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Regulations for undertaking geological and mining activities in Czech law

Summary

The main aim of this article is to present regulations on the rationing of undertaking geological and mining activities in the Czech Republic. First, the legal basis for undertaking mineral exploration and mining activities in the Czech Republic was discussed. It was also explained what it means to undertake geological and mining activities. Next, the article indicates and describes decisions needed before undertaking geological and mining activities in the Czech Republic. Finally, the conclusions of the analysis and *de lege ferenda* postulates are presented.

Key words: rationing, geology, mining, undertaking activities

Introduction

The purpose of this article is to present the legal regulations concerning geological and mining activities in the Czech Republic. The choice of Czech law for

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discussion is justified because the Czech Republic, like Poland, is a member of the European Union, which means that the legal framework of the regulations is the same and it is EU legislation. Nevertheless, despite many similarities between the regulations in question, there are still a number of differences, which allows them to be compared, better solutions to be indicated and possible postulates *de lege ferenda* to be formulated.

Currently, one can find studies in Polish on Czech law,¹ but they do not discuss the regulation of geological and mining activities. The purpose of this article is to fill this gap.

Legal basis for undertaking activities in the field of mineral exploration and extraction in the Czech Republic

Before discussing the regulatory procedure, it is necessary to briefly discuss the sources of law and the basic concepts related to Czech law. In contrast to the Polish legal system, where one legal act, namely the Geological and Mining Law of 9 June 2011, comprehensively² regulates the issues of geological and mining activities, in Czech law the core in this matter consists of as many as three legal acts.³ These are Act No. 44/1988 Coll. of 19 April 1988 on the Protection and

¹ See, for example: V. Stejskal, *Wprowadzenie do prawa górniczego i geologicznego w relacji do ochrony środowiska oraz przyrody i krajobrazu w Republice Czeskiej*, in: *Prawna regulacja górnictwa w Polsce, Czechach i na Słowacji*, (eds.) G. Dobrowolski, G. Radecki, Infomax, Kroczyce 2013, pp. 113–126; H. Mullerova, L. Vostra, *Niedawny i oczekiwany rozwój legislacji w dziedzinie prawa górniczego w Republice Czeskiej*, in: *Prawna regulacja górnictwa...*, pp. 22–31; O. Vicha, *Czech Mining Law in a Nutshell*, “Prawne Problemy Górnictwa i Ochrony Środowiska” 2021, no. 2, pp. 1–17.

² Journal of Law of 2023, item 633. Of course, it should be remembered that this is not the only legal act regulating the discussed issue.

³ Interestingly, since the 1990s, the creation of a new, more readable and modern mining code has been postulated, but unfortunately this intention has not been implemented so far (O. Vicha, *Czech Mining Law...*, p. 8). The doctrine indicates that three key causes of this condition can be identified. Firstly, in the Czech public administration, the management of mining issues is divided between several entities, including the Minister of the Environment, the Minister of Industry and Trade, and the mining administration, which gives rise to disputes over competences. Secondly, geological and mining activities instigate multifaceted conflicts of interest, among others, between the state and investors, or between entrepreneurs' intentions and environmental protection principles. Thirdly, in the area of law in question, there is no comprehensive regulation at the level of EU law, whether primary or secondary (O. Vicha, *Czech Mining Law...*, pp. 8–10).

Use of Fossil Resources,⁴ Act No. 61/1988 Coll. of 19 April 1988 on Mining Activities, Explosives and State Mining Administration,⁵ and Act No. 62/1988 Coll. of 19 April 1988 on Geological Works.⁶ All these legal acts remain in force to this day, although they have been amended many times.⁷ However, as M. Franková notes, these were not fundamental amendments.⁸

These acts do not only regulate the conditions for the exploration, appraisal and extraction of mineral deposits, but their scope is broader, as they also refer to the regulation of other activities carried out below the surface.⁹

The Czech Mining Act establishes the principles of protection and economic use of mineral deposits, in particular with regard to their exploration and appraisal, their extraction and subsequent processing and enrichment of minerals, as well as issues related to occupational safety and environmental protection during this activity. It introduced, among others, the legal regime of mining waters, the principles of liability for mining damage and the rules for resolving conflicts of interest.¹⁰

