



MINLEX - Romania Country Report

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1. ROMANIA

1.1. Summary of findings

Romania has mineral deposits of lignite, pit coal, brown coal, anthracite, gold and silver ore, poly-metallic ore, copper, salt and non-metallic substances. The country is a producer of lignite, steel, aluminium, uranium and industrial minerals (e.g. salt, limestone, dimension stone, lime, cement, gypsum, mineral aggregates, etc.). All mineral resources (also including coal, mineral water, therapeutic muds and geothermal resources) and hydrocarbon resources are public property of the state (Art. §1 ML) and are administered by the National Agency for Mineral Resources (NAMR).

Mineral resource extraction activities and the management of solid mineral resources are regulated by the Mining Law no. 85/2003, whose provisions are detailed by the Norms of application of the Mining Law and technical instructions on specific problems. **The Romanian authorisation system for permits/licences for the project development around solid mineral resources is of a multi-authorisation nature**, i.e. up to 6 permits, licences or approvals are necessary so that exploration or exploitation works can be conducted.

Prospecting permits and exploration licences are issued by the NAMR and up to 5 co-authorities might be involved in the process: the National Environmental Protection Agency (NEPA) issues the environmental permit (environmental agreement, includes an appropriate assessment if the proposed project is located in protected areas or in their neighbourhood), the National Company Romanian Waters is involved when the mining works are located in the river beds and terraces below the hydrostatic level, the Ministry of Culture is responsible for any archaeological discharge, and the Ministry of Finance is involved in setting the level of taxation. The legal interval for the issuance of a prospecting permit is 30 days. Exploration licenses are granted within 10 months from the submission of the written request. For prospecting permits and exploration licenses, in the post licensing phase, at the risk and expense of the investor, the approval of local authority must be obtained as well, in the form of an Urbanism Certificate (UC) issued by the local authority. The UC is a regulation act and represents the preliminary authority act as to the conditions to be fulfilled by any specific construction (civil and/or industrial) throughout an administrative unit. If prospecting/exploration projects contain geological drilling, they should be authorized by a Construction Permit which is the final authority act of local government, which allows the permit/license holder to effectively start drilling in the field.

Extraction licences are also granted by the NAMR and between 6 and 9 co-authorities may be involved in the process. These include the NEPA (which needs to approve the Extractive waste management plan for reduction, treatment, recovery and disposal of extractive waste previously advised by NAMR and a part of the documentation for requesting the environmental permit / integrated environmental permit), the National Company Romanian Waters, the Ministry of Finance, the Ministry of Economy and the Ministry of Environment (the Minister of Finance, the Minister of Economy and the Minister of Environment, three persons, need to sign the Government Decisions that approve the extraction licences so that they become valid), the Ministry of Culture (at times the Minister of Culture's signature is needed too), the Ministry of Justice (sometimes the final signature of the Justice Minister is also required to approve the government decision) and the local public administration (in cases when the transport of the extracted material causes degradation to roads and buildings). Environmental permits (both for exploration and extraction) are granted within 5.5 months.

Court cases related to permitting procedures are not common and this can be explained by the NAMR policy, which is favourable to investors. Only the Roşia Montană court case (still pending) has been analysed in this study. In this case the Parliament of Romania adopted a decision against the beginning of extraction works. The

company Roşia Montană Gold Corporation held the exploration license at Roşia Montană, finished the exploration and made the legal request for the extraction license.

Before the licence could be granted, national civil and political organizations supported by national and international environmental NGOs¹ expressed their opposition to the project via mobilisations. The main concerns expressed had to do with fears of potential pollution caused by the technique to be employed in the project (gold cyanidation). Such concerns are framed within a historical context in which Romania suffered from two serious environmental incidents (Certej in 1971 and Baia Mare in 2000) involving pollution and fatalities (in Certej) caused by cyanide spills in the tailings dam of mines which are still present in the memory of the Romanians. Framed in a climate of strong tensions between supporters and opponents to the project, the Government did not issue a decision for the granting of the extraction license. In 2015, the Canadian company Gabriel Resources Ltd., the main shareholder at Roşia Montană Gold Corporation, filed a complaint at the Arbitration Court of the World Bank against the Romanian State. The complaint is still unresolved.

The permitting success rate for exploration is high. If exploration licences requested by investors are considered (as opposed to exploration licences tendered by the NAMR, which may not match the interest of investors), the success rate is close to 100 %, as the licences only require the signature of the President of the NAMR. **In the case of extraction licenses, the approval needs the official signatures from six public entities:** NAMR, General Secretariat of the Government, Ministry of Environment, Ministry of Economy, Ministry of Finance and Ministry of Justice. This process is very slow. If one of the official persons who signed the approval is removed from the official position in the meantime, the list of signatures has to be modified and signed again. Because of this, in the period 2013-2015 there was only one tender for extraction and that was initiated by NAMR. All extraction licenses in the period 2013-2015 were negotiated directly with the titleholders of exploration licenses who had finished their programmes and had the right to get the extraction license. On the NAMR's website, in the case of solid non-energetic substances, there are 304 approved licenses and 361 licenses waiting for approval. There are extraction licenses issued several years ago that have not yet been approved. A large number of the extraction licenses approved by NAMR are waiting for Government approval.

1.2. General introduction

Romania is a parliamentary republic, with two chambers of Parliament (Chamber of Deputies and Senate), with a Government as main executive power and President of the Republic of Romania as a head of the state, while judicial authorities are the courts and tribunals. The Chamber of Deputies and Senate are legislative authority and are elected for a four-year term, while the President is elected for a five-year term. In 2014, the GDP of Romania amounted to ca. 199 billion USD (ca. 177.31 billion €), while the GDP per capita was ca. 10,000 USD (ca. 8,900 €), i.e. 55% of average EU purchasing power parity.

Romania has, besides hydrocarbons, minerals deposits of lignite, pit coal, brown coal, anthracite, gold and silver ore, poly-metallic ore, copper, salt and non-metallic substances. The country is a producer of lignite, steel, aluminium, uranium and industrial minerals (e.g. salt, limestone, dimension stone, lime, cement, gypsum, mineral aggregates, etc.).

¹ inter alia Romanian Academy of Sciences, Romanian orthodox church, Hungarian reformed church in Romania, Greenpeace of Hungary and Romania, political parties in Romania, Hungarian environmental NGOs

The extractive activities and the management of solid mineral resources² are regulated by the Mining Law no. 85/2003, whose provisions are detailed by the Norms of application of the Mining Law and technical instructions on specific problems (e.g. tariffs for the documents issued by NAMR, monitoring of the fulfilment of environmental obligations and of the mode of operating with financial guarantee in case a closure of the mine/quarry is planned or unplanned, the mineral resources treatment facility and the rehabilitation of the land affected by the extractive waste facility, monitoring post-closing, to restore biodiversity and remedying of environmental damage in case of a major accident, issuance of permits for prospecting/exploitation and licenses for exploration/exploitation, rules for the reporting of the mine production and calculation of royalties, etc.). These regulations are applicable to the entire country, as Romania does not contain autonomous regions. The local authorities are not empowered to issue regulations on extractive activities, though this statement is not valid in the case of issuing the environmental permit/integrated environmental permit.

The right to use the land required to conduct mining activities in the exploration/extraction perimeter is granted by:

- (a) sale - purchase of the lands;
- (b) land exchange by mutual agreement, with the relocation of the owner and the compensations paid by the titleholder for the construction of new buildings;
- (c) land rental on determined period, based on contracts concluded between the parties;
- (d) expropriation for public interest cause, in accordance with the law;
- (e) concession of the lands;
- (f) association between the owner of the land and the titleholder of the license;
- (g) other procedures allowed by the law.

Within 90 days from the coming into effect of the license, the foreign legal entities which obtained the right to conduct mining activities must set up and maintain a branch in Romania for the whole duration of the concession.

Mineral ownership

In Romania, all mineral resources (also including coal, mineral water, therapeutic muds and geothermal resources) and hydrocarbon resources are public property of the state (Article §1 ML) and are administered by the National Agency for Mineral Resources (NAMR).

