



# **MINLEX - Luxembourg Country Report**

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## 1. LUXEMBOURG

### 1.1. Summary of findings

Luxembourg's mineral sector consists of small industrial mineral operations and building materials, mainly for domestic consumption. These minerals include dolomite, limestone, sand and gravel. Slate quarries are no longer active. Limestone is the main mineral commodity. According to the law of April 21<sup>st</sup> 1810, minerals are classified in three categories: "mines", "shallow open-pit mines" and "quarries", defined solely on the basis of the nature of the mineral to extract. The surface and the mineral resources in the subsurface defined as "shallow open-pit mines" (except for alluvial iron, peat) and "quarries" (mainly industrial minerals and construction materials) all belong to the landowner, except the "mines" (metallic resources) which are owned by the State.

The main legislation governing permitting procedures involves the law of April 21<sup>st</sup> 1810 (last amended in 1994), the law of 10<sup>th</sup> June 1999 relative to the classification of potentially dangerous establishments (amended by Grand Ducal regulation of 10<sup>th</sup> May 2012) which **classifies the extractive industry as "class 1" and makes it subject to an "authorisation to operate" procedure following an investigation procedure called "commodo-incommodo"**. Other important laws are the amended law of 19<sup>th</sup> December 2008 on water and Law of 19/01/2004 on the conservation of nature and natural resources. Relevant authorities are the Ministry of Labour, Employment and Social and Solidarity Economy and the Ministry of Sustainable Development and Infrastructure which are the competent authorities for issuing the "authorisation to operate" supported by its Inspectorate of Labour and Mines (ITM) and the Department of Environment (organized in three Administrations: Environment, Nature & Forests and Water Management), the Administration of the Environment, the College of burgomasters and aldermen and the Communes (municipalities).

**Concerning exploration for industrial or construction minerals, it only requires the permission by the landowner, except when it involves drillings as such activity requires a permit according to the commodo-incommodo law.** For industrial minerals and building materials, the resources are well known and further exploration is the responsibility of the companies interested. Concerning "mines" only, the general law of 1810 (Art. 10) states that no one can do research or drill to discover mines on a field without the consent of the landowner. In case of refusal of the latter, an authorisation of the Government may be given after consultation with the Administration of mines and with the owner and after payment of compensation to the owner of the surface.

**With regard to extraction,** besides the Ministries previously mentioned, other co-authorities involved are the Commune(s) concerned by the project. Once an application to extract non-energy minerals is considered complete, the Administration of the Environment asks the Communes concerned to organize a Public Inquiry in commodo-incommodo (with public display and advertising in 4 national daily newspapers). The public inquiry lasts 1 month, at the end of which each Commune shall submit a report (including its own advice and the results of the Public Inquiry) to the Administration of the Environment which transmits copy immediately to the ITM. Finally the 2 competent Ministers (Labour and Environment) make the decision to grant or not the operating authorisation. If there is no decision of the 2 Ministers within the time limit, parties may consider their application rejected and appeal to an administrative court. **A complete procedure of the demand of authorisation, without any problem or delay in "acceptability", will take 198 days (6.5 months)** from the date of receipt of the demand by the Administration of the Environment. But in case of complications (incomplete documents file), this delay could extend to 460 days (15 months), even more to 550 days (18 months). **No court cases relevant to the permitting of the non-energy minerals sector are known.**

No permitting success rates could be estimated for exploration as no exploration permits are awarded in Luxembourg. In the last 5 years only one application was received for a new quarry or a quarry extension, and one application every 10-15 years for new quarries. No information could be obtained on the number of applications approved.

## **1.2. General introduction**

Luxembourg is a Constitutional Monarchy (The Grand Duchy), a Parliamentary Democracy and a prominent financial centre. The country is a member of the Benelux Economic Union and was one of the founding members of the European Union. Except for Malta, Luxembourg is the smallest of the 27 member States of the European Union. The total area of the country is 2,586 km<sup>2</sup>. From an administrative point of view, the territory is split into twelve cantons and 105 communes. The country has two natural regions: Oesling in the north, which represents about a one third of the territory, and Gutland in the south. A third of the territory is covered by forests, and half of it is used for farming and wine-growing purposes.

