



# **MINLEX - Germany Country Report**

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## 1. GERMANY

### 1.1. Summary of findings

Germany has a long mining tradition which dates back to the early middle Ages. Germany's NEEI sector consists mainly of the extraction of potash and rock salt, construction aggregates and the large majority of industrial minerals, which can be used directly for industrial purposes, without a previous material conversion. Extraction mainly takes place in the federal states of Mecklenburg-Western Pomerania, Brandenburg, Saxony, Thuringia, Hesse, Northrhine-Westphalia, and Rhineland-Palatinate. Soils and stones are produced in all federal states, salts in Thuringia and Hesse. The Federal Mining Act (*Bundesberggesetz* – BBergG) distinguishes between the "freehold (*"grundeigenen"*) and "free for mining" (or "freely mineable") (*"bergfreien"*) minerals, Section 3 BBergG. Freehold minerals means, that the landowner (owner of the real property) is the rightful owner of the mineral. In contrast to that, "free for mining" means the separation of the landownership and the ownership of the mineral.

**Freehold minerals include some industrial and construction minerals** (basalt lava except the columns basalt; bauxite; bentonite and other clays containing a high proportion of montmorillonite clays; roofing slates; feldspar, kaolin, pegmatite sand; mica; diatomaceous earth; quartz and quartzite; soapstone, talc; etc.). The **"free for mining" minerals** are not owned by the landowner and can be explored and exploited by those who hold the permission according to the Federal Mining Act. Besides energy minerals, they **include metallic minerals and some industrial minerals**: actinium and the actinides, aluminium, antimony, arsenic, beryllium, bismuth, boron, cadmium, caesium, chrome, cobalt, copper, francium, gallium, germanium, gold, hafnium, indium, iridium, iron, lanthanum and the lanthanides, lead, lithium, manganese, mercury, molybdenum, nickel, niobium, osmium, palladium, phosphorus, platinum, polonium, radium, rhenium, rhodium, rubidium, ruthenium, scandium, selenium, silver, strontium, sulfur, tantalum, tellurium, thallium, tin, titanium, tungsten, vanadium, yttrium, zinc, zirconium – in pure form and as mineral ores, except in bog, alum and vitriol ores, halites, potash, magnesium salt and borate salts and any salts occurring in these salts in the same deposit; brine; calcium fluoride and barium sulfate. There exist "old rights and agreements" (mining permits, concessions) prior to the enactment of the Federal Mining Act in 1980 which can partly remain in effect according to Sections 149 et seq. BBergG and may stipulate exceptions.

**The primary legal basis of mineral extraction activity is the Federal Mining Act (*Bundesberggesetz* – BBergG)** published in Bundesgesetzblatt I, page 1310/1980, as amended on August 4<sup>th</sup> 2016, (Bundesgesetzblatt I, page 1962/2016). Other relevant federal laws include the Federal Water Resources Act (*Wasserhaushaltsgesetz* – WHG), Federal Emission Control Act (*Bundesimmissionsschutzgesetz* – BImSchG), Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz* – UVPG), Federal Nature Conservation Act (*Bundesnaturschutzgesetz* – BNatSchG), among others. **The German federal system is characterised by the fact that the legislative competencies are held by the federal states**, Art. 70 (1) Basic Law (*Grundgesetz* – GG). The execution of the laws is pursuant to Art. 83 of the Basic Law regularly conducted by the federal states (*Länder*) as their own affair. Thus, the public authorities oversee the execution of the Federal Mining Act as part of the administration structure of the federal states. **The regional authorities have comprehensive administrative instruments** for efficient supervision, including the issue of mining ordinances (Section 65 et seq. BBergG), **the grant, refusal and revocation of mining licences** (Sections 7 et seq. BBergG), the approval of operating plans (Sections 51 et seq. BBergG) as well as the power to give individual instructions for prevention of dangerous situations and to enforce the law (Sections 71 et seq. BBergG) and the right to be informed by the mining companies (Section 70 BBergG).

Under the Federal Mining Act, exploration and extraction of "free for mining" minerals require a right granted or awarded by the state for the economic utilization of "free for

mining" minerals. Such Act differentiates between **three different types of rights**: an exploration licence (*Erlaubnis*), an extraction licence (*Bewilligung*) or the mining proprietorship (*Bergwerkseigentum*).

**With regards to exploration**, whoever wants to explore for "free for mining" minerals needs to obtain an exploration licence (Section 7 BBergG). An application in written form including the work program and a time schedule must be submitted to the relevant mining authority of the federal state. One reason for rejection may be overriding public interests which prohibit exploration in the entire field (Section 11 no. 10 BBergG). That means, that the concept of public interest allows the authority to restrict or to deny the approval for reasons of public interest outside of the mining act (e.g. in the interest of area and urban planning, conservation of nature and the countryside, or protection against air pollution and noise). The consideration of these interests might cause variations in the time procedure. **With regards to extracting**, the procedure for granting an extraction licence follows from Section 8 BBergG. The third type of right is the mining proprietorship, Section 9 BBergG. According to that, the ownership of mining property shall accord the exclusive right to carry out the activities and exercise the rights specified in Section 8 (1) nos. 1 to 4 BBergG in accordance with the provisions of the Federal Mining Act.

Besides the three types of rights previously mentioned, any entrepreneur wishing to engage into exploration, extraction or treatment **needs to prepare an operating plan which needs to be approved by the competent authority**. This is regulated in Sections 51 et. seq. BBergG. This is a **"second permitting procedure" after acquiring the corresponding right**. Holders of "old rights" also need the approval of their operating plans. For the approval of the operating plans further laws such as the Federal Emissions Control Act, the Federal Building Code (*Baugesetzbuch* – BauGB) / Federal Nature Conservation Act and the Federal Water Resources Act have to be considered.

The types of operating plans for the erection and operation of mines include at least main operating plans (*Hauptbetriebsplan*) that do not exceed a timeframe of two years (need to be regularly updated). General operating plans (*Rahmenbetriebspläne*) covering longer timeframes and special operating plans (*Sonderbetriebspläne*) for specific parts of the operation or specific projects may be requested additionally by the authority. As established in the Section 52 (2a) BBergG, **a general operating plan is required and a planning approval procedure** (*Planfeststellungsverfahren*) pursuant to the provisions of Sections 57a and 57b BBergG **shall be executed for its approval if a project requires an environmental impact assessment (EIA)** as stipulated by Section 57c BBergG. Such general plan shall contain all information of importance for the EIA and the EIA is part of the plan approval procedure. The competent authority should discuss the object, scope and methodology of the EIA with the entrepreneur on the basis of the operating plan requirement, as well as any other issues relevant to the assessment; to this end other authorities, experts and third parties (including the wider public) may be consulted.

**For the closure of operations, closure plans (Abschlussbetriebsplan) shall be prepared** including an exact description of the technical execution and duration of the planned termination of operations.

Obtaining the relevant licence may be difficult due to the indispensable consideration of many laws. For example, according to Section 11 no. 10, Section 12 (1) sentence 1 BBergG, a licence is to be refused if overriding public interests would disqualify the exploration or exploitation activity in the whole field. Consideration should therefore be given to the matters of nature conservation, landscape protection, regional planning, traffic planning and water protection. These interests are coded in legally regulated procedures. During the granting procedure, the authorities whose tasks are the exercise of public interests (Section 15 BBergG) must be involved. A corresponding rule exists for the operating plans, Section 48 (2) BBergG.

Important court decisions provide information on the protection of third parties and expropriations of land in favour of mining projects. Among other things, they make clear that groundwater is a common property and therefore not subject to possession and other civil claims. A careful examination of possible grounds for refusal helps to achieve a successful approval procedure. Although no statistics on the actual number of permits requested (and approved or denied) are kept, the decision on the granting of the permit is a conditional decision, as in the case of all other mining authorisations. There is no administrative discretion for the decision on the approval of an operational plan for mining activities but a margin of judgement. Thus the authority is obliged to approve the authorisations if the above-mentioned grounds for refusal do not apply.

## **1.2. General introduction**

Germany is a federal republic composed of 16 federal states. The exertion of governmental powers and the fulfilment of state functions is a matter for the federal states (*Länder*) as long as the constitution – the so called Basic Law (*Grundgesetz*), does not apply another regulation (Art. 30 Basic Law). All states form the Federal State (*Bund*).

Germany is a member of the European Union, which roots lies in the European Coal and Steel Community (ECSC). Of this, Germany was besides Belgium, France, Italy, Luxembourg and the Netherlands, a founding member. The reason for this merger was the duty-free treatment regarding coal and steel. These goods were mainly exported from Germany to the Member States. So other member states could also benefit from Germany's new economic growth – the so-called economic miracle (*Wirtschaftswunder*) in the 50s of the last century. This economic growth is mainly based on coal mining, which was a considerable concession for the industry (e.g. for the iron-smelting plants) and the growing demand for electricity. Consequently, mining was an essential pillar of Germany's energy supply. Coal and lignite was covering almost 30% of Germany's primary energy consumption just 25 years ago. Thus, coal was along with oil, the most important energy source in the energy mix.

Germany's NEEI sector consists mainly of the extraction of potash and rock salt and the large majority of industrial minerals and rocks plus construction aggregates. By volume, the aggregates, sand and gravel industry represent the largest section in Germany, with many SMEs involved in the extraction. The spatial distribution of extraction activities can be observed in Fig. 1 where extraction mainly takes place in Mecklenburg-Western Pomerania, Brandenburg, Saxony, Thuringia, Hesse, Rhineland-Palatinate. Soils and stones are extracted in almost all federal states. Potash salts are extracted in Hesse, Saxony-Anhalt, Thuringia, Lower Saxony. The Federal Ministry for Economic Affairs and Energy provides an annual statistic on the mining economy in Germany (*Der Bergbau in der Bundesrepublik Deutschland*) in which every mineral is listed. Germany is a federal state composed of 16 states. The exertion of governmental powers and the fulfilment of state functions is a matter for the federal states as long as the constitution – the so called Basic Law (*Grundgesetz* – GG) – does not apply another regulation (Art. 30 GG). Geographically, all states form the territory of the Federal Republic of Germany (*Bundesrepublik Deutschland*), which is a legal entity on its own.

### **Mineral ownership**

The Federal Mining Act distinguishes between the so-called "freehold" (or landowned) and "freely mineable" or "free for mining" mineral resources, Section 3 BBergG. Natural resources are, except for water, all mineral raw materials in solid or liquid state and gases in natural de-posits or accumulations (deposits) which occur in or on the earth, on the seabed, subsoil or in the seawater.

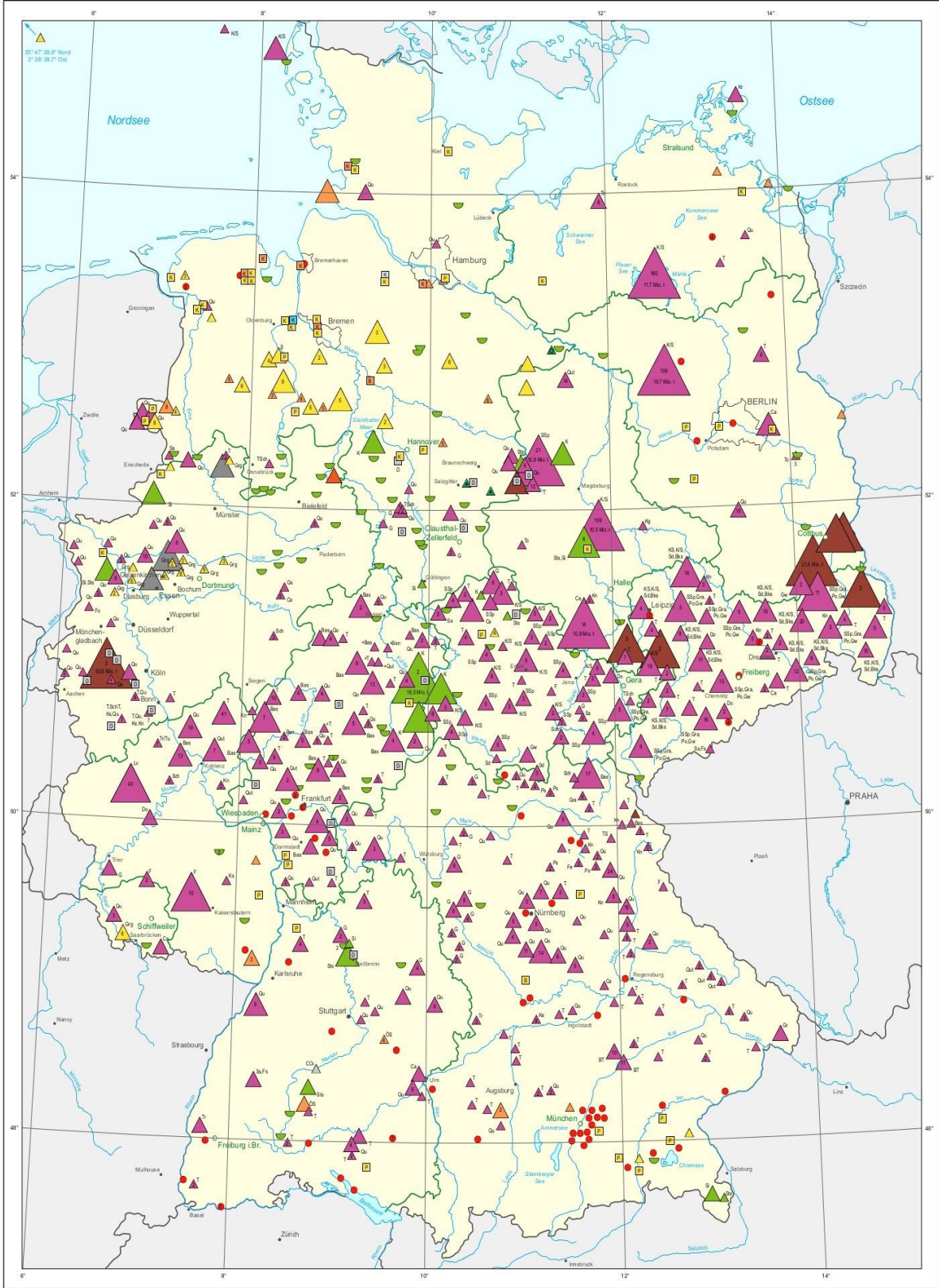
"Freehold" mineral resources are the property of the landowner and include, according to the Federal Mining Act, basalt lava except the columnar basalt; bauxite; bentonite and other clays containing a high proportion of montmorillonite clays; roofing slates; feldspar,

kaolin, pegmatite sand; mica; diatomaceous earth; quartz and quartzite, if they are suitable for the production of refractory products or ferrosilicon; soapstone, talc; trass; clay, if it is suitable for the production of refractory, acid-resistant or for ceramic products not considered to be brickwork products or suitable for manufacturing aluminum; all other mineral resources which are not covered by Section 3 (3) or no. 1 BBergG (cf. below), as they are explored or extracted underground.

"Free for mining" minerals belong neither to a natural person nor to a legal person. In other words, there is no owner and they can be explored and exploited by those who hold the permission according to the Federal Mining Act. These minerals are: Actinium and the actinides, aluminum, antimony, arsenic, beryllium, lead, boron, cadmium, cesium, chromium, iron, francium, gallium, germanium, gold, hafnium, indium, iridium, cadmium, cobalt, copper, iron, lanthanum and the lanthanides, lithium, manganese, molybdenum, nickel, niobium, osmium, palladium, phosphorus, platinum, polonium, mercury, radium, rhenium, rhodium, rubidium, ruthenium, scandium, sulfur, selenium, silver, strontium, tantalum, tellurium, thallium, titanium, vanadium, bismuth, tungsten, yttrium, zinc, tin, zirconium – with some exceptions-, alum and vitriol ore; Hydrocarbons together with the gases which result from the extraction; Coal and lignite, together with the gases occurring in connection with their extraction; Graphite; Coal, potash, magnesia and boron salts together with the salts occurring with these salts in the same deposit; Sole; Fluorite and barite.

This is subject to the fact that no exceptions or special provisions arise from the so-called "old rights and agreements". According to Section 149 BBergG, these refer to rights or agreements that were already in effect when the Federal Mining Act entered into force in 1980. However, that is not relevant for new investors, because this protective institution is not beneficial for new projects. For these, the legislator considers it appropriate and necessary that excavations for the extraction of mineral products, in particular of gravel, sand, pumice, clay and peat shall not be governed by Sections 6 et. seq. BBergG. Nevertheless, they can be subject to the water and land conservation law, construction law and environmental law. Apart from that, water, conservation and construction law also apply to resources which fall under the Mining Act.

