

Case2, PT: Portuguese policy and regulatory framework on mineral resources

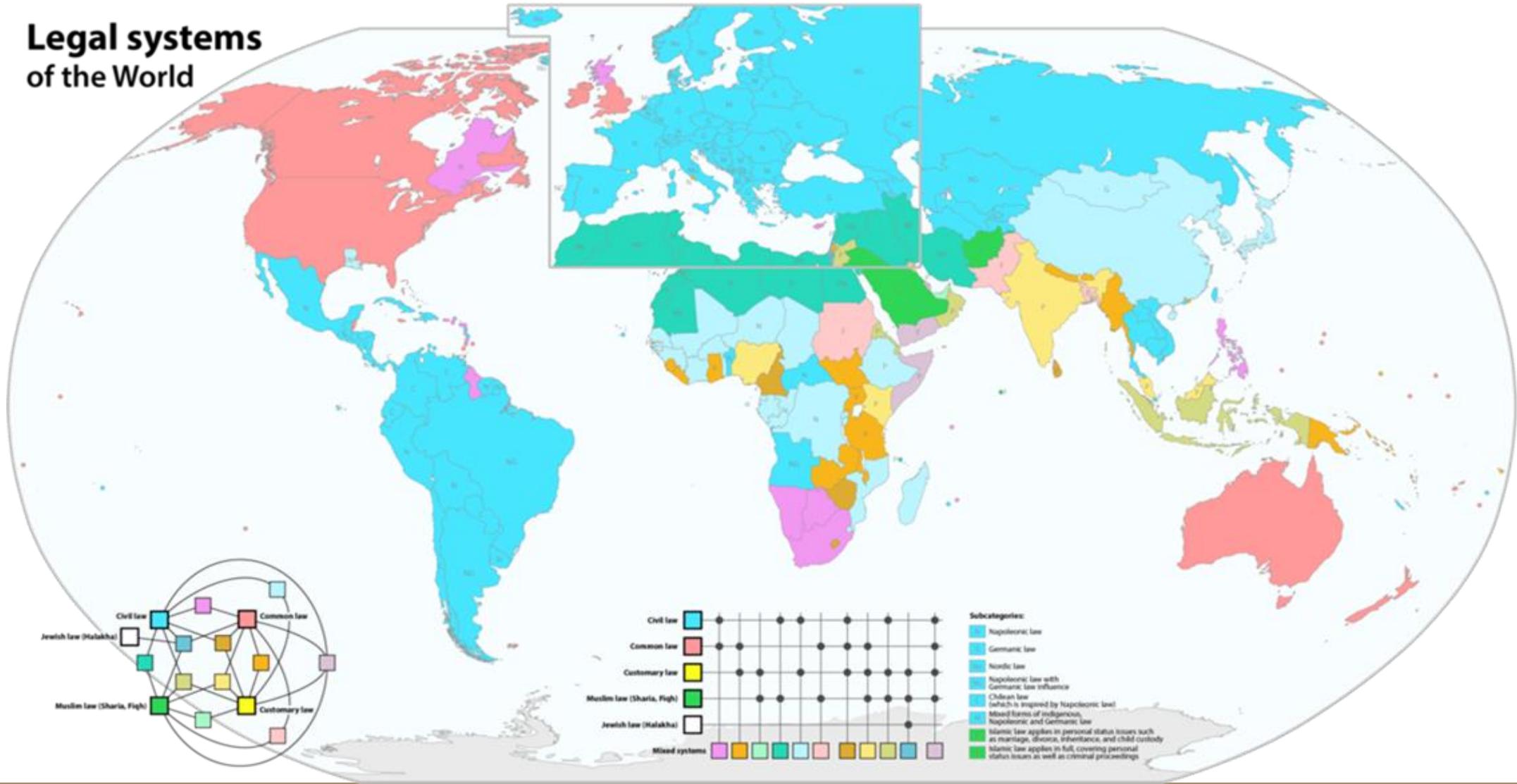
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MIN-GUIDE Policy Laboratory 1
Good Governance in Minerals Policy in Europe

