MINLEX -
Hungary Country Report

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1.1. Summary of findings

Extraction of non-energy minerals in Hungary is mainly made up of aggregates (sand, gravel, building and dimension stone) and industrial minerals (raw materials for cement, lime and ceramic industry as well as silica sand, gypsum, perlite, zeolite, diatomite and bentonite). The metal mining sector has been declining in the last decades. There are several small or depleted ore deposits including iron ore, bauxite, lead and zinc ore, copper ore, precious metal ores and manganese ore and there is one large (Recsk Deep ore complex) copper-zinc deposit which has not been turned to extraction yet. Nowadays only bauxite and manganese ores are mined, but extraction from the only manganese deposit (Úrkút) has been terminated recently. All minerals are the property of the state.

The primary legal basic of mineral extraction activity is Act No. XLVIII of 1993 on Mining (Mining Act) as last amended by Act No. LXXXVI of 2014 and 311/2014 (XII. 11) Government Regulation. Important pieces of law for permitting procedures are Governmental Decree No. 203/1998. (XII.19.) (detailed permitting rules), Government Regulation No. 267/2006 on the Hungarian Office of Geology and Mining (MBFH) (on involvement of co-authorities), Government Regulation No. 53/2012 on mining construction permitting, Government Regulation No. 314/2005 on EIA and IPPC, Act No. LIII of 1996 on nature conservation, Government Regulation No. 275/2004 on Natura 2000 sites, Government Regulation No. 312/2012 on construction permitting, Ministerial Decree No. 14/2008 (IV. 3.) on mining waste management, and Ministerial Decree No. 8/2014 on the mining concession tender procedure. For permitting procedures, Act No. CXL of 2004 on the General Rules of Administrative Proceedings and Services is also highly important.

The Mining Law defines areas "open" or "closed" for exploration. Whether an area is "open" (exploration is permitted through exploration permits granted by the regional authorities) ***or "closed"*** (exploration permit can be obtained through a mineral concession, which is contracted centrally) ***is determined by the MBFH in decrees. Since 2010 the area of the country is "closed" for exploration and extraction of ore minerals, hydrocarbons, coal and geothermal energy***.

Until April 2015, the main responsible authority for mining permitting was the MBFH (under the Ministry of National Development) and its regional departments of mines. ***Since April 2015 regional mining authorities and several other authorities have merged to form "Government Offices" (20 in total including Budapest), and now the permitting procedure is considered a "one-stop-shop"***.

For the exploration of ore minerals, a permit may be obtained only via concession tenders which are issued by the MBFH. For minerals not requiring a concession tender procedure (for which the area is "open", i.e. for construction and industrial minerals), ***first instance permitting authorities are the decentralised 20 Government Offices*** (19 counties plus Budapest). These are ***one-stop-shop*** offices, incorporating mining, environment, nature conservation, soil protection, and cultural heritage inspectorates. It is important to note that interested clients (not only the applicant) can lodge an appeal against almost all authority resolution on permit applications. MBFH acts as the second-instance authority if the first-instance permitting procedure is appealed. Other important second-instance co-authorities are represented by the National Inspectorate for Environment, Nature and Water (with directorates at national and county levels), the National Park Directorate, and National and county Directorates for Disaster Management.

Concerning exploration, for aggregates and industrial minerals a simple vertical permitting scheme rules the procedure; for ores, a concession tendering procedure is in place prior to the permitting scheme, however it has not been applied to ore deposits in recent decades. A first exploration permit on open areas can be

accomplished in 21 days; the second step is the presentation of an exploration technical operations plan (TOP) within 6 months, which must be approved by co-authorities; ***a delay in the procedure can take place if the environmental inspectorate prescribes an EIA (e.g. can be required for deep drilling), though an EIA is seldom required for exploration***. In the case of specific installations planned already during the exploration phase the applicant has to acquire the necessary construction permit. In general, the permitting of an exploration TOP may be as short as 60 days but can be one year if an EIA is required, or two to three years in case of second-instance appeals, court cases, etc. After the licensed period for exploration has terminated the licensee must, within five months, submit a final exploration report to the Government Office, otherwise it loses its exclusive rights to the area. A final report must be drawn up on the results of the exploration. In theory, ***applicants for aggregates and industrial minerals may receive permission to start exploration within two to three months; for ores, there is a minimum of two years***. A concession is given for a maximum of 35 years and can be extended for another 17.5 years. The exploration period can have a duration of four years and may be extended for another two years (in exceptional cases for two more years).

Concerning extraction, a major permitting step in the whole process to acquire a mineral extraction right is the establishment of a mining plot. The applicant has to submit this claim within 5 months after the approval of the final exploration report; this 5-month period does not include the environmental permit (permit for environmental protection or IPPC licence). The mining entrepreneur is obliged to commence the operational extraction within 5 years from the establishment of the mining plot. To acquire a mining plot, the applicant needs to have the environmental permit approved (according to Regulation 314/2005), the plans for land use, forest use, soil use change and a preliminary land remediation plan approved. The list of the invited co-authorities is the same as for the exploration TOP approval. Then an extraction TOP (explaining the management of extraction and mine waste utilisation) must be approved by the mining authority. This may be approved for a period of 5 years at most in the case of underground mining, and for a period of no longer than 15 years in the case of opencast mining. Affected parties shall be provided with the relevant information at least 30 days before the public hearing. In theory, applicants for aggregates and industrial minerals may start extraction within 1-1.5 years, whereas for ore minerals another 1.5-2 years is needed for the concession procedure (extraction permit: a minimum of four years).

Appeals to permits granted by the first-instance authorities are common in Hungary: in the 2008-2015 period the number of final judgments ranged between 16 and 57 with an annual average of 30, and most cases were related to the NEEI sector. The vast majority of the plaintiffs were the mining entrepreneurs, the rest were other interested clients (e.g. the landowner or environmental NGOs). Approximately 80-85 % of the cases are won by the defendant authority. Case law has had significant impacts on law making: ***the Mining Act and its implementing Government and Ministerial Regulations have been amended at least 30 times during the last 23 years***, since its publication in 1993, due to the lessons learnt through court appeals. Permitting success rates are high: during the period 2013-2015, the rates were 87 % and 74 % for exploration and extraction permits, respectively.

1.2. General introduction

Extraction of non-energy minerals in Hungary is mainly made up of aggregates (sand, gravel, building and dimension stone) and industrial minerals (raw materials for cement, lime and ceramic industry as well as silica sand, gypsum, perlite, zeolite, diatomite, bentonite). The metal mining sector has been declining in the last decades. There are several small, or depleted ore deposits including iron ore, bauxite, lead and zinc ore, copper ore, precious metal ores and manganese ore and there is one giant (Recsk Deep ore complex) copper-zinc deposit which has not been turned to extraction yet. Nowadays only bauxite and manganese ores are mined, however extraction from the only manganese deposit (Úrkút) has been terminated recently.

Mineral ownership

All minerals are the property of the state (§3 ML)

1.3. Legislation governing mineral exploration and extraction

The primary legal basic of mineral extraction activity is the Mining Law No. XLVIII of 1993 as amended by Law No. CXXXIII of 2007. Mining permitting procedures are regulated by the Mining Law (Act No. XLVIII. 1993 on Mining) and its implementing legislation (Governmental Decree No. 203/1998. (XII.19.).

Table 1: Hungary. Legislation relevant to exploration and extraction permitting.

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
mining, minerals management, technical safety, concession	HU-L1	Act No. CXCVI of 2011 on national assets	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	state ownership of minerals
	HU-L2	Act No. XVI of 1991 on concession	www.njt.hu	Y	Y	Y	Y	N	N	N	Y	rules of tenders
	HU-L3	Act No. CXXIII of 2007 on expropriation	www.njt.hu	Y	Y	Y	Y	N	N	Y	Y	court procedure
	HU-L4	Act No. XLVIII of 1993 on mining	www.mbfh.hu	Y	Y	Y	Y	Y	Y	Y	Y	mining law
	HU-L5	Act No. CXXVIII of 2003 on highways development	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	waiver for aggregates
	HU-L6	Government Regulation No. 203/1998 implementing the Mining Act	www.mbfh.hu	Y	Y	Y	Y	Y	Y	Y	Y	detailed permitting rules

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	HU-L7	Government Regulation No. 267/2006 on Hungarian Office for Mining and Geology	www.mbfh.hu	Y	Y	Y	Y	Y	N	Y	Y	co-authority involvement
	HU-L8	Government Regulation No. 54/2008 on nominal values of royalty	www.mbfh.hu	N	Y	N	Y	N	N	N	N	royalty calculation
	HU-L9	Government Regulation No. 103/2011 on vulnerability assessment of mineral deposits	www.mbfh.hu	Y	Y	Y	Y	N	N	N	Y	env. ass. for concession
	HU-L10	Government Regulation No. 53/2012 on mining constructions permitting	www.mbfh.hu	Y	Y	Y	Y	Y	N	Y	Y	mining installations permitting
	HU-L11	NFM Ministerial Regulation No. 8/2014 on mining concessions	www.mbfh.hu	Y	Y	Y	Y	N	N	N	Y	rules of tenders
	HU-L12	NFM Ministerial Regulation No. 6/2010 on drilling safety	www.njt.hu	N	N	Y	Y	N	N	Y	Y	safety prescriptions
	HU-L13	KHEM Ministerial Regulation No. 40/2010 on geologist experts	www.njt.hu	Y	Y	Y	Y	N	N	N	Y	chatered geologists
	HU-L14	GKM Ministerial Regulation No. 14/2008 on mine waste	www.mbfh.hu	Y	Y	Y	Y	Y	N	Y	Y	mine waste permitting

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	HU-L15	NFM Ministerial Regulation No. 78/2015 on mining permitting fees	www.mbfh.hu	Y	Y	Y	Y	Y	N	Y	N	mining permitting fees
environment	HU-L16	Act. No. LIII of 1995 on environment protection	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	environmental principles
	HU-L17	Act No. CLXXV of 2012 on waste	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	waste management rules
	HU-L18	Act No. LXXXIX of 2003 on environmental levy	www.njt.hu	N	Y	Y	Y	Y	Y	Y	Y	levy payment rules
	HU-L19	Act No. XXV of 2000 on chemical safety	www.njt.hu	Y	Y	Y	Y	N	N	N	Y	national REACH act
	HU-L20	Government Regulation No. 2/2005 on SEA	www.njt.hu	Y	Y	Y	Y	N	N	Y	Y	strategic assessment rules
	HU-L21	Government Regulation No. 314/2005 on EIA	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	impact assessment rules
	HU-L22	Government Regulation No. 103/2011 on vulnerability assessment of mineral deposits	www.mbfh.hu	Y	Y	Y	Y	N	N	N	Y	SEA prior to concession call
	HU-L23	Government Regulation No. 284/2007 on noise protection	www.njt.hu	Y	Y	Y	Y	N	N	Y	Y	noise emission rules

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	HU-L24	Government Regulation No. 306/2010 on air protection	www.njt.hu	Y	Y	Y	Y	N	N	Y	Y	air protection plan and rules
	HU-L25	Government Regulation No. 72/2007 on fees of environmental tests	www.njt.hu	N	N	N	Y	Y	N	Y	Y	test fees listed
	HU-L26	KöM Ministerial Regulation No. 16/2001 on waste list	www.njt.hu	N	N	Y	Y	N	N	Y	Y	EWC transposed
	HU-L27	EüM Ministerial Regulation No. 44/2000 on dangerous substances procedures	www.njt.hu	Y	N	Y	Y	N	N	N	Y	REACH registration
	HU-L28	KvVM-EüM-FVM Ministerial Regulation No. 6/2009 on limit values in groundwater and subsoil	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	national pollution thresholds
	HU-L29	VM Ministerial Regulation No. 4/2011 on air discharge threshold values	www.njt.hu	N	N	Y	Y	N	N	Y	Y	air pollution limit values
	HU-L30	KvVM-EüM Ministerial Regulation No. 27/2008 on limit values of noise and vibration	www.njt.hu	N	N	Y	Y	N	N	Y	Y	limit values of noise and vibration

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
nature conservation, forestry	HU-L31	Act No. LIII of 1996 on nature conservation	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	nature conservation rules
	HU-L32	Act No. XXXVII of 2009 on forestry	www.njt.hu	Y	N	N	Y	Y	N	Y	Y	forest act with rules
	HU-L33	Government Regulation No. 275/2004 on Natura2000 sites	www.njt.hu	Y	N	Y	Y	Y	Y	Y	Y	Natura2000 sites
	HU-L34	KvVM Ministerial Regulation No. 14/2010 on Natura2000 cadastre	www.njt.hu	N	N	Y	Y	N	Y	Y	Y	land cadastre
	HU-L35	VM Ministerial Regulation No. 63/2012 on permitting fees	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	permitting fees for soil, forest, etc.
	HU-L36	FVM Ministerial Regulation No. 153/2009 on implementation of the forestry act	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	permitting fees for forests
water management	HU-L37	Act No. LVII of 2005 on water management	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	water law, utilization fees
	HU-L38	Government Regulation No. 219/2004 on groundwater	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	groundwater act
	HU-L39	Government Regulation No. 220/2004 on surface water	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	surface water act

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	HU-L40	Government Regulation No. 147/2010 on water installations	www.njt.hu	Y	N	Y	Y	Y	Y	Y	Y	water management installations
	HU-L41	Government Regulation No. 297/2009 on environmental and water experts	www.njt.hu	Y	N	Y	Y	Y	N	Y	Y	certification of experts
	HU-L42	KvVM Ministerial Regulation No. 28/2004 on water emission limit values	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	water discharge limit values
	HU-L43	KHVM Ministerial Regulation No. 18/1996 on water use permitting	www.njt.hu	Y	Y	Y	Y	Y	N	Y	Y	rules of water use permitting
	HU-L44	BM Ministerial Regulation No. 13/2015 on water permitting fees	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	water permitting fees
	HU-L45	KHVM Ministerial Regulation No. 43/1999 on water use fees	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	water use fees
	HU-L46	VM Ministerial Regulation No. 10/2010 on surface water pollution thresholds	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	surface water quality standard

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
land use planning, spatial development, soil management	HU-L47	Act No. CXXIX/2007 on fertile soil protection	www.njt.hu	Y	Y	N	Y	Y	Y	Y	Y	change in use of land
	HU-L48	Act No. XXVI/2003 on National Spatial Development Plan	www.njt.hu	N	N	Y	Y	N	N	N	Y	national land use categories
	HU-L49	Act No. CXII of 2000 on land use plan of Balaton region	www.njt.hu	N	N	Y	Y	N	N	Y	Y	regional land use categories
	HU-L50	Act No. LXIV of 2005 on land use plan of Budapest	www.njt.hu	N	N	Y	Y	N	N	Y	Y	regional land use categories
	HU-L51	Government Regulation No. 68/2015 on the rural competences of the county government offices	www.njt.hu	Y	N	Y	Y	Y	N	Y	Y	soil co-authority forum
	HU-L52	Government Regulation No. 76/2009 on land use planning permitting procedures	www.njt.hu	Y	Y	N	Y	N	N	Y	Y	land use planning rules of permitting

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
transportation, construction, catastrophe protection, police, military	HU-L53	Act No. LXXIV of 1999 on catastrophe protection	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	Seveso legislation
	HU-L54	Government Regulation No. 18/2006 on serious accidents with regard to dangerous substances	www.njt.hu	Y	Y	Y	Y	N	Y	Y	Y	accident emergency measures
	HU-L55	Government Regulation No. 253/1997 on land use and construction requirements	www.njt.hu	N	N	N	Y	N	Y	Y	Y	construction categories
	HU-L56	Government Regulation No. 312/2012 on constructions permitting	www.njt.hu	Y	Y	Y	Y	N	Y	Y	Y	construction permitting rules
culture heritage	HU-L57	Act No. LXIV of 2001 on cultural heritage	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	archaeology, monuments, etc.
	HU-L58	Government Regulation No. 39/2015 on rules of cultural heritage protection	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	procedural rules, deadlines
	HU-L59	EMMI Ministerial Regulation No. 57/2013 on conservation of cultural heritage	www.njt.hu	N	N	Y	Y	Y	N	Y	Y	rules for declaration of protection

Legis-lative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant to (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	HU-L60	MvM Ministerial Regulation No. 13/2015 on conservation of archaeological sites	www.njt.hu	Y	Y	Y	Y	N	Y	Y	Y	rules for declaration of protection
public administration, court procedures	HU-L61	Act No. CXL of 2004 on public administration rules	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	general rules of permitting
	HU-L62	Act No. CLXI of 2011 on courts of justice	www.njt.hu	Y	N	Y	Y	Y	N	Y	Y	list and competence of courts
	HU-L63	Act No. III of 1952 on rules of court procedures	www.njt.hu	Y	Y	Y	Y	Y	Y	Y	Y	rules of court procedures

1.4. Authorities governing mineral exploration and extraction

The main responsible authority for mining is the Ministry of National Development, and under its jurisdiction, the Hungarian Office for Geology and Mining (*Magyar Bányászati és Földtani Hivatal* –MBFH) and the Mining Departments of the County Government Offices. Whether an area is open (exploration is permitted through exploration permits granted by the regional authorities) or closed (exploration permit can be obtained through mineral concession, which is contracted centrally) is determined by the MBFH in decrees. **The MBFH issues licenses for geological and mineral exploration, extraction, the utilization of waste rocks, explosion activities, and activities related to water source protection**. Since April 2015 regional mining authorities and several other authorities have merged to form so called "governmental authorities", and now the permitting procedure is considered a "one-stop-shop".

According to the Art 42 (4) ML: With the exception of the cases defined in legal rule, in the authority type matters falling under the competence of the mine supervision, the mine station competent in the region has to proceed at the first instance, and the MBFH has to proceed at the second

instance. Other important authorities are represented by the environmental and nature conservation Inspectorate (with several regional and national directorates), the General Directorate of water management, the main service of the plant and soil protection.