**Fig. 1:** Germany. Distribution of extraction of mineral resources (energetic and non-energetic).

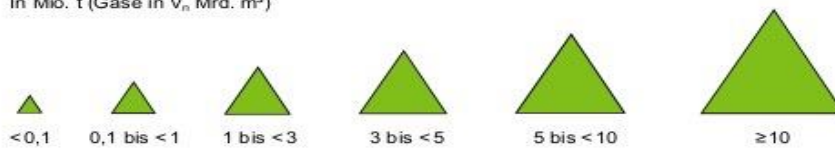


Source: Federal Institute for Geosciences and Natural Resources <http://www.bgr.bund.de>



## Jahresförderung

In Mio. t (Gase in V<sub>n</sub> Mrd. m<sup>3</sup>)



Die in den Symbolen in der Karte eingeschriebenen Zahlen geben die Anzahl der zusammengefassten Betriebe an.

Übersteigt die Jahresförderung 10 Mio. t bzw. V<sub>n</sub> 10 Mrd. m<sup>3</sup>, so ist im zugehörigen Symbol auch die Fördermenge eingetragen.

## Bergbaubetriebe

	Steinkohle		Eisen- und Manganerz
	Braunkohle		Salze
	Erdöl, Ölschiefer, Asphalt		Solebad*
	Erdgas, Schwefel aus H <sub>2</sub> S-haltigem Gas		Erdwärme
	Sonstige verwertbare Gase		Forschungsbergwerk
	Steine und Erden		Erkundungsbergwerk

## Abkürzungen

Bas	Basaltlava*	KS	Kiessand*
Ben	Bentonit	K/S	Kies/Sand*
Bks	Betonkiessand*	Lv	Lavasand*
BT	Bleicherde	ÖS	Ölschiefer*
Ca	Kalkstein*	Po	Porphy*
CO <sub>2</sub>	Kohlensäure*	Ps	Pegmatitsand*
Do	Dolomit*	Qu	Quarzsand*
F	Feldspat*	Quit	Quarzit
Fe	Farberde	S	Schwefel aus H <sub>2</sub> S-haltigem Gas
Fo	Formsand	Sa	Sandstein*
Fs	Flußspat	Sch	Schiefer*
G	Gips*, Anhydrit	SchT	Schiefer-ton
Gr	Graphit	Sd	Sand*
Gra	Granit*	Si	Siedesalze und Sole
Grg	Grubengas	Ss	Schwerspat
Gs	Grünsandstein	SSp	Schotter und Splitt*
Gw	Grauwacke*	Sts	Steinsalz
K	Kalisalz	T	Ton*
Ke	Kieselerde	To	Torf*
Kg	Kieselgur	Tr	Trass
Kn	Kaolin	Tr/Tu	Trass/Tuff*
Kr	Kreide*	TS	Talk- und Speckstein
Ks	Klebsand	TSch	Tonschiefer*

\* soweit unter Aufsicht der Bergbehörde gewonnen.  
Ein + vor dem Kürzel kennzeichnet Nebenförderungen.

## Speicherbetriebe

	Erdöl, -produkte, Flüssiggase	Abkürzungen:	
	Erdgas, sonstige Gase	K	Kavernenspeicher
	Druckluft	P	Porenspeicher
	Abfalldeponie	B	Bergwerk als Speicher
	Sonstige		

- - 
  -
- Grenze der Bundesländer  
Grenze der Bergbehörden  
Sitz der Bergverwaltung

### **1.3. Legislation governing mineral exploration and extraction**

In Germany different authorisations are issued by different administrative procedures. Generally, the legislative hierarchy determines which procedure is applicable; secondly it depends on *lex specialis*.

The primary legal basis of mineral extraction activity is the Federal Mining Act. However, there is no uniform body of law on mineral extraction in Germany, and federal states have their own ordinances and regulations, i.e. “old laws and agreements” prior to the enactment of the Federal Mining Act in 1980 can partly remain in effect according to Sections 149 et seq. BBergG. “Free for mining” minerals (i.e. metallic ores, some industrial minerals) and certain minerals owned by the landowner are covered by the Federal Mining Act, whereas other minerals (i.e. construction minerals) are subject to other laws. The **Federal Mining Act distinguishes between the exploration licence, the extraction licence and the mining proprietorship**. These can be granted or awarded only to natural and legal persons (Section 6 BBergG). The mining proprietorship provides the same rights as the extraction licence: to search for mineral resources as well as to extract and to appropriate them exhaustively and exclusively. Both authorisations procure stronger rights against third parties than the exploration licence. These tiered authorisations determine the legal status of an extraction approach in relation to the natural resource. Furthermore, the act regulates the conditions and the requirements for the prospecting, the operation and closure in the form of operating plans.

In order to carry out mineral exploration or extraction operations it is furthermore **necessary to obtain an approval of the operating plans** from the competent authority. The environmental laws are either applied when issuing the permit for the operating plan or – in case there is a need for a separate permit – in a separate permit. An environmental law is relevant for the implementation and planning of mining projects. A “pure” Federal Environmental Act does not exist in Germany. Environmental law rather contains several individual acts. There are two different approaches pursued in order to integrate environmental protection into the legal system. Firstly, there is the so called medial environment protection which shall protect certain environmental media, such as laws for the protection of soil and water. On the other hand, an integrated environmental protection is pursued. This means that the environmental compatibility of a method is examined within an authorisation procedure, which itself has not necessarily a direct environmentally protective effect, because its function only extends the “carrying” procedure and influences the result indirectly.

The Federal Mining Act states in Section 142 BBergG that the state governments or the authorities which are selected by the state governments are responsible for the selection of the authorities which shall be responsible for the execution of the BBergG and which shall deal with mining and mining permission. This means that in every federal state a mining authority exists. The federal states execute federal laws, i.e. laws from the federal legislature which apply to the entire country are applied by the individual states and therefore executed by the state’s authorities. A specificity is that legal provisions of the federal states which provide permissibly more stringent requirements for a project than it is provided by the federal (*Bund-*) regulation. This may lead to different inspection results. This means that the protective measures which are originally based on federal law might be stricter in each federal state, if the constitution enables the federal states to deviate from federal law, Art. 72 (3) GG, e. g. environmental law or water law. For mining law especially, the federal law is conclusive as long as it does not allow explicitly the federal states to enact further laws, Art. 72 (1) and (2), 74 (1) no. 11 GG. Apart from that, the Federal Mining Act does not provide a certain administrative authority for mining in general.

It has to be taken into account that depending on the environmental impact some acts such as the Federal Nature Conservation Act, the Federal Immission Control Act, the Federal Water Resources Act, the Federal Law on Waste Management and the Federal Building Code are relevant.

In addition, the requirements of certain environmentally protective standards like the environmental impact assessment have to be met. According to these standards, some tests merge to a single permission authorisation procedure (concentration effect, e.g. Section 14 (1) UVPG, depends on whether an EIA is needed or not). Some of these tests must also be applied in parallel<sup>1</sup>, if the “carrying” permitting procedure does not concentrate all needed permissions, too. E. g. Section 13 BImSchG determines, that the permission according to the Federal Immission Control Act includes other permissions except the – in this case relevant – planning approval, approval of mining operating plans and permissions according to the Federal Water Resources Act.

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<sup>1</sup> This depends not on the involvement of other authorities but on the stipulations in the law, e.g. for water there needs to be a separate permit.

**Table 1:** Germany. Legislation relevant to exploration and extraction permitting.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	Federal regulations											
	DE-L01	Federal Mining Act (BBergG)	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	N	Y	Y	Y	Y	Y	Y	mining law
	DE-L01	Federal Mining Act (BBergG), Articles 1-5	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	N	N	N	N	Y	Y	Y	preliminary provisions
	DE-L01	Federal Mining Act (BBergG), Articles 6-38	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	N	Y	Y	Y	Y	Y	Y	mining licences
	DE-L01	Federal Mining Act (BBergG), Articles 39-64a	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	Y	Y	Y	Y	Y	Y	Y	exploration, exploitation and processing

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L01	Federal Mining Act (BBergG), Articles 65-68	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	Y	Y	Y	Y	Y	Y	Y	authorisation for promulgation of mining regulations
	DE-L01	Federal Mining Act (BBergG), Articles 69-74	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	Y	Y	Y	Y	Y	Y	Y	mining supervision
	DE-L01	Federal Mining Act (BBergG), Articles 75-76	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	N	Y	Y	Y	Y	Y	Y	"Berechtsamtsbuch", "Berechtsamtskarte"
	DE-L01	Federal Mining Act (BBergG), Articles 77-125	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	N	Y	Y	Y	Y	Y	Y	Mining and property, public transport, facilities
	DE-L01	Federal Mining Act (BBergG), Articles 126-131	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	Y	Y	Y	Y	Y	Y	Y	other activities and dispositions
	DE-L01	Federal Mining Act (BBergG), Articles 132-137	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	N	Y	Y	Y	Y	Y	Y	special regulations for the continental shelf

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L01	Federal Mining Act (BBergG), Articles 138	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	N	N	Y	Y	Y	Y	Y	Y	federal test laboratory, commission of experts, implementation
	DE-L01	Federal Mining Act (BBergG), Articles 139	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	N	Y	Y	Y	Y	Y	Y	legal process, fine and forfeit, directives
	DE-L01	Federal Mining Act (BBergG), Articles 140	<a href="http://www.gesetze-im-internet.de/bbergg/">http://www.gesetze-im-internet.de/bbergg/</a>	Y	N	Y	Y	Y	Y	Y	Y	transitional and final provisions
	DE-L02	Energy Industry Act (EnWG)	<a href="http://www.gesetze-im-internet.de/enwg/">http://www.gesetze-im-internet.de/enwg/</a>	/	/	Y	Y	Y	Y	Y	Y	environment-compatible supply of energy
	DE-L03	General federal mining regulation (ABergV)	<a href="http://www.gesetze-im-internet.de/abbergv/">http://www.gesetze-im-internet.de/abbergv/</a>	N	N	Y	Y	Y	Y	Y	Y	safety, protection of health and the environment

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L04	Act on the Documentation of Mining (UnterlagenBergV)	<a href="http://www.gesetze-im-internet.de/unterlagenbergv/">http://www.gesetze-im-internet.de/unterlagenbergv/</a>	N	Y	Y	Y	Y	Y	Y	Y	documents and reports on measurements and safety
	DE-L05	Health Protection Mining Regulation (GesBergV)	<a href="http://www.gesetze-im-internet.de/gesbergv/">http://www.gesetze-im-internet.de/gesbergv/</a>	N	N	Y	Y	Y	Y	Y	Y	safety, protection of health
	DE-L06	Continental Shelf Mining Regulation (Festlandsockel-Bergverordnung) (FlsBergV)	<a href="http://www.gesetze-im-internet.de/flsbergv/">http://www.gesetze-im-internet.de/flsbergv/</a>	N	Y	Y	Y	Y	Y	Y	Y	continental shelf mining
	DE-L07	Environmental Impact Assessment Act concerning mining projects (UVP-V Bergbau)	<a href="http://www.gesetze-im-internet.de/uvpbergbau/">http://www.gesetze-im-internet.de/uvpbergbau/</a>	N	N	Y	Y	Y	Y	Y	Y	environmental impact assessment
	DE-L08	Mine Surveyors' Regulation (Markscheider-Bergverordnung – MarkschBergV)	<a href="http://www.gesetze-im-internet.de/markschbergv/">http://www.gesetze-im-internet.de/markschbergv/</a>	N	N	Y	Y	Y	Y	Y	Y	Mine Surveyors' Regulation

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		Federal state regulations (using the example of Mecklenburg-Western Pomerania)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>			Y	Y	Y	Y	Y		
	DE-L09	Seismics Mining Regulation (Seismik-Bergverordnung) (SeismikBergVO)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		seismic testing
	DE-L10	Mining Ordinance for Drilling, Underground Storage and Raw Material Extraction in M-V (Tiefbohr-Verordnung – TbVO M-V)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	Y	Y	Y	Y	Y	Y		regional mining ordinance
	DE-L11	Mine Surveyor Licence Law (Markscheiderzulassungsgesetz – MZG M-V)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		mine surveyor licence



Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L12	State ordinance (M-V) concerning the designation of the competent authority with regards to health and safety legislation, product safety law, genetic engineering and drug advertising law (ArbSchZustLVO M-V)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		health and safety
	DE-L13	State ordinance (M-V) concerning the designation of the competent immission protection authorities (ImmSchZustLVO M-V)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		mine waste permitting
	DE-L14	State ordinance (M-V) concerning the designation of the competent Energy Act authorities (EnWZustLVO)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L15	State regulation for the determination of the competent authority for the prosecution and punishment of administrative offences under the Federal Mining Act (ZustVO OWi BBergG)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		
	DE-L16	Regulation on the appointment of experts on mining (Bergwesensachverständigenverordnung - BergwesSachvVO M-V)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		
	DE-L17	Regulation on the designation of the appropriate authorities for the implementation of the Federal Mining Act (BBergGZuVO)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L18	Regulation on the levying of charges to cover mining costs (Verordnung über die Erhebung von Kosten im Bereich des Bergbauwesens)	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/_Service/Gesetze_und_Richtlinien/index.jsp</a>	N	N	Y	Y	Y	Y	Y		
environment	DE-L19	Federal Emission Control Act (Bundes-Immissionsschutzgesetz) (BImSchG)	<a href="http://www.gesetze-im-internet.de/bimsc hg/">http://www.gesetze-im-internet.de/bimsc hg/</a>	Y	Y	Y	Y	Y	Y	Y	protection against air pollution, noise, vibrations	
	DE-L20	Hazardous Incident Regulation (Störfall-Verordnung, StörfallV; 12. BImSchV)	<a href="http://www.gewerbeaufsicht.baden-wuerttemberg.de/servlet/is/16507/2_1_12.pdf">http://www.gewerbeaufsicht.baden-wuerttemberg.de/servlet/is/16507/2_1_12.pdf</a>	Y	Y	Y	Y	Y	Y	Y	Seveso legislation	
	DE-L21	Closed Cycle Management Act (Kreislaufwirtschaftsgesetz) (KrWG)	<a href="http://www.gesetze-im-internet.de/krwg/">http://www.gesetze-im-internet.de/krwg/</a>	Y	Y	Y	Y	Y	Y	Y	waste control, disposal and management	
	DE-L22	Federal Water Resources Act (Wasserhaushaltsgesetz) (WHG)	<a href="http://www.gesetze-im-internet.de/whg_2009/">http://www.gesetze-im-internet.de/whg_2009/</a>	Y	Y	Y	Y	Y	Y	Y	water control and management	

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	DE-L23	Federal Soil Protection Act (Bundes-Bodenschutzgesetz) (BBodSchG)	<a href="http://www.gesetze-im-internet.de/bbodschg/">http://www.gesetze-im-internet.de/bbodschg/</a>	Y	Y	Y	Y	Y	Y	Y	Y	soil conservation
	DE-L24	Chemical Act (Chemikaliengesetz) (ChemG)	<a href="http://www.gesetze-im-internet.de/chemg/">http://www.gesetze-im-internet.de/chemg/</a>	N	N	Y	Y	Y	Y	Y	Y	hazardous substances control
	DE-L25	Nature Protection and Landscape Conservation Act (Bundes-Naturschutzgesetz) (BNatSchG).	<a href="http://www.gesetze-im-internet.de/bnatschg_2009/">http://www.gesetze-im-internet.de/bnatschg_2009/</a>	Y	Y	Y	Y	Y	Y	Y	Y	nature and landscape conservation
	DE-L26	Environmental Impact Assessment Act (Umweltverträglichkeitsprüfungsgesetz) (UVPG)	<a href="http://www.gesetze-im-internet.de/uvpg/">http://www.gesetze-im-internet.de/uvpg/</a>	Y	Y	Y	Y	Y	Y	Y	Y	environmental impact assessment
	DE-L27	Environmental Liabilities Act (Umwelthaftungsgesetz) (UmweltHG)	<a href="http://www.gesetze-im-internet.de/umweltschadg/">http://www.gesetze-im-internet.de/umweltschadg/</a>	N	N	Y	Y	Y	Y	Y	Y	environmental private law

