

# ASSESSMENT OF THE IMPACT OF MINING ACTIVITIES ON CLIMATE

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## 1. Introduction

This article interrogates how contemporary environmental impact assessment (EIA) law and practice apprehend the climate dimensions of mining projects, with a primary empirical lens on recent Czech proceedings. It catalogues the recurrent substantive environmental concerns before turning to the elusive problem of greenhouse gas accounting and climate-risk resilience. Although climatic factors have long resided within the EIA *acquis*, the 2014 reform (2014/52/EU<sup>1</sup>) of the EIA Directive (2011/92/EU<sup>2</sup>) consolidated a bifocal obligation to quantify a project's greenhouse gas profile and to test its adaptation robustness.

Administrative practice, particularly in the Czech Republic, has been uneven in giving effect to that mandate, especially for Scope 3 emissions. This Czech implementation deficit is critically examined against recent European jurisprudence, including the *Finch* (2024<sup>3</sup>) and EFTA Court opinion in *E-18/24* (2025<sup>4</sup>), which require assessment of downstream emissions. This analysis is further nuanced by the ECtHR's judgment in *Greenpeace Nordic v. Norway* (2025<sup>5</sup>) which addressed the timing of such assessments in multi-stage permitting. This article uses this new, tense legal landscape to critique domestic practice and advance a practicable guidance framework for Czech authorities.

## 2. EIA, Mining and Green Paradox

Mining remains one of the most environmentally and politically sensitive categories of development subject to environmental impact assessment (EIA) within the European Union. Its spatial footprint, hydrological disruption, and emission profile render it an archetypal "high-stakes" activity for the EIA system. This role is now amplified by a profound green paradox at the heart of EU policy: the European Green Deal is predicated on a transformative shift to green technologies,

<sup>1</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU. OJ L 124, 25 April 2014, pp. 1–18.

<sup>2</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment. OJ L 26, 28 January 2012, pp. 1–21.

<sup>3</sup> UK Supreme Court judgment of 20 June 2024, *R (Finch on behalf of the Weald Action Group & Others) v. Surrey County Council (& Others)*.

<sup>4</sup> EFTA Court advisory opinion of 21 May 2025, *E-18/24*.

<sup>5</sup> ECtHR judgment of 28 October 2025, *Greenpeace Nordic and Others v. Norway* (Application no. 34068/21).

which is itself intensely material-dependent, creating unprecedented demand for raw materials sourced through mining.<sup>6</sup> This establishes a direct tension between the EU's climate neutrality objectives and the environmental impacts of securing the necessary resources. The Czech Republic, with its own mining-related environmental challenges, serves as a primary case study for this European-wide legal and practical tension. The legal framework for environmental assessment thus becomes the primary forum where this paradox is navigated.

A forward-looking analysis must further consider the potential for the new Critical Raw Materials Act (CRMA)<sup>7</sup> to create legal and political tension with the EIA framework. The primary objective of the CRMA is to accelerate and streamline permitting for strategic projects to secure the EU's raw material supply chains. This emphasis on speed and administrative simplification is in direct tension with the EIA Directive's principles of precaution, thoroughness, and extensive public participation. The EU's own strategic goals are thus on a potential collision course. The environmental objectives of the Green Deal, which underpin the climate focus of the EIA Directive, are being challenged by the geopolitical and economic objectives of the CRMA. This sets the stage for a future wave of litigation where the legal system will be forced to mediate this conflict.

This article is, however, deliberately narrow in scope. It examines exclusively all Czech mining projects that have undergone a full EIA in the last 7 years (since 2018) culminating in a reasoned conclusion by the competent authority. These are three **deep mining projects** and 35 **surface mining projects**. The environmental impact assessment of these projects should – at least theoretically – follow the updated EU and national requirements regarding climate impacts.

The objective is to interrogate the assessment proper—its evidential base, analytical methods, and legal reasoning—and, in particular, to evaluate how climate change is addressed within that assessment. While Czech practice has been slow to adapt, recent European case law has profoundly altered the legal terrain. This article uses this emergent international context—specifically the logic from *Finch* and the ECtHR in *Greenpeace Nordic v. Norway*—to cast light on the specific implementation gaps evident in Czech administrative practice and to propose a path toward compliance.

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<sup>6</sup> See BASTIANIN, A., DEL BO, C. and SHAMSUDIN, L. The geography of mining and its environmental impact in Europe. *FEEM Working Papers*. Vol. 2025, No. 8.

