



MINLEX - Lithuania Country Report

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1. LITHUANIA

1.1. Summary of findings

In Lithuania the mining sector is relatively small, there are no ore mining or metallurgical industries, and extraction is concentrated in peat, aggregates and industrial minerals (dolomite, limestone). According to the Constitution and the Underground Law all subsurface mineral resources (energy, metals, industrial and construction minerals) are exclusively state-owned.

The main law is the Underground Law No. I-1034/1995 and its implementing Government Resolutions (No. 1433/2001, No. 198/2002, No. 584/2002), which regulate the exploration and extraction permits. Other important laws regulating other necessary permits and licences for the authorisation of exploration and extraction activities include the Environment protection Law I-2223/1992, Proposed economic activity environmental impact assessment Law No. I-1495/1996 (which regulates the EIA process), Environment minister order No. 166/1996 on exploited mining areas rehabilitation, Protected Areas Law No. I-301/1993, Water Law No. VIII-474/1997, Spatial Planning Law No. I-1120/1995 and Environment minister order No. D1-145/2014, both of which regulate spatial planning (and set provisions for the extraction and reclamation plan).

The competent authority granting exploration and extraction permits is the Lithuanian Geological Survey (under the sphere of the Ministry of Environment).

Other relevant co-authorities include the Environmental Protection Agency in charge of approving EIAs and issuing permits for surface water use, 60 municipalities, the National Land Service, the State Territorial Planning and Construction Inspectorate (only relevant for the extraction and post-extraction phases), the Directorate General of State Forests, the State Service for Protected Areas and the Cultural Heritage Department.

For exploration activities, an applicant (a qualified natural or legal person) must request a permit for investigating the subsurface, which is usually granted by the Lithuanian Geological Survey in 30 days, after which the applicant obtains the rights and may initiate prospection and exploration works. This may be delayed in the case of coordination problems with landowners and other users who, according to the Land Law No. I-446/1994, are required to allow the subsurface exploration works and must then agree with the developer on the duration, exploration area boundaries, work time and economic compensation. The developer must then prepare a report for resources approval, which is evaluated and approved by the Geological Survey; this often takes between 3 and 5 months.

For extraction activities, the first permit that a developer needs to obtain is the environmental permit granted subject to the approval of an EIA by the Environmental Protection Agency. An EIA (Law No. I-1495/1996) is only required for solid mineral extraction plots which are planned to be bigger than 25 ha. Public consultation is mandatory during the EIA process and the public entities which usually participate involve municipal authorities (municipality councils have a right to veto the EIA process), public health centres, cultural heritage departments, and the interested wider public (local communities). ***Such participation often causes a significant slowdown of the process, especially when judicial appeals are set against decisions by the competent authority.*** In Lithuania not only the applicant but also any interested (or concerned) third person or party can set an appeal against the decision of a competent authority of granting a permit. ***A decision on the EIA study (approval or rejection) takes between 8 and 24 months.*** A negative decision on the EIA process prevents the possibility to obtain an extraction permit. ***In addition, until the decision has been made, other applicants are not allowed to plan the same activities in the same area.*** If the EIA process is approved, the developer asks for a permit to use the subsurface mineral resources (extraction permit), which is usually granted between 1 to 3 months.

Finally, in order to start the activity, the developer must prepare and get approval for a Subsurface Plan, which must be agreed upon with local municipalities and which contains a reclamation plan. This last phase lasts between 8 to 12 months. Overall, **the time to obtain all approvals to start extracting is between 1 and 4 years; for valuable minerals, metal ores and monomineral quartz sand another additional year could be needed** for additional procedures of the tender.

In Lithuania, there are few court cases related to the NEEI sector, with an average of 2 or 3 cases per year for a small mining sector. According to statistics in the last years, **the majority of the plaintiffs were the mining companies, the rest were other interested parties** (e.g. the landowners, local communities). The defendants are typically the permitting authorities. According to the Lithuanian Geological Survey, most cases (ca. 80 %) are won by the defendant authority. Historically, administrative mining cases have not had significant impacts on sector legislative changes. Permitting success rates in Lithuania are generally high, having reached 80 % and 83 % for exploration and extraction permits, respectively, in the period 2013-2015. For rejected exploration permits the main reason was the legal persons not fulfilling the conditions to have qualified and trained professionals (geologists). Extraction permits were rejected because the object resources were not detailed, explored and approved in accordance with the laws, there was a lack of required coordination from the co-authority, required documents were missing or because the applicant did not pay the licensing fee.

1.2. General introduction

In Lithuania, the mining sector is relatively small, there are no ore mining or metallurgical industries, and the extraction is concentrated in peat, aggregates and industrial minerals (dolomite, limestone). According to the Constitution and the Underground Law all subsurface mineral resources (energy, metals, industrial and construction minerals) in Lithuania are of exclusive state-ownership.

1.3. Legislation governing mineral exploration and extraction

The main law is the Underground Law No. I-1034/1995 and its implementing Government Resolutions (No. 1433/2001, No. 198/2002, No. 584/2002) which regulate the exploration and extraction permits. Other important laws which regulate other necessary permits and licences for the authorisation of exploration and extraction activities encompass the Environment protection Law I-2223/1992, the Proposed economic activity environmental impact assessment Law No. I-1495/1996 (which regulates the EIA process), the Environment minister order No. 166/1996 on exploited mining areas rehabilitation, Protected Areas Law No. I-301/1993, the Water Law No. VIII-474/1997, the Spatial Planning Law No. I-1120/1995 and the Environment minister order No. D1-145/2014, both of which regulate spatial planning (and set provisions for the extraction and reclamation plan).

Table 1: Lithuania. 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 at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		The Constitution of the Republic of Lithuania, 1992	http://www3.lrs.lt/home/Konstitucija/Constitution.htm	N	N	N	N	N	N	N	N	state ownership of underground resources
		Civil Code No. VIII-1864/2000	https://www.e-tar.lt/portal/en/legalAct/TAR.8A39C83848CB	N	N	N	N	N	N	N	N	private landowners rights on underground resources
mining, minerals management,	LT-L1	Underground Law No. I-1034/1995	https://www.e-tar.lt/portal/en/legalAct/TAR.13E108ED3981/fofeVHOSuW	Y	N	Y	Y	Y	Y	Y	Y	

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	LT-L2	Government Resolution No. 1433/2001 implementing the Underground Law	https://www.e-tar.lt/portal/en/legalAct/TAR.633F92FEFFC9	Y	Y	Y	N	N	Y	Y	Y	detailed exploration permitting rules
	LT-L3	Government Resolution No. 198/2002 implementing the Underground Law	https://www.e-tar.lt/portal/en/legalAct/TAR.CA43F3AA2033	Y	Y	Y	Y	Y	Y	Y	Y	detailed exploration and extraction (including groundwater) permitting rules
	LT-L4	Government Resolution No. 584/2002 on Underground register regulations	https://www.e-tar.lt/portal/en/legalAct/TAR.EFC89AA464F6/TAIS_431725	N	N	N	N	Y	Y	Y	Y	underground resources accounting and research register
	LT-L5	Environment minister order No. 580/2002 on specific minerals mining permits	https://www.e-tar.lt/portal/en/legalAct/TAR.C86A335428E0	Y	Y	N	Y	N	Y	Y	Y	rules of tender
	LT-L6	Environment minister order No. D1-145/2014 subsurface Use Plan	https://www.e-tar.lt/portal/en/legalAct/3c7c7f2097df11e3bdd0a9c9ad8ce1bf	Y	Y	N	Y	Y	Y	Y	Y	extraction and remediation technical plan related with spatial planning

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
		implementing the Underground Law										
	LT-L7	Environment minister order No. D1-444/2006 on minerals resource control procedures	https://www.e-tar.lt/portal/en/legalAct/TAR.A941687BB60C	N	N	N	N	Y	Y	Y	Y	legislative provisions lesions may be the reason of extraction permit suspension
	LT-L8	Lithuanian geological survey director order No. 1-70/2006 on prospecting and exploration works registration	https://www.e-tar.lt/portal/en/legalAct/TAR.DFF57ACC3922	Y	Y	Y	N	N	Y	Y	Y	
	LT-L9	Lithuanian geological survey director order No. 1-01/2003 on minerals resource accounting	https://www.e-tar.lt/portal/en/legalAct/TAR.D5266066CBBDD	N	N	N	N	Y	Y	Y	Y	legislative provisions lesions may be the reason of exploration and extraction permit suspension

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
environment	LT-L10	Proposed economic activity environmental impact assessment Law No. I-1495/1996	http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=453920	Y	Y	N	Y	Y	Y	Y	Y	for planning mining activities obligatory EIA
	LT-L11	Environment protection Law I-2223/1992	https://www.e-tar.lt/portal/en/legalAct/TAR.E2780B68DE62/TAIS_449517	N	N	N	Y	N	Y	Y	Y	environmental principles. For use of state natural resources obligatory EIA
	LT-L12	State natural resources tax Law No. I-1163/1991	https://www.e-tar.lt/portal/en/legalAct/TAR.793560F67ADF/TyDJYquMib	N	N	N	N	Y	Y	Y	Y	natural resources tax
	LT-L13	Environment minister order No. D1-239/2008 on mining industry waste management implementing Waste Law and EP Directive 2006/21/EB	https://www.e-tar.lt/portal/en/legalAct/TAR.B479E03B4B4F	N	N	N	N	Y	Y	Y	Y	legislative provisions lesions may be the reason of extraction permit suspension

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
	LT-L14	Environment minister order No. 166/1996 on exploited mining areas rehabilitation	https://www.e-tar.lt/portal/en/legalAct/TAR.680900B513E0	N	N	N	N	Y	Y	Y	Y	obligatory method for rehabilitation works
nature conservation, forestry	LT-L15	Protected Areas Law No. I-301/1993	https://www.e-tar.lt/portal/en/legalAct/TAR.FF1083B528B7/ORBiDqmquf	Y	N	Y	Y	Y	Y	Y	Y	only if the object area enters the protected area or its protective zone
	LT-L16	Forestry Law No. I-671/1994	https://www.e-tar.lt/portal/en/legalAct/TAR.5D6D055CC00C/frHWVCOoIN	N	N	N	Y	Y	Y	Y	Y	forest land issues
	LT-L17	Government Resolution No. 1131/2011 on Forest land conversion and compensation for forest land conversion	https://www.e-tar.lt/portal/en/legalAct/TAR.9DED40DDC6CF/omRNbPwswZ	N	Y	N	Y	Y	Y	Y	Y	fees for forest land

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
water management	LT-L18	Water Law No. VIII-474/1997	https://www.e-tar.lt/portal/en/legalAct/TAR.B3CC2C0B9BD2	N	N	N	N	Y	Y	Y	Y	water using principles
	LT-L19	Environment minister order No. D1-259/2014 on pollution permit, replacement and revocation rules	https://www.e-tar.lt/portal/en/legalAct/afd3d660a9d911e38e1082d04585b3dd/XEtybELWLP	N	N	N	N	Y	Y	Y	Y	surface water and wastewater permits
	LT-L20	Environment minister order No. D1-71/2009 on groundwater protection against pollution with hazardous materials	https://www.e-tar.lt/portal/en/legalAct/TAR.C5E96B760AD0	N	N	N	N	Y	Y	Y	Y	
	LT-L21	Environment minister order No. D1-193/2007 surface wastewater management regulation	https://www.e-tar.lt/portal/en/legalAct/TAR.F79C1136595E/lucFqjBbjm	N	N	N	N	Y	Y	Y	Y	environment protection from pollution

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
land use planning, spatial development, soil management	LT-L22	Land Law No. I-446/1994	https://www.e-tar.lt/portal/en/legalAct/TAR.CC10C5274343/hoPfHvyVni	Y	N	Y	Y	Y	Y	Y	Y	land use issues
	LT-L23	Spatial planning Law No. I-1120/1995	https://www.e-tar.lt/portal/lt/legalAct/TAR.26B563184529/TkMEvGyXKD	N	Y	N	Y	Y	Y	Y	Y	
	LT-L24	Government Resolution No. 1116/1995 on soil remediation and fertile soil layer conservation	https://www.e-tar.lt/portal/en/legalAct/TAR.CFCCBF E67D05	N	N	Y	N	Y	Y	Y	Y	

Legislative sector	Code	English title	Web link	Permitting provisions (Y/N)	Deadlines (Y/N)	Relevant to (Y/N)			Relevant at (Y/N)			Remarks
						exploration	extraction	post-extraction	local	regional	(central) national	
transportation, construction, catastrophe protection, police, military	LT-L25	Government Resolution No. 598/2002 on Border legal regime rules	https://www.e-tar.lt/portal/en/legalAct/TAR.62FF0C35E719/TAIS_393667	N	Y	Y	Y	N	Y	Y	Y	Only if the object is in the State border protection zone
culture heritage	LT-L26	Law on the Protection of Immovable Cultural Heritage No. I-733/1994	http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=488581&p_tr2=2	N	N	Y	Y	N	Y	Y	Y	rules for declaration of protection
public administration, court procedures	LT-L27	Public administration Law No. VIII-1234/1997	https://www.e-tar.lt/portal/en/legalAct/TAR.0BDFFD850A66/OCQvcNCBEt	N	N	Y	Y	Y	Y	Y	Y	right to appeal the decision of the Authority

1.4. Authorities governing mineral exploration and extraction

The competent authority **granting exploration and extraction permits for the NEEI sector is the Lithuanian Geological Survey** (under the sphere of the Ministry of Environment). Other relevant co-authorities include the Environmental Protection Agency in charge of approving EIA studies and issuing permits for surface water use, 60 municipalities, the National Land Service, the State Territorial Planning and Construction Inspectorate (only relevant for the extraction and post-extraction phases), the Directorate General of State Forests, the State Service for Protected Areas and the Cultural Heritage Department.