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
nature conservation, forestry	DE-L25	Federal Nature Conservation Act (BNatSchG)	<a href="http://www.gesetze-im-internet.de/bnatschg_2009/">http://www.gesetze-im-internet.de/bnatschg_2009/</a>	Y	Y	Y	Y	Y	Y	Y	Y	nature and landscape conservation rules
	DE-L28	Act on the Preservation of Forests and the Furtherance of Forest Management (National Forest Act (BWaldG))	<a href="http://www.gesetze-im-internet.de/bwaldg/">http://www.gesetze-im-internet.de/bwaldg/</a>	N	N	Y	Y	Y	Y	Y	Y	forest act with rules
	DE-L29	Regulation on surveys on forest monitoring (Verordnung über Erhebungen zum forstlichen Umweltmonitoring (ForUmV))	<a href="http://www.gesetze-im-internet.de/forumv/">http://www.gesetze-im-internet.de/forumv/</a>	N	N	Y	Y	Y	Y	Y	Y	monitoring of forest ecosystems

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
water management	DE-L22	Federal Water Resources Act (Wasserhaushaltsgesetz) (WHG)	<a href="http://www.gesetze-im-internet.de/whg_2009/">http://www.gesetze-im-internet.de/whg_2009/</a>	Y	Y	Y	Y	Y	Y	Y	Y	water control and management
	DE-L30	Surface Water Act (Oberflächengewässerverordnung) (OGewV)	<a href="http://www.gesetze-im-internet.de/ogewv/">http://www.gesetze-im-internet.de/ogewv/</a>	N	N	Y	Y	Y	Y	Y	Y	surface water permits
	DE-L31	Waste Water Regulation (AbwV)	<a href="http://www.gesetze-im-internet.de/abwv/">http://www.gesetze-im-internet.de/abwv/</a>	N	N	Y	Y	Y	Y	Y	Y	waste water treatment
	DE-L32	Waste Water Charges Act (AbwAG)	<a href="http://www.gesetze-im-internet.de/abwag/">http://www.gesetze-im-internet.de/abwag/</a>	N	N	Y	Y	Y	Y	Y	Y	waste water fees

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
land use planning, spatial development, soil management	DE-L33	Federal Soil Protection Act (BBodSchG)	<a href="http://www.gesetze-im-internet.de/bodschg/_4.html">http://www.gesetze-im-internet.de/bodschg/_4.html</a>	Y	Y	Y	Y	Y	Y	Y	Y	soil protection
	DE-L34	Federal Soil Protection and Contaminated Sites Ordinance (BBodSchV)	<a href="http://www.gesetze-im-internet.de/bodschg/inhalts_bersicht.html">http://www.gesetze-im-internet.de/bodschg/inhalts_bersicht.html</a>	N	N	Y	Y	Y	Y	Y	Y	soil protection
	DE-L35	Law for subdivision of a parcel of land without a physical survey (Bodensonderungsgesetz - BoSoG)	<a href="http://www.gesetze-im-internet.de/bosog">http://www.gesetze-im-internet.de/bosog</a>	N	N	Y	Y	Y	Y	Y	Y	regional land use categories
	DE-L36	Administrative Regulation for the subdivision of a parcel of land (Bodensonderungsvorschrift - VwVBoSoG)	<a href="http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_17121997_IB53856213076696.htm">http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_17121997_IB53856213076696.htm</a>	N	N	Y	Y	Y	Y	Y	Y	regional land use categories

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
transportation, construction, catastrophe protection, police, military	DE-L37	Hazardous Incident Regulation (Störfall-Verordnung, StörfallV; 12. BImSchV)	<a href="http://www.gewerbeaufsicht.baden-wuerttemberg.de/servlet/is/16507/2_1_12.pdf">http://www.gewerbeaufsicht.baden-wuerttemberg.de/servlet/is/16507/2_1_12.pdf</a>	Y	Y	Y	Y	Y	Y	Y	Y	Seveso legislation
	DE-L38	Chemical Act (Chemikaliengesetz) (ChemG)	<a href="http://www.gesetze-im-internet.de/chemg/">http://www.gesetze-im-internet.de/chemg/</a>	N	N	Y	Y	Y	Y	Y	Y	hazardous substances control
	DE-L39	Regulation on the Prohibition of Chemicals (ChemVerbotsV)	<a href="http://www.gesetze-im-internet.de/chemverbot/v/chemverbotv_anhang.html">http://www.gesetze-im-internet.de/chemverbot/v/chemverbotv_anhang.html</a>	N	N	Y	Y	Y	Y	Y	Y	hazardous substances control
	DE-L40	Law on the Transport of Dangerous Goods (GefahrGG)	<a href="http://www.gesetze-im-internet.de/gefahrgutg/">http://www.gesetze-im-internet.de/gefahrgutg/</a>	N	N	Y	Y	Y	Y	Y	Y	transport of dangerous goods
culture heritage	DE-L41	Act to Protect German Cultural Property (Kulturgutschutzgesetz) (KultgSchG)	<a href="http://www.kulturgutschutz-deutschland.de/EN/0_Home/0_home_node.html">http://www.kulturgutschutz-deutschland.de/EN/0_Home/0_home_node.html</a>	N	N	Y	Y	Y	Y	Y	Y	archaeological excavations, cultural heritage
	DE-L42	Cultural heritage laws of the states	<a href="http://www.kulturgutschutz-deutschland.de/EN/">http://www.kulturgutschutz-deutschland.de/EN/</a>	N	N	Y	Y	Y	Y	Y	Y	archaeological excavations, cultural heritage



Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
			0_Home/0_home_node.html									
public administration, court procedures	DE-L43	Code of Administrative Court Procedure (Verwaltungsgerichtsordnung) (VwGO)	<a href="http://www.gesetze-im-internet.de/vwgo/">http://www.gesetze-im-internet.de/vwgo/</a>	N	N	Y	Y	Y	Y	Y	Y	None
	DE-L44	Administrative Procedure Act (Verwaltungsverfahrensgesetz)	<a href="http://www.gesetze-im-internet.de/vwvfg/">http://www.gesetze-im-internet.de/vwvfg/</a>	N	N	Y	Y	Y	Y	Y	Y	None

#### 1.4. Authorities governing mineral exploration and extraction

The German federal system is characterised by the fact that the legislative competencies are basically held by the Federation whereas the execution of the laws is regularly conducted by the federal states in their own right (Art. 83 GG). Thus, the public authorities in charge of the execution of the Federal Mining Act are part of the administrative structure of the federal states. The main task of the mining authorities is the supervision of the provisions (regulations and orders) of the Federal Mining Act, inclusive of the approved operational plans. The authorities have comprehensive administrative instruments for an efficient supervision, including the approval of mining decrees (Sections 65 et seq. BBergG), the grant, refusal and withdrawal of mining rights, the approval of operating plans as well as the power to

give individual instructions for the prevention of dangerous situations (Sections 71 et seq. BBergG) and the right to be informed by the mining companies (Section 70 BBergG).

The Federal Mining Act allows the federal states to determine the competent authority on their own, Section 142 sentence 1 BBergG. For procedures according to the BBergG, generally, the lower mining authority shall be responsible. **The Federal Ministries are the highest supervision authorities but are not involved in the permitting procedures themselves.** If a permission (regardless of type) is rejected, the applicant can appeal against this decision generally at the same authority (Sections 68, 70 VwGO). This might be excluded under the respective federal state law. Then just the possibility of a lawsuit against the authority remains. This is also the last possibility to get a mining permission if the appeal was unsuccessful.

Legal issues related to nature conservation arising from the Federal Nature Conservation Act, are generally taken into account in the tests of the respective technical authority (e.g. the mining authorities or water authority). This principle is called “backpack-principle”. The permission according to the federal water management act is granted by the mining authority, which is granting the operating plan, Section 19 (2) WHG. The Water Resource Act states that the official responsibility shall be taken by the lower water authorities. The competences for execution of the Federal Pollution Control Act, the Federal Building Code and the Closed Substance Cycle and Waste Management Act are also regulated by the federal states.

**Table 2:** Germany. Relevant authorities in exploration and extraction permitting.

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
First instance permitting (local, regional, central,	DE-E01	Bundesanstalt für Geowissenschaften und Rohstoffe (BGR) in Hannover	Federal Institute for Geosciences and Natural Resources	<a href="http://www.bgr.bund.de/EN/Home/home_page_node_en.html">http://www.bgr.bund.de/EN/Home/home_page_node_en.html</a>	expressing opinions in permitting process in exceptional cases, only consultative instance, not part of the permitting procedure	Y	Y	Y	DE-L01	BGR is the central geoscientific authority providing advice to the German Federal Government in all geo-relevant questions, subordinated to the Federal Ministry for Economic Affairs and Energy (BMWi).

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E02	Landesamt für Geologie, Rohstoffe und Bergbau (LGRB)/Baden Württemberg	Federal State Office for Geology Resources and Mining, Baden Württemberg	<a href="http://www.lgrb-bw.de/home/index.html">http://www.lgrb-bw.de/home/index.html</a>	granting permits, supervising activities	Y	Y	Y	DE-L01	LGRB/Freiburg Regional Board is the central geo-scientific and mining authority of the Federal Government. LGRB collects, evaluates, and publishes data on the subsoil, groundwater and mineral raw materials. LGRB supervises all activities, installations, facilities connected to mining operations under the Mining Act.
	DE-E03	Landesamt für Bergbau, Energie und Geologie/Niedersachsen	State Authority for Mining, Energy and Geology (LBEG) in Lower Saxony	<a href="http://www.lbeg.niedersachsen.de">http://www.lbeg.niedersachsen.de</a>	as above	Y	Y	Y	DE-L01	LBEG is the mining authority for Lower Saxony, Bremen, Schleswig-Holstein and Hamburg and the geological survey for Lower Saxony (Ministry for Economic Affairs, Technology and Transport in Lower Saxony).
	DE-E04	Bergamt Nordbayern	Mining authorities of Northern Bavaria	<a href="http://www.regierung.oberfranken.bayern.de/bergamt_nordbayern/index.php">http://www.regierung.oberfranken.bayern.de/bergamt_nordbayern/index.php</a>	as above	Y	Y	Y	DE-L01	subordinate authority of the Bavarian Ministry of Economic Affairs and Media, Energy and Technology

Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
DE-E05	Bergamt Südbayern	Mining authorities of South Bavaria	<a href="http://www.regierung.oberbayern.bayern.de/aufgaben/wirtschaft/bergamt/">http://www.regierung.oberbayern.bayern.de/aufgaben/wirtschaft/bergamt/</a>	as above	Y	Y	Y	DE-L01	subordinate authority of the Bavarian Ministry of Economic Affairs and Media, Energy and Technology
DE-E06	Landesamt für Bergbau, Geologie und Rohstoffe (LBGR) Brandenburg	Mining authority of Brandenburg	<a href="http://www.lbgr.brandenburg.de/cms/detail.php/bb1.c.326089.de">http://www.lbgr.brandenburg.de/cms/detail.php/bb1.c.326089.de</a>	as above	Y	Y	Y	DE-L01	The higher state authority ( <i>Landesoberbehörde</i> ) LBGR is subordinate to the Ministry of Economic Affairs and Energy of the Federal state Brandenburg.
DE-E07	Regierungspräsidien Darmstadt, Gießen und Kassel für Hessen	Mining authorities of Hessen	<a href="https://verwaltung.hessen.de/irj/Verwaltung_Internet">https://verwaltung.hessen.de/irj/Verwaltung_Internet</a>	as above	Y	Y	Y	DE-L01	subordinate authority of the Hessian Ministry of the Environment, Climate Protection, Agriculture and Consumer Protection
DE-E08	Bergamt Stralsund für Mecklenburg-Vorpommern	Mining authorities of Mecklenburg-Vorpommern	<a href="http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/Bergamt">http://www.bergamt-mv.de/cms2/Bergamt1_prod/Bergamt1/de/Bergamt</a>	as above	Y	Y	Y	DE-L01	subordinate authority of the Ministry of Energy, Infrastructure and State Development Mecklenburg-Vorpommern

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				_Stralsund /index.jsp						
	DE-E09	Landesamt für Geologie und Bergbau (LGB) für Rheinland-Pfalz	Mining authorities of Rheinland-Pfalz	http://www.lgb-rlp.de/bergbau.html	as above	Y	Y	Y	DE-L01	Federal state authority subordinate to the Ministry of Economic Affairs, Climate Protection, Energy and Federal State Planning Rheinland-Pfalz
	DE-E10	Oberbergamt des Saarlandes	Mining authorities Saarland	http://www.saarland.de/7806.htm	as above	Y	Y	Y	DE-L01	Federal state authority subordinate to the Saarland Ministry of Economic Affairs, Labour, Energy and Transport
	DE-E11	Sächsisches Oberbergamt für Sachsen	Mining authorities of Sachsen	http://www.oba.sachsen.de/	as above	Y	Y	Y	DE-L01	Federal state authority assigned to the State Ministry of Economic Affairs, Labour and Transport for Saxony
	DE-E12	Thüringer Landesbergamt für Thüringen	Mining authorities of Thüringen	http://www.tlba.de/	as above	Y	Y	Y	DE-L01	Federal state authority assigned to the Thuringian Ministry of environment, energy and nature protection
	DE-E13	Landesamt für Geologie und Bergwesen (LAGB) für Sachsen-Anhalt	Mining authorities Sachsen-Anhalt	http://www.lagb.sachsen-anhalt.de/	as above	Y	Y	Y	DE-L01	Federal state authority assigned to the Ministry of Science and Economics for Sachsen-Anhalt

Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
DE-E14	Bezirksregierungen in den Bundesländern, z.B. Arnsberg/Dortmund in NRW	district governments in the federal states, e.g. Arnsberg/Dortmund in NRW	<a href="http://www.bezreg-arnsberg.nrw.de/energie_bergbau/umweltschutz_im_bergbau/index.php">http://www.bezreg-arnsberg.nrw.de/energie_bergbau/umweltschutz_im_bergbau/index.php</a>	as above	Y	Y	Y	DE-L01	The administrative districts in North Rhine-Westphalia are institutions of state administration in the state of North Rhine-Westphalia. The district governments are in North Rhine-Westphalia state funding authorities and take over all the administrative hierarchy a middle position between the ministerial level and the lower state authorities and municipalities.
DE-E15	Bundesamt für Bauwesen und Raumordnung	Federal Office for Building and Regional Planning	<a href="http://www.bbr.bund.de/BBR/DE/Home/home_node.html">http://www.bbr.bund.de/BBR/DE/Home/home_node.html</a>						Higher federal authority subordinate to the Federal Ministry for the Environment, Nature Conservation, Construction and Nuclear Safety
DE-E16	Bayerische Staatsministerium für Wirtschaft, Infrastruktur und Technologie	Bavarian Ministry of Economic Affairs and Media, Energy and Technology	<a href="http://www.stmwi.bayern.de/en/ministry/">http://www.stmwi.bayern.de/en/ministry/</a>	execution and supervising of BBergG	Y	Y	Y		Political body for mining and land use in Bavaria

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E17	Ministerium für Wirtschaft und Energie Brandenburg	Ministry of Economic Affairs and Energy of the State Brandenburg	www.mwe.brandenburg.de	supervising in general and executing financial duties (Section 31 BBergG) and land cession (Section 79 (3) BBergG)					The State Office for Mining, Geology and Minerals (LBGR) within the ministry of Economic Affairs and Energy is responsible for projects and activities of mining and geology in Brandenburg as the administrative, technical and service authority.
	DE-	Landesamt für Bergbau Geologie und Rohstoffe Brandenburg				Y	Y	Y		Also the responsible administration for mining in Berlin
	DE-E18	Niedersächsisches Ministerium für Wirtschaft, Arbeit und Verkehr	Ministry for Economic Affairs, Technology and Transport in Lower Saxony	http://www.mw.niedersachsen.de/startseite/	Inter alia: Awarding of mining licences for exploration and exploitation of natural resources; Implementation of the mining supervision including plant inspections (through the authority in Meppen), execution the rules of land cession, Section 79 (3) BBergG	Y	Y	Y		The State Office for Mining, Energy and Geology (LBEG) is based in Hanover and Clausthal-Zellerfeld and its branch office is in Meppen which is a subordinate authority of the Lower Saxony Ministry for Economic, Labour and Transport.

Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
DE-E19	Ministerium für Energie, Infrastruktur und Landesentwicklung Mecklenburg-Vorpommern	Ministry of Energy, Infrastructure and State Development Mecklenburg-Vorpommern	<a href="http://www.government-mv.de/The-Ministries/Ministry-of-Energy,-Infrastructure-and-State-Development/">http://www.government-mv.de/The-Ministries/Ministry-of-Energy,-Infrastructure-and-State-Development/</a>	The Stralsund Mining Authority handles all mining licences and operating plan process for the state of Mecklenburg-Vorpommern, including the relevant territorial sea and continental shelf in accordance with the Federal Mining Act. Moreover, it is the responsible authority for the implementation of plan approval procedures for high pressure gas pipelines according to the Energy Act and for the security of abandoned mines.	Y	Y	Y		The Stralsund Mining Authority is a higher national authority under the jurisdiction of the Ministry of Energy, Infrastructure and Regional Development and has its headquarters in Stralsund.
DE-E20	Ministerium für Wirtschaft, Klimaschutz, Energie und Landesplanung Rheinland-Pfalz	Ministry of Economic Affairs, Climate Protection, Energy and Federal State Planning	<a href="http://mwkel.rlp.de/de/ministerium/">http://mwkel.rlp.de/de/ministerium/</a>	inter alia: Geological Mapping, tectonics, stratigraphy Soil, Soil Ecology, Soil Conservation Mining permits and mining supervision, executing the rules on land cession, Section 79 (3) sentence 1 BBergG und related companies, Section 173 (1) BBergG	Y	Y	Y		The State Agency for Geology and Mining of Rhineland-Palatinate is assigned as the higher state authority the division of the Ministry of Economy, Climate Protection, Energy and Regional Planning.



	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E21	Ministerium für Wirtschaft, Arbeit, Energie und Verkehr Saarland	Saarland Ministry of Economic Affairs, Labour, Energy and Transport	<a href="http://www.saarland.de/ministerium_wirtschaft_arbeit_energie_verkehr.htm">http://www.saarland.de/ministerium_wirtschaft_arbeit_energie_verkehr.htm</a>	supervising and executing the rules on financial duties, Sections 31 (2) sentence 2 BBergG, land cession, 79 (3) sentence 1 BBergG und related companies, 173 (1) sentence 1 BBergG and operating plans including the environmental impact assessment, Section 52 (2a) to (2c) BBergG	Y	Y	Y		no information on lower, higher and supreme Mining Authority
	DE-E22	Staatsministerium für Wirtschaft, Arbeit und Verkehr/Sachsen	State Ministry of Economic Affairs, Labour and Transport/Saxony	<a href="http://www.sachsen.de/en/1185.htm">http://www.sachsen.de/en/1185.htm</a>	supervising;  As a specialized agency the Saxon Mining Office is involved in planning processes of other authorities and municipalities in particular on the basis of regional planning and environmental and building regulations of the federal government and the Free State of Saxony.	Y	Y	Y		The Saxon Mining Authority shall exercise the Mining Inspectorate on the basis of federal and state laws for the State of Saxony. It is a subordinated branch of the ministry.  The supervision includes the enforcement of that Act and the provisions adopted under this Act.  In addition, the mining authority is responsible for the execution of water law, waste and pollution law

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
					As a special planning authority, the Saxon Mining Office also ensures public safety and orders the elimination of hazardous points on underground cavities mining and other origin. and executing the rules on land cession, Section 79 (3) BBergG					regarding the mining supervision control.

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E23	Ministerium für Wissenschaft und Wirtschaft des Landes Sachsen-Anhalt	Saxony-Anhalt Ministry of Sciences and Economic Affairs	<a href="http://www.mw.sachsen-anhalt.de/">http://www.mw.sachsen-anhalt.de/</a>	supervising					The Ministry of Economy, Science and digitalization creates optimal conditions for research excellence and entrepreneurship in Saxony-Anhalt. It makes the economic and research funding as well as the higher education landscape. The focus is on close cooperation between business and science and on the themes of innovation, investment and internationalization. In addition, the Ministry is also responsible for the areas of digitization, starting a business, mining and tourism.

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E24	Bayrisches Staatsministerium für Umwelt und Verbraucherschutz	Bavarian State Ministry of the Environment and Consumer Protection	<a href="http://www.stmuv.bayern.de/index.htm">http://www.stmuv.bayern.de/index.htm</a>	supervising				DE-L19 - DE-L28	Nature conservation and landscape management; Water management and flood control; Soil protection and legacy contamination; Air pollution control in Bavaria; Climate protection; Recycling and waste management; Noise control; Sustainable development in Bavaria; The environment and the economy; The European Union and international collaboration;

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
		Thüringer Ministerium für Landwirtschaft, Forsten, Umwelt und Naturschutz	Thuringian Ministry of Agriculture, Forestry, Environment and Conservation	<a href="https://www.thueringen.de/th8/tmuen/">https://www.thueringen.de/th8/tmuen/</a>	supervising					The Thuringian Ministry of Environment, Energy and Nature Conservation is the supreme state authority in the fields of nature conservation, sustainable living, climate, water, environmental protection and energy

Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
					exploration	extraction	post extraction		
DE-E25	Ministerium für Ländliche Entwicklung, Umwelt und Landwirtschaft des Landes Brandenburg	Ministry of Rural Development, Environment and Agriculture of the Federal State of Brandenburg	<a href="http://www.mlul.brandenburg.de/cms/detail.php/bb1.c.287415.de">http://www.mlul.brandenburg.de/cms/detail.php/bb1.c.287415.de</a>	supervising				DE-L19 - DE-L28	The Ministry is the supreme state authority and is divided at the departmental level into the following areas of responsibility, among others: Department 2 - Water and Soil Conservation (with contamination sites) Department 4 - Nature Conservation Department 5 - Environment, Climate Protection and Sustainability (with Emission Control and Waste management)

	DE-E26	Ministerium für Umwelt, Klima und Energiewirtschaft BadenWürttemberg	Ministry of the Environment, Climate Protection and the Energy Sector BadenWürttemberg	<a href="http://um.baden-wuerttemberg.de/en/home/">http://um.baden-wuerttemberg.de/en/home/</a>	supervising				DE-L19 - DE-L28	Fundamental environmental policy issues, sustainability; Climate protection; Recycling management, law; Environmental technology, research, ecology; Local recycling management, waste disposal technology; Environmental Academy; Administration and law, labour inspectorate, geology, mining; Air pollution control, noise, major accident prevention; Market surveillance, chemical and product safety; Safe use of work equipment, hazardous substances, biomaterials, genetic engineering; Construction technology, building ecology; State Regulatory Authority, Energy Competition Authority; Administration and law; International agreements, Rhine and Danube, European Water Framework Directive, support schemes; Prevention of water pollution, standing water bodies, Lake Constance; Soil and legacy contamination sites, ground water protection, water supply; Hydraulic engineering and flood protection, aquatic ecology
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DE-E27	Hessisches Ministerium für Umwelt, Klimaschutz, Landwirtschaft und Verbraucherschutz	Hessian Ministry of the Environment, Climate Protection, Agriculture and Consumer Protection	<a href="https://english.hessen.de/about-us/state-chancellor-y-ministries/hessian-ministry-environment-climate-protection-agriculture">https://english.hessen.de/about-us/state-chancellor-y-ministries/hessian-ministry-environment-climate-protection-agriculture</a>	supervising and executing the rules on land cession (Section 79 (3) BBergG)	Y	Y	Y	DE-L19 - DE-L28	As the State's highest-ranking administrative authority, the Ministry presents bills in State or Federal parliament and is responsible for the sustainable protection of mankind and their natural resources. This includes the protection of nature and the environment, of ground, water and air and climate, just as much as the monitoring of food safety, economic consumer protection and animal welfare.
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	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E28	Ministerium für Landwirtschaft, Umwelt und Verbraucherschutz Mecklenburg-Vorpommern	Ministry of Agriculture, Environment and Consumer Protection Mecklenburg-Vorpommern	<a href="http://www.government-mv.de/">http://www.government-mv.de/</a>	supervising and executing the rules on financial duties (Section 31 (2) BBergG), land cession (Section 79 (3) BBergG), appeals (Section 40 BBergG), financial compensation (Section 109 (4) BBergG) and related companies (Section 173 (1) BBergG)	Y	Y	Y	DE-L19 - DE-L28	The State's highest-ranking administrative authority, the Ministry is responsible for granting the protection of the Natural Environment, the Agriculture and for supervising the Consumer Protection.

DE-E29	Niedersächsische Ministerium für Umwelt, Energie und Klimaschutz	Ministry of Environment, Energy and Climate Protection Lower Saxony	<a href="http://www.umwelt.niedersachsen.de/startseite/">http://www.umwelt.niedersachsen.de/startseite/</a>	supervising					<p>The Ministry has the technical supervision of other authorities, in so far as they perform their duties from the business area of the Ministry of the Environment. E.g. through the State Office for Mining, Energy and Geology (LBEG)</p> <p>The Ministry of Environment, Energy and Climate Change also exerts the technical supervision of the counties, of the Hanover region, of the cities and large independent towns, if these are in charge of e.g. conservation authorities, water authorities, dike authorities, pollution control authorities, soil conservation authorities or waste authorities.</p>
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	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E30	Ministerium für Klimaschutz, Umwelt, Landwirtschaft, Natur- und Verbraucherschutz des Landes Nordrhein-Westfalen	Ministry for Climate Protection, Environment, Agriculture, Conservation and Consumer Protection of the State of North Rhine-Westphalia	<a href="http://www.umwelt.nrw.de/english/">http://www.umwelt.nrw.de/english/</a>	supervising and execution of the rules on land cession (Section 79 (3) sentence 1 BBergG), financial duties (Section 31 (2) sentence 2 BBergG), related companies, Section 173 (1) BBergG					The Ministry for Climate Protection, Environment, Agriculture, Conservation and Consumer Protection of the State of North Rhine-Westphalia (MKULNV) is part of the government of the German state of North Rhine-Westphalia. It is among others responsible for Improvement of farm, production, market and social structures, organic farming, environmental improvement and integrated rural development assistance, rural planning and settlements, community improvement, agricultural structures, Forestry and timber industry, forest ecology, landscape management, conservation, hunting, fisheries, Waste Management Industry, Soil Conservation, Water Management, Protection of waters, flood protection, closed-loop recycling, contaminated sites, government oversight over water and soil regulation authorities, Pollution Control, Environment and Health, Genetic Engineering, Air quality, plant safety, environmental medicine, Consumer Protection, Fair trading and consumer health, food

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
										inspection, veterinary services, animal disease control, animal protection Climate, Energy Development, Environment Industries Energy and resource efficiency, emissions trading, green technology Environmental Issues Across Sectors, Sustainable Development International relations, land use policy, environmental reporting, education for sustainable development
	DE-E31	Ministerium für Umwelt und Verbraucherschutz Saarland	Ministry of the Environment and Consumer Protection Saarland	<a href="http://www.saarland.de/ministerium_umwelt_verbraucherschutz.htm">http://www.saarland.de/ministerium_umwelt_verbraucherschutz.htm</a>	supervising					OSH, forestry, rural areas, agriculture, nature conservation, organic farming, technical environmental protection

	DE-E32	Sächsisches Staatsministerium für Umwelt und Landwirtschaft	Saxon State Ministry of the Environment and Agriculture	<a href="http://www.smul.sachsen.de/">http://www.smul.sachsen.de/</a>	supervising				DE-L19 - DE-L28	among others, Nature and landscape conservation, habitat and species protection; Pollution control, technical environmental protection, climate protection, recycling and waste management, soil protection, contaminated sites, water management, water protection, surface water, groundwater, water supply, sewage, water conservancy and flood protection, agriculture, forestry, hunting and environmental law, environmental information, environmental education, forest education
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	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E33	Ministerium für Landwirtschaft und Umwelt Sachsen-Anhalt	Ministry of Agriculture and the Environment Saxony-Anhalt	<a href="http://www.sachsen-anhalt.de">http://www.sachsen-anhalt.de</a>	supervising				DE-L19 - DE-L28	The Ministry Environment, Agriculture and Energy is among others responsible for the following areas: Water Management, Soil Protection, Inherited Pollution, Environmental Information Immission Control, the Chemical Industry, Recycling Management Nature Conservation, Forestry, Landed Property

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E34	Ministerium für Energiewende, Landwirtschaft, Umwelt und ländliche Räume Schleswig-Holstein	Ministry of Energy, Agriculture, the Environment and Rural Areas	<a href="http://www.schleswig-holstein.de/EN/StateGovernment/V/v_no.de.html">http://www.schleswig-holstein.de/EN/StateGovernment/V/v_no.de.html</a>	supervising and executing the rules on financial duties (Section 31 (2) BBergG) and land cession (Section 79 (3) BBergG)	Y	Y	Y	DE-L19 - DE-L28	Six departments are responsible for implementing these aims and objectives: the Department of Central Services, the Department of Agriculture, Fisheries and Rural Areas, the Department of Consumer Protection and Veterinary Affairs, the Department for Water Management, Ocean and Coastal Protection, the Department for Nature Conservation, Forestry and Hunting and the Department for Technical Environmental Protection and Climate Protection.
	DE-E35	Thüringer Ministerium für Umwelt, Energie und Naturschutz	Thuringian Ministry of Environment, Energy and Nature Protection	<a href="http://www.thueringen.de/th8/tmuen/">http://www.thueringen.de/th8/tmuen/</a>	supervising and executing the rules on land cession (Section 79 (3) BBergG)	Y	Y	Y	DE-L19 - DE-L28	Responsible for Environment, Sustainable Development, Conservation, Climate, Energy and Environment Management
	DE-E36	Verwaltungen der 295 Landkreise	295 district authorities	<a href="http://www.landkreisstag.de/ueber-den-dlt.html">http://www.landkreisstag.de/ueber-den-dlt.html</a>	INA	INA	INA	INA	INA	
	DE-E37	Verwaltungen der Landkreise (z.B. Baden-Württemberg)		<a href="https://rp.baden-wuerttemberg.de/T">https://rp.baden-wuerttemberg.de/T</a>	Permission and supervision	Y	Y	Y	DE-L34 - DE-L38	

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				hemen/WasserBoden/Seiten/default.aspx						
Court jurisdiction	DE-E38	Regionale Verwaltungsgerichte	Regional administrative tribunals	http://www.verwaltungsgerichtsbarkeit.de/allgemeines/02_aufbau/index.php					in general first judicial instance for reviewing the lawfulness of the refusal regarding the coveted Permission.	
	DE-E39	Oberverwaltungsgerichte	Higher Administrative Courts	http://www.verwaltungsgerichtsbarkeit.de/allgemeines/02_aufbau/index.php					second judicial instance	
	DE-E40	Bundesministerium für Wirtschaft und Energie	Federal Ministry for Economic Affairs and Energy	http://www.bmwi.de/EN/root.html				DE-L01	The central task of the Ministry for Economic Affairs and Energy is to reinvigorate the social market economy, stay innovative in the long term and strengthen the social fabric in Germany.	



	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E41	Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit / Bundes-Umweltministerium	Federal Ministry for the Environment, Nature Conservation, Construction and Nuclear Safety	<a href="http://www.bmub.bund.de/">http://www.bmub.bund.de/</a>				DE-L19 - DE-L28	The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMUB) is responsible for a range of government policies which are reflected in the name of the ministry itself. For more than 25 years the Ministry has worked to protect the public from environmental toxins and radiation and establish an intelligent and efficient use of raw materials; it has advanced climate action and promoted a use of natural resources that conserves biodiversity and secures habitats.	

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E42	Bundesministerium für Ernährung und Landwirtschaft	Federal Ministry of Food and Agriculture	<a href="http://www.bmel.de/EN/Ministry/ministry_node.html">http://www.bmel.de/EN/Ministry/ministry_node.html</a>					forests, rural regions	
	DE-E43	Bundesministerium für Wirtschaft und Energie	Federal Ministry for Economic Affairs and Energy	<a href="http://www.bmwi.de/">http://www.bmwi.de/</a>					The central task of the Ministry for Economic Affairs and Energy is to reinvigorate the social market economy, stay innovative in the long term and strengthen the social fabric in Germany.	
	DE-E44	Bundesministerium für Verkehr und digitale Infrastruktur	Federal Ministry of Transport and Digital Infrastructure	<a href="http://www.bmvi.de/EN/Home/home_node.html">http://www.bmvi.de/EN/Home/home_node.html</a>					Continental shelf and coastal waters	
	DE-E45	Ministerium für und Wirtschaft Baden-Württemberg	Ministry of Finance and Economics Baden-Württemberg	<a href="http://mfw.baden-wuerttemberg.de">http://mfw.baden-wuerttemberg.de</a>					The Ministry of Finance has a total of five departments. They are responsible for fiscal policy, budget, taxation, land and real estate investments in the country.	