In turn, the Czech Act on Mining Activity defines, among others, the conditions for conducting mining activities and related activities, for instance, traffic safety and human health, conditions for the use of explosives and the organization of state mining administration bodies.¹¹

The last of the above-mentioned legal acts mainly concerns the principles of planning, conducting, and evaluating geological work, including exploration and exploitation of mineral deposits.¹²

Of course, these are not the only legal acts in the field of the discussed issue, it is also necessary to remember about other regulations, to a greater or lesser extent concerning geological and mining activities, both

⁴ Zákon č. 44/1988 Sb. o ochraně a využití nerostného bohatství (horní zákon) (hereinafter: Czech Mining Act).

⁵ Zákon č. 61/1988 Sb. ohornické činnosti, výbušninách a o státní báňské správě (hereinafter: Czech Mining Act).

⁶ Zákon č. 62/1988 Coll. o geologických pracích a o Českém geologickém úřadu (hereinafter: Czech Geological Works Act).

⁷ O. Vícha, *Czech Mining Law...*, pp. 7–8.

⁸ M. Franková, *Wybrane aspekty ochrony środowiska przy poszukiwaniu i rozpoznawaniu kopalnin zastrzeżonych i przy przygotowywaniu ich wydobywania*, in: *Prawna regulacja górnictwa...*, p. 74.

⁹ These include underground sanitation works, works on opening caves, earthworks carried out with the use of tools and explosives to move rocks, and drilling holes not used for mining purposes. O. Vícha, *Szczególne ingerencje w skorupę ziemską z prawnego punktu widzenia*, in: *Prawna regulacja górnictwa...*, p. 32.

¹⁰ O. Vícha, *Czech Mining Law...*, pp. 5–6.

¹¹ *Ibidem*, pp. 6–7.

¹² *Ibidem*, p. 7.

statutory¹³ and sub-statutory, which contain executive provisions.¹⁴ These are the Government Regulation No. 354/2023 Coll. of 29 November 2023 on the rates of remuneration from extracted minerals¹⁵ and dozens of executive acts issued in particular by the Czech Mining Authority and the Ministry of the Environment.¹⁶

At this point, it is necessary to indicate the definition of a mineral, which can be found in § 2 of the Mining Act.¹⁷ This definition already partially results in the division into reserved¹⁸ and non-reserved minerals, which is explicitly indicated in § 3 of the Mining Act.¹⁹

Reserved minerals are minerals that, due to their nature or properties, are suitable for industrial exploitation or have a high value. Their list has been changed and updated depending on the importance of a given mineral at different stages of the development of the state, industry, and society. However, as a result of technological advances and the development of mineral processing, the number of types of minerals that were considered the exclusive property of the state continued to grow.²⁰

Pursuant to § 3(2) of the Mining Act, other minerals are classified as non-reserved minerals, but the Act does not even contain an exemplary list of them. The doctrine indicates that these include, for example, gravel, sand, building stone or raw materials for the production of bricks.²¹

¹³ For example, Act No. 157/2009 Coll. of 7 April 2009 on the Management of Mining Waste (Zákon č. 157/2009 Coll. o nakládání s těžebním odpadem a o změně některých zákonů).

¹⁴ M. Frankova, *Wybrane aspekty ochrony środowiska...*, pp. 74–75; V. Stejskal, *Wprowadzenie do prawa górniczego i geologicznego...*, p. 115.

¹⁵ Nařízení vlády č. 354/2023 Sb. kterým se stanoví sazby úhrad z vydobytých nerostů.

¹⁶ O. Vícha, *Dozór zwierzchni organów państwowej administracji górniczej nad przestrzeganiem przepisów górniczych w Republice Czeskiej*, in: *Kontrola przestrzegania przepisów o ochronie środowiska w Czechach, Polsce i na Słowacji*, (eds.) Z. Bukowski, T. Bojar-Fijałkowski, Wydawnictwo Uniwersytetu Kazimierza Wielkiego, Bydgoszcz 2021, p. 166.