Table 2: Lithuania. 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)	LT-E0	Aplinkos ministerija	Ministry of Environment of The Republic of Lithuania	Jakšto str. 4/9, Vilnius LT-01105, Lithuania. http://www.am.lt/VI/en/VI/index.php	Subsurface policy maker. Has crucial impact on sector legislation changing	N	N	Y	LT-L12	Tax on the use of state natural resources setting
	LT-E1	Lietuvos geologijos tarnyba prie Aplinkos ministerijos	Lithuanian Geological Survey under the Ministry of Environment	S. Konarskio str. 35, LT-03123 Vilnius, Lithuania. http://www.lgt.lt/index.php?lang=en	Issues of all minerals resources permits	Y	Y	Y	LT-L1	Underground resources accounting and research register
					Groundwater permits				LT-L3	
					Spatial planning related with mining objects				LT-L6	

	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		
	LT-E2	Aplinkos apsaugos agentūra	The Environmental Protection Agency	Juozapavičiaus str. 9, LT-09311 Vilnius, Lithuania. http://gamta.lt/cms/index?lang=en	Approves EIA	Y	Y	Y	LT-L10	Except in prospecting and exploration works registration
					Surface water permits				LT-L19	
					Spatial planning related with mining objects				LT-L6	Changed LT-E6 entity role since 15 March of 2016 after LT-L6 amendments
	LT-E3	Savivaldybių administracijos	Municipality administration	60 Regional municipalities administration contacts link: http://www.lsa.lt/en/alal-members		Y	Y	Y		Should be informed about prospecting and exploration works planning
					Spatial planning				LT-L23, LT-L6	Municipality administration director
					One of the EIA entity				LT-L10	Municipality Council has a right of veto

	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		
	LT-E4	Nacionalinė žemės tarnyba prie Žemės ūkio ministerijos	National Land Service under the Ministry of Agriculture	Gedimino ave. 19, LT-01103 Vilnius, Lithuania. http://www.nzt.lt/go.php/lit/English	Land use	Y	Y	Y	LT-L22	
	LT-E5	Valstybinė teritorijų planavimo ir statybos inspekcija prie Aplinkos ministerijos	State Territorial Planning and Construction Inspectorate under the Ministry of Environment	Vienuolio g. 8, LT-01104 Vilnius, Lithuania. http://www.vtpsi.lt/en-en/	Spatial planning	N	Y	Y	LT-L23, LT-L6	
	LT-E6	Regionų aplinkos apsaugos departamentai	Regional Environmental Protection Departments	8 Environmental Protection Departments contacts list link: http://www.am.lt/VI/en/VI/index.php#r/126	Environmental Protection. Field control functions	N	Y	Y	LT-L7	
										Eliminated from spatial planning after LT-L6 amendments on 15 March 2016

	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		
	LT-E7	Valstybinė saugomų teritorijų tarnyba prie Aplinkos ministerijos	State Service for Protected Areas under the Ministry of Environment	Antakalnio g. 25, LT-10312 Vilnius, Lithuania. http://www.vstt.lt/en/VI/index.php	One of the EIA entities	Y	Y	Y	LT-L15	Only if the object area enters the protected area or its protective zone
					Spatial planning				LT-L6	Only if the object area enters the protected area or its protective zone
	LT-E8	Nacionalinis visuomenės sveikatos centras prie Sveikatos apsaugos ministerijos	National Public Health Center under Ministry of Health	Kalvarijų g. 153, Vilnius, Lithuania. http://nvsc.lrv.lt//	One of the EIA entities	N	Y	N	LT-L10	Reorganised regional Public Health Centres (8) from 2016 april 1 to new public body – National Public Health Center -
					Spatial planning related with mining objects				LT-L6	Since September 1 of 2016 after LT-L6 amendments
	LT-E9	Generalinė miškų urėdija prie Aplinkos ministerijos	Directorate General of State Forests under the Ministry of Environment	A. Juozapavičiaus str. 9, 09 311 Vilnius, Lithuania.	Provides co-authority consent in forest land matters.	Y	Y	Y	LT-L16	

	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		
				http://www.gmu.lt/en/						
	LT-E10	Kultūros paveldo departamentas prie Kultūros ministerijos	Department of cultural heritage under Ministry of Culture	Šnipiškių str. 3, LT-09309 Vilnius, Lithuania. http://kpd.lt/en.html	Provides co-authority consent in heritage matters	Y	Y	N	LT-L26	
	LT-E11	Valstybės sienos apsaugos tarnyba prie Vidaus reikalų ministerijos	State Border Guard Service under Ministry of the Interior	Savanoriu ave. 2, 03116 Vilnius, Lithuania. http://www.pasienis.lt/lit/English	Provides co-authority consent in state border protection matters	Y	Y	Y	LT-L25	Only if the object is in the State border protection zone
	LT-E12	Valstybinė darbo inspekcija prie Socialinės apsaugos ir darbo ministerijos	State Labour Inspectorate under the Ministry of Social Security and Labour	Algirdo str. 19, LT-03607 Vilnius, Lithuania. http://www.vdi.lt/English/VDI_English.aspx	Technical safety	N	Y	Y	The Law On The State Labour Inspectorate No. IX-1768/2003	Inspect if works of mining, blasting, extraction and processing of mineral resources are performed in a safe manner. Eliminated from extraction and remediation technical plan approve since September 1 of 2016 after LT-L6 amendments

	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		
Court jurisdiction	LT-E13	Lietuvos Respublikos Konstitucinis Teismas	Constitutional Court of the Republic of Lithuania	Gedimino Ave. 36, Vilnius, LT-01104, Lithuania. http://www.lrkt.lt/en/	Highest level of jurisdiction which might repeal acts, regulations	Y	Y	Y	The Law on the Constitutional Court No. I-67/1993	Shall guarantee the supremacy of the Constitution in the legal system
	LT-E14	Lietuvos vyriausiasis administracinis teismas	The Supreme Administrative Court of Lithuania	Žygimantų str. 2, LT-01102 Vilnius, Lithuania. http://www.lvat.lt/en/	Supreme Court. Court of special jurisdiction	Y	Y	Y	Law on courts No. I-480/1994	First and final instance for administrative cases. It is appeal instance for cases concerning decisions, rulings and orders of regional administrative courts.
	LT-E15	Apygardos administraciniai teismai	Regional Administrative Courts	5 Regional Administrative Courts (Vilniaus, Kauno, Panevėžio, Klaipėdos, Šiaulių), contacts link: http://www.teismai.lt/en/courts/contacts-of-courts/contacts-of-courts/652	First-instance court level. Courts of special jurisdiction	Y	Y	Y	Law on courts No. I-480/1994	Dealing with issues relating to the lawfulness of regulatory administrative acts, tax disputes, etc.

1.5. Licensing procedures for exploration

Summary of all the different permitting procedures for exploration

In Lithuania, the subsurface belongs by right of exclusive ownership to the state according to the Constitution and the Underground Law (LT-L1). The main law is the Underground Law and its implementing Government Resolutions (LT-L2, LT-L3, LT-L4).

The Ministry of Environment of the Republic of Lithuania (LT-E0) forms the subsurface resource use and protection policy and coordinates its implementation. The Lithuanian Geological Survey (LT-E1) grants exploration and extraction permits, participates in the state subsurface policy making, organises and executes geological investigations of the State, regulates and controls the use of underground resource and manages the system of state geological information. Those public administration bodies are the main institutions of the underground sector regulation.

Nevertheless, some other competent authorities are very important in terms of environment or spatial planning procedures, for instance Environmental Protection Agency (LT-E2), Municipalities administrations (LT-E3), State Territorial Planning and Construction Inspectorate (LT-E5), National Land Service (LT-E4).

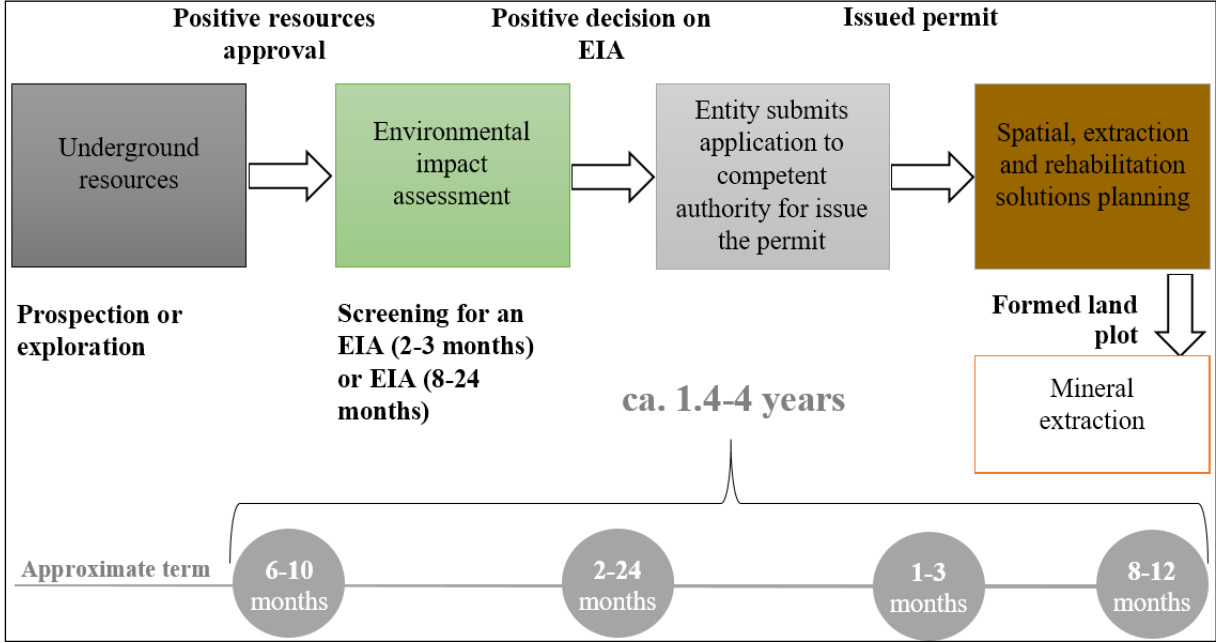
In Lithuania, with regards to the subsurface permitting procedure, generally the following stages can be identified (see also Fig. 1):

- I. According to the Underground Law, **the subsurface resources** and underground cavities **shall be explored and approved** in accordance with the provisions in acts;
- II. **Screening for an environmental impact assessment and (or) environmental impact assessment** according to the Proposed economic activity in the environmental impact assessment Law (LT-L10) and the requirements to the extractive (mining) industry;
- III. Positive decision on planned economic activity allows an entity to **submit an application to the competent authority for the issuance of a permit to use subsurface resources**.
- IV. **Spatial planning**, also **preparation of the extraction and reclamation plan** according to Spatial Planning Law (LT-L23) and Environment minister order No. D1-145/2014 (LT-L6) provisions.

Despite the permitting procedures diagram seems to be simple, some of the stages are complex and costly in terms of time and funds. **Applicants for aggregates, industrial minerals and peat may start extraction within 1.4-4 years** (see Fig. 1). For valuable minerals, metal ores and monomineral quartz sand another 1 year could be needed regarding additional procedures of tender (LT-L5). Valuable minerals and metal ores resources in Lithuania are not explored in detail, except monomineral quartz sand, which is extracted since Soviet Union times. **After the 26 years (since independence was restored) first tender on valuable minerals (amber) was organised on June of 2016**. Despite that, the tender was unsuccessful because of lack of participants. Important to note, that on the December of 2015 was changed State natural resources tax law (LT-L12) on amber resources extraction which increased significantly.

In Lithuania, the mining sector is relatively small, there are no ore mining and metallurgical industries, mostly dominate aggregates and less industrial minerals (dolomite, limestone), peat extraction.

Fig. 1: Lithuania. Mineral (except hydrocarbons) exploration and extraction permitting.



