



MINLEX - Portugal Country Report

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TABLE OF CONTENTS

- 1. PORTUGAL..... 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 11
 - 1.5. Licensing procedures for exploration 15
 - 1.6. Licensing procedures for mining..... 18
 - 1.7. Court cases on permitting procedures 22
 - 1.8. Success rates of exploration and extraction permits 23
 - 1.9. EU legislation impacting permits and licenses for exploration and mining..... 24

1. PORTUGAL

1.1. Summary of findings

Portugal is endowed with a complex and diversified geology with a considerable mineral potential, leading to the occurrence of a considerable number of ore, industrial and ornamental stone deposits. In the north and centre of Portugal there are tungsten and tin deposits (associated with the contact between granite and meta-sediments), and precious metals as well as pegmatite-aplite veins of the LCT family (Li, Cs, Ta); several lithium minerals occur in these structures, like spodumene, petalite and lepidolite; northern-central Portugal has a predominance of granitic rocks; in southern Portugal, the most important mineral occurrences are base metals occurring in VMS deposits in the most important mining district of Portugal, the Iberian Pyrite Belt. Portugal is an important European tungsten, lithium, copper and zinc producer.

The primary legal basis for the extraction of state-owned minerals (metals and industrial minerals) is currently Law No. 54/2015, which is nowadays the legal framework regime for exploration and use of existing geological resources in the country, including those located in the national maritime area. For land-owned (or privately owned) minerals extracted in quarries (mineral masses) the guiding principles relating to their exploration and extraction are regulated by Decree-Law No. 270/2001 which was amended by Decree-Law No. 340/2007 of 12th October. Another relevant law for the permitting chain is Decree-Law No. 151-B/2013, which establishes the regulatory framework for Environmental Impact Assessments, which has been updated by the DL 152-B/2017 of 11th December (transposition of Directive 2014/52/UE).

The Portuguese national mining authority for state-owned minerals (mines) and private owned minerals (quarries) is the DGEG (under the Ministry of Environment and Energy Transition) which acts as a "one-stop shop" for mining permits in the exploration, mining and post-mining phases. Therefore, DGEG is the sole institution granting exploration rights and mining concessions to applicants and licenses to quarries. For obtaining exploration rights, no environmental impact assessment is required. The granting of mining rights for state-owned minerals is carried out by means of a Government issued contract. ***Mining) activities are subject to a mandatory EIA to be evaluated by both National Environmental Institutions—the Portuguese Environmental Agency (APA) and the Regional Coordination and Development Commissions (CCDR)— and Geological Institutions of DGEG and LNEG (National Laboratory of Energy and Geology), depending on the location, dimension and type of resource to be mined.***

Licenses for exploitation depends on the quarry type: for large quarries the licencing authority is DGEG and for small ones the local municipal chamber. However, any rights granting is subject to a location authorisation issued either by ICNF (the National Forestry and Nature Conservancy Authority), the local CCDR or the local municipal chamber. An EIA is mandatory for the bigger quarries and for all those included in groups of quarries that altogether within 1 km distant exceed the EIA thresholds. In some cases there can also be a casuistic analysis and an EIA might be needed even if the thresholds are not exceeded.

For offshore activities, the rights for exploration and mining (e.g. seafloor massive sulphides) are granted by DGEG. However, after that applicants must also obtain a maritime area use authorisation issued by the Sea Minister. For the exploitation phase, an EIA is also mandatory.

There are no fixed legal timeframes for the authorities to make any decisions. In practice, and if no appeals or rejections take place, exploration permits and

mining concessions are awarded on average in 7 and 11 months respectively. The "one-stop" system is the main factor in these low timeframes. Likewise, this system allows for a friendly resolution of potential disputes: **in the last 30 years only minor court cases (only relevant at local scale) have been identified.** This indicates that judicial measures are not a frequent cause of delay of permitting procedures in the NEEI Non Energy Extractive sector in Portugal. This is also reflected in high permitting success rates (at least for exploration): between 2013 and 2015, the permitting success rate of exploration application reached 100 % (36 new exploration permits were submitted, and all of them were approved, with some of the applications approved presented before 2013). In the same time frame a total of 37 new extraction permits were submitted (experimental and definitive mining licenses) of which 12 were approved (a 32.4 % success rate). Although this situation has changed between 2016 and april 2019, due some political uncertainty, and only 16 new explorations permits have been granted out of 131 applications (13,1%) and 1 mining permit was issued out of 9 applications (11%). Recent figures in 2019 show that this situation will change again and that success rates of the former period (2013-2015) will be achieved.

1.2. General introduction

Portugal is endowed with a complex and diversified geology with a considerable mineral potential, leading to the occurrence of a considerable number of ore, industrial and ornamental stone deposits. The territory of Portugal covers 50% of the Iberian Pyrite Belt (IPB), which is considered to be one of the main metallogenic provinces of the EU. The IPB is one of the primary source of base metals in the EU. In Portugal mining is considered one of the areas with more investment potential, and the government (notably the **Environment and Energy Transition**) has been dedicating very significant attention and resources to the development of mining projects by private investors. Regarding the risk factors to be taken into consideration by investors, it must be stressed that Portugal is a country where the rule of law prevails, in which both political and legal stability and the independence of the courts are guaranteed (Botica Santos and Moreira Cortez, 2013).

