

Toxic Mines or Costly Lawsuits: How the CETA Trade Agreement Would “Corner Governments”

By [Corporate Europe Observatory](#)

Global Research, February 13, 2017

[Corporate Europe Observatory](#) 13 February
2017

Region: [Canada](#), [Europe](#)

Theme: [Global Economy](#), [Law and Justice](#)

Ahead of Wednesday’s final European Parliament vote on the Canada-EU trade deal (CETA), a new report shows the devastating effects the agreement could have on EU member states whose citizens and courts block harmful mines. A lawsuit over the controversial Roşia Montană mine in Romania highlights governments’ vulnerability to expensive investor-state challenges attacking member state decisions to protect the environment and people’s health.

A day before the European Parliament votes on the Comprehensive Economic and Trade Agreement (CETA), a new report co-published by Corporate Europe Observatory (CEO), [‘Gold-digging with investor-state lawsuits’](#), warns against the trade deal’s facilitation of multi-billion investor claims. The case study focuses on the controversial Roşia Montană gold mine, the suspended development of which has led Canadian mining company Gabriel Resources to sue the Romanian state under the terms of agreements with investor rights similar to CETA.

The proposed cyanide-based goldmine in the Romanian town of Roşia Montană has faced strong community resistance due to its negative impact on the environment, the local economy and the region’s cultural heritage. It is on hold after Romanian courts invalidated several required permits.

Over this, the project’s majority owner Gabriel Resources is suing Romania at a World Bank-based international investment tribunal, seeking a reported US\$ 4 billion in compensation for the alleged failure of the country to issue the necessary permits.

In their new report, CEO, MiningWatch Romania, the Independent Centre for the Protection of the Environment and Alburnus Maior – a community organisation from Roşia Montană – compare the mining company’s claim with the legal provisions under CETA. The case study finds that the deal’s far-reaching investor rights could lead to a flood of similar lawsuits by North American companies against the EU and its member states, including US investors with subsidiaries in Canada.

Mining Watch Romania campaigner Roxana Pencea Brădăţan said:

“The battle over Roşia Montană shows how investor privileges in trade agreements can be used to undermine democracy and the rule of law. Romanians opposed the mine and our courts have declared it illegal.

“But Gabriel’s investor-state claim could now force the government to open the

mine anyway, or to make Romanian taxpayers fork out billions in compensation. If there ever was a wake-up call to reject the parallel legal system for corporations that is also part of CETA, this is it!"

Corporate Europe Observatory's trade policy campaigner and author of the report Pia Eberhardt added:

"CETA's VIP rights for foreign investors are essentially a massive corporate coup. They will newly empower tens of thousands of corporations to claim vast amounts of public money and to bully decision-makers.

"At a time when the number and size of investor attacks against countries is on the increase, it is just irresponsible to back more corporate privileges by including them in an EU-wide trade deal."

The report's publishers are calling on members of the European Parliament to stand with the millions of people across Europe who oppose the parallel legal system for corporations and reject CETA.

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- Read the full report (as of 14/02/2017, 00:00 CET) here: '[Gold-digging with investor-state lawsuits](#)'
- Following the signing of CETA by EU and Canadian governments in October 2016 and controversial votes in several European Parliament committees, Wednesday's vote in the Parliament's Strasbourg plenary will be the final step in the EU-level ratification of CETA. If Parliament approves CETA, large parts of the deal will enter into force as of spring 2017. The full agreement will only be implemented after ratification by parliaments in all 28 EU member states, including those where CETA is highly controversial and will face referenda.
- Read [more about the investor-state lawsuit](#) which Gabriel Resources has filed against the Romanian government at the World Bank's *International Centre for Settlement of Investment Disputes* (ICSID Case No. ARB/15/31).
- Key findings of [the report](#) include:
- To operate the proposed Roşia Montană goldmine, a total of **240,000 tons of toxic cyanide** would be used, which equals lethal doses for 600,000,000,000 adults.
- The mine would leave behind a **waste lake of cyanide-contaminated water the size of 420 football fields** – much larger than the toxic dump at Romanian Baia Mare, where a cyanide spill in 2000 caused a devastating environmental disaster.
- The mine would **destroy** 18th and 19th century houses and some of the world's most valuable ancient gold mining galleries, proposed as **UNESCO World Heritage**.
- A total of ten permits and plans required by Gabriel Resources to develop the mine were irrevocably annulled by Romanian courts due to a **lack of**

compliance with environmental laws or evidence of **administrative abuse** by different authorities.

- Mid-2015, Gabriel Resources filed an investor-state claim against Romania, arguing the country breached its **bilateral investment treaties with Canada and the UK**.
- The company reportedly seeks **up to US\$4 billion in compensation** for the gold it is unable to extract in Roșia Montană - **equivalent to 2% of the Romanian economy**.
- **Gabriel Resources' legal costs are backed by Wall Street hedge fund Tenor** in return for a claim of the spoils.
- **CETA contains largely the same far-reaching investor rights** used in the Gabriel Resources claim: fair and equitable treatment of investors, the protection against discrimination, and the protection against direct and indirect expropriation.
- **CETA would increase the risk of challenges in the mining, oil and gas sectors**, where Canadian investment is significant. Canadian mining corporations are already engaged in controversial natural resource projects across the EU and the industry is celebrating CETA as a "landmark" agreement with "major implications for miners".
- **Four out of five US-based corporations with EU operations (41,811) could use CETA to attack the EU and its member states** if they structure their investment through Canadian subsidiaries.

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