Source: G. Giparas.

Permitting time scale in Fig. 1 does not include the time that could be spent in the courts if the decision of the competent authority is appealed by applicant or an interested third party. Well known, that public consultations and involvement of the local communities, especially in EIA, causes significant slowdown of procedures. For example, case No. A-492-1326-12; AS-8-520/2015 on the EIA decision of Kintai oil structure. In this case the whole process has taken ten years and is not yet ended. Important to note, that not only the applicant but also interested third persons can set an appeal against authority decision.

Description of the permitting procedures

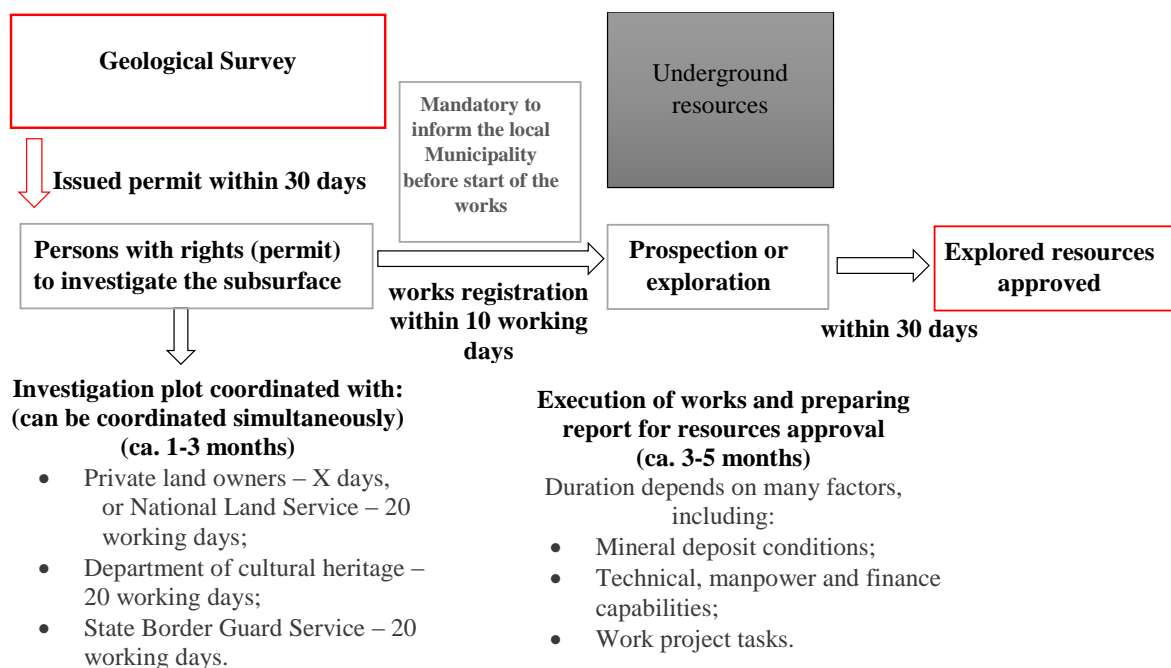
I stage (6-10 months). Permit to investigate the subsurface. Prospection and exploration works registration and explored resources approval. According Art. 7 of the Underground Law all direct investigation of the subsurface shall be registered to the Subsurface Register¹. Direct (and remote) investigations of the subsurface may be carried out by legal and natural persons, having a permit to carry out this kind of activity.

According to the provisions in the Underground Law, the permit for the subsurface investigation is issued by the Geological Survey in the manner prescribed by the Government. The main legislation piece is the Government Resolution No. 1433/2001 (LT-L2) which governs the issue of permits to investigate subsurface to natural (only for hydrocarbons²) or legal person or a group thereof acting under a joint activities agreement or from a Lithuanian branch of an undertaking established in a Member State of the European Union or in another State of the European Economic Area (hereinafter – Persons), suspension of permits, lifting of suspensions and permit cancellation order.

1 State subsurface resources accounting and research registry

2 Planned to change LT-L2 according to the Underground Law provision 61 article (for all minerals resources)

Fig. 2: Lithuania. Minerals (except hydrocarbons) prospection and exploration permitting.



Source: G. Giparas.

A main requirement for the approval of permits is that “Persons” are required to have compulsory courses, qualified and trained professionals (geologists) with at least 3 years of that kind of research work experience within the past 7 years. A permit shall be issued within 30 days of the submission of the applicants' applications as well as documentation in conformity with the requirements of the LT-L2.

A permit for the subsurface investigation is open-ended. The authorisation may not be transferred to another person. The permit holder may not authorize another person to allow him to carry out investigations. It should be noted, that applying for a permit could be provided by electronic means through the contact centre or using the environmental authorisation information system. After acquiring the right to investigate the subsurface, the Persons may initiate prospection and exploration works. As mentioned, all direct investigation of the subsurface shall be registered to the Subsurface Register. Government Resolution No. 584/2002 (LT-L4) governed registration procedures. Lithuanian Geological Survey director order No. 1-70/2006 (LT-L8) determine registration of objects, data provision and management of register order.

As shown in Fig. 2, there is a high cost of time (1-3 months) related with coordinated procedure of investigation area with land owners and competent authorities as determined in LT-L8 provisions. According to the Land Law (LT-L22), land owners and other users are required to allow the subsurface investigation, parties should coordinate research duration, exploration area boundaries, work time and loss compensation. Execution of prospection and exploration works and preparing the report for resources approval is also a time-consuming process (3-5 months). First stage procedure can take 6-10 months. It should be noted, that Persons with rights (permit) to investigate subsurface are geological service providers to the extractive industry.

It is important to note, that the same kind of direct geological prospection and exploration works are registered to the Subsurface Register according to the rule: “one object - one

client". In 2015, due to several Person requirements registering same kinds of exploration works on the same object created a judicial dispute between the Geological Survey and applicants. Dispute resulted in the changing of provisions in the LT-L8 to prevent this type of incidents in the future and ensuring established regulation. As a conclusion, licensing procedures for exploration works well enough, but possibility of shortening coordination procedures with authorities and land owners can improve the situation regarding time cost.

1.6. Licensing procedures for extraction

II stage (2-24 months). Screening for an environmental impact assessment and (or) environmental impact assessment on the planned mining activity.

According to the Art. 15 of the Underground Law provisions, explored and approved mineral resources shall be used only after mining activity to environment is evaluated. In accordance with the Proposed economic activity environmental impact assessment Law (LT-L10) requirements to the extractive (mining) industry, **screening for an environmental impact assessment** shall be done, when:

1. A peat extraction plot is less than 150 ha, but bigger than 0.5 ha;
2. Solid mineral extraction mining plot is less than 25 ha, but bigger than 0.5 ha.

and **environmental impact assessment**, when:

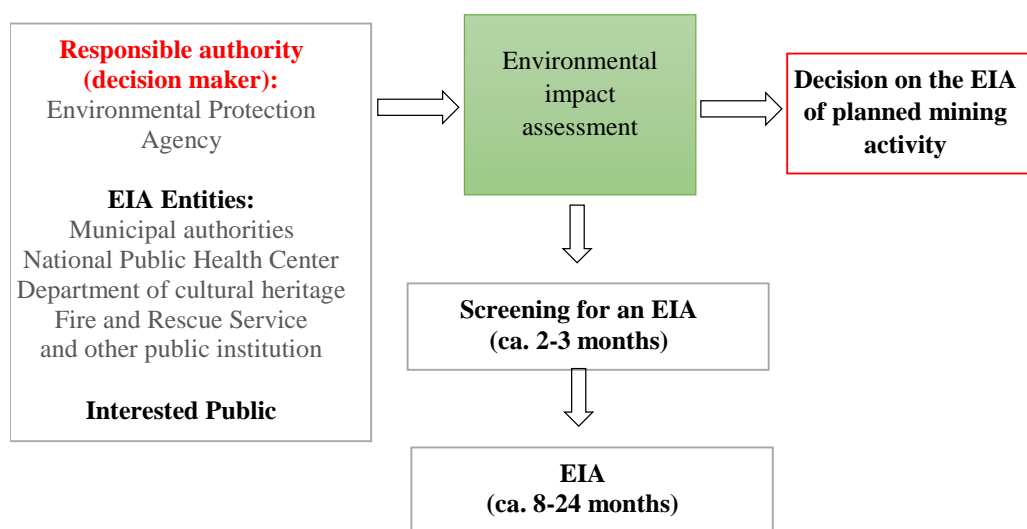
3. A peat extraction plot is bigger than 150 ha;
4. Solid mineral extraction mining plot is bigger than 25 ha.

As in many other countries, environmental impact assessment (EIA) procedures are a very important stage when considering mining activities. As mentioned, public consultations and the involvement of the local communities causes significant slowdown of procedures.

Often arise judicial dispute between competent authority and EIA applicant are costly and time-consuming process, it can take years. Even EIA procedures in front of court may last 1 or more years. Some of the cases related with EIA decisions is provided in the Lithuanian Court Cases section of this report. For example, case (No. A-492-1326-12; AS-8-520/2015) on EIA decision of Kintai oil structure where whole process has taken ten years and is not yet ended. Important to note, that not only the applicant but also interested third persons can set an appeal against authority decision.

Important is also to note, that in accordance with Proposed economic activity environmental impact assessment Law (LT-L10), local Municipality Councils has a veto right - after adoption of negative reasoned decision on the planned economic activity, environmental impact assessment procedure cannot be continued as long as such a decision is in power.

Fig. 3: Lithuania. Detailed diagram of screening for an EIA and EIA procedures.



Note: from 1st July 2016 Public Health Centers changed their name to National Public Health Centers

Source: G. Giparas.

As a conclusion, second stage is costly of time and funds, also increasing the risk of failure due to the interested public participation and Municipal authorities' powers. Negative EIA decision on mining activity prevents possibility to obtain permit to use subsurface resources. Besides, for the duration of a negative decision are constrained possibility of other applicants to plan the same activities in the same object.

III stage (1-3 months). Permit of use of subsurface resources.

A positive decision on planned economic activity allows the entity/applicant to submit an application to the competent authority for issuing the extraction permit (a permit to extract and use the subsurface mineral resources). According to the Art. 13 of the Underground Law provisions, a permit of use of subsurface resources (except hydrocarbons) issued by the Government authorized authority (Lithuanian Geological Survey) in the manner prescribed by the Government.

The main legislation piece is Government Resolution No. 198/2002 (LT-L3) which govern the issue of permits to use underground resources to natural or legal person or a group thereof acting under a joint activities agreement or from a Lithuanian branch of an undertaking established in a Member State of the European Union or in another State of the European Economic Area (hereinafter – Persons), suspension of permits, lifting of suspensions and permit cancellation order.

A permit to exploit resources of valuable minerals (amber and others), monomineral quartz sand and metal ores as well as artificial underground caves and natural underground caves only for the storage of hydrocarbons (oil, gas) shall be issued under a tendering procedure. Tender procedures are governed by the Environment minister order No. 580/2002 (LT-L5).

A permit to exploit resources of valuable minerals (amber and others), monomineral quartz sand and metal ores as well as natural underground caves for the burial of industrial waste (except radioactive and toxic waste) or for the storage of hydrocarbons (oil, gas) and other materials shall be issued under a tendering procedure. Tender procedures are governed by the Environment minister order No. 580/2002 (LT-L5).

A permit to extract the resources of limestone, dolomite, chalk marl, gaize, gypsum, anhydrate, rock salt, clay, sand, gravel, sapropel, peat and groundwater as well as underground thermal energy shall be issued without a tender.

When applying for a permit, the Persons shall submit a plan of operations (object plan) previously coordinated with the land owner or land user and the manager, local branch of the National Land Service (LT-E4), the local branch of the Cultural Heritage Department (LT-E10), the State Border Guard Service (LT-E11) – only if the object is in the State border protection zone. Public institutions' decision on the plan shall be adopted within 20 working days from the beginning of the administrative procedure. The object plan can be coordinated simultaneously with the listed competent authorities.

The Lithuanian Geological Survey issues permits and enters into contracts for the extraction of underground resources with Persons. **Permit is open-ended.** A contract to use resources in a specified object shall be concluded for a period preferred by a Persons but not exceeding 25 years, except in the case of a permit to exploit subsurface caves for natural gas storage. Only a single permit could be issued to Persons, while contracts may be multiple, depending on the number of objects. A permit may not be transferred to another Person. If Persons acquired the company which has a permit to use of subsurface resources according LT-L3 provisions a permit shall be re-issued.

In the same object at the same time, other types of resources may be surveyed and used under the same permit, provided that this does not interfere with the operations of the already existing permit holders.

