



# **MINLEX - Poland Country Report**

This version has been extracted from MINLEX 's Final Report

**UPDATED IN 2019**



**Disclaimer:** The information and views set out in this study are those of the MinPol team and do not necessarily reflect the official opinion of the European Commission. Neither the European Commission institutions and bodies nor any person acting on their behalf may be held responsible for the use which may be made of the information contained therein.

This project has received funding from the European Commission under Contract n° SI 2.717317



# TABLE OF CONTENTS

- 1. POLAND ..... 2
  - 1.1. Summary of findings ..... 2
  - 1.2. General introduction ..... 3
  - 1.3. Legislation governing mineral exploration and extraction..... 5
  - 1.4. Authorities governing mineral exploration and extraction ..... 17
  - 1.5. Licensing procedures for exploration ..... 51
  - 1.6. Licensing procedures for extraction ..... 62
  - 1.7. Court cases on permitting procedures ..... 74
  - 1.8. Success rates of exploration and extraction permits ..... 88
  - 1.9. EU legislation impacting permits and licenses for exploration and extraction..... 90

## 1. POLAND

### 1.1. Summary of findings

Poland is an important producer of hard coal, lignite, coke, steel, copper, zinc, lead, silver, and many industrial minerals, e.g. salt, sulphur, soda ash, limestone, lime, cement, gypsum, mineral aggregates, etc. Poland ranks as the EU's number one producer of hard coal, coke, copper concentrates, silver, and helium, is 2<sup>nd</sup> in refined copper, sulphur, and soda ash, 3<sup>rd</sup> in lignite, zinc and lead concentrates, cadmium, and selenium, 4<sup>th</sup> in quartz sand, 5<sup>th</sup> in cement, lime, gypsum, and feldspar raw materials and 6<sup>th</sup> in zinc, lead, salt, limestone, and mineral aggregates. It is also the only EU's producer of rhenium. The State Treasury is the owner of all deposits of metal ores (with the exception of bog iron ores), native metals, native sulphur, rock salt, potassium salt, potassium-magnesium salt, gypsum and anhydrite, as well as gemstones. Deposits of other minerals (e.g. sand and gravel, limestone, dolomite) belong to the landowner (Art. §10 Mining Law).

The principal legislation concerning permitting procedures is the Geological and Mining Law (unif. text J.L. of 2015, item 196), Act on the Liberty of Economic Activity (unif. text J.L. 2014, item 1446), Nature Conservation Law (unif. text J.L. 2015, item 1651), Environmental Protection Law (unif. text J.L. 2013, item 1232), Water Law (unif. text J.L. 2015, item 469) and Act on Land Use Planning and Space Management (unif. text J.L. 2015, item 199). The competent authorities and the procedures for obtaining the license are different for state-owned and land-owned mineral deposits, and for exploration and extraction phases, their location, as well as extraction method and size.

For **exploration, in order to receive a prospecting or exploration licence, it is necessary to obtain the environmental permit** ("decision on the environmental conditions" as required by Art. 72, par. 1, of the Act on Providing Information about Environment and its Protection, Public Participation in the Environmental Protection and Assessments of the Environmental Impact). The **competent authority that grants the environmental permit is the Regional Director for Environmental Protection** (in the case of state-owned minerals—excluding curative waters, thermal waters and brines—and in case of investments located at the maritime areas of the Republic of Poland). **For land-owned minerals**, the competent authority is the Head of the municipality (in Polish: *wójt*), that is, the mayor or city president. The exploration licence is granted by the Ministry of the Environment and this includes also a binding contract for mining usufruct. **For state-owned minerals**, the total number of public entities involved in the process is four: the Minister of the Environment, the Head of Municipality, the competent geological administration authority approving the geological documentation and the environmental authority. **For land-owned minerals**, a total of two Marshal or District Head (*starosta*) and the Head of Municipality. It is estimated that the average length to get an exploration licence is of 4.4 months.

For **extraction**, the mining licence can be obtained after fulfilling four steps: i) amendment or approval of spatial documents, ii) elaborating a deposit development plan, iii) obtaining the environmental permit and iv) the establishment of mining usufruct (in case of state-owned minerals). **The procedures for obtaining the extraction license are different for state-owned and land-owned minerals. The authorities responsible for granting the license, as well as co-authorities** (agreeing and expressing opinions), **vary depending on the properties of minerals, their location as well as extraction method and size. Before drawing up the application for the extraction license it is necessary to obtain both spatial and environmental decisions.** The amendment of spatial documents is achieved when the existing study on the preconditions and directions for the spatial development of the municipality (study) is amended. **This requires the modification of the study and/or the local land use plan for using land for mining operations.** For the environmental permit, an applicant/developer needs to evaluate if the project is classified as a "project that **always** has significant impacts on

the environment" (e.g. extraction of minerals: a) by open cast method from a mining area occupying not less than 25 ha, b) by underground method with an annual extraction amount not less than 100,000 m<sup>3</sup>; c) mining waste facility of category A), or as a "project that **could** have a significant impact on the environment" (e.g. extraction of minerals: a) by open cast method from a mining area bigger than 2 ha and an annual extraction rate larger than 20,000 m<sup>3</sup>, b) by an underground method with an annual extraction amount lower than 100,000 m<sup>3</sup>). The environmentally competent authorities granting the permit are the same as previously mentioned. **The mining licence is granted by the Minister of the Environment in the case of state-owned minerals** and in case of a mining area located within the boundaries of the maritime areas of the Republic of Poland, and by the Marshal (head of the provincial-level government) or District Head (*starosta*) for land-owned minerals.

The legal timeframes for authorities to make decisions are defined by the Administrative Proceedings Code, which states that a license should be granted without unnecessary delay. Thus, the time periods for public participation and decision by environmental authorities with respect to the environmental permit are fixed, as is the period to provide feedback on the deposit development plan (14 days). The law determines a legal time frame for making a decision on the approval or rejection of building, water, waste, and mining waste permission within 60 days. All such permissions can be granted in parallel. **Mining permission is obtained generally with a minimum of 3 months (for very small deposits < 2 ha, concession issued by Marshal) and up to 3-5 years (for large deposits**, when the mining concession is issued by the Ministry of the Environment or the Marshal's Office. **The main reasons for delays in the permitting of extraction licences include delays in getting other decisions if they are legally required, e.g. environmental decision, time to complete all required documents, and appeal procedures.** Further difficulties in the permitting process are:

- Problems with the purchase of land including mineral deposits in the case of land-owned minerals
- Areas of special nature value under legal protection, which do not allow or limit minerals extraction (e.g. national parks, natural reserves, Natura 2000 areas, etc.).
- Lack of social acceptance for mining activities.
- Requirements for obtaining many decisions, each issued by different administrative authorities, in order to undertake a licensed activity (lack of a "one-stop shop" or authorities' coordination).
- Limitations on the acquisition of real estate by foreigners: this requires a permit granted by the Ministry of the Interior and the Administration after receiving an opinion from the Minister of Agriculture and Rural Development as well as the Minister of Defence.

Permitting success rates for Lower Silesia (no other success rates could be obtained for other Polish jurisdictions) were 80 % for exploration and extraction in the period 2013-2015.

## **1.2. General introduction**

In Poland and in relation to the Natura2000 areas, the literature shows that, apparently, the increase in the number of protected areas has become a hotbed of numerous conflicts. In spite of the generally favourable attitudes to nature which Polish people generally have, Natura 2000 is perceived as an unnecessary additional conservation tool. Both local authorities and communities residing in the Natura areas think that the programme is a hindrance, rather than a help in the economic development of municipalities or regions, as was initially supposed. This lack of acceptance results from many factors, mainly social, historic and economic (Grodzinska-Jurczak and Cent, 2011).

## **Mineral ownership**

The State Treasury is the owner of deposits of hydrocarbons, methane occurring as accompanying mineral, hard coal, lignite, metal ores (with the exception of bog iron ores), native metals, ores of radioactive elements, native sulphur, rock salt, potassium salt, potassium-magnesium salt, gypsum and anhydrite as well as gemstones. Deposits of other minerals belong to landowner (Art. §10 GML).

### 1.3. Legislation governing mineral exploration and extraction

The principal legislation concerning permitting procedures is the Geological and Mining Law (unif. text J.L. of 2015, item 196), Act on the Liberty of Economic Activity (unif. text J.L. 2014, item 1446), the Nature Conservation Law (unif. text J.L. 2015, item 1651), the Environmental Protection Law (unif. text J.L. 2013, item 1232), the Water Law (unif. text J.L. 2015, item 469), the Act on Land Use Planning and Space Management (unif. text J.L. 2015, item 199).

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

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (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	PL-L1	The Constitution of the Polish Republic (J.L. 1997 No. 78, item 483)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	Y	general principle of economic activity and environment
	PL-L2	Act on the Geological and Mining Law (unif.text J.L. of 2015, item 196)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	licence procedure, required documents, responsibilities for all kind of minerals
	PL-L3	Act on the maritime areas of the Polish Republic and the Maritime Administration (unif. text J.L. 2013, item 934)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	N	N	Y	mineral resources in Polish maritime areas and the exclusive economic zone
	PL-L4	Act on Real Estate Economy (unif. text J.L. 2015, item 1774)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	N	Y	Y	Y	minerals covered by "mining ownership"- public purpose investments

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L5	The Act on Preserving the National Character of Strategic Natural Resources of the Country (J.L. No. 97, item 1051)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	Y	minerals covered by "mining ownership"- public purpose investments
	PL-L6	Act on Extractive Wastes (unif. text J.L. 2013, item 1136)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	N	Y	Y	Y	Y	Y	mine waste permitting
	PL-L7	Regulation of the Minister of the Environment regarding Economic Viability Criteria for Mineral Deposits (J.L. 2001, No. 153, item 1774)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	N	Y	Y	Y	all type of minerals and mines
	PL-L8	Regulation of the Minister of the Environment on the Collection and Sharing of Geological Information (J.L. 2011, No. 282, item 1657)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	N	Y	Y	Y	all type of minerals and mines
	PL-L9	Regulation of the Minister of the Environment on the Use of Geological Information for Remuneration (J.L. 2011, No. 292, item 1724)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	N	Y	Y	Y	terms of use geological information and methods for estimating its value



Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L10	Regulation of the Minister of the Environment regarding Detailed Requirements for Hydro-geological and Geological-Engineering Documentation (J.L. 2014, item 596)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	Y	requirements for documentations
	PL-L11	Regulation of the Minister of the Environment regarding detailed Requirements for the Geological Documentation of Mineral Deposits, Excluding Hydrocarbons Deposits (J.L. 2015, item 987)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	Y	Y	Y	Y	scope of geological documentation
	PL-L12	Regulation of the Minister of the Environment Regarding the Geological-Survey Documentation (J.L. 2015, item 1941)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	N	Y	Y	Y	Y	Y	all type of minerals and mines
	PL-L13	Regulation of the Council of Ministers on the Tender Procedure for the Acquisition of the Right of Mining Usufruct (J.L. 2012, item 101)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	N	Y	N	Y	Y	Y	minerals covered by "mining ownership"

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L14	Regulation of the Minister of the Environment on Detailed Requirements for Pre-feasibility Study of Mineral Deposits (J.L. 2012, item 511)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	N	Y	Y	Y	Y	Y	all type of minerals and mines
	PL-L15	Regulation of the Minister of Internal Affairs and Administration on Mining Plant Operation Plan (J.L. 2012, item 372)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	N	Y	Y	all type of minerals and mines
	PL-L16	Regulation of the Minister of the Environment on Natural Hazards in Mining Plants (unif. text J.L. 2015, item 1702)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	Y	Y	Y	all type of minerals and mines
	PL-L17	Regulation of the Minister of the Economy on Health and Safety at Work, the Performance of Operations and Specialized Fire Protection in Mining Plants, where Basic Minerals are Extracted (J.L. 2002 No.96, item 858)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	N	Y	Y	Y	Y	Y	safety prescriptions

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L18	Regulation of the Minister of Economy, Labour and Social Policy on Health and Safety at Work, the Performance of Operations and Specialized Fire Protection in Mining Plants, where Common Minerals are Extracted (J.L. 2002 No.109, item 962)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	Y	Y	Y	Y	Y	Y	safety prescriptions
	PL-L19	Regulation of the Council of Ministers on Health and Safety at Work, the Performance of Operations and Specialized fire Protection in Underground mines (J.L. 2002 No.139, item 1169)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	y	Y	Y	Y	Y	Y	safety prescriptions
	PL-L20	Regulation of the Council of Ministers on the Acceptance of Products for use in Mining Plants (J.L. 2004, No. 99, item 1003)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	Y	Y	Y	all type of minerals and mines
	PL-L21	Regulation of the Minister of Economy regarding Mining Rescue (J.L. 2001, No. 94,	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	Y	Y	Y	all type of minerals and mines

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		item 838) No. 94, item 838)										
	PL-L22	Regulation of the Minister of the Environment on Detailed Criteria for the Classification of Extractive Waste Facilities (J.L. 2011, No. 86, item 477)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	N	Y	Y	Y	extractive waste
	PL-L23	Regulation of the Minister of the Environment on the Criteria for Assigning Extractive Waste into Inert Waste (J.L. 2011, No.175, item 1048)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	N	Y	Y	Y	extractive waste
	PL-L24	Regulation of the Minister of the Environment on Extractive Waste Characterization (J.L. 2013, item 759)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	N	Y	Y	Y	extractive waste
	PL-L25	Regulation of the Minister of the Environment on the Monitoring of Extractive Waste Facility (J.L. 2014, item 875)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	N	Y	Y	Y	Y	Y	extractive waste

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L26	Regulation of the Minister of the Environment on the Financial Guarantee and its Equivalent for a Disposal of Extractive Waste (J.L. 2015, item 311)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	N	Y	Y	Y	Y	Y	extractive waste
	PL-L27	Regulation of the Minister of the Environment on the Names, Seats and Territorial Jurisdiction of the District Mining Authorities (J.L. 2015, item 456)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	N	all type of minerals and mines
	PL-L28	Regulation of the Minister of the Environment on the Forms Used for Information Regarding Fees from the Provisions of the Geological and Mining Law (J.L. 2015, item 406)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	Y	Y	Y	N	Y	Y	Y	all minerals

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L29	Regulation of the Minister of the Environment regarding the Registration of Mining Areas and Closed Underground Disposal of Carbon Dioxide (J.L. 2014, item 1469)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	N	Y	Y	N	Y	N	all type of minerals and mines
environment	PL-L30	Environmental Protection Law (unif. text J.L. 2013, item 1232)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	environmental principles
	PL-L31	Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment (unif. text J.L. 2016, item 353)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	EIA procedures
	PL-L32	Act on Wastes (J.L. 2013, item 21)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	waste management rules

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L33	Regulation of the Council of Ministers on the Specification of Ventures which May have Substantial Environmental Effects (J.L. 2016, item 71)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	N	N	Y	Y	strategic assessment rules
	PL-L34	Regulation of the Minister of the Environment on natural habitats and species of Community interest, as well as criteria for the selection of areas eligible for recognition or designation as Natura 2000 sites (unif. text J.L. 2014, item 1713)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	Y	Natura 2000 area designation rules
nature conservation, forestry	PL-L35	Act on Nature Conservation (unif. text J.L. 2015, item 1651)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	Y	Y	Y	Y	nature conservation rules
	PL-L36	Act on Forest (unif. text J.L. 2015, item 2100)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	N	N	Y	Y	Y	Y	forest act with rules
	PL-L37	Regulation of the Minister of the Environment on Natural Habitats and species of Community Interest, as well as Criteria for the Selection of Areas Eligible for	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	Y	Y	Y	Y	Y	Y	Natura2000 sites

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		Recognition or Designation as Natura 2000 Sites (unif. text J.L. 2014, item 1713)										
water management	PL-L38	The Water Law (unif. text J.L. 2015, item 469)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	N	Y	Y	permission for water use
land use planning, spatial development, soil management	PL-L39	Act on Land Use Planning and Space Management (unif. text J.L. 2015, item 199)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	N	Y	Y	Y	Y	Y	land use planning rules
	PL-L40	Act on the Protection of Agricultural and Forest Land (unif. text 2015, item 909)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	N	Y	Y	Y	exclusion of land from agricultural and forest production, post-mining reclamation
	PL-L41	National Spatial Development Concept until 2030	<a href="http://mr.bip.gov.pl/strategie-rozwoj-regionalny/17847_strategie.html">http://mr.bip.gov.pl/strategie-rozwoj-regionalny/17847_strategie.html</a>	N	N	Y	Y	N	N	Y	Y	strategic mineral deposits



Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L42	Regulation of the Minister of the Environment on Eco-Physiographical Studies (Journal of Laws No. 155, item 1298)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	Y	Y	Y	
transportation, construction, catastrophe protection, police, military	PL-L43	Construction Law (unif. text J.L. 2016, item 290)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	construction principles and permitting
	PL-L44	Regulation of the Minister of Transport and Maritime Economy on Technical Conditions to be Met by Road Engineering Facilities and their Location (J.L. 2000, No.63, item 735)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	N	Y	Y	Y	requirements for construction of engineering facility at mining protective areas
	PL-L45	Regulation of the Minister of the Infrastructure on Technical Conditions to be Met by Buildings and their Location (J.L. 2015, item 1422)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	N	N	N	Y	Y	Y	Y	Y	construction requirements
culture heritage	PL-L46	Act on Protection and Care of the Historic Monuments (unif. text J.L. 2014, item 1446)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	Y	Y	Y	Y	archaeology and industrial (and other) monuments

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Dead lines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	PL-L47	Regulation of the Minister of Culture and National Heritage on carrying out conservation, restoration and construction works, conservation and architectural research and other activities at the monument entered into the register of monuments as well as archaeological research and Searching of monuments (J.L. 2015, item 1789)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	Y	Y	Y	Y	research and work with monuments
public administration, court procedures	PL-L48	Act on the Liberty of Economic Activity (unif. text J.L. 2015, item 584)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	N	Y	Y	Y	N	Y	Y	concession procedure
	PL-L49	The Administrative Proceedings Code (unif. text J.L. 2016, item 23)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	general rules of permitting
	PL-L50	The Civil Code (J.L. 2014, item 121)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	resolving disputes
	PL-L51	The Criminal Code (J.L. 1997, No. 88, item 553)	<a href="http://isap.sejm.gov.pl/">http://isap.sejm.gov.pl/</a>	Y	Y	Y	Y	Y	Y	Y	Y	rules of court procedures

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

For exploration, in order to receive a prospecting or exploration licence, it is necessary to obtain the environmental permit (“decision on the environmental conditions” as required by Article 72, par. 1, of the Act on Providing Information about Environment and its Protection, Public Participation in the Environmental Protection and Assessments of the Environmental Impact). **The competent authority that grants the environmental permit is the Regional Director for Environmental Protection** (in case of state-owned minerals excluding curative waters, thermal waters and brines and in case of investments located at the maritime areas of the Republic of Poland). **For landowned minerals, the competent authority is the Head of the municipality (wójt), mayor or city president. The exploration licence is granted by the Ministry of the Environment** and this includes also a contract for mining usufruct of binding undertaking. The total amount of public entities involved in the process reaches: for state-owned minerals 4 (Minister of the Environment, Head of Municipality, the competent geological administration authority approving the geological documentation and the environmental authority) and for land-owned minerals a total of 2 (Marshal and the Head of Municipality). There are no available statistics concerning an average length to get an exploration license.