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E46	Ministerium für Infrastruktur und Verkehr in Baden-Württemberg	Ministry of Infrastructure and Transport Baden-Württemberg	mvi.baden-wuerttemberg.de/						The Ministry is responsible for issues related to mobility and road.
	DE-E47	Ministerium für Umwelt, Klima und Energiewirtschaft Baden-Württemberg	Ministry of environment, climate and energy Baden-Württemberg	um.baden-wuerttemberg.de/	The Ministry of Environment is the competent authority for the execution of Section 31 (2) sentence 2 (financial levy), Section 79 (3) (Cession of land) und Section 173 (1) (Related companies) BBergG	Y	Y	Y		Fundamental environmental policy issues, sustainability; Climate protection; Recycling management, law; Environmental technology, research, ecology; Local recycling management, waste disposal technology; Environmental Academy; Administration and law, labour inspectorate, geology, mining; Air pollution control, noise, major accident prevention; Market surveillance, chemical and product safety; Safe use of work equipment, hazardous substances, biomaterials, genetic engineering; Construction technology, building ecology; State Regulatory Authority, Energy Competition Authority; Administration and law; International agreements, Rhine and Danube, European Water Framework Directive, support schemes; Prevention of water pollution, standing water bodies, Lake Constance; Soil and legacy

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
										contamination sites, ground water protection, water supply; Hydraulic engineering and flood protection, aquatic ecology
	DE-E48	Regierungspräsidien Baden-Württemberg	Regional authority in Baden-Württemberg	<a href="https://rp.baden-wuerttemberg.de/Themenseiten/default.aspx">https://rp.baden-wuerttemberg.de/Themenseiten/default.aspx</a>						Regierungspräsidien were public authorities to act on the territory of the administrative district of a relay between ministries on the one hand and district administration offices, cities and municipalities on the other hand
	DE-E49	Beauftragte der Bundesregierung für Kultur und Medien	Minister of State in the Federal Chancellery and Federal Government Commissioner for Culture and the Media	<a href="https://www.bundesregierung.de/Webs/Breg/EN/Homepage/_node.html">https://www.bundesregierung.de/Webs/Breg/EN/Homepage/_node.html</a>				DE-44 - DE-45		Although the promotion of culture in the Federal Republic of Germany in the first place is a matter for the states and municipalities and also the responsibility for the media lies with the countries, the federal government is responsible for broad areas of culture and media
	DE-E50	Oberverwaltungsgerichte	Higher Administrative Courts	<a href="http://www.verwaltungsgerichtsbarkeit.de/allgemeines/0">http://www.verwaltungsgerichtsbarkeit.de/allgemeines/0</a>						second judicial instance

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				2_aufbau/index.php						
Court jurisdiction	DE-E51	Bundesverwaltungsgericht	Federal Administrative Court	www.bverwg.de/						Third and final judicial instance
	DE-E52	Gemeinsamer Senat der obersten Gerichtshöfe des Bundes	Common Senate of the Federal Supreme Courts of Justice	http://www.bundesgerichtshof.de/DE/DasGericht/GemeinsamerSenat/gemeinsamerSenat_no.de.html						Decisions in legal questions, which affect more than just one Jurisdiction of one of the five supreme courts.

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	DE-E53	Bundesverfassungsgericht	Federal Constitutional Court	www.bundesverfassungsgericht.de/						The Federal Constitutional Court's duty is to ensure that the Constitution of the Federal Republic of Germany (Grundgesetz – Basic Law) is obeyed. Since its founding in 1951, the Court has helped to secure respect for and effectiveness of Germany's free and democratic basic order. This applies particularly to enforcement of the fundamental rights. All government bodies are obliged to respect the Basic Law. Should any conflict arise in this respect, the jurisdiction of the Federal Constitutional Court may be invoked. Its decisions are final. All other government institutions are bound by its case-law.

## **1.5. Licensing procedures for exploration**

### General

There is a distinction to be made between the terms “exploration licence” (*Erlaubnis*), “extraction licence” (*Bewilligung*) and “mining proprietorship” (*Bergwerkseigentums*), which describe the legal relationship between the mining project operator and the natural resources, and on the other hand the “operating plans”. These operating plans determine in what manner the exploration has to be carried out within the law. The operating plans have to be checked, regardless of who may acquire natural resources. Nevertheless, it should be noted that the operating plans may be granted, inter alia on the condition that there is a licence or mining property.

### Exploration plan

The exploration is a mining activity which aims directly or indirectly at the discovery or confirmation of the extent of mineral resources with the exception of the activities of Section 4 (1) no. 1 to 3. The entrepreneur is allowed to run an exploration operation if the required operating plan is established and if the mining authority has approved them. The reason for this is that during the exploration of mineral resources, specific hazards or damage to the mining operation may occur. For the establishment and management of a plant, main operating plans have to be set up. These are generally valid for a period of two years. An interruption of the operation for a period of up to two years is considered as active management of the mining site. A longer interruption is considered as a standstill only if it is approved by the competent authority, Sections 50 (1), 52 (1) BBergG.

### Approval procedure

For the accreditation, the operator has to submit the operating plan, any extensions, changes or amendments before the beginning of the planned work, Sections 54 (1) BBergG. If it results from the application that the scope of functions (duties) of another competent authority is touched, this authority must be involved in the project prior to approval of the operating plan by the competent authority. The individual state governments may give a further participation of municipalities through ordinance, if the operating plan provides measures for the storage or deposit of mineral resources, country-rock or other materials. However, this possibility has never been used.

The authorisation shall be granted, if no violation of Section 55 (1) sentence 1 BBergG is met. Here, it should be pointed out that according to Section 55 (1) sentence 1 no. 1 BBergG the required permission for exploration must be proven. In the case of free for mining minerals this can be done by submitting the exploration licence, the extraction licence or the mining proprietorship. In the case of freehold resources, this can be done by the verification of land ownership, the lease, or the usufruct, Sections 903 et seq., Section 581, Sections 1030 et seq. BGB.

### Description of the permitting procedures

The approval confers the exclusive right to explore minerals and to undertake activities associated with the exploration. An application in written form including the operating plans relating to the proposed technical execution of the measures and a time schedule must be submitted to the relevant mining authority of the federal state (cf. Table 2). The most substantial reason for rejection may be public interest. The concept of public interest allows such authority to restrict or to deny the approval of the operating plan for reasons of public interest outside of the mining act (e.g. interest of area and urban planning, of conservation of nature and the countryside, of protection against air pollution and noise). In this context, it is debated if and to what extent the interests of private surface owners affected by mining projects

have to be considered. The Federal Administrative Court accepts this if this is the only way to avoid a reasonable impairment of the surface. This is justified with Section 48 (2) BBergG, which is to be interpreted as meaning that the competent authority that deals with the operating plans must restrict or refuse the exploration or extraction of mineral resources only if a disproportionate impairment of surface ownership cannot be avoided. In this respect, Section 48 (2) BBergG has also a third party protective effect.

**Table 3:** Germany. Mining licences/permits for free for mining minerals.

	Exploration licence ( <i>Erlaubnis</i> )	Extraction licence ( <i>Bewilligung</i> )	Mining Property ( <i>Bergwerkseigentum</i> )
Contents	exploration	exploration and extraction	exploration and extraction
Conditions	Section 11 BBergG	Section 11 (1) nos. 6–10 BBergG Section 12 (1) sentence 2 BBergG	Section 13 BBergG
Terms			
Validity period	maximum 5 years	adequate term	adequate term
Extension	3 years each	admissible	admissible
Legal effect	Protection similar to property	Protection similar to property	legitimate to burden property
Revocation/Withdrawal			
Beginning	not within one year	not within 3 years	-
Interruption	longer than 1 year	longer than 3 years	longer than 10 years
Transfer	competent authority	competent authority	competent authority

Source: Müller and Schulz, (2000)

#### Public entities involved in the process

The mining authority of each federal state is responsible for the previous mentioned approvals, e.g. for the Federal State of Mecklenburg-Western Pomerania this is the "Bergamt Stralsund" (Table 2, DE-E08).



### Timeframes

For the establishment and management of a mining site, main operating plans are set up for a period of generally two years. This is regulated by Section 52 (1) sentence 1 BBergG.

### Geographic areas covered by the permit

With the exploration licence, the operator is granted the exclusive right to explore or extract minerals in a specified area (area of entitlement), which describes a section of the lithosphere defined by straight lines on the surface and by vertical levels towards the depth.

### Rights and duties of the allowance

The exploration licence confers the exclusive right to explore specific minerals in a specified field (licence area), to search and to undertake activities associated with the exploration. An application in written form including a programme of work relating to the proposed technical execution of the measures and a time schedule must be submitted (Section 7, 11 BBergG). The operator's duties are in particular: the reliability, expertise and physical fitness of the management staff, risk provisions against life and health.

### Legal nature of the rights

Section 7 BBergG, the exploration licence confers the exclusive right to explore for specific minerals in a specified area (exploration licence field) to search – means to exclude other people to explore in the same field. An interruption may be no longer than one year. The transfer of the licence or permission to a third party or the involvement of a third party on an exploration licence or extraction licence is permitted only with the consent of the competent authority, Section 22 BBergG. The participation in such exploration is also possible and is governed by Section 21 BBergG.

### Links between the exploration licence and the licence for extraction

The extraction licence grants the licensee the right to explore for and extract the minerals stated in the licence within a specified area (extraction licence field); furthermore, the extraction licence confers the entitlement to construct the necessary operating facilities and to demand a compulsory assignment of land (Section 8 BBergG).

### Average length to get a licence

Due to the fact that the mining authorities are different facilities from the federal states, the approval procedure time varies. It possibly depends on the project scope. This was confirmed by one of the biggest mining companies in Germany. A timeframe cannot be specified.

### Main problems or major modifications related to exploration licencing

Main problems in the mining field are: Pursuant to laws on natural conservation (e.g. Sections 14, 15 BNatschG) any negative impact on the nature shall be avoided. In addition to that there is legal protection of third parties such as expropriation, Section 77 BBergG, or compensation for mining damage, Sections 170 et. seq. BBergG.

## 1.6. Licensing procedures for extraction

### General

Basically the following main approval procedures for mineral extraction can be distinguished between approval procedures under the Federal Mining Act: approval procedures under the Federal Law on Protection from Emissions, approval procedures under the Federal Building Code / Federal Law on the Conservation of Nature and approval procedures under the Federal Water Resources Management Act as shown below in Table 4.

**Table 4:** Germany. Overview of approval procedures related to mining.

Land laws on nature conservation and Land building regulations	Federal Water Resources Management Act Land water law	Federal Mining Act (Mining Law, ML)		Federal Law on Protection from Emissions
↓	↓	↓	↓	↓
extraction of sand & gravel without blasts	extraction of sand & gravel from below the water table, uncovering ground water	free for mining minerals, Section 3 (3) BBergG; e.g. graphit, salt	minerals owned by landowner and covered by mining law; e.g. Bauxit, Quarz, Kaolin	quarries where blasts are carried out; plants for crushing, grinding and grading; e.g. Kalk, diabas, basalt, gypsum
↓	↓	↓	↓	↓
<i>special case:</i> Bavaria, Northrhine-Westphalia (NRW) Land excavation laws	extension of waters Section 31 WHG	Sections 51 et seq. BBergG (Operations plan approval procedure partly affected by concentration of jurisdiction)		Sections 4, 10, 19 BImSchG
	↓			
	plan approval plan adoption, e.g. through (" <i>Planfeststellung</i> "), here apply Sections 72-78 VwVfG			

Source: Müller and Schulz, (2000)

A variety of mineral resources and mining technologies lead to complex approval procedures – issues that are connected with the legal complexity: each of these mining methods has different relations to the soil, air, water, nature and landscape. The variety of natural resources corresponds in principle with the variety of substantive conditions that must be met before a positive decision is issued. However, the variety of conditions are scattered in many laws. Here, the Federal Mining Act, the Federal Building Code, the Federal Water Resources Act, the Waste Disposal Act, the Federal Nature Conservation Act, the Federal Immission Control Act and the National Forest Act can be listened.

It has to be distinguished between the issuing of mineral rights and the approval of operation plans.

### Acquiring mineral rights

Free for mining minerals: Under the Federal Mining Act, exploration and extraction of free for mining minerals require a mining licence, which represents merely a right granted by the State for the economic utilisation of free for mining minerals. In order to carry out mineral extraction operations it is furthermore necessary to obtain an approval of the operating plans from the competent authority (cf. Fig. 2). With granting of mining proprietorship, the extraction licence expires, Section 17 (1) sentence 2 BBergG. The mining proprietorship is created when the mining proprietorship deed is served on the applicant (*Berechtsamtsurkunde*), Section 17 (1) sentence 1 BBergG. Only when the decision on the granting has become final, the delivery is admissible. The competent authority re-requests the land registry for registration of the mining property in the land register. The mining property is treated like a real property and can be encumbered with a mortgage and a charge on the land. Further restrictions have to be considered. Only civil law can be applied, Section 9 (1) sentence 1 BBergG.

Minerals owned by the landowner: In order to obtain mining rights, the mining company must be granted the right to use the land for the purpose of exploration and extraction of the minerals.

#### Mining permit versus mining licenses (Operation plan approval procedure)

The “mining license” alone does not provide an entitlement for the operator to start with exploration and extraction activities, as they merely represent a title. Prior to carrying out these activities the license is required to ask for approval by submitting an operation plan which is being adapted to the ongoing operation. Under the Federal Mining Act a distinction is made between the following types of operation plans: General operations plan (*Rahmenbetriebsplan*), Main operations plan (*Hauptbetriebsplan*), Special operations plan (*Sonderbetriebsplan*), Collective operations plan (*Gemeinschaftlicher Betriebsplan*), Closing operations plan (*Abschlussbetriebsplan*). Facilities and operations that require an operation plan but do not have to undergo EIA require the approval of an operation plan without plan approval (*Planfeststellungsverfahren*).

#### Exploitation – Mining Law Act

The main operations (“*Hauptbetriebsplan*”) plan is to be drawn up for the installation and operation of a plant. The contents of general operation plans may vary, among others depending on the extent and type of plant, methods of exploration and extraction, the respective branch, the phase of operation for which the main operations plan is drawn up. The main operation plan is approved for a fixed term of 2 years. The authority is entitled to extend or shorten this period of time according to the respective circumstances. In order to carry on with the operation of a plant, the main operations plan must be either drawn up again or extended. A main operations plan for the operation of a plant must comprise the following: Details on the installations and facilities of the plant, development of the plant, methods of exploration and extraction used, working appliances used.