Table 2: Hungary. Relevant authorities in exploration and extraction permitting

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
First instance permitting (local, regional, central, national)	HU-E1	Budapest Főváros Kormányhivatala	Government Office of the Capital City Budapest	1056 Budapest, Váci utca 62-64. http://www.kormanyhivatal.hu/hu/budapest	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E2	Pest Megyei Kormányhivatal	Government Office for Pest County	1052 Budapest, Városház utca 7. http://www.kormanyhivatal.hu/hu/pest	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E3	Bács-Kiskun Megyei Kormányhivatal	Government Office for Bács-Kiskun County	6000 Kecskemét, Deák Ferenc tér 3. http://www.kormanyhivatal.hu/hu/bacs-kiskun	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E4	Baranya Megyei Kormányhivatal	Government Office for Baranya County	7623 Pécs, József A. u. 10. http://www.kormanyhivatal.hu/hu/baranya	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E5	Békés Megyei Kormányhivatal	Government Office for Békés County	5600 Békéscsaba, Derkovits sor 2. http://www.kormanyhivatal.hu/hu/bekes	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E6	Borsod-Abaúj-Zemplén Megyei Kormányhivatal	Government Office for Borsod-Abaúj-Zemplén County	3525 Miskolc, Városház tér 1. http://www.kormanyhivatal.hu/hu/borsod-abauj-zemplen	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E7	Csongrád Megyei Kormányhivatal	Government Office for Csongrád County	6722 Szeged, Rákóczi tér 1. http://www.kormanyhivatal.hu/hu/csongrad	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E8	Fejér Megyei Kormányhivatal	Government Office for Fejér County	8000 Székesfehérvár Szent István tér 9. http://www.kormanyhivatal.hu/hu/fejer	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E9	Győr-Moson-Sopron Megyei Kormányhivatal	Government Office for Győr-Moson-Sopron County	9021 Győr, Árpád út 32. http://www.kormanyhivatal.hu/hu/gyor-moson-sopron	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E10	Hajdú-Bihar Megyei Kormányhivatal	Government Office for Hajdú-Bihar County	4024 Debrecen, Piac u. 54. http://www.kormanyhivatal.hu/hu/hajdu-bihar	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E11	Heves Megyei Kormányhivatal	Government Office for Heves County	3300 Eger, Kossuth L. u. 9. http://www.kormanyhivatal.hu/hu/heves	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E12	Jász-Nagykun-Szolnok Megyei Kormányhivatal	Government Office for Jász-Nagykun-Szolnok County	5000 Szolnok, Kossuth Lajos u. 2. http://www.kormanyhivatal.hu/hu/jasz-nagykun-szolnok	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E13	Komárom-Esztergom Megyei Kormányhivatal	Government Office for Komárom-Esztergom Country	2800 Tatabánya, Bárdos László u. 2. http://www.kormanyhivatal.hu/hu/komarom-esztergom	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E14	Nógrád Megyei Kormányhivatal	Government Office for Nógrád County	3100 Salgótarján, Zemlinszky R. u. 9. http://www.korm	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				anyhivatal.hu/hu/nograd						
	HU-E15	Somogy Megyei Kormányhivatal	Government Office for Somogy County	7400 Kaposvár, Csokonai u. 3. http://www.kormanyhivatal.hu/hu/somogy	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E16	Szabolcs-Szatmár-Bereg Megyei Kormányhivatal	Government Office for Szabolcs-Szatmár-Bereg County	4400 Nyíregyháza, Hősök tere 5. http://www.kormanyhivatal.hu/hu/szabolcs-szatmar-bereg	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E17	Tolna Megyei Kormányhivatal	Government Office for Tolna County	7100 Szekszárd, Augusz I. u. 7. http://www.kormanyhivatal.hu/hu/tolna	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E18	Vas Megyei Kormányhivatal	Government Office for Vas County	9700 Szombathely, Berzsenyi tér 1. http://www.kormanyhivatal.hu/hu/vas	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E19	Veszprém Megyei Kormányhivatal	Government Office for Veszprém County	8200 Veszprém, Megyeház tér. 1. http://www.kormanyhivatal.hu/hu/veszprem	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E20	Zala Megyei Kormányhivatal	Government Office for Zala County	8900 Zalaegerszeg, Kosztolányi D. u. 10. http://www.kormanyhivatal.hu/hu/zala	incorporating mining, environment, nature conservation, soil protection, cultural heritage inspectorates	Y	Y	Y	Government Regulation No. 66/2015 on county government offices	a one-stop-shop
	HU-E21	Fővárosi Katasztrófavédelmi Igazgatóság	Directorate for Disaster Management of the Capital	1081 Budapest, Dologház u. 1. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E22	Baranya Megyei Katasztrófavédelmi Igazgatóság	Baranya County Directorate for Disaster Management	7627 Pécs, Engel J. u. 1. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E23	Bács-Kiskun Megyei Katasztrófavédelmi Igazgatóság	Bács-Kiskun County Directorate for Disaster Management	6000 Kecskemét, Deák Ferenc tér 3. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E24	Békés Megyei Katasztrófavédelmi Igazgatóság	Békés County Directorate for Disaster Management	5600 Békéscsaba, Kazinczy F. u. 9. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E25	Borsod-Abaúj-Zemplén Megyei Katasztrófavédelmi Igazgatóság	Borsod-Abaúj-Zemplén County Directorate for Disaster Management	3525 Miskolc, Dózsa Gy. út 15. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E26	Csongrád Megyei Katasztrófavédelmi Igazgatóság	Csongrád County Directorate for Disaster Management	6721 Szeged, Berlini krt. 16-18. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E27	Fejér Megyei Katasztrófavédelmi Igazgatóság	Fejér County Directorate for Disaster Management	8000 Székesfehérvár, Szent Flórián krt. 2. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E28	Győr-Moson-Sopron Megyei Katasztrófavédelmi Igazgatóság	Győr-Moson-Sopron County Directorate for Disaster Management	9021 Győr, Munkácsi Mihály u. 4. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E29	Hajdú-Bihar Megyei Katasztrófavédelmi Igazgatóság	Hajdú-Bihar County Directorate for Disaster Management	4027 Debrecen, Böszörményi út 46-56. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E30	Jász-Nagykun-Szolnok Megyei Katasztrófavédelmi Igazgatóság	Jász-Nagykun-Szolnok County Directorate for Disaster Management	5000 Szolnok, József Attila u. 14. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
	HU-E31	Szabolcs-Szatmár-Bereg Megyei Katasztrófavédelmi Igazgatóság	Szabolcs-Szatmár-Bereg County Directorate for Disaster Management	4400 Nyíregyháza, Erdősor u. 5. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E32	Vas Megyei Katasztrófavédelmi Igazgatóság	Vas County Directorate for Disaster Management	9700 Szombathely, Ady Endre tér 1. http://www.katasztrofavedelem.hu/	catastrophe protection and water management	Y	Y	Y	Government Regulation No. 223/2014 on water authorities	None
Second instance permitting (regional, central, national)	HU-E33	Magyar Bányászati és Földtani Hivatal	Hungarian Office for Mining and Geology	1145 Budapest, Columbus u. 17-23. http://www.mbfh.hu/home/html/index.asp?msid=1&sid=0&HKL=1&lng=1	major permitting authority in minerals exploration, extraction and post-extraction on the second instance	Y	Y	Y	Government Regulation No. 267/2006 on the Hungarian Office for Mining and Geology	None
	HU-E34	Nemzeti Közlekedési Hatóság	National Transport Authority	1066 Budapest, Teréz körút 62. http://www.nkh.gov.hu/	permitting of transportation affairs, and infrastrucutre	N	Y	N	Government Regulation No. 263/2006 on National Office for Transportation	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E35	BM Országos Katasztrófavédelmi Főigazgatóság	National Directorate General for Disaster Management	1149 Budapest, Mogyoródi út 43. http://www.katasztrofavedelem.hu/	permitting in industrial and natural hazards and catastrophes, and water managament	Y	Y	Y	Government Regulation No. 223/2014 on the water management authorities	None
	HU-E36	Honvédelmi Minisztérium Hatósági Hivatal	Ministry of Defence Office of Authorities	1135 Budapest, Lehel utca 35-37. http://hm.hatosagihivatal.kormany.hu/	military installations, co-athority consent in general	Y	Y	N	Government Regulation No. 290/2011 on the national defence and army	None
	HU-E37	Országos Rendőr-főkapitányság	Hungarian National Police	1139 Budapest, Teve u. 4-6. http://www.police.hu/	police affairs	N	Y	N	Government Regulation No. 329/2007 on sphere of competence of the police	None
	HU-E38	Országos Környezetvédelmi és Természetvédelmi Főfelügyelőség	National Inspectorate for Environment, Nature and Water	1016 Budapest, Mészáros u. 58/a. http://www.orszagoszoldhatosag.gov.hu/	environmental, nature conservation, water quality, air emissions permitting	Y	Y	Y	Government Regulation No. 71/2015 on the environment and nature conservation authorities	None
	HU-E39	Nemzeti Park Igazgatóság	National Park Directorate	https://kozigazgatas.magyarorszag.hu/intezmenyek/450021/450060/450105	consent in nature conservation	Y	Y	Y	Government Regulation No. 71/2015 on the environment and nature conservation authorities	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E40	Országos Atomenergia Hivatal	Hungarian Atomic Energy Authority	1036 Budapest, Fényes Adolf utca 4. http://www.oah.hu/web/v3/OAHPortal.nsf/web?OpenAgent	role in permitting in uranium mining and radioactive mine waste	N	Y	Y	Government Regulation No. 112/2011 on the National Office for Atomic Energy	None
	HU-E41	Nemzeti Élelmiszerlánc-biztonsági Hivatal	National Food Chain Safety Office	1024 Budapest, Keleti Károly u. 24. https://www.nebih.gov.hu	permitting in soil protection and use	Y	Y	Y	Government Regulation No. 22/2012 on National Food Safety Office	None
	HU-E42	ÁNTSZ Országos Tisztifőorvosi Hivatal	National Public Health and Mecical Officer Service, The Office of the Chief Medical Officer	1097 Budapest, Albert Flórián út 2-6. www.antsz.hu	dangerous substances issues, health protection	Y	Y	Y	Government Regulation No. 323/2010 on National Public Health Office	None
	HU-E43	Magyar Nemzeti Vagyonkezelő Zrt.	Hungarian National Asset Management Inc.	1133 Budapest, Pozsonyi út 56. http://www.mnv.hu/content/fooldal	national guardian of state assets, including minerals	Y	Y	N	Act No. CVI of 2007 on national assets	None
Court Jurisdiction	HU-E44	Fővárosi Közigazgatási és Munkaügyi Bíróság	Budapest-Capital Administrative and Labour Court	1027 Budapest, Tölgyfa utca 1-3. http://birosag.hu/torvenyszekek/jaras-birosag/fovarosi-kozigazgatasi-es-	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				munkaugyi-birosag						
	HU-E45	Budapest Környéki Közigazgatási és Munkaügyi Bíróság	Budapest Environs Administrative and Labour Court	1146 Budapest, Hungária krt.179-189. http://birosag.hu/torvenyszekek/jaras-birosag/budapest-kornyeki-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E46	Kecskeméti Közigazgatási és Munkaügyi Bíróság	Kecskemét Administrative and Labour Court	6000 Kecskemét, Rákóczi út 17-19. http://birosag.hu/torvenyszekek/jaras-birosag/kecskemeti-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E47	Pécsi Közigazgatási és Munkaügyi Bíróság	Pécs Administrative and Labour Court	7623 Pécs, Rákóczi út 34. http://birosag.hu/torvenyszekek/jaras-birosag/pecsi-kozigazgatasi-es-	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				munkaugyi-birosag						
	HU-E48	Gyulai Közigazgatási és Munkaügyi Bíróság	Gyula Administrative and Labour Court	5700 Gyula, Kossuth tér. 9. http://birosag.hu/torvenyszekek/jaras-birosag/gyulai-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E49	Miskolci Közigazgatási és Munkaügyi Bíróság	Miskolc Administrative and Labour Court	3525 Miskolc, Fazekas utca 2. http://birosag.hu/torvenyszekek/jaras-birosag/miskolci-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E50	Szegedi Közigazgatási és Munkaügyi Bíróság	Szeged Administrative and Labour Court	6722 Szeged, Tábor u. 4. http://birosag.hu/torvenyszekek/jaras-birosag/szegedi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E51	Székesfehérvári Közigazgatási és Munkaügyi Bíróság	Székesfehérvár Administrative and Labour Court	8000 Székesfehérvár, Zichy liget 10. http://birosag.hu/torvenyszekek/jaras-birosag/szekesfehervari-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E52	Győri Közigazgatási és Munkaügyi Bíróság	Győr Administrative and Labour Court	9021 Győr, Árpád út 2. http://birosag.hu/torvenyszekek/jaras-birosag/gyori-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E53	Debreceni Közigazgatási és Munkaügyi Bíróság	Debrecen Administrative and Labour Court	4026 Debrecen, Perényi u. 1. http://birosag.hu/torvenyszekek/jaras-birosag/debreceni-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E54	Egri Közigazgatási és Munkaügyi Bíróság	Eger Administrative and Labour Court	3300 Eger, Barkóczy u.1. http://birosag.hu/torvenyszekek/jaras-birosag/egri-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E55	Szolnoki Közigazgatási és Munkaügyi Bíróság	Szolnok Administrative and Labour Court	5000 Szolnok, Kossuth Lajos út 1. http://birosag.hu/torvenyszekek/jaras-birosag/szolnoki-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E55	Tatabányai Közigazgatási és Munkaügyi Bíróság	Tatabánya Administrative and Labour Court	2800 Tatabánya, Előd vezér utca 17. http://birosag.hu/torvenyszekek/jaras-birosag/tatabanyai-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E56	Salgótarjáni Közigazgatási és Munkaügyi Bíróság	SalgótarjánAdministrative and Labour Court	3100 Salgótarján, Pipishegy u.1. http://birosag.hu/torvenyszekek/jaras-birosag/salgotarjani-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E57	Kaposvári Közigazgatási és Munkaügyi Bíróság	Kaposvár Administrative and Labour Court	7400 Kaposvár, Szent Imre u. 14/a. http://birosag.hu/torvenyszekek/jaras-birosag/kaposvari-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E58	Nyíregyházi Közigazgatási és Munkaügyi Bíróság	Nyíregyháza Administrative and Labour Court	4400 Nyíregyháza, Toldi u. 1. http://birosag.hu/torvenyszekek/jaras-birosag/nyiregyhazi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E59	Szekszárdi Közigazgatási és Munkaügyi Bíróság	Szekszárd Administrative and Labour Court	7100 Szekszárd, Augusz I. u. 1-3. http://birosag.hu/torvenyszekek/jaras-birosag/szekszardi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E60	Szombathelyi Közigazgatási és Munkaügyi Bíróság	Szombathely Administrative and Labour Court	9700 Szombathely, Petőfi S. u. 1/a. http://birosag.hu/torvenyszekek/jaras-birosag/szombathelyi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E61	Veszprémi Közigazgatási és Munkaügyi Bíróság	Veszprén Administrative and Labour Court	8200 Veszprém, Vár u. 19. http://birosag.hu/torvenyszekek/jaras-birosag/veszpremi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
	HU-E62	Zalaegerszegi Közigazgatási és Munkaügyi Bíróság	Zalaegerszeg Administrative and Labour Court	8900 Zalaegerszeg, Várkör 2. http://birosag.hu/torvenyszekek/jaras-birosag/zalaegerszegi-kozigazgatasi-es-munkaugyi-birosag	first-instance court level in case the second-instance resolution is appealed	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E63	Fővárosi Ítélőtábla	Budapest-Capital Regional Court of Appeal	1055 Budapest, Markó utca 16. http://birosag.hu/itelotablak/fovarosi-itelotabla	second-instance court level	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E64	Pécsi Ítélőtábla	Pécs Regional Court of Appeal	7623 Pécs, Rákóczi út 34. http://birosag.hu/itelotablak/pecsi-itelotabla	second-instance court level	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E65	Szegedi Ítélőtábla	Szeged Regional Court of Appeal	6720 Szeged, Sóhordó u. 5. http://birosag.hu/itelotablak/szegedi-itelotabla	second-instance court level	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E66	Győri Ítélőtábla	Győr Regional Court of Appeal	9021 Győr, Domb u. 1. http://birosag.hu/	second-instance court level	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None

	Code	Name of entity	English name of entity	Address / web access	Role in permitting	Relevant to			Statute or relevant piece of legislation	Remarks
						exploration	extraction	post extraction		
				itelotablak/gyori-itelotabla						
	HU-E67	Debreceni Ítélőtábla	Debrecen Regional Court of Appeal	4025 Debrecen, Széchenyi u. 24. http://birosag.hu/itelotablak/debreceni-itelotabla	second-instance court level	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E68	Kúria	Curia of Hungary	1055 Budapest, Markó utca 16. http://www.lb.hu/hu	Supreme Court	Y	Y	Y	Act No. CLXI of 2011 on courts of justice	None
	HU-E69	Alkotmánybíróság	The Constitutional Court of Hungary	1015 Budapest, Donáti u. 35-45. http://www.alkotmanybirosag.hu/	highest level of jurisdiction which might repeal acts, regulations	Y	Y	Y	Act No. CLI of 2011 on the Constitutional Court	None

1.5. Licensing procedures for exploration

Executive Summary of Permitting

In Hungary ownership of all in situ mineral commodities belong to the state according to the Act on National Assets and the Mining Act (HU-L1, and HU-L4), including non-energy minerals. The major legislative pieces are the Mining Act and its implementing Government Regulation (HU-L6), and the statute of the Hungarian Office for Mining and Geology (HU-L7). For aggregates and industrial minerals, a simple vertical permitting scheme rules the procedure (see Fig. 1), however, for ore minerals (and hydrocarbons, coal, geothermal energy, and CCS) a concession tendering procedure is in place prior to the permitting scheme.

The exclusive rights of the licensee, the legal safety of investment is ensured all along the whole permitting scheme within certain deadlines regulated in the legislation. The major deadlines are indicated on Fig. 1 on the right-hand side. Of course, operators may finish the permitted stage of activity earlier than prescribed in the law or the permit. Higher resolution deadlines of the licensee, and of the competent authorities will be presented in the below chapters. **As a conclusion, in theory, applicants for aggregates and industrial minerals may start exploration within 2-3 months, and extraction within 1-1.5 years. For ore minerals another 1.5-2 years is needed for the concession procedure that is added to the previous figures (exploration: min. 2 years, extraction: min. 4 years).** On Fig. 1 the environmental actions and interventions are also indicated with in green.

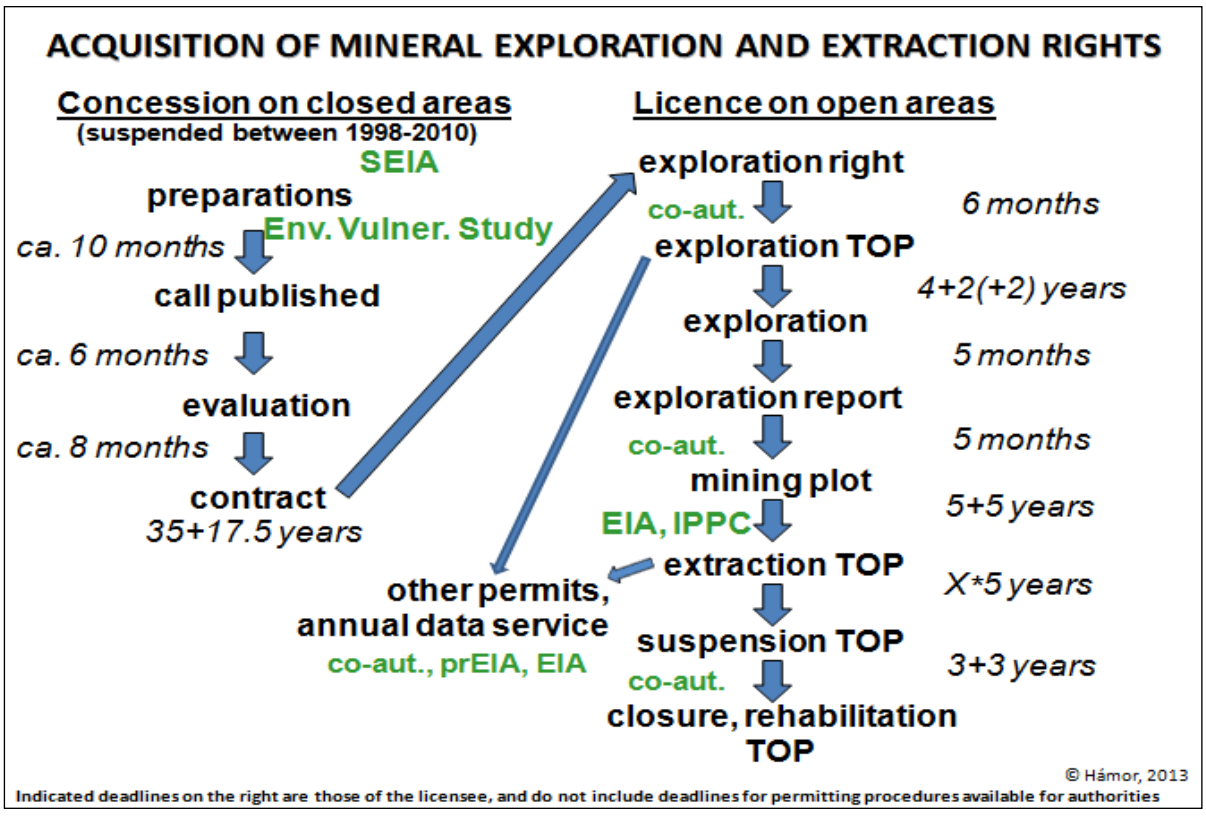

Fig. 1: Hungary. Acquisition of mineral exploration and extraction rights.

However, in reality, the above schematic flow of procedure and the permitting practices are much more complicated for the below reasons. In Hungary, the public administration has got two levels, local/regional (first-instance) and regional/central (second-instance), meaning that the competent authority's resolution on the application for a permit can be

appealed by the client who disagrees with its content. In this case, it comes to the second-instance authority. In case it still not satisfying for the applicant, it can go to the court of justice which has three levels. In case the one can prove that the piece of legislation, on which the resolution is based upon, is not in line with the Constitution, the Constitutional Court can repeal it or its paragraph in question.

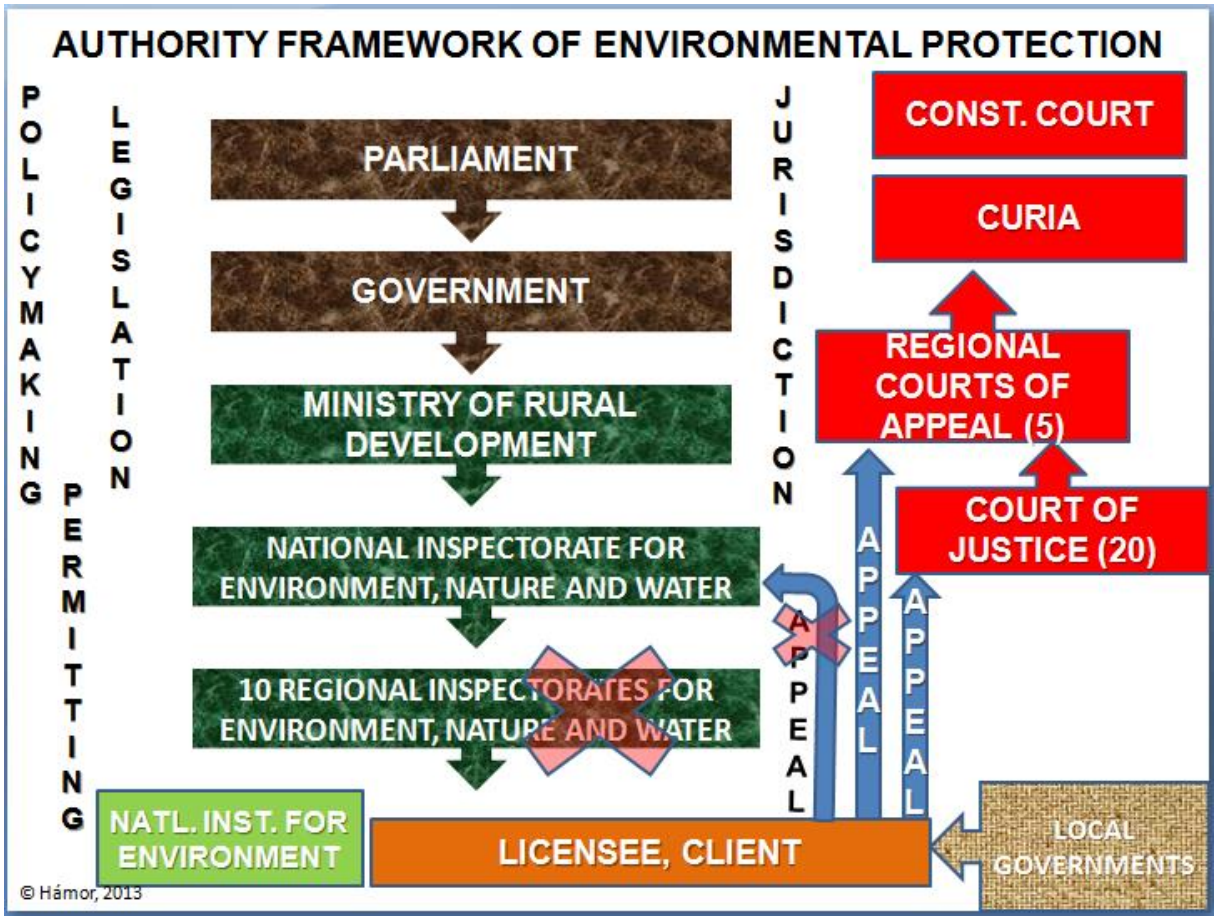

Fig. 2: The authority framework of environmental protection, and the hierarchy of courts of justice.