For **extraction**, authorities, which are responsible for granting the license, as well as co-authorities (agreeing and expressing opinion), vary depending on the properties of minerals, their location as well as extraction method and size. The environmentally competent authorities granting the permit are the same as previously mentioned. **The mining licence is granted by the Minister of the Environment in the case of state-owned minerals and in the case of a mining area located within the boundaries of the maritime areas of the Republic of Poland**, and by the Marshall or District Head (*starosta*) for land-owned minerals.

**Table 2:** Poland. 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,	PL-E1	Minister Środowiska	Minister of the Environment	00-922 Warszawa, Wawelska street 52/54, www.mos.gov.pl	granting licence in case of state owned minerals and minerals from the marine territory of Poland; granting agreement for designation of state owned forest for mining activity	Y	Y	N	Act on the Geological and Mining Law (2015); Act on the Protection of Agricultural and Forest Land (2015)	

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		
PL-E2	Minister Energii	Minister of Energy	00-507 Warszawa, Pl. Trzech Krzyży 3/5, www.mg.gov.pl	expressing opinion in licencing procedure for state owned minerals and located in the marine territory of Poland	Y	Y	N	Act on the Geological and Mining Law (2015)	Minister responsible for mineral deposits management
PL-E3	Ministerstwo Gospodarki Morskiej i Żeglugi Śródlądowej	The Ministry of Maritime Economy and Inland Navigation	00-400 Warszawa, ul. Nowy Świat 6/12, www.mgm.gov.pl	granting agreement in licencing procedure (in case of the exclusive economic zone)	Y	Y	N	Act on the Geological and Mining Law (2015)	Minister responsible for Economy of the Sea
PL-E4	Dyrektor Urzędu Morskiego w Gdyni	Director of maritime office in Gdynia	81-338 Gdynia, ul. Chrzanowskiego 10, www.umgdy.gov.pl	EIA procedure, granting agreements in licencing procedure	Y	Y	Y	Act on the Geological and Mining Law (2015); Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment (2016)	For Poland's marine territory

	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		
	PL-E5	Dyrektor Urzędu Morskiego w Gdyni	Director of maritime office in Słupsk	76-200 Słupsk, ul. Niemcewiczka 15A, www.umsl.gov.pl	EIA procedure, licensing procedure	Y	Y	Y	as above	As above
	PL-E6	Dyrektor Urzędu Morskiego w Gdyni	Director of maritime office in Gdynia	70-207 Szczecin, pl. Stefana Batorego 4, www.ums.gov.pl	EIA procedure, licensing procedure	Y	Y	Y	as above	As above
	PL-E7	Prezes Państwowej Agencji Atomistyki	President of the State Atomic Agency	00-522 Warszawa, Krucza street 36, www.paa.gov.pl	expressing opinion in licencing procedure for radioactive elements	Y	Y	N	Act on the Geological and Mining Law (2015)	

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		
PL-E8	Okręgowy Urząd Górniczy w Krakowie	District Mining Office in Cracow	31-503 Kraków, Lubicz street 25, www.wug.bip.info.pl	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan); granting agreement for project of local land use plan; expressing opinion on deposit development plan; expressing opinion on reclamation decisions - all kind of minerals	N	Y	Y	Act on the Geological and Mining Law (2015); Act on the Protection of Agricultural and Forest Land (2015); Act on Land Use Planning and Space Management (2015)	
PL-E9	Okręgowy Urząd Górniczy w Gdańsku	District Mining Office in Gdańsk	80-435 Gdańsk, Biała street 1, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E10	Okręgowy Urząd Górniczy w Gliwicach	District Mining Office in Gliwice	44-122 Gliwice, Jasna street 31 b, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E11	Okręgowy Urząd Górniczy w Katowicach	District Mining Office in Katowice	40-929 Katowice, Obroki street 87,	as above	N	Y	Y	as above	

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		
			www.wug.bip.info.pl						
PL-E12	Okręgowy Urząd Górniczy w Kielcach	District Mining Office in Kielce	25-211 Kielce, Wrzosowa street 44, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E13	Okręgowy Urząd Górniczy w Krośnie	District Mining Office in Krosno	38-402 Krosno, Armii Krajowej street 3, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E14	Okręgowy Urząd Górniczy w Lublinie	District Mining Office in Lublin	20-143 Lublin, Magnoliowa street 2, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E15	Okręgowy Urząd Górniczy w Poznaniu	District Mining Office in Poznań	61-016 Poznań, Gdyńska 45 street,	as above	N	Y	Y	as above	

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		
			www.wug.bip.info.pl						
PL-E16	Okręgowy Urząd Górniczy w Rybniku	District Mining Office in Rybnik	44-200 Rybnik, Bolesława Chrobrego street 8, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E17	Okręgowy Urząd Górniczy w Warszawie	District Mining Office in Warsaw	00-679 Warszawa, Wilcza 46 street, www.wug.bip.info.pl	as above	N	Y	Y	as above	
PL-E18	Okręgowy Urząd Górniczy we Wrocławiu	District Mining Office in Wrocław	50-151 Wrocław, Kotlarska street 41, www.wug.bip.info.pl	as above	N	Y	Y	as above	



	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		
	PL-E19	Wojewódzki konserwator zabytków	Provincial conservation officer	There is 16 in Poland	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan); granting agreement for program restoration of mining heritage	N	Y	Y	Act on Protection and Care of the Historic Monuments (2014)	
	PL-E20	Zarząd województwa	Regional board	There is 16 Regional Boards	granting agreement for project of study on the precondition and directions for the spatial development of the municipality (master plan) and project of local land use plan	N	Y	Y	Act on Land Use Planning and Space Management (2015)	
	PL-E21	Zarząd związku metropolitalnego	Board of the metropolitan association	as above	granting agreement for project of study on the precondition and directions for the spatial development of the municipality (master plan)	N	Y	Y	Act on Land Use Planning and Space Management (2015)	

	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		
	PL-E22	Wojewoda	Voivod	There are 16 in Poland	granting agreement for project of study on the precondition and directions for the spatial development of the municipality (master plan); introduce the area of the documented mineral deposits into the study, and issue on that the replacement ordinance;	N	Y	Y	Act on Land Use Planning and Space Management (2015); Act on the Geological and Mining Law (2015)	
	PL-E23	Zarząd powiatu	District board	There is 380 in Poland	granting agreement for project of local land use plan	N	Y	Y	Act on Land Use Planning and Space Management (2015)	
	PL-E24	Generalny Dyrektor Ochrony Środowiska	General Directorate of Environmental Protection	00-922 Warszawa, ul. Wawelska 52/54, www.gdos.gov.pl	conducts administrative proceedings and participate in the judicial and administrative proceedings relating to EIA procedure	Y	Y	Y	Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment (2016)	

	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		
	PL-E25	Regionalny Dyrektor Ochrony Środowiska w Krakowie	Regional Director for Environmental Protection in Kraków	30-107 Kraków, Plac Na Stawach street 3, <a href="http://krakow.rdos.gov.pl">krakow.rdos.gov.pl</a>	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan) and project of local land use plan; granting environmental permit (EIA) in case of state owned minerals and building permission; granting agreement for environmental permit for ground owned minerals	Y	Y	Y	as above	
	PL-E26	Regionalny Dyrektor Ochrony Środowiska w Białymstoku	Regional Director for Environmental Protection in Białystok	15-554 Białystok, Dojlidy Fabryczne street 23, <a href="http://bialystok.rdos.gov.pl">bialystok.rdos.gov.pl</a>	as above	Y	Y	Y	as above	
	PL-E27	Regionalny Dyrektor Ochrony Środowiska w Bydgoszczy	Regional Director for Environmental Protection in Bydgoszcz	85-059 Bydgoszcz, Dworcowa street 81, <a href="http://bydgoszcz.rdos.gov.pl">bydgoszcz.rdos.gov.pl</a>	as above	Y	Y	Y	as above	

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		
PL-E28	Regionalny Dyrektor Ochrony Środowiska w Gdańsku	Regional Director for Environmental Protection in Gdańsk	80-748 Gdańsk, Chmielna street 54/57, gdansk.rdos.gov.pl	as above	Y	Y	Y	as above	
PL-E29	Regionalny Dyrektor Ochrony Środowiska w Gorzowie Wielkopolskim	Regional Director for Environmental Protection in Gorzów Wielkopolski	66-400 Gorzów Wielkopolski, Jagiellończyka street 8, gorzow.rdos.gov.pl	as above	Y	Y	Y	as above	
PL-E30	Regionalny Dyrektor Ochrony Środowiska w Katowicach	Regional Director for Environmental Protection in Katowice	40-032 Katowice, Dąbrowskiego street 2, katowice.rdos.gov.pl	as above			Y	as above	
PL-E31	Regionalny Dyrektor Ochrony Środowiska w Kielcach	Regional Director for Environmental Protection in Kielce	25-361 Kielce, Karola Szymanowskiego street 6, kielce.rdos.gov.pl	as above	Y	Y	Y	as above	

	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		
	PL-E32	Regionalny Dyrektor Ochrony Środowiska w Lublinie, Regionalny Konserwator or Przyrody	Regional Director for Environmental Protection in Lublin, The Regional Conservator of Nature	20-144 Lublin, Bazylianówka street 46, lublin.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E33	Regionalny Dyrektor Ochrony Środowiska w Łodzi	Regional Director for Environmental Protection in Łódź	90-113 Łódź, Generała Romualda Traugutta street 25, lodz.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E34	Regionalny Dyrektor Ochrony Środowiska w Olsztynie	Regional Director for Environmental Protection in Olsztyn	10-437 Olsztyn, Dworcowa street 60, olsztyn.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E35	Regionalny Dyrektor Ochrony Środowiska w Opolu	Regional Director for Environmental Protection in Opole	45-512 Opole, Obrońców Stalingradu street 66, opole.rdos.gov.pl	as above	Y	Y	Y	as above	

	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		
	PL-E36	Regionalny Dyrektor Ochrony Środowiska w Poznaniu	Regional Director for Environmental Protection in Poznań	60-529 Poznań, Dąbrowskiego street 79, poznan.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E37	Regionalny Dyrektor Ochrony Środowiska w Rzeszowie	Regional Director for Environmental Protection in Rzeszów	35-001 Rzeszów, Piłsudskiego avenue 38, rzeszow.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E38	Regionalny Dyrektor Ochrony Środowiska w Szczecinie	Regional Director for Environmental Protection in Szczecin	71-637 Szczecin, Teofila Firlika street 20, szczecin.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E39	Regionalny Dyrektor Ochrony Środowiska w Warszawie	Regional Director for Environmental Protection in Warszawie	00-015 Warszawa, Henryka Sienkiewicza street 3, warszawa.rdos.gov.pl	as above	Y	Y	Y	as above	

	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		
	PL-E40	Regionalny Dyrektor Ochrony Środowiska we Wrocławiu	Regional Director for Environmental Protection in Wrocław	50-153 Wrocław, Powstańców Warszawy square 1, wroclaw.rdos.gov.pl	as above	Y	Y	Y	as above	
	PL-E41	Państwowy wojewódzki inspektor sanitarny	State provincial sanitary inspector	16 provinces	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan) and project of local land use plan; expressing opinion in EIA procedure	N	Y	Y	Act on Land Use Planning and Space Management (2015); Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment (2016)	
	PL-E42	Państwowy powiatowy inspektor sanitarny	State district sanitary inspector	380 districts	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan) and project of local land use plan; expressing opinion in EIA procedure	N	Y	Y	as above	

	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		
	PL-E43	Regionalny Dyrektor Lasów Państwowych w Białymstoku	Regional Director of State Forests in Białystok	15-424 Białystok, Lipowa street 51, www.bialystok.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E44	Regionalny Dyrektor Lasów Państwowych w Gdańsku	Regional Director of State Forests in Gdańsk	80-804 Gdańsk, Ks. Franciszka Rogaczewskiego street 9/19, www.gdansk.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E45	Regionalny Dyrektor Lasów Państwowych w Katowicach	Regional Director of State Forests in Katowice	40-543 Katowice, Św. Huberta street 43/45, www.katowice.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	



	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		
	PL-E46	Regionalny Dyrektor Lasów Państwowych w Krakowie	Regional Director of State Forests in Kraków	31-159 Kraków, Słowackiego avenue 17a, www.krakow.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E47	Regionalny Dyrektor Lasów Państwowych w Krośnie	Regional Director of State Forests in Krosno	38-400 Krosno, Bieszczadzka street 2, www.krosno.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E48	Regionalny Dyrektor Lasów Państwowych w Lublinie	Regional Director of State Forests in Lublin	20-950 Lublin, Czechowska street 4, www.lublin.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	

	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		
	PL-E49	Regionalny Dyrektor Lasów Państwowych w Łodzi	Regional Director of State Forests in Łódź	91-402 Łódź, Jana Matejki street 16, www.lodz.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E50	Regionalny Dyrektor Lasów Państwowych w Olsztynie	Regional Director of State Forests in Olsztyn	10 - 959 Olsztyn, Kościuszki street 46/48, www.olsztyn.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E51	Regionalny Dyrektor Lasów Państwowych w Poznaniu	Regional Director of State Forests in Poznań	60-959 Poznań, Gajowa street 10, www.poznan.lasy.gov.p	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E52	Regionalny Dyrektor Lasów Państwowych w Radomiu	Regional Director of State Forests in Radom	26-600 Radom, 25 czerwca street 68, www.radom.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	

	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		
	PL-E53	Regionalny Dyrektor Lasów Państwowych w Szczecinie	Regional Director of State Forests in Szczecin	71-434 Szczecin, Słowackiego street 2, www.szczecin.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E54	Regionalny Dyrektor Lasów Państwowych w Piła	Regional Director of State Forests in Piła	64-920 Piła, Kalina street 10, www.pila.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E55	Regionalny Dyrektor Lasów Państwowych w Szczecinku	Regional Director of State Forests in Szczecinek	78-400 Szczecinek, Mickiewicza street 2, www.szczecinek.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	

	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		
	PL-E56	Regionalny Dyrektor Lasów Państwowych w Toruniu	Regional Director of State Forests in Toruń	87-100 Toruń, Mickiewicza street 9, www.torun.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E57	Regionalny Dyrektor Lasów Państwowych w Warszawie	Regional Director of State Forests in Warszawa	03-841 Warszawa, Grochowska street 278, www.warszawa.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E58	Regionalny Dyrektor Lasów Państwowych we Wrocławiu	Regional Director of State Forests in Wrocław	50-357 Wrocław, Grunwaldzka street 90, www.wroclaw.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	

	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		
	PL-E59	Regionalny Dyrektor Lasów Państwowych w Zielonej Górze	Regional Director of State Forests in Zielona Góra	65-950 Zielona Góra, Kazimierza Wielkiego street 24a, www.zielonogora.lasy.gov.pl	expressing opinions: in procedure of designation of state owned forest for mining; in reclamation procedure	N	Y	Y	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E60	Dyrektor regionalnego zarządu gospodarki wodnej	Director of the regional board of water management	There is 16 in Poland	expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan)	N	Y	Y	Act on Land Use Planning and Space Management (2015)	
	PL-E61	Ministerstwo Rolnictwa i Rozwoju Wsi	The Ministry of Agriculture and Rural Development	00-930 Warszawa, Wspólna street 30, www.minrol.gov.pl	granting agreement for designation of agricultural land (classes I-III) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E62	Dolnośląska Izba Rolnicza	Dolnośląska Agricultural Chamber	52 - 411 Wrocław, Wiejska street 29, www.izbarolnicza.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	

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		
PL-E63	Kujawsko-Pomorska Izba Rolnicza	Kujawsko-Pomorska Agricultural Chamber	87-134 Zławieś Wielka, Przysiek 75, www.kpir.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E64	Lubelska izba Rolnicza	Lubelska Agricultural Chamber	20-337 Lublin, Pogodna street 50A/2, www.lir.lublin.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E65	Lubuska Izba Rolnicza	Lubuska Agricultural Chamber	65-364 Zielona Góra, Kożuchowska street 15A, lir.agro.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E66	Izba Rolnicza Województwa Łódzkiego	Agricultural Chamber in Łódź	91-420 Łódź, Północna street 27/29, izbarolnicza.lodz.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	