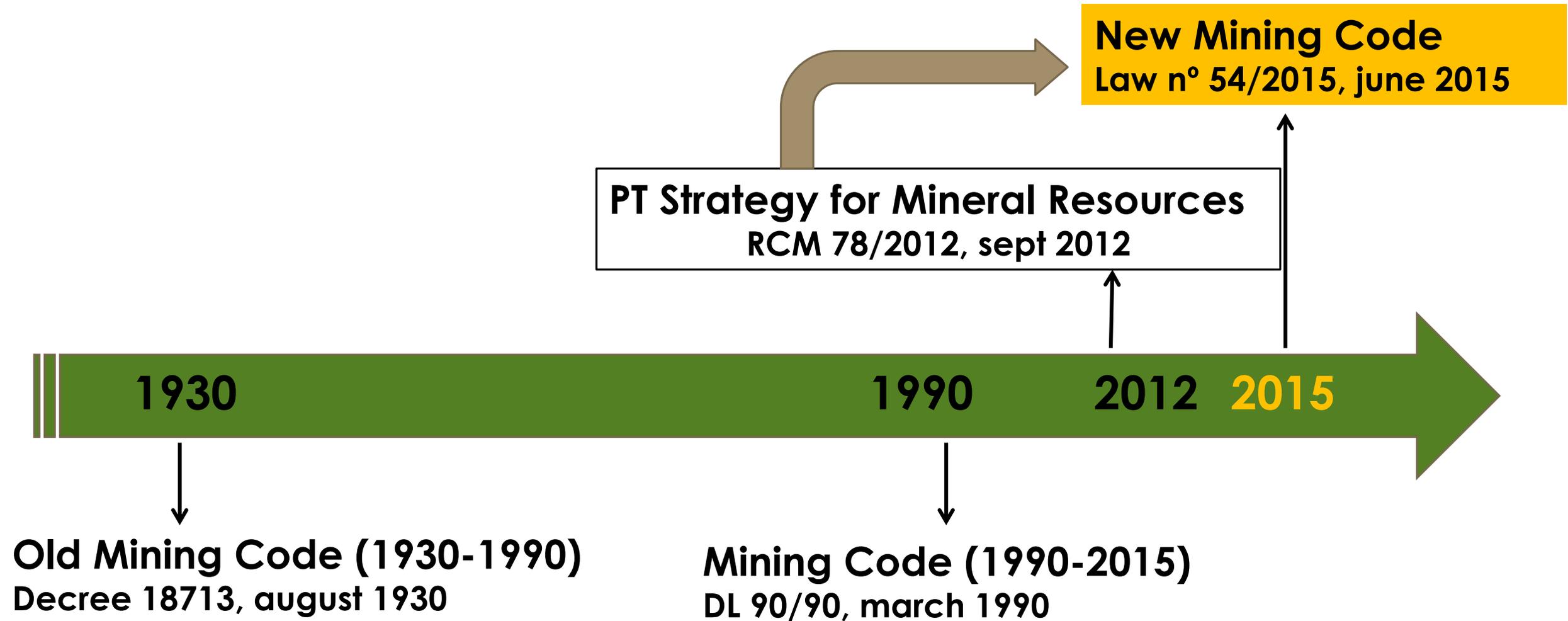
Vienna, 4-5 October 2016

1. What is our story?

Legal systems of the World



Portuguese Mining framework along time...



Constitution of the Portuguese Republic

Article 84.º (Public Domain)



1. Belong to the **public domain**:

a)

b)

c) Mineral deposits, medicinal mineral waters, natural underground cavities, **with the exception of rocks, ordinary materials and other materials commonly used in construction;**

d) ...

e) ...

f) ...

2. **The Law (Nº 54/2015, of 22/06) establishes which property belong to the public domain of the State**, to the public domain of the autonomous regions and to the public domain of local authorities (municipalities) and their regime, conditions of use and limits.

MINES

Public Domain (DL 88/90, of 16/3)

Mineral deposits - any mineral occurrences which by their rarity, high specific value or importance in the application in industrial processes due to the substances contained, are presented with special economic value.

QUARRIES

Private Domain (DL 270/2001, of 6/10, revised by DL 340/2007, of 12/10)

Mineral masses - any rocks and other mineral occurrences that do not have the necessary characteristics to be qualified as mineral deposits.