Note: the red cross indicates that since 1st April 2015 the regional environmental inspectorates, as well as the mining inspectorates, merged into the county level government offices (there are 19 counties + the capitol in Hungary), and the second-instance central inspectorate will be demolished, as well as its second-instance permitting duties by the end of year 2016.)

It is important to note that interested clients (not only the applicant!) can set an appeal against almost all authority resolution on permit applications. The second-instance permitting procedure is well-regulated in terms of deadlines too, see chapter 2 for details, however, a **jurisdictions procedure in front of court may last for 2-3 years as an average**, unless the judge closes the case promptly without hearings when the legal background of the application is obviously weak.

The concession

The concession tendering and contracting procedure is regulated by HU-L2, HU-L4, HU-L6, HU-L10 and by the Government Regulation No. 103/2011. The procedure may start either by the own initiative of the minister in charge of mining, at present the minister for national development, or by any domestic or foreign legal entity or natural person. The first step is the preparation of a complex vulnerability study (hereinafter: CVS) which is a specific legal requirement for the minerals extractive industry concessions. In order to understand its relevance Fig. 3 shows how the environmental protection aspects are embedded into the policy making and permitting scheme. In Hungary, there is no minerals policy yet,

however, a mineral action plan is under approval. It was prepared in 2012 and a SEIA was prepared for it. The final approval of the CVS and its publication in the form of a Government Decision is expected in 2017.

For the above reasons, the tool of CVS was introduced and published in 2011, and CVS is prerequisite for a concession call for tender for each published area.

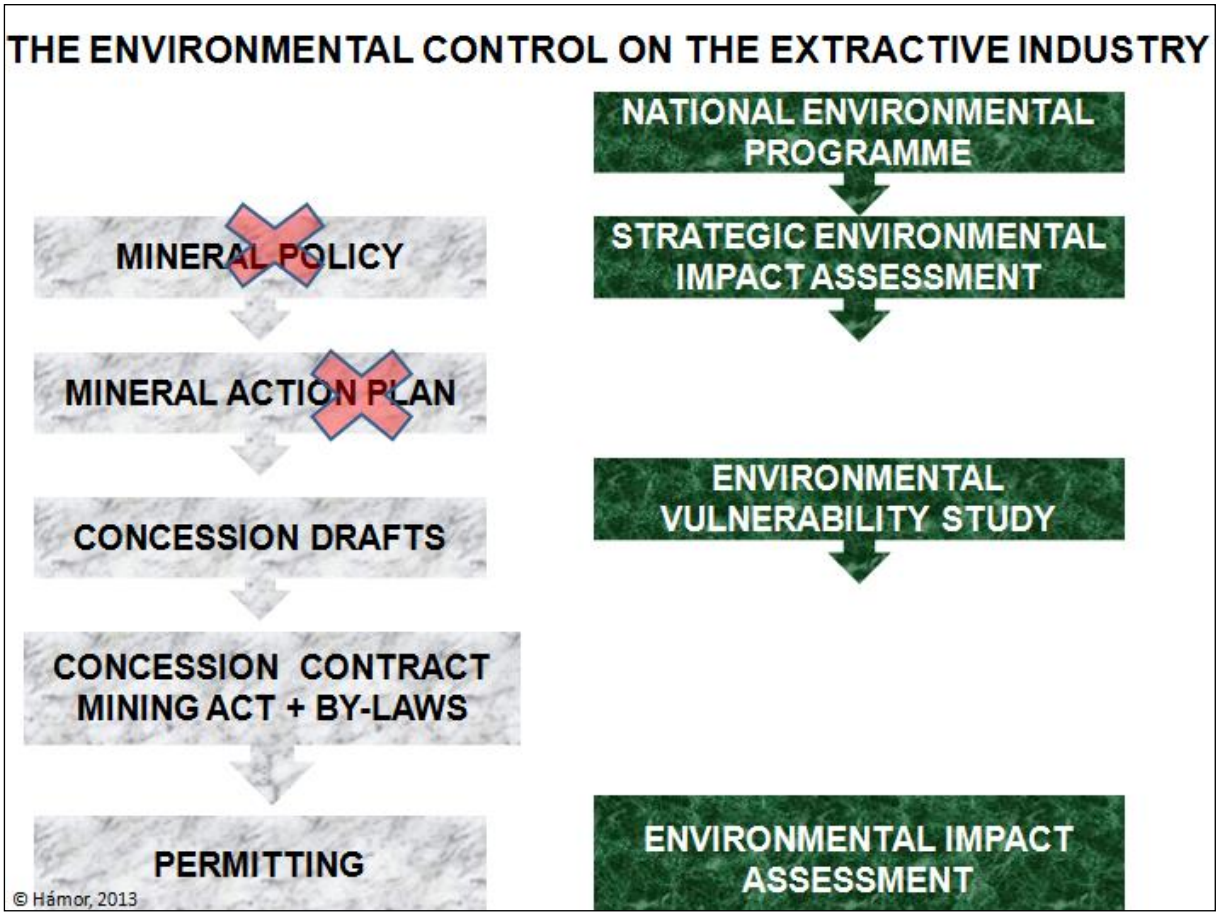

Fig. 3: Hungary. The environmental control on the extractive industry.

The preparation of the study, and the circulation to the stakeholders for their **non-binding opinion** may take half year at minimum (**¡Error! No se encuentra el origen de la referencia.** and Fig. 5). Government Regulation No. 103/2011 provides detailed deadlines for the latter process:

30 days: for the approached authorities to provide their opinion or data

15 days: for the Hungarian Office for Mining and Geology to discuss conflicts with the authorities

15 days: for the Hungarian Office for Mining and Geology to prepare the final CVS

5 days: for the Hungarian Office for Mining and Geology to upload the CVS on its public website

30 days: for all interested stakeholders to comment the CVS

15 days: for final comments for the involved authorities

15 days: to finalise the CVS and send it to the minister.

In total, **the above procedure is 125 days** (4 months) which excludes the preparation of the CVS, and the intervention of the minister. Of course, it can be less, 95 days, in case all approached entities give their consent in the first round.

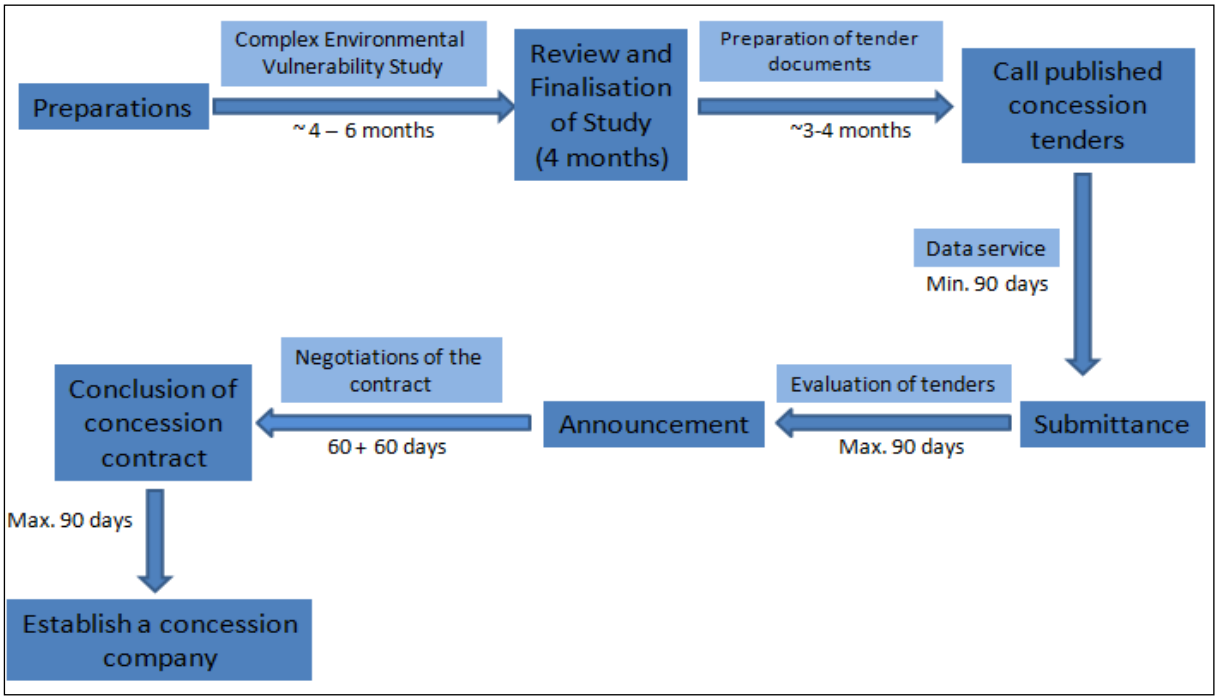

Fig. 4: Hungary. The procedure of the concession call, tendering and contracting.

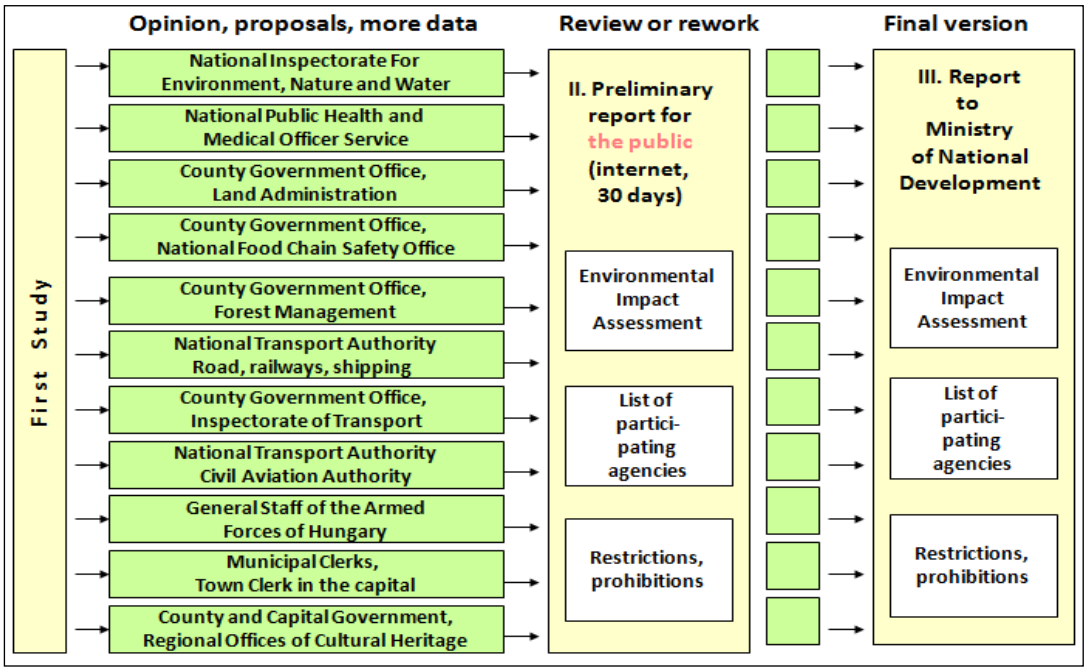

Fig. 5: Hungary. Preparation of the complex vulnerability study prior to the concession call.

Source: after MFGI, 2011

The authorities taking part in the assessment of the CVS are indicated in Fig. 5, their list is provided by Government Regulation No. 103/2011.

The next step in the process is the preparations for the publication in domestic journals and in the Official Journal of the European Community. This latter one is not obligatory by the Community law, however, the Hungarian legislation transposed this provision from the Hydrocarbons Directive (94/22/EC) and extended to all concession calls for all commodities. Calls were already published in the Official Journal on hydrocarbons and geothermal energy, however, call on ore minerals exploration and extraction has not been published yet at all. The **European Commission usually spends 90 days** checking the content of the publication, translating it, and technically prepare for the publication.

Another **90 days are available for preparing the applications**, and consulting the Hungarian Office for Mining and Geology for the available geological, geophysical and production data. The **evaluation of the applications may take maximum 90 days**, and the contractual **negotiations are another 120 days** at maximum between the representatives of the Ministry and the winning concessioner. The independence and professional capacity of the evaluation committee of 6 members is ensured by its composition: the president of the Hungarian Office for Mining and Geology, 3 representatives of 2 ministries, and 2 independent specialists. The concession contract may be signed for maximum 35 years which can be prolonged with its half, maximum 17.5 years.

After signing the concession contract the winning concessioner has got **90 days available to establish a legal entity, a concession company registered in Hungary**.

It must be emphasized that the general public administration procedural deadlines as set in HU-L60 are not applicable to the concession procedure because it is not a permitting process in a strict sense, and it has specific deadlines in the listed legislation.

Summary of all the different permitting procedures for exploration

Step 0, Non-penetrative surface prospection

According to Art. 4 of the Mining Act (HU-L4), and Art. 1 of HU-L6, one can start **non-penetrative surface prospection** with a simple registration at the mining inspectorate **30 days prior to the planned activity**. The operator is liable for the damages caused and it has to provide all other necessary permits and agreement with the landowner(s). The prospection is feasible in case the mining inspectorate does not inform the applicant a negative decision. However, this legal option is seldom used for minerals exploration because it **does not ensure exclusive and continuous rights** to access to the area for the given activity for the operator in question. In this respect, we **do not count this activity in our overall calculations of exploration timelines**.

Step 1, Exploration permit

On open areas, which are not closed for concession for the above presented mineral commodities, including ores, one can submit an application for exploration permit in accordance with Art. 22 of the Mining Act. **Within 6 months the licensee, the holder of the exploration permit must submit an exploration technical operation plan** (TOP), otherwise it loses its exclusive right over the given area and given commodity.

The **first step in the exploration permitting procedure is rather simple, and it does not require the involvement of co-authorities** for their consent. It means that the

first-instance mining inspectorate at the relevant County Government Office (HU-E1-20), issue its **resolution within 21 days** upon the arrival of the claim, after which the applicant has got **15 days to set an appeal** if it disagrees with the outcome. However, the applicant may accelerate the come-into-force of the resolution by declaring promptly its consent to the content of the permit in written format.

The inspectorate may ask for further data in case the content of the **claim is incomplete** in contrast to the prescribed content. In this case the procedure can be prolonged by **another 8 days**.

The eventual permit on the exploration right defines **the permitted area in 2D format** by giving the co-ordinates of the designated corners. The permit ensures the exclusive right for the licensee to submit an exploration TOP within 6 months.

In principle, as well as in case of other permitting procedures, there can be an appeal against this resolution on second-instance and court appeals. However, it is not the case in practice, therefore we present these legal options at the next step, where those appeals happen frequently.

As a summary, the acquisition of the **first exploration permit can be accomplished within 21 days**, in theory.

Step 2, Exploration TOP permit

The content and procedural rules of the **submitting and approval of the exploration TOP** is regulated in Art. 22 of the Mining Act and Art. 6-7 of its implementing Government Regulation. The involvement of the first and second instance co-authorities in the permitting is regulated in Annex 3 of the statute of the mining inspectorate (HU-L7), by providing the list of these entities and their professional scope of authority.

The application for granting the exploration right relating to an open area shall contain:

a) the administrative designation of the exploration site, its delimitation with the coordinates according to the Uniform National Projection system (hereinafter referred to as: EOV), the delimitation of depth of the exploration (the bottom of the exploration, meaning **a 3D delineation**!), and in case of solid mineral resources, the topographical lot numbers of the real estate covered by the requested exploration site,

b) the names of the mineral resources to be explored and the requested duration to complete the exploration,

c) the exploration procedures intended to be applied.

The topographical map of the exploration on scale of not smaller than 1:100,000 in the Standard National Map System shall be attached to the application. The boundary line shall be indicated by numbering the boundary points in the map. The Mining Inspectorate shall decide on granting the exploration right. No exploration right may be granted (exclusions):

a) for a person who failed to perform the exploration activity undertaken by him on the strength of his former exploration right (permit) and permitted in the exploration operation plan for reasons within his reasonable control within 5 (five) years preceding the submission of the application,

b) in case of solid mineral resources, the mining entrepreneur may not be granted the exploration right for the site within 5 (five) years, which has already been explored by him

and the exploration final report results has been approved in a final and enforceable resolution by the Mining Authority,

c) for the part of the requested site or for the mineral raw material relating to which the mineral rights created before would be infringed.

The exploration TOP comprises a text part and a plan map. The text part shall contain:

a) the planned exploration schedule and the description of the required technological and safety measures,
b) the enumeration of exploration installations s, the description of their locations and routes of operation,
c) quantity, scheduling, planned time period, method, depth, technology, and descriptions of the planned measures to be taken for averting unfavourable impacts and expected hazards as well as impacts on the environment and nature, expected hazards during exploration,
d) harmful impact of the activity to the environment and nature, the planned technical measures for the prevention and reduction of hazards to the environment and nature as well as scheduling of the land remediation activities to be completed,
e) enumeration of guarantees for the fulfilment of obligations of mine damages, land remediation, environment and nature protection and the settlement of expected damages in connection with the exploration of solid mineral raw materials,
f) the registry identification data of real properties concerning exploration installations, and – in case of solid mineral raw materials – names and addresses of the owners, trustees and users of such properties, and
g) the quantity of the mineral raw material to be extracted during exploration and the reason for extraction.

Should the applicant not attach data according to item *f)* of paragraph (1) to the application, the Mining Authority shall take measures to acquire the electronic version of the proprietorship register of the involved real properties from the national land registry providing electronic services.

In resolution approving the exploration technical operation plan the mining authority shall determine the permitted period of the exploration, and conditions necessary for the protection of mineral management, technical safety and proprietorship. The initial day of the calculation for the period permitted for the exploration shall be the day of resolution approving TOP becoming enforceable.

The mining authority rejects the application for the approval of TOP:

a) for the part of the applied exploration site where the exploration activity affects an excluded area, and the activity has not been approved by the competent authority,

b) if the applicant has failed to fulfil the obligation for the assessment and payment of the mining royalty in relation to any extraction site operated by him, or

c) the applicant has any outstanding debt concerning the mining fine or the supervision fee established in legally binding resolution,

d) if the applicant shall not be about to carry out exploration with exploration installations on the exploration site determined in the application.

The mining entrepreneur shall be obliged to communicate the planned date of the **commencement of the exploration activity in writing to the mining authority 8 days** prior and the completion **8 days** subsequently.

If following the approval of the technical operation plan

a) any change or extension of the exploration activities needed, or

b) any change in location and method of the exploration activity needed upon the outcomes of the completed exploration,

the technical operation plan shall be the subject to modification.

The mining authority permits the extension of the exploration period – by the modification of the exploration TOP - if the mining entrepreneur has commenced to carry out activities approved in the schedule and in the technical operation plan, and verifies that the exploration will not be possible to be completed – due to circumstances beyond his control - till deadline as determined in the exploration permit, or the extension of exploration tasks is reasonable for the completion of the exploration.

The **exploration site shall be designated in blocks**. The mapping projection of the exploration block shall be a closed polygon delimited by straight sections. A projection borderline may also be the state border or the borderline of any other artificial objects or natural formations. Within one exploration site every block shall be in direct contact with the neighbouring block at least with one bordering side.

The maximum area of an exploration block may be:

a) **50 km^2 in case of bauxite,**

b) **30 km^2 in case of mineral resources with ore contents,**

c) **8 km^2 in the case of other solid minerals**.

A mining entrepreneur may have the exploration right for the same mineral raw materials on **no more than 8 exploration blocks simultaneously**.

The exploration may be permitted without the designation of blocks for a seismic line or for an exploration planned with aerial photography.

Within this step the mining inspectorate may request for **corrections or further data supply within 8 days**.

Step 2.1. Involvement of co-authorities

In case the mining inspectorate finds that the application complies with the above rules it approaches the so-called co-authorities for their consent which is compulsory. The list of these authorities is published in HU-L7 (statute of the Hungarian office for Mining and Geology). These are the transportation authority (HU-E34), Ministry of Defence (HU-E36), country directorates for disaster and water management (HU-E22-32), county government offices (HU-E1-20) and its departments for the environmental, nature conservation, soil, forestry, cultural heritage aspects, and municipality notaries for land use planning aspects.

In general, the relevant major permitting authority has to **issue the permit within 21 days** of the arrival of the application. In certain case, when a number of conditions exist, it is limited 8 days. The 21 days can be extended for a number of reasons: suspension of the procedure, corrections of the claim, internal legal assistance, refusing the claim due to lack of competence (when it belongs to another authority), and co-authority involvements.

The law on general public administration procedures provides rules and deadlines for the involvement of the designated co-authorities in most permitting actions. Their consent is a binding one, however, the applicant may set an appeal against them in reply to the eventual resolution. The general rule for the **co-authority consent is 15 days**, unless a law does not prescribe another deadline.

