



MINLEX - Czech Republic Country Report

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1. CZECH REPUBLIC

1.1. Summary of findings

The Czech's mining and quarrying industry's share of total gross value added decreased from 1.2 % in 2005 to 0.8 % in 2014. Employment in mining and quarrying has also been falling over the long term and the industry's share of total employment in the national economy fell to 0.6 % in 2014. Mining legislation in the Czech Republic distinguishes between "reserved" minerals, which are state-owned, and "non-reserved" minerals (or deposits) which are owned by the landowner. All minerals, with the exception of building stone, gravel, and clays are "reserved" minerals.

The primary legal basis of mineral extraction activity is the Mining Law (Mining Act) No. 44 of 1988, as amended by Law No. 186 of 2006. For prospecting and exploration for reserved mineral deposits the most relevant law is the one No. 62/1988 Coll., on Geological Work (the Geological Act) as amended. Other important national Acts are the Act on EIA, Forest Act, Act on Land and Soil, Act on Nature and Landscape, etc. ***In the field of exploration of mineral deposits the Ministry of Environment is the most important authority, i.e. the Ministry lays down the exploration areas. In the sphere of exploitation, the District Mining Authorities are the most important state bodies. The District Mining Authorities (eight in total) are part of the State Mining Administration (SMA), which is composed also by the Czech Mining Office in Prague (central mining authority), establishing a centralised permitting regime.***

For prospecting and exploration, an application for "reserved" minerals is to be considered by the Ministry of the Industry and Trade with the approval of the Ministry of the Environment. Within the scope of planning and conducting the prospecting for and exploration of reserved mineral deposits, the organisation must consider the conditions and interests protected by 32 special regulations (Section 22 of the Act on Geological Work). These primarily refer to the laws for the protection of landscape and nature, agricultural and forest land, the Water and Mining Acts, etc. ***An organisation can prospect and explore for "non-reserved" minerals only upon agreement with the landowner.***

An application for the extraction of "reserved minerals" will be managed by the Ministry of the Industry and Trade after consultation with the Czech Mining Authority. First the Ministry of Environment issues the ***certificate on the deposit of reserved minerals and lays down a deposit protection area.*** The "permission for mining activity" – opening, preparation and exploitation is issued by the District Mining Authorities. Together with the permission for mining activity, a district mining authority usually decides about the establishment of guarantees for remediation and restoration and for mining damages. In the case of "non-reserved" minerals (e.g. sand) the first and essential condition of mining business is an authorisation for activity carried out by mining. The second condition is a *zoning decision* and the third one is *the permission for exploitation of deposit of non-reserved mineral*. The zoning decision is issued by a building authority and the *permission for exploitation of non-reserved deposit of minerals* is issued by a District Mining Authority. The issuing of a mining permit depends also on fulfilling the demands of special acts, for example the Act on EIA, Forest Act, Act on Land and Soil, Act on Nature and Landscape, etc. The administrative bodies providing these acts have the position of interested co-authorities (e.g. water offices, spatial plan offices, etc.). The average permitting success rates in the period 2013-2015 were 43 % and 92 % for exploration and exploitation permits, respectively.

1.2. General introduction

Like in many other industrial countries, the position of the Czech mining is not very favourable these days. This situation has different reasons and it could be connected with possible impacts to many domains of whole society, for example to social conditions of citizens, employment, economic development etc. Even if the contemporary position of Czech mining is worse than it used to be in the past, it is possible to declare that mining is still an important part of modern economy in the Czech Republic. In the country, there are more than 3000 organisations providing different types of mining activities, including exploitation, exploration, underground works etc. The total number of mining areas is 978. In 2015 the State Mining Administration of the Czech Republic issued more than 200 new permissions (or permits) for exploitation of mineral sources. The number of employees working in the mining sector by exploitation of minerals represents about 23,000 persons.

The importance of minerals, measured by this sector's share of gross value added (GVA) and employment in the entire national economy of the country, remains very small and has a declining trend. The mining and quarrying industry's share of total GVA decreased from 1.2% in 2005 to 0.8% in 2014. Employment in mining and quarrying has also been falling over the long term and the industry's share of total employment in the national economy fell to 0.6 % in 2014. Mining and quarrying's share of total employment in the national economy is lower than its share of total GVA and shows that labour productivity in this industry is higher compared with the average productivity in the entire national economy.