The Grand Duchy of Luxembourg has a population of 576,000 inhabitants (1 January 2016) capital and largest city is Luxembourg-City (Lëtzebuerg), with about 100.000 citizens. Spoken language is Luxembourgish, administrative languages are French, German, and Luxembourgish. National currency is euro. Luxembourg has a strong financial sector, which accounts for about 36% of GDP. The GDP per capita is highest from all EU Member states (102 101 dollars). The annual GDP growth rate in 2015 was 4.8%. The iron and steel industry is Luxembourg's most economically important mineral industry sector, and steel is the country's main export commodity.

The Grand-Duchy of Luxembourg shows on its small area of 2586 km<sup>2</sup> a surprising geological diversity. It is divided into two major natural regions, which are geologically and geomorphologically different, the differences being the result of Late Tertiary differential uplift movements inducing erosional processes that uncovered the major unconformity zone between the Devonian and the Triassic rocks as seen today. The northern region, covering about a third of the surface of Luxembourg, is called "Eisleck" and belongs to the Ardennes - Rhenish Shield region, a part of the Hercynian mountain belt that extends through France, Belgium and Germany. The southern region, where Mesozoic sediments overlie the Palaeozoic basement, is called "Gutland" and forms the northeastern tip of the Paris Basin. Regarding mineral resources, only a few quarries extracting different kinds of building materials are in production today, but iron ore extraction was an industry of major importance in the past. Other formerly used resources include lead, copper and antimony ores, slate in the "Eisleck" and gypsum in the "Gutland".

### **Mineral ownership**

Minerals are classified in three categories: "mines, shallow open-pit mines & quarries", defined solely on the basis of the nature of the mineral to extract. The surface and the mineral resources in the subsurface defined as "shallow open-pit mines" (except for alluvial iron, peat) and "quarries" (mainly industrial minerals and construction materials) all belong to the landowner, except the "mines" (metallic resources) which are owned by the State of the Grand-Duchy of Luxembourg.

An exception to this general rule takes place in the Canton of Esch and with regard to an oolithique iron ore body which was covered by more than 6m of overburden (in the area to the right or east of the Alzette river – the Esch basin) and by more than 24m of overburden (west of the Alzette river – the Differdange basin). In such Canton and in such basins, minerals located deeper than 6m or 24m are owned by the State, i.e. such oolithique iron ore body belongs to the State and was subject to concession procedures; only minerals located shallower than 6m or 24m belong to the landowner (see LU-L3 in Table 1).

### 1.3. Legislation governing mineral exploration and extraction

The basics of the legislation related to mineral extraction go back to Mining Laws from the 19<sup>th</sup> century (e.g. Law of 21 April 1810, of 14 October of 1842 and of 30 April 1890) from the time when low grade iron deposits were discovered and facilitate the industrial development. Of those, the founding law is the law of 21 April 1810 "*regarding the mines, shallow open-pit mines and quarries*", that underwent many amendments until the end of the 19<sup>th</sup> century (last amended in 1994).

New laws concerning exclusively the mines and shallow open-pit mines (mostly for iron) were introduced between 1937 and 1975 (laws of 27 July 1937, 29 August 1951 and 26 July 1975). Nowadays, the "authorisation" to extract minerals must comply with two set of laws: laws on nature protection and laws instituting "commodo-incommodo" investigation procedures (cf., LU-L15 in the table below).

