MinLand: Mineral resources in sustainable land-use planning

A H2020 Project

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Topic: SC5-15d - Linking land use planning policies to national mineral policies

Deliverable 2.1: Policy. A review of policies and practices throughout Europe on mineral resources and land use

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1. Introduction

Access to mineral resources in Europe is important for the economic development of Europe. At the same time, it is widely recognised that it is essential that minerals are responsibly sourced for the sustainable development of Europe. The question is how to balance societal interests, such as expanding cities, infrastructure development, agriculture and nature conservation with the exploration and mining of mineral resources. Land-use planning is a key-mechanism to balance various societal interests to guide sustainable spatial development. Therefore, the integration of mineral resources policies into land-use planning at different levels is a key factor for achieving responsibly sourced minerals. This deliverable of MinLand assesses the current state of affairs on land-use planning in relation to mineral exploration and the safeguarding of mineral resources. The deliverable reviews the issue of governance (e.g. the division of responsibilities between different levels) with a special emphasis on the coherence between existing mineral policies, legislation and land use planning. To analyse this, a survey was conducted amongst 18 participating countries (16 EU Member States plus Ukraine and Norway) to assess the current state of affairs. The mineral land use process has been further visualized for nine EU countries in section 2. In addition to the questionnaire and its updates, additional information has been gathered by contact through emails with consortium experts.

Mineral land use processes are further analysed and scrutinized in Deliverable D4.2. D4.2 provides the reader with an evaluation of the interplay between the different parts of the land use processes and permitting procedures.

The current deliverable is one in a series related to mineral policies and land use. This is a first step in describing how mineral raw materials relate to land use together with deliverables D2.3, D3.2 and D3.3. These land use issues will be further elaborated within WP4 (particularly D4.2), WP5, WP6 and WP7. The next step in this process building upon the gathered information is the D4.2.

2. Land use planning and mineral resources

Flow-sheets for nine partner countries are provided in the following section to visualize the highly diverse interplay between land-use processes and mineral deposits and prospects. The flow-sheets are schematic and are not meant to provide details on the land-use processes. The figures have been constructed through a systemic approach in order to assess the functionality of mineral land use processes and their connection to permitting procedures.

2.1 Austria

Minerals in Austria are entered into the land-use procedure through the Austrian Mineral Resource Plan (AMRP), which has been adopted by some of the Austrian federal governments.

The AMRP identifies areas with “conflict-free” mineral deposits which the responsible ministry may propose for safeguarding as “Raw Material Priority Zones”. The definition of Raw Material Priority Zones in the Regional Development Programs is based on geological and economic data generated through the AMRP.

1. When spatially defining Raw Material Priority Zones, the following issues must be considered: 1. Mining prohibition areas according to the provisions of the Mining Law (Article 82) must be excluded. These areas encompass housing and building development areas, including a 300 m clearance, as well as water protection areas and protected areas;
2. Conflicts with competing surface claims, such as Agricultural Priority Zones or Green Zones, must be addressed, and restrictions originating from other legislations, such as those governing water bodies and forest areas, must be resolved;
3. Conflicts with the local land-use planning, flood water flow areas and planning of road transport projects must be resolved.

Existing (i.e. permitted) deposits or exploration sites are not by default defined as Raw Material Priority Zones. In the permitting process the minerals are treated through their category as displayed in Figure 2.1.

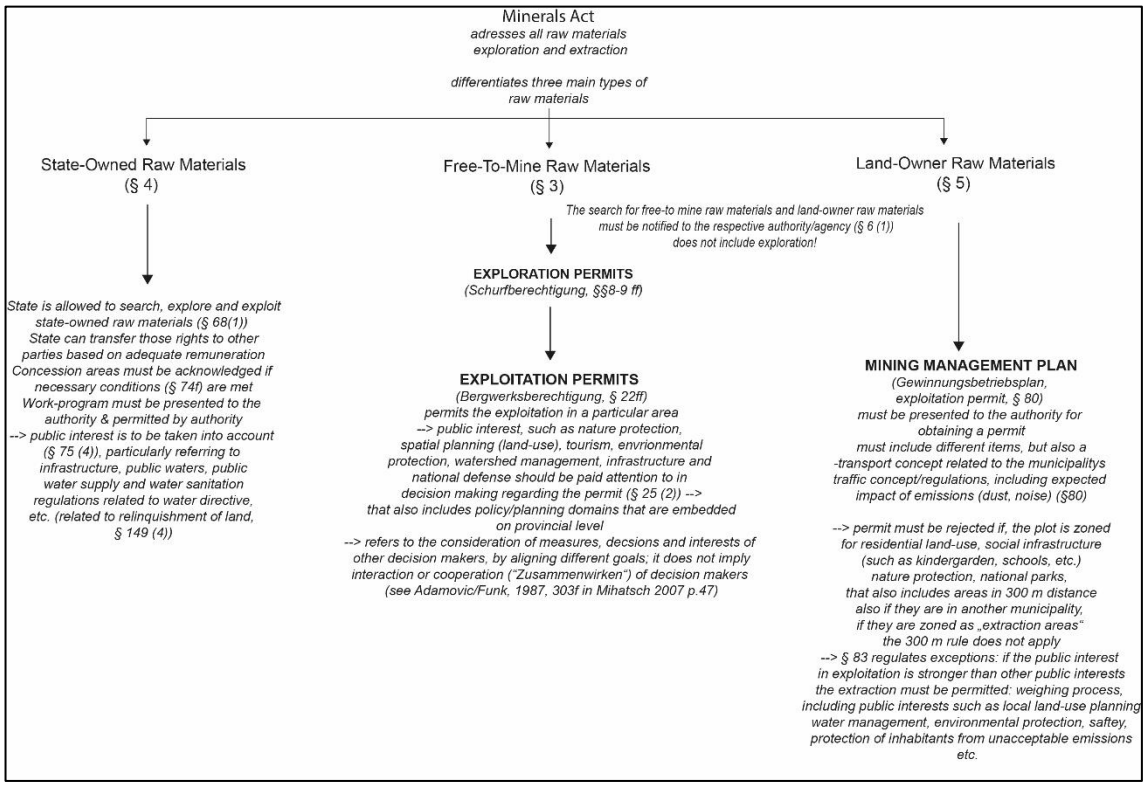

Figure 2.1. Raw materials in the Austrian Minerals Act.