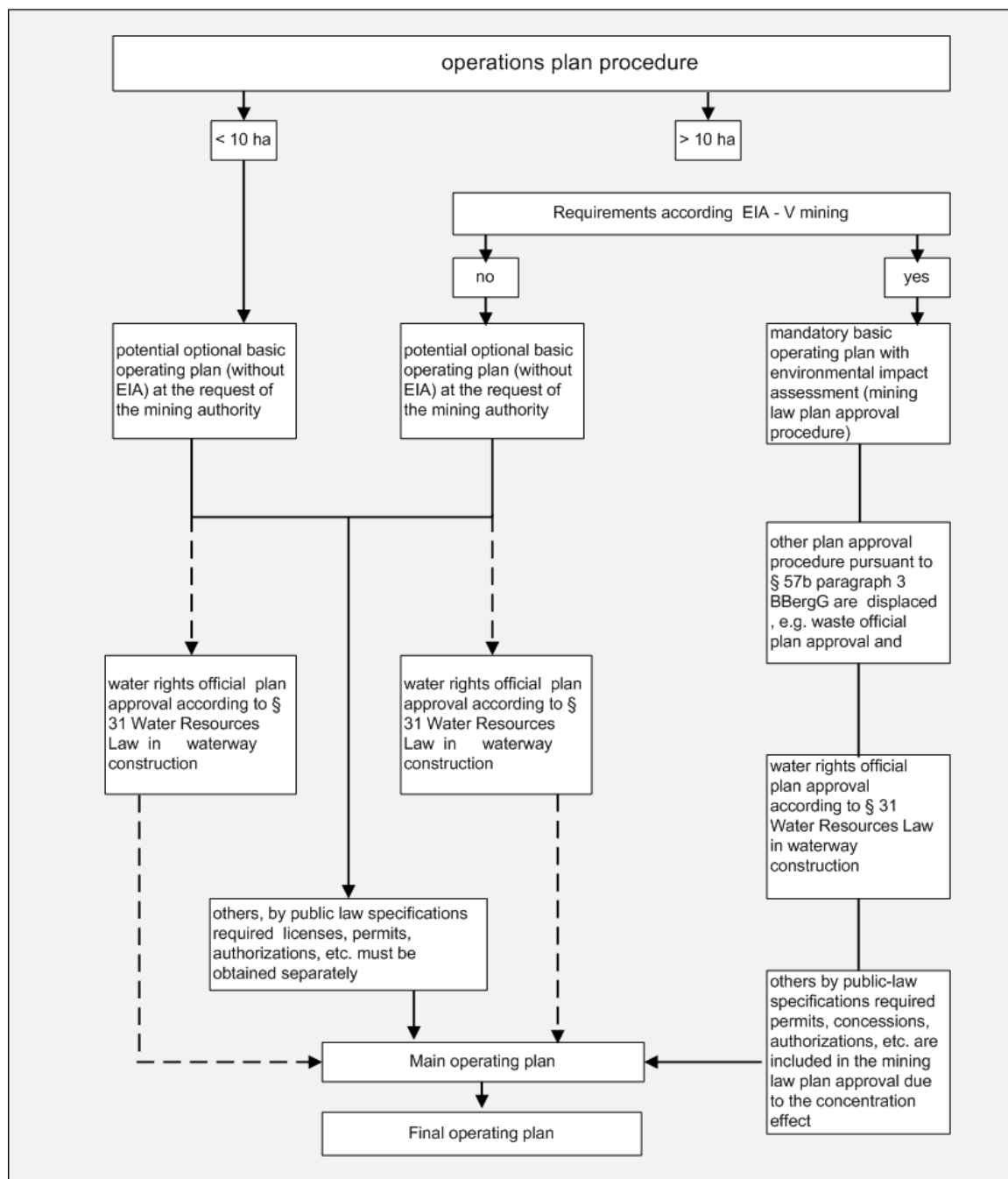
The competent authority may demand a special operations plan (“*Sonderbetriebsplan*”) for certain parts of the operation or specific projects. The plan is intended to complete and relieve the main operations plan. According to the jurisdiction, special operations plans need not be limited to a fixed term. The number of special operations plans required increases with the extent of the mine.

Upon request of the relevant authority (cf. Table 2) the collective operations plan is to be drawn up for workings and installations carried out, set up or operated by several plants under uniform aspects.

The mining company must submit the operations plan prior to the start of the planned operation to the competent authority. This is based on the idea of risk mitigation. Due to the fact that companies which explore and exploit mineral resources, continually evolve while a reduction of the mineral takes place, a fundamental difference to commercial enterprises is given. This dynamic mode of operation dictated by the type, nature and course of the mineral deposit causes a specific danger and a progressive deterioration and

alteration of the earth's surface. The mining authority involves other authorities and municipalities as planning authorities. Other authorities are to be involved if measures stated in the operations plan affect their area of responsibility. Upon obtaining the documents for application, the authorities comment on the respective case. The mining authority, however, is not bound to their comment and decides on its own on the approval of the operation plan, Section 54 (2) sentence 1 BBergG. An extensive involvement of various authorities only occurs in the event of a general operations plan. Once the involvement procedure and the assessment of approval requirements have been carried out, the authority either approves or rejects the operations plan in writing.

**Fig. 2:** Germany. Operating plan's approval procedure (*Betriebsplanverfahren*).



Source: translated from Müller and Schulz (2000)

The general operations plan (or framework plan, in German "*Rahmenbetriebsplan*") represents the basis for subsequent operations plans and is usually approved for a period of 10 to 20 years. This depends on the submitted plan. There is no regulated time frame but practically it is not less than five years and not longer than 30 years. However, as it does not permit the installation and operation of a plant so the operator is required to submit additional operation plans. The approval of the general operation plan by the mining authority (framework plans are only approved by the mining authorities) merely implies the ascertainment that the project meets the requirements which are necessary for an approval.

Generally, the same operational plans have to be set up which are necessary for the exploration plan. However, it is important that, in contrast to the mere exploration of mineral resources, the exploitation is often associated with more intense effects. This will often trigger the need for an EIA (see below).

This special case is governed by the general operating plan after Section 52 (2a) BBergG. It may be important for the establishment, for the management and for the closing of a mine. First, the project must request an environmental impact assessment, Section 57c BBergG.

In Germany this is ruled in the EIA-mining Regulation (UVP-V-Bergbau), which came into force on 1st of August in 1990. This has happened due to the implementation of the UVP-RL 85/337/EWG (European directive). The EIA is part of the plan approval procedure. This method is generally based on the Sections 72 et seq. VwVfG with the provision that special legal regulations Sections 57a, 57b BBergG have to be observed as well.

The first step is the so-called consultation procedure after Section 73 VwVfG. The submitted plan, shall consists of the drawings and explanations that reveal the project, its reason, land and installations, which might be affected by the project, Section 73 (1) sentence 2 VwVfG, Section 57a (2) BBergG.

Competent authority is, according to Section 57a (1) BBergG, the lower mining authority. For projects with a special spatial extent or temporal extension, this general operating plan (*Rahmenbetriebsplan*) can be implemented in stages or phases, Section 52 (2b) BBergG.

The submitted plan has to be outlaid (Section 73 (3) VwVfG) and this has to be announced (Section 73 (5) VwVfG).

After that a meeting for public discussion for non-foreclosure objections has to be held, Sections 73 (4) sentence 3, (6) VwVfG. However, this must be interpreted in conformity with the European law so that this preclusion rule partly violates union law. The infringement is within the scope of the EIA Directive and the IED Directive against Art. 11 of EIA Directive 2011/92/EU and Art. 25 of IED Directive 2010/75/EU. This means that a preclusion is not possible in the scope of these directives.

Then the hearing authority will give its opinion, which will be imparted to the planning authority after Section 73 (9) VwVfG. The planning authority is normally identical to the hearing authority, Section 57a (1) sentence 2 BBergG. E.g. for Mecklenburg-Western Pomerania the hearing authority and the planning authority is the "Bergamt-Stralsund" (Table 2, DE-E08), Section 1 BBergGZuVO.

Then the planning authority examines the legitimacy of the general operating plan according to Section 74 (1) and (2) VwVfG. Here, particularly with regard to the evaluation of the "raw materials secure clause" (*Rohstoffsicherungsklausel*) according to Sections 48 (2), 57a (4) BBergG and the admission requirements of the operating plan according to Sections 52 (2a) sentence 3, 55 BBergG, certain requirements have to be taken into account. Furthermore, all other professional - environmentally protective conditions have to be tested. After positive tests, the mining authority of the federal state adopts the plan approval decision (*Planfeststellungsbeschluss*) and provides it to the operating company, Section 74 (4) VwVfG.

According to Section 75 (1) VwVfG, the outcome of the plan approval decision is:

By zoning the admissibility, a determination of the project takes place. This includes the necessary follow-up to other systems in terms of all the touched public interests. In

addition to the plan approval, other governmental decisions, in particular public approvals, awards, licences, authorisations, consents and plan approvals are not required.

By zoning all public relations of the operating company and the party which is affected by the plan, a legal regulation is established.

### **Drawing up and approval of the closing operations plan**

In order to close a mining operation, the operator must draw up a closing operations plan. Contents: Exact description of the technical operation and the period of time for which the closure of the operation is planned. Proof of ensuring protection of a third party from dangers to life and health caused by the operation, also after the operation has ceased. Proof of rehabilitation of the surface area affected by the operation. The closing operations plan must be approved by the relevant authority which is the same as the authority responsible for the operation plans. The operator must carry out the approved closing operations plan. The extent of the measures to be taken results from the closing operations plan and its official approval which may incorporate incidental provisions for additional obligations.

### **Minerals not covered by the Federal Mining Act**

#### General

The regulation of Section 3 BBergG has the consequence that there is a further category of mineral resources in addition to the freehold and freely minable mineral resources which are not covered by the Federal Mining Act. They are called "property-owner-resources". These mineral resources include in particular: gravel, pumice, sand, peat and clay. The mining of these resources is often determined as excavation. It is not affected by the mining law. The exploration and extraction of these mineral resources is governed by the provisions of the right in rem under the civil law, in particular the provisions on property (Sections 903 et. seq. BGB). Under the public law, excavations are subject to the relevant provisions of the public construction law, the nature protection law, landscape protection law, water law, emission control law and (depending on the federal state) if available, special Excavation Acts.

The different minerals corresponding principle with the variety of material legal requirements that must be fulfilled prior to a positive decision on approval. The fact that the various requirements are scattered in many different laws aggravates the matter. Another factor that contributes to the complexity of the approval process is the fact that legal competences are split between the Federation and the states, leading to divergent permit requirements and authority competences in the individual states. A uniform body of law on mineral extraction does not exist.

As a consequence of the mentioned problem, the relevant laws do not only control material requirements but also contain respective technical reservations of approval. This again requires the introduction of separate approval procedures, some of which certain regulations concerning concentration of jurisdiction are provided for. A full concentration of jurisdiction occurs in the event of a plan adoption procedure (*Planfeststellungsverfahren*), as the exclusive decision-making responsibility is conferred on an outwardly, solely responsible authority. The case of approval procedure incorporating several other required approvals is referred to as limited or partial concentration of jurisdiction, meaning that divergent authority decisions are excluded in parts covered by the concentration of jurisdiction.

#### Federal Act for the Protection of Nature

The approval procedure under to the Federal Building Code/Federal Act for the Protection of Nature applies if the extraction takes place without the use of explosives and on larger

scale (concerns (dry) extraction of sand and gravel). The Federal Building Code defines excavation as the independent modification of the natural and original surface, designed for a longer period of time, through lowering of the ground level. Every extraction project (of sand and gravel) implies a modification of the design or the use of a property, which may affect the efficiency of the ecosystem; this can be seen as interference in the sense of the Federal Law on the Conservation of Nature.

The federal states, however, may choose to deviate from involving the building law authority, an option that has been made use of in Baden-Wuerttemberg, Hesse, North Rhine-Westphalia, Lower Saxony and Schleswig-Holstein, where separate reservations of approval under the Federal Law on the Conservation of Nature exist.

Usually an excavation project falls within the area of competence of both the Federal Building Code as well as the Federal Law on the Conservation of Nature which means that actually two approval procedures would have to be carried out. However, the federal states have found different solutions to the problem of competing procedures, implying a concentration of procedures.

All in all, it can be said that excavation of minerals that are neither covered by the Mining Law, nor subject to approval procedures under the Federal Law on Protection from Emissions or the Federal Water Resources Management Act, are the responsibility of the individual federal state authorities.

#### Relevant safety standards

Relevant laws are Section 30 (3) BNatSchG (the legally established biotopes), Sections 45 (7), 44 BNatSchG (interdiction exception) as well as Section 77 (1) BNatSchG as the standard for comprehensive exemptions.

Functionality of the Federal Act for the Protection of Nature (Bundesnaturschutzgesetz - BNatSchG)

State legislation does not provide for a particular procedure under the Federal Law on the Conservation of Nature. Therefore, the authority responsible for the respective procedure has to make the decisions on the impact regulation under the Federal Law on the Conservation of Nature. This would e.g. imply involvement of the Federal Building Code authority in decisions on the requirements with regard to the Federal Law on the Conservation of Nature, "backpack-principle", Sections 13 et. seq. BNatSchG.

It also has to be considered, that these standards also be audited as part of a mining-law permission, e.g. under Section 11 no. 10 BBergG. Furthermore, these rules are also tested within the frame of the plan approval procedure, Section 75 (1) VwVfG.

#### Federal Emission Control Act

The purpose of the Federal Emission Control Act is to protect humans, animals and plants, soil, water, climate as well cultural assets and other property. It also includes regulations relating to the provision against and prevention of harmful impacts on the environment. The procedure is related to the plant and not linked to the categories of minerals. Plants requiring approval have to either undergo a procedure involving the public or a simplified procedure, which means that public announcement or an appointment for decisions is not required. Even if a plant does not require an approval, the operator of the plant still has to take into account of certain regulations. These regulations include i.a. the prevention of harmful effects on the environment, which according to the state of the art can be avoided. Furthermore, harmful effects on the environment, which cannot be avoided according to the state of the art, must be kept to a minimum, and waste produced during operations must be properly disposed. The extraction of minerals owned by the landowner and not covered by the Federal Mining Law using blasts require a compulsory approval procedure (applying concentration of jurisdiction) under the Federal Law on Protection from Emissions.

According to Section 4 (2) BImSchG a permit according to this act is only necessary for open-cast mining, see also the Appendix 1 of the 4th Federal Immission Control Regulation (Bim-SchV). For the construction of an open pit the authorisation requirement under Section 6 (1) BImSchG applies.

For mineral resources which are not subject to the BBergG, the concentration effect of Section 13 BImSchG applies. This means that the approval after this Act includes other professional regulatory decisions. The two possible approval procedures according to the BImSchG are inter alia governed by Sections 10 and 19 BImSchG.

### Federal Water Act

The Federal Water Resources Management Act regulates water conservation. The Act provides a framework which is independently implemented and enacted in each state (individual state water laws). The scope of the Act comprises surface water, coastal water as well as ground water. The approval procedure under the Federal Water Resources Management Act is to be considered in the case of extraction of sand and gravel from below the water table not covered by the Mining Law. Utilisation under the Federal Water Resources Management Act must be rejected if the planned operation is likely to affect the good of the general public to an extent that cannot be balanced through ordinances.

In addition to an authorisation under the Federal Water Resources Management Act, an extraction of this kind of minerals usually requires a soil extraction permit under the building regulations and/or the nature conservation laws of the individual federal states. Like the utilisation with regard to the Federal Water Resources Management Act, plan adoption does not primarily deal with soil extraction but with the extension of waters, also for the purpose of mineral extraction. When minerals owned by the land owner and not covered by the Mining Law are extracted, the plan adoption may become the only decision of approval of a soil extraction project. Thus, plan adoption under water law enables an extensive approval of the extraction project (concentration of jurisdiction).

Mineral extraction takes place outside the boundaries of the built-up area. As ground water and nature and landscape protection particularly applies to this area, extraction is often prohibited or limited as a consequence of the respective water and environmental laws. Exemptions may be granted for areas under a general prohibition of mineral extraction. However, the requirements for the granting of an exemption are stricter than the requirements that have to be met for the granting of an approval under the regulation of conservation areas. Requirements for an approval: the good of the general public requires the deviation; the prohibition would imply an obviously not intended hardship for the applicant.

However, the approval of the extraction of minerals must not solely be judged on the basis of prohibitions regarding the protected areas and of the requirements for approvals and exemptions. It also has to be examined if these requirements are rigidly valid under the respective law (planning or environmental legislation) for mineral extraction or if the requirements are only to be taken into account when considering other interests.

Regulations on the protection of nature and landscape can influence mineral extraction in different ways. The kind of protected area and the respective prohibitions and reservations of approval may have an influence on the approval of mineral extraction as well as on the manner of extraction.

In concrete terms, this means that the use of waters requires a permission, Section 9 WHG. If the project requires an EIA, another zoning procedure has to be made. This is governed by Section 19 WHG. It should be noted that if an approval procedure after the WHG has to take place, even though the project falls under the BBergG, nonetheless, the method has to be performed according to the WHG, Section 57b (3) sentence 3 BBergG.



## Building Code

In terms of the "Building law" it can be stated that the projects usually lie in the "non-planned outside area", Section 35 BauGB.

The outside area shall generally be kept free from any development. Exceptions, which are listed in Section 35 I BauGB such as the allowance for farming operations, are not relevant.

To allow mining legal projects in the outside area, the creation of a development plan is always required. This can also be done in cooperation with the project operator, Section 12 BauGB.