Portugal has a clear, stable and long lasting legal mining framework. The ancient mining legislation of 1930 (Decree No. 18713, of 01-08-1930) was in force for 60 years, and then in 1990 has been replaced by a new mining act: Decree-Law No. 90/90, of 16-03, which was in force for 25 years. Recently on 2015 a new mining act was published: Law No. 54/2015, of 22-6. Until the new regulations for this mining act are concluded, the regulation which is in force is the DL 88/90 of 16th march. Portugal is a responsible and sustainable mining country which considers geological, social, environmental and territorial values, and boosts the principle of coexistence of mining activities with other uses of the soil and the principle of parity of the values of these natural resources with the environmental and territorial values. The Government is committed to Social Responsibility and a new royalties policy is in force, since 2012, to increase of public acceptance, awareness and trust by allocating part of the money coming from mining companies in regions where mining occurs. This encourages actions to support local communities such as: Social programs; Environmental programs; Valuing and promoting mining heritage.

Other actions that allow to facilitate the exploration and mining permitting and its social acceptance are:

- Concept of sustainable mining through the principles of parity and co-existence;
- Involvement of Municipalities: All municipalities are consulted during the license/permitting procedures.
- Involvement of Stakeholders: Prior to issuing the exploration/exploitation permit, DGEG makes public on the Government Journal and on national and local journals about the application (30 working days for complaints/comments).
- Participation on the Land use Plans at national, regional and municipal levels.
- Promotion of meetings, workshops and debates with stakeholders to stress the importance and specificity of mineral resources.

Portugal's mineral potential is considered to be far from being fully exploited. The local geological resources are diverse:

1. in northern-central Portugal, there are tungsten and tin deposits (associated with the contact between granite and meta-sediments), and also precious metals, and uranium and lithium deposits;
2. northern-central Portugal has a predominance of granitic rocks;
3. in southern Portugal the most important mineral occurrences are base metals associated with the Cambrian-Ordovician volcanic sedimentary complex, precious metals, and tin,
4. Presently non-metallic minerals deposits include ornamental rocks and sands, gypsum, clay, granites, kaolin, limestone, diatomite and salt.

Mineral ownership

Ownership of metallic and industrial minerals rights (e.g. kaolin, quartz, feldspar, special clays, special sands, halite, gypsum, etc.) belong to the state. Quarries of construction minerals (e.g. marbles, limestones, clays, granites, aggregates, slates) belong to the landowner.

1.3. Legislation governing mineral exploration and extraction

Until recently the primary legal basic of mineral extraction activity had been the Mining Law No. 18,713 of 1930 as amended by Law No. 90/1990, which established the General Regime for the Discovery and Use of Geological Resources, and the Decree-Law No. 88/1990 which regulated with more detail the use of the mineral deposits. In June 2015 the Portuguese Mining Code was revised and the Government published the **Law n°54/2015**, which revoked the Decree-Law 90/90. **Law n°54/2015** is nowadays the legal framework regime of exploration and use of existing geological resources in Portugal including those located in the national maritime area. Now the Government is working on the procedural conduct that will regulate the basic law (Law n°54/2015 referred above), i.e. the legislative regulations for the mineral deposits (mines) and for the hydrogeological and geothermal resources and in the meanwhile the regulations that are being used are the DL88/90. The guiding principles for quarries relating to the exploration and exploitation of mineral masses (private domain, landowners- quarries) is regulated by the Decree-Law No. 270/2001 which has been amended by the Decree-Law No. 340/2007 of 12th October.

Table 1: Portugal. Legislation relevant to exploration and extraction permitting.

The website is www.dgeg.gov.pt

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 and health safety, concession	PT-L1	Law 54/2015, defining the legal bases for mining activities, 2015-06-22	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	mining law
	PT-L3	Decree-law 270/2001, defining the legal bases for mining activities (mineral masses-quarries), 2001-10-06	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	mining law (mineral masses-quarries)
	PT-L4	Decree-law 340/2007, defining the legal bases for mining activities	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	mining law (mineral masses-quarries), alterations

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	
		(mineral masses-quarries), 2007-10-12										
	PT-L5	Decree-law 88/90, defining the legal bases for mining activities (mineral deposits), 1990-03-16	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	mining law (mineral deposits)
	PT-L7	Decree-law 165/2002, defining radioactive substances management, 2002-07-17	www.dgeg.gov.pt	N	N	Y	Y	Y	Y	Y	Y	radioactive minerals management
	PT-L8	Ordinance 1083/2008, defining taxes for mineral masses-quarries exploration and extraction, 2008-09-24	www.dgeg.gov.pt	N	Y	Y	Y	N	Y	Y	Y	tax calculation
	PT-L9	Rectification declaration 20-AP/2001, rectifying law-decree 270/2001, 2001-11-30	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	rectification of mining law (mineral masses-quarries)
	PT-L10											

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	
	PT-L12	Decree-law 162/90, regulating health and safety in the mining sector, 1990-05-22, also Decree-Law 24/2012 (minimum requirements for worker's protection)	www.dgeg.gov.pt	N	N	N	Y	N	Y	N	Y	health and safety regulation
environment												
	PT-L15	Decree-law no. 151-B/2013, Oct. 31st, And Decree-law no. 152-B/2017, Dec. 11th Regulatory framework for Environmental Impact Assessments (EIA), which establishes the rules for public and private projects likely to cause deleterious effects on the environment; and identifies project typology, amended by DL 179/2015	www.dgeg.gov.pt	Y	Y	N	Y	Y	Y	Y	Y	Environmental impact assessment
	PT-L16	Decree-law no. 232/2007, June 15th amended by DL no. 58/2011 Strategic Environmental	www.dgeg.gov.pt	N	Y	N	Y	Y	Y	Y	Y	SEA