<sup>7</sup> Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020. OJ L, 2024/1252, 3 May 2024.

### 3. Standards for Climate Change Considerations in the EIA

The integration of climate change into the architecture of the EIA Directive reflects a decisive shift in EU environmental governance. The **2014 amendment** transformed the vague reference to *climatic factors* into a concrete legal obligation: The amended Article 3(1) of the EIA Directive now requires the assessment to cover both (i) the project's impact *on* climate (a mitigation perspective, e.g., GHG emissions) and (ii) the project's vulnerability *to* climate change (an adaptation perspective). This project-specific assessment is complemented by the higher-tier Strategic Environmental Assessment (SEA) Directive (2001/42/EC), which applies to public plans and programmes though without the much-needed legal update that would reflect both practical needs and recent case law.

To harmonise the implementation of the amended EIA Directive, in 2017 the Commission published **three guides** focusing on screening,<sup>8</sup> scoping<sup>9</sup> and the preparation of the final opinion.<sup>10</sup> The latter states that the description of the project should answer the question of the extent to which its implementation may affect the atmosphere, including the microclimate and larger-scale climatic conditions.<sup>11</sup> According to the third guide, the opinion should then focus on climate change mitigation, which includes the impact that the project will have on the climate, primarily through greenhouse gas emissions, and adaptation to climate change, where the assessment should evaluate the vulnerability of the project in relation to future climate change and its capacity to cope with the impacts of climate change, which may be uncertain.<sup>12</sup> Mitigation is therefore understood in a broader sense and includes (above all) the negative impacts through which the project contributes to the exacerbation of climate change. In addition, it is also necessary to assess indirect emissions to which the project contributes, or which will not need to be emitted as a result of the project's implementation. As an example, the guide cites two groups of projects: transport infrastructure, where use will result in an increase or even a decrease in the total amount of greenhouse gases emitted, and the construction of shopping centres, where an increased burden can be anticipated as a result of the necessary transport of customers.

<sup>8</sup> European Commission (COWI A/S, Milieu Ltd). *Environmental Impact Assessment of Projects Guidance on Screening (Directive 2011/92/EU as amended by 2014/52/EU)*. 2017, 84 p.

<sup>9</sup> European Commission (COWI A/S, Milieu Ltd). *Environmental Impact Assessment of Projects Guidance on Scoping (Directive 2011/92/EU as amended by 2014/52/EU)*. 2017, 80 p.

<sup>10</sup> European Commission (COWI A/S, Milieu Ltd). *Environmental Impact Assessment of Projects Guidance on the preparation of the Environmental Impact Assessment Report (Directive 2011/92/EU as amended by 2014/52/EU)*. 2017, 130 p.

<sup>11</sup> P. 60.

<sup>12</sup> P. 38: “this considers the vulnerability of the Project to future changes in the climate, and its capacity to adapt to the impacts of climate change, which may be uncertain”.

The legal force of the EIA procedural obligations has been repeatedly fortified by the **Court of Justice of the European Union** (CJEU). In the foundational case concerning mining activities *Delena Wells* (C-201/02<sup>13</sup>), the CJEU established that the core provisions of the EIA Directive have *direct effect*, empowering individuals to invoke them before national courts. Furthermore, it established a powerful *obligation of remedy*, requiring national authorities to rectify a failure to conduct a proper EIA. This jurisprudence effectively converts the EIA process from a procedural checklist into a source of enforceable legal rights. This was seen vividly in the *Czech Republic v Poland (Turów Mine)* (C-121/21<sup>14</sup>) dispute, where the Czech Republic's action alleged a breach of the EIA Directive for extending a mine's licence without a full EIA, citing significant transboundary impacts.<sup>15</sup> Although withdrawn, the case illustrates the high stakes and legal force of the Directive's obligations.

The Czechoslovak **Environmental Impact Assessment Act of 1992** (No. 244/1992 Coll.) required that the assessment include, among other things, an evaluation of the direct and indirect effects of the project on climatic conditions.<sup>16</sup> The description of the expected impacts of the project had to include impacts on air and climate, specified as the quantity and concentration of emissions and their impact on the immediate and distant surroundings, significant odours, and other impacts on air and climate.<sup>17</sup> The currently effective Czech Impact Assessment Act of 2001 (No. 100/2001 Coll.) does not bring any significant changes. It similarly includes impacts on the climate within the scope of the assessment and requires the documentation to describe, among other things, the characteristics of the current state of the environment in the affected area, including the climate, and to describe the impacts on air and climate among the anticipated impacts of the project. The amendment to the EIA Directive was reflected in the wording of the Impact Assessment Act so that it now also requires the screening procedure to consider “*the risks of serious accidents or disasters relevant to the project, including accidents and disasters caused by climate change, in accordance with scientific knowledge*”<sup>18</sup> and requires the documentation to include a description of the environment, including “*the climate (e.g., impacts associated with climate change, vulnerability of the area to the effects of climate change)*”<sup>19</sup> and, for the assessment of impacts, also include impacts “*on air*

<sup>13</sup> CJEU judgment of 7 January 2004, *Wells* (C-201/02, ECLI:EU:C:2004:12).