**Table 1:** Luxembourg. 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	LU-L01	Law of 21/04/1810 about mines, shallow open-pit mines and quarries	<a href="http://www.itm.lu/files/live/sites/Itm/files/legislations/loi_21_avril_1810.pdf">http://www.itm.lu/files/live/sites/Itm/files/legislations/loi_21_avril_1810.pdf</a>	Y	Y	Y	Y	N	Y	Y	Y	Gives definition of mines, shallow open pit and quarries. The extraction permit is the concession  Concerns mines concession, granted by the State

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	
	LU-L02	Law of 10/14/1842 about mines, shallow open-pit mines and quarries	<a href="http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_14_octobre_1842.pdf">http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_14_octobre_1842.pdf</a>	N	N	N	Y	N	N	N	Y	Demands of concessions heard by the Council of the Government. About royalties.
	LU-L03	Law of 15/03/1870 about iron mines of Esch Canton & application law of 12/06/1874, as amended (1890, 1951, 1975)	<a href="http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_15_mars_1870.pdf">http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_15_mars_1870.pdf</a>	Y	N	N	Y	N	Y	N	N	Concessions if ore body deeper than 6 m (east Alzette river) or deeper than 24 m (west of river)
	LU-L04	Law of 10/05/1898 changing art.11 of the law of 21/04/ 1810 on the regime of mines, shallow open-pit mines and quarries	<a href="http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_10_mai_1898.pdf">http://www.itm.lu/files/live/sites/Itm/files/legislation/securite/mines/loi_10_mai_1898.pdf</a>	N	N	Y	N	N	Y	Y	Y	Exploration by drilling, ...Right to expropriate for public utility

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	
	LU-L05	Law of 29/08/1951 submitting shallow open-pit mines to a special regime of ministerial (written) permission ...	<a href="http://eli.legilux.public.lu/eli/etat/leg/loi/1951/08/29/n2">http://eli.legilux.public.lu/eli/etat/leg/loi/1951/08/29/n2</a>	Y	N	Y	Y	N	Y	Y	Y	... (Minister of Works and Mines / Inspection of Works and Mines); suspension or revocation of permit
	LU-L06	Law of 26/07/1975 amending the law of 06/12/1874 on the regime of the mines and shallow open-pits of iron	<a href="http://eli.legilux.public.lu/eli/etat/leg/loi/1975/07/26/n4">http://eli.legilux.public.lu/eli/etat/leg/loi/1975/07/26/n4</a>	N	N	Y	Y	Y	N	N	Y	Right for the concession holder to occupy surface land (access, construction machinery, mineral storage, debris, etc.) Environment and nature
environment	LU-L07	Law of 21/06/1976 relating to the fight against <b>air pollution</b>	<a href="http://www.legilux.public.lu/leg/a/archives/1993/0070/a070.pdf#pa">http://www.legilux.public.lu/leg/a/archives/1993/0070/a070.pdf#pa</a>	Y	Y	N	Y	Y	Y	N	Y	
	LU-L08	Law the 21/06/1976 on <b>noise abatement</b>		Y	Y	N	Y	Y	Y	N	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	
			<a href="#">texte coordonné publié le 06/09/1993</a>									
	LU-L09	Grand-Ducal Regulation of 4/11/1994 on health and safety at work / minimum requirements to improve <b>the safety and protection of health of workers in the extractive industries</b> through drilling, open-pits quarries or underground mines	<a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/1994/11/04/n9">http://eli.legilux.public.lu/eli/etat/leg/rgd/1994/11/04/n9</a>  <a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/1994/11/04/n10">http://eli.legilux.public.lu/eli/etat/leg/rgd/1994/11/04/n10</a>	Y	Y	N	Y	Y	Y	N	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	
	LU-L10	Amended law of 10/06/1999 on <b>classified establishments (commodo &amp; incommodo) – authorisation to operate procedure</b>	<a href="http://eli.legilux.public.lu/eli/etat/leg/loi/1999/06/10/n5">http://eli.legilux.public.lu/eli/etat/leg/loi/1999/06/10/n5</a>	Y	Y	N	Y	Y	Y	N	Y	
	LU-L11	Grand ducal regulation of 30/07/2002 replaced by 14/11/2016 on the protection of workers against the risks related to chemical agents at the workplace	<a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/2002/07/30/n16">http://eli.legilux.public.lu/eli/etat/leg/rgd/2002/07/30/n16</a>  <a href="http://www.legilux.public.lu/leg/a/archives/2016/0235/a235.pdf#page=2">http://www.legilux.public.lu/leg/a/archives/2016/0235/a235.pdf#page=2</a>	Y	Y	N	Y	Y	Y	N	Y	
	LU-L12	Grand-Ducal Regulation of 14/09/2000 on <b>risk studies</b> and reports of security of	<a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/2000/07/17/n8">http://eli.legilux.public.lu/eli/etat/leg/rgd/2000/07/17/n8</a>	Y	Y	N	Y	Y	Y	N	Y	Risk studies is generally <b>not</b> required for extraction industry

