



**RECOMMENDATIONS  
FOR EFFECTIVE AGGREGATE POLICY AND MANAGEMENT,  
COVERING THE LEGAL AND REGULATORY SOLUTIONS WITH  
REGARD TO SUSTAINABLE AGGREGATE RESOURCES  
MANAGEMENT**

**BASED ON COUNTRY STUDIES AND SYNTHESIS REPORTS OF  
SELECTED SOUTH EAST EUROPEAN COUNTRIES'  
LEGISLATION**

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## Conclusions and Recommendations

The South East European region's legislative and regulatory framework and authority practices

### SEE Issue Nr. 1

There are mineral policies existing in many but not all SEE countries covering primary aggregates as well. However, there are only a few countries where it is embedded into the spatial development and land use plans. Such good examples or best practices are provided by Austria, Greece, and Italy. »»»

#### Recommendation

SEE emerging countries are advised to develop their national mineral policy, and harmonize it with regional spatial development and local land use plans. Preferably, this incorporation should be regulated in a single piece of legislation, which covers a prudent planning leading to an easier access to aggregate resources.

### SEE Issue Nr. 2

The ownership of primary aggregates in SEE shows two approaches: it belongs to the state or to the landowner. The right of the landowner may be limited to its own use for own purposes. There are pro's and contra's to evaluate which serves sustainability better; however, the state ownership makes the legal basis for planning (SSM) more easily feasible. »»»»

#### Recommendation

The ownership of certain commodities rests deeply in the sovereign national legislation and it is out the scope of the European Union Community acquis. Therefore it shall be accepted as it is. It is very much likely that even if a Community minerals policy will be formulated legally in the future (as regulation or directive), it will not touch the ownership of minerals (and other natural assets). Having in mind the subsidiarity principle, it would not restrict the autonomy levels of self-governance either. The central state shall always have the right of delegating the licensing and supervision mandate to subordinate levels (regions, counties, municipalities, etc.). This policy should make clear that a mining right is an intangible right, distinct and independent form that of the ownership of land where minerals occur.

### SEE Issue Nr. 3

The major licensing steps to access primary aggregates resources is rather even, it involves an exploration permit (in a few countries a preceding geological

prospection is also required), and an exploitation permit, in general. However, at a closer look these two major phases are segmented into smaller legal steps (e.g. mining plot establishment, technical operation plans, etc.). The list of the competent authorities is more colorful. In centralized countries geological and mining authorities play the main role. In countries, where aggregates planning is practiced, the planning authorities take the prime lead. The involvement of co-authorities is also variable.

#### Recommendation

Prudent planning and de-regulation may make access to aggregate resources easier; however, the “one-stop-shop” and “parallel assessment” models may not work all over the SEE region. The consensus building via consultative involvement of and enhanced dialogue with NGOs and local stakeholders should be encouraged. Clear definition of duties and responsibilities, and the reinforcement or maintaining of geological and mining authorities’ roles, is recommended, while acknowledging the planning authorities’ outstanding responsibility.

#### SEE Issue Nr. 4

In a very few countries there are certain exclusions from the mining licensing scheme for certain cases, such as landscape management and water works, exploitation required for the prevention of natural disasters, and the extraction required for the construction of highways. The annually extracted volumes of these are limited, but may cause local turbulence on the aggregate market. The primary objective of riverbed or lake dredging might also be aggregate extraction, licensed by the water authorities. Political lobbying and pressure-making may be present in these procedures. »»»»

#### Recommendation

The legal exclusions do not help systematic aggregates planning either on national or on regional level. Such legal exclusions should be eliminated or kept at minimum, exceptional, restricted level.