<sup>14</sup> CJEU order of 4 February 2022, *Czech Republic v Poland (Mine de Turów)*.

<sup>15</sup> See Opinion of Advocate General Pikamäe of 3 February 2022, *Czech Republic v Poland (Mine de Turów)* (C-121/21, ECLI:EU:C:2022:74).

<sup>16</sup> Section 3(a).

<sup>17</sup> Annex III, Part C III. B, point 1.

<sup>18</sup> Annex 2 I., point 6.

<sup>19</sup> Annex 4, Part C, para. 2.

and climate (e.g., the nature and quantity of pollutant and greenhouse gas emissions, the vulnerability of the project to climate change).<sup>20</sup>

These more detailed national requirements for the assessment of climate factors did not bring about any fundamental changes to the EIA process itself. Arguably, they also did not provide much clarification as regards how to assess these impacts. Therefore, following the amendment, in October 2017 the Ministry of the Environment issued a **methodological guide** on the application of selected new terms and requirements of the Environmental Impact Assessment Act.<sup>21</sup> Similar to the European Commission's documents, the guide emphasises that when assessing the impact of a project on climate change, it is necessary to address and take into account the mitigation of climate change by the project, as well as the impact of the project on adaptation to climate change and the vulnerability of the project to the effects of climate change.

However, the specific guidelines are very brief and, particularly in relation to mitigation, they downplay the harmful effects of the project, so it may appear that mitigation is understood mainly in a narrower sense, i.e., exclusively as the mitigation of climate impacts. In particular, the guideline does not suggest that greenhouse gas emissions should be addressed primarily. Unlike the EU handbook, the national guide does not provide examples of increased burdens or indirect emissions resulting from the implementation of the project. It merely provides examples of mitigation measures which include technological change or resource substitution that reduces inputs and emissions, increasing the proportion of natural habitats, wetlands, forests, or CO<sub>2</sub> storage in biomass, etc. It is unclear how far the assessment should go and which aspects it should cover. In practice, this results in the lack of assessment.<sup>22</sup> Scope 3 emissions are not properly addressed, which is a crucial omission for the assessment of mining activities.

In May 2025, the Ministry of the Environment issued a methodological guide on the assessment of long-term projects, in particular mining activities.<sup>23</sup> The purpose of the guideline is to confirm the practice that the assessable period for mining projects is approximately 20 years. However, the guideline clarifies that the

<sup>20</sup> Annex 4, Part D I., para. 2.

<sup>21</sup> Czech Ministry of Environment. *Metodický výklad k aplikaci vybraných nových pojmů a požadavků zákona č. 100/2001 Sb., o posuzování vlivů na životní prostředí a o změně některých souvisejících zákonů (zákon o posuzování vlivů na životní prostředí), ve znění pozdějších předpisů a zejména ve znění zákona č. 326/2017 Sb. (dále jen „zákon č. 100/2001 Sb.“)*. 20 October 2017, MZP/2017/710/1985.

<sup>22</sup> See VOMÁČKA, V. Klimatické změny a EIA. In: SZAKÁCS, A., HLINKA, T. (eds.). *Vplyv klimatickej zmeny na právny poriadok*. Bratislava: Univerzita Komenského v Bratislave, 2020, pp. 21–28.

<sup>23</sup> Czech Ministry of Environment. *Metodický výklad § 5 odst. 2 zákona č. 100/2001 Sb., o posuzování vlivů na životní prostředí a o změně některých souvisejících zákonů (zákon o posuzování vlivů na životní prostředí), ve znění pozdějších předpisů (dále jen „ZPV“) – výklad pojmu „dlouhodobé záměry“ a výklad principu samostatného posuzování jednotlivých etap těchto dlouhodobých záměrů*. 12 May 2025, MZP/2025/710/1602.

permitting phase, which can last up to 12 years, is not included in this period. The total period for impact assessment is therefore up to 32 years. The 12 pages of the guideline do not provide any guidance for the assessment itself. The term “climate” is completely absent.