	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		
	PL-E67	Małopolska Izba Rolnicza	Małopolska Agricultural Chamber	31-964 Kraków, os. Krakowiaków street 45a/15, www.mir.krakow.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E68	Mazowiecka Izba Rolnicza	Mazowiecka Agricultural Chamber	05-075 Warszawa - Wesola, Żólkiewskiego street 17, www.mir.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E69	Izba Rolnicza w Opolu	Chamber of Agriculture in Opole	45-836 Opole, Wroclawska street 107, www.izbarolnicza.opole.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E70	Podkarpacka Izba Rolnicza	Podkarpacka Agricultural Chamber	36-001 Trzebowniko 615 A, pir.xo.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	

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		
PL-E71	Podlaska Izba Rolnicza	Podlaska Agricultural Chamber	16-070 Choroszcz, Porosły 36D, www.piol.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E72	Pomorska Izba Rolnicza	Pomorska Agricultural Chamber	83-000 Pruszcz Gdański, Wojska Polskiego street 3, www.pir.home.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E73	Śląska Izba Rolnicza	Śląska Agricultural Chamber	40-159 Katowice, Jesionowa street 9A, www.sir-katowice.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
PL-E74	Świętokrzyska Izba Rolnicza	Świętokrzyska Agricultural Chamber	25-356 Kielce, Chopina street 15/3, www.sir-kielce.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	



	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		
	PL-E75	Warmińsko-Mazurska Izba Rolnicza	Warmińsko-Mazurska Agricultural Chamber	10-410 Olsztyn, Lubelska street 43 A, wmirol.org.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E76	Wielkopolska Izba Rolnicza	Wielkopolska Agricultural Chamber	60-626 Poznań, Gołęcińska street 9, www.wir.org.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
	PL-E77	Zachodniopomorska Izba Rolnicza	Zachodniopomorska Agricultural Chamber	70-026 Szczecin, Smolańska street 4, www.zir.pl	expressing opinion for designation of forest land (other than state owned) for mining	N	Y	N	Act on the Protection of Agricultural and Forest Land (2015)	
Court jurisdiction	PL-E78	Sądy powszechne	Common courts	list of courts: <a href="https://bip.ms.gov.pl/pl/rejestry-i-ewidencje/lista-sadow-powszechnych/">https://bip.ms.gov.pl/pl/rejestry-i-ewidencje/lista-sadow-powszechnych/</a>	In case of establishment of the mining usufruct	N	Y	N	The Common Courts Law (unof. text, J.L. 2015, item 133)	

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		
PL-E79	Naczelny Sąd Administracyjny	Supreme Administrative Court	00-011 Warszawa, Gabriela Piotra Boduena street 3/5, www.nsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Act on Supreme Court (unif. text J.L. 2013, item 499)	
PL-E80	Wojewódzki Sąd Administracyjny w Białymstoku	Administrative Court in Białystok	15-950 Białystok, Sienkiewicza street 84, www.bialystok.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E81	Wojewódzki Sąd Administracyjny w Bydgoszczy	Administrative Court in Bydgoszcz	85- 035 Bydgoszcz, Jana Kazimierza street 5, www.bydgoszcz.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E82	Wojewódzki Sąd Administracyjny w Gdańsku	Administrative Court in Gdańsk	80-219 Gdańsk, Zwycięstwa avenue 16/17, www.wsa.gdansk.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	

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		
PL-E83	Wojewódzki Sąd Administracyjny w Gliwicach	Administrative Court in Gliwice	44-101 Gliwice, Prymasa S. Wyszyńskiego street 2, www.wsa.gliwice.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E84	Wojewódzki Sąd Administracyjny w Gorzowie Wielkopolskim	Administrative Court in Gorzów Wielkopolski	66-400 Gorzów Wielkopolski, Dąbrowskiego street 13, www.wsa-gorzow.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E85	Wojewódzki Sąd Administracyjny w Kielcach	Administrative Court in Kielce	25-366 Kielce, Prosta street 10, www.kielce.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E86	Wojewódzki Sąd Administracyjny w Krakowie	Administrative Court in Kraków	31-511 Kraków, Rakowicka street 10, www.krakow.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	

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		
PL-E87	Wojewódzki Sąd Administracyjny w Lublinie	Administrative Court in Lublin	20-029 Lublin, M. Curie - Skłodowskiej street 40, www.wsa.lublin.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E88	Wojewódzki Sąd Administracyjny w Łodzi	Administrative Court in Łódź	90-434 Łódź, Piotrkowska street 135, www.lodz.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E89	Wojewódzki Sąd Administracyjny w Olsztynie	Administrative Court in Olsztyn	10-562 Olsztyn, E. Plater street 1, www.wsa.olsztyn.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
PL-E90	Wojewódzki Sąd Administracyjny w Opolu	Administrative Court in Opole	45-372 Opole, Kośnego street 70, www.opole.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	

	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		
	PL-E91	Wojewódzki Sąd Administracyjny w Poznaniu	Administrative Court in Poznań	61-815 Poznań, Ratajczaka 10/12, www.wsa.poznan.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
	PL-E92	Wojewódzki Sąd Administracyjny w Rzeszowie	Administrative Court in Rzeszów	35-016 Rzeszów, Kraszewskiego street 4a, www.bip.rzeszow.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
	PL-E93	Wojewódzki Sąd Administracyjny w Szczecinie	Administrative Court in Szczecin	70-561 Szczecin, Staromłyńska street 10, www.szczecin.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
	PL-E94	Wojewódzki Sąd Administracyjny w Warszawie	Administrative Court in Warszawa	00-013 Warszawa, Jasna 2/4, www.warszawa.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	

	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		
	PL-E95	Wojewódzki Sąd Administracyjny we Wrocławiu	Administrative Court in Wrocław	50-126 Wrocław, Św. Mikołaja street 78/79, www.wroclaw.wsa.gov.pl	Controlling the administrative bodies and the legality of administrative acts e.g. concession	Y	Y	Y	Law on proceedings in administrative courts (unif. text J.L. 2012, item 270)	
	PL-E96	Starosta	District Head	There are 380 in Poland	granting licence for industrial and construction minerals extracted from open-pits without explosives, output up to 20,000 m <sup>3</sup> py and area of up to 2 ha; granting decisions in reclamation process; granting building permission; expressing opinion on project of study on the precondition and directions for the spatial development of the municipality (master plan) and project of local land use plan	N	Y	Y	Act on the Geological and Mining Law (2015); Act on the Protection of Agricultural and Forest Land (2015); Construction Law (2016); Act on Land Use Planning and Space Management (2015)	

	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		
	PL-E97	Wójt/burmistrz/prezydent miasta	Local Heads	There are 2478 communes in Poland	expressing opinion in licencing procedure for exploration; granting agreement for licencing procedure for extraction (all kind of minerals, except located in the marine territory of Poland); granting environmental permit (EIA) for ground owned minerals; expressing opinions on reclamation decisions; expressing opinion on project of study on the precondition and directions for the spatial development (master plan) and project of local land use plan for the neighboring municipality	Y	Y	Y	Act on the Geological and Mining Law (2015); Act on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment (2016); Act on the Protection of Agricultural and Forest Land (2015); Act on Land Use Planning and Space Management (2015)	

	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		
	PL-E98	Marszałek Województwa Dolnośląskiego	Dolnośląskie Province Marshal	50-411 Wrocław Wyrbrzeże Juliusza Słowackiego street 12-14, www.umwd.pl	granting licence for ground owned minerals (more than 2 ha, 20,000 m <sup>3</sup> py); expressing opinion in licencing procedure for licence granted by district heads; granting water permits for minerals from the subsurface underneath inland waters and area with potential flood hazard; granting agreement for designation of agricultural land classes IV-VI for mining; expressing opinion in procedure of designation of agricultural and forest (other than state owned) for mining	Y	Y	N	Act on the Geological and Mining Law (unif.text J.L. of 2015, item 196); The Water Law (unif. text J.L. 2015, item 469); Act on the Protection of Agricultural and Forest Land (unif. text 2015, item 909)	
	PL-E99	Marszałek Województwa Kujawsko-Pomorskiego	Kujawsko-Pomorskie Province Marshal	87-100 Toruń, Teatralny Square 2, www.kujawsko-pomorskie.pl	as above	Y	Y	N	as above	
	PL-E100	Marszałek Województwa Lubelskiego	Lubelskie Province Marshal	20-074 Lublin, Spokojna street 4, www.lubelskie.pl	as above	Y	Y	N	as above	



	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		
	PL-E101	Marszałek Województwa Lubuskiego	Lubuskie Province Marshal	65-057 Zielona Góra, Podgórna street 7, www.lubuskie.pl	as above	Y	Y	N	as above	
	PL-E102	Marszałek Województwa Łódzkiego	Łódzkie Province Marshal	90-051 Łódź, Piłsudskiego avenue 8, www.lodzkie.pl	as above	Y	Y	N	as above	
	PL-E103	Marszałek Województwa Małopolskiego	Małopolskie Province Marshal	30-017 Kraków, Raclawicka street 56, www.malopolskie.pl	as above	Y	Y	N	as above	
	PL-E104	Marszałek Województwa Mazowieckiego	Mazowieckie Province Marshal	03-719 Warszawa, Jagiellońska street 26, www.mazovia.pl	as above	Y	Y	N	as above	

	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		
	PL-E105	Marszałek Województwa Opolskiego	Opolskie Province Marshal	45-082 Opole, Piastowska street 14, www.umwo.opole.pl	as above	Y	Y	N	as above	
	PL-E106	Marszałek Województwa Podkarpackiego	Podkarpackie Province Marshal	35-010 Rzeszów, Łukasza Ciepłińskiego avenue 4, www.umwp.podkarpackie.pl	as above	Y	Y	N	as above	
	PL-E107	Marszałek Województwa Podlaskiego	Podlaskiego Province Marshal	15-888 Białystok, Kardynała Stefana Wyszyńskiego street 1, www.wrotapodlasia.pl	as above	Y	Y	N	as above	
	PL-E108	Marszałek Województwa Pomorskiego	Pomorskie Province Marshal	80-810 Gdańsk, Okopowa street 21/27, urzad.pomorskie.eu	as above	Y	Y	N	as above	

	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		
	PL-E109	Marszałek Województwa Śląskiego	Śląskie Province Marshal	40-037 Katowice, Ligonja street 46, www.slaskie.pl	as above	Y	Y	N	as above	
	PL-E110	Marszałek Województwa Świętokrzyskiego	Świętokrzyskie Province Marshal	25-516 Kielce, IX Wieków Kielc avenue 3, www.sejmik.kielce.pl	as above	Y	Y	N	as above	
	PL-E111	Marszałek Województwa Warmińsko-Mazurskiego	Warmińsko-Mazurskie Province Marshal	10-562 Olsztyn, Emilii Plater street 1, wrota.warmia.mazury.pl	as above	Y	Y	N	as above	
	PL-E112	Marszałek Województwa Wielkopolskiego	Wielkopolskie Province Marshal	61-714 Poznań, Niepodległości avenue 34, www.umww.pl	as above	Y	Y	N	as above	
	PL-E113	Marszałek Województwa Zachodniego	Zachodniopomorskie Province Marshal	70-540 Szczecin, Korsarzy street 34, www.wzp.pl	as above	Y	Y	N	as above	

	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		
		pomorskie go								

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

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

The procedure for obtaining concession for minerals prospecting and exploration consists two partial procedures connected with:

- Obtaining the development concept (EIA).
- Establishment of mining usufruct
- Approving geological works plan
- Approving geological documentation

#### Differences for the different types of mineral deposits

The prospecting and exploration of mineral deposits are economic activities covered by the general regulations of the Act on the Liberty of Economic Activity (unif. text 2015). According to this law, a license is required for those activities. Processes and procedures to obtain the license are regulated by the Act on the Liberty of Economic Activity, in a general manner, and in a particular manner, with reference to mineral deposits, by the Geological and Mining Law, as well as other specific legislation, e.g. in the field of environment.

In general, licensure procedures depend on type of minerals. The Geological and Mining Law divides mineral deposits into two groups:

- Minerals covered by mining ownership = **state-owned mineral deposits**, containing hydrocarbons, methane occurring as accompanying mineral, hard coal, lignite, metal ores (with the exception of bog iron ores), native metals, ores of radioactive elements, native sulphur, rock salt, potassium salt, potassium-magnesium salt, gypsum and anhydrite, gemstones as well as curative waters, thermal waters and brine. The right of mining ownership is owned by State Treasury.
- Minerals covered by the law of real estate ownership of land = **ground-owned mineral deposits**, contains other minerals than listed above, e.g. sand and gravel, limestone, dolomite.

The procedures for obtaining the license are different for state-owned and ground-owned mineral deposits. The authorities which are responsible for granting the license, as well as its agreeing to, and expressing opinion, vary depending on the properties of minerals and their location (see Table 3).

**Ground-owned mineral deposits can be subject to trade. State-owned mineral deposits are not negotiable – they are not for sale.** The State Treasury can extract mineral deposits belonging to it or dispose of them by granting mineral rights. The acquirer of mineral rights has to pay mining usufruct to the State. A tender should precede a mining usufruct that covers the prospecting and exploration of state-owned mineral deposits.

Prospecting and exploration of deposits which are the property of the State Treasury are **public purposes** (Article 6, point 8 the Act on Real Estate Economy). For such mineral deposits, it is possible to obtain the appropriate decisions restricting the use of the property – expropriation of real estates (Section III, Chapter 4, the Act on Real Estate Economy).

### Description of the permitting procedures

Obtaining a **permit to enter the area** within the boundaries of which the planned activity is to be conducted consists of the first step aimed to obtaining the licence for prospecting and exploration. Prospecting and exploration do not require a change of mode of land use, therefore such activities do not need to be included in any spatial document e.g. local land use plan.

Geological works including geological operations can be performed only on the basis of **geological works plan**. The plan of geological works shall define in particular (Article 79 Geological and Mining Law):

- The purpose of the intended works and manner of its achievement.
- The type of geological documentation to be established as a result of geological works.
- A schedule of geological works.
- Space, within which the geological works are to be carried out.
- The activities necessary for the environment protection, including the groundwater, way of the liquidation of the excavation, drilling, land reclamation, and operations to prevent damage arising out from performance of the intended work.

In the case where geological works involve geological operations, "The Mining Plant Operation Plan" has to be prepared. Unless geological operations are conducted outside the mining area, the designated depth of the extraction must not exceed 100 metres and explosives are not to be used. Obtaining **the decision on the environmental conditions (EIA)** is required by Article 72, par. 1, p. 4 of the Act on the release of information about environment and its protection, participation of the public in the environmental protection and assessments of the environmental impact. Regulation of Ministry of Environment on types of projects likely to have significant effects on the environment (unif. text 2016) qualifies planned projects into two groups:

- Projects that always have a significant impact on the environment (e.g. prospecting, exploration and extraction of ores of radioactive elements).
- Projects that could have a significant impact on the environment if the authority that issues decisions on environmental conditions decides that an assessment must be carried out (e.g. prospecting or exploration of mineral deposits: a) in the maritime areas of the Republic of Poland; b) conducted by underground method; c) executed by boreholes at depths of more than 1000 m in protection zones of water intakes, preservation areas of inland water reservoirs as well as at the areas covered by different form of nature conservation).

The project's impact assessment on the Natura 2000 areas will be carried out under the proceedings in the case of the issuance of the decision on the environmental conditions, in the event the project may have a significant impact on the conservation objectives of Natura 2000 areas or areas which are on the list, Article 34 and 35a Act on Nature Conservation (unif. text 2015).

Competent authorities to grant **the decision on the environmental conditions are:**

- Regional Director for Environmental Protection – in case of state owned minerals excluding of curative waters, thermal waters and brines; investments located at the maritime areas of the Republic of Poland.
- Head of the municipality (wójt), mayor or city president – in case of other minerals.

The decision on environmental conditions is issued, taking into consideration:

- the results of the agreements and opinions, as referred to in Article 77 par. 1 of the act on the release of information about environment and its protection, participation of the public in the environmental protection and assessments of the environmental impact)
- the conclusions contained in the project's EIA report;
- the results of the procedure with the participation of the public;

and after identification of conformity of the localisation of the project with the arrangements of the local land use plan, if the said plan has been adopted through a resolution.

**Submission of the application.** The application for the license can be submitted by every entrepreneur conducting business activity (under the Act Liberty of Economic Activity), this also applies to companies with foreign capital. In the application for a license entrepreneur include also request for establishing agreement of mining usufruct. The applicant is obliged to pay treasury fee for official action (issuing license) in the amount of 616 zł (140 €).

Submitted application is **checking in terms of formal and essential requirements** by the licensing authority. When the application is incomplete or requires investigation, the licensing authority can request the applicant to complete the shortcomings and submit additional explanations or evidence. The deadline to examine the application runs from the date of receipt of the completed application. If the applicant does not complete formal deficiencies within 7 days, the application cannot be examined (Article 64, par. 2 of the Code of Administrative Procedure). The licensing authority examines the application also for the presence of Natura 2000 sites within the borders of "licensing area" and possible impact of the mining activity on Natura 2000.

In the case of an application for the license for prospecting and exploration of state-owned mineral deposit (except of curative waters, thermal waters and brines), licensing authority – minister responsible for environment immediately publish in the Public Information Bulletin on the website of the Ministry of Environment notice about the possibility of other applications for the license to perform the same activity in the area covered by the request. The notice includes:

- Indication of the application for the license for prospecting and exploration of mineral deposits.
- The boundaries of the space covered by the application, along with the coordinates of flat rectangular break points of borders in the national spatial reference system.
- The deadline for submitting applications for the license by other entities wishing to engage in activities which concerned no longer than 90 days from the date of advertisement in the Public Information Bulletin.

From the date of advertisement in the Public Information Bulletin is not initiated other proceedings relating to the area and type of activity or type of mineral covered by this announcement, and instituted should be discontinued (Article 28i, Geological and Mining Law).