² Mineral resources extraction activities and the management of *liquid* mineral resources are regulated by the Crude Oil Law no. 238/2004 and of *gaseous condition* mineral resources by the Natural Gas law 132/2012. The provisions of both laws are detailed by the Norms of application of the Crude oil Law and the Norms of application of the natural gas and technical instructions on specific problems.

1.3. Legislation governing mineral exploration and extraction

Mineral resource extraction activities and the management of solid mineral resources are regulated by the Mining Law no. 85/2003, whose provisions are detailed by the Norms of application of the Mining Law and technical instructions on specific problems.

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

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	RO-L1	Mining Law 85/2003	http://www.namr.ro/wp-content/uploads/2014/01/LM852003.pdf	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L2	Government Decision No. 350/2015 Mining Taxes	http://www.namr.ro/wp-content/uploads/2016/02/hg350.pdf	Y	Y	Y	Y	N	N	N	Y	None
	RO-L3	Government Decision No. 1208/2003 Norms of application for Mining Law	http://www.namr.ro/wp-content/uploads/2014/01/hg12082003.pdf	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L4	Order of NAMR no. 116/166725/1998 technical instructions for mine closure	http://www.namr.ro/wp-content/uploads/2013/02/ord116_1667251998.pdf	N	Y	N	N	Y	Y	N	Y	None
	RO-L5	Order of NAMR no.198/2009	http://www.namr.ro/wp-content/uploads/2009/01/ord1982009.pdf	N	Y	Y	Y	N	N	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		instructions for mining taxes and royalties	014/01/ord1982009.pdf									
	RO-L6	Order of NAMR no. 138/2010 taxes to official documents issued by NAMR	http://www.namr.ro/wp-content/uploads/2014/01/ord1382010.pdf	Y	Y	Y	Y	Y	N	N	Y	None
	RO-L7	Order no. 125/15 February 2011 amending and supplementing Instructions on operating permits, approved by Order of the National Agency for Mineral Resources No. 94/2009	http://www.namr.ro/wp-content/uploads/2014/02/ord1252011.pdf	Y	Y	N	Y	Y	Y	N	Y	None
	RO-L8	Order of NAMR no.47/2008 approval of annual mining programs	http://www.namr.ro/wp-content/uploads/2013/02/ord472008.pdf	N	Y	N	Y	N	N	N	Y	None
	RO-L9	Order of NAMR no.122/2006 certification of geology experts	http://www.namr.ro/wp-content/uploads/2014/01/ord1222006.pdf	N	Y	Y	Y	Y	N	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	RO-L10	Order of NAMR no.17/2005 environmental rehabilitation plan ABROGAT Order of NAMR no. 202/2881/2348 of December 4, 2013 approving the technical specifications for implementation and monitoring measures set out in the recovery environment, extractive waste management plan and technical project environmental rehabilitation and operation of Financial Guarantee environment affected by mining	http://www.namr.ro/wp-content/uploads/2015/09/ord20213.pdf	Y	Y	Y	Y	Y	N	N	Y	None
	RO-L11	Order of NAMR no.197/2003 mine cadastre regulations	http://www.namr.ro/wp-content/uploads/2014/01/ord1972003.pdf	N	Y	N	Y	Y	N	N	Y	None
	RO-L12	Order of NAMR no.187/2002 content of mining methods documentations	http://www.namr.ro/wp-content/uploads/2014/01/ord1872002.pdf	Y	Y	N	Y	N	N	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
			013/02/ord1872002.pdf									
environment	RO-L13	Government Decision no. 856/2008 on extractive industries waste management Order no. 2042/2934/180/2010 approving the procedure for approving the plan for managing waste from extractive industries and its normative content, issued by: THE MINISTRY OF ENVIRONMENT AND FORESTS, MINISTRY OF ECONOMY, TRADE AND BUSINESS ENVIRONMENT and NATIONAL AGENCY FOR MINERAL RESOURCES	http://www.anpm.ro/deseuri-extractive	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L14	EMERGENCY ORDINANCE. 195 of 22 December 2005 environmental protection with	Not available	Y	Y	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		<p>modifications and subsequent additions</p> <p>Order no. 1798 of 19 November 2007 Procedure for issuance of the environmental permit with modifications and subsequent additions</p> <p>Order no. 184 of September 21, 1997 Procedure for Environmental Audits</p>										
	RO-L15	Law no. 104/2011 on air quality	http://www.anpm.ro/documents/12220/2049969/Lege+104+aer.pdf/d764d447-baca-448a-9f6d-cfea9bc39252	Y	Y	Y	Y	Y	Y	N	y	None
	RO-L16	Government Decision no. 321/2005 assessment & management of ambient noise	http://www.apdmgalati.ro/Co-Wanda/services/documente/PM/en/HG%20321_14.04.2005.pdf	N	Y	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	RO-L17	Government Decision no. 445/2009 on the assessment of environmental impact	Not available	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L18	Order of NAMR 202/2013 regarding approval of technical instruction as to following measures in the environment reconstruction plan, in the extractive waste management plan, and operating with the financial guarantee for environment reconstruction.	Not available	INA	INA	Y	Y	Y	Y	Y	Y	
nature conservation, forestry	RO-L19	Law 347/2004 sustainable development of mountainous areas	http://www.mmediu.ro/beta/wp-content/uploads/2012/08/2012-08-01_legislatie_protectia_naturii_legea347din2004munte.pdf	N	N	Y	Y	Y	Y	N	Y	None
	RO-L20	Law 46/2008 Silvic Code	http://www.mmediu.ro/beta/wp-content/uploads/2012/08/2012-08-01_legislatie_protectia_naturii_legea347din2004munte.pdf	N	Y	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
			ctia_naturii_legea46din2008codulsilvic.pdf									
	RO-L21	Order 649/2016 Minister of Environment, Water and Forest on approval of methodology of temporary, definitive occupation of forestry land	Not available	INA	INA	Y	Y	Y	INA	INA	INA	
	RO-L22	Law no. 5/2000 protected zones	http://www.mmediu.ro/beta/wp-content/uploads/2012/07/2012-07-26_legislatie_arii_protejate_legea5din2000amenajareteritoriuzoneprotejate.pdf	Y	N	Y	Y	Y	Y	N	Y	None
	RO-L23	Government Decision no.230/2003 National Parks, Biosphere Reserves	http://www.mmediu.ro/beta/wp-content/uploads/2012/07/2012-07-25_legislatie_arii_protejate_hg230din2003delimitarerezevatiiparcuri.pdf	Y	N	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	RO-L24	Order 2387/2011(Minister of the Environment) protected areas in Natura 2000	http://www.mmediu.ro/beta/wp-content/uploads/2012/07/2012-07-26_legislatie_arii_protectate_ordin2387_din2011scinatura2000.pdf	Y	N	Y	Y	Y	Y	N	Y	None
	RO-L25	Law 86/2014 on the organisation and use of lawns	http://lege5.ro/Grauit/gqydamrugi/legea-nr-86-2014-pentru-aprobarea-ordonantei-de-urgenta-a-guvernului-nr-34-2013-privind-organizarea-administrarea-si-exploatarea-pajistilor-permanente-si-pentru-modificarea-si-completarea-legii-fondul	Y	N	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
water management	RO-L26	Law 107/1996 Water law	http://www.namr.ro/wp-content/uploads/2013/02/legea_107.pdf	Y	Y	Y	Y	Y	Y	N	Y	surface & underground water
	RO-L27	Order 662/2006 for water management permits	http://www.namr.ro/wp-content/uploads/2013/02/ord6622006.pdf	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L28	Government Decision 930/2005 on the size of hydrogeological and sanitary protection zones	http://www.namr.ro/wp-content/uploads/2013/02/hotarare930.pdf	Y	Y	Y	Y	Y	Y	N	Y	None
land use planning, spatial development, soil management	RO-L29	Emergency Government Order no. 34/2013 for lawns	http://lege5.ro/en/Gratuit/gm3dcobuhe/ordonanta-de-urgenta-nr-34-2013-privind-organizarea-administrarea-si-exploatarea-pajistilor-permanente-si-pentru-modificarea-si-completarea-legii-fondului-funciar-nr-18-1991	Y	Y	Y	Y	Y	Y	N	Y	None