¹⁷ According to paragraph 1 of the above-mentioned provision, all solid, liquid and gaseous parts of the Earth's crust are considered to be minerals (H. Mullerova, L. Vostra, *Niedawny i oczekiwany rozwój legislacji...*, p. 24). As indicated in the commentary to the Czech Mining Act, this is a very broad positive definition of a mineral and it is supplemented by a negative definition in paragraph 2 of the provision in question, which indicates what does not fall under the concept of a mineral (O. Vícha, *Horní zákon. Zákon o hornické činnosti, výbušninách a o státní báňské správě. Komentář*, Wolters Kluwer, Praha 2017, p. 5).

¹⁸ § 3(1) of the Mining Act contains a catalogue of reserved minerals, for example, radioactive minerals, all types of crude oil and flammable natural gas (hydrocarbons), and all types of coal and bituminous rocks.

¹⁹ O. Vícha, *Horní zákon...*, p. 11.

²⁰ *Ibidem*, pp. 11–12.

²¹ *Ibidem*, p. 15.

Decisions regulating the commencement of geological and mining activities in the Czech Republic

At the outset, it is also necessary to define what is meant by undertaking geological and mining activities. For the purposes of this study, it should be assumed that it is a certain complex of activities that consists of a number of stages and certain actions to be taken.

In Czech law, before commencing geological and mining activities, the environmental impact assessment procedure is first carried out, if it is required. Further steps vary depending on whether the activity is undertaken with regard to reserved or non-reserved minerals. In the first case, an organization will have to obtain the following decisions: first, a decision to establish an exploration area pursuant to § 4–4a of the Czech Geological Works Act, and in certain cases, a permit for exploration and exploration of deposits, issued pursuant to § 9 of the Czech Mining Activity Act. Then, the Ministry of the Environment²² issues a certificate of a reserved deposit in accordance with § 6 section 2 of the Mining Act based on § 16 and § 17 of the Mining Act. Finally, the organization must obtain a decision on the establishment of a mining area, issued on the basis of § 24 of the Mining Act (with the prior consent expressed by the Ministry of the Environment in a separate decision) and, finally, a permit for the accessing, preparation, and extraction of the deposit, issued in accordance with § 10 of the Czech Mining Activity Act.

In the case of non-reserved minerals, on the other hand, the procedure is simpler. First of all, you need to conclude an agreement with the owner of the property on which the minerals are located. Next, it is necessary to obtain a decision on development conditions, which is issued on the basis of the provisions of Act 283/2021 Coll. of 13 July 2021 Construction Law.²³ The last step is to apply for a permit to operate using the mining method.

The establishment of an exploration area, apart from obtaining a decision in the environmental impact assessment procedure, is the first chronological

²² What is crucial here, in Czech law, it is the Ministry of the Environment, not the Minister of the Environment, that issues administrative decisions. In addition, the Minister is the authority of the second instance in the case of decisions issued by the Ministry.

²³ Zákon č. 283/2021 Sb. stavební zákon (hereinafter: Czech Construction Law or c.pr.b.). This is a new law that has replaced the previous piece of legislation, namely: Act No. 183/2006 Coll. of 14 March 2006 on Spatial Planning and Building Code (Zákon č. 183/2006 Coll. o územním plánování a stavebním řádu (stavební zákon)), as of 1 January 2024. The changes introduced by this law are criticized in the Czech doctrine, for more on this and the impact of the new Czech construction law on Czech mining law, see for instance: O. Vícha, *Dopady nového stavebního zákona na české horní právo*, “Acta Iuridica Olomucensia” 2022, vol. 17, no. 3, p. 71 ff.

action that an organization must take. According to § 4 of the Czech Geological Works Act, geological work in the field of exploration and appraisal of reserved mineral deposits and the exploration of exclusive non-reserved mineral deposits may be carried out only in the exploration area which has been designated for a legal person or a natural person authorized to conduct mining activity. An application that meets the requirements set out in § 4 section 2 of the Czech Geological Works Act is submitted to the Ministry of the Environment, which, after conducting the procedure, establishes the exploration area by way of an administrative decision.²⁴ This area is established for the purpose of exploration and exploration of an exclusive deposit.²⁵