A typical conflict field at this step is the decision of the environmental inspectorate (environmental department of the county government office) which **may prescribe an environmental impact assessment already at this stage** for certain activities or installations (e.g. deep drilling), please find a more detailed description in chapter 2.3. because at exploration permitting an EIA is seldom required, the environmental inspectorate usually makes precautionary observations and obligations at this stage. Moreover, it may ask the national parks' directorates for their professional opinion in nature conservation which adds upon the processing time.

Step 2.2. Appeal

By default, the applicant and interested clients may set an **appeal against most first-instance permits within 15 days** of its arrival by submitting the complaint at the same authority which **forwards to the second instance level entity within 15 days**. The second instance authority procedure implies the same deadlines as the law provides for the first-instance, in principle it is a repeated procedure with other, higher level entities.

Step 2.3. Court jurisdiction

The applicant may turn to the court (HU-E....) for which HU-L61-62) apply. It is useless to present the deadlines of this procedure because the hearing can be repeated several times according to the tactics of the lawyers and judges also have a higher degree of freedom with timelines as compared to the public administration procedures. **In general, the court cases may last 2-3 years**.

The judge may decide promptly, within 2-3 months, without a hearing when the justification of the appeal is obviously lacking legal background. On the contrary, cases may go further on to the higher courts, quite frequently to the **Supreme Court (Curia), ca. 10 % of the court cases**.

Every 5 years a case reaches the **Constitutional Court level, ca. 2 cases were in the non-energy minerals domain during the last 25 years**.

Step 2.4. Specific construction permitting

In case of specific installations planned already during the exploration phase the applicant has to acquire the necessary construction permit in accordance with HU-L9. Annex I list all the relevant installations in scope. For example, drill holes planned deeper than 400 m must be permitted by the mining inspectorate according to this Government Regulation. It also means the involvement of certain co-authorities (environmental inspectorate), and

the applicant operator must obtain the permit interim change in land use (see more detailed description under chapter 2.3.), which duplicate the **general deadline (21+(8) +15 days)** of this step of permitting. The licensee must report the starting date of the actual activity to the mining inspectorate 8 days before its commencement.

Shallow exploration trenches and **shallow boreholes (< 400 m), must not have a permit**, the **operator simply has to report these 10 days before** the commencement of activity.

As a conclusion, in general, the permitting of exploration TOP (Step 2) may be as short as 60 days but can be 1 year in case of EIA is required, or 2-3 years in case of second-instance appeals, court cases, etc.

Step 3. The approval of the final report

Within 5 months after the licensed period for exploration had terminated the licensee must submit a final exploration report to the mining inspectorate, otherwise it loses its exclusive rights to the area.

According to HU-L6 a final report shall be drawn up on the results of the exploration, which shall be **countersigned by a registered (chartered) geological expert**. The mining entrepreneur shall submit the final report to the mining inspectorate in 2 (two) copies. The exploration final report shall contain:

a) the name of the person entitled to the exploration, the number of the resolution granting the exploration right and approving operation plan of exploration, in case of purchased data, the certificate of the person submitting the final report entitled to the data use,

b) purpose of the exploration and the name of the people carrying out the exploration,

c) description of the geological structure of the exploration site,

d) surface and subsurface exploration completed, the methods and results thereof,

e) stratigraphic, tectonic and hydro-geological conditions of the site of resources and the environment thereof,

f) definition and qualitative characterization of mineral resource(s) studied through exploration, quantitative determination according to quality categories and the reliability thereof. The classification of mineral resources shall be carried out for each mineral – with regard to the testing results laid down in the exploration operation plan – starting with the minerals of the highest specific value and finishing with those of the lowest specific value,

g) quantitative and qualitative data of the mineral resources extracted in the course of the exploration,

h) the summary of data of mining geology.

The documents to be attached to the final report shall be as follows:

a) the basic data of exploration (data of geological and technical material testing of exploration installations, basic documentation of geophysical surveys, and the hydrogeological testing),

b) quantitative and qualitative basic data used for the assessment of mineral resources,

c) topographical map of the exploration site with the indication of the exploration installations; geological, tectonic and hydrogeological maps of the exploration site as well as the maps and sections for quantitative and qualitative assessment of mineral resources,

d) a summary on the implementation of the approved operation plan of the exploration and on the fulfilment of obligations included in the resolution approving operation plan of the exploration.

The resolution on the acceptance of the exploration final report shall contain the following:

a) administrative designation of the exploration site and the EOV coordinates of its corner points,

b) names of the classified mineral resources – according to the results of the prescribed tests – in the course of the exploration and their classification codes as defined in specific other legislation,

c) names, classification codes and reserve calculation data of the mineral raw materials which are to be entered into the National Mineral Assessment when - following the approval - the mineral raw material balance is made. The **reserve calculation report shall be countersigned by a registered geological expert.**

At this step the **general deadlines (21+(8) +15 days)** apply, and there is no involvement of co-authorities.

Exceptions

There are at least two legal exceptions from the above procedure. According to Art. 17 of the Act on highways (HU-L5), within +-10 km distance of the planned highway a specific extraction can be permitted with an easier procedure. The applicant must prepare a complex extraction plan which covers the most significant major environmental, water management and minerals management aspects and submit it to the mining inspectorate. However, it has to set an agreement with the landowner, and it have the land register authority's consent in case as well.

Similarly to the above case the other option is also limited to aggregates when artificial lakes are developed and subsoil is extracted. In this case the water authority issue the permit but invites the mining authority for its consent. In both case the licensee must pay the mining royalty after the extracted volumes.

1.6. Licensing procedures for extraction

Step 4 Establishing a mining plot

A major permitting step on the whole process to acquire a mineral extraction right is the establishment of a mining plot. The applicant has to **submit this claim within 5 months after the approval of the final exploration report**.

According to Art. 26 of the Mining Act, extraction of mineral raw materials shall only be permitted on the section of the surface and depth separated for this sole purpose (hereinafter referred to as: mining plot). Establishment of mining plot is not necessary for the mine development and extraction of the mineral raw material in the framework of the exploration and the utilization of the waste heap. The mining plot shall be established by the mining authority upon request, in the case of mining plot with opencast mining in due observation of the expected utilization schedule of the properties to be covered by the mining plot and the observations relating to the occupancy right, utilization right and the right to dispose of the properties.

The mining authority shall send the valid and enforceable resolution establishing the mining plot to the Real Estate Authority (Land Register) for entering it into the mining plot real estate registry. Establishing the mining plot and entering it into the real estate registry shall not change the proprietorship, function and usage of the surface real estate covered by a mining plot. Establishment of the mining plot shall not be considered as the commencement of area utilization.

The mining entrepreneur may initiate the establishment of the mining plot and the designation of the protective pillar within 5 months from the day the resolution approving the exploration final report becoming valid and enforceable. The **5-month period shall not include the period for acquiring the environmental permit**. In case of ignoring the deadline, the mining entrepreneur shall lose the right to initiate the establishment of the mining plot.

The mining authority shall establish the mining plot for the extraction of a defined mineral raw material if the applicant:

a) demonstrates with exploration data (exploration final report or inventory calculation report) that the deposit to be delineated by mining plot, possesses extractable mineral raw material reserves,

b) possesses all the necessary environmental permits including an environmental permit and a unified environmental utilization permit or the final resolution of the environment protection authority on the preliminary examination procedure in case of the exploration and extraction of solid mineral raw material – in cases defined in governmental decree on environmental assessment and unified environmental utilization permitting procedure,

c) defines the mining technology to be applied (underground mining, opencast mining, borehole mining), demonstrates with technical specifications that the extraction conditions are achievable, and indicates the scheduled date of the extraction,

d) meets the statutory requirements of the content of the mining plot documentation,

The mining entrepreneur shall be **obliged to commence the operational extraction within 5 years from the establishment of mining plot**. The mining entrepreneur may apply for the **extension of deadline by 5 years**. In case of extension the mining entrepreneur shall be obliged to pay a compensation.

Following the establishment of mining plot for opencast mining the mining entrepreneur shall be entitled to request the initiation of the imposition of construction and plot establishment prohibition from the mining authority. In case of a deadline failure, the mining entrepreneur's rights to initiate the prohibition of construction and plot establishment shall cease to exist.

In case of mining plot for underground mining, the mining entrepreneur may initiate the imposition of prohibition of plot establishment and construction if the mining activity will possibly affect the surface property. In the course of the evaluation procedure of the

request on the establishment or modification (extension, unification or division) of mining plot, the mining authority shall define the quantity of the mineral raw materials found in the mining plot, and categorize them as economic raw material or waste material on the basis of the exploration (inventory calculation) data. The mining authority shall keep a record of the exploration site, the mining plot and the territories affected by the mining activity.

The mining authority may modify the mining plot upon request. If the modification affects a mining plot registered in the Real Estate Registry, the person or authority in charge of the resolution about the modification shall search the real estate authority with a legal resolution in order to enter the modification of the mining plot into the Real Estate Registry. The rules relating to the establishment of the mining plot shall be applied mutatis mutandis to the modification of the mining plot.

The mining authority shall cancel the mining plot from the registry and inform the people concerned upon the mining entrepreneur's request; in addition, they shall contact the Real Estate Authority with a legal resolution for the cancellation of the mining plot from the Real Estate Registry. The obligations of the former holder of the mining plot with regard to the payment of the mine damages, land remediation and safety, and the environmental and natural protection shall continue to exist after the cancellation of the mining plot.

Any mining plot shall be planned and established in such a manner that the area affected by probable surface rock movements due to the mining activity is within the boundary lines of the mining plot. Accordingly, the mining inspectorate shall take measures for the designation of boundary pillars. When a mining plot is established, a number of conditions, such as the geological position, expansion and quality of mineral resources, the features of the site, the occurrence of other mineral resources as well as any presumable impacts of mining activities and relating installations, shall be taken into account.

The mining plot shall be delineated with perpendicular planes crossing each other (in projection representation by straight lines meeting in break points), as well as by the definition of basic and covering planes (lying and covering levels). The boundary may also be the state border or the borderline of any natural formation. In case of the occurrence of identical and connected mineral resources, the mining plot shall be designated in a manner that the borderline of the neighbouring mining plots is contiguous with each other.

The **documents to be attached to an application** for establishment of a mining plot are as follows:

a) if the mining activity belongs to the scope of the governmental decree on the environmental impact assessment and the unified permitting procedure for use of the environment,

aa) the resolution in which the environmental protection, nature conservation and water management authority have stated that the intended activity is not subject to an environmental protection permit or to a unified permit for use of the environment,

ab) the **permit of environmental protection**, or

ac) the unified (IPPC) permit for use of the environment;

b) in case of a mining plot intended for underground or opencast extraction, properties affected by the mining plot to be established;

ba) the list of the **names and addresses of the owners** (trustees, users) according to the real estate register, and

bb) the description of the **designated purpose and of the condition of use of the real estate**;

c) in case of a mining plot intended **for opencast mining, the time schedule of the anticipated use of the real properties** intended to be covered by the mining plot are broken down into;

ca) each year for a period of five years from the date of the intended commencement of the extraction,

cb) periods of five years between the 5th and 35th year of the extraction,

cc) with the indication "beyond 35 years" if the extraction is expected to take longer than 35 years;

d) the reserve calculation report,

e) the technical description of the mining plot,

f) the map of the mining plot according to specific other legislation,

g) the preliminary land remediation plan in case of a mining plot intended for opencast extraction,

h) if the opencast mining plot applied for establishment affects forest or an area directly serving sylviculture activity in branch of forest cultivation, and previously the utilization and principled utilization procedure of the Woods and Forests Authority has not been conducted,

ia) registry identification data of the forest affected by the planned utilization according to the property registry of forests (location, site, number in cadastral survey), and of forestry (location, number of member, detail sign),

ib) area of the planned utilization with two-tenths hectare minute for each land section and subdetail,

ic) a block/general plan at most on the scale of 1 : 10,000 suitable for the identification of the area of the planned utilization,

id) in case of involvement, the designation of the planned area for exchanging the forest vegetation,

ie) the reasons for the harmony between the public interests and the planned utilization.

The technical description shall contain:

a) coordinates according to the EOV system of the breakpoints of the borderline of the mining plot, the height of the ground at the breakpoints of the borderlines, the height of the bottom and cover, the under- and overlying levels of the economic raw material (mBf),

b) quantitative and qualitative characteristics of the geological and extractable mineral resources based on the exploration final report of or on a reserve calculation report,

c) designation of installations, residential settlements, water basis, fresh or still water requiring protection against the surface rock movements anticipated due to mining activities,

d) boundary or protective pillar to be designated, the dimensioning thereof, as well as the mineral raw materials bound therein,

e) mining plots bordering with or including partly or fully the mining plot to be established and the borderlines and the height of the bottom and cover thereof,

f) in case of a mining plot requested to be established for underground gas storage, the technical condition of the drilling holes deepened into the geological structure, natural or artificial pit for storage, the possibilities of the utilization thereof, the required surface facility and the specification thereof, as well as the gas storage technology excluding any pollution, hazard or damage to the environment.

The specification shall comprise:

a) physical and chemical properties of the by-products and waste anticipated during the mine development or extraction,

b) possible mining methods for mine development and extraction of mineral resources (underground, opencast mining, borehole mining – within it inclined or horizontal drilling) and their presumable impacts on the subsurface waters and other elements of the environment,

c) name of the surface and underground installation groups presumably required for mine development and extraction,

d) possibility of the fulfilment of conditions of extraction (including the transport of the extracted mineral raw materials to the nearest national main road or hydrocarbon transmission pipeline).

The **preliminary land remediation plan shall be prepared**, taking into account the environmental protection permit, the regional spatial planning or regulation plans in force and the time schedule of the use of real estate. The preliminary land remediation plan shall contain the textual description and the map of the natural features developing during the intended mining activity as well as of the installations to be constructed. The textual part of the preliminary land remediation plan shall embrace the purpose of re-utilization and the tasks required for the implementation of this purpose, the new natural features and installations to be implemented through the land remediation and the schedule and method thereof.

The natural features developed through the land remediation, the height data thereof and the sections promoting the intelligibility as well as the contents of the map of the real estate register shall be represented on a map corresponding to the scale of the mining map. Should still water occur within the borderlines of the mining plot due to the mining activity, and it might remain subsequent to the mine closure, the relevant preliminary water management, environment protection and nature conservation terms to be considered during the land remediation and mine closure shall be specified in the preliminary plan of the land remediation under specific other legislation.

Should the applicant fail to attach the list of names and addresses of the owners, real estate managers or users of the real estate affected by the mining plot requested to be established, according to the register of title deeds, the mining inspectorate shall contact the registry of real estate to request the data necessary for the consideration of the case. Upon the decision on the establishment of the mining plot – in case of a mining plot intended for underground and opencast mining – the mining inspectorate shall scrutinize the comments made by the owners (trustees, users) of the real estate intended to be covered by the mining plot in relation to the rights of disposition, use and extraction to the real estate and in case of opencast mining, also in connection with the time schedule of the use of the real estate.

The mining inspectorate shall make provisions for the technical measures and conditions necessary to avert or mitigate the hazard resulting from mining as well as it shall approve

the purpose of re-utilization in case of extraction of solid mineral resources and prescribe the requirements to be determined according to the preliminary land remediation plan in the case of the mining plot intended for opencast mining. In addition, it shall decide on the schedule of the probable utilization of the real estate to be covered by the mining plot. The resolution establishing the mining plot shall contain the denomination of the mineral raw materials defined as economic raw material according to sub-groups determined in the governmental decree on the specific value of mineral raw materials and the definition of the method of value calculation.

The legally binding resolution and the map of the established mining plot provided with the clause of the mining inspectorate shall be sent to the applicant and, in case of a mining plot for solid minerals, to the land registry for recording the mining plot as of its legal nature in the real estate register.

Steps 4.1-4.2.-4.3.-.... Permitting actions embedded into the approval of the mining plot

As it is described above, the establishment of a mining plot is the most demanding step in the vertical value chain permitting exercise. It usually involves the

- major environmental permitting stage,
- the plans for land use, forest use, soil use change,
- preliminary remediation plan.

As well, most of these steps which ends up in a resolution, can be appealed, etc.

The **list of the invited co-authorities is the same as in case of the exploration TOP approval**, this list is also published in the statute of the mining authority (HU-L7), as well the **deadlines are the same as described at Step 2.1**.

For example, the major legislation of the environmental permitting is shown below. 90% of the environmental law in Hungary is identical to the environmental acquis of the EU. However, the Government Regulation indicated here (HU-L20) merged the requirements of the EIA and IPPC (now IED) Directive. The figure below shows how the 3 annex of the Regulation defines what kind of assessment is needed and what kind of permit is issued for the different activities and installations.

The entries in the annexes are mostly identical to the acquis but a very limited number of more stringent thresholds do appear, indicated in red. In case of entries relevant to non-energy minerals, these thresholds are not changed (e.g. the 25 hectares for quarries).

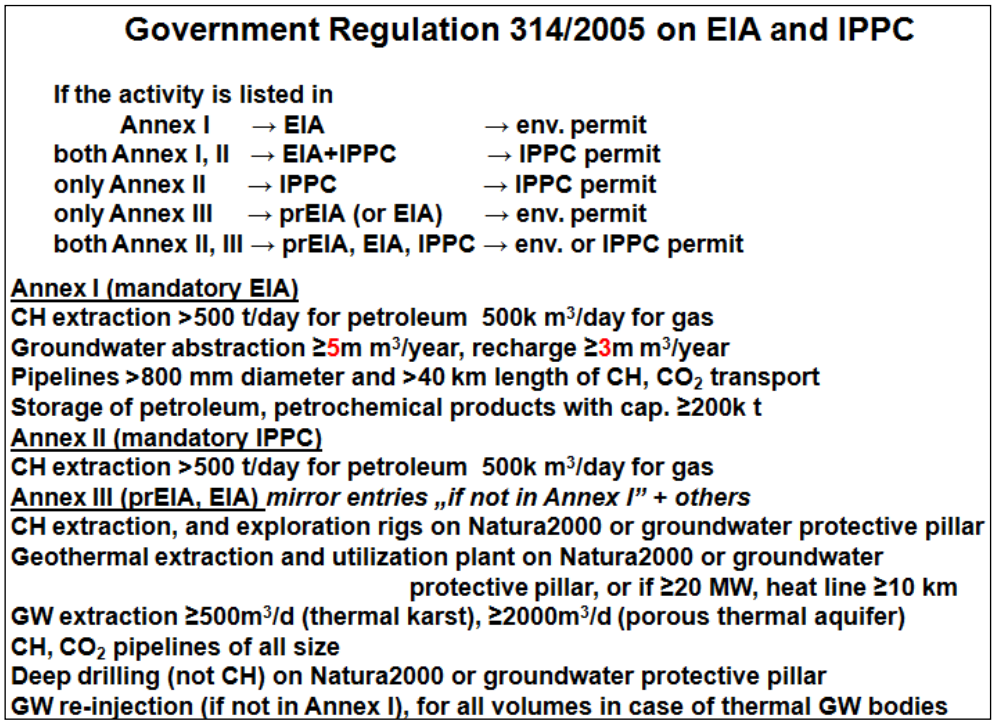

Fig. 6: Hungary. The PrEIA, EIA and IPPC permits relevant to hydrocarbons and geothermal energy.

The permitting procedure is similar to that of the mining inspectorate, however, in this case the environmental inspectorate (a department of the county government office) is the major permitting entity, and it invites other co-authorities for their consent. Since most of the latter ones are also departments of the county government offices this became a simple and rapid process in 2015.

HU-L21 ensures relatively longer deadlines for environmental permitting. These are shown below briefly for certain types of environmental permitting actions but the deadlines for the non-specific general public administration procedures and court appeals are not indicated hereby, which can prolong the process significantly (additional data requests, suspension of the procedure, second-instance appeals, court appeals, etc.). Needless to state, the duration of the preparation of the prEIA, EIA and IPPC studies is neither indicated here (2 months - 1 years).

Preliminary EIA: 21+5+5+8+6+5= 40 days
After this permit the client has got 18 months to apply for the EIA or IPPC permit.
Consultation, hearing: 15+21+5+8+30+5= 84 days
EIA permit: 5+5+30+8+5+30= 63 days
IPPC permit: 15+5+21+5+5+8+5= 64 days.

In general, whenever an environmental permit is needed, it takes 2 months, at least.

The permitting of land use, forest use, **soil use change** is a demanding step as well in direction of starting the actual extraction activity. The permitting is regulated in the Soil Act and the Forest Act, (HU-L47, HU-L32). In the previous one there is specific Article on the temporary utilisation of land for quarrying purposes. **The permit is valid for 4 years which can be renewed**. In case the project is planned on an urbanised area, the change of the local municipal plan may take years.

Step 5 Approval of the extraction technical operation plan (TOP)

According to Art. 27 of the Mining Act, extraction and waste heap utilization activities shall be carried out under an approved technical operation plan. The technical operation plan shall be drawn up in light of the technical safety, health, mineral reserve management, water management and environmental natural and land remediation requirements in such a way that it should ensure the protection of life, health, surface and underground installations, in addition to the agricultural and forestry lands, the possible prevention or reduction of mine damages, natural and environmental damages, as well as – suitable to those determined in the instruments for land use management - the completion of the land remediation.

The mining authority shall approve the technical operation plan and the land utilization schedule if the mining entrepreneur has provided evidence of the utilization rights for the properties to be concerned with mining activities specified in the technical operation plan.