According to the index of industrial production based on the production statistics for selected products, mining and quarrying underwent a complex development in 2008–2013 and production continued to decline with the exception of 2011. Compared to 2005, production in this industry fell by nearly 20% (the fixed base index of industrial production 2014/2005 equalled 78.6). The fall in the production of energy minerals was even sharper. Production and processing of bituminous and brown coal fell by 30% in 2006–2014. On the other hand, production of natural gas rose, but it carries very little weight in the entire mining and quarrying industry. The future trend in the production and processing of bituminous and brown coal, which has the largest share of production in mining and quarrying (nearly 70%), will depend on the trend in demand and on resolving the issues of ecological limits in North Bohemia.

As a result of a sharp rise in prices the industry registered strong growth in 2008. However, the situation worsened dramatically during the double-dip recession and general stagnation of the Czech economy in 2009–2014, when prices rose only slightly and GVA declined both in real terms (constant prices) and nominal terms (current prices). From a macroeconomic perspective, the low and diminishing importance of mining and quarrying is due to the Czech Republic's mineral scarcity (with the exception of coal and construction minerals) and dependence on imports of important energy minerals and other raw materials (primarily crude oil and natural gas). Other additional factors are the ongoing structural changes and the declining importance of a mineral-dependent industry. According to the tables of inter-industry relations for 2010, a decisive part of resources (domestic production and imports) of the mining and quarrying industry was used for intermediate products (nearly 70%), and the largest consumers were two industries – production of coke and petroleum refining, and the supply of electricity, natural gas and water. In the case of other minerals, there were three main consumers – production of other non-metallic mineral products, production of basic metals, and construction. Minerals used primarily for the production of construction materials such as stone, sand, limestone, or kaolin thus reflect the situation in construction output. That is why it is necessary to also assess the importance of domestic minerals based on the weight of the mineral-based manufacturing branches in the national economy. Environmental aspects are also an

indispensable factor because the mining industry has a predominantly negative effect on the environment¹.

Mineral ownership

Mining legislation in the Czech Republic distinguishes between “reserved” deposits, which are state owned, and “non-reserved” deposits which are owned by the landowner. All minerals with the exception of building stone, gravel and clays are reserved deposits, i.e. state-owned.

¹ Mineral Commodity Summaries of the Czech Republic, 2015 edition, data to 2014, Czech Geological Survey

1.3. Legislation governing mineral exploration and extraction

The primary legal basis of mineral extraction activity is the Mining Law (Mining Act) No. 44 of 1988, as amended by Law No.186 of 2006.

1/ In the sphere of the Czech mining law the most important acts were in 2013 – 2016:

a/ the Act No. 44/1988 Coll., on the protection and utilization of mineral resources (The Mining Act), as amended later. It is originally a federal act and it is valid in both parts of former Czechoslovakia yet.

The Act No. 44/1988 Coll.:

- defines minerals,
- makes a division of minerals (on “reserved” and “non-reserved”),
- defines a mineral wealth,
- regulates regime of issuing certificates on reserved deposit of minerals.

This act regulates also:

- deposit protection areas,
- mining licences,
- principles of economic using of mineral wealth,
- some questions connected with remediation and restoration,
- mining royalty from mining areas and from exploited minerals,
- mining reserves on remediation and restoration and on mining damages,
- problems of old mine workings,
- mining waters,
- special impacts into the earth’s crust etc.;

b/ the Act No. 61/1988 Coll., on mining activity, explosives and the State Mining Administration, as amended later. This act is the most important regulation in the domain of the Czech mining law and includes rules for:

- mining activity,

- activity carried out by mining,
- health and safety at mining,
- safety of operation in mining,
- mining rescue service,
- technical facilities,
- qualifications necessary for pursuance of regulated professions,
- explosives (including their production and storage)
- blasting operations,
- underground facilities,
- offences and sanctions,
- structure of organisation of the State Mining Administration;

c/ the Act No. 62/1988 Sb., on geological works (The Geological Act), as amended later, declares which works are considered as a geological activity, defines conditions for pursuance of geological activities, solves the question of exploratory areas etc.

d/ the Act No. 157/2009 Coll., on mining waste management and on amendments to some laws, in wording by act No. 168/2013 Coll. This act is a regulation influenced by requirements of EU law, especially by requirements of Directive 2006/21/EU.

2/ Many decrees and other secondary regulations were published to the acts mentioned above

The majority of cases of secondary regulation is performed by decrees issued by the Czech Mining Authority; sometimes it has a form of a governmental order.