2.2 Finland

In Finland, minerals are considered at several stages in the land-use planning.

The regional land-use plan is the most important regulatory document and generally the only one which displays potential ore deposits in Finland. The Lapland Regional Map also includes the mineral provinces and areas containing potential mineralizations. Prospective areas are actively considered in the region of Lapland.

When an exploration project is initiated, changes to the local master plan or detailed plan have to be incorporated. When proposing a mineral extraction project to a municipality there may be objections. The mining area is defined by purpose, and as a result, other activities will not be allowed within the mining area. The mineral land-use for extraction is thus part of the permitting procedures.

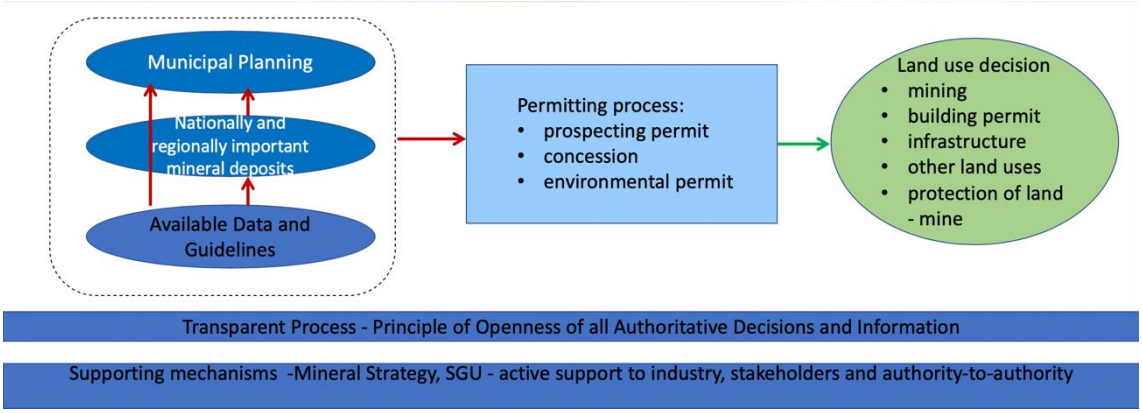

Figure 2.2. Interplay of land-use and permitting procedures in Finland.

2.3 Greece

In Greece, only about 10 % of the territory has been designated for particular land-use. However, 25% is Natura2000 but there appears to be little conflict between Natura2000 and mining (Karka, Personal communication 2018). Conflicts related to mining are more likely to arise from interest groups opposed to mining.

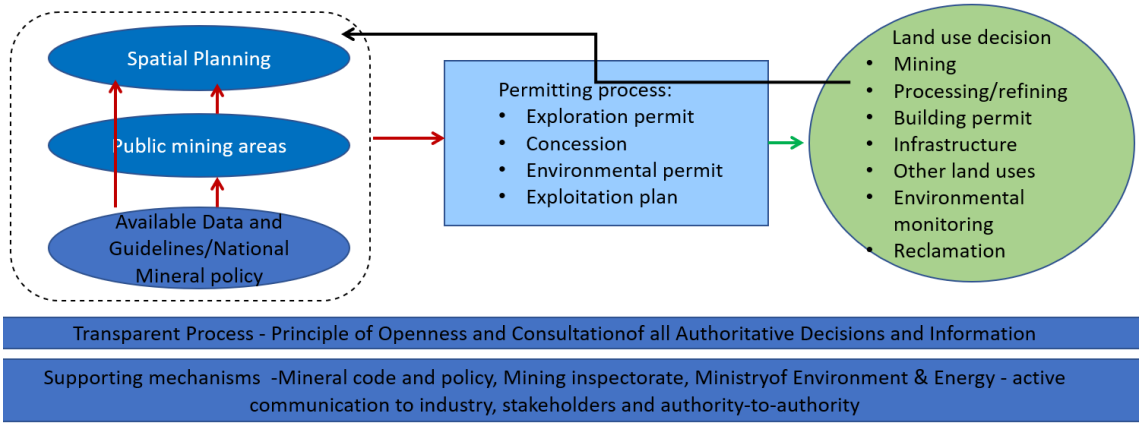

Figure: 2.3. Interplay of land-use and permitting procedures in Greece.

2.4 Ireland

Ireland has a process-oriented approach to land use and minerals. Minerals are not considered in land-use planning prior to permitting and are only taken into account as a result of permitting. The underlying reason is that in Ireland land-use plans are only made for the densely populated areas, such as towns and cities, the rest of the country is planned upon need. Thus, the presence of minerals, prospecting and mining, is considered in land-use planning only at the permitting stage, from where the permitting becomes part of the land use.

