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Helping or hindering mining?

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Mining in Europe need not be so hard

Miners and member states must get behind EU policy if it is to gather momentum

Chris Cann

You don't have to look far to find someone prepared to knock the European Union. This feels particularly true for *Mining Journal*, based in the UK, where an 'In-Out' referendum on EU membership in June has provoked an increase in anti-EU rhetoric.

In mining circles, at times, it's not much better.

Europe, for all its mining history and known mineral wealth, has lacked meaningful mining development for decades. The EU, as the default governing body for greater Europe, or at least its 28 member states, is the easy scapegoat.

The criticisms of European mining vary depending on where you are – Western Europe has permitting problems, Central Europe is overtly bureaucratic, Eastern Europe is antiquated and full of activists. Not that these problems recognise state boundaries.

The theme, with the exception of Scandinavia, is miners generally find life difficult in this part of the world. "There is an industry [*in Europe*] built-up around not permitting mines," Euromax Resources chief executive Steve Sharpe said on a Mines and Money panel chaired by *Mining Journal* late last year. "It would be interesting to see how much that sector is actually worth in terms of revenues because it employs a lot of people."

Sharpe is most familiar with the Greek mining system from his time spent at European Goldfields (taken over by Eldorado Gold in 2012). He said Macedonia, where Euromax is developing its Ilovica gold-copper project and which is not an EU state, had provided a conspicuously different experience, so far.

The problems further east are well-documented: the headlining problem child, Rosia Montana in Romania, is described in more detail in an Eastern and Central Europe feature in this edition of *Mining Journal* (see page 28-29). This part of the world is heavily populated by environmental activism driven by mining's poor track record.

An Eastern European bloc unsuccessfully petitioned the EU parliament for a blanket ban on cyanide in gold processing in 2010, though Slovakia went ahead and issued its own ban in 2014, joining EU members Germany, Czech Republic and Hungary in going cyanide-free.

In Western Europe, Spain has been criticised for its complicated mining framework, which has claimed multiple mining scalps in the past decade, while England-focused Wolf Minerals chief executive Russell Clark has complained about the inflexibility of waste management legislation, having been forced to build a triple-lined tailings dam for the chemically innert tailings product from Wolf's Drakelands tungsten mine.

The Fraser Institute's most recent rankings paint a similarly diverse picture of EU member states, ranking them from fourth (Ireland) of 109 jurisdictions through to 106th (Greece) on its key Investment Attractiveness index, which combines ratings for mining policy and mineral potential. Only 12 of 28 member states were covered, implying those not covered are generally even less suitable for mineral investment.

The better rankings are generally reserved for countries in Northern and, to a lesser extent, Western Europe. The worst scores were recorded for Central and Eastern Europe. This was reflected across a range of separate indices (*see table, below left*) that considered mining policy, mineral potential and encouragement of exploration (*see the column 'Current practices mineral potential' in the table*).

The obvious question is: for how many of these poor experiences and poor ratings can the EU be held responsible?

That is: how much influence does the EU actually have on the mining industry?

Getting real

Though quick to deride the EU, few mining companies based in EU member states have a full understanding of how the organisation works.

The EU is not authorised to govern the mining policies of its member states, but, in reality, it keeps a close eye on the key practices through two separate documents: the Waste Management directive and the Environmental Impact Assessment directive.

These provide the EU "legislative competence" over the two key areas for which miners must gain approval before digging anything up, according to Control Risks analyst Stina Hartikainen.

"In these areas, EU bodies can adopt regulation that member ▶

Fraser Institute EU 2016 rankings (out of 109 juristictions)

	Investment attractiveness	Policy perception	Mineral potential	Current practices mineral potential
Ireland	4	1	17	5
Finland	5	5	15	4
Sweden	13	3	35	2
Portugal	22	10	45	14
Greenland (Denmark)	26	25	35	21
Spain	48	35	64	43
Serbia*	53	27	78	47
Poland	57	33	78	24
Bulgaria	63	46	78	58
Romania	67	73	54	82
France	80	49	97	70
Greece	106	93	106	100

*Accession

states are obliged to transpose into their national legislation, giving the EU some leeway to set minimum standards of environmental and safety rules for the extractive industries," she said.

What this means is the standards set out are binding but individual member states are free to work them into their own systems in the manner they see fit. In the UK, for example, the EIA and Waste Management directives have essentially been adopted verbatim.