#### 4. Emerging Case-Law: a Critical Mirror for Czech Practice

The climate dimension of EIA has been clarified by recent judgments that serve as a critical mirror for assessing Czech practice.

##### 4.1 The Finch and EFTA Court Logic: Assessing Downstream Emissions

The first turning point was the UK Supreme Court’s decision in *R (Finch) v Surrey County Council* [2024] UKSC 20, concerning an oil extraction project. The Court held that Scope 3 or downstream emissions from the future combustion of the oil were “effects” of the extraction project within the meaning of the EIA Directive. The failure to assess them rendered the permission unlawful.

The Finch arguments have already been confirmed by further UK case law, particularly in the Whitehaven coking coal mine case.<sup>24</sup> Applying *Finch*, the High Court quashed the Secretary of State’s 2022 permission for the West Cumbria deep coal mine. According to the court, the decision-maker had to grapple properly with Scope 3 emissions from burning the coal (including exports), could not rely on broad “substitution” claims to net out those emissions, and could not badge the mine as “net zero” to avoid assessing end-use emissions. The decision found the government had wrongly accepted the claim that the mine would have zero impact on UK carbon budgets by offsetting its operational emissions through the purchase of carbon credits.

This logic was reinforced by the EFTA Court’s Advisory Opinion in *Case E-18/24*,<sup>25</sup> based on the Norwegian case, which held that such emissions must be assessed at the extraction stage, even if combustion occurs later or abroad. These authorities establish a clear trajectory: downstream emissions are legally cognisable “effects” of the extraction project.

The EFTA Court’s findings are already being followed in EU Member States. In November 2025, the Danish Energy Appeals Board revoked the Danish Energy Agency’s 2024 permit to open a new oil field in the North Sea. With reference to E-18/24, the board agreed with Greenpeace that the environmental impact report for the field lacked a description of Scope 3 emissions.

<sup>24</sup> High Court of Justice judgment of 13 September 2024, *Friends of the Earth v. Secretary of State for Levelling Up, Housing and Communities; and South Lakeland Action on Climate Change v. SSLUHC (Whitehaven coalmine)*, [2024] EWHC 2349 (Admin).

<sup>25</sup> EFTA Court advisory opinion of 21 May 2025, E-18/24.

#### 4.2 The ECtHR Nuance: Deferral in *Greenpeace Nordic v. Norway*

This trajectory was, however, significantly complicated by the ECtHR's judgment in *Greenpeace Nordic v. Norway*.<sup>26</sup> The case concerned the procedural aspect of Article 8 (right to respect for private and family life) in the context of petroleum exploration licences. The ECtHR held that there had been *no violation* of Article 8 when Norway *deferred* the full climate impact assessment from the initial *exploration* stage to the later, pre-production "Plan for Development and Operation" (PDO) stage.

The Court was persuaded by the "structural guarantees" that the later assessment at the PDO stage was comprehensive, legally binding (i.e., could result in refusal), and subject to judicial review. This judgment creates a critical tension: while the *EIA Directive* (per *Finch*) may require assessment at the point of consent, *ECHR* Article 8 obligations may be met by a robust, albeit deferred, assessment in a multi-stage process. This does not absolve states of the *duty* to conduct the assessment; it merely allows for flexibility in its timing.

Even though the Court's assessment of the Norwegian licences was purely procedural, in a noteworthy para. 319, the judgment acknowledges the importance of accounting for downstream or Scope 3 emissions and states that EIAs for fossil fuel projects "must include, at a minimum, a quantification of the GHG emissions anticipated to be produced (including the combustion emissions both within the country and abroad; [KlimaSeniorinnen], § 550)", as well as an assessment in light of climate obligations and informed public consultation (para. 319). The Court stressed that meaningful public participation is an integral part of this procedural duty (paras. 319–320) and cited broader international legal developments, particularly the converging obligations articulated in the recent climate advisory opinions by the ICJ, the EFTA Court, the ITLOS, and the IACtHR (paras. 320–324).

### 5. Main Environmental Concerns of Czech Mining Projects

The Czech experience with mining-related EIA reveals a mature but compartmentalised regulatory culture. The documentation of environmental effects is technically detailed in the traditional domains of geology, hydrogeology, air and noise pollution, and land reclamation. Yet the substantive balance among these themes exposes an enduring hierarchy of priorities in which climate considerations remain marginal.