Except the basic secondary regulations - 45 essential decrees issued to the acts No. 61/1988 Coll., 44/1988 Coll. and 157/2009 Coll. - there are many decrees making amendments of this basic decrees.

From this regulation, it is necessary to mention:

a/ Decree No. 22/1989 Coll., on safety and protection of work and safety of operations in mining activities and in extracting non-reserved minerals underground, as amended later; this decree is an essential regulation for underground mining. It has more than 330 articles and 3 annexes.

This decree regulates (btw.):

- basic requirements on working places in underground,
- basic requirements on documentation,
- basic requirements on technical facilities used in underground,
- management of underground work,
- questions of responsibility etc.

b/ Decree No. 26/1989 Coll., on safety and health protection and operational safety in mining activities and activities undertaken on the surface using mining methods, as amended later. The structure of the decree is very closed to the Decree No. 22/1989 Coll. This decree has more than 180 art.

This decree regulates (btw.):

- -basic requirements on working places on the surface,
- -basic requirements on documentation,
- -basic requirements on technical facilities used on the surface,
- -management of underground work,
- -questions of responsibility etc.

c/ Decree No. 51/1989 Coll., on health and safety protection at work and safety of operations in processing and refinement of minerals, as amended later. This is the third most important decree for the Czech mining and in the domain of the Czech Mining Law. It is focused on mineral processing, except the processing of gas and oil. The safety requirements described in decree No. 51/1989 Coll. are very similar to the demands solved in decrees No. 22/1989 Coll. and No. 26/1989 Coll.

d/ Decree No. 104/1988 Coll., on economical exploitation of reserved deposits, on permitting and notification of mining activities and notification of activities carried out by mining methods, as amended later, is a very important regulation. The decree was issued to realisation of the Act No. 44/1988 Coll. and to realisation of the Act No. 61/1988 Coll. Therefore, the decree regulates two issues – the first one is a rational utilization of mineral deposits, the second one is a process of permitting of mining activities.

The decree solves:

- yield of deposits,
- losses of materials at mining and at mineral processing,
- documentation for permitting of mining.

1.4. Authorities governing mineral exploration and extraction

In the field of exploration of minerals deposits the Ministry of Environment is the most important authority, i.e. the Ministry lays down the exploration areas, etc. In the sphere of exploitation, the District Mining Authorities are the most important state bodies. The District Mining Authorities (8 in total) are part of the State Mining Administration (SMA) which is composed also by the Czech Mining Office in Prague (central mining Authority). Besides the Czech Mining Authority in Prague, the bodies of the SMA are the District Mining Authorities for the territories of: 1) Capitol city Prague and Central Bohemia Regions, 2) Pilsen (Plzeň) and South Bohemia Regions, 3) Karlovy Vary Region, 4) Ústí nad Labem Region, 5) Hradec Králové and Pardubice Regions, 6) South Moravia and Zlín Regions, 7) MoraviaSilesia and Olomouc Regions and 8) Liberec and Highland (Jihlava) Regions. The Czech Mining Authority is an appeal instance (as a central authority of state administration).

An application regarding prospecting and exploration is to be considered by the Ministry of the Industry and Trade with the approval of the Ministry of the Environment. An application regarding extraction will be managed by the Ministry of the Industry and Trade after a consultation with the Czech Mining Authority. The decisions of the State Mining Administration bodies are reviewable by an administrative justice. In the first instance, there are the County courts which decide about the accusations. The second instance deciding about the cassation is the Supreme Administrative Court with the seat in Brno.

1.5. Licensing procedures for exploration

The exploration of mineral deposits is practiced in exploration areas, which are laid down by the Ministry of Environment. If the exploration is realised by the mining works (in the case of extensive and challenging exploration) the District Mining Authority permits this task as a special type of mining activity.

The Activities of the Ministry of Environment encompass:

- making of geological legislation
- giving an authorisation for the responsible investigator of exploration,
- granting an exploration permit,
- taking on annual reports concern exploration
- taking on final report with reserve calculation
- determining payback on state-funded exploration
- giving results of exploration for land use planning
- establishing the Czech geological survey
- verifying the rules from the Geological Law are followed
- appointment of the responsible person for the protection of state-owned mineral deposits and register of its reserves for no mined deposits
- administration of register of reserves of the state-owned mineral deposits
- laying down of the mineral deposit protection areas
- giving a previous approval for submitting an application for mining rights

District Mining Authorities are responsible for the following activities:

- giving an authorisation for mining activities
- inspect observation the rules according to the Mining Act and Act on mining activities
- giving an approval for exploration using gallery or shaft (adit/gallery more than 100 m, prospect shaft deep more than 40 m)
- giving an approval for blasting.