A company operating to the standards set out by those directives can expect to be granted relevant permits, provided it is compliant with the mineral policy of the country.

These are not mining specific directives, nor are they country specific. The concept is that within the binding frameworks set out by the directives, member states have a level of discretion when assessing individual mining projects.

The head of Fasken Martineau's mining practice in London, Al Gourley, told *Mining Journal* the full adoption of those directives into state law was a sensible move.

"I've looked at probably 100 mining codes and environmental directives around the world and I would say the European directive is uncomplicated and it's certainly not off-market – it's pretty standard stuff," he said. "From an industry standpoint, I think miners would like to see a standard adopted across Europe."

However, problems arise in two areas.

First, most countries that adopt the directives in their entirety lack the mining experience and expertise to exercise discretion over individual mining project applications and so the directives are followed to the letter, resulting in the kind of inflexibility to which Wolf Minerals' Clark referred.

"You can have member states not applying directives quickly enough, not applying them in the right way, and not applying them at all"

Second, not all countries have the will or, more accurately, the administrative competence to apply the directives and so there is a situation in Europe where the same set of rules results in multiple operating environments.

That is, though directives are legally binding, several countries are non-compliant for various reasons. Though companies have the right to legal action and some exercise that right, by that point everybody besides the lawyers has lost.

"The directives ask countries to consolidate all the environmental processes into a one-stop process," Gourley said. "To the extent member states don't do that, the blame lies with them, not with the EU.

"The EU approach is quite rational and sensible, but you can have member states not applying directives quickly enough, not applying them in the right way, [*and*] not applying them at all."

It is this problem with implementation of good frameworks that has led to an impression the frameworks themselves or the organisation responsible for them, the EU, are not up to scratch. This is not the case.

"There are a lot of problems within the EU that really tie into the fact that the quality of member states varies dramatically," Gourley said.

He said Northern Europe was the clear leading light for the continent and had been able to establish a world-class mining framework for the same reasons as Australia and Canada had been successful.

"There are large swathes of undeveloped land and mining is seen as a positive way to develop and grow the country.

"They almost uniformly have reasonable mining codes that have been adopted to the demands of the companies and the population, both of which want mineral development. These codes are stable and almost uniformly positive toward mining," Gourley said.

This changes as you enter more densely populated areas such as in Western Europe and the challenges reach fever pitch as you move east and combine large and often dense populations with transitioning economies.

"In Eastern Europe you have a whole series of countries transforming … from state-owned and controlled mines to privately controlled mines. Bulgaria, Serbia, Romania, Hungary and the coal sector in Poland have seen a shift from operating these mines themselves to the entry of private enterprise," Gourley said.

Key figure

2008

The year the Raw Materials Initiative was launched by the EU

"There are a lot of archaic mineral development systems [*and*], even if they modernise their mining codes, which a lot of them have done, they still need to modernise all the things that go with it like corporate law, taxation, and foreign investment law – you need a modernisation of the entire economic legal structure.

"That's being done at varying rates and to varying degrees, Poland being well ahead of others. Albania would be a country lagging behind most where state mining is a thing of the present [*and*] where connections between business and government are seen in all respects."

Adding to the muddle is a varied style of governance across the continent between centralised systems in places such as Northern Europe and the UK, which find it relatively simple to implement EU directives, and states such as Spain, where the devolved power structure means implementation of EU directives is an individual challenge from region to region.

Just as it is wrong to blame the EU for problems arising from the inability of member state's to implement directives, it is equally counter-productive to conclude that a failure to implement a supportive mining framework means a country is anti-mining.

In most cases, nothing could be further from the truth, according to Mark Rachovides, a former European Goldfields executive who heads Euromines, the industry body for European miners.

"Implementation problems can be because of political infrastructure or a lack of academic background," he told *Mining Journal*. "These are barriers to implementing change quickly and efficiently.

When the Lisheen zinc mine in Ireland shut down late last year it concluded one of Europe's great mining success stories. There are too few to take its place

"Many governments in countries struggling to develop their mining industries are portrayed as being not willing. In many cases that would mean choosing not to receive funding and not receive the economic benefits that come with progress.

"And when you look at some of these issues and see whether it's the mining industry that has problems or industry in general, it's industry in general. Too often people say this is a problem with mining or raw materials – it's not. We see the same issues time and time again across sectors."