According to Art. 13 of its implementing Government Regulation, the operation plan shall define the intended mining activity of the mining work. The plan shall comprise of a text part and a plan map. The mining entrepreneur shall attach to the application for the approval of TOP for verifying the utilization entitlement related to the foreign property affected by the mining activity determined in the technical operation plan, or by the planned installation:

a) agreement for the utilization of the property for mining activities made with the owner of the property or the trustee, countersigned by a lawyer or a counsel,

b) the approving declaration by the owner of the property or the trustee related to the utilization of the property for mining activities countersigned by a lawyer or a counsel,

c) the legally binding authority resolution or the judgement establishing the entitlement.

The text part of the operation plan related to mine development, extraction, and the utilization of the waste heap as well as the land remediation to be carried out simultaneously therewith or upon the completion thereof shall contain:

a) the report relating to the performance of the previous operation plan (report on the completion of the exploration, mine development, extraction and land remediation activities carried out and on the conditions of the technical safety and health and safety in mining work),

b) mining activities scheduled for the plan period, the technological and safety conditions as well as the identification of the mining plant delimited in the plan map,

c) the names of the mining areas (sites) required for the performance of the tasks and a survey of the conditions of ownership (use) of the surface areas intended for utilization as well as of the presumable geological conditions and mining hazards,

d) exploration tasks necessary for the maintenance of extraction and for the inclusion of new areas (sites) as well as the list of underground and surface installations and major technical properties thereof,

e) survey of the planned method, schedule (e.g. seasonal interruption) and mining technology as well as the order of technical inspections,

f) method and tools for the assessment of the quantity and quality of the extracted mineral raw materials,

g) technical measures to be taken to prevent and mitigate the likely mining hazards and specification of the implementation of the scheduled land remediation,

h) features of the mineral raw material management;

ha) exploration activities (drilling, tunnel driving) intended to obtain more information on the quantitative and qualitative parameters of mineral resources,

hb) quantity of mineral raw materials intended to be left behind from the mineral resources recorded in the area (site) involved in the extraction (loss in mineral resources) and the justification thereof as well as the measures to be taken in order to optimize the loss in mineral resources,

hc) loss affecting the quantity of the extracted mineral raw materials (loss in product) and the justification thereof,

i) representation of the impact of the extraction on the environment, the measures required to prevent and diminish the hazardous environmental impacts, the monitoring methods, the order of the construction and operation of installations and measurement points for the purpose thereof as well as the waste management plan,

j) a statement on the obligations anticipated in connection with the planned activity and the calculated costs thereof. The method and extent of the securities offered by the mining entrepreneur for the financial to cover the fulfilment of the obligations,

Should an environmental protection permit, unified environment utilization permit (IPPC) or an environmental operation permit be necessary for the pursuance of the mining activity, a legally binding environmental protection permit, unified environment utilization permit or environmental operation permit shall be attached to the application.

The measures included in the operation plan shall be justified, and the schedule of the implementation shall be provided. Should the plan of the real estate use included in the operation plan requested to be approved deviate from the time schedule, the owners of the real estate concerned shall be notified of such deviation in the notification about the institution of proceedings. The mining inspectorate shall make a decision on the modification of the schedule of the real estate use in the resolution approving the operation plan or the modification thereof.

The TOP may be approved for a period of 5 years at most in case of underground mining while in case of opencast mining for a period of no longer than 15 years, if the effect of the related environmental protection permit, unified environment utilization permit or environmental operation permit is not shorter than the periods of time mentioned above. TOP shall be reviewed by the entrepreneur annually, and – in case of changed circumstances – shall be obliged to apply for the modification of TOP. If the entrepreneur has not utilized the area for extraction determined in the approved plan in the plan period, the period for fulfilment of the approving resolution may be extended no more than once, by the half of the period originally permitted.

TOP and the application for the modification thereof **shall be submitted** for approval to the mining inspectorate not later than **60 days prior to the commencement** of the intended activity. The approved operation plan may be modified exclusively with the approval of the mining inspectorate.

Steps 5.1., 5.2, ... Construction permits, updates of extraction TOP, updates of EIA

As in case of Step 2.4., specific installations planned for the extraction the applicant has to acquire the necessary construction permit in accordance with HU-L11. Its Annex lists all the relevant installations in scope. It also means the involvement of certain co-authorities (environmental inspectorate). The **general duration of deadlines is 21+(8) +15 days** of this step of permitting.

The TOP must be updated in case of significant change in methodology but recently operators tend to prepare and submit **TOPs valid for 5 years**. As well, EIAs must be updated whenever substantial change in technology or emissions are foreseen, and submitted to the county government offices for approval. This step may take **from 2 months** to half year in general, if no court appeal is considered.

Integrity Assessment

The Hungarian legislation on integrity issues is rather extensive (see list in Annex), covering general principles, accounting of state entities, data management, open access to information of public importance, etc. However, none of those are explicit to raw materials permitting. In this respect the Mining Act has got two relevant Art., the one on the requirements on the type of entity applying for a concession contract. In essence, this article echoes the provisions of the 94/22/EC Directive on hydrocarbons exploration and extraction. - The other explicitly relevant article is Art. 25 on data management, as shown hereby:

Reporting and management of geologic data

25. (1) Mining entrepreneur in the course of mining activity, as well as person entitled to geologic exploration in the course of geologic exploration shall send all acquired geologic data to the body responsible for the state geological tasks on a yearly basis.

(2) The mining entrepreneur shall report:

a) the data about the quantity, quality and location of the mineral raw material, the initial data on the earth-crust conditions of the geothermal energy, in the exploration final report,

b) the changes occurred in the mineral reserves after the commencement of the production, and the report on the quantity of the extracted and utilised geothermal energy on an annual basis, and

c) the statement drawn up on the mineral reserve left during the closure of the mine and the field to the body responsible for the state geological tasks.

(2a) The person specified in paragraph (1a) of Section 3. shall be obliged to report the amount of extracted mineral by types in the given year to the Mining Authority by 28th February subsequent to the year concerned.

(3) The following shall be considered as business secret:

a) data provided by the mining entrepreneur in the course of exploration as far as the termination of mining right but not later than the valid consideration of application for the establishment of mining plot,

b) provided data by the mining entrepreneur for the mining plot as far as the termination of mining right but not later than 3 (three) years from date of the reporting obligation,

c) data provided by the permit holder for a year from the resolution approving the summarizing geologic report becoming final,

d) data provided for the joint mine extraction plan for 3 (three) years subsequent to the realization of technical operation plan pursuant to paragraph (2) of Section 29.

(3a) The following information referring to:

a) the place and date of completed and geologic explorations,

b) the owner of exploration and geologic exploration data,

c) the amount, quality of annually extracted mineral raw materials, as well as the amount of recovered geothermal energy,

d) the place of extraction and recovery, and

e) the sum of declared mining royalty shall be considered as public data**.**

(4) The mining entrepreneur and the person entitled to geologic exploration shall be responsible for the authenticity of the data provided, which shall be monitored by the body responsible for state geologic tasks.

(5) The body responsible for state geological tasks shall keep records of the state-owned mineral raw material, the geothermal energy reserves and the geologic structures storing carbon dioxide of energetics and industrial origin for which they shall issue a certificate upon the request of the authorized entity against a fee specified in a separate legal rule."

According to the above provisions, **Hungary is among the most liberal countries by making geological data openly accessible after 3 years of the reporting**.

What concerns the core elements of integrity, such as anti-corruption there is explicit regulation inside the mining legislation. However, according to a Government Regulation, all state organizations with more than 50 employees must have an integrity advisor. In Hungary, beyond the legislation, the international voluntary integrity schemes are less well known and less exercised by the extractive industry sector. For example, Hungary is not a party to the Extractive Industry Transparency Initiative, and with the exception of major oil and gas companies, the corporate social responsibility concept is not common either at mining companies.

Annex, List of integrity related legislation

Basic data protection:

Constitution of Hungary of 2011

Act V. of 2013 on Civil Code

Act CXII. of 2011 on freedom of information

Act XX. of 1996 on personal codes

Act LVII. of 1996 on undistorted competition

Act XVI. of 1991 on concession

Act CLVII. of 2010 on national information registries

Public data:

Act LXIII. of 2012 on re-use of public data

Act CI. of 2007 on data for decision support

Gov. Reg. 305/2005. on access to public data

Protected/classified data:

Act CLV. of 2009 on classified data

Integrity, transparency:

Act CLXXXI. of 2007 on transparency of allocated public support

Act CLXV. of 2013 on public complains

Gov. Reg. 50/2013. integrity management of public entities

Copyright issues:

Act LXXVI. of 1999 on copyrights

Statistics:

Act XLVI of 1993 on statistics

Government Regulation No. 170/1993. (XII. 3.) on the implementation of the Act on statistics

Access to environmental information:

Gov. Reg. 311/2005. on access to environmental information

1.7. Licencing procedures for post-extraction

Step 6 Permitting the temporary suspension of extraction

The mining entrepreneur may **interrupt extraction for not more than 6 month**s for the period of the approved TOP of extraction. Interruption of the extraction for more than six months shall be permitted by the mining authority, under a TOP of interruption. For the

period of interruption, the minister in the concession contract, in case of other entrepreneurs the Mining Authority in the resolution approving the TOP of interruption shall impose payment obligations for the compensation of the lost mining royalty. For compensation of the mining royalty fee cannot be imposed if the interruption of extraction is due to damage caused by the forces of nature disaster or mine hazard. In the course of the specification of the payment rate for the compensation of the lost mining royalty, the approved TOP or the underlying cultivation plan shall be taken into account. The rate of annual payable fee by the entrepreneur shall be 30% of the mining royalty after the extracted quantity for the last year approved in the technical operation plan of extraction before interruption.

The mining authority shall take measures for the closure of mine and land remediation ex officio – except underground ore mine -, if:

a) period of **interruption of extraction reaches 6 (six) years**,

b) entrepreneur doesn't fulfil the payment obligations on schedule for the compensation of the lost mining royalty upon request,

c) mining authority terminated the procedure or rejected the entrepreneur's application for the approval of the technical operation plan for the period after interruption – except TOP for mine closure and land remediation.

The mining entrepreneur shall be obliged to submit an application for approval of **TOP within 30 days** from the resolution of mining authority ordering mine closure and land remediation becoming valid and executable. Should the mining entrepreneur not comply with the obligations or the submitted TOP for mine closure has been rejected by the mining authority in valid and executable resolution, or the proceeding has been terminated finally, in case of concession contract-based mining operation the concession contract shall be terminated, in case of mining operation with the permit, the mining authority shall cancel the mining right of the mining entrepreneur.

Any **TOP for suspension may be approved for a period of no longer than 3 years**. TOP for suspension shall contain:

a) reason and planned period of time for suspension,

b) work to be completed by the commencement of the suspension and in the course of suspension, the schedule of the work and the conditions of the performance thereof,

c) examination and method of observation of the impacts which suspension will have on the environment, as well as the technical-safety measures to be taken to protect the surface, waters, mineral resources and natural assets,

d) name of the excavation voids remaining open in the course of suspension, the purpose of keeping the excavation voids open, as well as the facilities in operation (e.g. shafts, underground workings, conveyance, ventilation, water lifting, energy supply),

e) order of control required in the course of suspension,

f) closed excavation voids due to suspension, the facilities and materials left therein,

g) method of closure of excavation voids intended to be closed in the course of suspension,

h) conditions for restarting mining operations,

i) maps pursuant to other specific legislation.

The deed shall be appended to TOP for suspension if the mining entrepreneur in the course of suspension – except extraction – is about to carry out an activity by utilizing a foreign real estate.

(3) Subsequent to suspension, the restart of the extraction may only be commenced upon the technical operation plan specifically elaborated and approved for such purpose. The fee fixed for the compensation of the lost mining royalty shall be paid regularly and on time.

Step 7 Closure TOP approval

According to Art. 42 of the Mining Act, during the termination of extraction and the evaluation of the TOP drawn up for mine closure, other possibilities for the utilization of the underground areas and other installations for public purposes of the closed mine shall be taken into consideration as well. In doing so, the utilization and decommissioning of the waste heaps shall be taken into account as well. The unused underground excavation void shall be closed in such a condition that it should not endanger the environment, or the surface.

The TOP drawn up for the use of underground excavation voids and other mining installations for other purposes shall be prepared, and its compliance shall be monitored by the mining authority which takes measures in its permit about the decommissioning of public water supply installations or their further operation for public interest, under contribution of local government concerned. The mining entrepreneur shall be obliged to attach the document justifying the entitlement to use the property to the application for the approval of the mine closure TOP in that case if – during mine closure - raw mineral material extraction is to be planned, excluding the establishment of the final slopes and the mine bottom.

According to Art. 26 of the implementing Government Regulation, TOP shall contain:

a) assessment of the impacts the mine closure and field abandonment have on the environment,

b) technical-safety measures to be taken to protect the surface, the underground waters and the natural assets,

c) measures intended for the completion of the land remediation and the schedule thereof,

d) description of mining installations, facilities and underground mine workings suitable for utilization for other purposes,

e) enumeration of installations and facilities intended to be terminated or demolished in the course of mine closure and field abandonment,

f) schedule relating to the prevention, averting, mitigation, and refund of potential mine damages, as well as to the fulfilment of obligations concerning nature conservation, environmental protection and water protection subsequent to mine closure and field abandonment, as well as the definition of any possibly required monitoring system,

g) proposal for the termination of public utility water supply or further operation for public interest,

h) measures for utilization and removal of waste heaps,

i) list of installations and documents of industry-historic importance becoming redundant, and the proposal on the preservation.

The plan shall include a proposal for the utilization of such installations not endangering the environment, and the schedule of the tasks. The following documents shall be attached to TOP:

a) list of documents on mining geology,

b) statement on mineral resources planned to be left behind,

c) technical plan on the utilization of the underground mine workings (excavation voids) and other mining installations for other purposes,

d) mine map showing the state of the terminated mine,

e) map on environmental protection,

f) environmental permit prescribed by specific other legislation,

g) deed if extraction of minerals is planned in the course of mine closure except the formation of mine basement and slopes for the final state.

Beyond those specified by specific other legislation, the utilization of excavation voids for other purposes may be permitted by the authority if:

a) mining entrepreneur has fulfilled his obligations prescribed in the technical operation plan for mine closure in relation with the mine workings affected by the utilization for other purposes,

b) mining entrepreneur has compensated for mine damages caused by mining operations and restored the damage caused to the environment and nature, unless the user had taken such liabilities over,

c) user provides guarantee to cover the compensation for mine damages in connection with excavation voids.

The mining authority shall permit the closure of the underground mine workings to be utilized for other purposes. The operating plan relating to the closure of underground mine workings shall be attached to the application for permit.

The **list of the invited co-authorities is smaller than in case of the exploration TOP approval**, this list is also published in the statute of the mining authority (HU-L7), the **deadlines are the same as described at Step 2.1**.

1.8. Court cases on permitting procedures

The procedural and institutional framework of court appeals

In Hungary, the **public administration has got two levels**, **local/regional (first-instance) and regional/central (second-instance)**, meaning that the competent authority's resolution on the application for permit can be appealed by the client who disagrees with its content. In this case, it comes to the second-instance authority. In case it still not satisfying for the applicant, it can go to the **court of justice which has three levels, as shown in Fig. 7 below**. In case the applicant can prove that the piece of legislation, on which the resolution is based upon, is not in line with the Constitution, the Constitutional Court can repeal it or its paragraph in question.

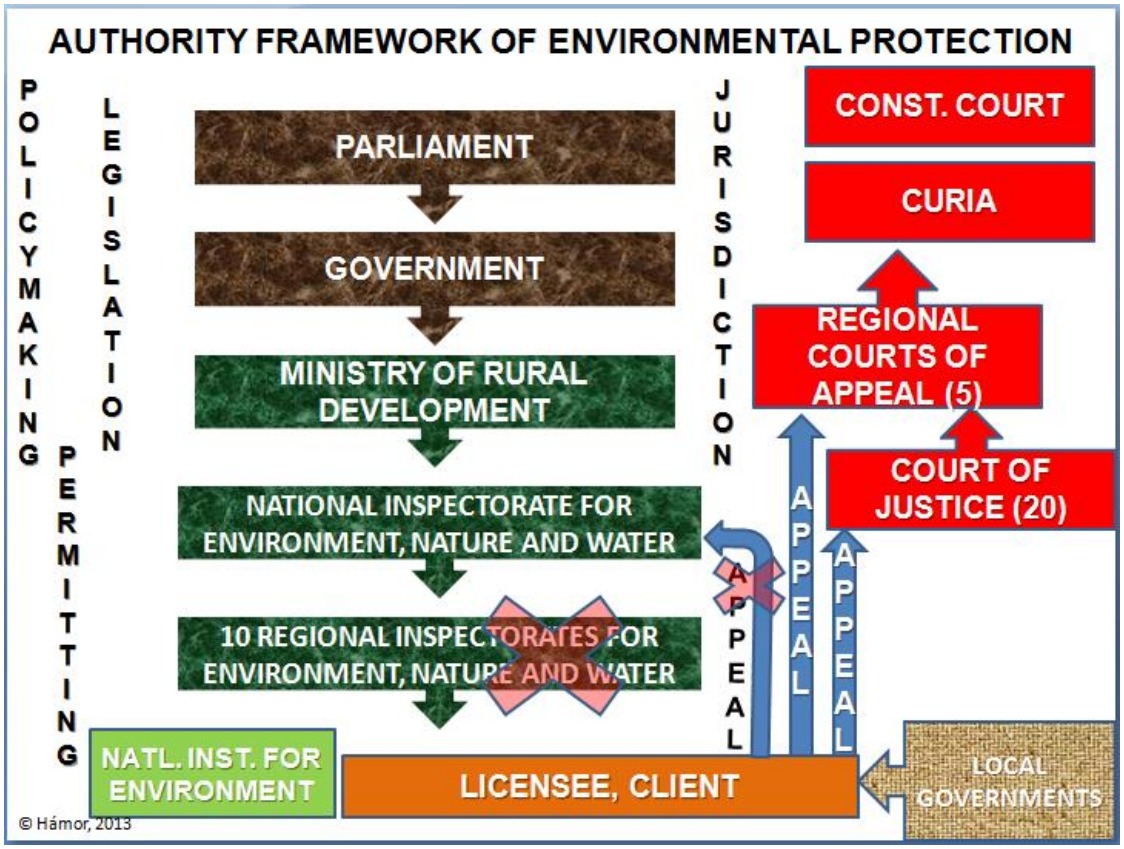

Fig. 7: Hungary. Authority framework of environmental protection and courts of justice.

Note: the red cross indicate, that since 1st April 2015 the regional environmental inspectorates, as well as the mining inspectorates, merged into the county level government offices (there are 19 counties + the capitol in Hungary), and the second-instance central inspectorate will be demolished, as well as its second-instance permitting duties by the end of year 2016.

It is important to note that interested clients (not only the applicant!) can set an appeal against almost all authority resolution on permit applications. The second-instance permitting procedure is well-regulated in terms of deadlines too, however, a **jurisdictions procedure in front of court may last for 2-3 years as an average**, unless the judge closes the case promptly without hearings when the legal background of the application is obviously weak.

Subsequent to the second-instance appeal the licensee/applicant can submit its appeal at one of the 20 so-called **Court of Public Administration and Labour Affairs** (see Table 2, entities HU-E44-62). In case, the judgement is not favourable for the applicant, it might set an appeal against it at the **Supreme Court (Curia)**, HU-E68.

However, a few first-instance permits are issued by central, national entities, and in this case the appeal can be settled at the 5 so-called **Regional Courts of Appeal** (HU-E63-67). In this case too, if the judgement is not favourable for the applicant, it might set an appeal against it at the **Supreme Court (Curia)**, HU-E68.

In case the applicant can prove that the piece of legislation, on which the resolution or judgement is based upon, is not in line with the Constitution, the **Constitutional Court** can repeal it or its paragraph in question. The court institutional framework, statute and procedures are regulated in details by HU-L60-62.

Quantitative data or expert assessment of the last 20 years in minerals permitting cases

In Hungary, following the transition from socialism to market economy, a new Mining Act was published in 1993, a new Environmental Act was approved in 1995, and a new Nature Conservation Act was published in 1996. According to the information of the Hungarian Bureau of Mines existing and managing most of those court cases during those years, in the 1990's 20-30 court cases had been running annually in parallel of which 10-15 ended up in a final court judgement. However, it is useless to present those cases because the national legislation changed a lot since then, and Hungary experienced a major change in legislation when joining the European Union on 1st May 2004. However, the accession itself has not changed the mining legislation substantially.

The number of second-instance appeals and court appeals has been continuously increasing since the turn of the century, up to 200-250 second-instance and 110-120 court cases had been running annually in parallel, respectively according to the database of the Hungarian Office for Mining and Geology which was established upon the merger of the Hungarian Geological Survey and the Hungarian Bureau of Mines in 2007. This also implies that **half of the clients who went for the second-instance level also continued the appeal in front of the court**.

As it is shown in the below table on the statistics of the 2008-2015 period, the **number of final judgements varies between 16 and 57 but it is around 30 on the average annually**. The correlation with changes in legislation and/or the health of economy (e.g. construction sector) can be traced with a delay. For example, the impact of the 2008 crisis has got a delayed signal in year 2012 with the lowest number of judgements in the last 15 years. The distribution between energy and non-energy commodities case is related to the difference in number of extraction sites, and maybe even more to the number of operators in the subsector, i.e. there are numerous SMEs in the aggregates and industrial minerals sector.