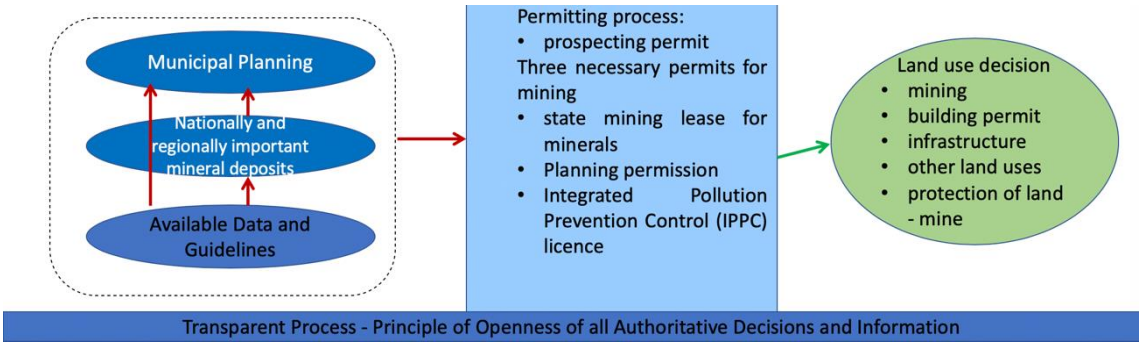

Figure 2.4. Interplay of land-use and permitting procedures in Ireland.

2.5 Norway

In Norway mining, mineral prospects and deposits are considered in land-use planning in the 2013 "Strategy for the mineral industry". The strategy addresses both the “management of nationally and regionally important deposits” and “securing valuable mineral deposits for future use”. The Geological Survey of Norway has developed a classification system for mineral resources based on value creation potential as a tool for land use planning. Planning authorities were instructed to identify mineral resources of national and regional significance, and to balance considerations towards mineral resources in the preparation of regional and municipal plans.

According to the Planning and Building Act, it is mandatory to consider known mineral deposits in the municipal land use plan. If a plan affects a deposit of regional, national or international importance, the Directorate of Mining will intervene.

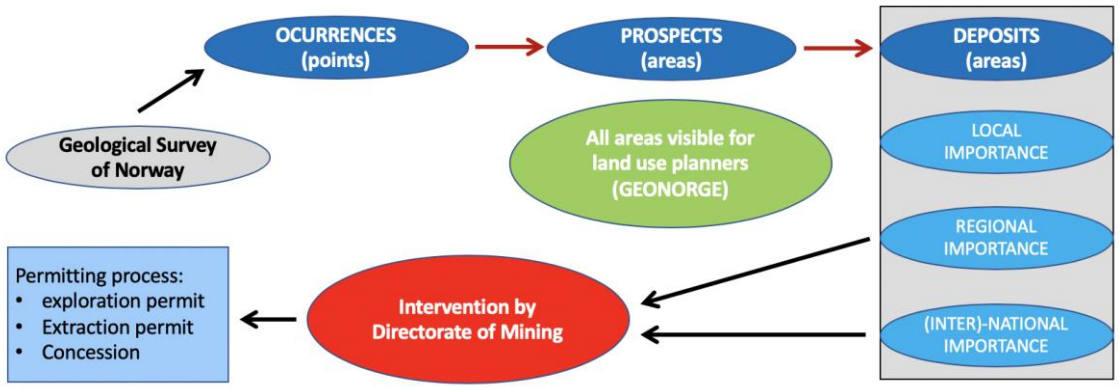

Figure 2.5. Land-use planning occurrences, prospects and deposits, and permitting procedures through the Directorate of Mining in Norway.

2.6 Portugal

In Portugal the land-use plans at local level carry most weight, they are the most detailed plans and consist of maps and a regulation.

The permits and licenses already issued for mining sites are mapped and included in the land-use plan. Prospective areas, where deposits are known but permits/licenses have not been issued, are mentioned by Directorate General for Energy and Geology (DGEG) and National Laboratory on Energy and Geology (LNEG) but are generally not considered. Whether or not to include prospective areas in the local land-use plan is decided by the municipality.

The regulation of the land-use plan is an important tool in Portugal and the land-use plan must be considered a dynamic tool. The regulation ensures that there is no incompatibility between mining and other "rural" activities, and that deposits identified in the future may be explored and exploited. If a new deposit is documented after the completion of a land-use plan at local level, the deposit will not be included in the plan.

2.7 Spain

In Spain, the Mining and Land-use Planning Authorities are mostly within the Autonomous Communities. If a mining company requests a permit located entirely within an Autonomous Community, they will need an authorisation from the Regional (Autonomous) Mining Authority and the Regional (Autonomous) Environmental Authority. If the area where the permit is located concerns two or more Autonomous Communities or is located within a strategic national reserve, the competent authorities are the National Mining Authority (Ministry of Industry) and the National Environmental Authority (Ministry of Environment). Mining and environmental permit procedures are coordinated. Mining companies need to obtain an activity permit from the municipal government. If mining is not covered by the municipal land use planning, a permit for the land use change is required.

Figure 2.7. shows the most common situation where authority resides within an Autonomous Community.

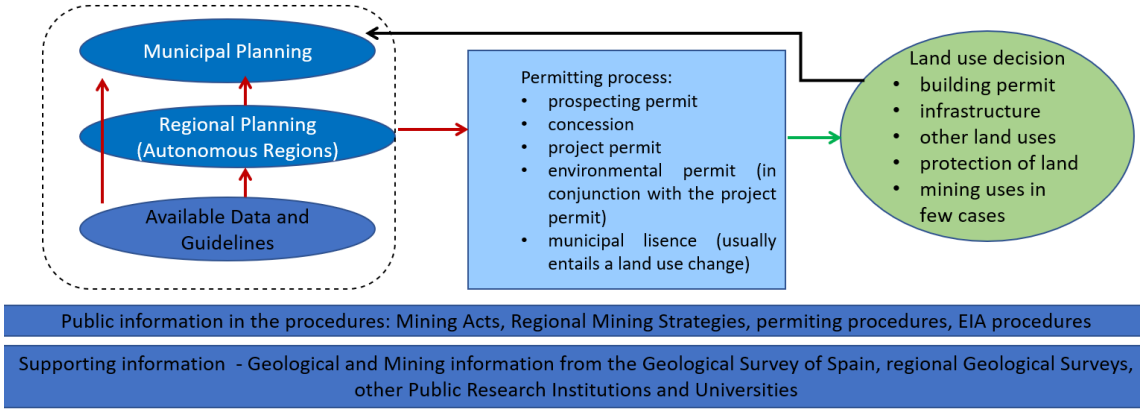

Figure 2.7. Figure 2.2: Common land-use and permitting procedures in Spain.