2. Major building blocks of the policy...

Strategy for the Geological Resources (RCM 78/2012, sept 2012)

Driven by:

- The growing strategic role of mineral resources at global level,
- The launch of the RMI and all EC subsequent guidelines and strategy at EU level, namely the fostering of a national minerals policy,
- The growing demand for exploration and exploitation permits at Portuguese level,
- The recognition, by the governmental authorities, of the mineral resources potential as a relevant economic development factor,

Strategy for the Geological Resources (RCM 78/2012, sept 2012)

Main objective is to promote a mining sector that is:

- a) Dynamic, ensuring the **uptake and holding of investment** and proper exploitation of the resources;
- b) **Sustainable** at economic, social, environmental and territorial levels;
- c) Capable to **promote the growth of the national economy**, by ensuring supply of essential raw materials and reinforces its contribution to the national Gross Domestic Product and exports growth;
- d) Capable **to promote regional development**, ensuring the economic revenues and employment for local people and development of the local communities.

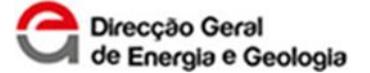
3. Designing the policy...

Mining policy:

Main responsible organisation



Portuguese Mining Authority (DGEG)



Stakeholders involved



Geological survey; academia; companies; industrial associations

Success factor



Creation of the Portuguese Partnership on the geological resources (july, 2015)

Public auscultation and regional meetings



Challenge



Obtain environmental and land use consensus

4. Implementing the policy...

Axes of the Strategy for the Geological Resources

Axis	Measure
<p>A – Adequacy of the mining sector bases through the redefinition of the state role and the review of the guidelines and rules.</p>	<p>Redefine the role of government and other public entities with competencies on the geological resources.</p>
	<p>Enable the state to the correct development of its role.</p>
	<p>Update mining related legal instruments.</p>
	<p>Revision of the mining law.</p>
	<p>Review the current system of royalties and other operating charges.</p>
	<p>Launch the legal framework to new realities</p>
<p>B - Development of the knowledge base and valuing of the mineral resources potential.</p>	<p>Increase the mineral resources knowledge base and the assessment of the exploitable mineral resources.</p>
	<p>Knowledge sharing and data availability.</p>
	<p>Specialized training and skills.</p>
	<p>Fostering the synergies between public and private entities.</p>
	<p>Fostering the geological resources inclusion in education curricula.</p>
	<p>Attracting investors for free potential areas.</p>
	<p>Fostering the exploration and exploitation permits ensuring the sustainability.</p>
	<p>Increase the mining activity supervision.</p>

Axes of the Strategy for the Geological Resources

Axis	Measure
C - Dissemination and promotion of the national potential	Direct and indirect communication plans.
	Investors support and guidance.
D – Economic, environmental, social and territorial sustainability	Mineral resources protection and secure raw materials supply.
	Strengthening mining companies' production capacity.
	Strengthening the raw materials domestic market.
	Fostering mineral resources exports.
	Social responsibility: Development and engagement of local communities.
	Protect the health and safety of miners and local communities.
	Land use planning.
	Old mining areas environmental rehabilitation.
	Resource efficiency, full use of mineral resource.
	Creation of an environmental guarantee fund for mining, closure and post-closure periods.
	Strategic environmental assessment and environmental monitoring plans and programs.

Situation of the main strategy policy measures

Revision of the mining code



Mining regulations are being prepared

Review the current system of royalties and other operating charges



Social responsibility: Development and engagement of local communities



Land use planning



Old mining areas environmental rehabilitation





New Mining Code (Law 54/2015):

- Meet current demands.
- Procedures simplification.
- Extend the scope of the geological resources.
- Increase the ability effect on land use planning.
- Standardization of the royalties system and Increase sustainability on royalties use.
- Develop the Maritime spatial planning;



Main Changes in the new Mining Code (Law 54/2015)...

- Includes **more resources** (of economic importance + natural and anthropogenic caves, geological heritage and other geological structures);
- The “**public domain**” will include **more mineral resources**, such as gypsum, white clays of particular relevance and special sands with more than 90% SiO₂;
- Introduction of a new type of exploration permit: **preliminary permit**, with 1 year maximum term, which will ensure preemptive rights during the exploration permit procedure;
- Increase relevance of the **experimental exploitation permit**;
- Establishment of a **financial fund**, supported by the mining industry (through royalties), to be used on research and knowledge and geological heritage protection and valuing of the geological resources;
- The **royalties** will be partly **used on sustainable projects** in benefit of local communities (up to 25%);

Summary of the rights and conditions (mineral resources of public domain):

Rights	Subject	Area and conditions
Preliminary permit	Metallic mineral deposits for undertaking studies for the best knowledge of existing resources; analysis of available information and of the samples taken.	Maximum area is 15 km² Duration 1 year. DGEG decision.
Exploration	Development of activities to increase the knowledge of the geological resources and determination of its characteristics, until the revelation of the existence of economic value.	Terrestrial Area up to 500 km² Maritime Area up to 5 000 km² Duration 5 years (max.) Ministry of Economy decision.
Experimental exploitation	When there aren't yet the necessary conditions to submit an application for effective exploitation rights (due to the nature of the mineral deposit and the level of knowledge of the mineral occurrence). A kind of extension of the exploration phase.	Duration 5 years (max.) Ministry of Economy decision.
Exploitation	For the operations of extraction and beneficiation of mineral resources.	Duration of the exploitation contracts are of 90 years (max.) Ministry of Economy decision.