Shooting for the stars

While some miners are aware of the directives immediately affecting mining practices and all are aware of the problems, few have any idea of the broader EU policy that acknowledges the implementation challenges and is assisting member states to overcome them.

This policy can be traced back to 2008 and the launch of the Raw Materials Initiative (RMI), which was promoted as a framework to ensure "EU demands for industrial metals and other non-energy resources could be met, both by ensuring access to imports from outside the EU and through development of the existing resources in the EU", Control Risks' Hartikainen said.

The second pillar of the RMI covering efforts to ensure domestic supply encourages information sharing between member states to improve national mining policy, regulation and environmental guidelines in countries lagging behind.

The RMI was followed by a review of critical raw materials (CRM) for the EU, which resulted in the current list of 20 elements deemed strategic to Europe's industrial future.

Key figure

20%

The stake of European GDP the EU would like to see contributed by industry in 2020

Working in parallel with the RMI and CRM programmes is the European Innovation Partnerships (EIP) and, within that, the EIP on Raw Materials, which provides "high-level guidance to the European Commission, member states and private business on the challenges of raw materials supply".

These initiatives within programmes within larger initiatives within larger programmes are part of a greater overarching EU vision called Horizon 2020, which would see 20% of Europe's GDP come from industry by 2020. In an effort to pull this off, the EU has set aside €315 billion (US$362 billion) for the reindustrialisation of Europe.

Those who can be bothered wading through the sea of acronyms will discover a clear theme: to drive forward the industrialisation of Europe as an integrated, self-reliant manufacturing centre by pooling the vast experience and knowledge across the EU member states – to help Eastern Europe replicate the mining industries of Scandinavia.

"You're not going to solve the problems of 550 million people with 40-something different languages overnight"

What this means for extractive industries is there is a pool of capital currently being deployed that is slowly pulling together geological databases across Europe, exploring opportunities to develop European markets for European raw materials, and reviewing mining codes and frameworks.

These projects are designed to get into grassroots Europe and engage across sectors and across borders.

"It's all about engagement," Rachovides said. "We need to praise and demonstrate the success stories and then spend money to bring others up to the same level. You have to point out the countries that are strong in certain areas such as regulation, why they are strong, and then engage with countries that aren't so good to identify the key areas in which they could improve and enjoy the same success."

He said only by co-ordinating thinking and resources across Europe would miners start to see significant improvement in the most problematic states. And that, he said, was the responsibility of not just the EU and the member states, but of the companies, too.

European Commission president Jean-Claude Juncker's plan to reindustrialise Europe has been given a €315 billion war chest from which to draw

Head of steam

Unlike directives that are at least meant to be binding, the EU policy provides incentives and resources, but it is powerless to force the issue into those areas where it is most needed. As put by Hartikainen:

"While the RMI provides a framework for direct EU influence on mining policy, its non-binding character means that participation and adherence to recommendations varies considerably."

There has been discussion on introducing a binding EU mining code but that conversation has, so far, been a short one. The consensus has been environment and waste directives adequately police mining activity and a country's natural resources are too emotive a subject to be governed from Brussels.

This leaves EU mining policy open to criticism identical to that levelled by 'Euro-sceptics' at the broader concept of the EU: it is a lovely thought with some big ideas that have fancy names but, in practice, it just doesn't work. The knockers would point to the current state of play in Eastern Europe, eight years after the RMI was launched, as supporting evidence.

Rachovides, in contrast, believes the initiatives, the people and the money being pointed at Europe's mining industry are starting to get some traction.

"If you're sitting in London watching a sky-scraper being built, the first part of construction looks like nothing is happening because of all the work to source the necessary materials, to iron out any wrinkles in design, and to put in all the foundations – only when that's done do you start building," he said.

"That's a simple metaphor and I think it works.

"Yes there were issues that needed to be addressed urgently, but you're not going to solve the problems of 550 million people with 40-something different languages overnight. There has to be a long period of learning before we can start addressing the questions.

"You create the data and then you spend time understanding it. That takes time, but once you've done that you can build quickly. We're beginning to gather momentum in actually delivering [*results*] now."

Rachovides pointed to successful forums run by Euromines in conjunction with trade unions, academics and NGOs across Europe as evidence of changing attitudes.

Much as the EU must wear some criticism for its past political indifference toward mining, which played a large role in the decline of raw material extraction in Europe, it should be credited with a significant shift in policy that has the potential to reverse the situation.

If miners and member states want this process to gather speed, they must fully engage themselves with it. ■