In some cases, it will be necessary to obtain a permit for exploration and appraisal of deposits, pursuant to § 9 of the Czech Act on Mining Activities. Along with the application for a permit, the organization should submit certain documentation.²⁶

The Decree of the Czech Mining Authority No. 104/1988 Coll. of 20 May 1988 on the rational use of unique deposits, on the granting of permits and notification of mining activities and on the notification of mining activities²⁷ specifies in which cases the exploration and exploitation of deposits by means of excavations requires a permit from the District Mining Authority, the procedure for issuing such a permit and a permit to secure or liquidate such excavations as well as the required documentation.

If a reserved mineral is found in quantity and quality indicating a reasonable expectation of its accumulation, the Ministry of the Environment issues a certificate of a reserved deposit. This certificate is a declarative administrative act by which the Ministry of the Environment authoritatively confirms the existence of a unique deposit.

A reserved mineral deposit may be considered to be a unique deposit, but first it must meet one of the characteristics specified in § 4 of the Mining Act, which refers to the natural accumulation of minerals as well as the substrate in an underground mine, post-mining excavation, heap or dump, which were created as a result of mining activities and contain a mineral. The condition for issuing the certificate is to prove the discovery of a reserved mineral in quantity and quality allowing for a reasonable expectation of its accumulation.²⁸

As indicated in the doctrine, neither the Mining Act nor its implementing acts specify the details of the certificate of uniqueness of the deposit. *De lege*

²⁴ O. Vícha, *Zákon o geologických pracích. Komentář*, Wolters Kluwer, Praha 2020, p. 44.

²⁵ Ibidem, p. 56.

²⁶ O. Vícha, *Horní zakon...*, pp. 576–579.

²⁷ Vyhláška č. 104/1988 Sb. Českého báňského úřadu o racionálním využívání výhradních ložisek, o povolování a ohlašování hornické činnosti a ohlašování činnosti prováděné hornickým způsobem – hereinafter: Decree No. 104/1988 Coll.

²⁸ O. Vícha, *Horní zakon...*, p. 18.

ferenda, it would be advisable to specify these requirements in a statute or in executive regulations.²⁹

The next step is to ensure, pursuant to § 16 of the Mining Act, the protection of the reserved deposit against preventing or hindering extraction by establishing a protected deposit area. It covers land where buildings and equipment unrelated to the extraction of the reserved deposit could prevent or hinder the extraction of the reserved deposit. It is established for this deposit at the stage of exploration or appraisal, after the issuance of a certificate of a reserved deposit, in accordance with § 6 of the Mining Act. The purpose of designating a protected area is to ensure increased protection of mineral resources (i.e. reserved mineral deposits owned by the state).³⁰

Pursuant to Section 17 of the Mining Act, the protected deposit area is established by the Ministry of the Environment of the Czech Republic, after consultation with the regional authority, by way of a decision issued in consultation with the Ministry of Industry and Trade of the Czech Republic, the District Mining Authority, and the Territorial Planning Office and the Building Authority.

The procedure for the designation of a protected deposit area begins on the basis of a request from an organization or at the request of a state administration body. The application is based on a reserved deposit certificate and a proposal for the boundaries of the protected deposit area.³¹

Only the organization that submitted the application participates in the procedure for the designation of a protected deposit area. The Ministry of the Environment of the Czech Republic notifies the relevant state administration bodies, spatial planning offices and the Building Authority about the commencement of proceedings. The Ministry of the Environment of the Czech Republic organizes the oral procedure (hearing), if necessary together with the local investigation, and at the same time draws attention to the fact that the positions of the above-mentioned state administration bodies and the comments and proposals of the participants may be accepted no later than during the hearing, otherwise the Ministry of the Environment of the Czech Republic does not have to take them into account. The boundaries of the protected area of the deposit are entered into the spatial planning documentation.

Details of the establishment, amendment or abolition of a protected area and its records will be determined by the Ministry of the Environment of the Czech Republic by means of a generally applicable regulation.³² Further provisions

²⁹ Ibidem, p. 19.