The Czech geological survey provides:

- registering projects of exploration
- archiving and lending of reports of geological exploration results and calculation of reserves of mineral deposits.
- Permitting chain for exploration procedures and activities

Exploration procedures and activities	Law, Decree
authorisation for responsible investigator of exploration	Art 3 of the Geological Act
authorisation for mining activities	Art 5 of the of the Geological Act
give an exploration permit	Art 4 of the of the Geological Act
Project of exploration activities	Art. 6 of the Geological Act
Register of exploration activities	Art. 7 of the Geological Act
give an approval for exploration using adit or pit – if projected	Art 9 of the Geological Act

Approval of blasting – if projected	Art. 27 of the Act No. 61/1988 Coll.
Carry out of exploration – geological documentation, evaluation of data. Annual report	Art. 9 of the Geological Act Art. 9 of the Geological Act
Calculation of reserves, Final report	Art. 10 of the Geological Act
Handing it Final report with calculation of reserves and announcement discovery of mineral deposit	Art. 12 of the Geological Act Art 14 of the Mining Act Art. 9 of the Geological Act
Certificate on State owned Mineral deposit	Art. 6 of the Mining Act
name artificial person for protection of state owned mineral deposit and register of its reserves for no mined state-owned deposits	Art. 8 of the Mining Act
Determine of the deposit protection areas	Art. 17 of the Mining Act
Previous approval for submit an application for mining rights; determine payback on state-funded exploration	Art 24 of the Mining Act

Reserved minerals

Prospecting and exploration for reserved mineral deposits, by virtue of the Law No. 62/1988 Coll., on Geological Work (the Geological Act) as amended, may be conducted by an individual or organisation, providing that the work is managed and guaranteed by a qualified and certified person (certified responsible manager for the geological work). An organisation seeking to prospect for and explore these mineral deposits, to verify their reserves, and to process geological documents for their exploitation and protection, must make a request to the Ministry of the Environment to establish an exploration area.

The proceedings, subject to administrative rules, are concluded by the establishment or non-establishment of an "exploration area" (exploration permit). In the former case, the following must be determined: the survey area, the mineral to be prospected and explored for which the exploration area is being established, the conditions for the execution of the work, and the period of validity of the exploration area. The exploration area is not a territorial decision, but provides the entrepreneur or organisation (hereinafter "entrepreneur") with the exclusive privilege to prospect for the mineral in a given exploration area. In the first year, the entrepreneur is obliged by law to pay a tax of CZK 2,000 per km² or km² piece of exploration area, which increases annually by CZK 1,000 per km² and its piece (to CZK 3,000 in the second year, to CZK 4,000 in the third year, etc.). These taxes represent an income for the municipalities, in whose cadastral areas the exploration area is established.

Within the scope of planning and conducting the prospecting for and exploration of reserved mineral deposits, the organisation must consider the conditions and interests protected by 32 special regulations (section 22 of the Act on Geological Work). These primarily refer to the laws for the protection of landscape and nature, agricultural and forest land; to the Water and Mining Acts etc. The Ministry of the Environment can cancel the established exploration area, if the organisation repeatedly or severely violates the obligations set by the Geological Act.

Non-reserved minerals (and their mining)

The above-mentioned enactments apply to prospecting and exploration for non-reserved mineral deposits, only, if they were previously declared as reserved deposits according to the transitional provisions of the Mining Act. In other cases, an organisation can prospect and explore for non-reserved minerals only upon agreement with the landowner. The provision under section 22 of the Act on Geological Work is also valid in these cases. The mining of reserved deposits is considered a mining operation under section 2 of the Mining Act and the mining of non-reserved deposits, which constitutes a part of the land, an operation conducted according to the mining methods set by Act No. 61/1988 Coll., on Mining Operations, Explosives and the State Mining Administration, as amended later.

1.6. Licensing procedures for extraction

An opening of exploitation of minerals is a little bit complicated case. A law regime differs from the fact whether the miner wants to extract the reserved minerals (which are the property of state) or whether the mining organisation wants to dig for non-reserved minerals (non-reserved minerals are the property of land owner).