Typically, the vast majority of the cases are related to the non-energy minerals but the distribution according to the exploration vs. extraction permitting shows no general pattern, maybe somewhat more cases are related to extraction permitting. During the extraction permitting and during the actual extraction phase a significant number of cases are related not to permitting in the strict sense but to disputes over affairs business in nature (selling mining right, delayed royalty payment, etc.).

Table 3: Hungary. Number of court judgements per year (2008-2015).

2008	
Court judgements in total: 32 of which	
Non-energy minerals: 25	
Energy minerals: 7	
non-energy cases	
exploration	**5**

mining plot	**8**
extraction	**6**
other (post-extraction)	**6**
2009	
Court judgements in total: 37 of which	
Non-energy minerals: 33	
Energy minerals: 4	
non-energy cases	
exploration	**5**
mining plot	**3**
extraction	**14**
other (post-extraction)	**11**
2010	
Court judgements in total: 57 of which	
Non-energy minerals: 54	
Energy minerals: 3	
non-energy cases	
exploration	**6**
mining plot	**8**
extraction	**20**
other (post-extraction)	**18**
2011	
Court judgements in total: 29 of which	
Non-energy minerals: 2	
Energy minerals: 8	
non-energy cases	
exploration	**4**
mining plot	**5**
extraction	**5**
other (post-extraction)	**7**
2012	
Court judgements in total: 16 of which	
Non-energy minerals: 10	
Energy minerals: 6	
non-energy cases	
exploration	**5**
mining plot	**0**
extraction	**1**
other (post-extraction)	**4**

2014	
Court judgements in total: 33 of which	
Non-energy minerals: 28	
Energy minerals: 5	
non-energy cases	
exploration	**6**
mining plot	**0**
extraction	**15**
other (post-extraction)	**7**
cases that started and ended between 2013-2015	**18**
2015	
Court judgements in total: 30 of which	
Non-energy minerals: 27	
Energy minerals: 3	
non-energy cases	
exploration	**7**
mining plot	**0**
extraction	**12**
other (post-extraction)	**8**
cases that started and ended between 2013-2015	**19**

Source: Hungarian Office for Mining and Geology

The vast majority of the appellants were the mining entrepreneurs, the minor part were other interested clients (e.g. the landowner, or green NGOs). The defendants are typically the permitting authorities, mostly the Hungarian Office for Mining and Geology and its legal predecessors, and in max. 2-3 % of the studied cases the environmental authority, or the local municipality.

According to the data of the Hungarian Office for Mining and Geology, ca. 80-85 % of the cases are won by the defendant authority and the rest is by the appellant. It is also a general observation that the Hungarian courts tend to decide and bring their judgements upon procedural misconducts, gaps and errors, and they try to avoid making judgements on basis of strictly professional details, and the interpretation of professional provisions of the relevant legislation.

However, in these latter cases the appellants usually propose to invite registered (chartered) professional experts for their "independent" opinion and expertise. Whenever this happens, the defendant authority usually loses the case.

Another observation with regard to the EU context is that since the accession of 2004 there are a very few cases when a piece of the Community legislation is cited and referred to during the court appeals (e.g. Extractive Waste Directive).

The case law significantly had an impact on legislation making, the Mining Act and its implementing Government and Ministerial Regulations have been amended at least 30 times during the last 23 years, since its publication in 1993, due to the lessons learnt during these court appeals.

Most decisive and representative court judgements

The presented cases hereby were selected in accordance with the content of the "Jogtár", a collection of the body of Hungarian legislation accessible for charge, where the most important case-law is inserted into the Mining Act and its implementation Government Regulation. There are also cases which were selected from the database of the Hungarian Office for Mining and Geology.

Case No.: Case C-15/14 P.

Name of court: European Court of Justice

Date of judgment: 4th June 2005

Name of appellant (applicant): European Commission

Name of defendant: MOL Oil and Gas Company

Judgement in favour of:

Relevance to which stage of permitting: mining royalty payment, State aid - Agreement between Hungary and the oil and gas company MOL relating to mining fees in connection with the extraction of hydrocarbons. Subsequent amendment to the statutory rules increasing the rate of the fees - Increase in fees not applied to MOL. Decision declaring the aid incompatible with the common market - Selective nature.

Piece of legislation on which the claim (or appeal) is based: Mining Act

Description (summary) of the case: this case is in the energy field; however, the judgement has got relevance to the internal market rules and on the national legislation as well with regard undistorted competition vs. exclusive contracts between the government and a licensee.

Legal context

2 Hungary has regulated all mining activities, including those relating to hydrocarbons, by Act XLVIII of 1993 on mining activities ("the Mining Act"). Pursuant to that act, regulatory functions are exercised by the Minister for Mines and by the Mining Authority, which supervises mining activities.

3 The Mining Act provides that mining exploration and activities may be carried out under two different legal regimes. For areas categorised as "closed", Art. 8 to 19 of the Mining Act establish a regime in which, following an open tendering procedure for each closed area, a concession is granted on the basis of a contract concluded between the Minister for Mines and the winner of the open tender competition. Areas categorised as "open", a priori considered less rich in mineral raw materials, may be exploited by way of authorisation issued by the Mining Authority, provided the operator fulfils the legal conditions.

4 Art. 20 of the Mining Act establishes the rules for fixing the mining fees which must be paid to the State. Art. 20(11) provides that the amount of the mining fee is a percentage defined, as the case may be, in the Mining Act, in the concession contract or in the contract concluded pursuant to Art. 26/A (5) of the Mining Act. Art. 20(2) to (7) of that act provides that for mineral resources extracted under the authorisation regime, the fee is regulated by the Mining Act.

5 Before 2008, the mining fee for the extraction of hydrocarbons, crude oil and natural gas under authorisation was fixed at 12% of the value of the quantity extracted for fields put into production from 1 January 1998 onwards or was derived from the application of a mathematical formula which took into account the average price of natural gas purchased by the public gas service, subject to a floor of 12%, for natural gas fields put into production before 1 January 1998.

6 Art. 26/A (5) of the Mining Act provides that where, under the authorisation regime, that is to say for fields located in open areas, a mining company does not start extraction within five years of the date of authorisation, it may ask the Mining Authority, once only, to extend this deadline by no more than five years. If the Mining Authority agrees to this, a contract between the Minister in charge of mining issues and the mining company establishes, for the fields which are the subject of that extension, the quantity of materials to be used as a basis for calculating the mining fee and the rate of that fee, which must be higher than the rate applicable at the date of the extension application, but no more than 1.2 times that rate ("the extension fee"). If the extension application concerns more than two fields, the rate of the extension fee is applied to all of the mining company's fields by a contract entered into for a period of at least five years ("the increased mining fee"). If the extension application concerns more than five fields, a special fee may be required, corresponding to a maximum of 20% of the amount payable on the basis of the increased mining fee.

7 Act CXXXIII of 2007 on mining activities amending the Mining Act ("the 2008 amendment"), which came into force on 8 January 2008, amended the rate of the mining fee.

8 Thus, following this amendment, Art. 20(3) of the Mining Act provides for a rate of 30% of the value of the quantity extracted for fields put into production between 1 January 1998 and 31 December 2007, for the existing mathematical formula under the Mining Act regime to be applied to natural gas fields put into production before 1 January 1998, subject to a floor of 30%, and for a differentiated mining fee to be applied to fields where production began after 1 January 2008, according to the quantity of crude oil or natural gas extracted, that is to say, a rate of 12% where the annual quantity produced does not exceed 300 million m3 of natural gas or 50 kt of crude oil, a rate of 20% for production between 300 million m3 of natural gas and 500 million m3 of natural gas or between 50 kt of crude oil and 200 kt of crude oil and a rate of 30% for production over 500 million m3 of natural gas or 200 kt of crude oil. Finally, for all fields, regardless of the date on which they were brought into production, the mining fee payable is increased by 3% or 6% if the price of Brent crude oil exceeds 80 United States dollars (USD) or 90 USD respectively.

9 Art. 235 of Act LXXXI of 2008 amending rates of taxes and fees amends the Mining Act by reducing, back down to 12%, the mining fee for fields put into production between 1 January 1998 and 31 December 2007 and the minimum mining fee payable for natural gas fields put into production before 1 January 1998. That amendment entered into force on 23 January 2009.

Background to the dispute

10 MOL Magyar Olaj- és Gázipari Nyrt. ("MOL") is a company established in Budapest (Hungary) which has as its core activities the exploration for, and production of, crude oil, natural gas and gas products, the transportation, storage and distribution of crude oil products at both retail and wholesale levels, the transmission of natural gas and the production and sale of alkenes and polyolefins.

11 On 19 September 2005, MOL sought extension of the mining rights for 12 of its hydrocarbon fields for which authorisation had been obtained but where extraction had not started.

12 On 22 December 2005, the Minister for Mines and MOL concluded an extension agreement pursuant to Art. 26/A(5) of the Mining Act ("the 2005 agreement"), granting a five-year extension of the deadline to start exploiting those 12 hydrocarbon fields and setting the extension fee to be paid by MOL to the State as follows: for Year 1, 12% x 1.050 = 12.600%; for Year 2, 12% x 1.038 = 12.456%; for Year 3, 12% x 1.025 = 12.300%; and, for Years 4 and 5, 12% x 1.020 = 12.240%.

13 Under point 4 of the 2005 agreement, the increased mining fee applies for a period of 15 years from the date when that agreement came into effect to all MOL's fields already exploited under authorisation, that is to say, 44 hydrocarbon fields where production started after 1 January 1998 and 93 natural gas fields where production started before that date. The rate of the increased mining fee for the fifth year of the extension period applies until the 15th year. In respect of the natural gas fields, the multiplier for each of the five years of extension applies to the mathematical formula established by Art. 20(3)(b) of the Mining Act, with the multiplier for the fifth year applying until the 15th year.

14 Point 6 of the 2005 agreement provides for payment of a special fee of 20,000 million Hungarian forints.

15 Point 9 of that agreement provides that the rate of the extension fee, the rate of the increased mining fee, the basis of calculation, the percentage and all the factors used to calculate those fees are determined, for the entire duration of the 2005 agreement, exclusively by the provisions of that agreement and that the rates defined in that agreement will remain unchanged or constant for its entire duration.

16 Point 11 of the 2005 agreement prohibits the parties from unilaterally terminating that agreement, save in the case in which a third party were to acquire more than 25% of MOL's capital. It also provides that the agreement comes into force as of the date on which the Mining Authority's resolution takes effect. That resolution was passed on 23 December 2005, effectively confirming the extension of the deadline to start exploiting the 12 hydrocarbon fields and the payments to be made by MOL and determined by that agreement.

17 Following a complaint received on 14 November 2007, the Commission, by letter of 13 January 2009, informed the Hungarian authorities of its decision to initiate the formal investigation procedure provided for in Art. 88(2) EC with respect to the 2005 agreement, in so far as it exempted MOL from the mining fee increase resulting from the 2008 amendment. The Commission considered that the 2005 agreement and the provisions of the 2008 amendment were part of the same measure ("the measure at issue"), which had the effect of conferring an unfair advantage on MOL, and therefore constituted State aid within the meaning of Art. 87(1) EC. By letter of 9 April 2009, Hungary submitted its comments on the decision to initiate the formal investigation procedure, denying that that measure constitutes State aid.

18 Following on from the observations filed by MOL and the Hungarian Mining Association, and after Hungary had sent, on 21 September 2009 and 12 January 2010, documents requested by the Commission, on 9 June 2010 the Commission adopted the decision at issue according to which the measure at issue constituted State aid within the

meaning of Art. 107(1) TFEU, incompatible with the common market, and ordering Hungary to recover the aid from MOL.

Procedure before the General Court and the judgment under appeal

19 By application lodged at the Registry of the General Court on 8 October 2010, MOL brought an action, primarily, for annulment of the decision at issue, or, in the alternative, for the annulment of that decision in so far as it orders recovery of the amounts concerned.

20 MOL raised three pleas in law in support of its action, alleging, respectively, infringement of Art. 107(1) TFEU and Art. 108(1) TFEU, and infringement of Art. 1(b)(v) and Art. 14(1) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Art. 108 of the [TFEU] (OJ 1999 L 83, p. 1).

21 In its first plea, MOL contested the categorisation of the measure at issue as State aid.

22 The General Court examined in particular the second argument raised within that plea, alleging that the measure at issue was not selective. In that regard, the General Court first stated in paragraph 54 of the judgment under appeal that the application of Art. 107(1) TFEU requires it to be determined whether, under a particular statutory scheme, a state measure is such as to favour "certain undertakings or the production of certain goods" over others which are in a comparable legal and factual situation in the light of the objective pursued by that scheme.

23 Next, the General Court stated, in paragraph 62 of the judgment under appeal, that, in the present case, the contested measure consists of two elements, that is to say, the 2005 agreement, which sets the mining fee rates for all of MOL's fields, whether in production or subject to an extension, for each of the 15 years of its duration, and the 2008 amendment, which increases mining fee rates for all hydrocarbon fields under authorisation, but does not contain any provisions relating to fields that have already been subject to an extension agreement.

24 Finally, the General Court stated in paragraph 63 of the judgment under appeal that the fees stipulated by the 2005 agreement, which applied both to fields already in production and to fields concerned by the extension of authorisation, were higher than the statutory fees applicable at the time of its conclusion, and it concluded that that agreement did not involve any State aid element for the purposes of Art. 107 TFEU.

25 In paragraphs 64 and 65 of the judgment under appeal, the General Court also held, that where a Member State concludes with an economic operator an agreement which does not involve any State aid element for the purposes of Art. 107 TFEU, the fact that, subsequently, conditions external to such an agreement change in such a way as to confer an advantage on that operator is not a sufficient basis on which to conclude that, together, the agreement and the subsequent modification of the conditions external to that agreement may be regarded as constituting State aid.

26 However, the General Court considered in paragraph 66 of the judgment under appeal that the situation would be different if the terms of the agreement concluded were proposed selectively by the State to one or more operators rather than on the basis of objective criteria, laid down by a text of general application, applicable to any operator. The General Court, however, pointed out that the fact that only one operator has concluded an agreement of that type may result, inter alia, from an absence of interest by any other operator, and is not sufficient therefore to establish the selective nature of that agreement.

27 Finally, the General Court observed in paragraph 67 of the judgment under appeal that, for the purposes of Art. 107(1) TFEU, a combination of elements may be categorised as State aid if, having regard to their chronology, their purpose and the circumstances of the undertaking at the time of their intervention, those elements are so closely linked to each other that they are inseparable from one another (see, to that effect, judgment in Bouygues and Bouygues Télécom v Commission and Others and Commission v France and Others, C-399/10 P and C-401/10 P, EU:C:2013:175, paragraphs 103 and 104).

28 The General Court concluded that a combination of elements such as that mentioned by the Commission in the decision at issue may be categorised as State aid where the State acts in such a way as to protect one or more operators already present on the market, by concluding with them an agreement granting them fee rates guaranteed for the entire duration of that agreement, whilst having the intention of subsequently exercising its regulatory power by increasing the fee rate so that other market operators, new or already present on the market, are placed at a disadvantage.

29 It is in the light of those considerations that the General Court examined whether, in the present case, the Commission was right to find that the contested measure was selective.

30 In the first place, the General Court, in paragraphs 70 to 73 of the judgment under appeal, examined the legal framework governing the conclusion of the 2005 agreement. It stated in that regard that Art. 26/A(5) of the Mining Act, which makes it possible to apply for an extension of the mining rights, does not appear to be a provision of a selective nature; nor can it be inferred from that provision that the Hungarian authorities may refuse to open negotiations with a view to concluding such an agreement. The General Court also found that, even if that provision provides that any mining undertaking may make an application to extend its mining rights, such an undertaking may, however, decide not to make that application or not to accept the rates proposed by the Hungarian authorities so that there is no resulting agreement.

31 With regard to the margin of assessment granted to the Hungarian authorities by Art. 26/A(5) of the Mining Act in relation to the rate of the extension fee, which determines, where applicable, that of the increased mining fee, the General Court found that such a margin of assessment cannot automatically be regarded as favouring certain undertakings or the production of certain goods over others and, thus, conferring a selective nature on the extension agreements concluded, given that it may be justified by various factors, such as the number of fields for which an extension has been granted and their estimated importance in relation to the fields already in production.

32 In the present case, the General Court found that the margin of assessment conferred by Art. 26/A(5) of the Mining Act is such as to enable the administration to preserve equal treatment between operators according to whether they are in comparable or different situations, by adjusting its proposed fees to the characteristics of each extension application submitted, and that it appears to be the expression of a latitude limited by objective criteria, which are not unrelated to the system of fees established by the legislation in question. According to the General Court, that margin of assessment can be distinguished, by its nature, from cases where the exercise of such a margin is connected with the grant of an advantage in favour of an economic operator, since, in the present case, it allows the fixing of an additional charge on economic operators in such a manner as to take account of the imperatives arising from the principle of equal treatment.

33 Furthermore, the General Court stated in paragraph 73 of the judgment under appeal that it follows from Art. 26/A(5) of the Mining Act that the rates of the extension fee and, where applicable, the rates of the increased mining fee are determined exclusively by the extension agreement, in accordance with Art. 20(11) of the Mining Act.

34 The General Court concluded in paragraph 74 of the judgment under appeal that the fact that the rates set by year of validity are the result of negotiation does not suffice to confer on the 2005 agreement a selective character, and that the situation would have been different only if the Hungarian authorities had exercised their margin of assessment during the negotiations resulting in that agreement in such a way as to favour MOL by agreeing to a low fee level without any objective reason having regard to the rationale of increasing fees in the event of an extension of authorisation and to the detriment of any other operator having sought to extend its mining rights or, failing such an operator, where there is concrete evidence that unjustified favourable treatment had been reserved to MOL.

35 In the second place, the General Court examined whether the selective nature of the 2005 agreement had been demonstrated by the Commission, inter alia, in the light of the clause setting the precise rate of the increased mining fee for each of the 15 years of the period of validity of that agreement, and of the clause providing that those rates remain unchanged.

36 In that regard, the General Court observed in paragraph 76 of the judgment under appeal that the Mining Act is drafted in general terms as regards the undertakings that may benefit from the provisions of Art. 26/A (5) of that act. The General Court also found in paragraph 77 of the judgment under appeal that, in the decision at issue, the Commission merely found that MOL was the only undertaking in practice to have concluded an extension agreement in the hydrocarbons sector. However, according to the General Court, this may be explained by an absence of interest on the part of other operators, and thus by an absence of any extension application or any agreement between the parties on the rates of the extension fee. The General Court concluded that, in the two latter cases, since the criteria laid down by the Mining Act for the conclusion of an extension agreement are objective and applicable to any potentially interested operator fulfilling those criteria, the conclusion of the 2005 agreement cannot be regarded as being of a selective nature.

37 Furthermore, the General Court found in paragraph 78 of the judgment under appeal that by setting the rate of the increased mining fee for each of the 15 years of the period of validity of the 2005 agreement and by providing that those rates would remain unchanged, MOL and Hungary merely applied the provisions of Art. 20(11) and Art. 26/A(5) of the Mining Act.

38 Next, the General Court emphasised in paragraph 79 of the judgment under appeal that the rates stipulated in the 2005 agreement apply to all of MOL's fields already in production under authorisation, that is, to 44 hydrocarbon fields and to 93 natural gas fields, whereas the extension concerns only 12 other fields not in production at the time of conclusion of the agreement. Therefore, the fact that the multiplier is below the ceiling of 1.2, and specifically between 1.02 and 1.05, may be explained objectively by the limited significance of the fields concerned by the extension in relation to the fields already in production in 2005. The Commission having failed to examine that aspect, the General Court considered that no evidence of MOL's unjustified preferential treatment is apparent from the decision at issue, and that it cannot be assumed that MOL was afforded favourable treatment in relation to any other undertaking that was potentially in a comparable situation.

39 Finally, the General Court found in paragraph 80 of the judgment under appeal that, although the Commission mentioned the existence of other extension agreements concluded by mining undertakings in the solid minerals sector, it did not attempt to find any more information about them from the Hungarian authorities and did not take account of them in the decision at issue, from which it is clear, moreover, that the selective nature of the measure at issue stems from the selectivity of the 2005 agreement and not from the nature of the minerals extracted, the rates of fees applicable to those categories of minerals or from the fact that those rates were not

subsequently modified. The General Court concluded that, by its approach, the Commission did not take account of all the factors which would have enabled it to assess whether the 2005 agreement was selective as regards MOL in the light of the situation created by other extension agreements also concluded on the basis of Art. 26/A (5) of the Mining Act.

40 In the light of all those considerations, the General Court concluded in paragraph 81 of the judgment under appeal that the selective nature of the 2005 agreement could not be regarded as established.

41 In addition, the General Court stated, in paragraph 82 of the judgment under appeal, that the increase in fees under the amended Mining Act, which entered into force in 2008, occurred in a context of an increase in international crude oil prices. It inferred from this that, since the Commission had not argued that the 2005 agreement had been concluded in anticipation of an increase in mining fees, the combination of that agreement with the amended Mining Act could not validly be categorised as State aid for the purposes of Art. 107 TFEU.

42 Consequently, the General Court upheld the action brought by MOL and annulled the decision at issue.

The appeal

43 In support of its appeal, Commission relies on a single ground, alleging an error of law, in that General Court misinterpreted and misapplied the condition of selectivity laid down in Art. 107(1) TFEU.