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	
		Assessment: Regulates the assessment of the effects of certain plans and programmes on the environment										
	PT-L17	Decree-law 152/2002, defining waste landfills management, 2002-05-23	www.dgeg.gov.pt	Y	Y	N	Y	Y	Y	Y	Y	mining waste management
	PT-L18	Decree-law 198-A/2001, defining mining rehabilitation concession, 2001-07-06	www.dgeg.gov.pt	Y	Y	N	N	Y	Y	Y	Y	abandoned mines rehabilitation
	PT-L19	Ordinance 330/2001, defining technical standards for environmental impact studies, 2001-04-02	www.dgeg.gov.pt	Y	Y	N	Y	Y	Y	Y	Y	environmental impact studies
	PT-L20	Decree-law 194/2000, defining environmental permitting, 2000-08-21	www.dgeg.gov.pt	Y	Y	Y	Y	Y	Y	Y	Y	environmental permitting
	PT-L22	Decree-law n.º 10/2010, of February 4, waste management of mineral deposits and mineral	www.dgeg.gov.pt	Y	Y	N	Y	Y	Y	Y	Y	mining waste management

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	
		masses, amended by Decree-Law n.º 31/2013										
water management	No laws identified directly related with mining legislation and permitting.											
land use planning, spatial development, soil management	PT-L23	Law 31/2014, defining the legal bases for soils public policy, land use planning and urbanism, 2014-05-30	www.dgeg.gov.pt	Y	Y	Y	Y	N	Y	Y	Y	land use planning national policy
	PT-L24	Decree-law 80/2015, developing the legal bases for soil use, 2015-05-14	www.dgeg.gov.pt	Y	Y	Y	Y	N	Y	Y	Y	land use planning national policy (practical application)
	PT-L25	Regulate-decree 15/2015, defining soil classification criteria, 2015-08-19	www.dgeg.gov.pt	N	N	Y	Y	Y	Y	Y	Y	soil classification criteria
transportation, construction, catastrophe protection												

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		
													No laws identified directly related with mining legislation and permitting.
culture heritage													No laws identified directly related with mining legislation and permitting.
public administration, court procedures													No laws identified

1.4. Authorities governing mineral exploration and extraction

The **main responsible authority for licencing of exploration and mining of state-owned mineral deposits (metallic and industrial minerals) and for private owned mineral masses (quarries) is the DGEG** (Directorate General of Energy and Geology) in the sphere of the Ministry of Environment and Energy Transition. The **DGEG, as the Portuguese Mining Authority is then responsible for issuing permits for mines for mineral deposits of mineral occurrences with high economic interest** due to their scarcity, high specific value or importance for the application in industrial processes, **and licenses for quarries**. This refers to those deposits existent within national territory and offshore within the exclusive economic Zone, and includes mineral substances used to obtain metals that contain gold, silver, copper, etc., radioactive substances, coal, talc, kaolin, diatomite, quartz, precious and semiprecious stones, sands, gravel, and other aggregates that occur on the seabed and or subsoil of the territorial sea and continental platform. In Portugal, the DGEG acts as a “one stop shop” for state-owned minerals. Notwithstanding the above, specific competencies governed by different co-authorities regarding health and safety, nature conservation and cultural heritage may also apply, e.g. the Portuguese Environmental Agency (within the Portuguese Ministry of the Environment and Energy Transition) issues the environmental permit (e.g. the approval of an EIA) (no environmental permit is needed for exploration).

For quarries, the licencing authority depends on the quarry type. For quarries class 1 (with a surface equal or larger than 25 ha) and for quarries class 2 (underground quarries or open pit quarries with less than 25 ha, but which exceed any of class 3 quarries’ limits), the licencing authority is the DGEG. For quarries class 3 (quarries with a surface area < 5 ha and a quarry depth < 10 m and a quarry production < 150.000 t/year and quarry Employees < 15 and explosive consumption < 2.000 kg/year) and class 4 (Small quarries which do not exceed any class 3 quarries limits) the licencing authority is the Municipal Chamber (or Municipality – *Câmara Municipal*). Although despite the class of the quarry all mining working plan has to be approved by DGEG.

For offshore exploration and mining activities (e.g. of seafloor massive sulphides), besides the DGEG, the Ministry of Sea and the Environmental Authority (only for the mining phase) are also responsible co-authorities.

The Autonomous Regions of Azores and Madeira are responsible for the granting of rights over geological resources located in their territory, In adjacent sea areas until 200 miles the mining contracts are celebrated between central government, the autonomous regions and license mining company

Table 2: Portugal. Relevant authorities in exploration and extraction permitting.