**Rating of applications in the "open door".** In the event that within the period specified in the notice will not affect the request of another entity for the license to perform activities which concerned the Minister of the Environment leads the proceedings against the person who has applied for a license for prospecting and exploration of mineral deposit first. On the other hand, if on the date specified in the notice it will be made for granting the license to perform activities which concerned the licensing authority evaluates the submitted proposals without unnecessary delay and according to the following criteria (Article 28k, Geological and Mining Law):

- The proposed scope of geological work, including geological operations.

- The proposed time, which is to be granted the concession, including the date of intended operation.
- The financial circumstances of the applicant, in particular the way the financing of the intended activity, including own funds and funds from foreign capital.
- The proposed technology conducting geological work, including geological operations.

Minister of the Environment proceed with the application which received the highest grade, and at the same time refuse to grant licenses to third parties (Article 28k, Geological and Mining Law).

**Transmission of the proposal** for an opinion and agreement to the authorities listed in the

**Table 3:** Poland. Granting license for prospecting for and/or exploration of mineral deposits.

Authorities/ Type of minerals	Licensing authorities	Agreement <sup>1</sup> authorities (binding opinion)	Opinion <sup>2</sup> authorities (non-binding opinion)
State-owned minerals, except curative waters, thermal waters and brines	Minister responsible for the environment	Head of the municipality (wójt), mayor or city president	
Ores of radioactive elements	Minister responsible for the environment		President of the State Nuclear Agency; Head of the municipality (wójt), mayor or city president
Minerals deposits located within the boundaries of the maritime areas of the Republic of Poland	Minister responsible for the environment	Minister responsible for mineral deposits management	Minister responsible for Economy of the Sea; Head of the municipality (wójt), mayor or city president
Curative waters, thermal waters and brines	Marshal		
Mineral deposits located outside the boundaries of maritime areas of the Republic of Poland	Marshal	Head of the municipality (wójt), mayor or city president	

Source: Geological and Mining Law, unified text 2015

The licensing authority **issues the license for prospecting and exploration** of mineral deposit, which in case of state-owned minerals (except of curative waters, thermal waters

1 An agreement is binding for the decision maker

2 An opinion is not binding for the decision maker



and brines) includes also a contract for mining usufruct binding undertaking. Signing of the agreement by licensing authority is the moment of mining usufruct establishment. If the license expires or is withdrawn, the mining usufruct also expires. The license is granted for a period no shorter than 3 years and not longer than 50 years, unless the entrepreneur submitted an application for granting concession for shorter period.

The licensing authority refuses to grant the license when (Article 29, Geological and Mining Law):

- Intended activity contrary to the public interest, in particular associated with national security or environmental protection including the rational management of mineral deposits.
- Could prevent the use of property in accordance with their purpose defined respectively by the local land use plan or separate regulations, in the absence of this plan - could prevent the use of the property in the manner specified in the study of conditions and directions of spatial management or in separate regulations.
- The application for a license covers the same space, type of activity and type of minerals, already covered by the license given to another entity.

The licensing authority **sends an original license** to the applicant (with confirmation of receipt). Copies of decision should be immediately sent to the competent local licensing authorities, the mining authority and head of the municipality (wójt), mayor or city president, as well as the President of the State Mining Authority, the National Fund for Environmental Protection and Water Management and the state geological service. Copies of the decision regarding the maritime areas of the Republic of Polish should be immediately sent to the competent authority of the Maritime Administration.

The party, which was granted with the license for prospecting or extraction of mineral deposit should notify the intention to initiate the activities to the competent (Article 81 Geological and Mining Law):

- Geological administration authority.
- Head of the municipality (mayor, town president), and within the boundaries of the marine areas of the Republic of Poland – to the local maritime administration authority.
- The mining supervision authority – if, to the geological works the requirements on mining plant operations apply.

This notification should be submitted in writing, 2 weeks in advance at the latest, before the planned date of initiating the geological works.

There is a duty to utilize the minerals which are exploited or are removed at the same time geological works are carried out. This duty should be fulfilled in accordance with the provisions concerning mineral extraction and royalties (Article 84 Geological and Mining Law). The results of the geological works should be presented in the geological documentation, together with their interpretation. The aim of preparing the geological mineral deposit documentation is to identify the boundaries of the deposit, its resources, and the geological conditions of its occurrence (Article 88, Geological and Mining Law). When geological documentation provides a basis for granting a license for the minerals extraction, the degree of the deposit exploration should enable the preparation of the pre-feasibility study and the indication of the possibilities and directions of land reclamation after extraction (Article 89 Geological and Mining Law).

The geological documentation should be submitted to the competent geological administration authority in order to approve it by the way of decision (Article 93, Geological and mining Law). The competent geological administration authority should forward the copies of the geological documentation to: 1) the executive bodies of local government units, for the territories of which the geological documentation applies; 2) the competent

authority of the local maritime administration – if the documentation relates to the marine areas of the Republic of Poland (Article 94 Geological and Mining Law).

Public entities involved in the process

In the Table 4 are presented the list of public entities and their role in permitting procedures regards to:

- License for prospecting and exploration
- Decision on the environmental conditions (EIA)
- Approving of geological documentation

**Table 4:** Poland. Public entities involved in the permitting process.

Public entities	Type of procedure	Grants permit	Agreement (legally binding)	Opinion (legally not binding)
Minister responsible for the environment	Licensing procedure	X		
Minister responsible for mineral deposits management	Licensing procedure		X	
Minister responsible for Economy of the Sea	Licensing procedure			X
President of the State Nuclear Agency	Licensing procedure			X
Marshal	Licensing procedure	X		
Head of the municipality (wójt), mayor or city president	Licensing procedure		X	X
	EIA procedure	X		
Director of competent maritime office	EIA procedure		X	
General Directorate of Environmental Protection	EIA procedure – conducts administrative proceedings and participate in the judicial and administrative proceedings relating to projects that could have a significant impact on the environment			
Regional Director for Environmental Protection	EIA procedure	X		X
State Provincial Sanitary Inspector	EIA procedure			X
State District Sanitary Inspector or State Border Sanitary Inspector	EIA procedure			X
Competent geological administration authority	Approval geological documentation	X		

Roles of licencing entities and entities being involved in the decision on the environmental conditions (EIA) are overlapping in the context of analysis influence of the mining investment into Natura 2000 areas.

### Timeframes

The timeframes issue shall be considered regarding at least two scopes:

- the kind of mineral to be the subject of exploration – and related to that different “road map” achieving licenses;
- the effectiveness of particular licensing authorities.

As previously mentioned, there are 3 kinds of licensing authorities:

- the district head (starosta) – responsible for matters related to the approval of projects of geological works and geological documents concerning mineral deposits identified outside the mining property, sought or analysed, in the area up to 2 hectares for opencast mining at up to 20 000 m<sup>3</sup> per calendar year and without the use of blasting agents;
- The minister responsible for environment (the Ministry for the Environment), as the geological administration authority of the first instance, is responsible for issues connected with approving projects of geological works and geological documentation, concerning (inter alia):
  - mineral deposits referred to in Article 10 par. 1, and the hydrogeological conditions in connection with designing the drainage of those deposits as well as forcing water coming from such drainage into rock masses;
  - the Republic of Poland sea territory;
  - granting licenses for prospecting for or exploration of mineral deposits, referred to in Article 10 par.1 of Geological and Mining Law;
- marshal of the voivodship – responsible for the rest of mineral deposits (i.e. deposits not reserved for the competency of district head (starosta) and the Ministry for the Environment).

Moreover, only activities in the scope of prospecting for or exploration of mineral deposits, referred to in Article 10 par.1 of Geological and Mining Law, can be executed after granting of a proper license. Prospecting for or exploration of other kinds of deposits (i.e. minerals not determined in Article 10 par. 1 Geological and Mining Law) does not require obtaining a license, but all geological works are the matter of geological works plan that shall be approved by the geological administration authority, by the way of administrative decision. The table below presents timeframes for granting licenses or for geological works plans approvals.

According to Article 35. § 1 of Administrative Proceedings Code license should be granted without unnecessary delay. If an investigation is required it should be processed within one month, and in particular complicated case within two months from the date of initiation of proceedings. When the application is incomplete or requires investigation, the licensing authority can request the applicant to complete the shortcomings and submit additional explanations or evidence. The deadline to examine the application runs from the date of receipt of the completed application. If the applicant does not complete formal deficiencies within 7 days, the application cannot be examined (Article 64, par. 2 of the Code of Administrative Procedure).

According to the Geological and Mining Law (Article 9), in case if this Act subordinates the decision making of the administrative organ of the cooperation (agreement or expressing an opinion) to another administrative body, it should be done no later than 14 days from the date of delivery of the draft decision.

**Table 5:** Poland. Legal timeframes for EIA, exploration and geological works plans.

Procedures/activity	Period	Comments
<b>Decision on the environmental conditions (EIA)</b>		required before filing the application for the license in accordance with the Act of 3 October 2008 on the freedom of access to information on the environment and its protection, public participation in environmental protection and environmental impact assessments
Public hearing – comments and proposals submitting	21 days	None
Expressing opinion, granting agreement	30 days	None
Granting Decision on the environmental conditions	30 days	None
<b>Granting license for prospecting and / or exploration of mineral deposits</b>		
		concerns mineral deposits, referred to in Article 10 par.1 of Geological and Mining Law, excluding hydrocarbons
Publishing in the Public Information Bulletin on the website of the Ministry of Environment ad about the possibility of other applications for a license to perform the same activity in the area covered by the request	immediately	None
Deadline for submitting applications for licenses by other entities	no longer than 90 days	None
Rating of applications in the "open door"	immediately	None
Obtaining opinions	14 days	None
Sending a copy of license to the concession authorities, mining supervision authorities municipality heads (mayors, presidents of cities) with local competence and the National Fund for Environmental Protection and Water Management	without delay	None
<b>Approving of geological works plan</b>		
	60 days	None
Obtaining opinion of the head of municipality (mayor, city president)	14 days	None

Source: A. Ostręga.

### Geographic areas covered by the permit

The surface of the area covered by the concession for prospecting or exploration of mineral deposit may not exceed 1 200 km<sup>2</sup> (Article 31, par. 2, Geological and Mining Law).

### Rights and duties of the licensee

According to the Article 30 and 31 of the Geological and Mining Law the concession determines:

- 1) The type and manner of performance of the intended activity.
- 2) The space, within the boundaries of which the intended activity is to be performed.
- 3) The validity period of the concession.
- 4) The commencement date of activities specified by the concession and, if necessary – the conditions on which the activities will start.
- 5) The purpose, scope and nature of the intended geological works.
- 6) The scope and schedule for the transfer of geological information and samples obtained in result of the geological works execution.
- 7) The amount of the charge for the activities specified in the concession.

The concession may stipulate other requirements on the performance of activities covered by it, in particular the general safety and environmental protection.

### Legal nature of the rights

The concession authority can transfer a concession, by the way of decision, to the entity that: Meets the requirements stipulated by the regulations of conducting business activity (Article 36):

- Agrees to accept all the conditions arising from the concession.
- In the extent, necessary for performing the intended activity, demonstrates the right to the land real estate, the right for mining usufruct, or the promise of obtaining those rights
- In the extent, necessary for performing the intended activity, demonstrates the right to use the geological information.
- Demonstrates that is capable to meet the requirements concerning performance of the intended activity.

The transfer of the concession can be done at the request of the entity that applies for this transfer. Before the transfer of the concession, the concession authority may change the form, scope or manner of collateral. The transfer of concessions is subject to the submission by the entity to which the concession is transferred, the proof of a bank account creation for the fund mining plant closure and collecting there the funds in the amount of the financial resources gathered by the current entrepreneur.

The transfer of concession should also cause the transfer of the rights and obligations arising from other decisions issued under the Geological and Mining Law.

Transfer of the concession can be done if it is not to the detriment of the public interest, particularly related to the national safety or the environment protection, including the rational management of the mineral deposits and with the consent of the entrepreneur, who was granted the license.

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

The right to the geological information is held by the State Treasury (Article 99, par. 1 Geological and Mining Law). Exploration company, which incurring the cost of prospecting and exploration and did obtain the geological information, is entitled to its use without a charge (Article 99, par. 2 Geological and Mining Law). This company is entitled to the exclusive use of the geological information in order to apply for extraction license during the period of 3 years from the expiry date of the decision on the basis of which the works being the source of the geological information had been performed (Article 100, par. 3 Geological and Mining Law).

Exploration company which explored the mineral deposit, being the subject of mining ownership (state-owned minerals, except of curative waters, thermal waters and brines), and documented in sufficiently to enable preparation of deposit development plan as well as obtained a decision approving the geological documentation of the deposits, may demand the establishment of the mining usufruct for its own benefit, with priority over other parties. This claim expires after three years from the date of notification of the decision approving the geological documentation (Article 15, Geological and Mining Law).

There are more incentives for the hydrocarbons predicted in Geological and Mining Law. Legislator having regard the need to reduce the risks for the investor, combines the most capital-intensive phase associated with the prospecting and exploration of deposits with the extraction stage, in the form of one license for all this activity (Article 21, par. 1, point 2a, and Article 22, par. 1, point 2a).

Exploration company which incurred the cost of prospecting and exploration and did obtain the geological information:

- is entitled to its use without a charge
- is entitled to the exclusive its use in order to apply for extraction license during the period of 3 years from the expiry date of the decision on the basis of which the works being the source of the geological information had been performed
- may demand the establishment of the mining usufruct for its own benefit, with priority over other parties (in case of stated-owned minerals, except of curative waters, thermal waters and brine).

### Average length to get an exploration permit

According to Article 35. § 1 of Administrative Proceedings Code license should be granted without unnecessary delay. If an investigation is required it should be processed within one month, and in particular complicated case within two months from the date of initiation of proceedings. When the application is incomplete or requires investigation, the licensing authority can request the applicant to complete the shortcomings and submit additional explanations or evidence. The deadline to examine the application runs from the date of receipt of the completed application. If the applicant does not complete formal deficiencies within 7 days, the application cannot be examined (Article 64, par. 2 of the Code of Administrative Procedure).

According to the Geological and Mining Law (Article 9), in case if this Geological and Mining Law subordinates the decision making of the administrative organ of the cooperation (agreement or expressing an opinion) to another administrative body, it should be done no later than 14 days from the date of delivery of the draft decision.

There are no available statistics concerning an average length to get an exploration license. Administrative authorities are not obliged to collect and process data including an average length to get an exploration license. The Supreme Audit Office of Poland (*Najwyższa Izba*

*Kontrolii*) checked the procedure of getting license for exploration license for shale gas. The license authorities have been negatively evaluated.

In all 100 examined procedures for license has been exceeded the basic 30-day deadline specified in the Administrative Procedure Code. The average time of these proceedings was 132 days. The shortest processing time for granting the license was 36 days, while the three longest proceedings took 767, 867 and 921 days. The average time of modification of the license was 95 days, and the longest proceedings (22 applications) exceeded 200 days.

The reasons for prolongation of license procedure:

- length to get other decisions if they are required by law, e.g. environmental decision,
- time to complete all required documents,
- appeals.

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

Main problems are as follow:

1. Existing or planned land use (spatial documents), precluding exploration of mineral deposits;
2. Fragmented ownership of land with mineral deposits;
3. Areas of special nature value under legal protection, which do not allow or limit minerals extraction (national parks, natural reserves, Natura 2000, etc.);
4. Lack of social acceptance for mining activity;
5. Dispersed and rapidly changing laws and regulations;
6. Time-consuming procedure of getting the license;
7. Favouritism of activities concerning hydrocarbons – exemption from the requirement of getting the opinion of the competent head of the municipality, town mayor or city president competent place of the intended activity for the plan of the mining plant operation and facilitation in the deposit development plan preparation;
8. Bad quality of data and geological samples together with the results of their processing and interpretation increase the cost of license activity;
9. Requirements of obtaining many decisions issued by different administrative authorities to undertake license activity;
10. Suspension of acquisition of real estate of the Agricultural Property of the Treasury;
11. Limitation of acquisition of real estate by foreigners.

#### Modifications related to extraction permits:

It should be considered to resolve complicated cases of large deposits, where licensing authority is the Ministry of the Environment or Marshall of Province by the agreement. Polish Administrative Procedure Code does not provide the possibility to reach the agreement between the administrative authority and the parties. According to Article 114 Administrative Procedure Code in any case being dealt with by proceedings before a public administration authority, the parties may reach an agreement – if the nature of the case supports it, if it would simplify or quicken proceedings and if it is not contrary to law. There should be considered to enter the parallel solution between administrative authority and party.

#### **Acknowledgements**

The author expresses her gratitude to Hubert Schwarz who contributed to this chapter.

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

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

Procedure of obtaining license for minerals extraction, in general consists a few partial procedures:

- Amendment or passing spatial documents
- Elaborating Deposit Development Plan
- Obtaining the decision on the environmental conditions (EIA).
- Establishment of mining usufruct (if necessary)

### Differences for the different types of mineral deposits

The extraction of mineral deposits is economic activity covered by the general regulations of the Act on the Liberty of Economic Activity. According to this law, a license is required. Processes and procedures to obtain the license are regulated by the Act on the Liberty of Economic Activity, in a general manner, and in a particular manner, with reference to mineral deposits, by the Geological and Mining Law, as well other specific legislation, e.g. in the field of environment.

In general, licensing procedures depends on type of minerals. The Geological and Mining Law divides minerals into two groups:

- Minerals cover by mining ownership = **state-owned mineral deposits**, contains hydrocarbons, methane occurring as accompanying mineral, hard coal, lignite, metal ores (with the exception of bog iron ores), native metals, ores of radioactive elements, native sulphur, rock salt, potassium salt, potassium-magnesium salt, gypsum and anhydrite, gemstones as well as curative waters, thermal waters and brine. The right of mining ownership is owned by State Treasury.
- Minerals covered by the law of real estate ownership of land = **ground-owned mineral deposits**, contains other minerals than listed above, e.g. sand and gravel, limestone, dolomite.