³⁰ Ibidem, p. 87.

³¹ Ibidem, p. 90.

³² Currently, it is Regulation No. 364/1992 OJ of the Ministry of the Environment of the Czech Republic of 29 May 1992 on protected areas of deposits (Vyhláška č. 364/1992 Sb. ministerstva životního prostředí České republiky ze dne 29. května 1992 o chráněných ložiskových územích).

of the Act contain restrictions on undertaking activities in the areas of the protected deposit.³³

According to Article 24 § 1 of the Mining Act, the authorization of an organization to extract a reserved deposit arises as a result of the demarcation of a mining area. An organization may commence mining in a designated mining area only after obtaining a permit from the district mining authority, which is issued pursuant to § 27 of the Mining Act. Importantly, the District Mining Authority may combine the administrative proceedings for the designation of a mining area and the procedure for the issuance of a mining permit, which is issued on the basis of § 10 of the Czech Act on Mining Activities.

However, before submitting an application for the demarcation of a mining area, an organization must obtain a prior permit from the Ministry of the Environment of the Czech Republic, issued after consultation with the Ministry of Trade and Industry. The Ministry of the Environment may make the issuance of such prior approval conditional on the meeting of the creation of a uniform raw materials policy of the Czech Republic and on the return of funds spent from the state budget on the exploration and exploration of reserved deposits. These conditions must be specified in the decision on the delimitation of the mining area.

The above provision sets out the necessary administrative processes leading to the extraction of reserved deposits, distinguishing the determination of a mining area from a mining permit. The Czech Mining Act provides that the establishment of a mining area (in accordance with the procedure specified in § 25–28 of the Mining Act) gives an organization a permit to mine a reserved deposit. However, an organization may commence the extraction of a reserved deposit in a specific mining area only after a mining permit has been issued (in accordance with the procedure set out in sections 10, 17, and 18 of the Czech Act on Mining Activities).

As indicated, the mining area and its amendments are established by the district mining authority in consultation with the authorities concerned. It is determined on the basis of the results of deposit surveys in accordance with the range, distribution, shape, and thickness of the unique deposit, taking into account its resources and storage conditions, so that the deposit can be economically exploited. The determination of the mining area is based on the designated area of the reserved deposit in accordance with § 16 *et seq.* Czech Act on Mining and also the exploitation of neighbouring deposits and the impact of exploitation are taken into account. A mining area may include one or more unique deposits or, if possible due to the size of the deposit, only a part thereof. The decision on the establishment of a mining area also specifies the date of commencement

³³ For example, in order to protect mineral resources, structures and equipment not related to the extraction of the exclusive deposit may be erected in the area of the protected deposit only on the basis of a binding opinion of the authority in accordance with this Act.

of extraction of the unique deposit. The validity of the decision to designate a production area is not limited in time, unless the decision provides otherwise.

The last of the decisions discussed is the permission to open, prepare, and acquire the deposit. Pursuant to § 10(1) of the Czech Act on Mining Activities, the District Mining Authority must approve the accessing, preparation, and extraction of reserved deposits by way of a permit. Along with the application for its issuance, the organization submits a plan for accessing, preparation, and extraction of deposit(s) along with specific documentation. Without a permit from the district mining authority, it is inadmissible to start operations.³⁴

The detailed procedure in force in the Czech Republic for granting permits for access, preparation, and extraction of reserved deposits, for securing mining works and excavation, and for decommissioning the mining workings and excavation, as well as the required documentation, are specified by the Mining Authority in the Czech Republic in a generally applicable legal regulation. In the current legal situation, this is the aforementioned Decree No. 104/1988 Coll.

In accordance with the provisions of the above-mentioned decree, the permit in question is required for certain types of mining activities, in the first place for the exploration and appraisal of an exclusive deposit by means of excavation, namely, vertical excavations with a depth of more than 40 metres, horizontal or inclined excavations with a length of more than 100 metres, and even shorter excavations referred to above, if additional excavations result from them, and their length, including the excavations, exceeds 100 metres. A permit is also required to secure and liquidate such excavations. In addition, such a permit is needed for the accessing, preparation, and extraction of the unique deposit, as well as for the protection of excavations and quarries and the liquidation of the excavations and quarries.