In the case of "reserved minerals" it is necessary - from the position of the protection and utilization of mineral resources - that the Ministry of Environment issues the *certificate on the deposit of reserved minerals* and lays down a *deposit protection area*. The Ministry of Environment provides the laying down of *exploration area*.

The essential condition of business is *an authorisation for mining activity*; this document is issued by district mining authorities. It is a licence for undertaking in the field of mining and it should make a guarantee for a professional realisation of mining activities.

The laying down of mining area is the other important condition before the starting of exploitation of deposit of reserved mineral. The mining areas are issued by district mining authorities, in majority cases after the receiving an application from the miner. To the application for the laying down of the mining area it is necessary to add a *previous approval* from the Ministry of Environment.

The permission of mining activity – opening, preparation and exploitation is issued by the district mining authorities. In the permission, there are mentioned conditions for realisation of mining. The miner must prepare a documentation and must solve a conflict of interests (among the state offices and participants of permitting process).

Together with the permission of mining activity a district mining authority usually decides about a creation of mining reserves on remediation and restoration and on mining damages. If it is necessary for mining, the district mining authority issues a permit of blasting operations. And at the moment of finish with the mining activity, a district mining authority decides about the liquidation (or about the regime of security).

In the case of "non-reserved" minerals (e.g. sand etc.) the situation is similar. The first and the essential condition of mining business is *an authorisation for activity carried out by mining*. The second condition is a *zoning decision* and the third one is *the permission of exploitation of deposit of non-reserved mineral*. The zoning decision is issued by a building authority, the permission of exploitation of non-reserved deposit of minerals is issued by a district mining office.

The issuing of mining permit depends also on **fulfilling of demands of special acts**, for example Act on EIA, Forest Act, Act on Land and Soil, Act on Nature and Landscape etc. The administrative bodies providing these acts have a position of interested authorities (e.g. water offices, building offices, spatial plan offices etc.).

During the realisation of mining the mining organisation has to fulfil duties connected with other different regulations; the miner must pay taxes and mining royalty and must respect a state supervision.

Table 1: Czech Republic. The most important phases of permitting process at the exploitation of minerals.

Operation	Authority	Regulation
Issuing of an authorisation for mining activity or for activity carried out by mining methods	District Mining Authority	Art. 5, Act No. 61/1988 Coll., Decree No. 15/1995 Coll.
Laying down of mining area	District Mining Authority	Art. 27, 28, Act No.44/1988 Coll.
Permission of mining activity	District Mining Authority	Art. 9,10,11,13 and § 17, 18, Act No. 61/1988 Coll.
Zoning decision for exploitation of non-reserved minerals	Building Office	Building Act, No. 183/2006 Coll.
Permission of exploitation of deposit of non-reserved mineral	District Mining Authority	Art. 19 and Art. 17, 18; Act No. 61/1988 Coll.
Permission of blasting operations	District Mining Authority	Art. 27, 28 Act No. 61/1988 Coll.
Decision on a creation of mining reserves on remediation and restoration and on mining damages	District Mining Authority	Art. 37a, Act No. 44/1988 Coll.
Decisions about appeals	The Czech Mining Authority	Art. 40, Act No. 61/1988 Coll.

Source: Czech Mining Authority.

Permit to mine a prospected and explored deposit

If, during prospecting and exploration, a reserved mineral is found to be of quality and quantity indicative of its accumulation (supported by a partial deposit reserve estimate given in the category of prospected reserves), the organisation must report it to the Ministry of the Environment, which issues a certificate for the reserved deposit owned by the state. At the same time, this certificate ensures the deposit against actions rendering its mining difficult or impossible by the establishment of a protected deposit area (CHLÚ) according to section 17 of the Mining Act.

The entrepreneur's right to mine the reserved deposit is provided by the grant of a mining area. The submittal of a proposal for the grant of a mining area must be preceded by an approval from the Ministry of the Environment, which may depend on the fulfilment of limiting conditions accounting for the interests of the state mineral policy, and on covering expenses of geological work already funded by the state. The organisation, on whose behalf the exploration was carried out, has priority in receiving the approval for the grant of the mining area. If it fails to assert its mining lease, precedence is then given to the

organisation which participated financially in the exploration. Somewhat different rules apply to cases concerning crude oil and natural gas based on a transposed EU Directive.