Royalties system ...

Contract:

“The value of exploitation royalties may be subject to a deduction **up to 25% of the amount receivable** within the following limits:

- ... % In local/regional social responsibility programs;
- ... % In local, regional or national environmental programs and geological and mining heritage projects;
- ... % To support projects proposed by local authorities (municipalities, districts) covered by the area of the mining concession;
- ...% in R&D internal mining projects focused on mineral optimisation of metal recovery”.

Review the current system of royalties and other operating charges

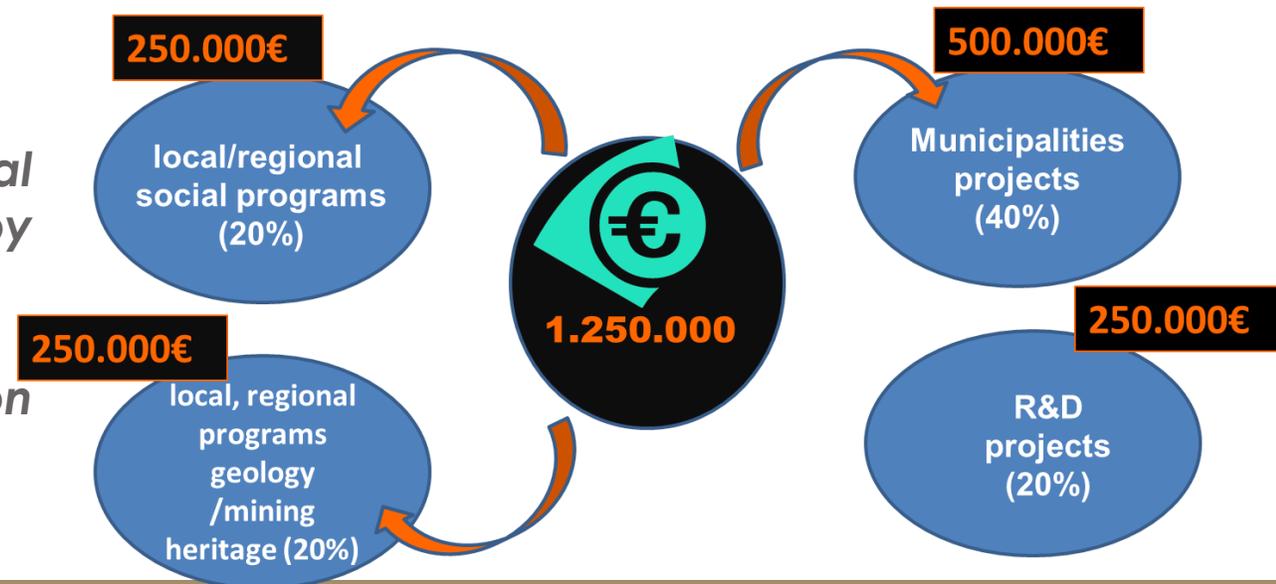


Royalty due to the State: 5 Million €



Deduction up to 25%:
1.250.000€

Royalty to be paid to the State 75%:
(finance entities budget and rehabilitation of mining sites)
3.750.000€





Social responsibility

Objective:

- Increase corporate social responsibility by encouraging actions to support local communities

What is being done:

- Publication of edicts on the Government Journal and on national and local journals prior to issuing the exploration/exploitation permit.
- All municipalities are involved/consulted in the license/permitting procedures.
- Since 2012 DGEG allows the allocation of part of the money coming from mining companies (royalties) in regions where mining occurs to improve life quality and local programs.
- DGEG and mining companies are increasing public awareness, acceptance and trust on the mining sector.
- DGEG is encouraging companies to consider participation in the transparency initiatives and local support on communities.