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	
		classified establishments										
	LU-L13	Grand-Ducal Regulation of 07/03/2003 on <b>assessment</b> of the <b>impact</b> of some public or private projects <b>on environment</b> of classified establishments	<a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/2003/03/07/n2">http://eli.legilux.public.lu/eli/etat/leg/rgd/2003/03/07/n2</a>	Y	Y	N	Y	Y	Y	N	Y	
	LU-L14	Law of 26/11/2008 on management of wastes from extractive industry	<a href="http://eli.legilux.public.lu/eli/etat/leg/loi/2008/11/26/n1">http://eli.legilux.public.lu/eli/etat/leg/loi/2008/11/26/n1</a>	Y	N	N	Y	Y	N	N	Y	Plan of wastes management to be approved by Environment Ministry
	LU-L15	Regulations Grand-Ducal of 10/05/2012 with <b>new nomenclature and classification of classified establishments / extractive industry</b>	<a href="http://eli.legilux.public.lu/eli/etat/leg/rgd/2012/05/10/n2">http://eli.legilux.public.lu/eli/etat/leg/rgd/2012/05/10/n2</a>	Y	Y	N	Y	Y	Y	N	Y	Extractive Industry all class1 - <b>&gt;authorisation to operate (commodo-incommodo)</b> <b>Conditions: EIA &amp; water studies</b>

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	LU-L16	Law of 19/01/2004 on the conservation of nature and natural resources		Y	Y	N	Y	Y	Y	N	Y	
Water management	LU-L17	amended law of 19/12/2008 on water	<a href="https://eau.public.lu/legislation/Loi_eau.pdf">https://eau.public.lu/legislation/Loi_eau.pdf</a> or <a href="http://www.legilux.public.lu/leg/a/archives/2008/0217/2008A3206A.html">http://www.legilux.public.lu/leg/a/archives/2008/0217/2008A3206A.html</a>	N	N	Y	Y	Y	Y	N	Y	EIA - Protection of water and water management – Commодо-Incommodo procedure

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		No relevant laws identified										
transportation, construction, catastrophe protection, police, military		No relevant laws identified										
culture heritage		No relevant laws identified										
public administration, court procedures		No relevant laws identified										

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

From the amended law of 10/06/1999 on classified establishments (commodo & incommodo) – authorisation to operate procedure, and Regulations Grand-Ducal of 10/05/2012 with new nomenclature and classification of classified establishments / extractive industry, the authorisation for mineral extraction becomes an authorisation to operate granted by the 2 Ministers having the Environment and the Works in their attributions, that is the Ministry of Works, Employment and Social and Solidary economy and the Ministry of Sustainable Development and Infrastructures, assisted by respectively the Administration of Environment and the Inspectorate of Works and Mining (ITM).

This enables the competent authority (e.g. Ministry of the Sustainable Development) to review the operator's compliance with the requirements and conditions related to environmental protection, as stipulated in the permission. The conditions of authorisation can be revised, if negative effects occur which had not been foreseen. Art.22 of the Law of May 1990 provides the possibility to stop immediately the extraction, if the conditions attached to the permission are not fulfilled<sup>1</sup>.

The role of the Federal Government in exploration is rather limited. For industrial minerals and building materials, the reserves are well known and further exploration is the responsibility of the companies interested. Geological data can be obtained from the National Geological Survey. The Geological Survey intervenes by giving opinions only at the request of other administrations, but does not take decisions or issue permits.