The mining lease is only granted to an entrepreneur possessing a Certificate of Mining Operations issued by an authorised District Mining Authority. This grant procedure takes place in cooperation with relevant administrative agencies, mainly in agreement with environmental, land use planning and building authorities. The entrepreneur's proposal for the grant of a mining lease must be furnished with documentation as stipulated by law. The procedure deals with landowner relations and settlement of conflicts of interests, which are protected by special regulations. The environmental impact assessment (EIA) represents a part of the documentation, too. The grant of a mining lease represents a mining as well as land use authorisation.

The entrepreneur, who has been granted a mining lease, may start mining operations only after obtaining a mining permit from the authorised District Mining Authority. The issue of this permit is subject to an administrative procedure assessing the plans of the opening, the preparation and the mining of the deposit, and the plans for rehabilitation and reclamation after Mineral base of the Czech Republic and its development in 201433 termination of the mining. In justified cases, the District Mining Authority may combine the grant of a mining lease and of a mining permit into one administrative procedure.

Royalties on reserved minerals mined

The entrepreneur is obliged to pay royalties on the mining area and the extracted reserved minerals. An annual lease payment of CZK 100–1,000 is assessed on every hectare opened within the mining area, which is marked off on the surface. The payment is graded with respect to the degree of environmental protection of the affected area, the type of activity conducted in the mining lease, and its environmental impact. The District Mining Authority fully transfers this payment to the municipalities, in whose territories the mining lease is located, according to the lease proportions in each municipal territory.

An annual royalty on minerals extracted in mining areas is given by the Decrees No. 426/2001 Coll., and 63/2005 Coll., which amend the Decree No. 617/1992 Coll., detailing the payment of royalties on mining leases and extracted minerals; how, now there is a new Decree No. 98/2016 Coll., which changes annual royalties.

The District Mining Authority transfers 25 % of the yielded royalties to the state budget of the Czech Republic to be purposefully used in remediation of environmental damage caused by the mining of reserved and non-reserved deposits, and the remaining 75 % to the budget of the relevant municipalities.

Reserves for mining damages and for remediation and restoration during the mining of reserved minerals

During the course of mining, the entrepreneur is required to generate sufficient financial reserves for mining damages and for reclamation of areas affected by the deposit exploitation. Generating of the financial reserves is approved by the District Mining Authority during the mining permit procedure regarding the opening and extraction of the deposit. Drawing on the reserves is permitted by the District Mining Authority upon agreement with the Ministry of the Environment and upon notification by the relevant municipality. In the case of (partially) state-owned enterprises, the District Mining Authority decides in agreement with the Ministry of Industry and Trade.

1.7. Court cases on permitting procedures

The procedural and institutional framework of court appeals

The decisions of the State Mining Administration bodies and the decisions of the Ministry of Environment are reviewable by an administrative justice. In the first instance, there are the County courts which decide about the accusations in:

- giving authorisation for responsible investigator of exploration
- giving an authorisation for mining activities
- giving an exploration permit
- giving an approval for exploration using gallery/adit or shaft
- giving an approval for blasting operations.

The second instance deciding about the cassation is the Supreme Administrative Court with the seat in Brno.

In the field of exploitation of minerals, the court cases are focused on mainly:

- a/ participation of persons on the permitting process,
- b/ relationships to mining areas;
- c/ creation of mining reserves on remediation and restoration and on mining damages;
- d/ sanctions.

Most decisive and representative court judgements

The number of court cases with a participation of the Czech Mining Authority is presented in following table:

Table 2: Czech Republic. Number of court cases with participation of the Czech Mining Authority.

The number of court cases with a participation of the Czech Mining Authority, in comparison with the number of permissions issued by the State Mining Authority in the field of mining and blasting operations		
Year	Number of court cases	Number of permissions ^{*/}
2011	11	478
2012	16	397
2013	19	332
2014	18	393
2015	25	433
2016	25	406

*Source: Hornická ročenka 2011- 2015, for the year 2016 qualified guess

During the 2011 - 2016 period there were no court cases focused on compatibility with the EU Law.

Examples of judgements from the domain of exploration and exploitation of minerals:

Judgement of the District Court in Tábor, No. 14 C 79/2006 – 35 (historical easements for mining and their duration)

The easements for mining, created in fundamentally different social, economical and political circumstances (in the case in 1830) and depending on significantly changed reality, are not enforceable.