#### SEE Issue Nr. 5

The permit processing time from the first application to the extraction license ranges from half year to two years in general. In most countries no specific rules apply for processing time for aggregates. Within the different individual licensing steps the authorities have 15-60 days for the procedure but these deadlines are usually breached, either because of legal suspension of the procedure due to interested parties’ intervention or simply a delay. The licensed period of exploration activities may last 2-8 years (incl. approved prolongation). Duration of extraction in some countries is unlimited, and in cases where regulated, it may extend 20-35 years. These aspects are equally important for the security of investment and for sustainable aggregates management and planning. »»»»

### Recommendation

The specific attributes of primary aggregates justify the reconsideration of the licensing conditions, namely processing and licensed period, which inhibit long term planning, and sustainable utilization of aggregate resources by giving speculation too much space. A more fluent processing of permits could be also reached by the precise and restricted definition of the intervening stakeholders (i.e., affected parties who have the right to question the process). The introduction of e-government (incl. e-application forms, automatic deadline monitoring, digital documentation) may also improve the situation. It is worth considering that shorter permit duration may discourage speculative players in the aggregates sector. Time-wise progressive financial regulatory tools (e.g. land use fees) may direct unwanted land occupation in the appropriate way. Clear regulations on processing deadlines, the stringent monitoring and sanctioning on breaching these both on the authorities and clients side is a must, in any case.

### Issue Nr. 6

With respect to EIA and NATURA 2000 the vast majority of SEE countries transposed the related EU Community legislation, and inserted these aspects into the very early licensing stages. There are differences with regard to the magnitude of activity to how detailed assessment is prescribed. Surprisingly, only Italy and Styria in Austria apply the option of the Strategic Environmental Impact Assessment (SEA) as a preceding collateral exercise to mineral planning. True sustainability assessments are not regulated in any of the studied SEE countries in association with aggregates.

### Recommendation

It might be useful, and may help avoiding failures during the actual EIA phase if countries adopt and practice the SEA as well, prior to national or regional aggregates extraction plans.

### Issue Nr. 7

Nature conservation issues are usually dealt with and incorporated into the environmental licensing action. Most non-EU member SEE countries apply the related Community Natura 2000 framework as well as Member States. The practical transposition of this legislation usually leads to designation of absolute “no-go” areas for aggregates extraction in most countries. »»»

### Recommendation

It is strongly advised that competent authorities study the related guideline document published by the European Commission in 2010 in order to learn how aggregate extraction and biodiversity goals can be managed in harmony. It seems that only Romania and Slovenia stay in line with the essence of this

## Community recommendation, i.e., making aggregates mining possible on Natura 2000 areas upon stringent surveillance.

### Issue Nr. 8

In SEE partner countries the co-authority participation show similarities, but the number of co-authorities involved differs a lot. It can be concluded that in smaller and/or more centralized countries 2-3 ministries or professional authorities participate (e.g. Bosnia-Herzegovina, Croatia, Slovenia, Romania, and Serbia). There are also less co-authorities invited to participate in permitting where complex aggregates and land use planning is practiced (Austria and Italy). The other extreme is represented by Greece and Hungary, where there are numerous administrative and professional authorities taking part in the procedure and whose consent is legally binding. The so-called “parallel assessment” is rare. »»»

### Recommendation

Most SEE countries operate an appropriate co-authority forum for aggregate extraction licensing, which is kept and maintained. In a few countries where the number of involved co-authorities is close to or above a dozen, a revision of this extended range of co-authorities is recommended, and/or their scope of aggregates-related mandate could be reconsidered, for example, turning their legally binding consent into a “professional opinion”. Nevertheless, the minimum element of good governance in this aspect is that the designation of a distinguished, major, regulatory body must be ensured, which is authorized to co-ordinate well-regulated co-operation among involved authorities. This is similar to the “one-stop-shop” model, which is the most client-friendly solution, and also fits e-government requirements.

### Issue Nr. 9

Public participation is usually ensured during the environmental licensing phase, through public hearings and/or written views. However, the interpretation of stakeholders, i.e., affected public, who have the right to intervene is rather problematic, which leads to appeals at the legal courts in many countries. In some countries public hearing is also prescribed by the Mining Act, and/or during the discussions of land use plans. »»»

### Recommendation

In principle, public participation is up-to-date and accords to EU standards during permitting. However, a more enhanced and sophisticated involvement of local society could be encouraged in some SEE countries not by necessarily by the state, but by the aggregate companies on a voluntary basis. In general, opposing NGOs do their job more efficiently than aggregate producers. The historical chance for a new campaign in community engagement and information sharing has come with the New Waste Framework Directive, which focuses on waste recycling and secondary aggregates. The participation of the

SEE primary aggregate sector in the EITI (Extractive Industries Transparency Initiative) should be also promoted.