The procedures for obtaining the license are different for state-owned and ground-owned mineral deposits. Authorities, which are responsible for granting the license, as well as its agreeing to, and expressing opinion, vary depending on the properties of minerals, their location and method of operation.

**Ground-owned mineral deposits can be subject to trade. State-owned mineral deposits are not negotiable – they are not for sale.** The State Treasury can extract mineral deposits belonging to it or dispose of them by granting mineral rights. The acquirer of mineral rights has to pay mining usufruct to the State. A tender should precede a mining usufruct that covers the extraction of state-owned mineral deposits.

Extraction of deposits which are the property of the State Treasury are **public purposes** (Article 6, point 8 the Act on Real Estate Economy). Extraction of mineral deposits, in most cases, requires the occupation of large areas. The real-estates which are in the range of the extraction belong to different owners. In the case of ground-owned mineral deposits there is main obstacle in procedure of obtaining the license and conducting extraction. In the case of deposits, which belong to the State Treasury, and their extraction are public purposes, it is possible to obtain the appropriate decisions restricting the use of the property – expropriation of real estates (Section III, Chapter 4, the Act on Real Estate Economy).



## Description of the permitting procedures

**Obtaining rights for geological information** is the first steps aimed to obtaining the license for extraction. The right to the geological information is held by the State Treasury (Article 99, par. 1 Geological and Mining Law). The use of geological information, which is vested with the State, in order to carry out minerals extraction from deposits, takes effect through a contract for remuneration (Article 100, par. 2, p. 1 Geological and Mining Law). Who, incurring the cost of prospecting and exploration and did obtain the geological information, is entitled to its use without a charge (Article 99, par. 2 Geological and Mining Law). This entity is entitled to the exclusive use of the geological information in order to apply for extraction license during the period of 3 years from the expiry date of the decision on the basis of which the works being the source of the geological information had been performed (Article 100, par. 3, Geological and Mining Law).

**Determining the mineral extraction method** in the formal and legal stage of preparing the activity (before submitting the application for the extraction license) is very important for the following reasons:

- The extraction method impacts the spatial order/harmony, determines the size of the area needed to conduct mineral extraction, which determines the spatial planning in the municipality and must be reflected in the study on the precondition and direction for the municipality's spatial development and local land use plan.
- The effects of its impact on the environment, the types and range of influence, dwell times (temporary or permanent) costs of activity liquidation and reparation of changes in the environment are dependent on the manner of extraction of the deposits. Knowledge of the extraction methods is essential for the assessment of the impact of the proposed activity on the environment.
- The decision on the extraction method before drawing up Deposit Development Plan and the preparation of the application for the license is necessary for drawing up the application for the adjusting the findings of the study on the precondition and direction for spatial development of the municipality and local land use plan, as well as a proposal of the scope of the report about the impact of the activity on the environment and obtaining a development consent.

Before drawing up the application for the extraction license for the extraction of minerals it is necessary to obtain both of the following decisions: spatial and environmental. In both cases attaching the characteristics of the planned activity with cartographic documentation, lists and administrative decisions, etc. to the application is required.

**Making changes in the planning documents on the local level** can consist of two steps:

- 1) Amendment of the existing study on the preconditions and directions for the spatial development of the municipality (study) in the scope of plotting the boundaries of documented mineral deposits.

According to Article 95 of the Geological and Mining Law in order to protect documented mineral deposits their boundaries should be presented in the studies and local land use plans as well as the voivodship land use plans. Within a period of up to 2 years from the date of approval of the geological documentation by an administrative body area of documented geological mineral deposits is amended compulsory to the study. If it is not done, during two years, the voivod introduce the area of the documented mineral deposits into the study, and issue on that the replacement ordinance. The study drawn in that manner is resulting in the legal effects such as a study of preconditions and directions of spatial management of the municipality (Article 96, par. 1 Geological and Mining Law).

- 2) Passing or changing the study and/or local land use plan for using land for mining operations.

The boundaries of the mineral deposits in study and local land use plan of the municipality can be not identical with designating the land for mining activities. Only after changing the designation of the land and determining the land development conditions, which takes place in local land use plan, this constitutes the basis for the exclusion of land from the current use and completion of investments (Article 14 Act on Land Use Planning and Space Management, Article 7, par. 1 Geological and Mining Law).

In light of Article 7, par. 2 Geological and Mining Law, to obtain a concession for the extraction of a mineral, it is sufficient to receive consent from the relevant head of the municipality (wójt), mayor or city president on the basis of a study, but establishing the land development conditions takes place, in principle, on the establishments of the local land use plan (Article 14 LUPSM). Exclusions of land from current use may be made only under the findings of local land use plan. It should be noted that in the case of using an underground extraction, the necessary land exclusion from current operations will be limited by the range of industrial and administrative facilities. Under the Act on Land Use Planning and

Space Management (unif. text 2015) changing the study and local land use plan is done according to the same procedure as its approval.

**Obtaining the decision on the environmental conditions (EIA)** is required by Article 72, par. 1, point 4 of the Act on the Release of Information about Environment and its Protection, Participation of the Public in the Environmental Protection and Assessments of the Environmental Impact (unif. text 2013). Regulation of Ministry of Environment on Types of Projects Likely to have Significant Effects on the Environment (unif. text 2016) qualifies planned projects into two groups:

- **Projects that always have a significant impact on the environment** (e.g. extraction of minerals from the deposit: a) by open cast method from the mining area not less than 25 ha, b) by underground method with amount of annual extraction not less than 100 000 m<sup>3</sup>; mining waste facility of category A).
- **Projects that could have a significant impact on the environment** if the authority that issues decisions on environmental conditions decides that an assessment must be carried out (e.g. extraction of minerals from the deposit: a) by open cast method from the mining area bigger than 2 ha and annual extraction bigger then 20 000 m<sup>3</sup>, b) by underground method with amount of annual extraction less than 100 000 m<sup>3</sup>).

The project's impact assessment on the Natura 2000 areas will be carried out under the proceedings in the case of the issuance of the decision on the environmental conditions, in the event the project may have a significant impact on the conservation objectives of Natura 2000 areas or areas which are on the list, Article 34 and 35a Act on Nature Conservation (unif. text. 2015).

Competent authorities to grant **the decision on the environmental conditions are:**

- Regional Director for Environmental Protection – in case of state owned minerals excluding of curative waters, thermal waters and brines; investments located at the maritime areas of the Republic of Poland; radioactive waste dumps.
- Head of the municipality (wójt), mayor or city president – in case of other minerals.

The decision on environmental conditions is issued, taking into consideration:

- the results of the agreements and opinions, as referred to in Article 77 par. 1 of the act on the release of information about environment and its protection, participation of the public in the environmental protection and assessments of the environmental impact);
- the conclusions contained in the project's EIA report;
- the results of the procedure with the participation of the public;

and after identification of conformity of the localization of the project with the arrangements of the local land use plan, if the said plan has been adopted through a resolution.

**Preparation of the Deposit Development Plan** is required by the Geological Mining Law Article 26, par. 3 and Regulation of the Minister of the Environment dated 24<sup>th</sup> April 2012 regarding Detailed Requirements for the Deposit Development Plan. The Deposit Development Plan is attached to the application for an extraction license and should include: conditions contained in the decision on the environmental conditions and cover the designed mining area. Deposit Development Plan is drawn up in written, graphical and tabular forms and specify: mineral resources in different categories; mining area and mining protective area; the requirements for the rational management of minerals deposit, in particular through a comprehensive and rational use of the main mineral as well as accompanying minerals, and extraction technology ensuring the reduction of the adverse environmental impacts. There is no obligation to elaborate Deposit Development Plan in case of license granting by the district head (starosta) (Article 26, par. 3 Geological and Mining Law). In case of state-owned minerals, excluding hydrocarbons, curative waters, thermal waters and brines, investor should obtain opinion from the competent mining authority (opinion should be granted within 14 days).

**Submission of the application to the licensing authorities** (Table 6). The application for a license can be turned by every entrepreneur conducting business activity (under the Act Liberty of Economic Activity), this also applies to companies with foreign capital. In the application for a license entrepreneur include also request for establishing agreement of mining usufruct. The applicant is obliged to pay stamp duty for official action (issuing concession) in the amount of 616 zł (140 €). List of the documents (attachments) which may be required:

1. Deposit Development Plan
2. The decision on the environmental conditions
3. The decision approving the geological documentation
4. Evidence of the existence of the right to use the geological information
5. Evidence of the applicant's rights to a plot of land, within which it is to be carried out the intended activity relating to the extraction of mineral opencast
6. Proof promise establish the right of land
7. Proof of payment of stamp duty
8. Opinion of the competent supervisory authority of the Deposit Development Plan
9. Excerpt from the land register
10. A statement of how the observations or the reasons for their rejection
11. Information about the lack of an opinion from the supervisory authority of the mining deposit development plan

**Table 6:** Poland. Granting concession for the extraction of mineral deposits.

Authorities Type of minerals, methods of extraction	Licensing authorities	Agreement <sup>3</sup> authorities	Opinion <sup>4</sup> authorities
State-owned minerals, except of curative waters, thermal waters and brines	Minister responsible for the environment	Minister responsible for mineral deposits management (Minister of Energy); Head of the municipality (wójt), mayor or city president; Authority competent for water maintenance in case (1)	Authority competent for granting Water Law permit in case (1)
Minerals deposits located within the boundaries of the maritime areas of the Republic of Poland	Minister responsible for the environment	Director of competent maritime office; (in case of the exclusive economic zone – minister responsible for maritime economy)	
Ores of radioactive elements	Minister responsible for the environment	Head of the municipality (wójt), mayor or city president	President of the State Nuclear Agency
Minerals deposits located outside the boundaries of maritime areas of the Republic of Poland	Marshal	Head of the municipality (wójt), mayor or city president; Authority competent for water maintenance in case (1)	Authority competent for granting Water Law permit in case (1)
Curative waters, thermal waters and brines	Marshal	Head of the municipality (wójt), mayor or city president	
Ground owned minerals, were at the same time, the following requirements are met: <ul style="list-style-type: none"> <li>the area of documented deposit does not exceed 2 ha;</li> <li>the mineral extraction from the deposit does not exceed 20,000 m<sup>3</sup> during a calendar year;</li> <li>activities will be conducted with open pit method and without the use of explosives.</li> </ul>	District Head (Starosta)	Head of the municipality (wójt), mayor or city president; Authority competent for water maintenance in case (1)	Marshal; Authority competent for granting Water Law permit in case (1)

Source: Geological and Mining Law, unified text 2015

3 An agreement is binding for the decision maker

4 An opinion is not binding for the decision maker

Case (1) – Minerals deposits from the subsurface underneath inland waters and on the areas exposed to direct or potential flood hazard.

**Submitted application is checking in terms of formal and essential requirements** by the licensing authority. The licensing authority examines the application also for the presence of Natura 2000 sites within the borders of “licensing area” and possible impact of the mining activity on Natura 2000.

**The establishment of mining usufruct** is necessary in case of state-owned minerals, excluding of curative waters, thermal waters and brines (Article 12, par. 1 Geological and Mining Law). It shall be done in the way of written agreement under pain of nullity. The agreement determines the remuneration for the setting up of mining usufruct and the manner of its payment. The agreement is signed for the restricted period, no longer than 50 years (Article 13 Geological and Mining Law). The establishment of mining usufruct may be preceded by a tender (Article 14 Geological and Mining Law). The one who explored the mineral deposit, being the subject of mining ownership, and documented in sufficiently to enable preparation of deposit development plan as well as obtained a decision approving the geological documentation of the deposits, may demand the establishment of the mining usufruct for its own benefit, with priority over other parties (Article 15, par. 1 Geological and Mining Law). If the license expires or is withdrawn, the mining usufruct also expires.

If none of the parties raised objections, **the licensing authority grants the license** for a period no shorter than 3 years and not longer than 50 years, unless the entrepreneur submitted an application for granting concession for shorter period.

**The licensing authority refuses to grant the license** when:

- Intended activity contrary to the public interest, in particular associated with national security or environmental protection including the rational management of mineral deposits.
- Could prevent the use of property in accordance with their purpose defined respectively by the local land use plan or separate regulations, in the absence of this plan – could prevent the use of the property in the manner specified in the study of conditions and directions of spatial management or in separate regulations.
- The application for a license covers the same space, type of activity and type of minerals, already covered by the license given to another entity.

The licensing authority sends an original license to the applicant (with confirmation of receipt). Copies of decision should be immediately sent to the competent local licensing authorities, the mining authority and head of the municipality (wójt), mayor or city president, as well as the President of the State Mining Authority, the National Fund for Environmental Protection and Water Management and the state geological service. Copies of the decision regarding the maritime areas of the Republic of Poland should be immediately sent to the competent authority of the Maritime Administration.

The licensing authority sends to the Polish Geological Institute – **Registry of Mining Areas** in Warsaw within 14 days from the date on which the decision to grant a license became final, a copy of the decision to award a concession for the minerals extraction, maps of the mining area and the mining protective area and other related documents in order to enter them in the register. Polish Geological Institute sends the maps of the mining area and mining protective area to the mining supervisors, municipalities, enterprises and the Minister of the Environment. The boundaries of the mining area and mining protective area specified in the license should be published in the usual manner in the community.

Public entities involved in the process

In the Table 7 are presented the public entities and their role in permitting procedures regards to:

- License for extraction
- Decision on the environmental conditions (EIA)
- Deposit Development Plan

**Table 7:** Poland. Public entities involved in the permitting process.

Public entities	Type of procedure	Grants permit	Agreement (legally binding)	Opinion (legally not binding)
Minister responsible for the environment	Licensing procedure	X		
Minister responsible for mineral deposits management	Licensing procedure		X	
Director of competent maritime office	Licensing procedure		X	
	EIA procedure		X	
President of the State Nuclear Agency				X
Marshal	Licensing procedure	X		X
Authority competent for granting Water Law permit	Licensing procedure			X
Authority competent for water maintenance in case	Licensing procedure		X	
District Head ( <i>Starosta</i> )	Licensing procedure	X		
Head of the municipality ( <i>wójt</i> ), mayor or city president	Licensing procedure		X	
	EIA procedure	X		
General Directorate of Environmental Protection	EIA procedure – conducts administrative proceedings and participate in the judicial and administrative proceedings relating to projects that could have a significant impact on the environment			
Regional Director for Environmental Protection	EIA procedure	X		X
State Provincial Sanitary Inspector	EIA procedure			X
State District Sanitary Inspector or State Border Sanitary Inspector	EIA procedure			X

Public entities	Type of procedure	Grants permit	Agreement (legally binding)	Opinion (legally not binding)
Mining Supervision Authority	Deposit Development Plan			X

Source: A. Ostręga

Roles of licencing entities and entities being involved in the decision on the environmental conditions (EIA) are overlapping in the context of analysis influence of the mining investment into Natura 2000 areas.

#### Timeframes

According to Article 35. § 1 of Administrative Proceedings Code license should be granted without unnecessary delay. If an investigation is required it should be processed within one month, and in particular complicated case within two months from the date of initiation of proceedings. When the application is incomplete or requires investigation, the licensing authority can request the applicant to complete the shortcomings and submit additional explanations or evidence. The deadline to examine the application runs from the date of receipt of the completed application. If the applicant does not complete formal deficiencies within 7 days, the application cannot be examined (Article 64, par. 2 of the Code of Administrative Procedure).

According to the Geological and Mining Law (Article 9), in case if this Act subordinates the decision making of the administrative organ of the cooperation (agreement or expressing an opinion) to another administrative body, it should be done no later than 14 days from the date of delivery of the draft decision.

**Table 8:** Poland. Legal timeframes for decisions on EIA, deposit development plan and other licences.

Procedures/activity	Period	Comments
<b>Decision on the environmental conditions (EIA)</b>		required before filing the application for the license in accordance with the Act of 3 October 2008 on the freedom of access to information on the environment and its protection, public participation in environmental protection and environmental impact assessments
Public hearing – comments and proposals submitting	21 days	
Expressing opinion, granting agreement	30 days	
Granting Decision on the environmental conditions	30 days	
<b>Deposit Development Plan</b>		attachment to the application for the license
Expressing opinion of by Mining Supervision Authority	14 days	concerns only mineral deposits referred to in Article 10 sec. 1 Geological and Mining Law

Procedures/activity	Period	Comments
<b>Granting license</b>		
Obtaining agreements	14 days	
Obtaining opinions	14 days	
Sending a copy of license to the Polish Geological Institute – Registry of Mining Areas in Warsaw	without delay	
<b>Granting Building permission*</b>	65 days	required in accordance with the Act of 7 July 1994 on the Construction Law
<b>Granting Water permission*</b>	60 days	required in accordance with the Act of 18 July 2001 on the Water Law
<b>Granting Waste permission*</b>	60 days	required in accordance with the Act of 14 December 2012 on the Waste Law
<b>Granting Mining Waste permission*</b>	60 days	required in accordance with the Act of 10 July 2008 on the Mining Waste Law
<b>Granting the approval of the plan of the mining plant operation</b>	30 days	required in accordance with the Article 108 of Geological and Mining Law

Note: Most of decisions marked with an asterisk (\*) can be granted in parallel. Source: A. Ostręga.

#### Geographic areas covered by the permit

The borders of areas covered by permit results from minerals deposits location. Possible limitations result from e.g. land ownerships and protected areas.

#### Rights and duties of the licensee

According to the Article 30 and 32 of the Geological and Mining Law a license determine:

- 1) The type and manner of performance of the intended activity.
- 2) The space, within the boundaries of which the intended activity is to be performed.
- 3) The validity period of the license.
- 4) The commencement date of activities specified by the concession and, if necessary – the conditions on which the activities will start.
- 5) The boundaries of a mining area and mining protective area the basis for it is a geological documentation and Deposit Development Plan.
- 6) The license entitles to pursue an economic activity within the indicated space.



- 7) Requirements results from the regulations on environmental protection and economic activities.

The license may stipulate other requirements on the performance of activities covered by it, in particular the general safety.