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<sup>1</sup> Mineral Planning Policies and Supply Practices in Europe: Commissioned by the European Commission Enterprise Directorate General under Contract n° ETD/FIF 2003 0781. Department of Mining and Tunnelling, University of Leoben, Austria, 2004

**Table 2:** Luxembourg. 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, national)	LU-E01	Ministère du Travail, de l'Emploi et de l'Économie sociale et solidaire	Ministry of Labour, Employment and Social and Solidarity economy	26, rue Sainte-Zithe L-2763 Luxembourg Tél.: (+352) 247-86100 Fax: (+352) 247-86108 E-mail: <a href="mailto:info@mte.public.lu">info@mte.public.lu</a> Site web: <a href="http://www.mte.public.lu">www.mte.public.lu</a>	Competent authority involved in Commodo-incommodo procedure. Final decision to grant the 'authorisation to operate', with Minister LU-E03	N	Y	Y	<a href="#">Arrêté grand-ducal du 24 juillet 2014</a>	
	LU-E02	Inspection du Travail et des Mines (Part of LU-E01)	Inspectorate of Labour and Mines (ITM)	3, rue des Primeurs L-2361 Strassen <a href="http://www.itm.lu">http://www.itm.lu</a>	Administration involved in Commodo-incommodo procedure	N	Y	Y	Law of 4 April 1974	Involved in extraction activities
	LU-E03	Ministère du Développement durable et des Infrastructures - Département de l'Environnement	Ministry of Sustainable Development and Infrastructures - Département Environment	<a href="http://www.developpement-durable-infrastructures.public.lu">http://www.developpement-durable-infrastructures.public.lu</a>	Competent authority involved in Commodo-incommodo procedure. Final decision to grant the 'authorisation to	N	Y	Y	les missions loi du 27/11/1980, art.5	

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		
			4, Place de l'Europe L -1499 Luxembourg	operate", with Minister LU-E01					
LU-E04	<a href="#">Administration de l'Environnement</a>	Administration of Environment	<a href="http://www.environnement.public.lu">http://www.environnement.public.lu</a> 1, avenue du Rock'n'Roll L - 4361 Esch-sur-Alzette	Administration involved in Commodo-incommodo procedure	N	Y	Y	<a href="#">les missions</a> loi du 27/11/1980, art.5	
LU-E05	Collège des Bourgmestres et Echevins	College of burgomasters and aldermen	various	Competent authority involved in Commodo-incommodo procedure	N	Y	Y		
LU-E06	Communes	Municipalities	various	Administration involved in Commodo-incommodo procedure	N	Y	Y		



	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		
Second instance permitting (regional, central, national)	LU-E07	Administration de la Gestion de l'Eau	Administration of water management	1, avenue du Rock'n'Roll L-4361 Esch-sur-Alzette Luxembourg Tél.: (+352) 24556-1 Fax: (+352) 24556-7926  <a href="https://eau.public.lu">https://eau.public.lu</a>	Administration involved in Commodo-incommodo procedure	N	Y	Y	Vote in the Chamber of Deputies on 13 May 2004	
	LU-E08	Administration de la nature et des forêts	Administration of Nature and Forests	<a href="#">Administration de la Nature et des Forêts</a> 81, Avenue de la Gare L-9233 Diekirch	Administration involved in Commodo-incommodo procedure	N	Y	Y	<a href="#">les missions</a> loi du 27/11/1980, art.5	
Court jurisdiction	LU-E09	Tribunal administratif		-	1 <sup>st</sup> 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		
	LU-E10	Cour administrative		.	2 <sup>nd</sup> instance					

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

Concerning “exploration” in order to open a new quarry or to extend an existing one, nothing is mentioned in the law of 21 April 1810 (as amended by law of 10 May 1898).

Concerning “mines” only, the general law of 1810 (art 10) states that no one can do research or drill to discover mines on a field without the consent of the landowner. In case of refusal of the latter, an authorisation of the Government may be given after consultation with the Administration of mines and heard the owner - and payment of compensation to the owner of the surface. The owner can do the research on its own property without prior formalities, but he will have to get a concession before establishing a concession. Research will never be allowed in a field given in concession.