Judgement of the County Court in Prague, No. 39 A 97/2012 – 107 (permission of exploitation of deposit of non-reserved mineral and protection of landscape)

The District Mining Authority, which is deciding about the permission of some activity having an influence to the landscape, may issue a decision only if the local situation is properly identified. In the case of landscape the district mining authority must come out from binding opinion of office for protection of landscape.

Judgement of the Supreme Administrative Court in Brno, No. 9 As 186/2014-50 (transfers of mining areas and a creation of mining reserves on remediation and restoration and on mining damages)

The miner, that is a recipient of a transferred mining area, must create the reserves on remediation and restoration and on mining damages on special escrow account in bank.

Resolution of the Constitutional Court No. 35/96 from the 12th February 1997

A municipality has no legal competence to issue a permission for exploration. The Ministry must only request the opinion of municipality before the permitting.

Judgement of the Supreme Administrative Court in Brno, No. 7 A 15/2000-107 from the 30th June 2004

The exploration of reserved minerals does not represent a realisation of a native or constitutionally guaranteed law but it is a law which belongs to the state and which can be awarded to a person different from the state (in some law postulated situations). The protecting permission has a nature very closed to concession and has not an automatic entitlement.

1.8. Success rates of exploration and extraction permits

The present report is based on the information provided by the eight District Mining Authorities.

The following data were collected from:

1. the District Mining Authority for the territory of Capitol city Prague and Central Bohemia Regions (in Czech Hlavní město Praha a kraje Středočeského),

2. the District Mining Authority for the territory of Pilsen (Plzeň) and South Bohemia (in Czech Region krajů Plzeňského a Jihočeského),

3.the District Mining Authority for the territory of Karlovy Vary Region (in Czech kraje Karlovarského)

4.the District Mining Authority for the territory of Ústí nad Labem Region (In Czech Ústeckého)

5.the District Mining Authority for the territory of Hradec Králové and Pardubice Regions (in Czech krajů Královéhradeckého a Pardubického)

6.the District Mining Authority for the territory of South Moravia and Zlín Regions (in Czech krajů Jihomoravského a Zlíského)

7.the District Mining Authority for the territory of MoraviaSilesia and Olomouc Regions (in Czech krajů Moravskoslezského a Olomouckého)

8.the District Mining Authority for the territory of Liberec and Highland (Jihlava) Regions (in Czech krajů Libereckého a Vysočina)

In 2013 non-energy commodity, the numbers were:

permits, which were applied (submission)	27
approved permits	25
rejected permits	1

In 2014 non-energy commodity, the numbers were:

permits, which were applied (submission)	22
approved permits	21
rejected permits	2

In 2015 non-energy commodity, the numbers were:

permits, which were applied (submission)	38
approved permits	33
rejected permits	5

An average permitting success rate in the period 2013-2015 for exploitation permits was is of 92% (and a rejection rate of 8%).

In the case of exploration permits, as shown in Table 3, the average permitting success rate in the period 2013-2015 reached a 43% (a rejection rate of 57%).

Table 3: Czech Republic. Decision of the Ministry of Environment on asking for exploration permit.

Minerals	2013		2014		2015	
	grants	rejected	grants	rejected	grants	rejected
Ores	4	0	3	14	2	5
Industrial minerals	2	4	3	2	10	2
Building raw materials	2	0	2	0	0	0
Precious stones	3	1	2	1	1	1
Summary	11	5	10	17	13	8

Source: Czech Mining Authority

1.9. 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)?

No restrictions. The Directive 2006/123 / EC was transposed by the Act No. 222/2009 Coll., on the free movement of services.

- 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?

Art.7 par.3 of the Decree No.104/1988 Coll. „The Plan of Opening, Preparation and Exploitation of a Reserved Deposit and documents shall be approved by the managerial worker, for mines the factory manager of the mine, for quarries the factory manager of the quarry. In the plan and documents and the individual parts thereof must be stated the date of preparation thereof, the names, signatures and positions of the persons responsible and also the managerial worker responsible for control of the accuracy and completeness of the individual parts of the plan and documents.”

Art. 2 par. 1 letter a) of the Regulation No 298/2005 Coll. on requirements for professional qualifications and professional competence in the performance of mining activities or activities involving mining methods

factory manager of the mine is the natural person responsible for the safe and proper management of mining activities or activities associated with mining at the mine. Must have a professional qualification at least at the master's degree and professional experience in mining activities or activities associated with mining at least four years.