A permit **shall be issued within 30 days** of the submission of the applicants' applications as well as documentation in conformity with the requirements of LT-L3 to the Lithuanian Geological Survey, except in the following cases:

- 30 days of the tender results notice;
- within 30 days of the submission of a written agreement between the applicants to the Geological Survey, when the documents were submitted by the applicants on the same object. In that case, the Geological Survey recommends that the applicants reach an agreement on the division of the object into parts (smaller objects) within a period of 30 days.
If the applicants fail to submit a written agreement within the set time limit, the Geological Survey, guided by the principle of rational extraction of underground resources, shall adopt a decision on the division of the object into parts (smaller objects) as well as permit issue to the applicants. Based on the sequence of application submission, the applicants shall be entitled to choose a part of the divided object. Should the requests of any of the applicants be declined, they should be informed in writing accordingly.

A refusal of a permit shall be notified to the applicant no later than within 30 days of the submission of the application, except in the following cases:

- in the case specified in paragraph I above – within 20 days of the tender results notice;
- in the case specified in paragraph II above – within 30 days of the submission of a written agreement between the applicants to Geological Survey or, should they fail to agree – within 30 days of the expiry of the time limit for submitting a written agreement of the applicants.

It should be noted, that if the resources are insufficient in the object used or they do not satisfy the permit holder, it may be re-issued with a permit providing for surveying of such resources in accordance with the conditions laid down in the contract. This permit shall provide its holder with a right to subsequently request re-issue of a permit for the use of resources explored at its own expense.

Important to note, that deadline of third stage does not include time (~ 1 year), which can be needed for tender procedures. This done intentionally, because just after the 26 years (since Lithuania independence was restored) first tender on valuable minerals (amber) was organised on June of 2016. Despite that, the tender was unsuccessful because of lack of participants. Therefore, there is no reliable information about deadlines in practice regarding tender procedures.

As a conclusion, obtaining permit of use of subsurface resources (issued without a tender) is not very complex and procedure relatively is short in time. Most time-consuming is submission documents (object plan) coordination with another competent authority. If object fall under the state land, particularly forest land, in many cases forest enterprises are reluctant to coordinate object plan. Also, problems occurring if applicants submit documents on same object for permit issue and do not agree with division of the object into parts.

Main problem in point of view of subsurface regulation and competence is Art. 12 paragraph 8 of Underground Law provisions, which allows extracting mineral resources without permit for non-commercial purpose to the land owner or land user.

It must be considered as legislative gap, because often some of the legal and nature persons carry out normal mining activity on commercial basis, avoiding all required procedures (prospection and exploration, EIA, spatial planning and others) which are mandatory to fulfil for mining companies.

2015 Geological Survey **study** on mining activities damaged land inventory identifies, that in country exists 614 "minor quarries" which by the Environment and Agriculture ministers order **No. D1-140/3D-141** of 2008 provisions are formed as non-commercial quarries.

Calculated by study extracted mineral (aggregates) resources volume from "minor quarries" was 2.9 million cubic meters, comparing in 2015 the official State aggregates extraction was 7.7 million cubic meters. Usual users of "minor quarries" are State Forest Enterprises, natural persons, legal persons and Municipalities.

IV stage (8-12 months). Spatial planning, extraction and reclamation plan preparation.

According to the Art. 14 of the to the Underground Law provisions, the use of subsurface resources is only possible under the Subsurface Plan conditions. The Subsurface Plan is a special territorial planning document which describes forming land and changing the target land use, extraction and reclamation solutions. Main legislation pieces are Spatial Planning Law (LT-L23) and Environment minister order No. D1-145/2014 (LT-L5).

The Subsurface Plan preparation process consists of:

- The **preparatory phase**, which is prepared and approved planning work program, received planning conditions, signed by the technical design tasks (1-2 months, plus 2-3 months if need to prepare strategic environmental impact assessment - SEIA);
- **Development phase**, evaluated general conditions, formed and concretized mineral resources solutions to use, manage and store (usually 2-3 months, plus 1 month if object condition is complex);
- **The final stage**, which carried out the publicity, coordinating, verify, approval and registration procedures (3 months).

Before starting the preparatory phase must be taken Geological Survey decision on the plan preparation and the start of the planning objectives.

Planning condition issuing in preparatory phase are performed by Territorial planning documents preparation and territorial planning process state supervision information system of the Republic of Lithuania by electronic means.

According to the Spatial Planning Law (LT-L23), the municipal level and local level, integrated spatial planning document alignment is carried out not later than 10 working days from the planning organiser's request. But in reality, the procedure takes longer – 20 working days (cf. Fig. 4).

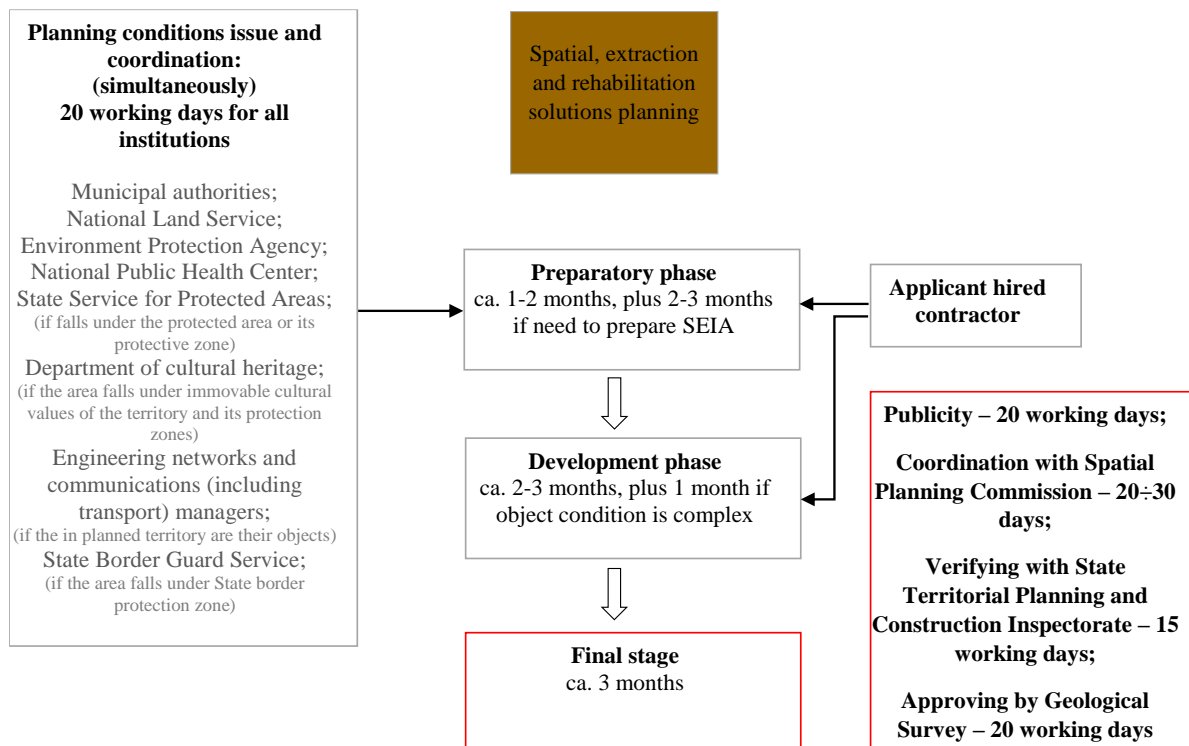
The Subsurface Plan must be adjusted when the expected change or correction:

- One of the main elements of the system of mining operations;
- Quarry reclamation type of work and conditions;
- Planned to change the land area and (or) the limits and (or) the mining area of the plot, and (or) limits (an area increase of more than 0.5 hectares)

After the final stage, the client can start mineral resources extraction. It is important to note, that according to the Land Law (LT-L22), state-owned land is leased without an auction if the Persons has permit to use of underground resources issued in accordance with the laws.

By the Underground Law (LT-L1), land required for subsurface resources use is purchased, taken for public needs or rented by the Civil Code, Land Law and other legal acts provisions.

Fig. 4: Lithuania. Diagram of spatial planning, extraction and reclamation plan preparation.



Source: G. Giparas.

Post-extraction permitting

In Lithuania, there are no restrictions (deadlines) on extraction interruption as in other countries.

However, according to the Government Resolution No. 198/2002 (LT-L3) a permit to use subsurface shall be cancelled if Person:

- has not commenced the specified activities in the object designated for extraction within 5 years of the permit issue date or has not performed the activities specified in the permit over the last 5 years, while the objects' resources were explored using State funds;
- has not commenced the specified activities in the object designated for extraction within 5 years of the permit issue date or has not performed the activities specified in the permit over the last 5 years, while the objects' resources were explored using the permit holder's own funds; This requirement shall not apply if the activities specified in the permit are not carried out due to pending issues of land plot acquisition that do not depend on the permit holder or if the object's land is owned by the permit holder.

After mineral deposit is completely exploited or in extraction stage, Person according to the Subsurface Plan solutions of reclamation, shall initiate technical works to restore mining site (or part of it) in line with deadlines of plan.

Also, mandatory to prepare and submit resources accounting plan to Geological Survey in accordance with Geological survey director order No. 1-01/2003 (LT-L9) provisions.

This plan is submitted every 3 years (5 years for peat) or when extraction reaches 10 thousand cubic meters of mineral deposit and at the end of extraction to prove, that resources are completely depleted.

Integrity assessment

According to the Art 25 of the Underground Law, geological information data obtained by funds of persons and provided to State Underground Registry, can be limited for public, if a written request of that person is received. In this case, state geological information system managing institution (Geological Survey) can use data only in respect of the state regulatory functions and cannot post or transmit to any person, except public authorities and institutions who have the right to claim them. Using such data limitation period cannot be longer than five years after they are received.

Implementing of personal data subjects, individuals whose personal data is managed by the Geological Survey rights is guided by the Geological Survey director order No. 1-113/2015 "Personal data subjects' rights in the Lithuanian Geological Survey Procedure".

Regarding concerns of the core elements of integrity, such as anti-corruption there is no explicit regulation inside the mining legislation. However, corruption issues are regulated by the Prevention of Corruption Act (IX-904/2002).

Annex, List of integrity related legislation

- The Constitution of the Republic of Lithuania, 1992;
- Civil Code No. VIII-1864/2000;
- Personal Data Protection Act No. I-1374/1996;
- Public Information Act No. I-1418/ 1996;
- Competition Law No. VIII-1099/1999;
- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Law No. IX-449/2001;
- Copyright and Related Rights Act No. VIII-1185/2003;
- Statistics Law No. I-270/2010;
- State Information Resources Management Act No. XI-1807/2011;
- Parliament Resolution No. IX-1655/2003 on Personal data protection in public institutions Assurance.

1.7. Court cases on permitting procedures

The procedural and institutional framework of court appeals

A court system of the Republic of Lithuania is made up of courts of **general jurisdiction** and courts of **special jurisdiction** (Fig. 5). The Supreme Court of Lithuania, the Court of Appeal of Lithuania, regional courts and district courts are courts of general jurisdiction dealing with civil and criminal cases.

The **Supreme Administrative Court of Lithuania** (LT-E14) and **Regional Administrative Courts** (LT-E15) are courts of special jurisdiction dealing with administrative cases, which established consider disputes when at least one of the parties is a state, municipality or institution of the state or municipality, agency, office, officer and when these subjects face the disputes while implementing the functions of the executive authority. In Lithuania, the administrative courts has got two levels: **court of first instance** (LT-E15) and **instance of appeal for cases of regional administrative courts** (LT-E14). In the Republic are one Supreme Administrative Court and five Regional Administrative Courts.