Also, special interference with the Earth's crust requires a permit, including exploration and research carried out by excavations for such purposes, provided that the scope of these works corresponds to the conditions referred to above.

Finally, such a decision is necessary to secure and liquidate old mine workings, including their examination, provided that the survey is carried out by the mine workings to the extent referred to above.

Paragraph 10 item 2 of the Act on Mining Activities provides that plans for opening, preparation and extraction are to be drawn up for the entire reserved deposit or for a part thereof. In the case of a newly established or reopened mine or quarry, these plans may be drawn up gradually, according to the various stages of the permissible opening, preparation or extraction works. A component of the plans for access, preparation and extraction is the determination of the assumed

³⁴ O. Vicha, *Horní zakon...*, p. 581.

costs of liquidation of anticipated mining damage as well as reclamation and revitalization works of areas affected by the extraction of reserved deposits.³⁵

Interestingly, the circle of parties to the proceedings has been defined differently than in Polish law. These are the applicant, namely, the organization, natural and legal persons whose rights, legally protected interests or obligations may be affected by the permit, and the municipality in whose territorial area the mining activity is to be³⁶ conducted.

A different decision is the permit issued on the basis of § 11 for special interferences with the Earth's crust, which have already been mentioned. They are issued by the regional mining authority, on the basis of an application submitted together with specific documentation. If specific interference with the Earth's crust could prevent or hinder the extraction of the reserved deposit by another organization, the application should be accompanied by the opinion of that organization.

Further details on the procedure for issuing the above-mentioned decisions can be found in § 17 *et seq.* of the Act on Mining Activities. The Czech Administrative Code applies to this type of administrative procedure as a general regulation (*lex generalis*), and the Czech Mining Act provides for derogations from these provisions.³⁷ The application must clearly state what the applicant is requesting or seeking. It must be clear who submits it, what matter it concerns and what is proposed in it.³⁸ The organization submits an application for a mining permit together with the required documentation and supporting evidence to the district mining office no later than three months before the planned commencement of work. If the submitted application and documentation do not constitute a sufficient basis for the assessment of the proposed mining activity, or if the application for a mining permit pursuant to § 10 of the Act on the Mining Act does not meet the conditions set out in the decision on the designation of a reserved deposit area and a mining area, the district mining authority shall request the organization to supplement the application within a specified period or to bring it into compliance with these decisions. The same applies if the application does not contain all documents on the resolution of the conflict of interest. The District Mining Authority decides on the application within two months of its submission or possibly of the supplement referred to above.³⁹

In the case of non-reserved minerals, the first step is to conclude an agreement with the owner of the property with which the minerals are related. Then, the organization must obtain a decision on development conditions and finally a permit to conduct mining operations is required.

³⁵ Ibidem, pp. 585–586.

³⁶ Ibidem, p. 630.

³⁷ Ibidem, p. 621.

³⁸ Ibidem, p. 623.

³⁹ Ibidem, pp. 621 ff.

The permit is issued on the basis of § 19 of the Czech Act on Mining Activities and the competent authority is the District Mining Authority. Before obtaining this decision, it is not possible to start an activity in this area. One of the obligatory attachments to the application for this permit is the above-mentioned decision on development conditions. The second is the deposit exploitation plan, the elements of which are specified in the Regulation of the Czech Mining Authority No. 175/1992 Coll. on the conditions for the exploitation of non-reserved fossil deposits. The deposit exploitation plan consists of a text and graphic part and is subject to approval by the plant manager.⁴⁰ To the procedure for a permit to extract a non-reserved mineral deposit, § 17 and 18 of the Act on the Mining of a Mineral Deposit shall apply accordingly.

Czech mining laws do not contain any specific regulations with regard to the exploration or production of hydrocarbons. Interestingly, however, lower-level legal acts interfere quite significantly in the issue of starting business related to natural gas.