Art. 2 of the Act No. 62/1988 Coll., on geological works

„Art.2

Geological Work

(1) Pursuant to this Act, geological work means geological research and geological prospecting on the territory of the Czech Republic, which shall include

- a)** *the investigation, assessment, documentation and depiction of the development and composition of the geological structure of territories and the laws governing these characteristics,*
- b)** *the exploration of and prospecting of mineral deposits, verification of the reserves thereof and the preparation of geological documents for the utilization and protection thereof*

Art. 3 par. 3,4,5 of the Act No.62/1988 Coll.

(3) The Ministry shall make a decision on the professional qualification of the worker responsible for geological work. The decision issuing the certificate on the professional qualification of the worker responsible for geological work shall be issued for an indefinite period of time. The Ministry may cancel the decision on professional qualification of a person who, in a serious manner or repeatedly, infringed against the provisions of this Act or regulations issued on the basis thereof.

(4) The condition for professional qualification shall be a university education in a field of geology, demonstrated by an excerpt from examinations or professional secondary school education with a minimum of five years of experience in the field, experience in the field of a minimum of three years including participation in work on geological tasks, the professional level of work to date, passing of examinations on knowledge of the necessary regulations and lack of a criminal record. The Ministry shall appoint professional guarantors from amongst professionals recommended by professional organizations for the purpose of assessing the professional level of work to date. The Ministry shall lay down in a Decree the documents required for demonstrating professional qualification, the fields and specializations, for which the professional qualification is certified, the scope of required knowledge of legal regulations related to the geological activity, the procedure in verifying professional qualification and the means of keeping records and making issued certificates available to the public.

(5) The worker responsible for geological work shall affix, to project plans, individual and concluding reports, his (her) personal signature and the impression of a round stamp containing the small state symbol of the Czech Republic, the name of the worker responsible for the geological work, designation of the field or specialization and the serial number under which the certification of professional qualification was issued”.

- 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?

Yes. Art. 13 par. 1 of the Act No.157/2009 Coll.

"Financial reserves

(1) *Unless stipulated otherwise, the operator is obliged to activities related to the management of extractive waste in advance to create financial reserve. Provisions for creation of financial reserve under the Mining Act shall apply mutatis mutandis. The amount of the financial reserve must reflect the needs to ensure activities in the first sentence; this reserve is the cost of achieving, securing and maintaining income. The reserve is calculated on the basis of the assumption that independent and qualified third parties will assess and perform any rehabilitation work needed."*

- 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. Annex No.2 of the Decree 429/2009 Coll., that implemented Dec.2009/359/EC

"List of mining wastes that are considered inert

- a) sand after washing,
- b) gravel after washing,
- c) substances created by the extraction of granite, granodiorite, gneiss, diorite, limestone, dolomite, travertine, which have not undergone chemical modification,
- d) non-recoverable fraction resulting from the extraction or mechanical treatment of granites, granodiorite, gneiss, diorite, limestone, dolomite, travertine, basalt and phonolite that has not undergone chemical modification,
- e) greywacke."

- 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.

Art. 4, 5 and 6 of the Decree No. 429/2009 Coll.

Art. 4 – Criteria for the classification of waste facilities due to failure or incorrect operation

Art. 5 – Loss of structural integrity for tailings dam

Art. 6 – Loss of structural integrity for Caps

- 6) Has your country applied the waiver of the Landfill Directive paragraph 3 of Art. 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)?

No. We hold strictly the demands of the Directive 2006/21/EC.

The solution, you are asking about, cannot be applied - according to regards to the Art. 2 par. 4 of the Directive 2006/21/EC

„Art. 2(4)

4. Without prejudice to other Community legislation, waste which falls within the scope of this Directive shall not be subject to Directive 1999/31/EC.

- 7) Does a mine operator have to prepare and submit both a general waste management plan and a mine waste management plan as well?

The mine operator has to prepare 2 plans, for waste and for mining waste.

Mine waste management plan for mining waste is submitted to the District Mining Authority

General waste management plan for waste is submitted to the Regional Office.

- 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?

Requirements on financial reporting are reflected in the Act No. 563/1991 Coll., on Bookkeeping. Everything is solved in accordance with Regulation 1893/2006.

- 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?

Directive was introduced by Act No. 256/2004 Coll., on Capital Market. This Act is valid in general for all subjects. These special rules do not appear in mining concession.

- 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?

Machines used in mining must fulfil the requirements as any other product, i.e. must have a declaration of conformity. Mining Authorities cannot carry out market surveillance.