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	RO-L30	Law No. 343/2002 on the balneal resorts	http://www.namr.ro/wp-content/uploads/2013/02/legea343din2002.pdf	Y	y	Y	Y	Y	y	N	Y	balneology
	RO-L31	Government Decision 852/2008 on the assessment of touristic resorts	http://www.namr.ro/wp-content/uploads/2013/02/hot8522008.pdf	Y	y	Y	Y	Y	y	N	Y	protection of touristic resources
transportation, construction, catastrophe protection, police, military	RO-L32	Law 50/1991 regarding discipline in construction, republished	Not available	INA	INA	Y	Y	Y	Y	N	N	Urbanism Certificate & Construction Permit necessary for any geological drilling works at investor's own risk & expense
	RO-L33	Law 10/1995 regarding construction quality	Not available	INA	INA	Y	Y	Y	Y	N	N	Specifies Technical documentation DTAC for obtaining Construction Permit.
	RO-L34	Order of NAMR no. 94/2009 instructions for issuance of extraction permits	http://www.namr.ro/wp-content/uploads/2014/01/ord942009.pdf	Y	Y	N	Y	Y	Y	N	Y	Extraction permit titleholders need to submit a road rehabilitation agreement with the local public administration.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	RO-L35	Law No. 265/2008 on the safety of transport on roads	https://www.sugrc-cjph.ro/documents/10157/11117/Legea+265_2008_modif2012.pdf	N	Y	Y	Y	Y	Y	N	Y	None
culture heritage	RO-L36	Order no. 43/2000 on the protection of the archaeological patrimony	http://www.cimec.ro/Legislatie/Og43-2000-Republicare-2007-04-25.pdf	Y	Y	Y	Y	Y	Y	N	Y	None
	RO-L37	Order 2518/2007 Minister of Culture, on the archaeological discharge	http://cultura.ro/uploads/files/OMCC-2518-2007.pdf	Y	N	Y	Y	N	Y	N	Y	None
public administration, court procedures	RO-L1	Mining Law 85/2003	http://www.namr.ro/wp-content/uploads/2014/01/LM852003.pdf	Y	Y	Y	Y	Y	Y	N	Y	None

1.4. Authorities governing mineral exploration and extraction

Prospecting permits and exploration licences are issued by the NAMR and other 4 co-authorities might be involved in the process:

- National Environmental Protection Agency (NEPA): the NEPA is supported by county Environmental Protection Agency (EPAs) and it approves the extractive industries waste management plan, which was advised before by NARM. The waste management plan shall contain at least the following elements: the proposed classification for the waste facility, waste characterization, a description of the operation generating such waste and of any subsequent treatment, a description of how the environment and human health may be adversely affected by the deposit of such waste and the preventive measures to be taken in order to minimize environmental impact during operation and after closure, the proposed control and monitoring procedures, the proposed plan for closure, including rehabilitation of the land affected by a waste facility after-closure and monitoring, measures for the prevention of water status deterioration and for the prevention or minimization of air and soil pollution, a survey of the condition of the land to be affected by the waste facility, and the environmental monitoring during the exploitation and post closure stages is made by National Environmental Guard (NEG) and
- the National Company Romanian Waters (when the mining works are located in the river beds and terraces below the hydrostatic level, permitting is conditioned by the approval of the National Company Romanian Waters)
- the Ministry of Culture, responsible for the archaeological discharge
- the Ministry of Finance, involved in the setting the level of taxation.

Exploitation licences are also granted by the NAMR and between 6 and 9 co-authorities may be involved in the process. These include the NEPA, the National Company Romanian Waters, the Ministry of Finance, the Ministry of Economy and the Ministry of Environment (the Minister of Finance, the Minister of Economy and the Minister of Environment, three persons, need to sign the Government Decisions that approve the extraction licences so that they become valid), the Ministry of Culture (responsible for the archaeological discharge, and at times the Minister of Culture's signature is needed too), the Ministry of Justice (sometimes the signature of the Justice Minister is also required to approve the government decision) and the local public administration (in the cases when the transport of the extracted material induces the degradation of the roads and buildings).

Table 2: Romania. 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)	RO-E1	Agentia Nationala pentru Resurse Minerale	National Agency for Mineral Resources (NAMR)	Bulevardul Dacia, nr. 59, sector 1, 010407, Bucuresti, Romania/www.namr.ro	Granting institution	Y	Y	Y	Mining Law 85/2003	None
	RO-E2	Administratia Nationala Apele Romane	National Company Romanian Waters	Str. Edgar Quinet nr. 6, Sector 1, C.P. 010018, București/http://www.rowater.ro/	Permits for mining works in the riverbeds	Y	Y	Y	Law 107/1996 Water law Order 662/2006 for water management permits	None
	RO-E3	Ministerul Culturii	Ministry of Culture	Bulevardul Unirii nr. 22, sector 3, București, 030833/http://cultura.ro/	Archeological discharge certificate	Y	Y	N	Order 2518/2007 Minister of Culture, on the archaeological discharge	None
	RO-E5	Agentia Nationala pentru	National Environmental Protection Agency (NEPA)	Splaiul Independentei, nr.294, Corp B,	National Environmental Protection Agency (NEPA) prin County Environmental Protection Agency-EPA, approving the	Y	Y	Y	Environmental Framework Law GD 856/2008	The NEPA is supported by county-level environmental protection agencies (EPA)

	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		
		Protectia Mediului		sector 6, Bucuresti http://www.anpm.ro/web/guest/acasa	extractive waste management plan. The extractive waste management plan is part of the documentation to request environmental permit / integrated environmental permit The monitoring during the exploitation and post closure is made by National Environmental Guard (NEG) and NAMR.				Order 2042 Decision 955/2014 / EU Order 1798/2007 Government Decision no. 445/2009 Order the environmental balance	
	RO-E6	Ministerul Mediului, Apelor si Padurilor	Ministry of Environment, Waters and Forests	Bvd. Libertății nr. 12, Sector 5, București/ http://www.mmediu.ro	Ascertain that no protected area is affected by the mining activity	Y	Y	Y	Law no. 5/2000 protected zones, Order 2387/2011(Minister of the Environment) protected areas in Natura 2000	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
Second instance permitting (regional, central, national)	RO-E1	Agentia Nationala pentru Resurse Minerale	National Agency for Mineral Resources	Bulevardul Dacia, nr. 59, sector 1, 010407, Bucuresti, Romania/www.namr.ro	Granting institution	Y	Y	Y	Mining Law 85/2003	Contestation of the first instance permitting has to be submitted to the NAMR
Court jurisdiction	RO-E7	Judecatorie	Local courts	188 local courts	Arbitration	Y	Y	Y	Mining Law 85/2003	Not specified distinctly
	RO-E8	Tribunale	Tribunals (county level)	42 tribunals	Arbitration	Y	Y	Y	Mining Law 85/2003	Not specified distinctly
	RO-E9	Cuti de apel	Courts of appeals	15 courts of appeals	Arbitration	Y	Y	Y	Mining Law 85/2003	Not specified distinctly
	RO-E10	Inalta curte de casatie si justitie	High Court of Cassation and Justice	Str. Batiștei 25, Bucharest 020934	Arbitration	Y	Y	Y	Mining Law 85/2003	Not specified distinctly

	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		
	RO-E11	Curtea Constitutionala	Constitution Court	Parliament Palace, Entrance B1, Calea 13 Septembrie 2, Bucharest 050725	Arbitration	Y	Y	Y	Mining Law 85/2003	Not specified distinctly

1.5. Licensing procedures for exploration

Differences for the different types of mineral deposits

All prospecting permits and exploration licenses are granted by the NAMR based on the same rules irrespective of the types of mineral deposits.

Description of the permitting procedures

Prospecting is conducted on the basis of a **non-exclusive permit**, issued at the request of the title holder. **Exploration** is conducted on the basis of an **exclusive license** obtained by public tender.