The Constitutional Court (LT-E13) ensures the supremacy of the Constitution within the legal system as well as constitutional justice by deciding whether the laws and other legal acts adopted by the Parliament are in conformity with the Constitution, and whether the acts adopted by the President of the Republic or the Government are in compliance with the Constitution and laws. **The right to file a petition** with the Constitutional Court concerning the constitutionality of a legal act **is vested Government, Parliament and President of the Republic.**

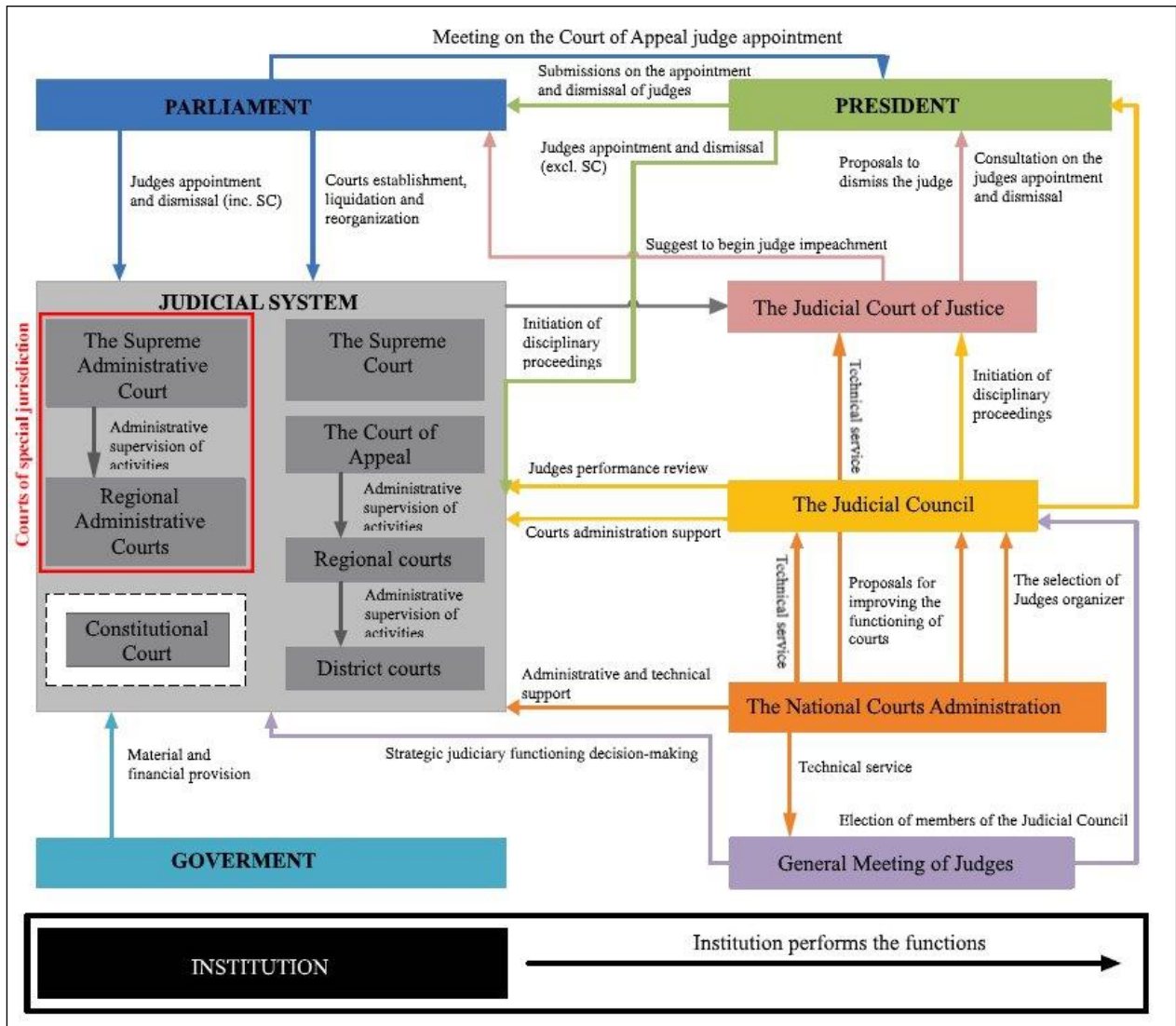
Regional Administrative Courts hearing complaints (petitions) in respect of administrative acts and acts of commission or omission (failure to perform duties) by entities of public and internal administration. The Supreme Administrative Court is first and final instance for administrative cases assigned to its jurisdiction by law. It is appeal instance for cases concerning decisions, rulings and orders of regional administrative courts. **The Supreme Administrative Court develops a uniform practice of administrative courts in the interpretation and application of laws and other legal acts.**

According to the Law on the Constitutional Court No. I-67/1993, the applicant to Constitutional Court can be exclusively authorities, due to that reason currently no Constitutional Court cases related with non-energy minerals.

According Lithuanian National Courts Administration, typical administrative proceedings in court may last for 6 months in Regional Administrative Courts and 12 months in Supreme Administrative Court as an average. **Since underground regulations appeals are rare and specific, usually processes can take longer, 1-3 years**, especially if local communities and NGOs are involved and concern is environmental aspects. **Besides,**

environment impact assessment procedures in front of court may last 1 or more years, e.g. oil company case (No. A-492-1326-12; AS-8-520/2015) where whole process took ten years and not ended yet. Important to note, that not only the applicant but also interested third persons can set an appeal against authority decision.

Fig. 5: Lithuania. Judicial system, judicial self-government and other public institutions.



Source: the Lithuanian National Courts Administration

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

After the restoration of the Sovereignty of the Republic of Lithuania on the 11 March 1990, January 16, 1992 marks the beginning of the reorganization of the judicial system of Lithuania, when Parliament passed the Law on amendments and supplements of certain articles of the Provisional Constitution. The essential reorganization of the judicial system is associated with the adoption of the Constitution in a Referendum that was held on 1992. Following the transition from planned to market economy, a number of new legal acts important for mining sector was adopted.

According to the Lithuanian Geological Survey (LT-E1), main authority of underground policy maker along with Ministry of Environment and executor, there is no information about court cases in 1990's.

Currently, the Geological Survey does not collect statistical information of judicial proceedings as well. The number of judicial cases regarding subsurface regulation is around 10 on the average annually. These figures cover whole underground sector public administration issues and Geological Survey roles in judicial processes as defendant or interested third party.

Numbers of mining administrative cases is even less, 2-3 on the average annually. This situation is determined by a relatively small country's mining sector, there are no ore mining and metallurgical industries, dominate aggregates extraction. Nevertheless, last two year cases number slightly increased.

Some of the cases are directly related with exploration and extraction and post-extraction permitting, others with environment impact assessments decisions, land and spatial planning, particularly related with forest land, issues.

The majority of the appellants were the mining companies, the minor part were other interested parties (e.g. the landowners, local communities). The defendants are typically the permitting authorities depending on competence. **There is no insufficient statistical data because of low cases numbers, therefore cannot be reliably estimated administrative proceedings winner's percentages.**

However, according to the Lithuanian Geological Survey, in their experience most cases (ca. 80%) is won by the defendant authority. Clients who are not satisfied with first-instance court decision, usually file a complaint to the Supreme Administrative Court.

Historically administrative mining cases in Lithuania did not have significant impact on sector legislative change. Since 1995, during the last 21 years, Underground Law have been amended 11 times and its implementing Government regulations 3-5 times, but in majority not due judicial proceedings.

It is worth mentioning that, in 2014 public concern regarding shale gas and oil exploration using hydraulic fracturing, caused political pressure to change some parts of Underground Law without legal proceedings. These amendments were initiated by group of members of Lithuanian Parliament.

However, recent years (2015-2016) administrative proceedings emerged legal act gaps related with prospection and exploration works registration on State Underground Resources Accounting and Research Registry. This cause resulted Lithuanian geological survey director order No. 1-70/2006 (LT-L9) amendments in 2016 and further require to update of Underground Law. Also, some amendments of spatial planning legal acts in 2014 weren't as successful for the mining sector in terms of administrative burden decrease as was predicted. At the moment, **no cases observed regarding to the EU legal acts** which were transposed into national law.

Most decisive and representative court judgements

As described previous, due to the small annually number of cases and lack of statistical data, were collected the most important and interesting cases from the Geological Survey submitted documents. Cases, where Geological Survey is not defendant, but interested third party, mostly related with environment impact assessment decisions, spatial planning and land issues. There are some proceedings where defendant is local Municipality administrations (LT-E3), environmental (LT-E6) authorities (LT-E5) or several of competent institutions (LT-E4, LT-E9).

Case No.: A-1365-624/2016

Name of court: The Supreme Administrative Court (LT-E14)

Date of judgment: 11 April 2016

Name of plaintiff (or appellant): Baltijos karjerai, UAB³

Name of defendant: Geological Survey (LT-E1)

Interested third parties: B. Pinkevičiaus IĮ⁴; Dolomitas, AB⁵; J. Kličiaus IĮ

Judgement in favour of: the appellant

Relevance to which stage of permitting: prospection and exploration (dolomite)

Piece of legislation on which the claim (or appeal) is based: Art. 6 of Underground Law (LT-L1) and Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

In accordance with Art. 7 of Underground Law all direct investigation of the underground is mandatory to register to State Underground Resources Accounting and Research Registry (hereinafter - SURAR). Government Resolution No. 584/2002 (LT-L4) governed SURAR registration procedures. Lithuanian Geological Survey director order (Rules) No. 1-70/2006 (LT-L8) determine registration of objects, data provision and management of register order.

On the 24 April 2015 appellant filed a complaint to Vilnius Regional Administrative Court on Geological Survey 27 February 2015 decision. Competent Authority refused to register applicant's investigation of the dolomite deposit resources, because same type of works was already registered by another company.

Decade, was a well-established registration procedure that the same kind of direct geological prospection and exploration works were registered according rule: "one object - one client". It seems logical from geological data management and approval resources methodology point of view. Registration system worked fine with no major complaints until this case. On the 27th July 2015 Vilnius, Regional Administrative Court issued a decision satisfactory appellant.

After that, Geological Survey appealed to the Supreme Administrative Court to repeal the first-instance court decision, in which the defendant is obliged to register appellant's dolomite resources prospection and exploration works.

The Supreme Administrative Court on the 11 April 2016 dismissed Geological Survey complaint. The panel of judges found that the decision of Geological Survey is inconsistent with the Underground Law and Regulations on investigation of the underground registration procedures and is illegal. Also, noted that neither the Law nor the Regulations nor the Rules

³ UAB - private limited liability company

⁴ IĮ - individual enterprise

⁵ AB - public limited liability company

not prohibited of registration of several client's investigations of the underground in the same mineral deposit area, if clients submitted the required documents.

In 2016 Lithuanian, geological survey changed prospection and exploration works registration Rules No. 1-70/2006 to prevent incidents in future and ensuring the previous regulation, also remains necessity to change the Underground Law.

Case No.: eI-7504-244/2015

Name of court: Vilnius Regional Administrative Court (LT-E15)

Date of judgment: 9 December 2015

Name of plaintiff (or appellant): State Territorial Planning and Construction Inspectorate (LT-E5)

Name of defendant: Geological Survey (LT-E1)

Interested third parties: Šilutės Forest Enterprise; Prima Parte, UAB; Alvetos karjerai, UAB

Judgement in favour of: Peace treaty

Relevance to which stage of permitting: extraction (gravel, sand)

Piece of legislation on which the claim (or appeal) is based: Art. 14 of Underground Law (LT-L1).

Description (summary) of the case:

In accordance with Art. 14 of Underground Law extraction of the underground resources is possible only under the Underground Use Plan, which are local-level special territorial planning document which implements extraction and rehabilitation technical solutions as well. New amendments of Art. 14 of Underground Law were approved in 2014 on purpose to improve and ease territorial planning procedures related with mining activities. However, difficulties observed when planned activities are in the state land, particularly forest land.

By Art. 14 of Underground Law provisions for organiser of Underground Use Plan is mandatory to have the rights to use or dispose of designed land plot. However, private company cannot fulfil this condition when object fall under the state land. Important to note, that state land trust law by Government decision could obtain just the authorities, local municipalities, the forest enterprises, national and regional park administrations (LT-L22). According Spatial Planning Law (LT-L23) harmonized plans must be inspected by State Territorial Planning and Construction Inspectorate (LT-E5). After LT-E5 inspection, plans are submitted for approval to Geological Survey. Before starting the preparatory phase must be taken Geological Survey decision on the use plan preparation and the start of the planning objectives.

State Territorial Planning and Construction Inspectorate appeal to regional administrative court due to few approved Geological Survey decisions in 2014. According appellant, preparation procedures were violated because companies not had state land trust law as mandatory for organisers.

Given the need to address the deterioration in the legal environment for business regarding extraction possibilities of mineral resources in the state land, Geological Survey initiated interdepartmental meetings with State Territorial Planning and Construction Inspectorate

to solve issues. Both Authorities decided to conclude a peace treaty and apply to the court for termination of the case.

On the 11 June 2015 was changed Art 14 of Underground Law, were added conditions which provides possibility for client to get organiser rights of Underground Use Plan on state land if the land owner or the entity that controls the state land trust, consent with organiser functions transfer to client.

On one hand, after 2015 the situation has improved, on other hand some of authorities, particularly forest enterprises, in many cases are reluctant to consent with such rights.

Case No.: I-5381-789/2015

Name of court: Vilnius Regional Administrative Court (LT-E15)

Date of judgment: 21 December 2015

Name of plaintiff (or appellant): Karjerų linija, UAB

Name of defendant: Geological Survey (LT-E1)

Interested third parties: Žvyro karjerai, UAB

Judgement in favour of: appellant

Relevance to which stage of permitting: extraction (gravel, sand)

Piece of legislation on which the claim (or appeal) is based: Art. 42 and 48.7 of Government Resolution No. 198/2002 (LT-L3) "Permits for Use of Minerals (except hydrocarbons), Underground Industrial and Mineral Water Resources and Subsoil Cavities Authorisation Rules"⁶. Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

In 2014 Geological Survey dismissed appellant application on extraction permit granting. The appellant "Karjerų linija" asked permit to exploit minerals deposit plot which fall under another company mining plot. According to Art. 42 of Government Resolution No. 198/2002 (LT-L3) few clients can submit applications on the same object and in the same boundaries if at the moment no permit issued to use this resources. Otherwise competent authority may dismiss later requests. Besides, Art. 48.7 of Resolution specify that authority can refuse grant permit to client if already is another entity who has valid permit with use agreement.

