

Strategic Approaches to Mining Business Permit (IUP/IUPK) Disputes

In mining-permit disputes, the first strategic contest is usually not the final hearing. It is the race to identify the legally operative decision, preserve the administrative-remedy period, secure the evidentiary record and prevent irreversible regulatory consequences.

EXECUTIVE SUMMARY: A dispute concerning an IUP or IUPK should be treated as a coordinated public-law, regulatory and evidence-management problem. The core sequence is to identify the challenged decision or governmental action, verify the issuing authority, determine whether sector-specific or general administrative remedies apply, calculate every limitation period, and assemble a complete permit chronology supported by original maps, electronic submission records, payment evidence, environmental approvals, RKAB documents and inspection files. Where suspension, revocation or competing rights threaten the value of the mining area, interim protection must be pursued before the regulatory position becomes practically or legally irreversible. Civil, criminal, environmental and contractual proceedings may run in parallel, but they should not be allowed to obscure the principal question: whether the administrative decision was made by the competent authority, through lawful procedure, on sufficient facts and consistently with the general principles of good governance.

STRATEGIC RULE. *Do not begin with the narrative of unfairness. Begin with the operative decision, the competent authority, the date of legal notice, the applicable remedy sequence and the relief capable of preserving the mining right.*

1. Why IUP/IUPK Disputes Require Early Case Architecture

An IUP or IUPK is not merely a commercial asset. It is an administrative licence linked to a defined mining area, commodity, stage of activity, term, technical obligations, environmental commitments, state-revenue obligations and continuing governmental supervision. A dispute may therefore involve several legally distinct objects: the original licence, a WIUP or WIUPK determination, a boundary adjustment, a refusal to approve an application, an RKAB decision, a warning, a suspension, a revocation, a declaration that an earlier licence is invalid, or a governmental failure to act.

The strategic error most frequently made is to collapse these separate acts into one general allegation that the licence has been “taken away.” Each administrative act has its own issuer, legal basis, date, procedural history and limitation period. A claim directed at the wrong object or filed before the wrong forum may fail without the court ever reaching the commercial merits.

The current legal framework is also more exacting. Law No. 4 of 2009 on Mineral and Coal Mining has been amended most recently by Law No. 2 of 2025. Government Regulation No. 96 of 2021 has been amended by Government Regulation No. 25 of 2024 and Government Regulation No. 39 of 2025. The implementing regime now includes Minister of Energy and Mineral Resources Regulation No. 18 of 2025, while RKAB and reporting requirements are governed by Ministerial Regulation No. 17 of 2025 as amended by Ministerial Regulation No.

6 of 2026. A strategy based on an earlier licensing framework may misidentify both the governing obligation and the available corrective route.

2. Identify the Dispute Object, Authority and Forum

2.1 Define the legally operative act

The case team should obtain the signed decision, its attachments, proof of dispatch or announcement, the electronic-system record and every preceding warning or evaluation. The operative act may differ from the document that first alerted the company. A system status, a ministerial letter, an OSS notification, a decision of the Governor and a formal revocation decree do not necessarily carry the same legal effect.

The relief should correspond to the object. Cancellation of a revocation, correction of coordinates, annulment of an overlapping permit, an order to decide an application, restoration of access to a regulatory system and damages for unlawful governmental conduct are different remedies. The pleading should not ask the administrative court to decide a private ownership dispute, nor ask a civil court to invalidate an administrative licence.

2.2 Verify competence and delegation

Authority must be traced through the Mining Law, Government Regulation No. 96 of 2021 as amended, Presidential Regulation No. 55 of 2022 on delegated mining-licensing authority, and any relevant implementing rule. The analysis should establish whether the act belonged to the Minister, the Governor or another authorised official, whether delegation remained effective on the date of decision, and whether the official acted within the delegated subject matter, territory and stage of mining activity.

A competence defect is not cured by the commercial reasonableness of the outcome. Conversely, an attack based only on the identity of the signatory will be weak where a valid delegation, mandate or electronic authorisation exists. The complete institutional chain must be obtained before alleging lack of authority.

2.3 Select the controlling forum

The validity of a government decision or action generally belongs to the administrative-law route after the required administrative remedies have been exhausted. Contractual disputes among shareholders, sellers, contractors or joint-venture participants may belong to the civil courts or arbitration. Land-right disputes may require a separate land-law analysis. Environmental enforcement and criminal investigations operate on their own statutory elements. Effective case architecture allocates each issue to the correct forum while preserving a single, consistent factual chronology.

3. Preserve Administrative Remedies and Limitation Periods

Where the sector-specific rule does not provide a different route, Law No. 30 of 2014 on Government Administration provides for an objection and an administrative appeal. An objection is generally submitted within 21 working days after the decision is announced; an appeal is generally submitted within 10 working days after the objection decision is received. Under Supreme Court Regulation No. 6 of 2018, an administrative-court action is generally filed within 90 days after the decision on the administrative remedy is received or announced.