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
First instance permitting (local, regional, central, national)	PT-E1	Direcção-Geral de Energia e Geologia	Directorate General of Energy and Geology	www.dgeg.gov.pt	Mining permitting national authority	Y	Y	Y	PT-L1-6, 8-15, 18, 20, 21, 23-25	
	PT-E2	Laboratório Nacional de Energia e Geologia (LNEG)	National Laboratory of Energy and Geology	http://www.lneg.pt/	Portuguese geological survey, participates in EIA study evaluations	Y	Y	Y		
	PT-E3	Agência Portuguesa do Ambiente (APA)	Portuguese Environmental Agency	www.apambiente.pt	Environment permitting national authority	N	Y	Y	PT-L13-22	
	PT-E4	Direcção-Geral do Território	Directorate General of the Territory	www.dgterritorio.pt	Land use permitting national authority	Y	Y	Y	PT-L23-L25	
	PT-E5	Comissões de Coordenação e Desenvolvimento Regional	Regional Coordination and Development Commissions	www.ccdr-n.pt ; www.ccdrc.pt ; www.ccdr-lvt.pt ; www.ccdr-a.gov.pt ; www.ccdr-alg.pt	Land use permitting regional authorities	Y	Y	Y	PT-L23-L25	

	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		
	PT-E6	Municípios	Municipalities		Land use permitting municipal authorities	Y	Y	Y	PT-L23-L25	
	PT-E7	Ministerio do Mar	Ministry of Sea	http://www.portugal.gov.pt/pt/ministerios/mm.aspx	Offshore activities	Y	Y	Y	-	
	PT-E8	Instituto de Conservação da Natureza e das Florestas	National protection Agency for Nature and Forests	https://www.icnf.pt/	Land use permitting National authority	Y	Y	Y	PT-L3, 4,5,16,17,23,24,25	
Second instance permitting (regional, central, national)	PT-E8	Direcção-Geral de Saúde	Directorate General of Health	www.dgs.pt	Health national authority	N	Y	Y	PT-L7, 12	
	PT-E9	Autoridade para as Condições do Trabalho	Work Conditions Authority	www.act.gov.pt	Work conditions national authority	N	Y	N	PT-L12	

	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		
Court jurisdiction	Not identified									

1.5. Licensing procedures for exploration

Summary of all the different permitting procedures for exploration

Mineral licensing will generally follow in the wake of an application submitted by the applicant for the granting of an exploration contract. Applications for exploration contracts are addressed to and decided by the Minister for the Environment and Energy Transition (or by his Secretary of State for Energy), submitted to and processed by the Directorate-General of Energy and Geology (DGEG) which will also monitor the exercise of the operations covered by the contracts.

Differences for the different types of mineral deposits

Ore deposits (including all metallic and radioactive ores, coal, graphite, pyrites, phosphates, asbestos, talcum, kaolin, diatomite, quartz, feldspar, precious and semi-precious stones, potassium salts and rock-salt) are State owned. Mineral masses (clays, limestones, marbles, gypsum, granites, sand and in general all the ornamental stones and those used in building not included under the ore deposits category) are not state-owned and may be privately owned. State owned mineral deposits can be conceded for exploration. For private-owned minerals a prospecting license can be assigned (although it is nowadays a rare case).

Description of the permitting procedures

Mining companies may apply for:

- **Prior appraisal rights:** Applied only for metallic mineral deposits with the objective of undertaking preliminary studies for the best knowledge of existing resources; analysis of available information and of the samples taken. Maximum area is 15 km² Duration is 1 year.
- **Exploration rights:** Applied for the development of activities aimed to increase the knowledge of the geological resources and the determination of its characteristics, until the revelation of the existence of economic value. Terrestrial Area up to 500 km² and Maritime Area up to 5 000 km² . Duration is of 5 years (maximum with extensions included)

Assignment of exploration rights is subject to the prior consent of the Minister following an application lodged by the Licensee, accompanied by information concerning the capacity of the intended Licensee to continue operations and to meet contractual commitments, particularly those in respect of the schedule of work and investment which must be up to date. Also the measures that will be adopted for environment safeguarding should be generally described.

If there are several companies applying to explore the same area or other relevant reasons, the Ministry of Environment and Energy Transition can decide to open a public tender. However, this procedure is not frequent until recently, although the mining law includes this possibility.

Exploration rights cover the minerals specified in the contract and the area set forth therein. The contract stipulates the general work programmes and minimum investments as agreed in advance, to be implemented by the Licensee company over the duration of the contract in question (balances of investments made larger than the established minimum figures established for a given contract period may, however, be carried forward to the next period). The general schedule is complemented every year by detailed programmes and the respective budget. They are monitored via presentation of yearly

progress reports the last of which should be drawn up as the final report of the work and investments undertaken, presented together with the main conclusions. The reports and technical data provided by the mining company are considered confidential during the duration of the contract. After this period and if the licensee company does not apply for exploitation, all data is turned public, and available at the LNEG, the Portuguese Geological Survey.

Non-compliance with these minimum commitments may lead to refusal of time extension or to cancellation of the contract by decision of the Minister after prior notice to and consultation with the Licensee company.

For the assignment of a private-owned minerals prospecting license is required a prior opinion, issued by the regional Government organization named Comissão de Coordenação e Desenvolvimento Regional (CCDR) or by the municipality, in cases where the area of the application is inserted in captivats or reserved spaces for the mining industry in the respective Municipal Land Use Plan (PDM). This opinion must be issued within 30 working days, after which, in the absence of a reply, is considered favourable. After that the license should be applied to DGEG (the Portuguese mining authority), including a prospecting working plan (where the rehabilitation works are also referred). The applicant company has to prove that the land is owned/rented by the applicant.

After the issuance of the license, the prospecting must be developed within one year (renewable for an equal period, only once). Finalized the prospecting works (small pits, drill holes, trenches, geophysical surveys, among others), the intervention sites should be retrieved back, as much as possible, to the original topography. As a result of these works a report of the work carried out to indicate the results achieved within the prospecting period must be sent to the mining authority.

Public entities involved in the process

The DGEG is the main entity involved in the granting of an exploration contract (exploration licence).