Important to note, that mining deposit operator "Žvyro karjerai" has smaller leased plot of land than granted mining plot, but that kind of situation is usual, especially on state land territory. "Žvyro karjerai" working since 1999, but in 2006 another entity somehow acquired very small part of state land which fall under operator mining plot. As consequence, arose conflict between companies for rights to use gravel resources in this part of mining deposit.

⁶ Non official translation

LT-L3 Rules does not require to have a land plot or be a land owner before receiving permit. However, when client submitting the application is mandatory to have approval (signed object plan with boundaries) of a land owner or land user or the manager (Art. 25, 25.1).

In fact, this case has begun in 2008, appellant requirements remained almost the same, the only change is that the applicant as a legal entity was reorganised. According 2008 Vilnius Regional Administrative Court (case No. I-3492-764/2008) and 2009 the Supreme Administrative Court (case No. A⁵⁰²-1355/2009) decisions, Geological Survey reasonably refused issue permit to appellant. Main arguments of both courts were that acquiring part of land plot which fall under mining plot used by another entity does not annul the current authorisation who have use agreement.

Nevertheless, in 2015 Vilnius Regional Administrative Court upheld the applicant's complaint, defendant appealed to the Supreme Administrative Court.

Case No.: eI-3114-644/2015

Name of court: Kaunas Regional Administrative Court (LT-E15)

Date of judgment: 26 October 2015

Name of plaintiff (or appellant): Presto durpes, UAB

Name of defendant: Kaunas Regional Environmental Protection Department (LT-E6)

Interested third parties: Geological Survey (LT-E1)

Judgement in favour of: appellant

Relevance to which stage of permitting: extraction (peat)

Piece of legislation on which the claim (or appeal) is based: Art. 8 of Public Administration Law (LT-L27). Art. 15 of Underground Use Plan Preparation Rules (LT-L6).

Description (summary) of the case:

Appellant filed complaint to Kaunas Regional Administrative Court on Kaunas Regional Environmental Protection Department (hereinafter – Kaunas EPD) 14 April 2015 decision. Kaunas EPD refused to issue planning conditions on Underground Use Plan of "Presto durpes" mining plot. Competent authority stated, that individual administrative act was based on Art. 3 (paragraph 4) and 10 (paragraph 8) of Proposed economic activity environmental impact assessment Law (LT-L10):

- The proposed economic activity, which requires an Environmental Impact Assessment (EIA) or screening for an EIA, business permit may be issued if there is a valid authority positive decision on the planned economic activity or screening for an EIA concluded that no need EIA (Art. 3);
- The competent authorities of a positive decision are valid for 5 years from the date of its adoption. The responsible authority in accordance with the Ministry of Environment established procedures and criteria adopted, may decide to extend the validity of the decision of no more than 5 years, within 20 working days from the organiser (customer) reasoned request for the extension;

and Underground Use Plan Preparation Rules Art. 11, 25, 27.8 and 28.3.2.1 (LT-L6):

- Geological Survey decision on the use plan preparation and the start of the planning objectives should be taken no longer than one month after extraction permit is issued to client (Art. 11);
- The preparation of the plan environment protection part in determining whether the designed works is in line with the EIA procedures adopted solutions. If the prepared plan solutions coincide with the EIA document, no need to do a more detailed evaluation of environmental issues (Art. 25);
- The Environmental Protection Agency or the Regional Environmental Protection Department reasoned decision on the planned economic activity dedicated to the mining site (Art. 27.8);
- Planned territory boundaries should be set in accordance with the provisions of the Underground Law, taking into account the EIA adopted solutions (Art. 28.3.2.1).

The court decided to satisfy the applicant's appeal. The panel of judges stated, that "Presto durpes" fulfilled the environmental impact assessment procedures as required by law. In 2003 Environment Ministry adopted a positive decision on the planned (peat extraction) operational feasibility. In 2006 Geological Survey for company has issued permit to use peat resources.

According amendments of Art. 14 of Underground Law were approved in 2014, legal entities after permit issuing has to prepare Underground Use Plan. Same year, Geological Survey took decision on the use plan preparation and the start of the planning objectives, organiser rights was transferred to "Presto durpes". As required by the rules of plans (LT-L6), organisers immediately appealed to the competent authority for planning conditions issue.

Regarding Art. 3 (paragraph 4) and 10 (paragraph 8) of Proposed economic activity environmental impact assessment Law, the panel of judges evaluated, that the economic activity onset is associated with issued permit use of underground resources, unless the permit to set a different date (later). For these reasons, the positive EIA decision validity of the court's view, it is no longer relevant for license issue, when legal entity gaining the right to implement the planned activities. Therefore, requirement to have valid positive EIA decision for planning conditions issue are not based on any legislation. Court stressed, that according Underground Use Plan Preparation Rules, planning conditions could not be issue just in one case, if planning objectives contrary to the laws, regulations and administrative provisions.

Defendant's argument that he can't issue planning conditions on the basis of Art. 11 of Underground Use Plan Preparation Rules is completely unjustified. The requirements of Art. 11 came into effect on the 18 January 2014, meanwhile mining permit to company was issued in 2006.

The court concluded that the defendant completely unreasonable and unlawful refused issue planning conditions. Authority's decision repealed.

Case No.: A⁵⁰²-2532/2013

Name of court: The Supreme Administrative Court (LT-E14)

Date of judgment: 16 February 2014

Name of plaintiff (or appellant): Melinga, UAB; Vigrima, UAB

Name of defendant: Vilnius Regional Environmental Protection Department (LT-E6)

Interested third parties: J. Jonyno ecofirma, UAB; Trakai Municipality administration (LT-E3); Vilnius Public Health Center (LT-E8); Vilnius Department of cultural heritage (LT-E10); Geological Survey (LT-E1)

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction (gravel, sand)

Piece of legislation on which the claim (or appeal) is based: Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

Appellants filed complaint to Vilnius Regional Administrative Court on Vilnius Regional Environmental Protection Department (hereinafter – Vilnius EPD) 19 November 2012 decision on the final EIA screening conclusion. According competent authority decision, appellants proposed economic activity (gravel and sand mining) requires an Environmental Impact Assessment.

Appellants stated, that before final conclusion adoption they removed all shortcomings identified by Vilnius Public Health Center. In their opinion, conclusion adopted on other grounds and not based on specific legal norms and objective data.

Defendant requested the complaint to be dismissed as unfounded. In Vilnius EPD opinion, complaint was filed too late, after spending one-month deadline. In addition, the defendant's view, the applicant not properly assessed the planned economic activity on the environment. EPD stressed, that applicants do not provide sufficient justification for the need to exploit new mining area, also no information was given about possible mining site alternatives in district. Regarding identified shortcomings, in 2011 Vilnius EPD requested additional information, but did not indicate a specific deadline for the submission. Requested information was provided almost after year.

Geological Survey and Vilnius Public Health Centre asked to examine the applicant's complaint to the court's discretion.

Trakai Municipality administration supported applicant's complaint. Local authority main arguments were that defendant decision on EIA not meets Art. 7 of Proposed economic activity environmental impact assessment Law (LT-L10) provisions. In their opinion, the decision was taken on grounds other than was launched screening for an EIA procedure.

On the 3rd July 2013 Vilnius, Regional Administrative Court repealed Vilnius EPD 2012 decision. However, defendant appealed to Supreme Administrative Court, which upheld Vilnius EPD appeal in part.

The panel of judges of the Supreme Administrative Court stressed that a court of first instance properly evaluated facts that the Vilnius EPD did not indicate a specific deadline for the submission of additional information. However, in accordance with law by reviewing the screening conclusion responsible authority has right, which was caused by the administrative case proceedings sides legal relations specifics, to initiate a new screening on EIA procedure. The Supreme Administrative Court stated, that in order to fairly decide the case, it is necessary thoroughly investigate and evaluate the final EIA screening conclusion decision reasons. Case was returned for re-examination to court of first instance.

On the 14 November 2014 Vilnius, Regional Administrative Court re-examined case (No. I-5818-463/2014) considering the Supreme Administrative interpretations regarding final screening conclusion motivation in the legality and validity. According to court, EIA law (LT-L10) specifically determine what the competent (responsible) authority must consider

when deciding whether or not mandatory to carry out an environmental impact assessment.

Court stated, that Vilnius EPD had a duty to find out what is the position of environmental impact assessment entities, to contact them in writing and obtain the relevant information. Applicants or developers to such an obligation by law, or methodological guidance have been not identified.

Therefore, Vilnius EPD as responsible EIA authority was obligated to inform other EIA entities about obtained additional information. Vilnius Regional Administrative Court finds that the final screening conclusion motives are unfounded and without assessment and does not meet the Public Administration Act 8 (paragraph 1) an individual administrative act requirement. Authority's decision repealed.

Case No.: A⁵²⁵-1745/2013

Name of court: The Supreme Administrative Court (LT-E14)

Date of judgment: 23 October 2013

Name of plaintiff (or appellant): Pagiriu rural community center, association

Name of defendant: Kaunas Regional Environmental Protection Department (LT-E6), Geological Survey (LT-E1)

Interested third parties: Margasmiltė, UAB; Bank SEB; other natural persons

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction (anhydrite)

Piece of legislation on which the claim (or appeal) is based: Art. 8 (paragraph 4) of Proposed economic activity environmental impact assessment Law (LT-L10) and Art. 6 of Law No. IX-449/2001 "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters" (Aarhus Convention).

Description (summary) of the case:

The applicant association Pagiriu rural community center (hereinafter - the Association) with a complaint and revised complaint approached the court, asking:

1. repeal Kaunas Regional Environmental Protection Department (hereinafter - Kaunas EPD) 5 February 2010 decision, by which was approved environmental impact assessment report of "Margasmiltė" planned economic activity - underground mine installation and anhydrite resources extraction.
2. repeal Geological Survey 28 October 2010 decision to issue permit to use Kauno district Pagiriu anhydrite resources.

Appellant stressed, that in approved EIA report no information was given about possible mining site alternatives in district. According to Association underground mine installation would have significant impact on public and environment because Pagiriai village houses is to near planned mining site. In their opinion, EIA report should assess pollution if extracted anhydrite will be transported only in car transport and not as planned - by rail. In this case, inevitably will increase pollution by chemical compounds and particulate

matter. Regarding of ground equipment which be used for underground mine installation also had to be carried out evaluation in EIA report and the sanitary protection zone should be calculated.

Association stressed, that mining activities will be conducted underneath private landowner's plots and this activity were not harmonised with them. Therefore, on the basis of Art. 25 of Government Resolution No. 584/2002 (LT-L4) Geological Survey issued permit to use anhydrite resources is in violation of provisions of this act.

The association argued that the complaint is directly related to the members of the Association of rights and duties, as they are Pagiriai rural residents and planned economic activity will have a direct impact on local community. Therefore, the applicant has the right to represent their members' interests in the court, also has the right, which is enshrined in the Aarhus Convention, to protect the public interest.

Kaunas EPD stated that the planned economic activity alternatives issues were discussed in the report. Defendant stated, that in Lithuania is the only one detailed explored Pagiriai anhydrite deposit, whose resources are approved according to the laws and recorded to the State Underground Resources Accounting and Research Registry. Therefore, alternative choice is extremely limited, in other words there is no alternatives.

As regards the applicant's argument that not clear how was calculated chemical pollution amount, defendant explained that these figures were measured with air pollution modelling software. The results show that in all cases the amount of the maximum concentration limit values does not exceed. Regarding transport intensity, defendant pointed out that the report estimated noise emissions from stationary simulation and from mobile sources (cars and shunting locomotives for use on the technological railroad) method. The actual number of automobile is much lower - up to 33 cars a day, if will be constructed a railway siding, or up to 110 cars, if not. However, even at the theoretical 1,000 cars per day flow, according to the findings of the modelling, will not have any impact on nearby residents. EIA report indicates that the train and cars transport cargo area is ground structures and facilities of the complex that is necessary to ensure the functioning of the shaft, and is integral part of the total activities of the project. Therefore, there is no need to carry out an environmental impact assessment separately for mines and separately for mine maintenance necessary terrestrial plant and equipment, as the environmental impact assessment of the object is not fragments (buildings, etc.), but the specific economic activity as the entire complex. Defendant also stressed that the sanitary protection zones are established in line with SPZ Rules and which cannot be determined in the planned environmental impact assessment phase. Kaunas EPD assessment, the withdrawal of authorisation is not the case, the applicant has not put forward any arguments that the permit was issued illegally, in violation of the permitting regulations provisions.