These periods should be calculated from documentary evidence, not recollection. Record the date of announcement, electronic delivery, receipt by the company, first actual knowledge by an affected third party, objection, deemed decision, appeal and final administrative response. Where more than one date is arguable, the litigation timetable should adopt the earliest defensible date while expressly preserving the alternative computation.

Administrative remedies do not automatically suspend the challenged act. Immediate consideration should therefore be given to a formal request for postponement or suspension, both within the administrative process and, where proceedings are filed, through the interim mechanisms available before the Administrative Court. The application should demonstrate urgency, concrete prejudice, the risk of irreversible change to the licence area and the public interest in maintaining an orderly regulatory status pending review.

4. Build the Merits Record Before Drafting the Claim

- 1. Authority and legal basis.** Identify the statutory provision, delegation instrument, internal authority and decision-making level relied upon. Test whether the official applied the law in force on the date of the act.
- 2. Procedural regularity.** Collect notices, inspection minutes, clarification invitations, warning letters, responses, hearing records and proof that the licence holder was given a meaningful opportunity to correct or explain the alleged breach.
- 3. Substantive compliance.** Reconcile the licence conditions against PNPB payments, approved and submitted RKAB documents, production and sales reports, environmental approval, reclamation guarantees, land access, technical reports and corporate requirements.
- 4. General principles of good governance.** Assess legal certainty, accuracy, impartiality, proportionality, non-abuse of authority, openness and proper service. The strongest argument links a governance principle to a specific evidentiary failure and a concrete legal consequence.
- 5. Reliance and proportionality.** Document investments, employment, community obligations, downstream commitments and remediation already undertaken, but use them to test proportionality rather than as a substitute for regulatory compliance.
- 6. Comparative treatment.** Where unequal treatment is alleged, obtain genuinely comparable decisions, commodities, permit stages, defaults and correction histories. Superficial comparisons are easily rebutted.

5. Dispute-Specific Strategies

5.1 Overlapping IUP or IUPK areas

For same-commodity overlap, Ministerial Regulation No. 18 of 2025 requires an evaluation that includes the dates and terms of the competing licences, the issuing authority, compliance with issuance requirements, land-control status and, for relevant historical IUPs, clean-and-clear reconciliation status. The dispute should therefore be built around a coordinate-by-coordinate chronology, not only around copies of the permit decrees.

The evidence package should include original coordinate annexes, shapefiles, geodetic methodology, cadastral history, WIUP or WIUPK determinations, modification decisions, clean-and-clear records, land-control evidence and proof of actual operations. An independent geospatial opinion should explain whether the overlap results from conflicting grants, coordinate conversion, later digitisation, boundary adjustment or operation outside the authorised area.

The current rule also states that a licence revoked and returned to the State cannot be submitted for restoration. That makes timing decisive. The priority is to challenge the evaluation and seek protective relief before the revocation becomes final and the area is reallocated or placed under another management mechanism.

5.2 Warning, suspension and revocation

A sanctions dispute should distinguish between ordinary staged enforcement and grounds permitting accelerated revocation. Under Ministerial Regulation No. 17 of 2025, the general sequence for specified RKAB and reporting violations consists of written warnings, temporary suspension and revocation. The regulation permits up to three written warnings of 30 calendar days each, followed by a suspension of up to 60 calendar days. However, invalid supporting documents, mining or sales without an approved RKAB, or misuse of an approved RKAB document may lead to revocation without the warning and suspension stages.

The defence should therefore test the correct classification of the alleged conduct. A remediable reporting defect should not be recast as fraudulent documentation without evidence. At the same time, the company should not rely solely on procedural defects if the underlying non-compliance remains unresolved. A persuasive administrative remedy combines a legal objection with a verified cure plan, payment reconciliation, corrected filing and accountable management response.

Ministerial Regulation No. 18 of 2025 also identifies grounds for area reduction or revocation connected with non-operation, unpaid non-tax state revenue, mining without RKAB approval, misuse of permit documents, mining outside the authorised area, environmental non-compliance and failure to carry out reclamation or place reclamation guarantees. Revocation does not extinguish outstanding statutory obligations or potential criminal exposure. The dispute strategy must therefore address both licence survival and the residual obligations that may continue even if the licence challenge succeeds.

5.3 RKAB rejection, delay and system restrictions

RKAB disputes are often evidence disputes disguised as system problems. The case file should preserve the complete electronic submission trail, version history, validation messages, evaluator comments, corrections, PNPB status, technical attachments and time stamps. Ministerial Regulation No. 17 of 2025, as amended in 2026, should be checked against the precise year, commodity and stage of activity involved.