Prospecting is conducted on the basis of a non-exclusive permit, issued by the NAMR, at the written request of an investor, within a perimeter defined by topo-geodetic coordinates.

The request (for prospecting, also valid for exploration licences) has to be accompanied by the following documents:

- a typified form containing the basic information on the prospecting perimeter; geodetic coordinates in stereo 70 projection system
- informative acts from the environment authority, national water authority and culture authority, which state that the perimeter is not under restriction of any kind
- identification data of the claiming company;
- data regarding the technical and financial capacity of the claiming company;
- detailed program of the proposed prospecting works, their duration and financial value estimate. Estimation of environment impact and a financial estimation of the impact attenuation works should be added.

The shape and size of the prospecting perimeter is established by NAMR, depending on the mineral resources in the perimeter, structure and geological formations hosting the mineral resources, planned duration and volume of the prospecting works.

Prospecting in hydrological protection areas for water sources, great importance archaeological sites with indexed archaeological repertoire or in the restriction areas of natural parks will be denied according to Art. 11 ML.

Depending on the duration of prospecting works and the spatial extent of the prospecting perimeter, the final volume of works and their minimum value are set by negotiation between the investor and the NAMR.

The prospecting permit is issued within 30 days from the submission of the request and the required accompanying documents, accepted by the competent authority.

A banking financial guarantee for environmental reconstruction works should be constituted previously to signing the prospecting permit, according to Law 85/2003 and Order nr. 202/2013 NAMR. This guarantee should not be any less than the financial estimate of environment reconstruction works and should be kept till final reception of reconstruction.

Exploration is conducted on the basis of an exclusive license obtained by public tender. The initiative for the concession of exploration mining activities may come from the NAMR or from the interested Romanian/foreign legal entities (not from physical persons). If an investor wants to conduct exploration works in a certain area for some commodities, has to make a written request for the exploration license, mentioning the commodities and the area defined by topo-geodetic coordinates. The NAMR decides on the opportunity of the concession within 45 days from the registration of the request and communicates the

decision to the investor. NAMR issues an Order published in the Official Gazette of Romania, which includes:

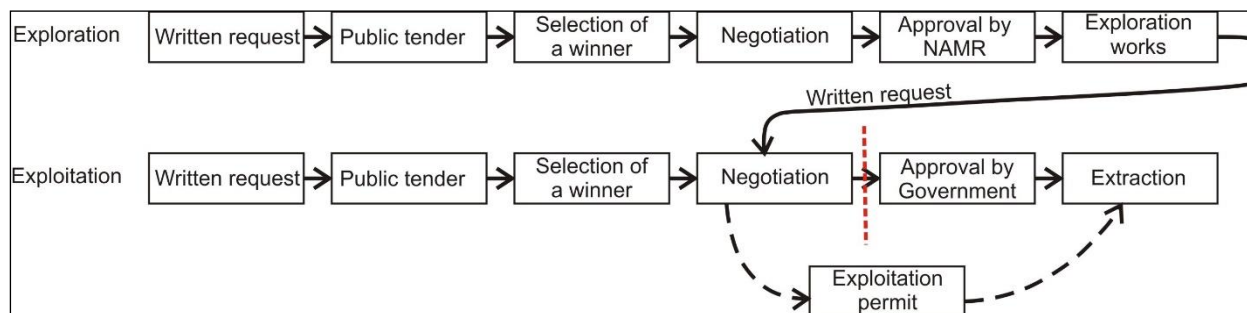
- the list of the perimeters to be conceded for exploration;
- type of commodity for each perimeter;
- the deadline and the place of bid submission;
- documents and information to be provided by the bidders;
- the date, the hour and the place of opening of the bids;

The bids are submitted in sealed envelopes. NAMR designates a Commission for bid opening. At the time established in the Order, the bids are opened by the Commission. Each offer is analysed by experts from the NAMR, other than the members of the Commission. The score of each offer is based on the financial and technical capacity of the bidder, the proposed exploration program, the project of environmental rehabilitation, and the prospecting reports, if the investor has/had a prospecting permit that includes the perimeter to be conceded. The titleholder of the prospecting permit who bids for an exploration license within the prospecting perimeter, gets an additional score, representing at most 20% of the maximum score established for the proposal of the exploration program. The proposed exploration program shall include the annual amount of exploration works, e.g. geochemical and geophysical works, mining works (trenches, open pits, mine shafts, adits etc.), drilling, documentation corresponding to these works, technological studies and laboratory research at the laboratory, pilot and semi-industrial stages, as well as at the stage of experimental extraction, and the related expenses. The investor who gets the highest score is declared the winner of the tender. If the best two competitors have the same score, the one who gets the higher score for the exploration program is the winner. The winner negotiates the exploration program and the program of environmental rehabilitation with the NAMR.

The exploration license includes the following information: duration of the license, delimitation of the exploration perimeter, program of exploration works, activities for the environmental protection, sequence and timing of the exploration works.

The exploration license comes into force on the date the Order of the President of the NAMR on its approval is published in the Official Gazette, first part.

Fig. 1: Romania. Scheme of the permitting chain for exploration and extraction.



Source: M. Munteanu.

For prospecting and exploration activities, from an environmental point of view, an environmental impact assessment is performed and the final act issued is the **environmental agreement**. The type of the final act depends on different issues such as the project type (prospecting or exploration), the location, etc. When the project is located in protected areas or in their neighbourhood, the environmental impact assessment procedure includes also the appropriate assessment. The deadlines are according to the type of project and to the necessary studies and vary between 30 days and 2 years.

For prospecting permits and exploration licenses, in the post licensing phase, at the risk and expense of the investor, the approval of the local authority must be obtained as well, in the form of an **Urbanism Certificate** (UC) issued by the local authority. The UC is a regulation act and represents the preliminary authority act as to the conditions to be fulfilled by any specific construction (civil and/or industrial) throughout an administrative unit.

If prospecting/exploration projects contain geological drilling, they should be authorized by a **Construction Permit** which is the final authority act of local government, which allows the permit/license holder to effectively start drilling in the field. Construction Permit is an act that includes deed for land ownership, environment permit, Road administrator permit, electric company permit and so on. It includes social acceptance too since it is approved and issued by the Local Council. The procedure is specified by Law 50/1991 republished, and Law 10/1995 regarding quality in construction.

Public entities involved in the process

The public entities involved are:

1. NAMR issues the permits and licenses. It monitors the fulfilment of the financial, technical and environmental obligations.
2. National Environmental Protection Agency (NEPA). Issues the environmental agreement.
3. National Company Romanian Waters. When the mining works are located in the river beds and terraces below the hydrostatic level, permitting is conditioned by the approval of the National Company Romanian Waters.
4. Ministry of Culture. Responsible for the archaeological discharge.
5. Ministry of Finance is involved in the setting the level of taxation for mining works.
6. Local authorities issuing the urbanism certification and (not always) the construction permit (if drilling is involved)

Timeframes

Prospecting. The prospecting permit is issued by NAMR within 30 days from the submission of the request and the accompanying documents.

Exploration. The investors submit a written request for the exploration license. The NAMR decides on the opportunity of the concession within 45 days from the registration of the request and communicates the decision to the investor.

The procedures for public tender begin being concluded with the announcement of the winner. The winner negotiates the exploration program and the program of environmental rehabilitation with the NAMR. These activities are not strictly constrained timewise; their duration could be estimated to a few months.

The NAMR authorizes in writing the commencement of the mining activities provided in the license, within 180 days, upon the submission of the following documents by the Title Holder:

- (a) proof of mining activity tax payment
- (b) proof of establishing the financial guarantee for environmental rehabilitation
- (c) a fiscal certificate stating that the Title holder of license has no due obligations to the state budget
- (d) environmental agreement and/or authorisation
- (e) the approval by the NAMR for the annual work program;

(f) agreement of the land owner or land administrator on the access to the areas needed for carrying out the mining activities provided in the annual work plan

(2) The NAMR shall authorize the commencement of mining activities in no more than 30 days from receipt of the above-mentioned documents.