In processing mineral licenses other departments of the Administration are involved in the environment and spatial planning, namely the Comissões de Coordenação e Desenvolvimento Regional (CCDRs) and/or ICNF (if it is a sensitive area), are consulted as they are the municipal authorities of the area covered by the application. Their comments will be taken into account, but the decision to grant the license is exclusively from the Minister of Environment and Energy Transition (DGEG). CCDR's and/or ICNF (if it is a sensitive area) approves the remediation plan (PARP) for quarries. The application is published in regional and national newspapers and invited everyone to send their comments to the mining authority.

Stakeholders are consulted, and prior to issuing the exploration/exploitation permit, DGEG makes public on the Government Journal and on national and local journals the application (30 working days for complaints and comments).

Timeframes

The timeframe for the mining authority to make a decision on exploration rights are not defined by the law for the State owned minerals (mines); for private owned minerals (quarries) the licensing period is 80 days maximum.

In practice, for the State owned minerals, if there are no delays with the approval of permits, exploration rights are granted generally as shown below. The average time to get an exploration permit is of 7 months.

The Schedule for granting exploration rights is:

General assessment of the application: 2 month (NOTA: Municipalities and Environmental Authority are consulted.

Public consultation and stakeholder consultation: 2 month

Evaluation of the application and negotial terms of the contract: 2 month

Ministry decision: 1 month

Geographic areas covered by the permit

The area (2D) to be conceded, except for exceptional cases, cannot exceed 500 km² in terrestrial area and 1.000Km² in maritime area.. The final area definition must ensure that there are no overlaps with other granted exploration areas. The occupation of land to set up the exploration work shall be preceded by the consent of the owners of the land in question, which, if refused without due grounds, may be granted by the courts at the Licensee's company's request.

Rights and duties of the licensee company for State owned minerals

Non-compliance with the minimum commitments referred in the previous section "Description of permitting procedures" may lead to refusal of time extension or to the cancellation of the contract by decision of the Minister of Environment and Energy transition after prior notice to and consultation with the licensee company. The contract also stipulates payment of an annual mining rights surface fee, fixed or variable, in proportion to the size of the area granted (€/km²). The nature and amount is negotiable. The exploration contract also contains provisions concerning the duration of the next phase: exploitation contract and the payment of a royalty (usually a percentage of sales F.O.B./Mining area), and the allocation of part of these royalties in the local municipalities. This encourages actions to support local communities and raise awareness and trust such as: Social programs; Environmental programs; Valuing and promoting mining heritage.. Cancellation of the prospecting and exploration contract resulting from non-compliance with legal or contractual obligations is subject to the rules and procedures established by law. Renunciation of rights or complete abandon by the Licensee company of the area under concession is allowed provided that the Licensee's company commitments have been complied with or that the justification submitted is accepted.

Legal nature of the rights

The total duration of the contract, including time extensions should not exceed 5 years. Contract periods are negotiable and usually include an initial period of 2 to 3 years followed by 1 extension of 3 or 2 years, if consistent with the minimum work programme and budget. With the exception of those areas in respect of which a mining contract application has been lodged, the Licensee company should abandon a part (usually 25%) of the area contracted for the occasion of the time extension of the prospecting and exploration contract. Exploration rights are exclusive and transferable, if authorized by the Ministry of Environment and Energy transition.

Links between the exploration permit and a future mining/Exploitation permit

Pursuant to prevailing legislation, the State, in the event of a commercial discovery, guarantees the exclusive granting of a mining concession (involving entering into a proper

contract) in respect of the resources discovered within the scope of the exploration contract provided that the Licensee company has accomplished with its legal and contractual obligations, provided always that an application is submitted to the effect, before the prospecting and exploration contract ends, accompanied by the necessary information (including presentation of a mining plan compatible with good mining practice and with environmental protection requirements).

Average length to get an exploration permit

7 months.

Main problems or major modifications related to exploration permitting

In Portugal, the exploration permit is dealt by the Ministry of Environment and Energy Transition through DGEG, the mining authority. However, some exploration activities such as drilling may need other authorizations depending on their location within the area and in these cases the applicants must obtain them (e.g. exploration areas that include classification zones of environment and cultural heritage). If the environmental and social stakeholders don't have a negative position about the exploration application when they are consulted, the license can be granted (ideally) in 5-6 months. Nevertheless, the reduction of skilled staff in the Portuguese public administration, namely in the mining authority, can provoke additional delays in the permitting process. This situation is about to be solved and more experts will be contracted to work at the Portuguese Mining Authority (DGEG).

1.6. Licensing procedures for mining (State owned minerals)

Summary of all the different permitting procedures for mining

Mineral licensing will generally follow in the wake of an application submitted by the applicant for the granting of a mining contract. Applications for mining contracts are addressed to and decided by the Minister of Environment and Energy Transition (or by his Secretary of State for Energy), submitted to and processed by the Directorate-General of Energy and Geology (DGEG) which will also monitor the exercise of the operations covered by the contracts. The application should include a formal request, a general plan should be including a Mining plan, a Health and Safety plan, an Environmental and Landscape recovery plan and a Waste Management plan and a Pre-Feasibility Study, besides the EIA, whenever necessary.