The remedy should separate a substantive rejection from an administrative or technical failure. Where the evaluation allegedly relied on an incorrect data point, the objection should identify the exact field, source record, correction submitted and effect on the decision. Where operations are restricted pending approval, the company should avoid creating a second

violation by continuing production or sales beyond the lawful scope while the challenge is pending.

5.4 Extension, transfer and corporate-control disputes

Applications involving extensions, shareholding changes, beneficial ownership, divestment, corporate restructuring or transfer of economic control require a dual review. The public-law question is whether the licence holder satisfied mining and regulatory conditions. The private-law question is whether the underlying transaction validly allocated control, warranties, funding and risk. A favourable arbitral or civil judgment does not automatically compel the regulator to issue or preserve a mining licence, and an administrative decision does not necessarily determine the parties' contractual liabilities.

6. Litigation and Settlement Architecture

- 1. Administrative remedy first.** Frame the objection as a decision-ready record: relief requested, legal defects, corrected facts, supporting exhibits and a realistic compliance plan. Avoid using the objection merely as a preview of later litigation.
- 2. PTUN claim with targeted interim relief.** Challenge the precise administrative object, plead competence, procedure, substance and good-governance defects, and request postponement where implementation could cause irreversible loss of the licence area or operational status.
- 3. Protect against competing third-party rights.** A competing licence holder or affected third party may enter the dispute or commence a separate challenge. Map all potentially affected parties early and avoid relief that cannot be implemented without hearing them.
- 4. Coordinate parallel proceedings.** Civil, arbitration, environmental and criminal matters should use a common document chronology and consistent characterisation of ownership, control, operations and regulatory responsibility. Contradictory positions can damage credibility across forums.
- 5. Use regulatory settlement intelligently.** A lawful resolution may involve corrected coordinates, area reduction, staged compliance, payment reconciliation, amended work plans or a transparent transition. Settlement cannot validate an act made without legal authority or privately dispose of obligations owed to the State.
- 6. Control communications.** Public statements should be factual, restrained and consistent with the formal record. Accusations of corruption, criminalisation or political intervention should not be made without independently verified evidence and a clear procedural purpose.

7. Immediate Response Protocol

- Freeze deletion and preserve all hard-copy and electronic records, including OSS, MODI, RKAB and correspondence data.
- Create a one-page chronology identifying every permit, amendment, warning, submission, inspection, payment, decision and date of receipt.
- Calculate the earliest possible objection, appeal and court deadlines and assign a responsible person for each filing.

- Obtain the official decision file and verify the issuing authority, legal basis, attachments and proof of service.
- Commission a focused technical review: coordinates for overlap, accounting for PNPB, engineering for operational allegations, and environmental evidence for reclamation or approval issues.
- Prepare a protective-relief memorandum addressing urgency, irreversibility, balance of harm and public interest.
- Separate curable compliance issues from disputed allegations and implement corrective measures that do not prejudice the legal position.
- Establish a single litigation data room, exhibit index, privilege protocol and authorised communication channel.

8. Conclusion

The strongest IUP or IUPK dispute strategy is built before the first pleading. It identifies the exact administrative object, preserves the remedy sequence, secures interim protection, tests the decision against current mining regulations and presents a complete technical and documentary record. Commercial importance may explain urgency, but legality is established through competence, procedure, evidence and proportionate regulatory reasoning.

Mining-right holders should therefore respond to an adverse decision on two tracks at once: challenge any unlawful administrative act and cure any objectively remediable compliance issue. That combination protects credibility, preserves operational value and gives the regulator or court a legally workable route to correct the dispute.

Key Authorities

- Law No. 4 of 2009 on Mineral and Coal Mining, as most recently amended by Law No. 2 of 2025.
- Government Regulation No. 96 of 2021 on the Implementation of Mineral and Coal Mining Business Activities, as amended by Government Regulation No. 25 of 2024 and Government Regulation No. 39 of 2025.
- Presidential Regulation No. 55 of 2022 on the Delegation of Mining Business Licensing Authority.
- Minister of Energy and Mineral Resources Regulation No. 18 of 2025, including Articles 65, 70 and 71.
- Minister of Energy and Mineral Resources Regulation No. 17 of 2025, as amended by Ministerial Regulation No. 6 of 2026, including the RKAB and administrative-sanctions framework.
- Law No. 30 of 2014 on Government Administration, including Articles 75 to 78.
- Law No. 5 of 1986 on the State Administrative Court, as amended by Laws No. 9 of 2004 and No. 51 of 2009.
- Supreme Court Regulation No. 6 of 2018 on Administrative Disputes After Administrative Remedies.

DISCLAIMER. This publication provides general information as at 29 July 2026 and does not constitute legal advice. The applicable remedy, forum, limitation period and prospects depend on the specific licence, decision, delegation instrument, procedural history, technical evidence and regulations in force when the relevant act occurred.