The license for extraction of mineral from a deposit may also determine:

- 1) The minimum resource utilization and the operations necessary for the rational development of the deposit.
- 2) The conditions for injection into the formation of water originating from mines and quarries, formation waters or used brines, curative and thermal waters; in such cases the regulation on use of water and the charges for using the environment shall not apply.

The concession granted by the district head (*starosta*) should also determine the performance of operations in the mining plant, as well as the manner of mining plant's closure.

#### Legal nature of the rights

The licensing authority can transfer a license, by the way of decision, to the entity that meets the requirements stipulated by the regulations of conducting business activity (Article 36):

- Agrees to accept all the conditions arising from the concession.
- In the extent, necessary for performing the intended activity, demonstrates the right to the land real estate, the right for mining usufruct, or the promise of obtaining those rights.
- In the extent, necessary for performing the intended activity, demonstrates the right to use the geological information.
- Demonstrates that is capable to meet the requirements concerning performance of the intended activity.

The transfer of the concession can be done at the request of the entity that applies for this transfer. Before the transfer of the concession, the concession authority may change the form, scope or manner of collateral. The transfer of concessions is subject to the submission by the entity to which the concession is transferred, the proof of a bank account creation for the fund mining plant closure and collecting there the funds in the amount of the financial resources gathered by the current entrepreneur. The transfer of concession should also cause the transfer of the rights and obligations arising from other decisions issued under the Geological and Mining Law.

Transfer of the concession can be done if it is not to the detriment of the public interest, particularly related to the national safety or the environment protection, including the rational management of the mineral deposits and with the consent of the entrepreneur, who was granted the concession.

The concession expires (Article 38, Geological and Mining Law):

- When the period for which it was granted has lapsed.
- When it has become purposeless.
- In the case of the death of the entrepreneur being physical person.
- In case of liquidation of the entrepreneur.
- In case of the surrender of the concession.

#### Average length to get an extraction permit

According to Article 35. § 1 of Administrative Proceedings Code (unif. text 2013) licence should be granted without unnecessary delay. If an investigation is required it should be

processed within one month, and in particular complicated case within two months from the date of initiation of proceedings.

When the application is incomplete or requires investigation, the licensing authority can request the applicant to complete the shortcomings and submit additional explanations or evidence. The deadline to examine the application runs from the date of receipt of the completed application. If the applicant does not complete formal deficiencies within 7 days, the application cannot be examined (Article 64, par. 2 of the Code of Administrative Procedure).

According to the Geological and Mining Law (Article 9), in case if this Act subordinates the decision making of the administrative organ of the cooperation (agreement or expressing an opinion) to another administrative body, it should be done no later than 14 days from the date of delivery of the draft decision.

In practice license is granted within 1,5–3 months (in case of small and ground-owned deposits), up to 3-5 years (in case of large deposits, where licensing authority is the Ministry of the Environment or Marshall Office).

The reasons for prolongation of license procedure:

- lengthy proceedings on arrangements location of mining protective areas,
- length to get other decisions if they are required by law, e.g. environmental decision,
- time to complete all required documents,
- appeals procedures.

#### Access to information on the environment

Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment was implemented to Polish law. Access to public environmental information is granted by law. Poland ensures that public authorities are required to make available information relating to the environment to any natural or legal person at his request and without his having to prove an interest.

#### **Hydrocarbons**

Poland is being introducing Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons. All requirements would be fulfilled by Polish law.

#### **Access to geological data**

The geological administration collects, preserves, protects and presents the geological information. Geological data is openly accessible. Polish law distinguishes presentation of geological data from the right to its use. The rule is that who, incurring the cost of work carried out in result of decisions issued under Geological and Mining Law, did obtain the geological information, is entitled to its use without a charge.

#### **The acquisition of real estate by foreigners**

In the application for granting the concession shall be specified the applicant's rights to the real estate (space), within the boundaries of which the intended licensed activities shall be performed, or specification of the right that the applicant seeks to obtain. Therefore, the entrepreneur should be entitled to the real estate based on the ownership or lease agreement.

The acquisition of real estate by foreigners is limited by Polish law (Act of 24 March 1920 on the Acquisition of Real Estate by Foreigners). The acquisition of real estate by a foreigner requires a permit. The permit is issued by way of an administrative decision by the Minister of Interior, if the Minister of National Defence does not raise any objection, and in case of agricultural real estate, if the minister of rural development does not raise any objection. It is not required to obtain the permit in case of foreigners who are citizens or business operators in the states being parties to the agreement on the European Economic Area or the Swiss Confederation.

The permit is not required for leasing the mining property.

### **The acquisition of real estate of the Agricultural Property of the Treasury**

The acquisition of real estate of the Agricultural Property of the Treasury is suspended for five years (till 2021) by Polish law (Act of 14 April 2016 on the Suspension of Acquisition of real estate of the Agricultural Property of the Treasury). The limitations with some given exceptions refer to any natural or legal person apart from nationality or place of registered seat. The acquisition of real estate of the Agricultural Property of the Treasury requires a permit issued by way of an administrative decision by the Minister of rural development.

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

Main problems are:

- Existing or planned land use (spatial documents), precluding extraction of mineral deposits.
- Fragmented ownership of land with mineral deposits.
- The problem with the purchase of land including mineral deposits in case ground-owned minerals (expropriation is possible only in case of state-owned minerals).
- Areas of special nature value under legal protection, which do not allow or limit minerals extraction (national parks, natural reserves, Natura 2000, etc.).
- Lack of social acceptance for mining activity.
- Dispersed and rapidly changing laws and regulations.
- No geologists in many county offices, while the district head is a licensing authority, which causes irregularities.
- Time-consuming procedure of getting the license.
- Requirements of obtaining many decisions issued by different administrative authorities to undertake licensed activity.
- Suspension of acquisition of real estate of the Agricultural Property of the Treasury.
- Limitation of acquisition of real estate by foreigners.

#### Modifications related to extraction permits:

It should be considered to resolve complicated cases of large deposits, where licensing authority is the Ministry of the Environment or Marshall of Province by the agreement. Polish Administrative Procedure Code does not provide the possibility to reach the agreement between the administrative authority and the parties. According to Article 114 Administrative Procedure Code in any case being dealt with by proceedings before a public administration authority, the parties may reach an agreement – if the nature of the case supports it, if it would simplify or quicken proceedings and if it is not contrary to law. There should be considered to enter the parallel solution between administrative authority and party.

#### **Acknowledgement**

The author expresses her gratitude Hubert Schwarz who contributed to this chapter.

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

### Judiciary of Poland

Judiciary of Poland is a responsibility, as defined by the constitution of Poland, of a four-tier court system: the Supreme Court of Poland, the common courts, administrative courts (including the Supreme Administrative Court of Poland) and military courts. According to Article 175 section 1 of the Constitution of The Republic of Poland the administration of justice in the Republic of Poland shall be implemented by the Supreme Court, the common courts, administrative courts and military courts. Therefore, tribunals (such as the Constitutional Tribunal and State Tribunal) are, in a strict definition, not part of Polish judiciary, but in a broad definition, they are included in it.

### The common courts

The common courts, divided into appellate courts, district courts and regional courts, have the competency in criminal, civil, economic, labour and family law.

The common courts have jurisdiction in following matters related to mining – demanding the establishment of the mining usufruct to the one who explored the mineral deposit for its own benefit, with priority over other parties; demanding the right to use that real estate or a part thereof, for the defined period with the remuneration; responsibility for the mining damages.

### The administrative courts

An administrative court is a type of court specializing in administrative law, particularly disputes concerning the exercise of public power. Their role is to ascertain that official acts, including concessions, are consistent with the law. Such courts are considered separate from general courts. The administrative acts, what is characteristic, become binding without the consent of the other involved parties. The administrative courts consist of Voivodship Administrative Courts (Polish: *Wojewódzkie Sądy Administracyjne*) and the Supreme Administrative Court (Polish: *Naczelny Sąd Administracyjny*). The Supreme Administrative Court is the court of last resort in administrative cases, which deals with appeals from lower administrative courts called Voivodship Administrative Courts.

### The administrative procedure

In Poland, the public administration has got two levels, local/regional (first-instance) and regional/central (second-instance) in general, meaning that the competent authority's resolution on the application for license can be appealed by the client who disagrees with its content. In this case, it comes to the second-instance authority. In case it is still not satisfying for the applicant, it can go to the administrative court of justice which has two levels - Voivodship Administrative Courts (lower administrative courts) and the Supreme Administrative Court. In case the applicant can prove that the piece of legislation, on which the resolution is based upon, is not in line with the Constitution, the Constitutional Tribunal can repeal it or its paragraph in question.

### The geological administration authority - the concession for the extraction of minerals from deposits

Article 161 section 1 of Geological and Mining Law regulates the administrative authority appropriate for granting the license. There are 3 kinds of licensing authorities:

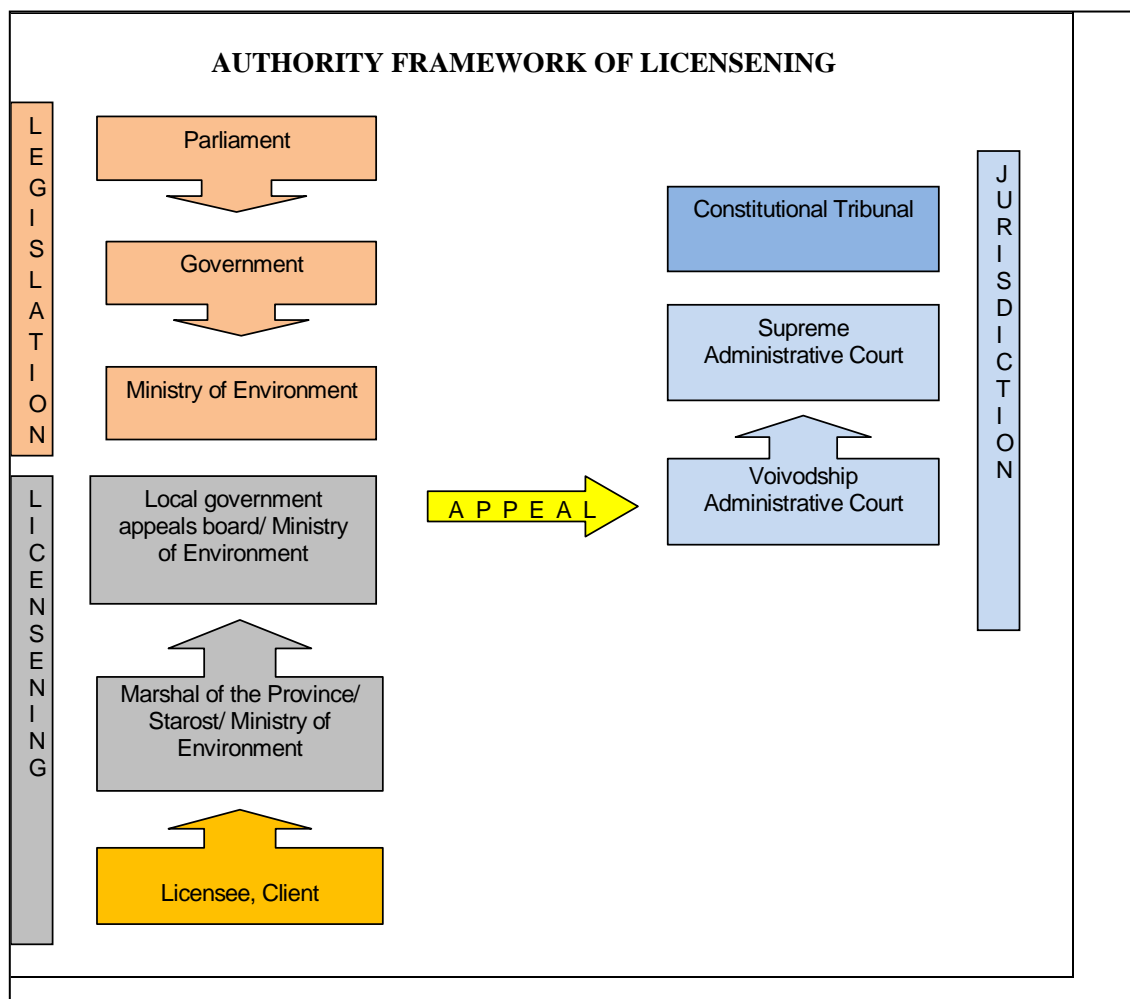
- The district head (*starosta*) - responsible for matters related to the approval of projects of geological works and geological documents concerning mineral deposits identified outside the mining property, sought or analysed, in the area up to 2 hectares for opencast mining at up to 20 000 m<sup>3</sup> per calendar year and without the use of blasting agents.
- The minister responsible for environment (the Ministry for the Environment), as the geological administration authority of the first instance, is responsible for issues connected with approving projects of geological works and geological documentation, concerning (inter alia):
  - mineral deposits referred to in Article 10 par. 1, and the hydrogeological conditions in connection with designing the drainage of those deposits as well as forcing water coming from such drainage into rock masses;
  - the Republic of Poland sea territory;
  - granting licenses for prospecting for or exploration of mineral deposits, referred to in Article 10 par.1 of Geological and Mining Law;
- marshal of the voivodship – responsible for the rest of mineral deposits (i.e. deposits not reserved for the competency of district head (*starosta*) and the Ministry for the Environment).

Moreover, only activities in the scope of prospecting for or exploration of mineral deposits, referred to in Article 10 par.1 of Geological and Mining Law, can be executed after granting of a proper license. Prospecting for or exploration of other kinds of deposits (i.e. minerals not determined in Article 10 par. 1) does not require obtaining a license, but all geological works are the matter of geological works plan that shall be approved by the geological administration authority, by the way of administrative decision.

Mineral deposits covered by the right of ownership of land to mineral deposits are all deposits not listed in Article 10 section 1 and 2 Geological and Mining Law, 2011. So, mineral deposits covered by the right of ownership of land are – among others – deposits of:

- bentonite, clay bentonite, dolomite, clay, ceramics and refractories, chalk, quartzites, refractory, quartz core, magnesite, molding sands, sand backfilling, sands and gravels, clays and kaolin;
- stones broken and, modular: basalt, diabase, gabbro, boulders, granite, granodiorite, melaphyre, porphyry, syenite, tuff porphyry, amphibolite, gneiss, schist crystalline marble, serpentinite, sandstone,
- peat,
- limestone and marl industry, cement and lime.

**Fig. 1:** Poland. Authority framework of extraction licensing.



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

In Poland, following the transition from socialism to market economy, first after transformation Geological and Mining Law was published in 1994. It was changed by new Geological and Mining Law issued in 2011 which went into force in 2012. Poland joined the European Union on 1st May 2004.

However, the accession itself has not changed the mining legislation substantially.

There is available quantitative data from 2011-2015. It shows how many cases relating to Geological and Mining Law are judged annually. Voivodship Administrative Courts judge on average 127 cases per year. The most cases were judged in 2013 – 251 cases, least in 2015 – 73 cases. The Supreme Administrative Court judges on average 20 cases per year. The most cases were judged in 2015 – 25 cases, least in 2011 – 17 cases.

To compare – the amount of all cases judged by Voivodship Administrative Courts hesitates from 91 118 in 2011 to 114 520 in 2015. The total amount of judged cases is constantly increasing.

## Supreme Administrative Court

Year	Subject of the case	Previous not judged cases	New cases	Judged	Won cases	Left for the next year
2015	Geology, mining (together)	34	24	25	8	33
	Exploration, extraction	24	10	18	8	16
2014	Geology, mining (together)	20	30	16	0	34
	Exploration, extraction	8	22	6	0	24
2013	Geology, mining (together)	21	20	21	4	20
	Exploration, extraction	15	8	15	4	8
2012	Geology, mining (together)	16	19	14	4	21
	Exploration, extraction	12	12	9	2	15
2011	Geology, mining (together)	19	17	20	2	16
	Exploration, extraction	13	13	14	1	12

## Voivodship Administrative Courts

Year	Subject of the case	Previous not judged cases	New cases	Judged	Won cases	Left for the next year
------	---------------------	---------------------------	-----------	--------	-----------	------------------------

<b>2015</b>	Geology, mining (together)	32	90	73	19	49
	Exploration, extraction	19	36	33	12	22
<b>2014</b>	Geology, mining (together)	32	111	111	30	32
	Exploration, extraction	20	66	67	20	19
<b>2013</b>	Geology, mining (together)	84	199	251	23	32
	Exploration, extraction	74	163	217	12	20
<b>2012</b>	Geology, mining (together)	28	167	111	14	84
	Exploration, extraction	12	142	80	9	74
<b>2011</b>	Geology, mining (together)	29	88	89	18	28
	Exploration, extraction	22	41	51	11	12

Source: A. Ostręga.

The vast majority of the appellants were the mining entrepreneurs, the minor part were other interested clients (e.g. the landowner, or green NGOs). The defendants are typically the permitting authorities.

According to the data of administrative courts the number of won cases before Voivodship Administrative Courts by the appellant significantly increased – from ca. 10% of the cases in 2011-2013 to ca. 25% in 2014-2015. The increase can be explained by issuing new Geological and Mining Law which went into force in 2012. Cases conducted under new law came into court sometime after. There was time needed to learn new binding law.

The case law significantly had an impact on legislation making, the Geological and Mining Law and its implementing Government and Ministerial Regulations have been amended many times, due to the lessons learnt during these court appeals and implementation of European Union Directives.



## Most decisive and representative court judgements

### **Case 1**

Case No.: VI SA/Wa 1007/07

Name of court: Voivodship Administrative Court in Warsaw

Date of judgment: 8 October 2007

Name of plaintiff (or appellant): A.K.

Name of defendant: The local government appeals board in Warsaw

Judgement in favour of: A.K.