Principle of coexistence and parity



- Considering the **transparency in attracting investment it will be necessary to overcome any constraints of land use planning**, through the **principle of coexistence** with other land uses.
- **It is important to strengthen the principle of parity of the values of these natural resources** – considering its public importance constitutionally integrated into the public domain - among the environmental and territorial values, **in a framework of sustainable development and taking into account its scarcity, limited nature, irreplaceable features and the fact that the geological resources aren't possible to be relocated.**
- **The policy for the geological resources must be included in the sectorial plans according to the land use policy framework.**
- The regional and the municipal land use plans must be accomplished with what is defined on the geological resources sectorial plans.

These 2 new diplomas enforce the importance of geological resources and states the compatibility with agriculture and forest land uses.



DR 15/2015 (19th august) –
Establishes the criteria for
the soil classification

DL 80/2015 (14th may) –
Legal Framework of Land
Use Management Tools

Land use planning: what is being done



Objective:

- Safeguard of the existing geological resources.

What is being done:

- Participate on 3 levels of land use planning: national, regional and local (PDM's). At local level ensure that the areas where the known geological resources exist are **included in all category of rural soil**.
- Foster a land use planning policy which clearly include mineral resources in harmonization with other uses of rural soil (recognize their parity with other natural resources), avoiding conflicts in the use of soil, and preventing uses that might compromise the current and future access to deposits and known mineral occurrences.
- Promote meetings, workshops and debates with stakeholders to **stress the importance and peculiarity of mineral resources**.

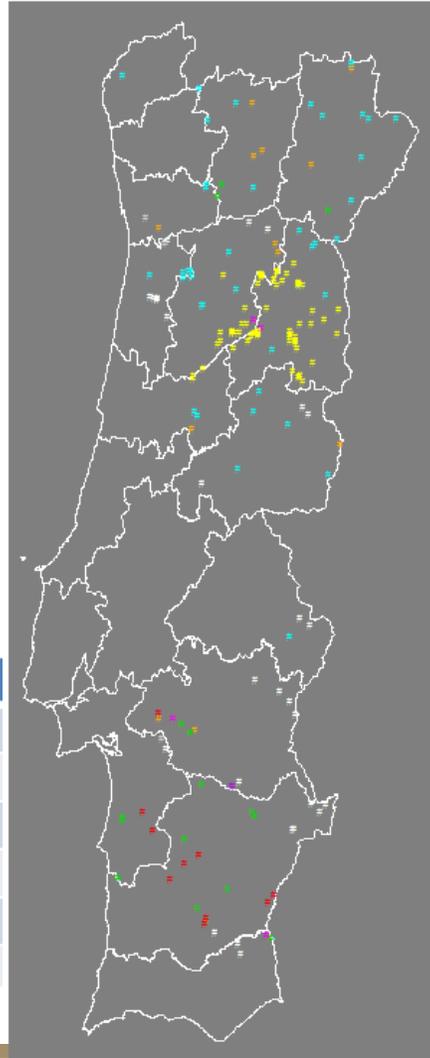


Rehabilitation of old mining areas

Being done by **EDM** which is a State owned company.

The Government, through **DGEG**, **allocates part of the money from royalties** to the rehabilitation of ancient abandoned mines.

Involvement of local authorities. Maintain, operate and preserve.



GROUPS	NUMBER OF MINES (175)	MOST RELEVANT MINES
Uranium and Radium	61	Urgeiriça, Quinta do Bispo, Cunha Baixa e Bica
Polymetallic Ores	10	São Domingos, Aljustrel, Lousal e Caveira
Tin and Tungsten	40	Argozelo, Covas, Montesinho e Terramonte
Base Metals	28	Terramonte, Coval da Mó e Miguel Vacas
Iron and Manganese	16	Orada, Cercal / Rosalgar e Ferragudo
Coal	3	São Pedro da Cova e Pejão
Gold	12	Jales, Penedono e Freixeda
Others	4	Gouveia de Baixo e Cortes Pereira
Asbestos	1	Arado do Castanheiro

Status	175 Mines integrating Concession		
	Polymetallic	Radioactive	Total
Concluded	53	34	87
Ongoing Work	1	6	7
To Be Carried Out	40	21	61
With Constraints	20	0	20
Total	114	61	175

5. Next steps...

- **Prepare and publish the regulations for the geological resources framework (Law n°54/2015).**
- **Improve/update of the Portuguese strategy for geological resources.**
- **Develop the one stop shop to support the mining investor.**
- **Develop the sectorial plan for the geological resources.**

Thank you for your attention

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