Differences for the different types of mineral deposits

Ore deposits (including all metallic and radioactive ores, coal, graphite, pyrites, phosphates, asbestos, talcum, kaolin, diatomite, quartz, feldspar, precious and semi-precious stones, potassium salts and rock-salt) are State owned. Mineral masses (clays, limestones, marbles, gypsum, granites, sand and in general all the ornamental stones and those used in building not included under the ore deposits category) are not state-owned and may be privately owned. To date, no different procedures have been applicable to the different mineral deposits or different types of land under the mining law. The royalties paid differ from commodity to commodity and an additional tax is paid to the municipalities.

Description of the permitting procedures

There are several ways of applying for mining rights:

- In the sequence of an exploration contract.

- By direct assignment by request of the interested. Obtaining the concession in this way requires that the area where the mineral deposit is placed is available or not covered by any mineral rights in force for the same substances. Both in the sequence of an exploration contract or through direct assignment, an experimental mining permit can be granted.
- By direct allocation through public tender. If understood as strategic for the national economy, a mineral deposit can be attributed by contest, for which it will be published the terms and conditions, in official and national and local newspapers where deadlines for proposals and possible claims/comments will be fixed.

For private-owned minerals and prior to the request for allocation of a mining license is necessary to check if the project is subject to an Environmental Impact Assessment (EIA). If that is the case, the project does not require prior notice. Otherwise, it will be necessary to obtain a prior opinion of favourable location, according to what has been described previously for the prospecting license.

Along with the application various technical and administrative documents need to be submitted:

- Application for assignment of the license;
- Opinion of favourable location (municipality);
- Proof of possession of the land, in the form of a public deed;
- Identification of the responsible technician;
- Topographical and cadastral plans;
- Justification of economic viability of the project;
- Technical documents relating to the Quarry plan, depending on the dimension of the quarry, that can include a Quarrying plan, a Health and Safety plan, a Landscape recovery plan, a Waste management plan, a Deactivation plan and Environment and Monitoring Plan, besides a Feasibility study.

Additionally, if the project is covered by the EIA legislation, the licensing will take place only when it is issued an Environmental Impact Statement (EIS) favourable or favourable conditioned (substituting the opinion of favourable location). The decision on the application is usually given (ideally) within 80 days in the case of the Licensor be the mining authority (DGEG) and 70 working days in the case of the Licensor be the municipality.

Public entities involved in the process

For operations larger than 15 hectares or with an extraction rate of more than 200,000 tonnes (and all scale of operations if located in areas of protected landscape identified by law) an EIA and a protection plan must be submitted to be approved by the Environment and Energy Transition Ministry as a condition for the award of the contract. The Environmental Impact Study (EIA) contains a summary description of the project, the identification and assessment of potential impacts, positive and negative, that its implementation may have on the environment, the foreseeable development of the current situation without the realization of the project (no-action or zero alternative), the environmental management measures designed to prevent, minimize or compensate for adverse impacts expected, the measures which will enhance the positive impacts, the description of the monitoring plan and the conclusions and final recommendations resulting from the preparation of this document. In the EIA various environmental factors are covered, depending on the depth of the approach to the type of project and of the specific characteristics of the location.

The main factors included in the EIA are: climate, geology and geomorphology, soils and land use, surface and ground water resources, water quality, air quality, environmental noise, flora, vegetation and habitats and biotopes, fauna, landscape, land use planning, socio-economy and archaeological heritage. Environmental assessment performed in the

EIA focuses on the implantation, extraction, closing and post-closing of the quarry or mine. The EIA consists of a synthesis report, technical reports (when required), attachments and a non-technical summary.

In accordance with the provisions of the law, if the EIA is refused by the Minister of Environment and Energy Transition the mining permit should not be granted. Also the mining application will be advertised through a public consultation and all the comments received will be taken into account, and the decision, if the environmental impact study is approved is issued by the Ministry of Environment and Energy Transition.

Timeframes

The laws do not define timeframes in which the authorities have to make their decisions. Only the main mining law and the environmental laws only define periods for public consultation and some deadlines for the EIA but do not have fixed time periods in which decisions should be made. In the practice, if all permits are approved in time, a typical timescale for the granting of mining rights for state-owned minerals (metals and industrial minerals) is shown in the table below (“schedule for granting of exploitation rights”), i.e. it takes an average of 11 months.

SCHEDULE FOR GRANTING OF EXPLOITATION RIGHTS

DESCRIPTION OF THE DIFFERENT STEPS OF AN EXPLOITATION APPLICATION FOR STATE OWNED RESOURCES						
<i>TYPICAL TIMESCALE</i>						
	MONTHS					
	1	2-4	5-6	7-8	9-10	11
GENERAL ASSESSMENT OF THE APPLICATION	*					
EVALUATION OF THE ENVIRONMENTAL IMPACT STUDY (EIS)		*				
PUBLIC CONSULTATION (EIS)			*			
EVALUATION OF THE MINING PLAN (ALL ITS COMPONENTS)				*		
PUBLIC CONSULTATION (ALL THE COMPONENTS OF THE APPLICATION)					*	
MINISTERIAL DECISION						*

Geographic areas covered by the exploitation permit

The area (2D) to be conceded is normally small and there aren't any limits for it. Its designation is agreed between the applicant and the Ministry of Environment and Energy Transition. The mining company is entitled to apply for expropriation for public service of the land necessary to the mining operations if an agreement cannot be reached with the respective land owners.

Rights and duties of the mining company

The concession contract entitles the mining company the sole right to extract the specified mineral resources within the area set forth in the contract. Mining operations shall proceed in accordance with a general work plan approved or revised (as necessary) and with yearly work programmes which should be consistent with applicable regulations and good mining and environmental practices. This general plan should include a Mining plan, a Health and Safety plan, an Environmental and Landscape recovery plan and a Waste Management plan.