Geographic areas covered by the permit

There is no geographic constraint for a leased area.

Rights and duties of the licensee

The titleholder of the license/permit has the following rights (from Mining Law 85/2003, Art. 38):

- To have access, in the conditions provided for by the law, to the lands or the areas needed for the conduct of mining activities within the boundaries of the perimeter provided for by the license/permit;
- To conduct, within the boundaries of the perimeter, all the mining activities provided for by the license/permit;
- To use, according to the legal provisions in the field of water management and environmental protection, sources of surface and underground waters as necessary to conduct the mining activities;
- To associate with other legal persons, with the prior approval of the NAMR, on the purpose of carrying out the mining activities provided in the license/permit. The associate having the role of Title Holder is sole responsible of fulfilling the obligations granted by the license. In order to issue the approval of association, the NAMR shall consider at least the following items: the technical and financial capability of the associate, the purpose of the association, the way the rights and obligations are split.
- To obtain from the NAMR, in accordance with the law, the data and information required for the conduct of mining activities, to keep and use such data and information, as well as those obtained from its own operations, for the entire duration of the license/permit.
- To interrupt the operations more than 60 days, with the prior agreement of the NAMR.
- To build roads, bridges, railways, electricity networks and other infrastructure utilities necessary for the conduct of mining activities, according to the law.

The Titleholder of the license/permit has the following obligations (from Mining Law 85/2003, Art. 39):

- To comply with the provisions of Mining law, the norms and instructions issued for the application of the Mining law and with the provisions of the license/permit;
- To prepare before the commencement and during the execution of mining activities, in accordance with the provisions of the license/permit, technical and economic documentation for carrying out the mining activities, documentation for environmental protection in accordance with the Environmental Protection Law;
- To start mining activities within no more than 210 days from the date when the license comes into force;
- To obtain, prepare, keep up to date and to submit to the NAMR, on the scheduled dates, all data, information, and documentation established in the license/permit, concerning the mining activities carried out and the results obtained in order to be registered in the Mining Book and the Mining Cadastre. In the case of radioactive deposits, the data will be also transmitted to the competent authorities in the field, according to the law;

- To inform the NAMR about the control inspections made by the local environmental and work safety authorities;
- To keep confidential the data and information legally obtained from the NAMR and the Ministries and the data resulted from own operations and to disseminate such data only in compliance with the provisions of the license;
- In case of termination of the concession by any of the way indicated in Art 31 of the Mining Law, to return to the NAMR the leased perimeter, in accordance with the provisions of Art. 37, para. (2) and (5) of the Mining Law;
- To execute and finalize the environmental rehabilitation of the perimeters affected by the mining works performed,
- To update the necessary topographic measurements and to complete the plans of all the works carried out during the mining activities according to the Mining Topography Rules.
- Not to transport, use, manipulate and store toxic, radioactive, or any other polluting and hazardous substances, in the mining works, only if the legal provisions are observed.
- To obtain the agreement of the harbour authorities and the Public Competent Authority in the field of transport, in case of carrying out mining activities in the inner water way area;
- To organise by the entrances of the mine which constitute the employees access and also in the underground, emergency medical centres equipped with personnel, medical equipment, specific instruments and materials, according to the norms issued by the Public Competent Authority in the field of Health.
- To carry out upon termination of the concession the works for care and maintenance/closure of the mine/quarry, as the case may be, including the Post-Closure Monitoring Program, according to the activity cessation plan;
- To bear the costs for training and transfer of technology provided in the license. The respective amount will be transferred in a separate account of the NAMR, created and registered for such purpose;
- To prepare and finance the social protection measures provided by the Social mitigation plan;
- To pay the fees related to the mining activities, within the terms provided in the Mining Law.

The following activities are allowed by granting of prospecting permits: studies of evaluation and interpretation of the pre-existent data, studies of geochemistry, magnetometry, radiometry, electrometry, gravimetry, seismometry, remote sensing, drilling, surface excavation, laboratory analysis, preparation, technological research at the laboratory stage, and other works for the establishment of the general conditions, favourable for the accumulation of the mineral resources.

The prospecting permit is issued for a period of maximum 3 years (this period cannot be extended), with an annual fee paid in advance. Titleholders of prospecting permits must carry out annual programs, with a minimum value of expenses negotiated with the NAMR in correlation with the duration of the permit and the size of the prospecting perimeter at the time the prospecting permit is issued.

The titleholder of the prospecting permit submits to NAMR semestral and annual reports regarding the works conducted and their value justified by documents. The titleholder presents to NAMR a final report, comprising the methods of investigation used, the work conducted, justification of the related expenditures and the results obtained, within 60 days from the expiry of the period for which the permit has been issued.

The titleholder of the prospecting permit who requests an exploration license within the prospecting perimeter, gets an additional score, representing at most 20% of the maximum score established for the proposal of the exploration program. If the title holder of a prospecting permit does not make a request for an exploration license in the prospecting perimeter within 60 days from the submission of the final prospecting report

to NAMR, or does not participate to a public tender initiated by other investors for the prospecting perimeter or for a perimeter including it, loses the benefit of the additional score.

The exploration license is granted for a maximum period of 5 years, with the right of renewal for no more than 3 years within the limits of a granted perimeter, defined through topo-geodetic coordinates.

The exploration tax is paid annually, in advance, accompanied by an appropriate financial guarantee for environmental rehabilitation, as set out in the environmental rehabilitation plan. After carrying out the exploration program for the first year, the titleholder has the right to reduce the area of the exploration license at any time, with the agreement of NAMR, on the basis of interim reports, proving that all the works necessary for the environmental rehabilitation have been done in the area remained outside the new perimeter.

The titleholder of the exploration license has to submit to the NAMR semestral and annual reports regarding the work conducted and the related expenditures, at the terms established by the NAMR, and a final report, comprising the exploration methods applied, the works performed, the related expenditures and the results obtained, within no more than 60 days from the expiry of the license. The semestral, annual and final reports, including the reports on the prospecting activities, together with the data and information related to the mineral resources/reserves, constitute part of the National Geological Fund (national database on mineral resources).

The change of the exploration program can be made, after the written request of the title holder, with the approval from NAMR

The volume of exploration works planned for the first year of the license cannot be diminished.

The work program set in the license, including its timing, is mandatory. The titleholder of an exploration license may obtain bank loans, in order to conduct the mining activities, with the written certification of the existence of the license, issued by the NAMR.

Legal nature of the rights

Mining Law no. 85/2003. Government Decision no. 1208/2003 on the norms of application of the Mining Law no. 85.2003. Order no. 179/2005 of the President of NAMR for the approval of the Technical instructions regarding the issuance of prospecting permits.

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

The extraction license is granted directly to the titleholder of the exploration license, upon request, for any of the mineral resources discovered, in maximum 90 days from the submission of the final exploration report, accepted by the NAMR as satisfactory. In this case, the titleholders of the exploration licenses have the right to continue experimental extraction and maintenance activities for the works they have done, within the limits of the exploration perimeter, in the time interval until the granted extraction license comes into force.

If the term of 90 days is exceeded, the title holder loses the right of direct granting of the extraction license and needs to initiate the procedures of a public tender.

Average length to get an exploration permit

30 days for prospecting permit. Several months for exploration license.

1.6. Licensing procedures for extraction

Summary of all the different permitting procedures for extraction

As a general rule, extraction is conducted on the basis of an **exclusive license** obtained by public tender. An extraction license can be granted directly to the titleholder of an exploration license for the explored perimeter. Extraction permits grant the concession of mining activities for extraction, for a period of one year and for a limited quantity of construction rocks, peat or alluvial gold. The extraction permit is issued at the request of the title holder and is granted to the first claimant.

Differences for the different types of mineral deposits

Mining (extraction) activities for all mineral resources are allowed to legal entities based on **extraction license**, with a maximum duration of 20 years, after which it can be renewed successively for 5-years periods.

For construction rocks and peat accumulations, limited quantities may be extracted by physical persons or legal entities for a period of one year, based on an **extraction permit** granted by NAMR on a "first come, first served" basis. Physical persons and legal entities can carry out works of gold recovery from the alluvial sediments that are not included in a mining concession, based on an **extraction permit** issued by NAMR.