Across the sample of the **deep mining projects**, the principal environmental concerns are consistently dominated by geological stability and hydrogeological integrity. Land subsidence is the most recurrent theme, often accompanied by modelling of ground deformation and its implications for transport and residential

<sup>26</sup> ECtHR judgment of 28 October 2025, *Greenpeace Nordic v. Norway* (34068/21).

infrastructure. Induced seismicity—a by-product of long-term underground exploitation—features prominently. a second cluster of deep-mining concerns relates to mine water management. Many Czech coal deposits are geochemically complex, producing water with high salinity and, in some cases, traces of naturally occurring radioactive materials.

For **surface mining projects**, the pattern shifts from subsurface integrity to landscape transformation. The most frequently recorded concern is the appropriation of high-quality agricultural land and forest, a consequence of the large surface footprints typical of quarries and open-cast operations. This land take is regularly accompanied by fragmentation of ecological networks and the loss of soil functions. a second major theme is air and noise pollution, both from extraction machinery and from the transport of material. Hydrological alterations constitute a third recurrent category, particularly the lowering of groundwater tables and the complex effects of creating post-mining lakes. Impacts of mining on **Natura 2000** network have been assessed in 5 cases with no significant negative impacts identified.

Despite environmental concerns, a positive EIA statement was issued in all analysed cases, giving the green light to the subsequent permitting procedure.

Across both types of mining projects, Czech authorities impose standardised conditions to secure ecological supervision, biodiversity protection, and reclamation. Nevertheless, in all of these EIA statements, climate change occupies a residual position. Even where emissions from fuel use or methane release are mentioned, they are typically summarised as insignificant without quantitative underpinning. Adaptation aspects—how the project may itself be affected by future climate conditions—are seldom explored. Such assessments of climate impacts do not seem to be in line with EU-law requirements and human-rights protection standards as interpreted in recent case law (see below).

## 6. Transboundary Impacts

Mining projects, by their geological nature, frequently intersect with transboundary environmental concerns. The EIA Directive's provisions on transboundary consultation (Article 7) have become a functional instrument for coordinating assessment across Central Europe, and the Czech Republic provides an instructive example.

The intensity of transboundary engagement differs according to the mining typology. For deep mining, concerns are dominated by the risk of land subsidence and induced seismicity, which can propagate beyond the project perimeter. a further layer of complexity arises from the management of mine water (saline and sometimes radioactive). For surface mining, the most frequently cited transboundary concern is the appropriation of high-quality agricultural land and forest, alongside dust transport and hydrological alterations.

Of the analysed projects, **Poland** has participated in the EIA procedures for all three deep mining projects located in the Moravian–Silesian region, close to the shared border. **Austria** has taken part in four surface mining assessments situated in South Moravia, while **Slovakia** was notified in one of these cases. This shows that the impacts of mining projects often transcend borders and that neighbouring countries do not overlook these effects but take them seriously.

Administrative practice in these transboundary assessments exhibits formal compliance with Article 7, but the depth of foreign participation remains modest. Crucially, climate impacts—although theoretically global—are rarely treated as triggers for transboundary consultation. This omission reflects a lingering perception that climate effects, being non-localised, fall outside the cooperative logic of Article 7.

## 7. Assessment of Climate Impacts in Czech EIA Practice

Czech EIA practice, when viewed against the above-mentioned demanding legal backdrop, reveals a significant implementation deficit. While formally compliant with the national Environmental Assessment Act, the substantive treatment of climate remains rudimentary.

For **deep mining projects**, such as those in the Moravian–Silesian region, assessments focus narrowly on operational emissions. For instance, in the EIA for the ČSM Mine, methane (Scope 1) emissions from degasification were quantified and mitigation proposed, but this analysis stopped at the mine’s boundary. Downstream (Scope 3) combustion emissions from the extracted coal were systematically ignored.

For **surface mining**, the pattern is even more limited. Environmental statements typically conclude that climate impacts from fuel use and transport are “insignificant,” offering no quantitative GHG estimate. This approach stands in direct contradiction to the *Finch* and EFTA Court logic, which invalidates such omissions.

Furthermore, climate adaptation analysis is almost entirely absent from Czech practice, despite its explicit mention in the Ministry’s 2017 methodological guide. The vulnerability of projects to future climate stress—be it flood risk for reclamation lakes or drought impacts on water management—is not assessed. This reveals a clear gap between the EU’s bifocal climate-EIA mandate and the prevailing administrative inertia.