## Closed Substance Cycle Waste Management Act

According to the KrWG a waste legal plan approval process is necessary in accordance with Section 35, if non-mining materials are disposed, dumped or stored without purpose. See also Section 57b (3) sentence 3 BBergG.

**Table 5:** Germany. Overview of approval procedures.

Land laws on nature conservation and Land building regulations	Federal Water Resources Management Act Land water law	Federal Mining Act		Federal Law on Protection from Emissions
↓	↓	↓	↓	↓
dry extraction without blasts	wet excavation, uncovering ground water	free for mining minerals	minerals owned by landowner and covered by mining law	quarries where blasts are carried out; plants for crushing, grinding and grading
↓	↓	↓	↓	↓
special case: Bavaria, N R-W Land excavation laws	extension of waters Article 31 WHG	Article 51 et seq. BBergG (Operations plan approval procedure partly affected by concentration of jurisdiction)		Articles 4, 10, 19 BIm-schG
	↓			
	plan approval plan adoption, here apply Art. 72–78 VwVfG			

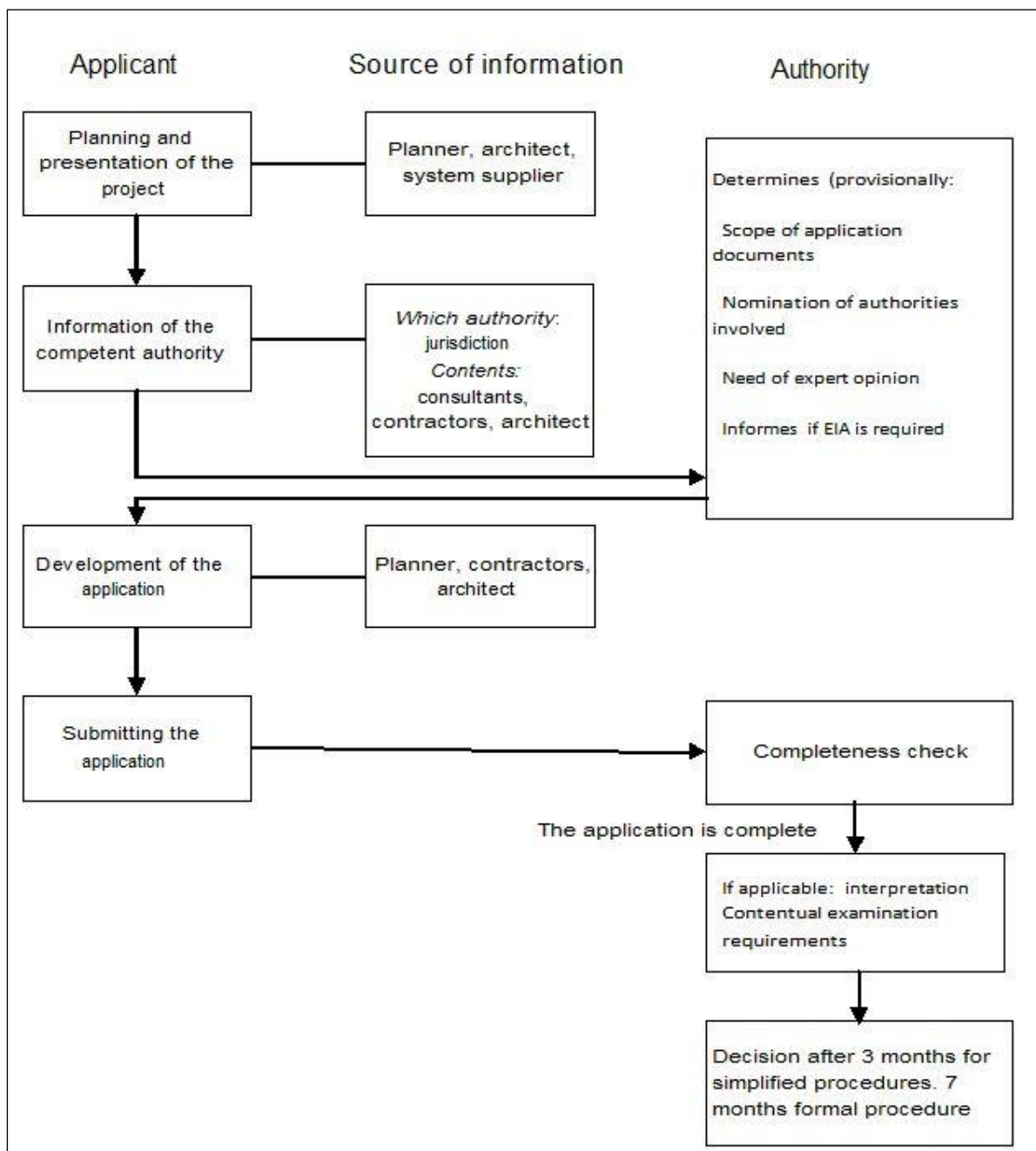
The competent authority (regional mining authority) can arrange in accordance with Section 71 BBergG in individual cases, which measures are to be met for the execution of the regulations of this law. Leads a condition, which contradicts this law, to a direct danger for persons employed or third person, then the competent authority can arrange that the enterprise up to the establishment of proper conditions provisionally totally or partly is stopped.

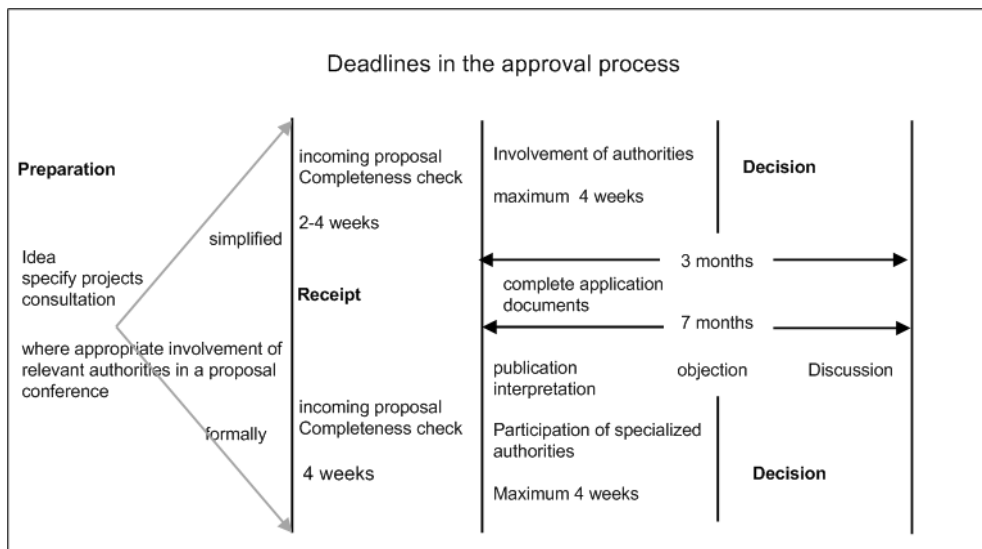
## Timeframes

The approval of an operating plan does not have specified timeframes which are regulated in the BBergG. However, a plan approval procedure has a legal time window of at least half a year up to three-quarter a year. This follows from Section 73 VwVfG. In reality, however, such a process can take years.

The extraction of aggregates is usually based on the Federal Law on Protection from Emissions (BImSchG); Section 10 BImSchG identifies an approval period of 7 months in the normal procedure and 3 months in the simplified procedure. In reality, the process takes longer, because 7-month period begins to run only when the authority to certify the applicant that the application documents are complete. Here the authority has in hand to set the time running. About actual approval durations no information exists, because there are no any statistics. The situation is different when a water law plan approval is sought. Here no time limits.

**Fig. 3:** Germany. Permitting procedure based on Federal Law on Protection from Emissions.





Source: Müller and Schulz, (2000)

## Summary

With the mining licence, the operator is granted the exclusive right to explore for or extract minerals in a specified area (area of entitlement), which describes a section of the lithosphere defined by straight lines on the surface and by vertical levels towards the depth (Section 4 (7) BBergG).

## Rights and duties of the licensee

The authorisation (*Bewilligung und Bergwerkseigentum*) confers the exclusive right to exploit the minerals in a specified field (licence area). In addition, the holder of the authorisation has the option of sale and transferring of the permission, Section 22 BBergG. He also has the right to dispose the mining property and to merge with other mines under additional conditions. The operator's obligations are especially: reliability, expertise and physical fitness of the management staff, risk provisions against life annuities life and health.

## Legal nature of the rights

Under the Federal Mining Act, exploration and extraction of free for mining minerals require a mining license, which represents merely a right granted by the State for the economic utilisation of free for mining minerals (i.e. minerals not owned by the landowner). In order to carry out mineral extraction operations it is furthermore necessary to obtain an approval of the operation plans from the competent authority. The mining property ("*Bergwerkseigentum*") can only be granted to a holder of an approval. With granting the mining property the permit expires. The mining property comes into force with the delivery of the relevant document ("*Berechtsamtsurkunde*") to the applicant. Only when the decision on the granting has become final is the delivery admissible. The competent authority requests the land registry for registration of the mining property in the land register. The mining property is treated like a real property and can be encumbered with a mortgage and a charge on the land.

Minerals owned by the landowner: In order to obtain mineral rights, the mining company must be granted the right to use the land for the purpose of exploration and extraction of the minerals.

The mining licenses / mineral rights alone do not provide entitlement for the operator to start with exploration and extraction activities, as they merely represent a title. Prior to carrying out these activities the license is required to ask for approval by submitting an operation plan which is being adapted to the ongoing operation.

#### Links between the exploration permit and a future license for extraction

Problems with the application often result from the fact that the applicant is not sufficiently informed about the correct procedure and the competent authority. In addition, there may be a delay when meetings with the authorities are insufficiently prepared and no clarity exists about the goal of the meeting. Another problem is the incompleteness of the application documents. The completeness of this is so important, because only from the date of the determination of the completeness of the documents, the statutory authorisation periods begin to run. Finally, attention is drawn to the problem that the entrepreneur has not sufficient informed about the location of the site in advance before he contacts the authority.

#### Problems that are connected with the legal complexity

Diversity of mineral resources, mining technologies and licensing procedures. Each of these mining methods has different references to the environments affected soil, air, water, nature and landscape.

#### Large number of legal requirements

The variety of mineral resources corresponds in principle with the variety of legal requirements that must be met before a positive decision is issued. Not simplistic is that this variety of conditions scattered finds in many laws. There are the Water Act, the Waste Disposal Act, the Federal Nature Conservation Act, the Federal Immission Control Act and the National Forest Act, the Building Code, EIA-Law.

#### Administrative intervention during operation

Besides the necessary authorisations for the establishment and operation of the project, the competent authority may even act retrospectively within the danger mitigating law. The possibilities for the authorities from the mining law arising from Sections 69–74 BBergG for both – the free for mining and landowned minerals. It is important that there is no concentration effect of the zoning procedure or an authorisation under the BImSchG for such intervention. This does not apply to subsequent measures but only to the authorisation procedure. Subsequent orders can also be made in accordance with Section 17 (1) sentence 1 BImSchG, Section 100 WHG and with the building regulations of the states.

#### Administrative intervention after the closing of the operation

As in the case of official intervention during the operation of a mining site, special authorisations arise from sectoral laws. Mining supervision shall end after execution of the closure plan (Section 53 BBergG) or corresponding order of the competent authority (Section 71 (3) BBergG) at the time when, according to general experience, it is no longer probable that the operation would pose a danger of death or injury of third parties, or danger to other mining operations and deposits whose protection is in the public interest, or a hazard to the public.

### Conclusions

The question whether a mining project can be built and operated is very complex regarding the legal framework. The reason for this is that various interests which are reflected in various legal matters need to be reconciled. The German legal system has made every effort to make these legal matter sustainably. Sustainable development can be realized when ecological, economic and social concerns are reconciled.

Environmental aspects are guaranteed by a rigorous Environmental Laws and precisely configured procedures. Social aspects are also ensured through "neighbours-rights" which provide judicial protection for third parties against projects. The same aspect is reflected in the standards which regulate the liability for damages caused by mining.

Nevertheless, economic aspects are also part of the German law. A particular example of this is represented by Section 48 (1) sentence 2 BBergG:

"Under the application of these regulations, it has to be insured that the exploration and exploitation are affected as little as possible." – so called resource-secure-clause (*Rohstoffsicherungsklausel*).

Mining statutory compensation for damage Sections 114 et seq. BBergG

1.

- legal mining activity, § 2 I Nr. 1, 2, 3 BBergG

2.

- damage § 114 I BBergG
- No exception according to § 114 II BBergG

3.

- causality between 1. und 2., consider special causality presumption, § 120 BBergG

4.

- Obligated party
- § 115 I BBergG - the entrepreneur

5.

- amount of damages awarded, § 117 BBergG, consider the max. limit, § 117 I Nr. 1 BBergG

6.

- Contributory negligence, § 118 BBergG

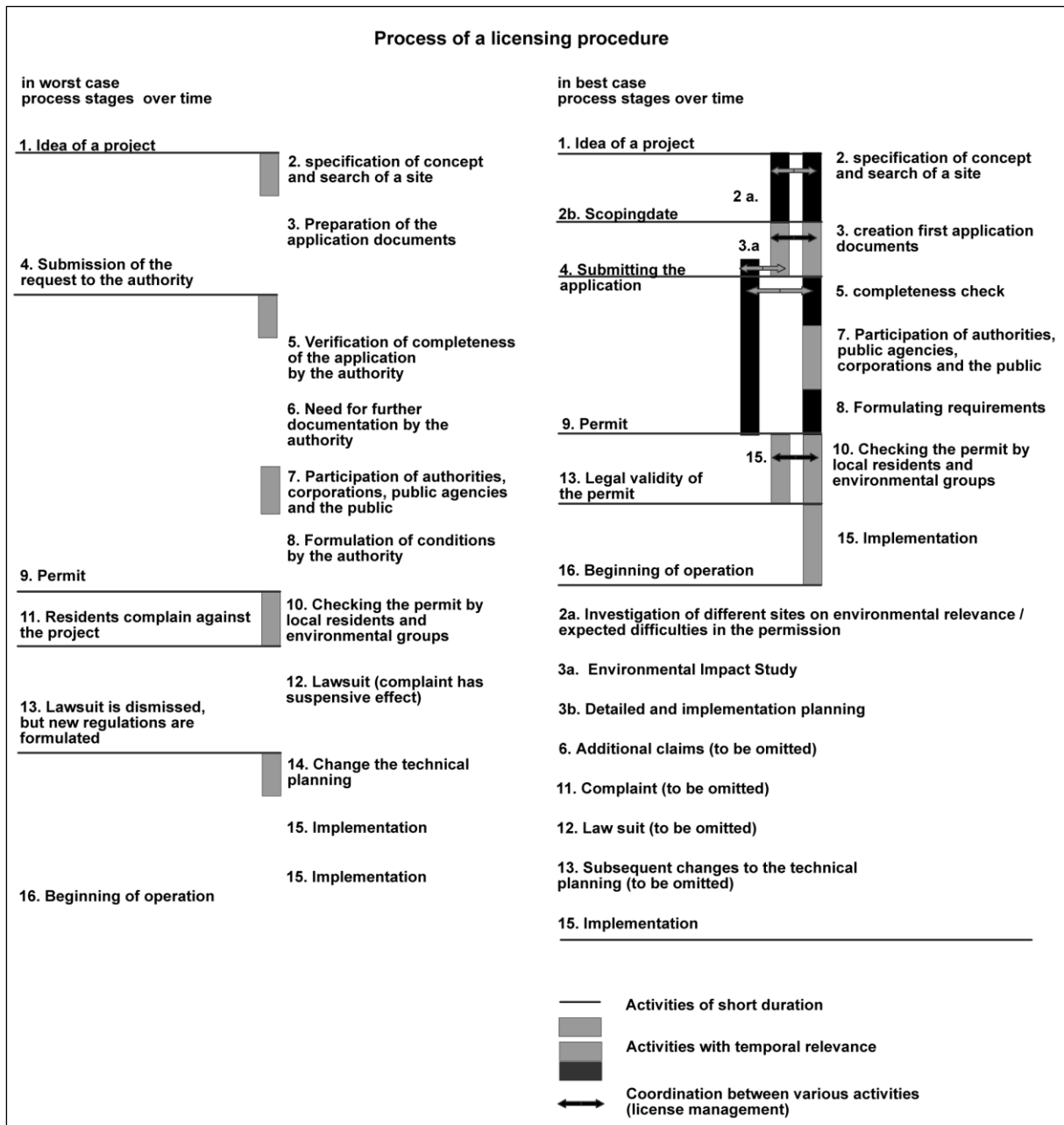
7.