Description of the permitting procedures

Extraction is conducted on the basis of exclusive license.

The **extraction license** is granted:

- a) Directly to the titleholder of the exploration license, upon request, for any of the mineral resources discovered, in maximum 90 days from the submission of the final exploration report, accepted by the NAMR as satisfactory.
- b) To the winner of a public tender organised by the NAMR.

The initiative for the concession may belong to the NAMR or to the interested Romanian/foreign investors.

The list of extraction perimeters to be conceded is established by Order of the NAMR, which is published in the Official Gazette of Romania, part I.

In order to participate in the public tender, the Romanian/foreign legal entities need to submit bids within the period established by the order of the President of the NAMR.

The bids contain the documents regarding the technical and financial capabilities of the applicant, as well as any other documents established by the Competent Authority through the bidding procedure for the public tender. The conditions regarding the organization of the public tender, the criteria regarding the selection and declaration of the winner, as well as any other issues, are set by the NAMR, by derogation from the concession legislation, through norms.

The extraction license is granted to the winner, through negotiations, based on written request, accompanied by the following documents, elaborated in compliance with the technical instructions issued by order of NAMR:

1. feasibility study of mineral resources and deposit protection which contains the documentation of resource/reserve calculation
2. the operation development plan
3. the study of environmental impact and environmental balance

4. Extractive waste management plan advised by NAMR
5. Evaluation study of social impact and social mitigation plan

The mineral resource/reserve calculation documentation is assessed by a commission appointed by Order of NAMR's President, and on commission's acceptance, the resources are registered in a central mineral resources database. The Feasibility study is assessed by the same commission in order to assure the correct calculation of royalties due to the State. The Operation Development Plan is also subject to approval of the same NAMR commission as to reserves mining optimization, and sequencing of works. The above named commission may reject altogether or request completing of resource calculation, Feasibility study or Operation development plan justified in writing.

The advice procedure performed by the NAMR in the case of the Extractive industries waste management plan consists of the following stages:

- The Extractive industries waste management plan is submitted to the territorial inspection departments of the National Agency for Mineral Resources, who analyses and prepare a note on the findings within 20 calendar days after filing.
- The note finding together with the Extractive industries waste management plan are transmitted by the operator/owner to the NAMR for advice, accompanied by the documents specified above within 10 calendar days.
- In the case of documentation provided does not meet the technical requirements to be advised, the NAMR asks the operator / proprietor of activity to bring additions / modifications required under deadline.
- The NAMR shall review the documentation and approve or reject The Extractive industries waste management plan within 30 calendar days from the submission of additions / changes.

Between 6 and 9 co-authorities may be involved in the process: National Environmental Protection Agency (NEPA) by the Environmental Protection Agencies (EPA) from every county approve the Extractive waste management plan for reduction, treatment, recovery and disposal, given the principle of sustainable development, which was previously advised by NAMR and it is a part of the documentation for request the environmental permit / integrated environmental permit and the waste management plan shall contain at least the following elements:

- the proposed classification for the waste facility,
- waste characterization,
- a description of the operation generating such waste and of any subsequent treatment,
- a description of how the environment and human health may be adversely affected by the deposit of such waste and the preventive measures to be taken in order to minimize environmental impact during operation and after closure,
- the proposed control and monitoring procedures, the proposed plan for closure, including rehabilitation of the land affected by a waste facility after-closure and monitoring,
- measures for the prevention of water status deterioration and for the prevention or minimization of air and soil pollution,
- a survey of the condition of the land to be affected by the waste facility

The approval procedure performed by the competent environmental authority in the case of the Extractive industries waste management plan consists of the following stages:

- the Extractive industries waste management plan, advised by NAMR, is submitted by the operator/owner, within 10 calendar days of the notice to the competent

authority for environmental protection (Environmental Protection Agencies from every county-EPA) for approval, which takes place later than 30 calendar days from the submission. If it does not comply with the documentation drafted head. III of Government Decision no. 856/2008, the competent authority for environmental protection requires the operator/ proprietor of activity additions /changes needed.

- In the case of where the competent environmental authority requires the operator /owner of activity to bring additions /changes to the documentation, the operator /owner will resume the advised procedure at NAMR.
- The competent authority for environmental protection shall review and approve or reject the Extractive industries waste management plan within 30 calendar days of submission of complete documentation.

The environmental monitoring during the mining and post-mining stages it is made by the National Environmental Guard (NEG).

The extraction license is granted for a maximum of 20 years, with the right of extension for successive periods of 5 years each. The license is concluded in written form; the extraction license comes into force on the date the Government Decision for the approval of the license is published in the Official Gazette, first part. The legal provisions existing on the date the license comes into force remain valid for the entire duration thereof, except for any future legal provisions in favour of the Title Holder, which may be issued.

Extraction permits are granted by NAMR in the following situations:

- (a) for rocks used in construction, peat accumulations and alluvial gold that were not explored and registered as resources/reserves in the National fund of mineral resources/reserves;
- (b) for rocks used in construction and peat accumulations subjected to previous unfinished exploration and which are not under license at the date of the claim for extraction permit;
- (c) for the accumulations of sand and gravel explored and registered in the National fund of mineral resources/reserves as resources/reserves with economic value;
- (d) for rocks used in construction (other than sand and gravel) and peat accumulations explored and registered in the National fund of mineral resources/reserves as resources/reserves with economic value, if at least one of the following conditions is fulfilled:
 - the exploration has been done by or in the benefit of the investor who claims the extraction permit;
 - the right of extraction of the deposit was on public tender but nobody bade for it;
- (e) for rocks used in construction and peat accumulations with extraction license waiting for the final approval by Government decision; in this case, the extraction permit is granted only to the license titleholder.

For the issuance of the extraction permit, the claimant has to prove (by fiscal certificate) that he does not have unpaid royalties or taxes for prospecting, exploration or extraction.

The extraction permit is granted only after the legal approvals for the environmental protection and rehabilitation are obtained.

Also, documents are needed to show that within the permit perimeter there are not archaeological sites, historical, cultural or religious monuments, natural reserves, sanitary protection zones or hydrogeological protection zones of water sources, issued by the authorities competent in these fields.

In the case of sand and gravel extraction from the lakes, river beds and terraces below the hydrostatic level, the extraction permit is conditioned by the approval issued by the water management authorities. In order to get the extraction permit, the claimants need to create the financial deposit for the environmental rehabilitation.

From the environmental point of view, the permits for exploitations are the environmental permit and the integrated environmental permit (when the facilities are classified according to IED Directive transposed in Romanian legislation by Law 278/2013). The deadline for permit issuance is 90 days from the submitting of the complete application. Environmental permits (both for exploration and exploitation) are granted within 5½months.

Public entities involved in the process

The public entities involved encompass:

1. NAMR issues the permits and licenses. It monitors the fulfilment of the financial, technical and environmental obligations.
2. National Environmental Protection (NEPA) The license and permitting documents include the extractive waste management plan, approved by the NEPA. Participates to the environmental monitoring during the exploitation and post-closure stages.
3. National Company Romanian Waters. When the raw materials are extracted from the river beds and terraces below the hydrostatic level, permitting is conditioned by the approval of the National Company Romanian Waters.
4. Ministry of Finance. The Minister of Finance signs the Government Decisions that approve the licenses of extraction.
5. Ministry of Economy. The Minister of Economy signs the Government Decisions that approve the licenses of extraction.
6. Ministry of Environment. The Minister of Environment signs the Government Decisions that approve the licenses of extraction (the Minister of Finance, the Minister of Economy and the Minister of Environment, three persons, need to sign the Government Decisions that approve the extraction licences so that they become valid)
7. Ministry of Culture. Responsible for the archaeological discharge. At some times, the Minister of Culture's signature was needed on the Government Decisions that approved the licenses of extraction.
8. Ministry of Justice. At times, the Minister of Justice's final signature was needed on the Government Decisions that approve the licenses of extraction.
9. Local public administration. At the submission of the documents required for the granting or renewal of the extraction licenses and permits, the investors need to submit a rehabilitation agreement with the local public administration, in the cases when the transport of the extracted material induces the degradation of the roads and buildings in the area.