#### Issue Nr. 10

Almost all countries have a national or regional inventory on aggregate reserves and resources, but it is usually a segment of the national/regional minerals inventory (or cadaster). The resources inventories are not completed or updated regularly or in digital format in many countries, and they are usually developed and maintained by the national or regional geological surveys or authorities. The resource inventory is strong in those countries where land use planning takes aggregates into account. The aggregate reserves and operating quarries inventory is usually run by the same entity that is in charge of the permitting of aggregate quarries or the supervisor ministry. It is either the mining or the geological authority, and their supervisory ministries for industry or environment. »»»

#### Recommendation

On-line, easily accessible (or public) aggregates information service covering both primary and secondary aggregate supply (and demand) sources is badly needed in all countries. Concerning professional competence, existing databases and regulatory tasks, the geological surveys and mining authorities may be ideal candidates to run such a system, but due to other traditions in some countries, regional planning authorities and state environmental bodies may be also entitled to take this task.

#### Issue Nr. 11

The financial burden on primary aggregate is multiple. Royalty varies between 1.5 - 7 % of the calculated market price, based on a nominal value published or on basis of extracted tons of commodity. In some countries land rental fees have to be paid. Corporate taxation also differs from 10 % to 40 %, as well as social care charges. Licensing fees are usually in the order of hundreds of euros, but 1-2 k€ fees are known as well. Financial sanctions for illegal mining or environmental offence are tens of thousands of euros. »»»

#### Recommendation

Most financial instruments are within the domain of national sovereignty. It is up to the government to establish these economic drivers along with the actual defined national policy; however, great differences in these may lead to distorted competition in cross-border regions. Although, the majority of SEE countries does not distribute mining royalty income to local communities, it may be a reasonable policy if local communities could benefit from mining royalty income. The progressive land use fee during the exploration phase is considered a good practice because it guards against speculative land occupation. Unless the European Union raw materials policy, or the

competition policy cover this domain, there seems no realistic option to improve this problem field in near future.

#### Issue Nr. 12

Secondary aggregates in minerals planning are not being considered in most SEE countries. Waste management plans (or policies) usually include a quantitative outlook for secondary aggregates generation, especially for construction and demolition waste. However, land use plans do not take secondary aggregates generation into account. The legislation for the authorization of recycling activity is rather immature in all countries if not existing at all. »»»

#### Recommendation

Secondary aggregates should be considered and incorporated into national, regional and local minerals plans, land use plans, environmental programs, waste management plans, and development plans by the enforcement of law to protect the primary aggregate resources, and to move towards a recycling society.

#### Issue Nr. 13

The scene on secondary aggregates database is disappointing. Vast majority of countries don't have such an information base. In some countries limited information can be extracted from the mining waste inventories. There are efforts to comply with the new waste framework directive, and countries are about to establish regulated and more detailed data collection of construction and demolition waste. Some information on secondary aggregates can be extracted from the national waste database managed by environmental agencies or ministry, or statistical office. »»»

#### Recommendation

On-line, easily accessible (or public) aggregates information service covering both primary and secondary aggregate supply (and demand) sources is badly needed in all countries. Concerning professional competence, existing databases and regulatory tasks, the geological surveys and mining authorities may be ideal candidates to run such a system, but due to other traditions in some countries, regional planning authorities and state environmental bodies may be also entitled to take this task. At the horizontal dimension, this aspect is important with regard to the Innovation Partnership as it applies to aggregates, as well as the public access to environmental information, including mineral resources (i.e. the EU INSPIRE directive requirements).



## Issue Nr. 14

There is a lack of homogenous legislation and practices (planning, licensing, monitoring, and sanctions) in most countries where there are multiple levels of public administration active in the field of aggregates. Sustainability assessments are seldom required. The long-term planning approach is heterogeneous and in some countries non-existent, or planning does not take into account secondary aggregates. »»»»

All countries should adopt a mineral policy, and common processes for long-term planning, management, monitoring and evaluation of the aggregate life cycle. However, there is a low chance for adopting integrated legislation for regulating both primary and secondary aggregates management. Sustainability assessment screening should be obligatory.