2.8 Sweden

Sweden has a similar approach to land-use and minerals as Ireland. As in Ireland, legally binding land-use plans are mostly for the towns and cities. In addition, there is a comprehensive land-use plan which is considered indicative. The difference is that minerals are entered into a strategic land-use category, 'Areas of National Interest', which must be taken into account in the municipal land-use planning. The final planning for mining is added into the land-use plan as a result of the permitting procedure.

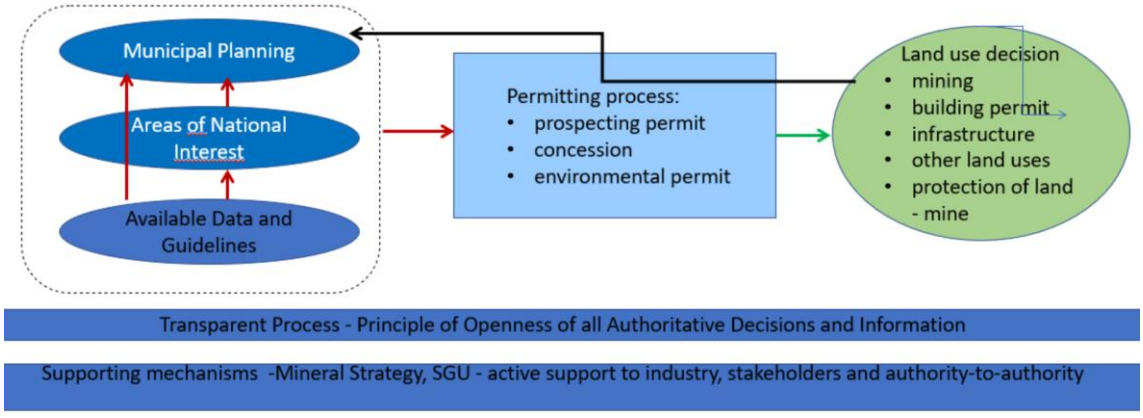

Figure 2.8: Sweden, mineral resources, permitting and land-use planning.

2.9 Poland

The Polish spatial management system is compliant with the subsidiarity principle, but its nature is hierarchical, i.e. the lower levels of planning have to take into account the projects which are important from the national or regional perspective. The National Spatial Development Concept (NSDC 2030) is the most important national strategic document which addresses the spatial planning and areal management of Poland.

NSDC 2030 imposes an obligation to delineate functional areas (also for strategic deposits) and to implement spatial planning measures, involving strategies, plans and studies on spatial

development. Recommendations of NSDC 2030 should be included in the preparation of provincial spatial development plans (obligatory for each province), and in spatial development plans for each commune.

The procedure for obtaining permits is handled at local level. The permitting procedures in Poland are described in detail in the Geological and Mining Law (GML). The initiation of activities specified in GML is permitted only if they do not violate the function of an area as described in the Local Spatial Management Plan of the Community or in the Study of Conditions and Directions of Spatial Management of Commune and separate regulations.

Within two years of approval, the area of a documented mineral deposit must be included in the Study of Conditions and Directions of Spatial Management of Commune, which is the basic document of local spatial planning. The GML, however, primarily protects deposits undergoing exploitation, and requires rational use of both primary and accompanying minerals. Licences are required for both prospecting and exploration works, as well as for mining.