Relevance to which stage of permitting: activities executed after granting of concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law, Act on freedom of economic activity

### Summary of the case:

A.K. has performed drying works on the plot No. (...), consisting of cleaning and deepening of the ditch, and the excavated sand and peat was used to form the escarpment. The intention of the work was to build on the plot No. (...) water reservoir - pond, which requires prior building permission. As a result, the licensing authority issued a decision to higher charge in the amount of 19 278 PLN for the extraction of minerals without the required concession. According to Article 15 section 1 previous binding Act of 4 February 1994 Geological and Mining Law exploiting minerals from deposits can be executed after granting of concession. For the issues not regulated in this Act, with respect to granting concessions, shall be regulated by the provisions of the Act of 2 July 2004 on freedom of economic activity.

Geological and Mining Law does not contain a definition of economic activity - for this issue shall be regulated by the provisions of the Act of 2 July 2004 on freedom of economic activity. According to Article 2 economic activity includes profit-making activity related to manufacturing, construction, trading, provision of services and prospecting, identifying and mining of minerals in deposits, as well as professional activity conducted in an organised and continuous fashion. The provision of Article 46 section 1, item 1 provides, however, that a concession shall be obtained by entrepreneurs conducting economic activity in the area of prospecting or recognising deposits of mineral resources, extraction of minerals from deposits, non-tank storage of substances and waste storage in a rock mass, including underground mining excavations. The extraction of minerals could be considered as an economic activity, which requires, in accordance with Geological and Mining Law, concession, it must be profit-making, professional and conducted in an organised and continuous fashion.

The statement of facts made by the Licensing authority says that the purpose of the works undertaken by A.K. was not commercial extraction of minerals, in an organised and continuous fashion, but the construction of a pond, and extracted, as a result of the earthworks minerals, were used by its owner to develop his plot. The Licensing authority did not state in the administrative procedure that A.K. entered the excavated minerals into market. In the opinion of the Voivodship Administrative Court in Warsaw A.K did not conduct commercial extraction of minerals and therefore there were no grounds to charge

the higher charge for the extraction of minerals without the required concession according to the provisions of Geological and Mining Law.

## **Case 2**

Case No.: II GSK 332/05

Name of court: Supreme Administrative Court

Date of judgment: 11 January 2006

Name of plaintiff (or appellant): Wytwórnia Klejów i Zapraw Budowlanych "A." G. i wspólnicy – spółka jawna

Name of defendant: Ministry of Environment

Judgement in favour of: Wytwórnia Klejów i Zapraw Budowlanych "A." G. i wspólnicy – spółka jawna

Relevance to which stage of permitting: granting the extraction concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law, Administrative procedure code

### Description (summary) of the case:

Kopalnie Surowców Mineralnych "B." Spółka z o. o. filed the application for license for extraction minerals from U. deposit located in S. mining area. The application did not fulfil the requirements of law. The applicant corrected the defects after receiving the summons. Ministry of Environment granted the license for the extraction minerals from U. deposit. The license was granted to 2014 and did not specify the date of commencement of extracting works.

Wytwórnia Klejów i Zapraw Budowlanych "A." G. i wspólnicy – spółka jawna as an owner of the land covered by the license demanded its invalidation. Ministry of Environment confirmed that Wytwórnia Klejów i Zapraw Budowlanych "A." G. i wspólnicy – spółka jawna had the "party" status in the procedure and refused the invalidation of the license because the consent for performing the license activity had been previously obtained.

The Supreme Administrative Court judged that in according to Article 23 point 3 Geological and Mining Law that was in force on the day of submitting the application for the invalidation the license should have specified its validity period and the commencement date of extraction and, if necessary – the conditions on which the activities will start. It meant that both "validity period" and "the commencement date" are mandatory part of every license. Therefore, the Supreme Administrative Court revoked the contested decision.

## **Case 3**

Case No.: VI SA/Wa 735/09

Name of court: Voivodship Administrative Court in Warsaw

Date of judgment: 3 November 2009

Name of plaintiff (or appellant): W.B.

Name of defendant: Ministry of Environment

Judgement in favour of: Ministry of Environment

Relevance to which stage of permitting: invalidation of concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

The case concerns the invalidity of extraction concession which includes the right to conduct extraction on the plot owned by the appellant.

According to appellant the concession was issued in blatant breach of the law what is the ground for its invalidation because the appellant – the owner of the land – disagreed for granting the concession, when previous binding Geological and Mining Law required obtaining the consent of the owner of the land.

Voivodship Administrative Court in Warsaw found that the appellant had given the written consent to enter to his land, perform the geological drilling and did not denied granting the concession covering his land. The statement included the signature of the co-owner of the land property.

According to Article 18 of the previous binding Geological and Mining Law the application for granting the concession shall include the applicant's rights to the real estate (space), within the boundaries of which the intended activities shall be performed or specification of the right that the applicant seeks to obtain.

Therefore, According to Article 18 of the previous binding Geological and Mining Law decision, which was a subject of a procedure, do not violate the law, and in particular it was not issued in blatant breach of the law, required for invalidation. New Geological and Mining Law, which went in force on 1 January 2012, demand the proving of the applicant's rights to the real estate (space), within the boundaries of which the intended activities shall be performed, or specification of the right that the applicant seeks to obtain. The applicant does not need to be the owner of the land, according to the law applicant should obtain the owner's consent.

#### **Case 4**

Case No.: III SA/Łd 350/09

Name of court: Voivodship Administrative Court in Łódź

Date of judgment: 14 October 2009

Name of plaintiff (or appellant): J.K.

Name of defendant: Local government appeals board in Łódź

Judgement in favour of: Local government appeals board in Łódź

Relevance to which stage of permitting: granting the extraction concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

J. K. filed on 5<sup>th</sup> December 2008 an application for a license for exploiting minerals from Ł. deposit. The application met the requirements required by Geological and Mining Law.

There was no the local urban spatial development plan for the deposit area and the planned extraction remained in collision with the way of using the property foreseen in the study of conditions and directions of spatial management. Agreement authority denied granting the license because of the violation of the way of using the property foreseen in the study of conditions and directions of spatial management.

Appellant defended that he did not know provisions of the study of conditions and directions of spatial management and spent much money on exploration Ł. deposit.

According to Geological and Mining Law that was in force on the day of submitting the application for the license undertaking the extraction activity was allowed only if it was in accordance with any specific destination of the properties foreseen in the local urban spatial development plan and in separate regulations. In case of the absence of the local urban spatial development plan, the Agreement authority took into consideration the provisions of the study of conditions and directions of spatial management, and in separate regulations.

The judgement of the Voivodship Administrative Court in Łódź declared that the first and second instance decisions were right. According to relevant articles of the Geological and Mining Law, there was no possibility for granting the concession if there was violation of the provisions of the study of conditions and directions of spatial management. The appellant was supposed to check all binding provisions of local legislation concerning the undertaking and execution of activities defined by Geological and Mining Law.

It is worth noting that the new Geological and Mining Law provides that undertaking and execution of activities defined by this law is allowed only if it doesn't violate any specific destination of the properties foreseen in the local urban spatial development plan and in separate regulations.

## **Case 5**

Case No.: VI SA/Wa 393/09

Name of court: Voivodship Administrative Court in Warsaw

Date of judgment: 22 June 2009

Name of plaintiff (or appellant): Z. sp. j.

Name of defendant: Ministry of Environment

Judgement in favour of: Ministry of Environment

Relevance to which stage of permitting: granting the exploration concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law,  
Act on freedom of economic activity

Description (summary) of the case:

Z sp.j. filed on August 2008 an application for a license for exploration of natural gas deposit. The application met the requirements required by Geological and Mining Law.

Ministry of Environment denied granting the license because the requested area had been previously covered by another license granted to another entrepreneur - P S.A. The license for natural gas exploration had been granted to another entity before the date of the initiation of the concession procedure by the appellant. The decision was based on Geological and Mining Law and Act on freedom of economic activity. The refusal to grant license was confirmed in the second-instance administrative procedure.

Voivodship Administrative Court in Warsaw made a decision in which said that the license granted to another entity before the date of the commencement of the license procedure for the exploration of natural gas was an obstacle for granting a positive decision. In a situation where the license authority came to the conclusion that the circumstances do not allow granting the license, it was obliged to issue a decision refusing to grant the license, not to discontinue the proceedings as redundant.

Where proceedings have become redundant for whatever reason the public administration body shall issue a decision cancelling the proceedings. It is a formal decision, terminating the proceeding without a substantive decision. With the redundant of procedure we have to deal with when the authority finds the lack of legal and factual merits to hear the case. In this case the license authority should have refused to grant the license.

**Case 6**

Case No.: II GSK 365/07

Name of court: Supreme Administrative Court

Date of judgment: 18 June 2008

Name of plaintiff (or appellant): A. Sp. z o.o.

Name of defendant: Ministry of Environment, ecological organization

Judgement in favour of: Ministry of Environment, ecological organization

Relevance to which stage of permitting: granting the extraction concession

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law,  
Administrative Procedure Code

Description (summary) of the case:

A. Sp. z o.o. was granted the license for the extraction of melaphyre from the deposit. The concession included the right to use explosives. The next license (the first one was repealed) did not include the right to use explosives. It did not determine the type and manner of conducting activity. This decision was completed by adding the right to use explosives.

According to Article 111 Administrative procedure code, 1960 within 14 days of service or publication of a decision a party can: require it to be completed in relation to the adjudicative element or the right of appeal, file a petition in the civil court or a complaint in the administrative court, or clarify the advisory notices set out in the decision on these issues. Completed the decision under Article 111 Administrative procedure code raised fundamental doubts because it should be applied only to irrelevant matters.

The fact that the first license, repealed by the Minister of the environment, established the right to use explosives, did not imply that such determination shall be given in a subsequent license, issued in separate proceedings.

In accordance with Article 111 Administrative Procedure Code is not possible to remove decision's defects, consisting of the omission of the mandatory components of this type of decision which can only appoint a full frame of running. The omission of essential elements of the license is undoubtedly an important defect, which must be raised by appeal, and should not be rectified in the procedure provided in Article 111 Administrative procedure code.

The Supreme Administrative Court judged that all license conditions should be provided directly in license. Omission of the license conditions should be properly justified. In this case mistake made by the license authority caused the revocation of the license. According to new procedure regulation taken before administrative courts, administrative courts gained the right to give substantive decision not only to revoke the contested decisions.

## **Case 7**

Case No.: II GSK 62/09

Name of court: Supreme Administrative Court

Date of judgment: 28 September 2009

Name of plaintiff (or appellant): Ministry of Environment, P. Sp. z o.o.

Name of defendant: L.B., W.B.

Judgement in favour of: Ministry of Environment, P. Sp. z o.o.

Relevance to which stage of permitting: parties to proceedings concerning granting the extraction license

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

Ministry of Environment by the decision dated on 13<sup>th</sup> May 1996 granted the license for the extraction minerals from K. deposit located in M. There were mining area and the space subjected to the expected damaging effects of the mining operations of a mining plant defined in the license. L. and W.B. on 12 November 2007 demanded, as the owners of the land situated 300 m from the mining plant, the resumption of the administrative procedure. The right to demand the resumption of the administrative procedure was based on the circumstance that they were exposed to the expected damaging effects of the mining operations of the mining plant.

The license authority denied the resumption of the administrative procedure. The denial was justified that appellants' land was situated beyond all negative influence which can

caused by mining plant. The license authority decided that the appellants had not "party" status in this procedure.

The Supreme Administrative Court judged that there is no ground in granting "party" status to any person who use the land property. According to Article 26b Geological and Mining Law, 1994, binding on the day of submitting the application, crucial is the possibility of using the land property in accordance with its destination foreseen in the local urban spatial development plan and in separate regulations. So the applicant were not entitled to demand the resumption of the license procedure.

New Geological and Mining Law, issued in 2011 which went into force in 2012, states that if the Act does not provide otherwise, the parties in the license proceedings, in relation to activities carried out within the boundaries of the land real estate, are the owners of land (perpetual usufructuaries). The parties are not the real estate's owners (perpetual usufructuaries) located outside the boundaries of the foreseen or existing mining area or the places of performance of the geological works.

### **Case 8**

Case No.: II SA/Wr 383/14

Name of court: Voivodship Administrative Court in Wrocław

Date of judgment: 28 September 2009

Name of plaintiff (or appellant): E. Sp. z o.o.

Name of defendant: The local government appeals board in Legnica

Judgement in favour of: E. Sp. z o.o.

Relevance to which stage of permitting: additional charge

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

E. Sp. z o.o. was granted the license for the extraction minerals from deposit situated in S. The license limited the extraction to 20.000 tons/year. The E. Sp. z o.o. exceeded the limitations provided by the license and reported the license authority that exploited almost 36.000 tons in 2011 year. The license authority fined E. Sp. z o.o. with the additional charge at the level of five times a extraction charge rate for a given type of minerals.

E. Sp. z o.o. appealed to the second-instance authority claiming that the license authority did not collect evidence proving that E. Sp. z o.o. violated the license provisions. The local government appeals board in Legnica dismissed the appellation because the evidence proving the violation of license delivered the appellant.

The appellant was not satisfied with this outcome and set an appeal at the Voivodship Administrative Court in Wrocław. The court judged that administrative authorities shall uphold the rule of law during proceedings and shall take all necessary steps to clarify the facts of a case and to resolve it, having regard to the public interest and the legitimate interests of members of the public. Moreover, administrative authorities are required to comprehensively collect and examine all evidential material.

The justification of the decision discloses the findings of the administrative authority. The factual justification of the decision should contain the facts that the body regards as proven, the evidence relied upon and the reasons for which other evidence has been treated as not

authentic and without probative force. The legal justification should contain the legal authority for the decision with reference to the relevant law.

According to Article 139 Geological and Mining Law the activity performed in flagrant violation of the conditions determined in the concession or the approved geological works plan shall be subject to additional charge. The license authority during the administrative procedure should have proved that 1) the appellant extracted minerals from deposit, 2) the extraction was conducted with the violation of the conditions determined in the license, 3) the violation of the conditions determined in the license was flagrant. According to the Voivodship Administrative Court in Wrocław not every violation of the license conditions is "flagrant" thus the license authority should have proved that the appellant performed the extraction in flagrant violation of the conditions determined in the license.

### **Case 9**

Case No.: II SA/Bd 1590/13

Name of court: Voivodship Administrative Court in Bydgoszcz

Date of judgment: 11 march 2014

Name of plaintiff (or appellant): J.W.

Name of defendant: The local government appeals board in Bydgoszcz

Judgement in favour of: The local government appeals board in Bydgoszcz

Relevance to which stage of permitting: license procedure

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

J.W. filed the application for granting the license for exploiting minerals from C. deposit situated in C. It is a small deposit because the first-instance authority was the district head (*starosta*) who is responsible for licenses for exploiting minerals in the area up to 2 hectares for opencast mining at up to 20 000 m<sup>3</sup> per calendar year and without the use of blasting agents. Details of the deposit were not disclosed. First-instance authority determined that mentioned above area is not covered by the local urban spatial development plan. In case of the absence of the local urban spatial development plan, undertaking and execution of license activities is permissible only in case if it doesn't violate the way of using the property foreseen in the study of conditions and directions of spatial management. The study of conditions and directions of spatial management provides that both the plot of land and the adjacent plot, are located in the area of agricultural production space. The area of the planned mine is located in the agricultural land class IVa, V, VI, and is bordered by agricultural land class III. First-instance authority also stated that the analysis of the study showed that the next mining area can be located at a distance of 3 km. According to the first-instance authority other than agricultural activities are not allowed in the area of the planned mine (protection of the agricultural land). In this situation, the change the provisions of the study is needed but at this moment there is not possibility to conduct the mine.

According to Art. 21 Geological and Mining Law exploiting minerals from deposits can be executed after granting of license issued by the district head (*starosta*) (first-instance authority). Undertaking and execution of these activities is allowed only if it does not violate the way of using the property foreseen in the study of conditions and directions of



spatial management. The planned activity (located in the area of agricultural production space) violates the provisions of the study which allowed only agricultural use of the land. Consequently, the license authority refused granting the license. The mine should not be placed in the agricultural production space.

It is worth noting that previous binding Geological and Mining Law required "the compliance with" the provisions of urban spatial development plan or the study. There is required only "not violation" now. The same factor is considered in granting decision on the environmental conditions.

### **Case 10**

Case No.: II SA/Bk 91/13

Name of court: Voivodship Administrative Court in Białystok

Date of judgment: 11 march 2014

Name of plaintiff (or appellant): L.P.

Name of defendant: The local government appeals board in Białystok

Judgement in favour of: L.P.

Relevance to which stage of permitting: transferring the license

Piece of legislation on which the claim (or appeal) is based: Geological and Mining Law

Description (summary) of the case:

L.P. was granted the license for exploiting minerals from W. deposit located in K. The license allowed the extraction in amount of 20 m<sup>3</sup>/year. L.P. sold B.A.M. Sp. z o.o. the land covered by the license. The extraction license, after gaining the seller's consent, was transferred to the buyer of the land. L.P. appealed from the transferring license decision because the seller violated provisions of the sale agreement.

According to Article 36 section 1 Geological and Mining Law it is not to the detriment of the public interest, particularly related to the national safety or the environment protection, including the rational management of the mineral deposits, with the consent of the entrepreneur, who was granted the concession, the concession authority shall transfer a concession, by the way of decision, to the entity that fulfilled specified requirements.

From the juridical point of view consent of the entrepreneur, who was granted the concession, is a unilateral legal act carried out by making an appropriate declaration. It is a statement of intent with the meaning of Civil Code understood as the intent of causing certain legal effects. So it is possible that defects in declaration of intent may occur. Defects in declaration of intent are regulated in Article 82 – 88 of Civil Code. In the case of an error in the substance of a legal act, the legal effects of this declaration of intent may be avoided. If, however, the declaration of intent is made to another person, its legal effects may be avoided only if the error was caused by that person, even if it was not his fault, or if that person was aware of the error or could easily have noticed it. This restriction does not apply to a free-of-charge legal act.