Geological Survey stated, that applicant complaint regarding permit issue is declarative and groundless by legislation requirements. Submitted documents for the authorisation were harmonised with competent authorities according to the laws. Along with the application were submitted documents proving the rights to a piece of land in which is planned underground mining installation. According to

Geological Survey, the applicant observations on the alleged illegal Kaunas EPD decision does not affect legality of issued permits by Geological Survey. Moreover, Geological Survey pointed out that the repeal of the Kaunas EPD decision, does not create grounds that the Authority, issuing the contested permit, violated the law.

The interested third person "Margasmiltė" asked court to reject the complaint as unfounded. Company drew attention to the fact that since 27 July 2009 by 5 October 2009 was obtained the environmental impact assessment entities conclusions on the report. Stressed, that relevant authorities have analysed EIA report and agrees with planned economic activity.

On the 12th July 2013 Vilnius Regional Administrative Court dismissed association Pagirių rural community centre appeal. First, the court noted that in this case the Supreme Administrative Court on 2012 February (case No. A⁴⁹²-1231/2012) has already set out on the applicant's right to challenge the scope of administrative acts and legal framework. The court of first instance followed the Supreme Court order and arguments but not examined whether the Association may challenge the decision taken on the basis of the disputed EIA report. The only question that must be answered is whether the Association may challenge administrative act regarding mining permitting on the basis of land owners harmonise absence, where mining activities will be conducted several hundred meters underneath these plots. All other aspects of the complaint were to recognize the right appeal.

In response to this argument, the court, first, had concluded that the applicant cannot challenge the authorisation, because the right to defend their property can only land owners and legitimate managers.

Only they have the subjective right to property and only their rights may be violated, if the legislation provides to get their consent to any act of public administration to adopt, and such consent has not been received. Secondly, the necessary documents as required by the permitting rules were submitted to Geological Survey. Also, the applicant is wrong to claim that mandatory to be to get the adjacent land owners consent and approval from other persons who do not live in the area. Court concludes that the contested permit issued lawfully and reasonably, there is no statutory grounds to revoke his part.

After evaluating the program and reporting materials, the court concluded that the Kaunas EPD decision is legal and reasonable. The applicant did not dispute any of the EIA entities decisions, e.g. Kaunas Public Health Centre (LT-E8). Also court pointed out that in the case confirms that was not necessary to assess local alternatives, because it does not exist in general.

The applicant filed an appeal for repeal of the Vilnius Regional Administrative Court decision and take a new decision to meet the revised complaint. The Supreme Administrative Court panel of judges stated that court of first instance correctly interpreted and applied the substantive law, identified all the relevant factors in resolving the dispute, the procedural law violations did not, therefore, adopted a lawful and reasonable solution that will be left unchanged, and the appeal must be dismissed.

Case No.: A⁵²⁵-1949/2013

Name of court: The Supreme Administrative Court (LT-E14)

Date of judgment: 23 October 2013

Name of plaintiff (or appellant): Tarptautinė statybos korporacija, UAB

Name of defendant: Geological Survey (LT-E1), National Land Service under the Ministry of Agriculture (LT-E4)

Interested third parties: Pagirių Nesta, UAB

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction (gravel, sand)

Piece of legislation on which the claim (or appeal) is based: Art. 25, 31, 46, 48.7 and 49 of Government Resolution No. 198/2002 (LT-L3) "Permits for Use of Minerals (except

hydrocarbons), Underground Industrial and Mineral Water Resources and Subsoil Cavities Authorisation Rules". Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

The applicant "Tarptautinė statybos korporacija" with a complaint and revised complaint approached the court, asking:

1. repeal Vilnius District Land Management Division 31 March 2011 decision, which obligates harmonise appellant application for permit issuing with public land trustee.
2. repeal Geological Survey issued permit on the 1 July 2011 "Pagirių Nesta" to use Papiškių gravel and sand deposit resources.

On the 21st March 2011, Geological Survey annulled the applicant permit to use Papiškių gravel and sand deposit resources in terms of the contract violation and on the basis of failure to comply with Government Resolution No. 198/2002 (LT-L3) 6.4, 64.2.5 and 64.2.8 provisions. Permit holder for five years in succession has not started mining activity. Important to note, that "Tarptautinė statybos korporacija" had mining permit since 2007, but not carry out mining activity operations since 2002.

After permit withdrawal, on the 31 March 2011 National Land Service Vilnius District Land Management Division informed appellant that the company does not comply with the Land Law No. I-446/1994 (LT-L22) Art. 9 (paragraph 6 point 2) of the state land lease of conditions. According to the Civil Code Art. 6.564 reported that the state-owned land lease, which is needed for mining activities, will be discontinued from the 1 June 2011. State land lease agreement by competent authority was discontinued on 27 June 2011.

On the 31 March 2011 "Pagirių Nesta" appealed to Geological Survey for permission to use Papiškių gravel and sand deposit resources. On the 1st July 2011, the Geological Survey has issued to "Pagirių Nesta" permit.

"Tarptautinė statybos korporacija" appealed to Geological Survey for permission to use Papiškių deposit resources again on 6 September 2011. Competent authority rejected appellant application on the basis of Art. 48.7 of Rules (LT-L3), which allows authority to return submitted documents and not satisfy application if whole mining deposit is already dedicated to another entity who has valid permit with use agreement.

In appellant opinion, illegal authorisation to a third person became a basis to reject the applicant's request for permit to use subsoil resources. Also pointed, that Vilnius District Land Management Division decision to harmonise land using for another entity was appellant's, as state land user tenant, rights violation.

According applicant, "Pagirių Nesta" didn't harmonise object plan with appellant as land user, as shall be. Therefore, Geological Survey issued permit to third person violated Art. 25 and 31 of Rules provision. Moreover, Geological Survey has postponed the examination of "Pagirių Nesta" application by company request until the state land lease termination with the current tenant issues was not resolved. This action according appellant's violated Art. 46 and 49 of Rules provision, because authority must to issue or refuse to issue permit in 30 days after application submission.

Defendant Geological Survey disagreed with the applicant's complaint. "Pagirių Nesta" application was in line with the requirements of the Rules. Geological Survey stressed, that had Vilnius District Land Management Division 31 March 2011 approval in which no objections regarding "Pagirių Nesta" authorisation to use the mineral resources in state-owned land, which was leased to "Tarptautinė statybos korporacija". District Land Management Division informed Geological Survey, that state land lease agreement with appellant will be discontinued from the 1 June 2011.

According Geological Survey, the applicant in the complaint incorrectly states that Rules do not give the right to seek to delay the authorisation procedure. Any legislation, including the rules does not prevent operators to request their previously submitted application leave unexamined or cancel the request or suspend the examination or other means to express their will. Geological Survey issued a permit to "Pagirių Nesta" within 30 calendar days from 1 June 2011, providing that it will come into force from 7 July 2011, what is in line with the Art. 46 of the Rules provision.

Defendant Vilnius District Land Management Division disagreed with the applicant's complaint. On the 31 March 2011 applicant was informed in writing about 23 April 2008 state land lease termination. In view of the fact that the Geological Survey withdrawn the authorisation to use subsoil resources land management department, according to the laws, has right terminate the lease of land agreement.

Defendant explained that at the time was still valid land lease contract, but that fact does not justify authority to not harmonise another legal person request.

On the 6th April 2012 Vilnius Regional Administrative Court dismissed the appeal of applicant. The applicant filed an appeal seeking annulment of the Vilnius Regional Administrative Court decision and take a new decision - to meet the applicant's complaint.

In 2013 the Supreme Administrative Court partly satisfied applicant complaint and annulled 2012 Court of First Instance decision and referred the case to the court again re-examine.

In 2013 Vilnius Regional Administrative Court re-examined the case back and rejected "Tarptautinė statybos korporacija" complaint. Court examined and assessed all the evidence in a case and decided that the Geological Survey decision applied properly, according to the judgment of Art. 8 of Public Administration Law Administration is justified and legitimate.

The applicant again filed an appeal seeking annulment of the 2013 Vilnius Regional Administrative Court decision.

The Supreme Administrative Court panel of judges stated that Court of First Instance correctly interpreted and applied the substantive law, identified all the relevant factors in resolving the dispute, the procedural law violations did not, therefore, adopted a lawful and reasonable solution that will be left unchanged, and the appeal must be dismissed.

Case No.: A⁶⁶²-1488/2013

Name of court: The Supreme Administrative Court (LT-E14)

Date of judgment: 18 July 2013

Name of plaintiff (or appellant): Anykščių kvarcas, AB

Name of defendant: Anykščiai District Municipal Council (LT-E3)

Interested third parties: Geological Survey (LT-E1); Utena Regional Environmental Protection Department (LT-E6); Jaros paršelių veislynas, UAB

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction (monomineral quartz sand)

Piece of legislation on which the claim (or appeal) is based: Art. 19 and 20 of Underground Law (LT-L1) and Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

The applicant requested the Panevėžys Regional Administrative Court to cancel Anykščių District Municipal Council 26 January 2012 decision on the detailed plan approval and the main land use replacement. Plan organisers rights have been transferred to a private company "Jaros paršelių veislynas".

"Anykščių kvarcas" explained that contested detailed plan includes territory, which is near company production base and fall under company mining plot dedicated for monomineral quartz sand resources extraction. In company opinion, spatial planning should identify all opportunities and constraints such solutions in the detailed plan not discussed. In this way, company mining operating possibilities is restricted in the future. Besides, in the approved detailed plan designed smaller plot (1.455 ha) of land for mineral extraction, than is approved in State Underground Resources Accounting and Research Registry – 1.712 ha.

Company stressed, that in detailed plan solutions, in the presence of pollution sources, for the planned commercial plot sanitary protection zone must be re-discussed and determined by the environmental impact assessment procedure. Moreover, Municipal Council decision violated Art. 19 and 20 of Underground Law provision, because spatial planning must be carried out, taking into consideration the structure and resources of the underground, foreseeing the influence of the economic activities on the state of the underground, its resources and valuable features. The underground resources, which are not under extraction must be protected against activities damaging their quality, conditions of extraction, building the territory or another action, which can burden their extraction in the future.

Defendant did not agree with the applicant's complaint and requested that the complaint be dismissed as unfounded.

Anykščių District Municipal Council explained that the plot of land, which fall under company mining plot designed by a separate parcel. Argued that the contested detailed plan does not prejudice applicant's rights and legitimate interests as the applicant are not operating in that plot. Defendant stressed on fact, that company had to submit a revised extraction and rehabilitation project to Geological Survey by the end of 2009. And most important, according to the planning conditions required that the plot which falls under mining deposit area should be formed as separate parcel of land, in which should not have been planned any construction. These requirements are met. Other requirements than Utena Region Environmental Protection Department nor the Geological Survey has not been determined.

According defendant Anykščių District Municipal Council, sanitary area was set from the last sanitary protection zone document, because recent was repealed by the laws sets 300-meter protection zone size. Stressed, that the environmental impact assessment must be carried out only to the planned economic activity, and for territorial planning document - strategic environmental impact assessment.

The third interested person Utena EPD disagreed with the complaint. EPD stated, that they issued planning condition in accordance with Geological Survey provided information. The plot of designed detailed plan which fall under mining deposit area should be formed in line with Government Resolution No. 343/1992 (special land and forestry extraction conditions) Art. 23, which prohibits any construction. Admitted, that only requirement for this plot was forming separate parcel of land for mineral deposit territory, in which should not have been planned any construction. Therefore, EPD did not see obstacles to approve the project.

The third interested person private company "Jaros paršelių veislynas" did not agree with the complaint and said that detailed planning is carried out legally.

The third interested person Geological Survey agreed with the applicant complaint and asked the complainant to meet. According Geological Survey, in the country are only one monomineral quartz sand deposit, which are unique. In their opinion, the root of the problem lies in violations of Land Reform Act in 1997, because was privatized part of mineral deposit area. Authority noted, that commercial land plot should be formed 10-15 meters from the mining parcel boundaries, because must be resolved slopes installation, special scheme was provided to the Court.

On the 15 February 2013 Panevėžys Regional Administrative Court dismissed applicant the complaint as unfounded.

The court found that the designed detailed plan of the dispute territory not fall under the activities list (Annex 1) of the Proposed economic activity environmental impact assessment (EIA) Law, which is mandatory screening for an EIA. Also, reasonably was done screening for an strategic environmental impact assessment (SIEA), as required for spatial planning documents. Concluded, that for detailed plan SIEA is not required, the selection procedure hasn't been violated.

Regarding new sanitary protection zone (SPZ) determination, court argued that applicant has not provided any evidence that the "Anykščių kvarcas" economic activity since 2004 increased environmental pollution, as well as adverse effects on human health. Fact that the applicant during the period of its production base built several new buildings, does not approve this circumstance. Besides, no legislation provides obligation to determine the SPZ around potential future planned operation of the sand career.