Timeframes

The extraction license can be granted directly to the titleholder of the exploration license, upon request, for any of the mineral resources discovered, in maximum 90 days from the submission of the final exploration report, accepted by the NAMR as satisfactory.

For other cases, the extraction license is granted by public tender, following similar stages as for the exploration license.

The NAMR authorizes in writing the commencement of the mining activities provided in the license, within 180 days, upon the submission of the following documents by the Title Holder:

- a. proof of mining activity tax payment

- b. proof of establishing the financial guarantee for environmental rehabilitation
- c. a fiscal certificate stating that the Title holder of license has no due obligations to the state budget
- d. environmental agreement and/or authorisation
- e. the approval by the NAMR for the annual work program;
- f. agreement of the land owner or land administrator on the access to the areas needed for carrying out the mining activities provided in the annual work plan
- g. The NAMR shall authorize the commencement of mining activities in no more than 30 days from receipt of the above-mentioned documents.

Geographic areas covered by the permit

There is no spatial limit or condition related to the geographic position of the leased perimeter.

Rights and duties of the licensee

The titleholder of the license/permit has the following rights (from Mining Law 85/2003, Art. 38):

- To have access, in the conditions provided for by the law, to the lands or the areas needed for the conduct of mining activities within the boundaries of the perimeter provided for by the license/permit;
- To conduct, within the boundaries of the perimeter, all the mining activities provided for by the license/permit;
- To use, according to the legal provisions in the field of water management and environmental protection, sources of surface and underground waters as necessary to conduct the mining activities;
- To associate with other legal persons, with the prior approval of the NAMR, on the purpose of carrying out the mining activities provided in the license/permit. The associate having the role of Title Holder is sole responsible of fulfilling the obligations granted by the license. In order to issue the approval of association, the NAMR shall consider at least the following items: the technical and financial capability of the associate, the purpose of the association, the way the rights and obligations are split;
- To obtain from the NAMR, in accordance with the law, the data and information required for the conduct of mining activities, to keep and use such data and information, as well as those obtained from its own operations, for the entire duration of the license/permit.
- To interrupt the operations more than 60 days, with the prior agreement of the NAMR;
- To build roads, bridges, railways, electricity networks and other infrastructure utilities necessary for the conduct of mining activities, according to the law.

The Titleholder of the license/permit has the following obligations (from Mining Law 85/2003, Art. 39):

- To comply with the provisions of Mining law, the norms and instructions issued for the application of the Mining law and with the provisions of the license/permit;
- To prepare before the commencement and during the execution of mining activities, in accordance with the provisions of the license/permit, technical and economic documentation for carrying out the mining activities, documentation for environmental protection in accordance with the Environmental Protection Law.
- To start mining activities within no more than 210 days from the date when the license comes into force;
- To obtain, prepare, keep up to date and to submit to the NAMR, on the scheduled dates, all data, information, and documentation established in the license/permit,

concerning the mining activities carried out and the results obtained in order to be registered in the Mining Book and the Mining Cadastre. In the case of radioactive deposits, the data will be also transmitted to the competent authorities in the field, according to the law;

- To inform the NAMR about the control inspections made by the local environmental and work safety authorities;
- To keep confidential the data and information legally obtained from the NAMR and the Ministries and the data resulted from own operations and to disseminate such data only in compliance with the provisions of the license;
- To update regularly the plan of work cessation and submit it to the NAMR for approval.
- To retrieve and protect the natural associations of crystals of aesthetic value ("mine flowers") from the mining works carried out and to inform the NAMR about this;
- In case of termination of the concession, to return to the NAMR the leased perimeter, in accordance with the provisions of Art. 37, para. (2) and (5) of the Mining Law;
- To execute and finalize the environmental rehabilitation of the perimeters affected by the mining works performed;
- To update the necessary topographic measurements and to complete the plans of all the works carried out during the mining activities according to the Mining Topography Rules;
- Not to transport, use, manipulate and store toxic, radioactive, or any other polluting and hazardous substances, in the mining works, only if the legal provisions are observed.
- To obtain the agreement of the harbour authorities and the Public Competent Authority
- in the field of transport, in case of carrying out mining activities in the inner water way area;
- To organise by the entrances of the mine which constitute the employees access and also in the underground, emergency medical centres equipped with personnel, medical equipment, specific instruments and materials, according to the norms issued by the Public Competent Authority in the field of Health.
- To carry out upon termination of the concession the works for care and maintenance/closure of the mine/quarry, as the case may be, including the Post-Closure Monitoring Program, according to the activity cessation plan.
- To bear the costs for training and transfer of technology provided in the license. The respective amount will be transferred in a separate account of the NAMR, created and registered for such purpose.
- To prepare and finance the social protection measures provided by the Social mitigation plan.
- To maintain for the entire duration of the extraction the financial guarantee for environmental rehabilitation;
- To pay the fees related to the mining activities and the royalties, within the terms provided in the Mining Law.

The extraction license is granted for maximum 20 years, with the right of continuation for successive periods of 5 years each.

The titleholder of the extraction license will pay annually a tax on extraction activity and mining royalties.

The titleholder must establish a financial guarantee for environmental rehabilitation.

Within the limits of an exploration/extraction perimeter, the NAMR, in accordance with the legal provisions, can grant exploration and/or extraction rights for some mineral resources to investors other than the titleholder of the license, with the permission of the titleholder.

The titleholder of a license can transfer the own rights and obligations to another entity only with the prior written agreement issued by the NAMR. Any transfer made without such agreement is null.

In case the titleholder modifies its statute through reorganization, sale or any other reasons, the license, as it was negotiated, will be granted, through an addendum, to the legal successors of the titleholders, based on the contract between the parties or on a court decision, showed to the NAMR.

Legal nature of the rights

Mining Law no. 85/2003. Government Decision no. 1208/2003 on the approval of the norms of application of the Mining Law no. 85/2003.

1.7. Court cases on permitting procedures

Court cases related to permitting procedures are not common in Romania. Commonly, the incidents related to the public tender are solved by contestation (Government Decision no. 1208/2003, Art. 80-86).

The bidders can formulate contestations concerning the observance of the legal provisions related to the organization and carrying out of the public tender, separately, both concerning the opening stage and the evaluation stage of the offers.

In the case of contestations made to the evaluation stage, the bidders could ask the NAMR, within 3 working days' time from the day of announcement of the result of the public tender, for a copy of the analysis report and of the evaluation report. The contestations concerning the opening stage are formulated within 3 working days' time from the day the copies of the official reports of the evaluation are handed over to the bidders' representatives. The contestations concerning the evaluation stage and selection of the winner shall be formulated within 5 working days' time from the announcement of the winner. Within 10 working days' time from the receipt of the contestation, the NAMR has to resolve the contestation and to send the answer to the contesting bidder. A contestation committee, consisting of 3 members representing the NAMR, shall resolve the contestations.

The members of the contestation committee shall be appointed, through order, by the President of the NAMR. The husbands/wives, relatives or kinsmen up to the fourth rank, including the associates, shareholders, who hold the control positions in the organization framework of the bidders or their administrators or auditors, as well as the persons being in the capacity of evaluator or of the member of the opening, evaluation and negotiation committee, shall not be able to act in the capacity of member of the contestation committee. Immediately after the receipt of any contestation, the members of the committee shall give, on their own responsibility, an affidavit of compatibility.

If the state of incompatibility shall occur during the settlement of the contestation, the members of the committee shall immediately bring this situation to the President of the NAMR, who shall take the necessary measures for their replacement. Any interested person can inform the President of the NAMR in regard to a certain state of incompatibility.

The contestation committee analyses all the documents, issued by the opening, evaluation and negotiation board, and by the evaluators, as the case might be, and verifies the observance of the regulations concerning the public tender for the concession of mining activities.