According to the law of 10 June 1999 on classified establishments (cf. LU-L10 in Table 1), exploration boreholes are an exception and are not recognized as classified establishments (unlike other deep wells of class 1) and therefore are not subject to the procedure of *commodo-incommodo*.

### **1.6. Licensing procedures for extraction**

#### Summary of all the different permitting procedures for extraction

The extraction industry is included in the list of classified establishments (**class 1**, regardless the method of extraction and the mineral or product extracted) whose existence, operation or implementation may present causes of danger or inconvenience to the health and safety of workers but also to the public, neighbourhood and environment.

The extraction of industrial or construction minerals in quarries, the only still active today, is consequently submitted **to an “authorisation to operate” after an investigation procedure called “commodo-incommodo”**. The authorisation is granted by the 2 Ministers having the Environment and Works in their attributions, while the demand is instructed by their respective administration: Environment Administration & Inspection of Works & Mines. Local authorities, the Commune(s) concerned by the extraction project, and the public, via a public inquiry, are consulted as well. In global terms, the criteria used to evaluate an application are environmental protection, health and safety of the workforce, and protection of the rights of third parties.

From GD Regulation of 10 May 2012 (cf. LU-L15 in Table 1), the extractive industry establishments [040100] have in any case to provide an assessment of impact of the project on man and the environment (EIA/EIA) (except for the sandpits), and to comply with the obligation to have a specific authorisation about the extraction or discharge of water (except for salt extraction). On the other hand, the extractive industry is exempt from the study of risks and from the safety report, imposed only on the extraction of energy products (oil, gas, coal, bitumen). This is summarized hereafter in a table extracted from (LU-L15):

Col.1	Col.2	Col.3	Col.4	Col.5	Col.8
<b>040100</b>	<b>Extractive Industry</b>	<b>Class</b> see ref. 1	<b>ERI</b> see ref. 1	<b>EIE/EIA</b> see ref.4	<b>WATER</b> see ref. 6 et 7
040101	Quarries and open pit mining exploitation:				
	01 For area > 25 ha or for peat bogs >150 ha	1		I-19	YES
	02 others	1		II-2a	YES
040102	Underground mines exploitation	1		II-2b	YES
040103	Mineral extraction by dredging marine or fluvial	1		II-2c	YES
040104	Fuel and natural gas for commercial purposes, when daily extracted quantities are > 500 t of fuel & > 500.000 m <sup>3</sup> of gas	1	X	I-14	YES
040105	Deep drilling not specified elsewhere under another item, except drilling for soil stability studies	1		II-2d	YES
040106	Surface industrial facilities, for the extraction of coal, fuel, natural gas, minerals and bituminous shales	1	X	II-2e	YES
040107	Sand pits	1			YES
040108	Salt (Extraction and process)	1			YES

### Meaning of column 5

The fifth column entitled "EIA" refers to projects subject to the provisions of the amended Grand-Ducal Regulation of 7 March 2003 on the assessment of the effects of certain public and private projects on the environment.

Institutions and projects marked "I" refer to Art. 4 (a) of this Regulation. Institutions and projects marked 'II' refer to Art. 4 (b) of that Regulation. The numbering according to the figures 'I' or 'II' is an indicative reference to Annexes I and II to the Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11 / EC of 3 March 1997, Directive 2003/35 / EC of the European Parliament and of the Council of 26 May 2003 and Directive 2009/31 / EC of the European Parliament and of the Council of 23 April 2009.

### **Competencies, ref.:**

1 -5: Administration de l'Environnement (1, avenue du Rock'n'Roll; L - 4361 Esch-sur-Alzette; <http://www.environnement.public.lu>)

+ partiellement l' Inspection du travail et des mines (3, rue des Primeurs; L-2361 Strassen; <http://www.itm.lu>)

6: Administration de la Gestion de l'Eau (1, avenue du Rock'n'Roll; L-4361 Esch-sur-Alzette; <https://eau.public.lu>)

7: Administration de la Nature et des Forêts (81, Avenue de la Gare; L-9233 Diekirch; <http://www.environnement.public.lu>)

The procedure of demand for authorisation to operate (according to law of 10 June 1999 and GD Regulation of 10 May 2012) is detailed step by step hereafter:

1. The request for a class 1 establishment (whose content is detailed in Art. 7 of GDR 2012) is addressed (by recommended letter, in 3 copies + 1 copy / Commune) to the Administration of the Environment who shall forward the application to the Inspection of Works and Mines and Communes concerned by the project (all referred to 'Competent authority');

  - Within the 45 days (from the notice of receipt of the request), the competent authorities shall inform the applicant that the application is complete and ready for the public inquiry or that their application is incomplete, by specifying the missing documents.
  - The applicant has an additional period of 180 days (can be extended upon motivated request of 90 days) to complete his file; demand considered as "null and void" if outdated deadlines.
  - Within a new deadline of 45 days (from the notice of receipt of the completed application), the competent authorities must inform the applicant that the application is complete and ready for the public inquiry.
  - If the applicant is still considered as incomplete by the competent authorities, the applicant must be heard within a period of 7 days (date of expiry of the previous period);
  - Within a period of 15 days from the date of the hearing of the applicant, the competent authorities draw up a statement of the status of the case and shall communicate this to the applicant, by registered letter;
  - Within a period of 15 days (from receipt of this notification), the applicant may enter by way of interim President of the administrative tribunal;
  - The decisions rendered in the form of order shall be notified to the applicant and to the competent authorities by the registry of the tribunal. Decisions can be subject to appeal before the administrative court.

2. Within a period of 8 days from the day of observation that the record is complete, the Administration Environment sends to the Communes concerned file to launch a public inquiry:
  - Within a period of 10 days (from receipt of the public inquiry file) Communes organize a public display of a notice indicating the subject of the application (during 15 days);

- In the same period of 10 days, the Communes of over 5000 inhabitants, and always for class 1 projects, inform the public by publication of extract of the application in minimum 4 national daily newspapers (during the same 15 days of display);
  - At the end of the display period, the public inquiry of commodo-incommodo takes place: collection of written comments, listen to interested parties that present themselves;
  - Within a period of 1 month from the expiry of the period of display, a folder containing the opinion of the "Collège des Bourgmestres et Echevins" of all Communes - as well as certificates of publications, PV of the public inquiry - is sent to the Administration of Environment, who communicates a copy without delay to the Inspection of Works and Mines.
3. Within a period of 90 days, from the transmission of the notice of the Communes concerned to the competent authority for class 1 establishments, namely the 2 Ministers having Works and Environment in their assignment, must make their decision on the application for authorisation which must be notified appropriately (according to Art.16);
4. If there is no decision of the 2 Ministers as scheduled, parties may consider their application rejected and appeal to an administrative court.

To summarize, a complete procedure of the demand of authorisation, without any problem or delay in "acceptability", will take 198 days (6,5 months) from the date of receipt of the demand by the Administration of the Environment. But in case of complications (incomplete documents file), this delay could extend to 460 days (15 months), even more to 550 days (18 months).

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

No information available for this section.

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

No permitting success rates could be estimated for exploration as no exploration permits are awarded in Luxembourg. As for authorisations to operate ("extraction permits"), there were very few applications in the last years. In the last 5 years, only 1 application was received for a new quarry or a quarry extension, and 1 application every 10-15 years for new quarries. No information was available on the number of applications approved.

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

- 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)?

*Not known by the respondent*

- 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?

*Not known by the respondent*

- 3) Do you have a 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?

*Yes to both questions*

<http://www.legilux.public.lu/leg/a/archives/2008/0174/2008A2402A.html>

- 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?

*Not known by the respondent*

- 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?

*Not known by the respondent*

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Article 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 Article 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)?

*Not known by the respondent*

- 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?

*Not known by the respondent*

- 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?

*Yes,*

*see*

<http://www.legilux.public.lu/leg/directives/archives/2013/2013D0034.html>

- 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?

*Yes,*

*see*

<http://www.legilux.public.lu/leg/directives/archives/2004/2004D0109.html>

<http://www.legilux.public.lu/leg/directives/archives/2013/2013D0050.html>

- 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?

*Not known by the respondent*