44 The ground of appeal is divided into four parts.

Preliminary observations

45 Under Art. 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the provision of certain goods is to be incompatible with the common market, in so far as it affects trade between Member States, save as otherwise provided for in the Treaties.

46 According to settled case-law of the Court, for a measure to be categorised as aid within the meaning of Art. 107(1) TFEU, all the conditions set out in that provision must be fulfilled (see judgment in Commission v Deutsche Post, C-399/08 P, EU:C:2010:481, paragraph 38 and the case-law cited).

47 It is thus well established that, for a national measure to be categorised as State aid within the meaning of Art. 107(1) TFEU, there must, first, be an intervention by the State or through State resources; second, the intervention must be liable to affect trade between Member States; third, it must confer an advantage on the recipient and, fourth, it must distort or threaten to distort competition (see judgment in Commission v Deutsche Post, C-399/08 P, EU:C:2010:481, paragraph 39 and the case-law cited).

48 In the present case, it is only the interpretation and application of the third condition, that the measure at issue must confer a selective advantage on the recipient, that are called into question.

The first part of the single ground of appeal

Arguments of the parties

49 The Commission criticises the General Court's analysis of the legal framework governing the conclusion of the 2005 agreement and, in particular, the discretion enjoyed by the Hungarian authorities with regard to the choice of whether or not to conclude an extension agreement and with regard to the level of the fee which they set in such an agreement.

50 In the first place, the Commission claims that the General Court's examination, in paragraphs 70 to 74 and 79 to 81 of the judgment under appeal, of the discretion enjoyed by the Hungarian authorities in concluding an extension agreement is legally flawed.

51 The General Court did not find that the Hungarian authorities are required to conclude an extension agreement following negotiations, but stated in paragraph 57 of the judgment under appeal that, according to Hungary, "the conclusion of such an agreement was not obligatory", then found in paragraph 77 of that judgment that the fact that MOL is the only hydrocarbons producer to have concluded an extension agreement may be explained by there being no agreement between the parties on the rates of the extension fee.

52 It is therefore clear from the judgment under appeal that the Mining Act confers on the Hungarian authorities a discretion enabling them to approve of or object to the conclusion of an extension agreement, which is not subject to objective criteria and is therefore selective in nature. The Commission also claims that the fact that the mining undertakings have the choice of whether or not to apply for an extension, as the General Court pointed out in paragraph 71 of the judgment under appeal, is not relevant in that regard.

53 Consequently, the General Court's conclusion in paragraph 83 of the judgment under appeal that the selective nature of the measure at issue has not been established should be reviewed.

54 That conclusion contradicts the case-law of the Court of Justice, in particular the judgment in France v Commission (C-241/94, EU:C:1996:353, paragraphs 23 and 24), in which the Court of Justice found that, by virtue of its aim and general scheme, the system at issue was liable to place certain undertakings in a more favourable situation than others since the competent authority enjoyed a degree of latitude which enabled it to adjust its financial assistance having regard to various considerations such as, in particular, the choice of the beneficiaries, the amount of financial assistance and the conditions under which it was provided. It also disregarded the judgment in P (C-6/12, EU:C:2013:525, paragraph 27), in which the Court of Justice held that, when national legislation confers a discretion on national authorities with regard to the detailed rules for the application of the measure at issue, the decisions of those authority's lack selectivity only if that discretion is limited by objective criteria, which are not connected with the system put in place by the legislation in question.

55 In the second place, the Commission claims that the General Court's analysis is also incorrect in that it disregards the discretion conferred on the Hungarian authorities as regards the level of the mining fee set by them in an extension agreement. That is liable to render the 2005 agreement selective.

56 According to the Commission, the reasons given by the General Court in paragraph 72 of the judgment under appeal, that the margin of assessment is such as to enable the administration to preserve equal treatment between operators, are not presented in the national legislative framework as factors determining the measure in which the mining fee must be increased and therefore constitute mere suppositions. Consequently, the General Court disregarded the case-law of the Court of Justice, in particular, the judgments in France v Commission (C-241/94, EU:C:1996:353); Ecotrade (C-200/97, EU:C:1998:579); Piaggio (C-295/97, EU:C:1999:313); DM

Transport (C-256/97, EU:C:1999:332); P (C-6/12, EU:C:2013:525); Ministerio de Defensa and Navantia (C-522/13, EU:C:2014:2262); and British Telecommunications v Commission (C-620/13 P, EU:C:2014:2309).

57 Furthermore, the Commission claims that, contrary to what the General Court stated in paragraph 72 of the judgment under appeal, the fact that the 2005 agreement gave rise to a charge for MOL at the time that agreement was concluded does not mean that it is not selective.

58 MOL disputes the Commission's line of argument contending, first, that it is not apparent from the judgment under appeal that Art. 26/A (5) of the Mining Act leaves the Hungarian authorities a margin of discretion with regard to the conclusion of an extension agreement, and secondly, that the case-law relied on by the Commission is not relevant in the present case.

Findings of the Court

59 It must be observed at the outset that, as the Advocate General stated in point 47 of his Opinion, the requirement as to selectivity under Art. 107(1) TFEU must be clearly distinguished from the concomitant detection of an economic advantage, in that, where the Commission has identified an advantage, understood in a broad sense, as arising directly or indirectly from a particular measure, it is also required to establish that that advantage specifically benefits one or more undertakings. It falls to the Commission to show that the measure, in particular, creates differences between undertakings which, with regard to the objective of the measure, are in a comparable situation. It is necessary therefore that the advantage be granted selectively and that it be liable to place certain undertakings in a more favourable situation than that of others.

60 It must, however, be noted that the selectivity requirement differs depending on whether the measure in question is envisaged as a general scheme of aid or as individual aid. In the latter case, the identification of the economic advantage is, in principle, sufficient to support the presumption that it is selective. By contrast, when examining a general scheme of aid, it is necessary to identify whether the measure in question, notwithstanding the finding that it confers an advantage of general application, does so to the exclusive benefit of certain undertakings or certain sectors of activity.

61 It follows that the appropriate comparator for establishing the selectivity of the measure at issue in the present case was to ascertain whether the procedure for concluding and setting the terms and conditions of the agreement extending mining rights, laid down in Art. 26/A(5) of the Mining Act, draws a distinction between operators that are, in the light of the objective of the measure, in a comparable factual and legal situation, a distinction not justified by the nature and general scheme of the system at issue.

62 It follows from those considerations that the present case must be clearly distinguished from those cases giving rise to the case-law mentioned by the Commission in support of its arguments, set out in paragraphs 54 and 56 above, seeking to criticise the analysis made by the General Court of the legal framework governing the 2005 agreement.

63 Those cases relate to provisions of national law granting relief on taxes or other charges (judgments in France v Commission, C-241/94, EU:C:1996:353; Piaggio, C-295/97, EU:C:1999:313; DM Transport, C-256/97, EU:C:1999:332; P, C-6/12, EU:C:2013:525; Ministerio de Defensa and Navantia, C-522/13, EU:C:2014:2262; and British Telecommunications v Commission, C-620/13 P, EU:C:2014:2309), or exceptions in matters of insolvency (judgment in Ecotrade, C-200/97, EU:C:1998:579).

64 As the Advocate General stated in point 86 of his Opinion, there is a fundamental difference between, on the one hand, the assessment of the selectivity of general schemes for exemption or relief, which, by definition, confer an advantage, and, on the other, the assessment of the selectivity of optional provisions of national law prescribing the imposition of additional charges. In cases in which the national authorities impose such charges in order to maintain equal treatment between operators, the simple fact that those authorities enjoy discretion defined by law, and not unlimited, as the Commission claimed in its appeal, cannot be sufficient to establish that the corresponding scheme is selective.

65 Consequently, it must be stated, first, that the General Court correctly held in paragraph 72 of the judgment under appeal that the margin of assessment at issue in the present case allows the fixing of an additional charge imposed on economic operators in order to take account of the imperatives arising from the principle of equal treatment, and can be distinguished, by its very nature, from cases in which the exercise of such a margin is connected with the grant of an advantage in favour of a specific economic operator.

66 Secondly, it cannot validly be argued that the General Court erred in law by finding, in paragraph 74 of the judgment under appeal that the fact that the rates set by year of validity of the 2005 agreement are the result of negotiation does not suffice to confer on that agreement a selective character, and that the situation would have been different only if the Hungarian authorities had exercised their margin of assessment in such a way as to favour MOL by agreeing to a low fee level without any objective reason having regard to the rationale of increasing fees in the event of an extension of authorisation and to the detriment of any other operator having sought to extend its mining rights or, if there is no such operator, where there is concrete evidence that unjustified favourable treatment has been reserved to MOL.

67 In addition, in order to determine whether the selective nature of the 2005 agreement had been demonstrated by the Commission, the General Court first analysed, in paragraph 79 of the judgment under appeal, the rates stipulated under that agreement and found that no evidence of unjustified preferential treatment of MOL was apparent from the decision at issue, and that therefore it could not be assumed that MOL was afforded favourable treatment in relation to any other undertaking that was potentially in a situation comparable to its own for the purposes of the case-law cited in paragraph 54 of the judgment under appeal.

68 Secondly, the General Court found in paragraph 80 of the judgment under appeal that, although the Commission had mentioned that there were other extension agreements in the solid minerals sector, it did not take account of them, and that in doing so it did not take into consideration all the factors by means of which it would have been in a position to assess whether the 2005 agreement was selective as regards MOL in the light of the situation created by other agreements extending mining rights, also concluded on the basis of Art. 26/A(5) of the Mining Act.

69 Following the analysis carried out in paragraphs 70 to 74 and 79 to 80 of the judgment under appeal, the General Court was right to conclude, in paragraph 81 of that judgment, that, in the light, first, of the absence of selectivity characterising the legal framework governing the conclusion of agreements extending mining rights and given the considerations justifying the grant of a margin of assessment, and secondly, of the absence of any evidence that those authorities treated MOL favourably in relation to any other undertaking in a comparable situation, the selective nature of the 2005 agreement cannot be regarded as established.

70 In the light of all the above considerations, it must be held that the General Court did not err in law in its examination, in paragraphs 70 to 74 and 79 to 81 of the judgment under appeal, of the legal framework governing the conclusion of the 2005 agreement.

71 The first part of the single ground of appeal must, therefore, be rejected as unfounded.

Second part of the single ground of appeal

Arguments of the parties

72 The Commission claims that, in holding in paragraphs 76 to 78 of the judgment under appeal that the presence of objective criteria necessarily rules out any possibility of selectivity, the General Court disregarded the case-law of the Court of Justice to the effect that reliance on objective criteria in order to determine whether certain undertakings are covered by a national measure does not necessarily lead to the conclusion that there was no selectivity (see, to that effect, judgments in Spain v Commission, C-409/00, EU:C:2003:92, paragraph 49, and GEMO, C-126/01, EU:C:2003:622, paragraphs 35 and 39).

73 It is therefore appropriate, in the Commission's view, to review paragraphs 76 to 78 of the judgment under appeal and the General Court's conclusion in paragraphs 81 and 83 of that judgment that the selective nature of the 2005 agreement and the measure at issue cannot be regarded as having been established.

74 MOL contends that the Commission's arguments are based on a misreading of the judgment under appeal and that the case-law cited by the Commission is not relevant in the present case.

Findings of the Court

75 It must be stated that, in paragraphs 76 to 78 of the judgment under appeal, the General Court analysed the legal framework governing the conclusion of agreements extending mining rights, including the 2005 agreement, as provided for in Art. 26/A(5) of the Mining Act.

76 In order to do so, the General Court examined whether or not the mining fee rate was set on the basis of objective criteria applicable to any potentially interested operator. Thus, the General Court noted first, in paragraph 76 of the judgment under appeal, that the Mining Act was drafted in general terms as regards the undertakings eligible for the extension of mining rights. Next, the General Court found, in paragraph 77 of that judgment, that the fact that MOL was the only undertaking to have concluded an extension agreement in the hydrocarbons sector did not necessarily constitute evidence of selectivity, since the criteria for concluding such an agreement are objective and applicable to any potentially interested operator, and the absence of other agreements may result from decisions by undertakings themselves not to apply for an extension of mining rights. Lastly, the General Court stated, in paragraph 78 of the judgment under appeal, that the mining fees set for the term of the 2005 agreement stem simply from the application of the provisions of the Mining Act.

77 It follows from those arguments that, in criticising the General Court for holding that the presence of objective criteria necessarily rules out any possibility of selectivity and for having consequently disregarded the case-law to the effect that a particular aid scheme cannot be cleared of being selective solely on the ground that the beneficiaries are selected on the basis of objective criteria (judgments in Spain v Commission, C-409/00, EU:C:2003:92, paragraph 49, and GEMO, C-126/01, EU:C:2003:622, paragraphs 35 and 39), the Commission misreads the judgment under appeal.

78 In any event, it must be stated that, as MOL contends, in the cases giving rise to those judgments, the Court of Justice addressed the issue of whether or not the beneficiaries of State aid schemes were selected on the basis of objective criteria. Thus, in particular in the judgment in GEMO (C-126/01, EU:C:2003:622), the Court found that, despite the fact that the beneficiaries of the scheme adopted by national law were defined on

the basis of objective and apparently general criteria, the benefits of that law accrued largely to farmers and slaughterhouses.

79 As the Advocate General stated in point 91 of his Opinion, that issue is not in question in the present case, so that the case-law arising from those judgments is not relevant in these proceedings.

80 Therefore, the second part of the single ground of appeal must be rejected as unfounded.

The third and fourth parts of the single ground of appeal

81 Since the arguments set out in support of the third and fourth parts of the single ground of appeal are closely connected, it is appropriate to examine them together.

Arguments of the parties

82 In essence, the Commission criticises the General Court for holding, in paragraphs 64 and 65 of the judgment under appeal, that the presence of a selective advantage cannot be deduced from the mere fact that the operator is left better off than other operators, when the Member State concerned justifiably confined itself to exercising its regulatory power following a change on the market.

83 The Commission argues that, in doing so, the General Court disregarded the case-law to the effect that, for the purposes of the application of Art. 107(1) TFEU, it makes no difference whether the situation of the presumed beneficiary of the measure in question is better or worse over time (judgments in Greece v Commission, 57/86, EU:C:1988:284, paragraph 10, and Adria-Wien Pipeline and Wietersdorfer & Peggauer Zementwerke, C-143/99, EU:C:2001:598, paragraph 41).

84 According to the Commission, what is relevant, is that, after 8 January 2008, MOL was the only undertaking to enjoy preferential treatment in relation to the level of the mining fee applicable to hydrocarbon fields.

85 In addition, the Commission claims, first, that, since the change at issue was a legislative amendment on which the Member State was free to decide as it saw fit, the approach followed by the General Court authorises Member States to argue that measures are not selective by reason of the methods they use. Secondly, in paragraphs 67 and 82 of the judgment under appeal, the General Court was wrong to link the assessment of the selective nature of the 2005 agreement, and therefore the measure at issue, to whether or not the Member State concerned had the intention, at the time of concluding that agreement, of protecting one or more operators from the application of a new fee regime, in this instance, the regime introduced by the 2008 amendment.

86 According to the Commission, the General Court thus disregarded the settled case-law of the Court of Justice to the effect that Art. 107(1) TFEU defines State interventions on the basis of their effects, and independently of the techniques used by the Member States to implement their interventions (see, inter alia, judgments in Belgium v Commission, C-56/93, EU:C:1996:64, paragraph 79; Belgium v Commission, C-75/97, EU:C:1999:311, paragraph 25; British Aggregates v Commission, C-487/06 P, EU:C:2008:757, paragraph 89; and Commission v Government of Gibraltar and United Kingdom, C-106/09 P and C-107/09 P, EU:C:2011:732, paragraphs 91, 92 and 98).

87 MOL contends that the third and fourth parts of the single ground of appeal must be rejected given that, contrary to what the Commission claims, paragraphs 64, 65, 67 and 82 of the judgment under appeal do not concern selectivity.

Findings of the Court

88 As a preliminary point, it must be stated that, in paragraphs 62 and 63 of the judgment under appeal, the General Court observed that the contested measure consists of two elements, namely, the 2005 agreement and the 2008 amendment, and found that that agreement did not involve any element of State aid for the purposes of Art. 107 TFEU.

89 In that context, the General Court first of all held, in paragraph 64 of the judgment under appeal, that, where a Member State concludes with an economic operator an agreement which does not involve any element of State aid for the purposes of Art. 107 TFEU, the fact that, subsequently, conditions external to such an agreement change in such a way that the operator in question is in an advantageous position vis-à-vis other operators that have not concluded a similar agreement is not a sufficient basis on which to conclude that, together, the agreement and the subsequent modification of the conditions external to that agreement can be regarded as constituting State aid.

90 Next, the General Court made it clear, in paragraph 65 of the judgment under appeal, that, if that were not the case, any agreement that an economic operator might conclude with a State which does not involve any element of State aid for the purposes of Art. 107 TFEU would always be open to challenge, when the situation on the market on which the operator party to the agreement is active evolves in such a way that an advantage is conferred on that operator, as described in paragraph 64 of the judgment under appeal, or when the State exercises its regulatory power in an objectively justified manner following a market evolution while observing the rights and obligations resulting from such an agreement.

91 Finally, General Court held in paragraph 66 of the judgment under appeal that a combination of elements such as that observed by the Commission in the decision at issue may be categorised as State aid where the terms of the agreement concluded were proposed selectively by State to one or more operators rather than on the basis of objective criteria, laid down by a text of general application, applicable to any operator. General Court made it clear in that regard that the fact that only one operator concluded an agreement of that type is not sufficient to establish selective nature of agreement, since that may result from, inter alia, lack of interest on the part of any other operator.

92 Moreover, the General Court stated, in paragraph 67 of the judgment under appeal, that the case-law of the Court of Justice, according to which, for the purposes of Art. 107(1) TFEU, a single aid measure may consist of combined elements on condition that, having regard to their chronology, their purpose and the circumstances of the undertaking at the time of their intervention, they are so closely linked to each other that they are inseparable from one another (judgment in Bouygues and Bouygues Télécom v Commission and Others and Commission v France and Others, C-399/10 P and C-401/10 P, EU:C:2013:175, paragraphs 103 and 104 and the case-law cited).

93 In that context, the General Court emphasised, in paragraph 67 of the judgment under appeal, that a combination of elements such as that relied upon by the Commission in the decision at issue may be categorised as State aid when the State acts in such a way as to protect one or more operators already present on the market, by concluding with them an agreement granting them fee rates guaranteed for the entire duration of that agreement, while having the intention at that time of subsequently exercising its regulatory power, by increasing the fee rate so that other market operators are placed at a disadvantage, be they operators already present on the market on the date on which that agreement was concluded or new operators.

94 It was in the light of those considerations that the General Court, in paragraph 68 of the judgment under appeal, decided that it was necessary to examine whether, in those proceedings, the Commission was entitled to consider that the contested measure was selective.

95 It follows from the foregoing that paragraphs 64 to 67 of the judgment under appeal do not, as such, concern the examination of the selectivity of the 2005 agreement, but are preliminary explanations aimed at introducing the relevant framework in relation to which the General Court examined whether the Commission was correct in finding that the measure at issue was selective.

96 As the Advocate General stated in points 107 and 114 of his Opinion, by those preliminary explanations, the General Court in fact sought to deal with the issue of the links existing between the 2005 agreement and the 2008 amendment, which the Commission had not specifically addressed in the decision at issue, and more particularly, to underline the fact that, given that there is no chronological and/or functional link between those two elements, they cannot be interpreted as constituting a single aid measure.

97 By those preliminary explanations, the General Court merely applied the case-law laid down by the Court of Justice in the judgment in Bouygues and Bouygues Télécom v Commission and Others and Commission v France and Others (C-399/10 P and C-401/10 P, EU:C:2013:175), to which the General Court also expressly referred in paragraph 67 of the judgment under appeal, and according to which, since State interventions take various forms and have to be assessed in relation to their effects, it cannot be excluded that several consecutive measures of State intervention must, for the purposes of Art. 107(1) TFEU, be regarded as a single intervention. That could be the case, in particular when consecutive interventions, having regard to their chronology, their purpose and the circumstances of the undertaking at the time of those interventions, are so closely related to each other that they are inseparable from one another.

98 In a similar vein, in paragraph 82 of the judgment under appeal, the General Court found, first, that the increase in mining fees, which entered into force in 2008, occurred in a context of an increase of international prices, and secondly, the Commission had not argued that the 2005 agreement had been concluded in anticipation of such an increase, and it therefore concluded that the combination of that agreement and the 2008 amendment could not be categorised as State aid for the purposes of Art. 107 TFEU.

99 It follows that the General Court's reasoning in paragraphs 64 to 67 and 82 of the judgment under appeal is not vitiated by any error of law.

100 In addition, it must be stated that the Commission's assertion that what is relevant is that, after 8 January 2008, MOL was the only undertaking to enjoy preferential treatment cannot be accepted. It is common ground in the present case, as is clear from paragraph 46 of the judgment under appeal, that the question whether the measure at issue is selective in nature was discussed by the parties solely in respect of the 2005 agreement, and not the 2008 amendment.

101 In the light of all of the foregoing, the third and fourth parts of the single ground of appeal must be rejected as unfounded.

102 Since none of the arguments raised by the Commission in support of its single ground of appeal has been upheld, the appeal must be rejected in its entirety.

Case No.: III.37.508/2009/5

Name of court: Curia

Date of judgment: 9th February 2010

Name of appellant (applicant): "T" Ltd.