Government Resolution No. 343/1992 (special land and forestry extraction conditions) requirements, that to land owner is prohibited to build residential houses, industrial buildings, installations on detailed explored mineral deposit areas, was fulfilled. Also, court stressed, that extraction and remediation project still not ready, although the applicant shall do this before 1 January 2009 as was obligated in 2007 use agreement. It was noted that the land which fall under mining deposit area owner is "Jaros paršelių veislynas". Applicant does not have right to use this part of land plot and until now does not concerned about the acquisition of the right. Due to these circumstances, it is considered that the applicant's right to fully exploit quartz sand resources in the territory of the dispute is not real. Intention fully exploit the unique mineral deposit to be regarded as public interest and the applicant is not authorized to represent the public interest. Therefore, court evaluated that the applicant has no material legal interest in challenging the decision of the defendant on these grounds as well. According court, detailed plan was harmonised and fully discussed.

The applicant filed an appeal seeking annulment of the Panevėžys Regional Administrative Court decision and take a new decision - to meet the applicant's complaint. The Supreme Administrative Court dismissed complaint.

The panel of judges stressed that a court of first instance properly evaluated that applicant right to fully exploit mineral deposit resources in the territory of the dispute is not real and intention fully exploit the unique mineral deposit to be regarded as public interest. This means that the applicant is not entitled to challenge the defendant contested decision, as it does not affect the applicant alleged breach of the rights and interests, then it does not have a legal interest in the material and cannot realize the right to go to court. The legal basis on which applicant could to defend public interest in court, also not identified. Court finds that the applicant does not have recourse to the courts judicial (claim) law because it disclosed no rights or legitimate interest's violation.

In the light of the foregoing, the Court concludes that the "Anykščių kvarcas" claims are not legitimate and justified.

Case No.: I-437-583/2009

Name of court: Klaipėda Regional Administrative Court (LT-E15)

Date of judgment: 13 November 2009

Name of plaintiff (or appellant): Kretinga District Municipality Administration (LT-E3)

Name of defendant: Klaipėda Regional Environmental Protection Department (LT-E6), Klaipėda County Governor Administration⁷

Interested third parties: Alvetos karjerai, UAB; Geological Survey (LT-E1)

Judgement in favour of: defendant

Relevance to which stage of permitting: extraction (gravel, sand)

Piece of legislation on which the claim (or appeal) is based: Art. 8 of Public Administration Law (LT-L27).

Description (summary) of the case:

Appellant filed complaint to Klaipėda Regional Administrative Court on Klaipėda Regional Environmental Protection Department (hereinafter – Klaipėda EPD) 30 July 2009 decision on the final EIA screening conclusion of Imbarė sand and gravel deposit.

According applicant, Klaipėda EPD decision not in line with the regulations, because “Alvetos karjerai” did not submitted the ownership documents of land plot in which are planned economic activity.

Besides, in accordance with Kretinga District Municipal Council 29 October 1998 decision this state-land plot falls under the non-privatized public needs territory area. Therefore, “Alvetos karjerai” do not have rights to carry out any economic activity in this territory. Important to note, that in 2008 Kretinga District Municipality has got Klaipėda County Governor Administration approval on detailed spatial plan of Imbarė sand and gravel deposit.

Defendant explained, that municipality argument to have state land ownership documents for company is unfounded, because mentioned land plot is not formed free state land plot without cadastral data. Therefore, impossible submit ownership document of non-formed land plot. Procedures regarding screening for an EIA was in line with Proposed economic activity environmental impact assessment Law (LT-L10). Defendant stressed, that according to Law, does not required to have land plot ownership rights or in general to have land plot for planned economic activity.

In 2009 Geology Survey issued permit in line with the laws to use Imbarė sand and gravel deposit resources to “Alvetos karjerai”. Company had Klaipėda County Governor Administration (state land manager) approval required by Art. 25 of Government Resolution No. 198/2002 (LT-L3).

Klaipėda Regional Administrative Court dismissed applicant complaint. Court found that the administrative proceedings on administrative subjects of legislation and the legality of the action can only be if the legal consequences arose for the concerned persons. Legal consequences of the absence suggest that the dispute is not in principle. Klaipėda EPD and

⁷ After 2010 reorganization ten County Governor Administrations was repealed.

Geology Survey actions and decisions did not result in any legal consequences, Kretinga District Municipality Administration rights and obligations of the volume has not changed, the applicant's claims must be dismissed as unfounded.

Case No.: I-8209-3/2007

Name of court: Vilnius Regional Administrative Court (LT-E15)

Date of judgment: 9 December 2015

Name of plaintiff (or appellant): Natural persons

Name of defendant: Vilnius County Governor Administration, Trakai District Land Management Division

Interested third parties: Geological Survey (LT-E1), Trakų akmuo, UAB

Judgement in favour of: appellant

Relevance to which stage of permitting: exploration (gravel)

Piece of legislation on which the claim (or appeal) is based: Public Administration Law (LT-L27)

Description (summary) of the case:

Appellant filed complaint to Vilnius Regional Administrative Court on Vilnius County Governor Administration and Trakai District Land Management Division regarding delayed decision on restoring the ownership of the land plot (12,01 ha) in Trakai.

Appellant argues that the defendants reluctant to perform actions within their remit, for more than seven years does not prepare repayable vacant land plan and do not marking plot boundaries in that plan. According to the law, the following steps should be completed within a month.

Defendant did not agree with the applicant's complaint and explained, that in 2000 was prepared Trakai cadastral area land reform land management project and for applicants were designed to 12.01 hectares of land. Land reform land management project was approved by Vilnius County Governor Administration on the 22 September 2000.

Defendant stated, that just in 2006 they got information from Geology Survey that mentioned land plot falls under Šventininkų gravel deposit preliminary resources contour boundaries. According to the defendant, gratuitously transferred the ownership of equivalent land cannot be granted and formed in mineral deposits territory. Therefore, the plot should be reduced to 6,14 hectares. Defendant argues that in accordance with the provisions of the Land Reform Act only in 2006 by the Vilnius County Governor Administration Order gratuitously transferring of the ownership equivalent land plots carry out according the established sequence. The applicants are in the queue as other interested persons.

Also, indicated that the designed value of the land plot does not meet the refundable value of the land.

The third interested person Geological Survey stated, that in 1998 has harmonised with Vilnius County Governor Administration used minerals deposit list in Vilnius County. At a time Šventininkų gravel resources wasn't exploited. In 2001 part (40 ha) of mineral deposit was detailed explored and in 2002 Geological Survey granted permit to use gravel resources to private company. Important to note, that dispute plot for mining company wasn't granted.

Court found that all necessary documents was prepared and provided. Vilnius County Governor Administration was obliged, within two months from the date of the court decision to initiate the restoration of ownership of the designed land plot.

Conclusions

After the restoration of the Sovereignty of the Republic of Lithuania on the 11 March 1990, 1992 marks the beginning of the reorganization of the judicial system of Lithuania. The essential reorganization of the judicial system is associated with the adoption of the Constitution in a Referendum that was held on 1992. Following the transition from planned to market economy; a number of new legal acts important for mining sector were adopted. In Lithuania, the administrative courts have got two levels: **court of first instance** and **instance of appeal for cases of regional administrative courts**. In the Republic are one Supreme Administrative Court of Lithuania and five Regional Administrative Courts.

According to the Lithuanian Geological Survey, main authority of underground policy maker along with Ministry of Environment and executor, **the number of judicial cases regarding subsurface regulation is around 10 on the average annually**. These figures cover whole underground sector public administration issues and Geological Survey roles in judicial processes as defendant or interested third party. **Numbers of mining administrative cases is even less, 2-3 on the average annually**. This situation is determined by a relatively small country's mining sector, there are no ore mining and metallurgical industries, dominate aggregates extraction. Last two years' cases number slightly increased.

The majority of the appellants were the mining companies, the minor part were other interested parties (e.g. the landowners, local communities). The defendants are typically the permitting authorities depending on competence. There is no insufficient statistical data because of low cases numbers, therefore cannot be reliably estimated administrative proceedings winner's percentages. However, according to the Lithuanian Geological Survey, in their experience most cases (ca. 80%) is won by the defendant authority.

Historically administrative mining cases in Lithuania did not have significant impact on sector legislative change. Since 1995, during the last 21 years, Underground Law have been amended 11 times and its implementing Government regulations 3-5 times, but in majority not due judicial proceedings.

However, recent years (2015-2016) administrative proceedings emerged legal act gaps related with prospection and exploration works registration also new amendments of legal acts related with spatial planning and investigations of the underground require changes of current legislation. At the moment, no cases observed regarding to the EU legal acts which were transposed into national law.

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1.8. Success rates of exploration and extraction permits

The present report is based on the information provided by the Lithuanian Geological Survey (LT-E1).

It should be noted, that exploration permit can include a many types of research of the subsurface. Regarding study object and Lithuanian subsurface, particularly solid minerals, regulation it is important also to show number of direct geological investigations (exploration) which were registered to the State Subsurface Register and how much of them were finished. In this way it is possible to see exploration work flow in general.

It is important to note, that persons who have rights (a permit) to investigate subsurface are geological service providers to the extractive industry.

In Lithuania by the 2016 there were **21 companies with rights to carry out non-metallic mineral resources and valuable minerals prospection and exploration**. That is because the country's mining sector is relatively small, there are no ore mining and metallurgical industries, mostly dominate aggregates and less industrial minerals (dolomite, limestone), peat extraction. Therefore, lack of demand of geological service (exploration) reflects the small number of new permits issuing for such activities.

Table 3: Lithuania. Permits to investigate the subsurface (non-metallic and valuable minerals).

Action	2013	2014	2015
Applications	1	3	4
Issued permits	1	2	3
Success rate, %	100	67	75

Source: Lithuanian Geological Survey

Main reasons for the rejection by the authorities was not fulfilling the conditions by the legal persons to have qualified and trained professionals (geologists) with at least 3 years of that kind of research work experience within the past 7 years in accordance with LT-L2 provisions. Registered detailed exploration of solid minerals resources in 2013-2015 was **97**. By the end of 2015 finished exploration reached **104**.

A reason of bigger figures finished works comparing with registered is that exploration can be executed several years, therefore exploration registered and started before 2013 was finished in 2013-2015.

Permits of use of subsurface resources

Table 4: Lithuania. Permits of use of subsurface (solid minerals) issued in 2013-2015.

Action	2013	2014	2015
Applications	56	63	72
Issued permits	48	51	61
Success rate, %	85	80	85

Source: Lithuanian Geological Survey

The main reasons for the rejection by the authorities were:

- few applicants on the same object;
- the object resources were not detailed explored and approved in accordance with the laws;
- lack of required coordination from co-authority;
- lack of required documents by the LT-L3 provisions;
- the applicant did not pay the licensing fee.

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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)?

Yes. If applicant (legal person) are from another EU country, according to LT-L2 and LT-L3 for Permit to investigate or use the subsurface resources he must establish company branch in Lithuania (Report section: 2. Licensing procedures for exploration; 4. Licensing procedures for exploitation. III stage. Permit of use of subsurface resources.). For now, we do not have subordinate legislation of the Underground Law provisions, which imposes implement private persons exploration permit (except hydrocarbons, which we have) order. For that need to change LT-L2. However, there are new amendments (project) of the Underground Law, branch establishment will be not longer mandatory. Project could be approved in 2017.

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?

Yes. For exploration permit: geologist (starting from BSc), plus he should have at least 3 years of that kind of research work experience within the past 7 years (Report section: 2. Licensing procedures for exploration; I stage. Permit to investigate the subsurface.)

For exploitation permit: person responsible for mining works must have mining operations manager certificate, which can be obtained by finishing "Mining operations manager training program" by Ministry of Social Security and Labour.

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

No (LT-L13). Because we do not have any mining waste facilities, our mining industry generates just inert waste.

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

No, we do not have such list, in general this is top soil and ill-conditioned mineral deposit layer. All inert mine waste is used for mining site reclamation.

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?

Because we do not have any mining waste facilities, our mining industry generates just inert waste.

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 Article 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)?

Landfill Directive paragraph 3 of Article 3 are transposed in national legal base in these legal acts:

1. Waste Management Law No. VIII-787/1998, (paragraphs 2 and 3 of Article 2)

2. Environment minister order No. 444/2000 "Landfill construction, operation, closure and after-care rules" (paragraphs 3.4, 3.5, 3.6 of Article 3)

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?

They have to be submitted together with the exploitation project and have to be updated

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

No, we do not have such requirements of financial reporting in the Underground Law.

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

We have transposed Directive 2004/109/EC, 2013/50/EC, but these rules (article 6) are not reflected in 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?

No such requirements in permitting process, but could on-site inspections of State Labour Inspectorate under the Ministry of Health (LT-12), when related with technical safety issues. Mining authority doesn't have a regulatory/supervision right in product safety/market surveillance.