The Government of the Czech Republic Resolution No. 115 of 20 February 2013 on the assessment of the current status and expected effects of unconventional natural gas production and on the further procedure for designating exploration areas is currently in force in this respect.⁴¹ According to its content, the main public interest in this matter is environmental protection. The Czech government has ordered the Ministry of the Environment not to establish a production area for the exploration and exploration of unconventional sources of natural gas if the protection of the public interest is not consistently respected, which the government considers in this case mainly environmental protection.⁴²

Conclusions

A number of conclusions can be drawn from the analysis of Czech law presented above. First of all, it should be emphasized that Czech regulations in

⁴⁰ O. Vícha, *Horní zakon...*, pp. 646–647.

⁴¹ Usnesení Vlády České Republiky ze dne 20. února 2013 č. 115 o zhodnocení aktuálního stavu a o předpokládaných dopadech těžby nekonvenčních zdrojů zemního plynu a o dalším postupu ve věci stanovování průzkumných území.

⁴² For more on this topic, see O. Vícha, *New challenges of the EU environmental law in connection with the use of unconventional hydrocarbons*, in: *Environmental Law in the Czech Republic and EU – Ten Years After. The Czech Society for Environmental Law*, (eds.) M. Damohorský, V. Stejskal, Eva Rozkotová, Beroun 2014, pp. 57–73; P. Šponar, O. Vícha, *Zákon o geologických pracích a jeho prováděcí předpisy s komentářem*, ABF-nakladatelství ARCH, Praha 2005, pp. 31–37.

the field of geology and mining are scattered in as many as three main laws. This makes it significantly more difficult to navigate this system of standards and use them in practice, even for specialists in this field. As indicated in the Czech literature on the subject, these regulations are also quite outdated and, despite numerous amendments, there is an urgent need to create a geological and mining code that would regulate these issues more comprehensively.

The regulation of geological and mining activities in the Czech Republic is dispersed into several different decisions, in addition issued by different authorities. Moreover, the provisions on individual decisions are scattered among three Czech laws, namely, the Mining Act, the Mining Activity Act and the Geological Work Act. For comparison, in Poland the procedure is much more simplified and in fact boils down to obtaining a license required to conduct a given activity. The concession contains the very content which in the Czech Republic is divided between individual decisions. In this aspect, Polish regulations should be assessed as much more convenient, as most of them are not only found in the Geological and Mining Law, but also require a single decision.

One of the solutions to the above-defined problems would be to replace all of the above decisions with one or at most two decisions, following the example of the Polish concession. It would also be worth considering replacing three outdated laws with one modern one, although, as it was pointed out, this postulate has not been implemented for years.

Bibliography

- Frankova M., *Wybrane aspekty ochrony środowiska przy poszukiwaniu i rozpoznawaniu kopalni zastrzeżonych i przy przygotowywaniu ich wydobywania*, in: *Prawna regulacja górnictwa w Polsce, Czechach i na Słowacji*, (eds.) G. Dobrowolski, G. Radecki, Infomax, Kroczyce 2013, pp. 73–87.
- Mullerova H., Vostra L., *Niedawny i oczekiwany rozwój legislacji w dziedzinie prawa górniczego w Republice Czeskiej*, in: *Prawna regulacja górnictwa w Polsce, Czechach i na Słowacji*, (eds.) G. Dobrowolski, G. Radecki, Infomax, Kroczyce 2013, pp. 22–31.
- Šponar P., Vícha O., *Zákon o geologických pracích a jeho prováděcí předpisy s komentářem*, ABF-nakladatelství ARCH, Praha 2005.
- Stejskal V., *Wprowadzenie do prawa górniczego i geologicznego w relacji do ochrony środowiska oraz przyrody i krajobrazu w Republice Czeskiej*, in: *Prawna regulacja górnictwa w Polsce, Czechach i na Słowacji*, (eds.) G. Dobrowolski, G. Radecki, Infomax, Kroczyce 2013, pp. 113–126.
- Vícha O., *Czech Mining Law in a Nutshell*, “Prawne Problemy Górnictwa i Ochrony Środowiska” 2021, no. 2, pp. 1–17.
- Vícha O., *Dopady nového stavebního zákona na české horní právo*, “Acta Iuridica Olomucensia” 2022, vol. 17, no. 3, pp. 71–91.