- limitation period, § 117 II BBergG in conjunction with §§ 194 ff BGB

8.

- Further compensation laws remain active, § 121 BBergG
- § 823 BGB in conjunction with liabilities for premises

**Fig. 4:** Germany. Permitting procedure – unfavourable versus favourable.



Source: Müller and Schulz (2000)

### Average length to get an exploration permit

Due to the fact that the mining authority is a federal state institution, the permit proceedings varies. This depends possibly on the project scope. There are no official and unofficial statistics. One of the biggest German mining companies could not give its perspective on this.

### Main problems or major modifications related to exploration permitting

Nature conservation problems, expropriation issues, neighbour- or third party protection, compensation for mining damage, environmental activists.

Loss of accessible deposits of raw materials by planning for other land uses

- No special protection for raw materials deposits
- Lack of areas for compensation measures
- Implementation of “taboo” areas in regional planning processes

2) Planning regulations: the period of securing extraction areas is too short; security of investments is weak

3) Conflicts in NATURA2000-areas (mainly political, not technical)

### Electronic permitting system

The German Federal State of Lower Saxony was the only German jurisdiction identified to have a working electronic permitting system (called “BergPass” in German which stands for Mining Processing Management System) managing permitting applications for the NEEI sector (submitting, monitoring progress, exchanging data between the developer and the authority, etc.).

## **1.7. Court cases on permitting procedures**

### The procedural and institutional framework of court appeals

The legal system of Germany and the further development of the law is - unlike, for example, in the Anglo-American law - not exclusively based on court cases. The often very abstract legal standards open up the scope to make individual assessments and thus to find appropriate solutions.

The legal development is done through amendments and the interpretation of laws. Nevertheless, there are important court decisions, which exert a similar effect as landmark decisions. Nevertheless, it should be noted that all judgments are based on an examination of individual situations under the abstract legislative standards. A “new case” is decided not per se by reference to another judgment. The objective scale is always the individual case. Nevertheless, the federal courts also have a legal development task to a certain extent.

After the constitutional authority decision, the task of forming abstract general rules with general validity claim falls to the parliamentary legislature and not to the judge. The supreme courts of the federal state have the task of solving abstract legal questions. Certain revision approval reasons reveal that the revision purpose is not limited to the interest of the parties to the judicial decision in the case, but also are of general interest in the sense of legal uniformity and legal development. This shows that there is a general interest as an equal objective of the revision in addition to the individual case justice. Thus, fundamental legal issues can be decided in an abstract way.

### Judicial structure

Initial instance - the administrative Court

The administrative courts decide in principle as the first instance on any dispute between citizens and public authorities. Who disagrees with the public authorities decision, has to take legal action by the administrative courts. Excluded from the competence of the administrative courts are only those public disputes that are delegated to other courts.



Second instance - the upper administrative court, court of appeal and in certain cases initial instance,

The Upper Administrative Court is the court of appeal responsible for deciding on appeals against decisions of the administrative courts. Besides, it is for certain disputes (e.g. over building plans or major projects) court of first instance. The Chambers of the "*Oberverwaltungsgericht*" are named "Senate", which are additionally staffed with three professional judges and hearings with two honorary judges. The role of each Senate is set out in a schedule.

#### Supreme Administrative Court, court of "revisions" and in certain cases the court of appeal

The Federal Administrative Court was established in 1953 as supreme instance of the general administrative jurisdiction. It is one of Germany's six Federal Courts. Unlike most other countries, Germany has five different branches of jurisdiction which act completely independent of each other. Besides the general administrative courts there are:

- courts commonly known as "ordinary courts" comprising civil and criminal jurisdiction
- the labour courts
- the fiscal courts
- the social courts

Each branch has its own Federal Court as supreme instance. Furthermore, there is the Federal Constitutional Court which adjudicates upon constitutional issues and the validity of parliamentary laws only. The general administrative jurisdiction forms the largest system of specialised courts in Germany. It is competent for all kinds of non-constitutional public law matters, unless the respective matter is explicitly assigned by statute to the fiscal or social courts. Typical examples of actions brought before the general administrative courts are disputes arising from laws relating to public order and security, assemblies, foreign nationals and asylum, building, traffic, trade and industry, municipal revenue and municipal administrative organisation, subsidies, access to public institutions and public welfare, education, protection of the environment, nuisance caused by public facilities, project planning and civil service matters. In contrast to that, the Federal Administrative Court reviews the decisions of the lower courts only on points of law. The respective proceedings are called "revisions". Generally, the actions brought before the Federal Administrative Court are directed against decisions of the courts of appeal. With the consent of both parties, however, it is also admissible to bypass the remedy of appeal and to challenge the ruling of a tribunal of first instance directly before the Supreme Court. As an exception to that the Court acts as court of appeal in military disciplinary matters and as court of first and last instance in some exceptional cases, among which are the development of the infrastructure within the territories of the former GDR, all non-constitutional litigation between the constituent states and the Federation and actions concerning the Federal Intelligence Service.

#### Most decisive and representative court judgements

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#### Quantitative data or expert assessment of the last 20 years in minerals permitting cases

No statistics available.

#### Most decisive and representative court judgements

##### Public neighbour protection in mining law - final instance judgment

Federal Administrative Court (Bundesverwaltungsgericht – BverwG), decision from the 16th of March 1989 - 4 C 36/85 (Münster)

The relevant articles in this judgment are: Art. 14 (1) GG – for expropriation; Sections 1, 3, 6, 48, 52, 55, 56, 71, 110, 114, 171 BBergG – esp. for the operation plans of a mining building project.

This judgment clarifies that the requirements for an approval of an operating plan acc. Section 55 (1) BBergG are not protectively for material goods of the land owner (on the surface). This means drawing up an operation plan is not generally protecting the neighbours.

It also states that Section 48 (2) BBergG has to be interpreted in conformity with the constitution so that the competent authority has to limit or prohibit the exploration or extraction of minerals, only if a disproportionate impairment of the surface property can be avoided;

insofar Section 48 (2) BBergG is also "neighbour-protectively". This applies regardless the mining damage regulation of Sections 114 et seq. BBergG.

The facts of the case:

The suitors are citizens of a city, under which mining activities of a mining company for coal mining take place. This has led to a significant surface damage in the past. The company plans to cut more coal seams in this area. So the suitors fear that they could be affected by mining damage because of these planned activities.

They therefore requested the defendant mining authority that it should take appropriate measures to avoid such damage. This was rejected by the defendant. The mining authority stated that there is no legal basis.

The judgment underlines the fact that the suitors indeed don't have to tolerate fundamental interferences regarding their property which is guaranteed by Art. 14 (1) GG. So certain damage which might occur according to the Federal Mining Act does not have to be tolerated without any restriction.

A consideration of the surface property which is affected by mining activities is not generally ruled out. The protection of the property is to be ensured to the extent that is required by Art. 14 (1) GG and falls within the remit of the competent authority (Section 69 (1) BBergG).

Mining activities (see. Section 4 (1) to (4) BBergG), which could affect the property of others and which have to be considered by the mining authority through a permitting procedure, would also have to include the right to protection of possible affected third party owners.

A comprehensive "third-party-protective" effect of the regulations on the approval of operational plans in favour of the property of "neighbours" cannot be considered in view of the peculiarities of mining activity. Such interpretation of the law would make mining almost impossible or at least unreasonable difficult.

The so-called "Wet gravel dredging decision" ("*Nassauskiesungsbeschluss*") of the Federal Constitutional Court - BVerfGE, 58, 300

The suitor of the main proceedings operates a gravel dredging. The land on which the processing plant is, is his property. In the neighbouring parcels he exploits sand and gravel down to the level of groundwater since 1936. For this purpose, the suitor has leased these parcels from a farmer.

The mining areas are located in a water protection area. In this area is also a municipal waterworks of the city R. The suitor requested a permission for an extension of the gravel extraction according to the rules for an authorisation under the Water Resources Act in February 1965. In October 1973, the Authority rejected the application on the grounds that the distance from the mining sites to the wells of the waterworks are about 120 meters. Contaminations of the excavated lake could reach a well and thus endanger the public water supply. The suitor did not file a suit for granting the requested permission. The application of the suitor for a compensation was rejected.

He then filed a lawsuit against the state of North Rhine-Westphalia on payment of fair compensation. He argued that the refusal of a permission for an extraction constitutes an expropriation procedure which effects his established and functioning business and his property. The district court declared this lawsuit as justified. The counter appeal was unsuccessful.

After the appeal by the defendant state, the Federal High Court of Justice (BGH) has stopped the proceedings and referred to the Federal Constitutional Court in order to get a decision, whether the general principles of water management (Section 6 WHG) acc. to the Water Act are incompatible with the basic right of property (Art. 14 GG).

The Federal Constitutional Court ruled, that in Germany there is a control system which is characterized by the following principles. The Water Act subordinated groundwater under a public law regulation which is separated from the land ownership. These generally do not provide a right for the land owner to have access to underground water, but assigns it to the general public. In the Water Resource Act are no standards that an intended water use should be subject to certain conditions.

So interested parties have no legal entitlement to a permission. The substantive content of the provision for an examination of the regulation complex can be summarized by saying that the Water Resource Act does not grant a right to the land owners to influence the underground water. Just as the powers which end at the property boundaries, his legal position ends in principle where the activity comes into contact with groundwater.

Even though outside the scope of the MINLEX study (it deals with an energy mineral – lignite), another important judgment is the “Garzweiler decision” of the Federal Constitutional Court.

Reference No.: BVerfG, Urt. v. 17. 12. 2013 – 1 BvR 3139/08, 1 BvR 3386/08

Legal protection for expropriation and resettlement – Lignite Mining in Garzweiler

With the second constitutional complaint, the Federation for Environment and Nature Conservation Germany (registered association) (Ger. acronym: BUND) as the owner of a meadow orchard was legally attacking the acquisition procedure for a mining area.

The BUND referred to Art. 14 (1) GG and complained that Sections 77 et seq. BBergG did not constitute a sufficient basis for expropriation.

Furthermore, the BUND argued that it had been infringed in Art. 19 (4) GG (guarantee of effective legal protection), since not all circumstances against the expropriation had been taken into when the general operating plan was approved.

The constitutional complaint was successful. After the proceedings of the BVerfG the North Rhine-Westphalian state government decided in to reduce the opencast mine “Garzweiler II” by about a quarter of its size. As a result, the relocation from the extraction area will affect about 1,400 people less than originally planned. The judgment deals with the statements on the overall assessment of the approval of the general operating plan in the appeal procedure and makes proposals for the elimination of the identified deficits.

1. According to Art. 14 (1, 3) GG an expropriation can only be justified with a sufficiently serious objective (overriding reasons of general interest) which is to be determined by the parliamentary legislator. Therefore, the Act must provide a sufficiently defined purpose, under which conditions and for which projects the expropriation is approved. It is not sufficient to authorize the expropriation of “a project serving the public good.”

2. If an expropriation is intended for a project which is supporting a “public good” within the meaning of Art. 14 GG, this good would have to be indispensable for the realization of this project. In accordance with Article 14 (3) GG, the project is necessary within the meaning of Art. 14 of the Basic Law, if it is reasonably required for the general public by making a substantial contribution to the achievement of the common good.

3. The expropriation requires an overall balance between the public welfare issues which are specific to the project and the public and private interests affected by its implementation.

4. The guarantee of effective legal protection against violations of the property guarantee is only performed if the legal protection against an expropriation is proceeded in time so that an open-ended review of all expropriation requirements can be realistically expected with regard to pre-designations or the actual execution of the project requiring expropriation.

5. The basic right to freedom of movement does not entitle the holder to stay in places in the Federal territory, where rules on land regulation or land use are subject to a forbidden permanent residence, as long as they are generally applicable and do not specifically restrict the free movement of certain persons or groups of persons.

6. Art. 14 GG protects the existence of the concrete (residential) property in its social references as far as they are based on locally strengthened property positions. Art. 14 GG provides the claim that those burdens will be concerned, which deal with the large-scale resettlement measures and the concrete extent of the relocations.

### **1.8. Success rates of exploration and extraction permits**

According to our German experts, statistics on permitting success rates are not collected by permitting authorities.

### **1.9. EU legislation impacting permits and licenses for exploration and extraction**

#### European influence on the German mining law

By its very nature, mining activity depends on mineral deposits that means location-bound and therefore naturally less influenced by cross-border legal constraints. Nevertheless, even the mining law has not remained untouched of the Europeanisation that has captured the national legal systems in the recent decades. However, its impact is shown in very different ways in the individual areas of the regulation of mining law:

- Those legal mining areas, which have the legal allocation of natural resources and the land-related powers (*Berechsamswesen*, land conveyance), have been barely touched by the Europeanisation: The procedure of the *Berechsamswesen* regarding exploration and production of hydrocarbons (gas, oil) was subject of an EU Directive but in Germany no conversion was needed, since the requirements had been met in the German law;
- Much more affected by the Europeanization has been the mining operation, in particular its impact on the environment. This is especially true for the operating plan process which has been significantly influenced by the Europeanized Law of the Environmental Impact Assessments (EIA) and by the European waste legislation;
- The secondary mining law has been influenced by European law (esp. the mining regulations). Particularly in the form of the already mentioned *ABergV*: it is used to implement a variety of EU directives in the field of health care of mining workers.
- Precisely because of the abstention of the *BergG* in the substantive regulation of the conflict relationship between mining and the environment media, the legal scope of mining gets clear after a fully consideration of the environment media (air, water, soil) and their sources of law (Emission law; water law; soil protection law, nature conservation law). Due to their specific protective effect, these rules and their constricting mechanisms, unfold a restriction of mining activity. These environmental legal matters include an advanced stage of European legislation. The

environmental development opportunities of mining activities are mainly determined by European law.

- 1) Does your country have any restrictive regulation on the private or legal entities performing the duties of an exploration or extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

*No*

- 2) Does any of your permitting documentation require the involvement/signature of a geologist or mining engineer? If yes, which are these permits? Does it require a BSc or MSc or PhD or chartered (certified) professional?

*There are provisions requiring experts to be involved, see for instance Section 23a ABergV and provisions in regulations of the Länder.*

- 3) Do you have legislation on financial guarantees (with regard to the Extractive Waste Directive, Art. 14)? Is the cost calculation of this guarantee done by an independent third party?

*a) Yes, Section 7 Gewinnungsabfallverordnung, GewinnungsAbfV, see also Section 22a ABergV; b) No*

- 4) Is there a list of inert mine waste published in your country in accordance with Art. 1(3) of Comm. Dec. 2009/359/EC?

*No reference was found*

- 5) Do you use the risk assessment of 2009/337/EC Commission Decision of 20 April 2009 on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries for abandoned sites as well?

*Answer not available*

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Art. 3: MS may declare at their own option, that the deposit of non-hazardous non-inert mine waste, to be defined by the committee established under Art. 17 of this Directive can be exempted from the provisions in Annex I, points 2, 3.1, 3.2 and 3.3 (location screening, multiple barriers, leachate collection)?

*Answer not available*

- 7) Does a mine operator have to prepare and submit both a general waste management plan and a mine waste management plan as well? To the same or separate authorities?

*a) Yes, Section 22a Allgemeine Bundesbergverordnung, ABergV b) same authorities*

- 8) Has your national legislation transposed the Accounting Directive (2013/34/EC), with special regards its Art. 41-48 on the extractive industry? Do these rules on financial reporting appear in the concession law or mining act either?

*a) Yes, Bilanzrichtlinie-Umsetzungsgesetz, 17.07.2015; b) No, Section 341a Handelsgesetzbuch HGB*

- 9) Has your national legislation transposed the Transparency Directive (2004/109/EC, 2013/50/EU), especially Article on the extractive industry? Do these rules appear in the concession law or mining act either?

a) Yes, Gesetz zur Umsetzung der TransparenzRL-ÄnderungsRL, 20.11.2015; b) No

- 10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipments when permitting or when having on-site inspections? Does the mining authority have a regulatory/supervision right in product safety/market surveillance in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance?

*No reference was found*