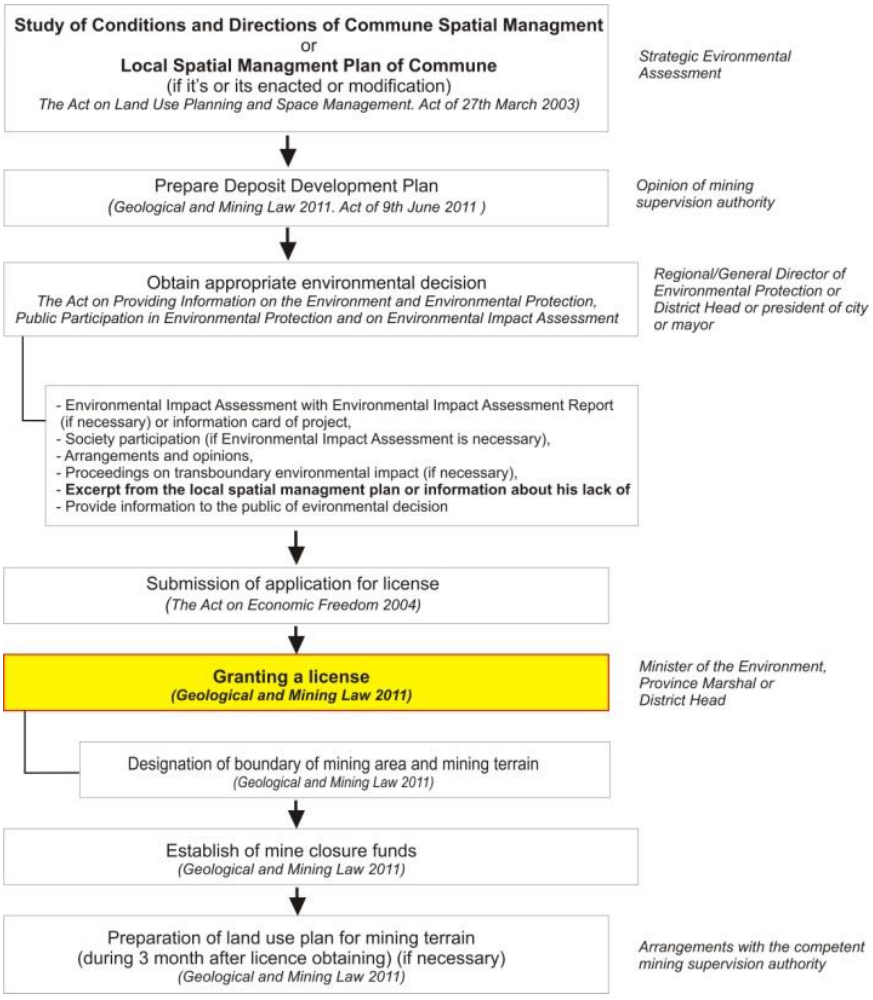

Fig. 2.9. Permitting procedures in Poland – mining licence.

3. Governance, land-use planning and coherence

Governance has become a catch-all concept for various forms of steering by state and non-state actors at all geographical levels (from local to international) and even across them. As a consequence, there is not one interpretation of governance, but several (Rhodes 2007; Steurer, 2013). For the purpose of this delivery we review how different administrative levels have divided the responsibilities into three distinct fields, being mineral legislation and policies, land use legislation and policies and environmental legislation and policies.

One perspective in the literature on policy implementation is that implementation problems will not arise if legislation and policies are clearly formulated and coherent with each other, and if responsibilities between the different layers of the government are clearly defined (Fischer, Miller & Sidney, 2006). Policy coherence usually refers to the extent to which policies complement or are in line with one another or form a meaningful ensemble (Nilsson et al., 2012). Therefore, we analyse the current state of affairs in the light of the following two assumptions regarding a smooth implementation of a sustainable exploitation and safeguarding of minerals:

1. **Spatial responsibilities allocation**: To improve implementation it is necessary that responsibilities for spatial planning and mineral policies are allocated at national, regional as well as local level;
2. **Coherence**: To improve coherence and facilitate implementation, all three policy domains (e.g. mineral exploitation, land use planning and environment) should clearly identify or consider the existing relations between them.

4. Method

The survey undertaken in the MinLand project included some 150 questions ('yes/no' and 'open' questions), answered by representatives from 18 countries. The survey was not only developed for this task but also for other studies of the project. This analysis focus on the 'yes/no' questions concerning legislation and policies on A) mineral resources, B) land-use and C) environmental regulation. Both on a national and regional/local scale.

To test the assumptions 1 and 2 we counted the number of 'yes' and 'no' (non-applicable is also considered 'no'). Annex 1 gives more detailed information on the method used.

5. Summary of results

The more detailed results of the analysis per question are presented in Annex 1. Figures 5.1 and 5.2 visualise the main results for legislation (figure 5.1) and policies (figure 5.2). The questions in Annex 1 that were used to prepare these figures are marked with M for questions about mineral resources regulations, L for questions about land-use regulations, E for questions about environmental regulations or ML and ME respectively for questions about the coherence between mineral and land-use or environmental legislations.