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: the appellant

Relevance to which stage of permitting: prospection, exploration

Piece of legislation on which the claim (or appeal) is based: Art. 41 and 49 of Mining Act and Art. 17/B of HU-L5

Description (summary) of the case: Appellant made soil mechanical surveys prior to specific extraction for highway aggregates, and took also samples for lab analysis. The mining inspectorate observed the prospection at an on-site inspection and sanctioned the operator because of the unpermitted activity. The operator had no contract either with the company who constructed the highway.

According to the judgement, the soil mechanical prospection and soil survey is out of the scope of the Mining Act. The defendant could not prove that the appellant had the intention of extracting the aggregate, the sampling activity does not correspond to illegal extraction. The geotechnical investigations are explicit precursors to the highway aggregates extraction, the geotechnical report itself is a mandatory part of the complex extraction plan, according to HU-L5. Therefore, there was no evidence for the mala fide intentions and activities of the appellant.

Case No.: VI.20.281/2014/5

Name of court: Curia

Date of judgment: 17th June 2014

Name of plaintiff (or appellant): "E" municipality

Name of defendant: mining operators

Judgement in favour of: both

Relevance to which stage of permitting: extraction

Piece of legislation on which the claim (or appeal) is based: Civil Code, and the Act on state accounting

Description (summary) of the case:

The municipality had a dolomite quarry, and leased it to one of the defendants in 1995 who extended it to the neighbouring lands, and established a mining plot. They set contracts in which they agreed upon collecting the profit and paying the mining royalty. In 2000 they signed a new agreement on the utilization of the mine.

In 2006 they signed a new contract in which the municipality also envisaged to allocate the land ownership to the defendant, and the remaining mineral reserves of the mine as a compensation to a certain payment.

Later on, the new leadership of the municipality asked the court to annul the 2006 contract by referring to the Civil Code, and the Act on state accounting, saying that procedure and price for land ownership transfer was not complying with the above laws, and the price irrationally low as compared to the value of the remaining mineral reserve.

The Curia in its justification pointed out that the price of the land paid by the defendant was 1/6 of the actual market price. The Curia also set that the reference by the appellant on the value of the mineral reserves is inappropriate in this subject, the calculation its price with the in-situ volume times the daily market price is not an appropriate basis for a corrective judicial ruling, therefore the appellant must be compensated only with the price difference of the sold land.

Case No.: III.37.148/2015/8

Name of court: Curia

Date of judgment: 20th May 2015

Name of plaintiff (or appellant): "X" Ltd.

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: the defendant

Relevance to which stage of permitting: exploration TOP

Piece of legislation on which the claim (or appeal) is based: Mining Act and its implementing Government Regulation, Civil Code

Description (summary) of the case:

The mining inspectorate issued an exploration right permit for the Ltd. in 2011 for two areas. In the same year, the inspectorate issued a permit for exploration TOP with the conditions that until 2nd May 2014 the Ltd has to drill 18 boreholes. On 6th March 2014 on an on-site inspection the inspectorate observed that only 2 boreholes were accomplished. On 12th March 2014, the inspectorate ruled the Ltd for the amendment of the TOP but the same day the Ltd declared that it wants to continue with the original plan. On 12th April, the Ltd asked for the decrease the exploration area and for the amendment of the TOP. On 23rd April, the Ltd asked for the prolongation of the period of the exploration TOP permit.

At another on-site inspection, the mining inspectorate observed that no exploration activity was done, it refused the claim for the prolongation of the exploration period on 16th May 2014. The Ltd appealed at the second-instance, afterwards it went to the Court of Public Administration and Labour Affairs of Miskolc (first-instance jurisdiction), and after that to the Curia.

The judgement of the Curia declared that the first and second instance mining authorities' resolution

and procedures were right as well as that of the first-instance court. The ruling explained that the case must be judged on the basis of the legislation that was in force on the day of submitting the application for the permit. According to the relevant art. of the Mining Act and its Government Regulations, there was no justified vis major which prevented the Ltd from performing the permitted exploration activity.

Case No.: II. 37 720/2011

Name of court: Curia

Date of judgment: 2011

Name of plaintiff (or appellant): "Z" Ltd

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: the defendant

Relevance to which stage of permitting: mining plot, extraction, royalty

Piece of legislation on which the claim (or appeal) is based: Art. 26 and 30 of the Mining Act

Description (summary) of the case:

A gravel pit mining plot establishment resolution came into force in 1999. The Ltd. bought the mining right from the original licensee. The licensee had a valid extraction TOP permit until 31 December 2009. The appellant paid its mining royalty dues in most years during this period. The landowner of the mining plot reported that that there is no real extraction activity on the mining plot, and asked for the "ex officio" closure of the mine from the mining inspectorate. In 2010 the regional mining inspectorate investigated the case but did not find the complaint justified.

The landowner appealed at the second-instance (Hungarian Office for Mining and Geology) which ordered the inspectorate to repeat the investigation. As a result, the inspectorate deleted the mining right on 21st September 2007.

The Ltd appealed against the deletion at the second-instance (Hungarian Office for Mining and Geology) which confirmed the resolution of deletion on 16th November 2010. The Ltd appealed at the Court of first-instance which repealed the resolution of the defendant on the deletion of mining rights.

The Court noted that in the central part of the mining plot was extraction activity between 2000-2004, therefore decided that the applicant Ltd is right.

The defendant and the landowner appealed at the Curia against the first-instance Court decision. The Curia brought a judgement in which it declared that the licensee has got 5 years legal deadline to start the extraction when it has got the extraction TOP. This deadline was 2nd July 2004, and the appellant had not started extraction on this part of the mining plot. Therefore, the deletion of the mining plot was lawful.

Case No.: II.37.301/2012/9.

Name of court: Curia

Date of judgment: 20th March 2013

Name of plaintiff (or appellant): represented by Oppenheim

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: defendant

Relevance to which stage of permitting: exploration TOP

Piece of legislation on which the claim (or appeal) is based: of legislation is the appeal based on: Law on Public Administration Procedures, Mining Act

Description (summary) of the case:

The mining inspectorate issued an exploration right on 23 February 2006 for a diatomite resource acreage. The landowners have not received this resolution. In 2007 it also approved the exploration TOP for 2007-2011 period, against which the landowners appealed. The second-instance confirmed the first-instance permit with one condition that the licensee has to set an agreement with landowners prior to the start of activity.

The landowners were not satisfied with this outcome and set an appeal at the court. The court refused their claim. They went on to the Curia with their application.

The Curia annulled, repealed the court judgement, the second-instance resolution and the first-instance permit, and ordered the mining inspectorate to reprocess the permitting procedure. In its justification the Curia expressed that the TOP permit was valid since already at the exploration right permit was not valid because the inspectorate had not informed the landowners. The TOP permitting also was unlawful since the inspectorate did not invite the environmental inspectorate for its consent, although there was a Natura2000 site on the area.

In the repeated permitting procedure, the inspectorate refused the exploration TOP on 16th February 2011. The company appealed but the second-instance confirmed the first-instance referring to the judgement of the Curia. The case went on to court and later ended up in front of the Curia. The appellant this time also referred to several pieces of EU legislation, inter alia the FTEU (Art. 49).

Nevertheless, the Curia reinforced its earlier judgement in this case.

Case No.: VI.37.432/2010/7.

Name of court: Curia

Date of judgment: 28th February 2011

Name of plaintiff (or appellant): Magyar Dekor Ltd.

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: defendant

Relevance to which stage of permitting: mining plot, extraction TOP

Piece of legislation on which the claim (or appeal) is based: Mining Act

Description (summary) of the case:

The mining inspectorate deleted the mining plot of a gravel quarry of the appellant because the inspectorate found it at an on-site inspection that the Ltd did not make any actual extraction activity and it did not remove the soil layer either, moreover it did make any legal attempts to change the land use category of the given land.

The Ltd appealed but the second-instance authority, the Hungarian Office for Mining and Geology confirmed the first-instance decision on 14th July 2009. The justification was referring to the 5 years' deadline within which the licensee had not start the extraction.

The case went to the county court which reinforced the second-instance resolution.

The Ltd appealed again at the Curia. The Curia expressed in its judgement that the questioned authority resolutions have dispositions on the deletion of mining right, and not the mining plot, and the 5 years' deadline was an absolute legal reason for the cancellation of the right, and the appellant did not ask for the prolongation which it could have done.

Case No.: IV. 37.800/2009, BH2011 154.

Name of court: Constitutional Court, Curia

Date of judgment: 2011

Name of plaintiff (or appellant): "W" Ltd.

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: appellant

Relevance to which stage of permitting: extraction, mining plot

Piece of legislation on which the claim (or appeal) is based: Mining Act, Art. 15 and 26

Description (summary) of the case:

On 5th February 2008, the mining inspectorate deleted the mining plot called "SZ" of a sand quarry because the operator had not submitted any TOP for the extraction since the permit establishing the mining plot of 22 November 1999. According to Article 22(5) of the Mining Act the mining plot ex lege was deleted on 22nd November 2005.

The second-instance authority confirmed the deletion. However, it found that the mining right was transferred on "W" Ltd on 6th November 2006. Actually, there was an extraction TOP which was prolonged until 31st December 2005.

The case went to court. The appellant presented that the mining plot has got an environmental permit which was valid until 31 December 2010. It also referred to the fact that the Hungarian Office for Mining and Geology accepted its reports and payments on mining royalty. The first-instance court accepted the points of arguments of the appellant, and repealed the resolution which annulled the mining plot. In its justification, the court expressed that the interpretation of the Mining Act was wrong by the inspectorate.

The defendant appealed at the Curia. The Curia made a decision without having held hearings, and confirmed the rulings of the first-instance county court. In its judgement, it referred back to the relevant judgement of the Constitutional Court (ABH 2004, 35, 45). In this judgement, the Constitutional Court declared that the Mining Act had no deadline according to the mining plot establishment, within which the extraction activity must start. This gap in the Mining Act was corrected later on in its amendment.

Case No.: K-H-KJ-2015-197

Name of court: Curia

Date of judgment: 18th February 2015

Name of plaintiff (or appellant): Magyar Díszítőkő

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction

Piece of legislation on which the claim (or appeal) is based: Mining Act definitions

Description (summary) of the case:

The mining inspectorate had an on-site inspection on 27th November 2013 at which it observed that construction and demolition waste was disposed of at the mining plot. The inspectorate prohibited this activity, and ordered the removal of the waste and the remediation of that area.

Following the appeal the second-instance authority confirmed the above measures on 20th February 2014, however acknowledged that the inspectorate should not have had ordered the operator to amend the extraction TOP because it is possible only upon the claim of the operator. It also stressed that there were problems with the performance of the operator earlier already.

The company appealed. The first-instance court repealed the resolution of the Hungarian Office for Mining and Geology. In its judgements, the court expressed that the C&D waste disposal is not classified as a "mining activity" applying the definition as provided by the Mining Act, therefore this activity can't be classified as an unlawful mining activity. According to its interpretation there can be other activities on the mining plot than mining activities.

The defendant went for an appeal to the Curia. The Curia found that the interpretation of the first-instance court was wrong. In its justification, the Curia stressed that the content of the extraction TOP is of decisive importance and in this respect the nature of the waste whether being extractive or C&D is irrelevant. The TOP must cover all activities which are planned on the mining plot. The operator had the option to ask for the amendment of the TOP but it had not taken this opportunity.

Case No.: Kfv. II. 37.520/2014/5.

Name of court: Curia

Date of judgment: 18 June 2014

Name of plaintiff (or appellant): MAL Zrt

Name of defendant: Hungarian Office for Mining and Geology

Judgement in favour of: appellant

Relevance to which stage of permitting: mine waste classification

Piece of legislation on which the claim (or appeal) is based: transposed and implementation pieces of the Extractive Waste Directive

Description (summary) of the case:

The mining inspectorate rejected the mine waste management plan of the appellant on two of its bauxite extraction sites (Nyirád, Halimba) on 4 April 2012. During the appeal the

second-instance authority (the defendant) confirmed the first-instance resolutions on 11 June 2012. The judgement stated that upon basis of the documents on laboratory analysis attached to the claim, the waste was non-inert, therefore the waste management plan was not in accordance with the GKM Ministerial Regulation No. 14/2008. The composition of waste, the concentration of some toxic metals exceeded the threshold values as provided by the KVVM-EÜM-FVM joint Ministerial Regulation on threshold values for soil, subsoil and groundwater.

According to the Annex of the latter regulation the analytical technique involves a preparatory technique with aqua regia. However, the lab analysis of the appellant involved a preparation with distilled water. The Court invited an independent registered expert to the case for his expert opinion. The expert declared that in nature it is to investigate the composition of the leachate coming from the waste, and it is similar to the distilled water in chemical characteristics. The court accepted the opinion and repealed the decision of the mining authority.

The defendant appealed at the Curia. The defendant expressed in front of the Curia that the regulation aims at the determination of the "total soluble metal content", and it is clearly regulated that it must be measured following the aqua regia preparation and dissolution technique. However, there is no Community legislation on this issue. It also noted that there is an indicative official list of inert mine wastes in Hungary but the bauxite is not listed in it.

The Curia agreed with the arguments of the defendant authority. The Curia confirmed that the inspectorate applied the 2009/358/EC Commission Decision in an appropriate sense.

Conclusions

In Hungary, following the transition from socialism to market economy, a new Mining Act was published in 1993, a new Environmental Act was approved in 1995, and a new Nature Conservation Act was published in 1996. According to the information of the Hungarian Bureau of Mines existing and managing most of those court cases during those years, in the 1990's 20-30 court cases had been running annually in parallel of which 10-15 ended up in a final court judgement. However, it is useless to present those cases because the national legislation changed a lot since then, and Hungary experienced a major change in legislation when joining the European Union on 1st May 2004. However, the accession itself has not changed the mining legislation substantially.

The number of second-instance appeals and court appeals has been continuously increasing since the turn of the century, up to 200-250 second-instance and 110-120 court cases had been running annually in parallel, respectively according to the database of the Hungarian Office for Mining and Geology which was established upon the merger of the Hungarian Geological Survey and the Hungarian Bureau of Mines in 2007. This also implies that **half of the clients who went for the second-instance level also continued the appeal in front of the court**.

As it is shown in the below table on the statistics of the 2008-2015 period, the **number of final judgements varies between 16 and 57 but it is around 30 on the average annually**. The correlation with changes in legislation and/or the health of economy (e.g. construction sector) can be traced with a delay. For example, the impact of the 2008 crisis has got a delayed signal in year 2012 with the lowest number of judgements in the last 15 years. The distribution between energy and non-energy commodities case is related to the difference in number of extraction sites, and maybe even more to the number of operators in the subsector, i.e. there are numerous SMEs in the aggregates and industrial minerals sector.

Typically, the vast majority of the cases are related to the non-energy minerals but the distribution according to the exploration vs. extraction permitting shows no general

pattern, maybe somewhat **more cases are related to extraction permitting**. During the extraction permitting and during the actual extraction phase a significant number of cases are related not to permitting in the strict sense but to disputes over affairs of business in nature (selling mining right, delayed royalty payment, contractual conflicts with landowners or joint venture partners, etc.).

The vast majority of the appellants were the mining entrepreneurs, the minor part were other interested clients (e.g. the landowner, or green NGOs). The defendants are typically the permitting authorities, mostly the Hungarian Office for Mining and Geology and its legal predecessors, and in max. 2-3 % of the studied cases the environmental authority, or the local municipality.

According to the data of the Hungarian Office for Mining and Geology, **ca. 80-85 % of the cases are won by the defendant authority** and the rest is by the appellant. It is also a general observation that the **Hungarian courts tend to decide and bring their judgements upon procedural misconducts**, gaps and errors, and they **try to avoid making judgements on basis of strictly professional details**, and the interpretation of professional provisions of the relevant legislation.

However, in these latter cases the **appellants usually propose to invite registered (chartered) professional experts** for their "independent" opinion and expertise. Whenever this happens, the **defendant authority usually loses the case**.

Another observation with regard to the EU context is that since the accession of 2004 there are a **very few cases when a piece of the Community legislation is cited** and referred to during the court appeals (e.g. Extractive Waste Directive). There is also only one case which reached the level of the European Court of Justice, in the energy commodity sector, as presented above.

The **case law significantly had an impact on legislation making, the Mining Act and its implementing Government and Ministerial Regulations have been amended at least 30 times during the last 23 years**, since its publication in 1993, due to the lessons learnt during these court appeals.

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1.9. Success rates of exploration and extraction permits

The present report is based on the information provided by the five mining inspectorates (mining departments of the county government offices, HU-E1-20). The following data were collected:

In 2013:

68 exploration permitting applications were submitted (exploration right claim + exploration technical operation plan claim), the distribution of which with regard to non-energy commodity groups were:

0 ores

1 industrial minerals

67 aggregates/construction minerals

of which

59 was approved (87 % success rate).

In 2013:

138 extraction permitting applications were submitted (exploration final report, mining plot establishment, extraction technical operation plan approval), the distribution of which with regard to non-energy commodity groups were:

0 ores

12 industrial minerals

126 aggregates/construction minerals

of which

102 was approved (74 % success rate).

The above listed 68+138 permit applications have overlapping cases (ca. 20-30), those ones which submitted a final report or mining plot or extraction TOP already in 2013. In this respect, it is not reasonable to provide the sum of these two numbers. However, at **ca. 60 areas there are still valid permits and/or already active extraction is going on**, therefore it is a good assumption that ca. 1/3, **33% of the original applications are still on-going successful mining projects**. It is worth noting that the **vast majority of these are in the aggregates sector**.

The reasons of the rejection by the authorities are colourful, there are case when

- the applicant did not pay the licensing fee,
- inadequate information in spite of corrective option by the authority,
- the licensee did not submit the exploration TOP,
- lack of co-authority consent, the license did not submit the final exploration report,
- ex officio and ex lege deletion of mining plot after 6 years of suspension of extraction activity,
- abandoned the area by the licensee itself because of economic reasons.

It is important to note that in numerous cases the principal intention of the applicant applying for an area was not the accomplishment of the project to extraction but only to cover the area for the legally allowed period of time in order to inhibit other competitors to access to a favourable location (e.g. nearby to a highway or railway construction for the period of the actual construction).

As a conclusion, the permitting itself is not the only burden on entrepreneurs, the competition and the economic conditions are equally important. This is expressed in the 74-87% permitting success rates as compared to the overall ca. 30 % overall survival rate of the projects. It is also remarkable that the exploration is

still easier for permitting (87 %) than the extraction phase licensing when financial guarantees, environmental permitting, etc. may hinder the success.

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1.10. EU legislation impacting permits and licenses for exploration and extraction

1) Does your country have any restrictive regulation on the private or legal entities performing the duties of an exploration or extraction concessioner, operator and/or holder of mineral rights as compared to the Services Directive (2006/123/EC)?

   Not known by the author

2) Does any of your permitting documentation require the involvement/signature of a geologist or mining engineer? If yes, which are these permits? Does it require a BSc or MSc or PhD or chartered (certified) professional?

   Final report on exploration shall be drawn up on the results of the exploration, as well as the reserve calculation report shall be countersigned by a registered (chartered) geological expert registered at Hungarian Mining and Geological Bureau (Act on Mining and Decree 40/2010 (V. 12) KHEM). Mining engineer has to be registered at MBFH.

3) Do you have a legislation on financial guarantees (with regard to the Extractive Waste Directive, Art. 14)? Is the cost calculation of this guarantee done by an independent third party?

   a.) Yes, Decree 14/2008 (IV. 3) of the GKM, Art. 13. b.) No, it is calculated by the applicant and approved by the mining authority

4) Is there a list of inert mine waste published in your country in accordance with Art. 1(3) of Comm. Dec. 2009/359/EC?

   Yes, the list was published in the Official Journal No 10 of year 2011, pp. 1378-1381. http://www.kozlonyok.hu/kozlonyok/Kozlonyok/12/PDF/2011/10.pdf

5) Do you use the risk assessment of 2009/337/EC Commission Decision of 20 April 2009 on the definition of the criteria for the classification of waste facilities in accordance with Annex III of Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries for abandoned sites as well?

   Yes, according to Annex 1 to the Decree 14/2008 (IV. 3) of the GKM

6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Article 3: MS may declare at their own option, that the deposit of non-hazardous non-inert mine waste, to be defined by the committee established under Art. 17 of this Directive can be exempted from the provisions in Annex I, points 2, 3.1, 3.2 and 3.3 (location screening, multiple barriers, leachate collection)?

   Wastes from the extractive industry are not subject to Decree 20/2006 (IV. 5.) KvVM on landfill, but regulated under Decree 14/2008 (IV. 3.) on management of wastes from the extractive industry

7) Does a mine operator has to prepare and submit both a general waste management plan and a mine waste management plan as well? To the same or separate authorities?

   Not known by the author

8) Has your national legislation transposed the Accounting Directive (2013/34/EC), with special regards its Art. 41-48 on the extractive industry? Do these rules on financial reporting appear in the concession law or mining act either?

   The Directive has been transposed, but the rules do not appear in the mining legislation

9) Has your national legislation transposed the Transparency Directive (2004/109/EC, 2013/50/EU), especially Article on the extractive industry? Do these rules appear in the concession law or mining act either?

   The Directive has been transposed, but the rules do not appear in the mining legislation

10) Does your competent authority ask for or check the CE marks of the exploration or extraction equipments when permitting or when having on-site inspections? Does the mining authority have a regulatory/supervision right in product safety/market surveillance in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance?

    Yes, during inspections, according to Decree 203/1998 (XII. 19)