- Vícha O., *Dozór zvierzchni organów państwowej administracji górniczej nad przestrzeganiem przepisów górniczych w Republice Czeskiej*, in: *Kontrola przestrzegania przepisów o ochronie środowiska w Czechach, Polsce i na Słowacji*, (eds.) Z. Bukowski, T. Bojar-Fijałkowski, Wydawnictwo Uniwersytetu Kazimierza Wielkiego, Bydgoszcz 2021, pp. 164–178.
- Vícha O., *Horní zakon. Zákon o hornické činnosti, výbušninách a o státní báňské správě. Komentář*, Wolters Kluwer, Praha 2017.
- Vícha O., *New challenges of the EU environmental law in connection with the use of unconventional hydrocarbons*, in: *Environmental Law in the Czech Republic and EU – Ten Years After. The Czech Society for Environmental Law*, (eds.) M. Damohorský, V. Stejskal, Eva Rozkotová, Beroun 2014, pp. 57–73.
- Vícha O., *Szczególne ingerencje w skorupę ziemską z prawnego punktu widzenia*, in: *Prawna regulacja górnictwa w Polsce, Czechach i na Słowacji*, (eds.) G. Dobrowolski, G. Radecki, Infomax, Kroczyce 2013, pp. 32–47.
- Vícha O., *Vývojové tendence v organizaci státní správy hornictví a geologie*, in: *Organizace státní správy – vývojové tendence*, (eds.) K. Frumarová, P. Melotíková, Leges, Praha 2014, pp. 64–77.
- Vícha O., *Zákon o geologických pracích. Komentář*, Wolters Kluwer, Praha 2020.

Filip Nawrot

Reglamentacja podejmowania działalności geologicznej i górniczej w prawie czeskim

Streszczenie

Celem niniejszego artykułu jest przedstawienie regulacji dotyczących reglamentowania podejmowania działalności geologicznej i górniczej w Republice Czeskiej. W pierwszej kolejności omówione zostały prawne podstawy podejmowania działalności w zakresie poszukiwania i wydobywania kopalin w Czechach. Wyjaśniono także co oznacza podejmowanie działalności geologicznej i górniczej. Następnie wskazano jakie decyzje są potrzebne przed podejmowaniem działalności geologicznej i górniczej w Czechach oraz je opisano. Na zakończenie zaprezentowano wnioski z przeprowadzonej analizy oraz postulaty *de lege ferenda*.

Słowa kluczowe: reglamentacja, geologia, górnictwo, podejmowania działalności

Филип Наврот

Регулирование геологической и горнодобывающей деятельности в чешском законодательстве

Резюме

Цель данной статьи – представить нормативные акты, регламентирующие начало геологической и горнодобывающей деятельности в Чешской Республике. В первую очередь

рассматривается правовая основа осуществления деятельности по разведке и добыче полезных ископаемых в Чешской Республике. Также объясняется, что означает осуществление геологической и горнодобывающей деятельности. Далее указаны и описаны решения, необходимые перед началом осуществления геологической и горнодобывающей деятельности в Чешской Республике. В заключение представлены выводы из проведенного анализа, а также постулаты *de lege ferenda* (с точки зрения желательного закона).

Ключевые слова: регламентирование, геология, горнодобывающая промышленность, осуществление деятельности

Filip Nawrot

Regolamentazione delle attività geologiche e minerarie nella legislazione ceca

Sommario

Lo scopo del presente articolo è quello di illustrare le norme che regolano l'avvio di attività geologiche e minerarie nella Repubblica Ceca. In primo luogo vengono illustrate le basi giuridiche per l'avvio di attività di prospezione e estrazione di minerali in Repubblica Ceca. Viene inoltre spiegato cosa si intende per avvio di attività geologiche e minerarie. Successivamente, vengono indicate e descritte le decisioni necessarie prima di intraprendere attività geologiche e minerarie nella Repubblica Ceca. Infine, vengono presentate le conclusioni dell'analisi effettuata e le proposte *de lege ferenda*.

Parole chiave: regolamentazione, geologia, industria mineraria, intraprendere attività