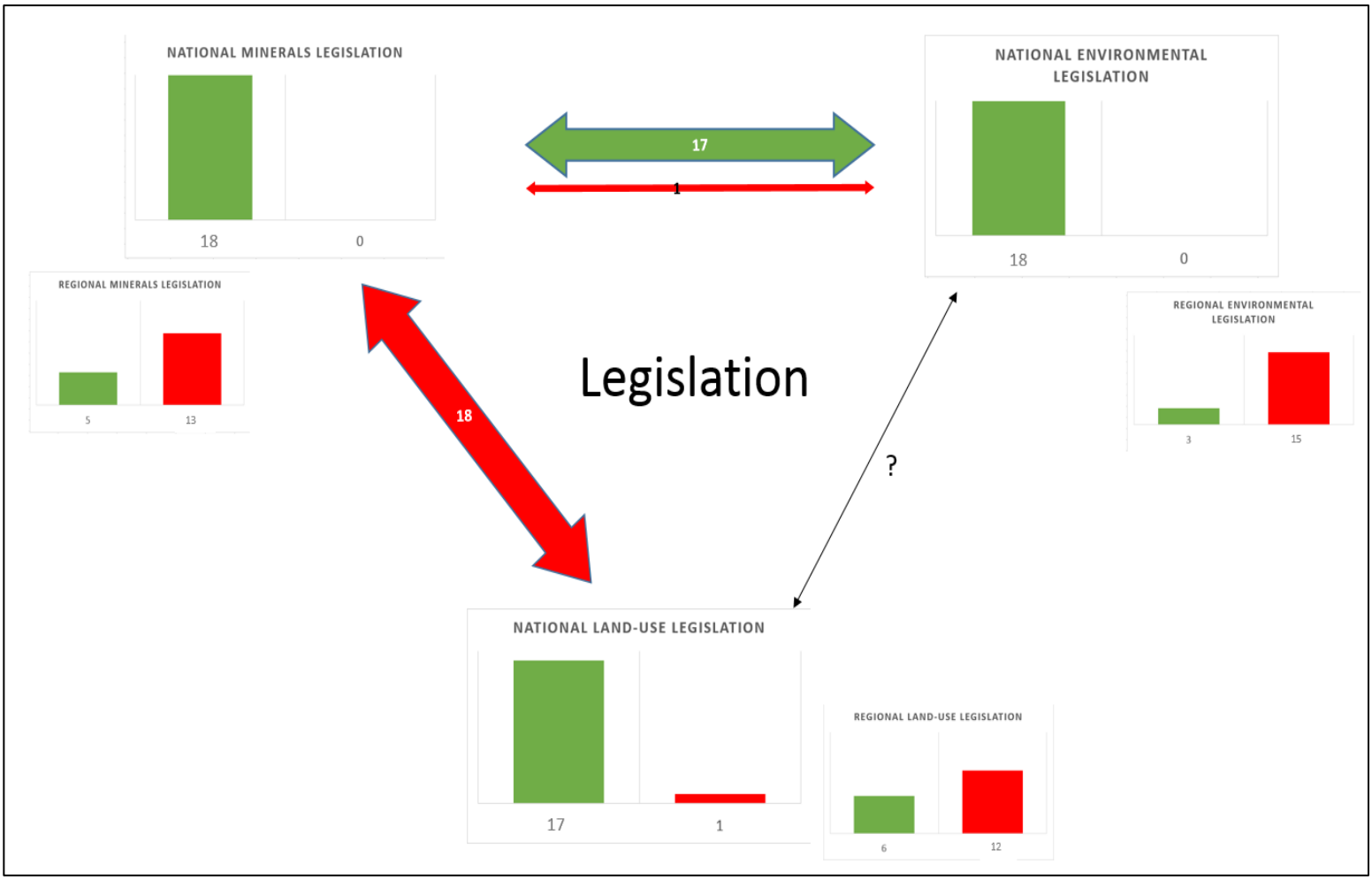

Figure 5.1. The numbers of replies as yes (green) and no (red) concerning the (non-)existence of legislation on a national and regional/local scale on: mineral resources (top left), environmental regulations (top right) and land-use (bottom). The arrows represent (non-) existence of coherence between these domains.

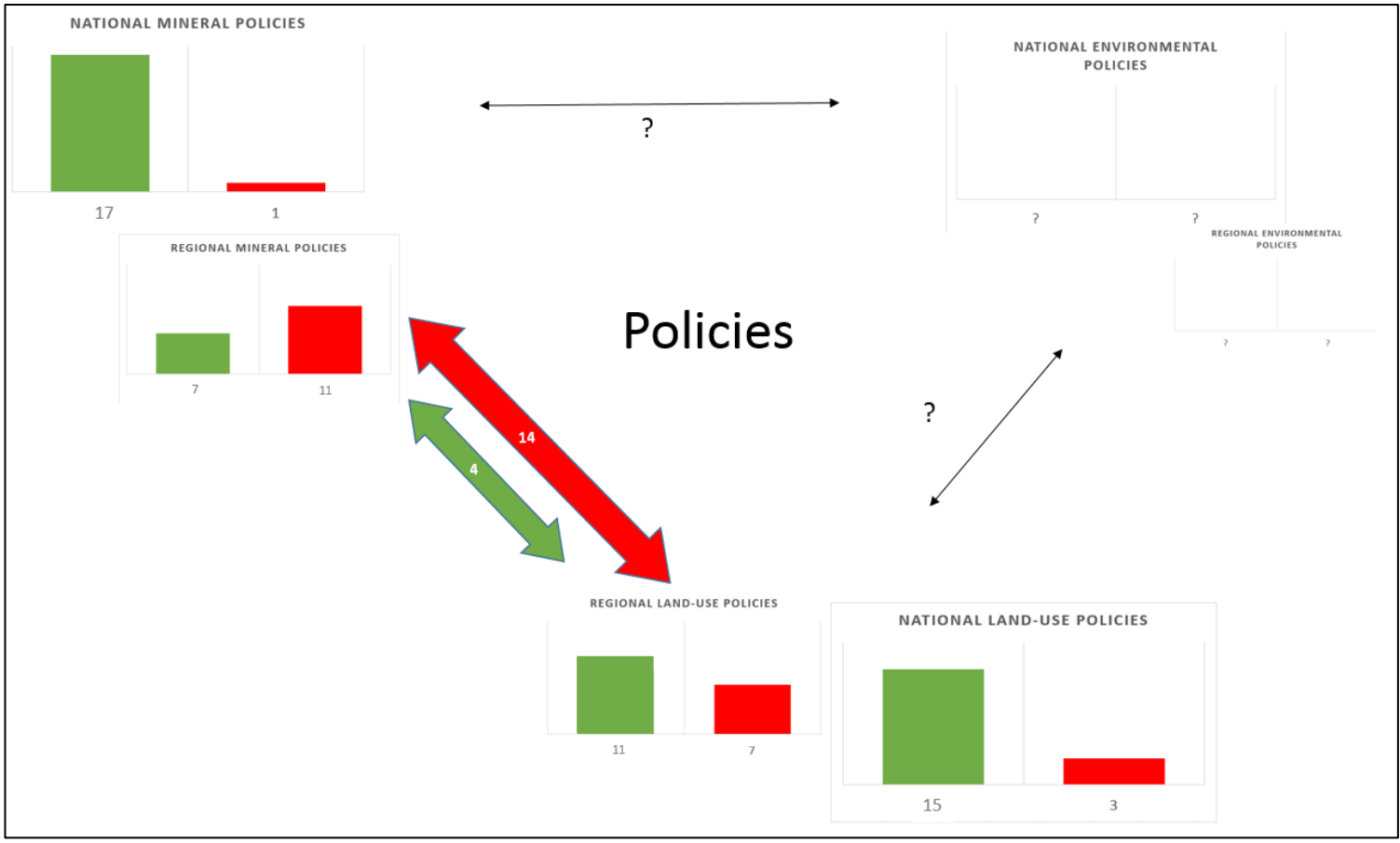

Figure 5.2. The numbers of replies as yes (green) and no (red) concerning the (non-)existence of policies on a national and regional/local scale on: mineral resources (top left), environmental regulations (top right) and land-use (bottom). The arrows represent (non-) existence of coherence between these domains.