In the case the contestation is found as well-grounded by the contestation committee, the latter shall recommend the President of the NAMR to revoke the disqualification decision, in the case of the contestations brought on during the opening stage, or to revoke the decision of the selection of the winner and to organise a new public tender for the

concession of the mining activities related to the perimeter, in the case of contestations referring to the evaluation stage.

The contestation committee does not carry out a new evaluation of the offers. All the bidders who have submitted bids for the respective perimeter shall be informed in regard to the contestation admittance.

If the contestation is rejected, the bidder shall be able to resort to the competent legal court, according to the law. The disputes caused by the interpretation and application of the licenses/permits agreements are settled by the courts of Romanian jurisdiction, unless the parties agreed for a different way of arbitration, including international arbitration. The contestation, including the one before the court, shall postpone the concession of the mining activities until the final and irrevocable settlement.

On the basis of the analysis of the contested aspect, referring to the regulations applied in regard to the organization and carrying out of the public tender for the concession of the mining activities, the contestation committee shall draw up a report through which there shall be recommended the mode of settlement of the contestation.

The report of the committee shall be approved by the president of the NAMR, within 10 working days' time from the receipt of the contestation. The structure-framework of the report of the contestation committee shall be set out through the order of the President of the NAMR.

Most decisive and representative court judgements

Court cases related to permitting procedures are not common in Romania and this can be explained by the NAMR policy, favourable to the investors.

A special case is that of Roşia Montană license, where the Parliament of Romania adopted a decision against the beginning of extraction works. The company Roşia Montană Gold Corporation held the exploration license at Roşia Montană, finished the exploration and made the legal request for the extraction license. The Government did not issue a decision for the granting of the extraction license, under the pressure of the environmental NGOs, which managed to induce a widespread public reaction against the mining project. In the year 2015, the Canadian company Gabriel Resources Ltd., which is the main shareholder at Roşia Montană Gold Corporation, made a complaint at the Arbitration Court of the World Bank against the Romanian State. The steps of the arbitration taken so far are given below.

Case Details

Source:

<https://icsid.worldbank.org/apps/icsidweb/cases/Pages/casedetail.aspx?CaseNo=ARB/15/31>

Case: Gabriel Resources Ltd. and Gabriel Resources (Jersey) v. Romania (ICSID Case No. ARB/15/31)

Subject of Dispute: Mining concession

Economic Sector: Oil, Gas & Mining

Instrument(s) Invoked: Agreement between the Government of Canada and the Government of Romania for the Promotion and reciprocal Protection of Investments 2011, Agreement between the Government of the United Kingdom of Great Britain and Northern

Ireland and the Government of Romania for the Promotion and Reciprocal Protection of Investments 1996 (extended to the Bailiwick of Jersey by Exchange of Notes 1999)

Applicable Rules: ICSID Convention - Arbitration Rules

(a) Original Proceeding

Claimant(s)/Nationality(ies): Gabriel Resources Ltd. (Canadian), Gabriel Resources (Jersey) (British)

Respondent(s): Romania

Date Registered: July 30, 2015

Party Representatives

Name of plaintiff (or appellant): White & Case, Washington, D.C., U.S.A.

Defendant: LALIVE, Geneva, Switzerland
Leaua & Asociatii, Bucharest, Romania

Language(s) of Proceeding: English

Status of Proceeding: July 30, 2015

Summary: The Secretary-General registers a request for the institution of arbitration proceedings.

October 5th 2015: Following appointment by the Claimants, Stanimir A. Alexandrov (Bulgarian) accepts his appointment as arbitrator.

November 19th 2015: Following appointment by the Respondent, Zachary Douglas (Australian) accepts his appointment as arbitrator.

November 29th 2015: Stanimir A. Alexandrov withdraws his acceptance of the appointment as arbitrator.

December 3rd 2015: Following appointment by the Claimants, Horacio A. Grigera Non (Argentine) accepts his appointment as arbitrator.

1.8. Success rates of exploration and extraction permits

Exploration

When the NAMR has the initiative of organising a public tender, the offer might not match the interest of the investors; therefore, some perimeters put on tender might remain unclaimed. When the tender is initiated at the request of the investors, then there is at least one bidder for each perimeter and that bidder commonly gets the license if all the requirements set in the Task Book of the tender are complied with. The exploration license comes into force on the date the Order of the President of the NAMR on its approval is published in the Official Gazette, first part. The extraction license comes into force on the date the Government Decision for the approval of the license is published in the Official Gazette, first part. Considering these, the **rate of success is close to 100% for the exploration licenses requested by investors** because they need only the signature of the President of the NAMR.

Extraction

In the case of extraction licenses, the approval needs the official signatures from seven public entities: NAMR, General Secretariat of the Government, Ministry of Environment,

Ministry of Economy, Ministry of Transport, Ministry of Finance and Ministry of Justice. This process is very slow. If one of the official persons who signed the approval is removed from the official position, the list of signatures has to be modified and signed again. Because of this, in the period 2013-2015 there was only one tender for extraction and that was initiated by NAMR. It contained two perimeters, both for bauxite and there were no claims. They were included in the next extraction tender but again, nobody was filed any claims. All other tenders were for exploration.

All extraction licenses in the 2013-2015 period were negotiated directly with the titleholders of exploration licenses who finished their program and have the right to get the extraction license. For instance, one license of extraction for metals was granted in this period: Rovina perimeter, titleholder: SAMAX Romania, commodity: copper ore with gold content. It is waiting for Government approval. In the NAMR website, in the case of solid non-energetic substances, there are 304 approved licenses and 361 licenses waiting for approval. There are licenses issued several years ago and not approved, yet. Almost all the licenses granted by NAMR are waiting for Government approval.

For rocks used in construction, the extraction can proceed based on annual extraction permits which do not need Government approval. In some cases, the resource was exhausted by extraction done on annual permits while the license is still not approved.

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

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 extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

No.

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

The documentation for any permit/license contains a part dedicated to the geology of the perimeter. This has to be written by a geologist certified by NAMR as specialist or as expert in the geological research and elaboration of geological documentations or by a legal entity certified by NAMR (this means that it has at least one geologist certified by NAMR among its employees). One requirement for certification is a BSc degree in the field of geology.

Mining activities can be performed only by legal entities specialized in mining, certified for mining activities or organised for mining purposes. The elaboration of technical-economic documentations and the expertization of mining activities have to involve at least one person certified by NAMR.

- 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?

All license and permit titleholders need to constitute the financial guarantees for environmental rehabilitation. This is regulated by the Mining Law no. 85/2003, Government Decision no. 1208/2003 and Order no. 202/2881/2348/2003 of the NAMR, Ministry of Environment and Ministry of Economy. The calculation of the guarantee is done by the titleholder and approves by NAMR and the National Agency for Environmental Protection. Order no. 202/2881/2348/2003 of the NAMR, Ministry

of Environment and Ministry of Economy includes the ad literal translation of all paragraphs in Article 14 of the Extractive Waste Directive, including the following one:

(b) the assumption 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?

Until now Romania does not have a list of extractive inert waste according to Decision 2009/359.

- 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?

The Order no. 180/2042/2934/2010 of the NAMR, Ministry of Environment and Ministry of Economy, states the obligation to comply with the provisions contained in Decision 2009/359/CE, Directive 2006/21/CE, Decision 2009/360/CE, Directive 2006/21/CE and Decision 2009/337/CE.

- 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)?

Found no reference of this waiver application in Romania.

- 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?

A mine operator has to submit an extractive waste management plan to the NAMR and NEPA to comply with the Order no. 202/2881/2348/2003 of the NAMR, Ministry of Environment and Ministry of Economy regarding the financial guarantee for environmental rehabilitation.

- 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 provisions of the Accounting Directive begin to be applied in Romania with the year 2016, according to the Order of the Minister of Public Finances no. 1198/2015.

- 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?

Found no reference for this. However, the Romanian Constitution (Art. 148) states that the EU regulations compulsory for the member states prevail over the national laws.

- 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?

The Romanian mining authority (NAMR) has rights in the administration of mineral resources. It does not have attributes in the field of market surveillance. Ministry of Labour and its territorial branches are responsible for safety issues.