The mining company shall appoint and register the technical manager in charge of the mining operations.

Notice of suspension of mining operations must be given to the Minister of Environment and Energy Transition and consent obtained, and the suspension may not last longer than authorised, unless renewal was requested and granted, if justified. Unauthorised suspension of mining operations may lead to cancellation of the contract if the mining company, following a reasonable period of notice, does not put an end to the suspension or presents an acceptable justification. Cancellation of the contract for non-compliance with legal and contractual conditions is subject to the rules and procedures established by law.

The contract also stipulates an annual payment of a royalty, generally in the form of a percentage of the values of the F.O.B./Concession sales. This royalty can be partly applied directly by the concessionaire in local, regional, national social and environmental projects (approved by the mining authority), thus reducing the royalty that should be paid to the government, in order to increase public acceptance among the communities. An additional tax is foreseen to the municipalities. Conditions governing the periodic review (usually every 5 or 10 years) of this percentage and its suspension or reduction whenever justified to ensure continuation of operations are also governed by the provisions of the contract.

Legal nature of the rights

The duration of the contract is stipulated on the basis of the estimated duration of the resources under normal operating conditions in accordance with the geological report, preliminary feasibility study and mining plan submitted together with the application. It covers an initial period and 1 or 2 time extensions. An experimental mining license is granted normally by a period between 3 and 5 years. Mining rights are exclusive and transferable, if authorized by the Ministry of Environment and Energy Transition.

Links between the exploration permit and a future permit for exploitation

Pursuant to prevailing legislation, the State, in the event of a commercial discovery, guarantees the exclusive granting of a mining concession (involving entering into a proper contract) in respect of the resources discovered within the scope of the exploration contract provided that the mining company is not at fault with regard to compliance with legal and contractual obligations, provided always that an application is submitted to the effect, before the prospecting and exploration contract ends, accompanied by the necessary information (including presentation of a mining plan compatible with good mining practice and with environmental protection requirements).

Average length to get a mining permit

5 months after the approval of an environment impact study. This study is evaluated by a steering committee coordinated by the environment authority during 4-6 months. On average, it takes any project eleven months as shown previously for state-owned minerals (metals and industrial minerals).

Integrity Assessment

No cases of lack of transparency in the permitting are known. Also, no cases of unequal treatment on the basis of nationality are known. No special rules for foreign applicants apply. Notwithstanding, under Portuguese corporate law, any foreign company not legally domiciled in Portugal that aims to undertake activity in Portugal for more than one year must create a permanent establishment in Portuguese territory. Moreover, in what concerns tax representation before the Portuguese Tax Authorities, the Portuguese Corporate Income Tax Code establishes that an entity that has neither its head office or (place of) effective management in Portuguese territory, nor a permanent establishment situated therein, shall be required to appoint a person or entity with residence, head office or (place of) effective management in that territory as its tax representative before the Portuguese Tax Authorities, in case it generates income in this territory. As an exception, company's resident for tax purposes in a Member State of the European Union, or a Member State of the European Economic Area (in the latter case, the exception applies insofar there is an administrative cooperation agreement in force between Portugal and the relevant EEA Member State) are not required to appoint a tax representative. Foreign direct investment is not restricted under general Portuguese law. In respect of repatriation of profits and investment, there are no currency controls under Portuguese law and money can be freely transferred into or out of Portugal. Also, there are no restrictions on the remittance of profits or investments abroad (ICLG, 2015).

Main problems or major modifications related to mining permitting

In Portugal mining permits are dealt by the Ministry of Environment and Energy Transition through DGEG, the national mining authority. If the environmental authority doesn't have a negative position about the EIA study (mining phase), the permit can be granted in 7-8 months. Nevertheless, the reduction of skilled staff in the Portuguese public administration, namely in the mining authority, can provoke additional delays in the permitting process. Also the public consultation process can provoke some political pressure, especially by NGOs, delaying or even affecting the decision in a negative way. The general permitting system in Portugal can be improved if the mining law allows a unique mining title and for a long period, from exploration to closure, but with all the commitments defined and updated when necessary.

1.7. Court cases on permitting procedures

The procedural and institutional framework of court appeals

The Portuguese civil court system is based on distinctive categories of courts:

- *Tribunal Constitucional* – the Constitutional Court;
- *Supremo Tribunal de Justiça* – the Portuguese Supreme Court;
- *Tribunais da Relação* – the Regional Appeal Courts;
- *Tribunais de Primeira Instância* – the Court of First Instance; and
- *Tribunais Arbitrais* – arbitration courts and *Julgados de Paz*.

The Constitutional Court is aimed at resolving disputes regarding people's fundamental rights, as they relate to those foreseen in the Portuguese Constitution. Generally, sentences given by the Court of First Instance can be appealed to the Regional Appeal Court. Exceptions are stated in certain matters involving claims below a certain threshold or in cases where the appellant's loss is insignificant. Such thresholds do not apply to

matters regarding personal status, parental authority and inalienable rights. An appeal of a decision ruled by a Regional Appeal Court will fall in the jurisdiction of the Portuguese Supreme Court. The Supreme Court only rules regarding the interpretation of law and does not examine the facts established by the lower courts.