Coherence between the 3 areas/domains

The 'big' red arrows between the domains of mineral policy/legislation and land-use planning indicate that links between these two domains are, for the majority of the reviewed countries, not present or not made explicit. None of the respondents indicated that a relation is present between the legislative framework of mineral exploitation and land-use planning (figure 5.1). In only 7 countries respondents have indicated that a clear link is present between mineral policies and land use policies (figure 5.2).

Spatial differentiation of responsibilities

In both domains of mineral resources and land use planning, responsibilities are not automatically allocated at the national and the regional level.

If we look at legislation (figure 5.1) we see that nearly all countries have developed a national legislation on mineral resources, land-use planning and environment ('big' green bars), while

only a few countries, among which federal/autonomous states such as Italy, Spain and Austria, have also developed legislations at regional level.

If we look at policies (figure 5.2) a similar conclusion can be drawn, though less obvious. The majority of countries have a national policy on mineral resources (14 countries have policies on mineral resources, and if related policies concerning mineral resources are included, the number is 17) and land-use planning (the number of positive replies is 15), while 7 and 11 countries respectively only have regional policies.

6. Results and discussion

The survey is sufficient to draw general conclusions at a generic level regarding the assumptions on *spatial responsibilities allocation* and *coherence* that were raised in §3. Drawing more detailed conclusions are difficult due to inconsistencies encountered in the survey answers. Annex 1 shows that respondents gave conflicting answers to quite similar questions. This may be due to constraints in international survey design (Harzing, Reiche, & Pudelko, 2013). It is often difficult in these settings to ask questions that are interpreted in a similar fashion, due to language constraints as well as a different interpretation of terms. Although an explanation was provided, it is rather likely that terms such as safeguarding, policy or legislation were misinterpreted or interpreted in various ways. This raises the question whether the explanation has been sufficiently studied by respondents prior to filling in the survey.

In addition, figures 5.1 and 5.2 demonstrate that the survey did not venture into the environmental domain. This makes the conclusions from the analysis regarding coherence between the three domains less complete.

The results of the MINATURA2020 project however may shed some light on this issue (Horváth et al 2016). This project showed that most European countries have their mineral deposits included in land-use plans (excluding Bulgaria, France, the Netherlands and Spain). In numerous countries/regions there are protected areas (Austria, Sweden and the United Kingdom), areas designated for mining -, concession or land-use plans (the Emilia-Romagna Region (IT), Flanders (BE), the Federation of Bosnia and Herzegovina and Montenegro) or several types of areas with different levels of geological knowledge (prospective, explored and mining areas depending on the country; in the Czech Republic, Poland and Slovakia) that are registered in land use plans. In other countries (Croatia, Finland, Hungary, Ireland, Portugal, Romania, Slovenia and Serbia) mineral deposits (i.e. mining sites) are included in land-use plans through the permitting process; in other words, only areas where licensed exploration or exploitation is or have been carried out are included in land-use plans (Horváth et al. 2016).

7. Conclusions

Reviewing the two assumptions for smooth implementation it can be concluded that overall the coherence between the mineral and spatial planning domain are lacking in several of the

reviewed countries. Also, spatial allocation of responsibilities is not well developed in most of the reviewed states. Improving this situation might at least help to smoothen policy implementation.

8. References

Fischer, F., Miller, G. J., & Sidney, M. S. (2006). *Handbook of public policy analysis: theory, politics, and methods*. Boca Raton: CRC Press.

Harzing, A.-W., Reiche, B. S., & Pudelko, M. (2013). Challenges in international survey research: a review with illustrations and suggested solutions for best practice. *European Journal of International Management, 7*(1), 112-134.

Horváth, Z., Sári, K., Szabó, K., Vígh, C. and Hegymegi, E. (2016) Multi-sectoral analysis of mineral policies and land use policies in eu countries, 3.1, Wageningen.

Rhodes, R. A. W. (2007). Understanding governance: Ten years on. *Organization Studies, 28*(8), 1243-1264. doi: 10.1177/0170840607076586

Steurer, R. (2013). Disentangling governance: a synoptic view of regulation by government, business and civil society. *Policy sciences, 46*(4), 387-410.

Annex 1. Summary of survey results

This annex provides an overview on the yes/no questions on the sections legislation, policies and environmental regulation in the survey. The table of contents below shows the subdivision of these sections in mineral resources vs. land-use and national vs. regional/local domain. A similar subdivision for environmental regulation was not possible as the number of questions on this section was limited.

Table of Contents Annex 1:

The tables presented in this annex represent the relevant questions from the questionnaire and the answers provided by the 18 country representatives according to the legends:

Yes
No
Not applicable

The greyish (first) column of each table indicates whether the question focuses on the domains mineral resources (M), land-use (L) or environmental regulations (E) or the mutual relations (ML or ME).

A. Legislation

A.1 Mineral resources

A.1.1 National

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Does your country have a specific legislation for mineral resources?	M																		
Does the legislation address **safeguarding** or protection of mineral deposits and prospective areas?																			
Does the legislation address **safeguarding** or protection of mineral deposits and prospective areas?																			
Is there a legislation/procedure to prevent sterilisation of areas containing known or potential mineral resources?																			

Results:

- All 18 countries have a national legislation for mineral resources.
- 8 or 6 countries (the same question was raised twice with different answers for Poland and Austria), have a legislation that addresses the safeguarding or protection of mineral deposits and prospective areas.
- 6 countries have a legislation that prevents sterilisation of areas containing known or potential mineral resources.

