the mines.⁶

The company disputed most of the NGOs’ claims but refused to disclose relevant information such as its social and environmental assessments or its Memorandum of Understanding with the Congolese mine police, deployed at the sites. When attempts at mediation broke down, ENRC sought to get the NCP’s conclusions overturned on procedural grounds, but their appeal was rejected.

Before the complaint ENRC’s subsidiaries largely ignored the villagers and their pressing needs. As a result of the complaint, COMIDE and Africo appointed community relations officers and began to take some steps to improve conditions in the villages (latrines were dug, a health clinic built and a bore hole was promised to supply Lenge with clean water).

The UK government recommends that the company should provide better information to the communities about the standards of conduct expected of staff and security contractors and advise them about changes to the schedule for mining. The UK NCP also asks ENRC to use its influence with Africo/Swanmines to ensure ‘unrestricted and continuing community access to water’ [§ 77].

Local village chiefs expressed their satisfaction with the NCP statement but want reassurances that the company will carry out the UK Government’s recommendations.

‘ERG now has a golden opportunity to make good its recent claim that “the Group maintains strong ethical standards in all aspects of its operations”’⁷ said Patricia Feeney, RAID’s Executive Director.

⁴ Competent Person’s Report prepared for ENRC on the Mineral Assets of Camrose dated November 2012

⁵ See, for example, Africa Progress Panel, AFRICA Progress Report 2013 - *Equity in Extractives: Stewarding Africa’s natural resources for all* see p. 58 and Annex 1)

⁶ ENRC took control and responsibility for these licences when it acquired 50.5% of a company called Camrose Resources Limited (“Camrose”) on 20 August 2010. Camrose is a private limited company incorporated in the British Virgin Islands. In December 2012 ENRC consolidated control by acquiring 100% of Camrose. Camrose and La Congolaise des Mines et Developpement (Comide) became indirectly wholly owned by ENRC. Camrose in turn has an 63.7% interest in Africo Resources Ltd, a Canadian company. Africo has a 75% interest in Swanmines which together with Gecamines (the Congolese state-owned company) holds the mine licence for the Kalakundi concession, where Kisankala is located. Included in Africo’s other shareholders are companies affiliated to or controlled by Camrose.

⁷ ERG Press Service – Eurasian Resources Group at Mining indaba: ‘Africa central to future growth’ 22/-2/2016 available at: <https://www.erg.kz/en/news/347>

The NCP did not reach a finding as regards the frequent clashes with artisanal miners, but noted that the company had failed to demonstrate that it 'had taken action to address the ongoing risks to communities from its security operations or to encourage its business partners to apply [OECD] Guidelines standards in addressing them'[§ 65]. A 2012 report prepared for ENRC shareholders noted that 'security arrangements are not yet aligned with international standards'.⁸

The UK Government will monitor developments at the mine sites and ERG will be required to report on progress in implementing the NCP's recommendations in a year's time [§83].

ENDS

For further information please contact:

- Tricia Feeney, RAID, tel: + 44 1865 436245; mobile + 44 7796 178 447;
e-mail tricia.feeney@raid-uk.org
- Emmanuel Umpula Nkumba, Chercheur, tel: + 243 818577577
e-mail : emmanuelumpula@yahoo.fr
- Donat Ben Bella, ACIDH : Tél: +243 99 70 25 331;
e-mail:donatm@acidhcd.org.

⁸ Competent Person's Report prepared for ENRC on the Mineral Assets of Camrose dated November 2012