Upon an unfavourable decision to grant a permit by the mining authority, the interested party may: (i) file a complaint to the same administrative body which made the decision, requesting the revocation or modification of the same, based on its illegality or inconvenience; (ii) submit an appeal to the most hierarchically superior administrative body in relation to the body which took the decision, or to the collegial administrative body to which the former is a member or to its delegating or supervisory administrative body, requesting the revocation or modification of the decision based on its illegality or inconvenience; or (iii) file a judicial appeal requesting the declaration of invalidity of the decision based on its illegality.

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

In Portugal, no relevant court cases have been identified in the last 30 years. Most of the disputes have been settled in friendly terms with the DGEG. Known are only 3 cases where the companies dropped off the exploitation application (for kaolin) due to social contestation during the public consultation phase, but they are not relevant besides a very local scale.

Most decisive and representative court judgements

No court judgements known.

Conclusions

Most disputes against permitting procedures in Portugal have been resolved in friendly terms and no relevant court cases exist in the last 30 years.

1.8. Success rates of exploration and extraction permits

Between 2013 and 2015:

36 new exploration permitting applications were submitted, the distribution of which with regard to non-energy commodity groups were

25 metallic minerals

11 industrial minerals

of which

36 were approved (**close to 100 % success rate**);).

Between 2013 and 2015:

37 new mining permitting applications were submitted (experimental and definitive extraction licenses), the distribution of which with regard to non-energy commodity groups were

3 metallic minerals

34 industrial minerals

of which

12 were approved (**32,4 % success rate**).

Between 2016 and April 2019

131 exploration applications were submitted for both metallic (101) and non-metallic (30) minerals

16 new explorations permits have been granted and 1 mining permit was issued, which represents a rate of 13,1%.

Recent figures in 2019 show that this situation will change again and that success rates of the former period (2013-2015) will be achieved.

A small part of the low success rate is related to the government change during 2015 but that was a temporary event and the rate during 2016 has increased considerably.

1.9. EU legislation impacting permits and licenses for exploration and mining

Answering the following specific questions prepared by jurist experts to be addressed to Member States experts with regard to the implementation of the EU legislation:

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

No.

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

Yes. A technical responsible for an exploration project or a mining license should be nominated by the concessionaire and his/her technical capability must be recognized by the mining authority. This technical capability is not defined.

- 3) Do you have 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?

Yes. The cost calculation is made by the mining authority.

- 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?

No.

- 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?

Portugal has developed a national program for the rehabilitation of abandoned mines, which began before the transposition of the Directive on mining waste. Although the criteria in Annex III have not been formally followed, the best available techniques have been implemented.

- 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)?

No.

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

Yes, the operator should prepare, submit and update (during the mining operation) a mine waste management plan to the mining authority.

- 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?

No, these rules don't appear on the concession contract or in the mining law, not affecting in a specific way the concessionaire.

- 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?

No.

- 10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipment 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?

Yes. The mining authority inspections include the check of CE marks on the exploration or extraction equipment's. No for the second part of the question.

- 11) 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.

Yes. In Portugal the Environmental Impact Assessment is in force through the DL 151-B/2013 published on the 31st October 2013, which has had amendments and is now republished on the DL 152-B/2017 of 11th December. These diploma corresponds to the Directive n^o2014/52/UE transposition for the Portuguese legislation.

Available only in PT language.

<https://dre.pt/application/conteudo/114337013>

- 12) 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?

EIA is needed for exploitation phase (extraction).

The thresholds and situations are described in the legislation and are according to:

thresholds defined on Annex 1 (article 18) for general case:

Open pit mines and quarries - in an area of more than 25ha, or for more than 150ha for peat extraction.

thresholds defined on Annex 2 (article 2 a), b), c)) for general case:

Open pit mines and quarries - in an area of more than 15ha or more than 200.000ton extraction/year or if there are several open pit mines/quarries within a radius of 1Km and in total they exceed the thresholds.

Underground mines and quarries – in an area of more than 15ha or more than 200.000ton extraction/year.

Sensitive areas:

- Mandatory EIA for projects that exceed thresholds defined for general case.*
- In cases where projects do not reach the thresholds for the general case, there will be a case by case analysis for decision on EIA.*

If the Government or the permitting organization decides that due to the dimension, location and characteristics of the project it is needed an EIA. Note: This applies to projects that do not exceed the limits for EIA in the general case.

In case of extensions of projects (already licensed) which will exceed 20% of area or production.

- 13) 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?

Yes. Thresholds have been defined for general case and for sensitive areas there is a case by case analysis.

The thresholds and situations are described in the PT legislation and are according to:

thresholds defined on Annex 1 (article 18) for general case:

Open pit mines and quarries - in an area of more than 25ha, or for more than 150ha for peat extraction.

thresholds defined on Annex 2 (article 2 a), b), c)) for general case:

Open pit mines and quarries - in an area of more than 15ha or more than 200.000 ton extraction/year or if there are several open pit mines/quarries within a radius of 1Km and in total they exceed the thresholds.

Underground mines and quarries – in an area of more than 15ha or more than 200.000 ton extraction/year.

Sensitive areas:

*-Mandatory EIA for projects that exceed thresholds defined for general case.
-In cases where projects do not reach the thresholds for the general case, there will be a case by case analysis for decision on EIA.*

- 14) 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?

Portugal has one only border with Spain. As long as we know, there has not been such situation in the mining activity, although it is considered in the EIA law.

- 14) Do competent authorities in your country apply the IPPC permit and the Extractive Waste BREF for mining under the scope of the Industrial Emissions Directive?

Yes.

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

Not official yet. We are working on it.