A.1.2 Regional/local

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Are there regional or local-specific legislations for mineral resources?	M																		
Are there other regional legislations considering mineral resources?	M																		
Does the legislation address **safeguarding** or protection of mineral deposits and prospective areas?																			

Results:

- 4 countries (Italy, Spain, Portugal, Norway) have, besides national legislation, also regional or local-specific legislation (or something similar) for mineral resources.
- 2 countries (Italy and Austria) have regional /local legislation that addresses **safeguarding** or protection of mineral deposits and prospective areas.
- Italy does only have this **safeguarding** legislation at the regional/local level and not at the national level.

A.2 Land-use

A.2.1 National

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Does your country have specific legislation for land use planning?	L																		
Are there possibilities to include **safeguarding** or protection of mineral resources in land use legislation?																			

Does the land use legislation address the **safeguarding** or protection of mineral resources?	ML																			
Does the legislation address **safeguarding** or protection of mineral deposits and prospective areas?																				
Does land use legislation regulate ownership and property rights on the surface and in the sub-surface for exploration and exploitation activities?																				

Results:

- All countries, except Italy, have national legislation for land-use planning. Italy has regional legislation for land-use planning. Despite the fact that it is a unitary state, mining legislation is delegated to the regional level.
- 4 countries where the legislation does not address safeguarding of mineral resources still have the possibility to include **safeguarding** in land-use legislation.
- 8 countries have national land-use legislation that addresses the safeguarding or protection of mineral resources, 7 of which also address the safeguarding of mineral deposits and prospective areas.
- Land-use legislation in 5 countries also includes the regulation of ownership and property rights in the surface and sub-surface.

A.2.2 Regional/local

	Domain or coherenceDomain or	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Does your country have regional or local specific legislation for land use planning?	L																		
Does the regional or local land use legislation address the **safeguarding** or protection of mineral resources?																			

Does the regional/local legislation address **safeguarding** or protection of mineral deposits and prospective areas?																			
Does the regional/local legislation address all mineral resources?																			

Results:

- 6 countries have regional or local legislation for land-use planning, 3 of which also have legislation for **safeguarding** mineral resources, 2 of which also safeguard mineral deposits and prospective area.
- For Portugal and Norway this regional/local legislation addresses all mineral resources. For Italy, Spain and Austria it does not, while Greece did not answer this question.

B. Policies

B.1 Mineral resources

B.1.1 National

	Domain or coherence Domain	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Does your country have a national policy for mineral resources?	M																		
Are there other national policies concerning mineral resources?																			
Does the national policy address **safeguarding** or protection of mineral deposits and prospective areas?																			
Does your country have a specific policy for **safeguarding** or protection of mineral resources at national level?																			
Are the EU policies, such as the Raw Materials Initiative, reflected in national frameworks?																			

Results:

- 17 countries have a national policy covering mineral resources, either as a separate policy or being a part of other policies. Only Spain does not have a national policy covering mineral resources.
- 9 countries address **safeguarding**/protection of mineral deposits and prospective areas in their national policy.
- 10 countries have the EU policies reflected in national frameworks, including non-EU member Norway. Ireland has a slightly contradictory answer: national policy (no), national framework (yes). However, the answer should probably be “no” as it refers to other directives like the Bird and Habitat Directives, while it confirms that the raw materials initiative is not reflected in a national framework.

B.1.2 Regional/local

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Do regions/provinces or municipalities in your county have separate policies for mineral resources?	M																		
Does the policy address **safeguarding** or protection of mineral deposits and prospective areas?																			

Results:

- 7 countries have a separate policy for mineral resources on a lower than national level, also Spain which does not have a national policy.
- For 4 of these countries it also includes the **safeguarding**/protection of mineral deposits/prospective areas.
- Italy and Sweden do not have a national policy for **safeguarding** or protection of mineral deposits and prospective areas, but they do have it at a lower policy level.

B.2 Land-use

B.2.1 National

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Does your country have a national land use policy?	L																		

Results:

- All, except Italy, Spain and Austria, have a national land-use policy.

B.2.2 Regional/local

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Do your regions/provinces or municipalities have separate regional-specific policies for land use planning?	L																		
Does the regional land use policy address the **safeguarding** or protection of mineral resources?	ML																		

Results:

- 11 countries have a regional/local land-use policy, among which Italy, Spain and Austria (which all three are lacking a national policy).
- Only 4 of these regional/local policies addresses safeguarding or protection of mineral resources.

C. Environmental regulation

	Domain or coherence	Italy	Greece	Slovenia	Spain	Portugal	Poland	Norway	Czech Republic	Cyprus	Finland	Ukraine	Sweden	Hungary	Ireland	Austria	Netherlands	Croatia	France
Are exploitation activities subject to an assessment procedure of environmental impact? (EIA)	ME								?										
Are mineral potential areas (prospects) defined and taken into account in land use planning prior to exploration and extraction permitting and zoning?																			

Are the exploration/exploitation permitting procedures similar for all kind of mineral resources (e.g. private versus state owned minerals)?																			
Are the permitting procedures in your country/region a “one-stop-shop”?																			
Are stakeholders involved in the authorization processes?																			

Results:

- All countries, except the Czech Republic, answered that they require an EIA prior to exploitation activities. Based on their comment, one may assume that the answer for Czech Republic should be ‘yes’ as well. Though not questioned, we assume that only Austria, Italy and Spain (having federal states) also have regional environmental regulations.
- Only 7 countries take prospecting into account in land use planning prior to exploration and extraction permitting and zoning.
- Only 6 countries have an exploration/exploitation permitting procedure that is similar to all kind of mineral resources.
- 14 countries have stakeholders involved in the authorization process.
- The permitting procedure is a “one-stop-shop” for only 3 countries.