The legal effects of a declaration of intent made to another person under the influence of an error or threat are avoided by a declaration made to that person in writing. The problem of determining whether the declaration of intent was formulated under the influence of an error, is a preliminary question, which obliged the license authority to suspend the administrative procedure. Voivodship Administrative Court in Białystok judged that administrative authority had not the jurisdiction to avoid the legal effects caused by signed sales agreement which should have been judged by common court.

## Conclusions

Judiciary of Poland is a responsibility, as defined by the constitution of Poland, of a four-tier court system: the Supreme Court of Poland, the common courts, administrative courts (including the Supreme Administrative Court of Poland) and military courts. Therefore, tribunals (such as the Constitutional Tribunal and State Tribunal) are, in a strict definition, not part of Polish judiciary, but in a broad definition, they are included in it.

In Poland, first after transformation from socialism to market economy Geological and Mining Law was published in 1994. It was repealed by new Geological and Mining Law issued in 2011 which went into force in 2012. Poland joined the European Union on 1st May 2004. However, the accession itself has not changed the mining legislation substantially.

Available quantitative data from 2011-2015 shows how many cases relating to Geological and Mining Law are judged annually. Voivodship Administrative Courts judge on average 127 cases per year. The most cases were judged in 2013 – 251 cases, least in 2015 – 73 cases. The Supreme Administrative Court judges on average 20 cases per year. The most cases were judged in 2015 – 25 cases, least in 2011 – 17 cases. Average case before Voivodship Administrative Court waits for judgment for a few months (from three to six months) and almost 2 years before the Supreme Administrative Court.

To compare – the amount of all cases judged by Voivodship Administrative Courts hesitates from 91 118 in 2011 to 114 520 in 2015. The total amount of judged cases is constantly increasing.

The vast majority of the appellants were the mining entrepreneurs, the minor part were other interested clients (e.g. the landowner, or green NGOs). The defendants are typically the permitting authorities.

According to the data of administrative courts the number of won cases before Voivodship Administrative Courts by the appellant significantly increased – from ca. 10% of the cases in 2011-2013 to ca. 25% in 2014-2015. The increase can be explained by new Geological and Mining Law which went into force in 2012. Cases conducted under new law came into court sometime after. License authorities needed to learn new law. It shows that judicial review of the administrative authority's decision is very important and many defective decisions are revoked or changed. It is predicted that, because of many amendments to Geological and Mining Law, the amount of court cases related to this Act remain stable or increase.

The case law significantly had an impact on legislation making, the Geological and Mining Law and its implementing Government and Ministerial Regulations have been amended many times, due to the lessons learnt during these court appeals and implementation of European Union Directives.

## **Acknowledgement**

The author expresses her gratitude Hubert Schwarz who prepared this chapter.

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

The present report is based on the information provided by a few license authorities. License authorities are not obliged to collect and process data concerning success rates of exploration and extraction licenses. Overall data is not available.

The reasons of the rejection/withdrawal of the license:

- withdrawal of the application,
- not paying the licensing fee,
- lack of co-authority consent,

- not fulfilment the requirements of law and not correcting defects,
- the violation of the license provisions,
- ex officio and ex lege expiration of the license in cases provided by Geological and Mining Law.

It is important to note that in numerous cases entrepreneurs failed at the stage of gaining decision on the environmental conditions. The main reason of the rejection is the violation of the specific destination of the properties foreseen in the local urban spatial development plan or in the study of conditions and directions of spatial management (in case of the absence of the local urban spatial development plan) and ecological organizations objections. When the entrepreneurs are granted decision on the environmental conditions, it is likely that they would be granted licenses too. This is expressed in the high permitting success rates. It is worth noting that rejection of the applications was mainly caused by applicants because of not correcting the application's defects.

Detailed information was collected from Marshal of Lower Silesia Province. The following data were collected.

**Table 9:** Poland, Lower Silesia Province. Permitting rates.

Year	New licenses	Modification of licenses	Decisions cancelling the proceedings	Refusals to modify the license	Revoking of the licenses	Refusals to revoke/ expire/ withdraw of the license
1999	13	-	-	-	-	-
2000	9	-	-	-	-	-
2001	6	6	-	-	-	-
2002	11	16	-	1	1	-
2003	15	35	1	1	1	-
2004	6	27	-	2	-	-
2005	13	38	-	1	-	2
2006	9	18	1	1	-	2
2007	8	25	5	-	-	-
2008	12	34	2	1	-	-
2009	15	41	4	1	-	-
2010	26	38	2	-	-	-
2011	18	50	-	1	-	1
2012	9	36	1	-	-	3
2013	11	37	1	-	-	4
2014	7	34	1	-	-	3
2015	12	48	4	2	-	-

Source: Marshal of Lower Silesia Province, Poland (via Anna Ostręga)

According to the above table the permitting success rate (not differentiated between exploration and extraction phases) for the period 2013-2015 (percentage of decisions cancelling the proceedings over new licences) reaches an average of 80% (20% cancelled).

It is worth emphasising that Marshal of Lower Silesia Province did not refuse to grant the license in years 1999-2015. Decisions cancelling the proceedings were issued mainly because of the withdrawal of the applications. The most common is the procedure of the modification of the license. It could be explained that licenses shall be granted for a period

no shorter than 3 years and not longer than 50 years – it often turns out that some provisions of the license should be modified.

As a conclusion, the permitting itself is not the only burden on entrepreneurs, the competition and the economic conditions are equally important. It is also remarkable that the exploration is still easier for permitting while environmental permitting may decrease the success.

### **Acknowledgement**

Author expresses her gratitude to Hubert Schwarz who prepared this chapter.

### **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)?

*The Services Directive (2006/123/EC) was implemented to Polish law mainly by 4 March 2010 Services on the Polish territory Act which. It did not implement 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.*

- 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?

*All permitting documentation (the application and the attachments) is filed by the entrepreneur. The entrepreneur should be entitled to use geological documentation which is made by professional geologist (BSc at least is required). The current inventory during performing license activity is prepared by a mining geologist (BSc at least is required). The entrepreneur is obliged to cooperate with Manager for operations of the mining plant and supervisors who are required to have specified qualifications. The operations of the mining plant is carried out only under the direction and supervision of persons possessing the required qualifications.*

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

*Provisions of law on financial guarantees are included in: Act on Extractive Wastes (unif. text J.L. 2013, item 1136) and the Regulation of the Minister of Environment on 11 February 2015 on the financial guarantee and its equivalent for a mining waste facility (J.L. item 311). According to Article 32, par. 2 "The calculation of the financial guarantee or equivalent shall be made on the basis of: (...) 2. Assumptions that independent and suitably qualified third parties will assess and perform any rehabilitation work needed.*

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

*Ministry of Environment 15 July 2011 Regulation on criteria for assigning extractive waste into inert waste (J.L. No. 175, item 1048) defined detailed criteria for assigning extractive waste into inert waste. There is no a list of inert mine waste.*

- 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?

*Ministry of Environment 5 April 2011 Regulation on the criteria for the classification of waste from extractive industries facilities (J.L. No. 86, item 477) defined detailed criteria for the classification of waste facilities which include the risk assessment.*

- 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)?

*Deposit of non-hazardous non-inert mine waste if regulated in 10 July 2008 Mine Waste Act (J.L. No. 138, item 865). Poland applied the waiver of the Landfill Directive paragraph 3 of Article 3 (Article 2 section 2 Mine Waste Act).*

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

*There are separate decisions. Mine waste management program is approved by Regional Director of Environmental Protection/ Marshal of the Province/ the district head (starosta). Deposit and process waste permission is issued by Marshal of the Province/ the district head (starosta).*

- 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?

*The Accounting Directive (2013/34/EC) was transposed to Polish law by 29 September 1994 Accounting Act (J.L. No. 121, item 591). These regulations are transposed to Polish law and do not appear in the Geological and Mining Law.*

- 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?

*The Transparency Directive (2004/109/EC, 2013/50/EU) was transposed to Polish law by inter alia 29 July 2005 Public Offer and the Conditions for Introducing Financial Instruments to the Organised Trading System and Public Companies Act (J.L. No. 184, item 1539) and 29 September 1994 Accounting Act (J.L. No. 121, item 591). The Transparency Directive requires preparation on an annual basis, a report on payments made to governments. The report shall be made public at the latest six months after the end of each financial year and shall remain publicly available for at least 10 years. Payments to governments shall be reported at consolidated level. These regulations are transposed to Polish law by mentioned above Acts and do not appear in the Geological and Mining Law.*

- 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?

*According to Article 24 section 1 point 4 Geological and Mining Law in the application for granting the concession the resources available to the applicant to ensure the proper performance of the intended activities shall be specified. According to Article 38 section 2 point 7 30 August 2002 System of assessment of compliance Act (J.L. No. 166, item 1360) the Head of the State Mining Authority has supervision right in product safety/market surveillance.*

***Additional information to the 2019 update***

***1. Do you have national or regional guidance document or a piece of legislation specific to the Environmental Impact Assessment (EIA) on mineral extraction (incl. mineral processing, waste management, closure)? If yes, please provide link and/or text in English and/or in original language.***

The provisions on environmental impact assessment (EIA) in Poland include all types of investment activities without identifying individual industries, and are specified in the Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection and on assessments environmental impact (Journal of Laws of 2018, item 2081 i.e.). These provisions transpose Directive 2011/92 / EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (2011/92 / EU).

The Act specifies the need to study the environmental impact of projects that can significantly affect the environment in relation to their effects before granting permission for investment. The types of these projects are indicated in the Regulation of the Council of Ministers of November 9, 2010 on projects that may have a significant impact on the environment (Journal of Laws of 2016, item 71, i.e.), which on October 11 this year. will be replaced by a regulation of the Council of Ministers of September 10, 2019 on projects that may have a significant impact on the environment (Journal of Laws, item 1839). The provisions of the Regulation transfer to national law the provisions of Annexes I and II of the abovementioned Directive. The text of the regulation in English is available at (legal status from 2013): <https://ddei3-0-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=http%3a%2f%2fwww.gdos.gov.pl%2ffiles%2fartykuly%2f5437%2fRozporzadzenie%5fp1%5fang%5fl151.pdf&umid=0C67B6B6-947B-6F05-9742-9A5F285C10F0&auth=73530b016531d266af46f8c74b6591ee3af4d987-bc94ac10d6354657fb1812eedf2919b996f42c58>

The material related to the legal issues of the investment process related to the extraction of deposits has been developed and translated into English as part of the project "Assessment of environmental hazards caused by the process of exploration, recognition and extraction of unconventional hydrocarbon deposits" financed from the National Fund for Environmental Protection and Water Management (completed in 2015) and is available at the address below. In the study "Obtaining gas from unconventional deposits. Legal and administrative requirements." (Legal status from 2015) there is information about the provisions on the extraction of deposits with particular reference to shale gas, however, the main assumptions of the procedures regarding environmental impact assessments relate to for activities related to exploration and extraction of all deposits.

<http://www.gdos.gov.pl/gaz-z-lupkow-publikacje-i-raporty-gdos>

**2. Could you please specify that at which permitting stage (value chain stage, e.g. non-penetrative prospection, exploration, setting mining plot, approving technical operation plan, starting extraction) is a detailed EIA is required in your country?**

It should be noted that the investment process in Poland takes place in two stages: in the investment process an environmental decision is issued for the planned project, and then it is submitted with the application for subsequent investment decisions by the competent authorities. In the case of implementation of projects in the field of exploration and exploitation of mineral deposits, it is necessary to obtain specific administrative decisions, including concessions for the extraction of minerals from deposits, a decision approving a traffic plan for the performance of geological works on the basis of a concession for prospecting for or exploration of a mineral deposit, a decision specifying the detailed conditions for extracting a mineral, a water permit, a building permit. However, before obtaining the indicated "investment decisions" for projects that may have a significant impact on the environment, i.e. listed in the abovementioned regulation, it is required to obtain a decision on environmental conditions. In the course of the proceedings regarding the issuance of this decision, an environmental protection procedure is carried out for projects that may always have a significant impact on the environment and, in the event of such obligation being established pursuant to art. 63 section 1 above Acts for projects that could potentially have a significant impact on the environment. In the case of projects not mentioned in the abovementioned of the Regulation, it is not required to obtain a decision on environmental conditions, however, when the planned activities are carried out within the boundaries of Natura 2000 areas or in their vicinity, an obligation may be laid down to carry out proceedings on the impact assessment on a Natura 2000 area (e.g. as part of a concession procedure).

**3. Does your country apply the option of Article 4(b) of the EIA Directive (2011/92/EU) („... for projects listed in Annex II, Member States shall determine whether the project shall be made subject to an assessment in accordance with Articles 5 to 10 .... through thresholds or criteria set by the Member State”) for mining projects? If yes, under what criteria?**

Answering the question referred whether the provisions of Article 4 para. 2 lit. b of Directive 2011/92 / EU, it should be indicated that their fulfillment are the thresholds and criteria set out in the said Regulation, on the basis of which investments are qualified for projects that may have a significant impact on the environment and requiring a decision on environmental conditions.

In the case of projects in the field of obtaining deposits, according to the Regulation of the Council of Ministers of 10 September 2019 on projects that may have a significant impact on the environment (Journal of Laws, item 1839), these will be:

1) projects that can always have a significant impact on the environment - obligatory EIA procedures:

- § 2 para. 1 point 24

extraction from the deposit, including drilling method, or processing:

a) gas in an amount greater than 500,000 m<sup>3</sup> per day,

- b) crude oil or its natural derivatives, in an amount greater than 500 t per day,
- c) crude oil, its natural derivatives and gas - in the maritime areas of the Republic of Poland;

- § 2 para. 1 point 27

extraction of minerals from deposits by the method of:

a) open-cast in the mining area of not less than 25 ha,

b) underground with mineral extraction not less than 100,000 m<sup>3</sup> per year;

- § 2 para. 1 point 40

extraction of minerals from the deposit by opencast method other than those mentioned in § 2 para. 1 point 27 lit. a:

a) regardless of the surface of the mining area:

- if it concerns peat or lake chalk,

- in areas exposed to the risk of flooding, and if a flood risk map has been prepared, in the areas referred to in art. 88d paragraph 2 points 2 and 3 of the Act of 18 July 2001 - Water Law,

- on forest land or at a distance of not more than 100 m from them,

- in areas covered by forms of nature protection referred to in art. 6 clause 1 points 1-5, 8 and 9 of the Act of 16 April 2004 on nature protection, or in the lagging forms of nature protection referred to in art. 6 clause 1 points 1-3 of this Act,

- at a distance of not more than 250 m from the areas referred to in art. 113 section 2 point 1 of the Act of 27 April 2001 - Environmental Protection Law (Journal of Laws of 2013, item 1232, as amended),

- if the activity will be carried out using explosives,

- if at a distance of not more than 0.5 km from the place of planned open-cast mining, there is another mining area established for open-cast mining,

b) from a mining area with an area of more than 2 ha or with an extraction of more than 20,000 m<sup>3</sup> per year, other than those referred to in point a);

2) projects that can potentially have a significant impact on the environment (Group II) - optional EIA procedures:

- § 3 para. 1 point 40

extraction of minerals from the deposit by opencast method other than those mentioned in § 2 para. 1 point 27 lit. a:

a) regardless of the surface of the mining area:

- for the extraction of peat or lake chalk,

- in areas exposed to the risk of floods within the meaning of Art. 16 point 33 of the Act of 20 July 2017 - Water Law, and if a flood risk map has been prepared - in the areas referred to in art. 169 section 2 points 2 and 3 of this Act,

- on forest land or at a distance of not more than 100 m from them,

- in areas covered by forms of nature protection referred to in art. 6 clause 1 points 1-5, 8 and 9 of the Act of 16 April 2004 on nature protection, or in the lagging forms of nature protection referred to in art. 6 clause 1 points 1-3 of this Act,

- at a distance of not more than 250 m from the areas referred to in art. 113 section 2 point 1 of the Act of 27 April 2001 - Environmental Protection Law (Journal of Laws of 2019, item 1396, as amended 5),

- if the activity will be carried out using explosives,



- if at a distance of not more than 0.5 km from the place of planned open-cast mining, there is another mining area established for open-cast mining,
- b) from a mining area with an area of more than 2 ha or with an extraction of more than 20,000 m<sup>3</sup> per year, other than those referred to in point a);
- § 3 para. 1 point 41  
extraction of minerals from the deposit:
  - a) using the underground method other than those mentioned in § 2 para. 1 point 27 lit. b or borehole method other than those listed in § 2 paragraph 1 point 24,
  - b) in the maritime areas of the Republic of Poland other than those mentioned in § 2 para. 1 point 24 lit. c or from inland surface waters;
- § 3 para. 1 point 44  
exploration or recognition of mineral deposits:
  - a) in the maritime areas of the Republic of Poland,
  - b) carried out using the underground method,
  - c) made by drilling holes deeper than 1000 m:
    - in protection zones of water intakes,
    - in protection areas of inland water reservoirs,
    - in areas covered by forms of nature protection referred to in art. 6 clause 1 points 1-3 and 5 of the Act of April 16, 2004 on nature protection, or in the buffer zone of the forms of nature protection referred to in art. 6 clause 1 points 1-3 of this Act,
    - for shale gas deposits,
  - d) performed by drilling holes deeper than 5000 m in the case of zones, areas or mineral deposits other than those referred to in point c.

***4. Was there any case in your country when Article 10 of the EIA Directive (2011/92/EU) was applied („limitations ... with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest”)? Which were these exclusions, if any?***

Please be advised that we do not have such information.

***5. Do you have national BREF(s) (Best Available Technique Reference Document(s)) specific to the whole (or stages or subsectors) minerals extractive sector?***

I would like to kindly inform you that there is a BREF for mining waste management and, unlike other BREFs, the legal basis for its creation was the provisions of Directive 2006/21 / EC on the management of waste from extractive industries, not the IED directive.

#### **Acknowledgement**

The author expresses her gratitude to Hubert Schwarz who contributed to this chapter.