The failure to assess Scope 3 emissions at all—either at the initial EIA stage (per *Finch*) or at any subsequent binding stage (the minimum acceptable under *Greenpeace Nordic*)—places current Czech practice in breach of EU law principles.

The errors do not seem to stem from a single source, given the variety of experts responsible for drafting the documentation or reviewing it. Three experts have participated in the assessment with a higher frequency (11, 11 and 8 times) but the remainder of the sample is spread among a relatively broad group of experts, each

participating in a maximum of four assessments. This signals a systematic failure and a general lack of compliance with legal requirements.

So far, none of the above-mentioned EIA conclusions has been subject to judicial review. The only case which was widely publicised across national media, albeit without any ensuing court proceedings, was the assessment of the extension of coal mining at the Bílina quarry: In 2019, the Ministry of the Environment issued a favourable EIA statement on the extension of coal mining, refusing to take into account the subsequent burning of coal in coal-fired power plants and the associated greenhouse gas emissions in relation to the climate. The main argument of the Ministry was that the coal combustion and its impacts are always assessed as part of the permitting process for individual combustion sources, not as part of the permitting process for mining, which does not include coal combustion.

## 8. Draft Guidance for Climate-EIA in Mining Projects

To align Czech practice with the legal requirements, a coherent integration of climate change into mining EIA is necessary. This framework must ensure competent authorities fulfil their procedural duties under Article 3(1) of the EIA Directive.

1. **Scope Determination:** The EIA scoping phase must explicitly classify the project (e.g., hydrocarbon vs. non-combustible mineral). For hydrocarbon or fossil fuel projects, the assessment *must* include downstream (Scope 3) combustion emissions.
2. **Timing of Assessment:** For most Czech projects, which involve a single-stage consent, this assessment must be part of the primary EIA, per *Finch*. If a multi-stage process is used, the *Greenpeace Nordic* logic only permits deferral if the later stage is (a) legally guaranteed, (b) comprehensive, (c) legally binding, and (d) subject to full public consultation and judicial review. Omitting the assessment entirely is not an option.
3. **Quantification:** Direct (Scope 1-2) and indirect (Scope 3) emissions must be transparently quantified using standardised methodologies (e.g., IPCC factors, EU GHG Inventory).
4. **Significance Evaluation:** The significance of emissions must be evaluated. This should not be dismissed by comparing the project to global emissions (the “drop in the ocean” fallacy) but should be related to relevant national or EU climate targets and carbon budgets.
5. **Substitution/Offset Claims:** Claims that the project’s output will merely *substitute* other, higher-carbon sources (the “market substitution” argument) must be treated with extreme caution and cannot justify omitting the Scope 3 assessment itself.

6. Adaptation: The project's vulnerability to climate change (e.g., flood risk for tailings, water scarcity for operations) must be explicitly modelled and addressed.
7. Institutionalisation: The Czech Ministry of the Environment should update its 2017 methodological note into binding guidance prescribing quantification methods and significance thresholds to ensure consistent application.

## 9. Conclusions

The evolution of EIA in the EU has reached a point where climate change is a legally enforceable component of environmental analysis. The Czech EIA system, while robust in traditional parameters, remains hesitant to operationalise these climate obligations.

This hesitation is no longer legally tenable. The *Finch* and EFTA Court judgments redefine downstream emissions as “effects” within the EIA Directive’s meaning. The ECtHR’s judgment in *Greenpeace Nordic* confirms that the *procedural obligation* to conduct this assessment is a core component of the state’s duty under Article 8. For Czech practice, which often involves single-stage consents and omits Scope 3 assessment entirely, the message is clear: the failure to quantify and assess *all* significant climate effects constitutes a legal failure.

This implementation deficit is further threatened by new policy tensions, such as the EU’s Critical Raw Materials Act (CRMA), which seeks to *accelerate* permitting for strategic mining projects, potentially creating a conflict with the EIA Directive’s precautionary and thorough assessment principles. Embedding climate change into EIA is therefore not administrative ornamentation but a matter of epistemic completeness and legal necessity. Integrating climate science and law represents not an expansion but the completion of EIA’s mandate.

## Literature

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## Abstract

This article interrogates Czech environmental impact assessment (EIA) practice for mining projects, identifying a significant implementation deficit regarding climate change. Despite the 2014 EIA Directive's mandate to assess both mitigation and adaptation, Czech authorities systematically ignore downstream (Scope 3) combustion emissions and fail to analyse project vulnerability to climate change. This practice is shown to be legally untenable, conflicting with recent European jurisprudence such as *R (Finch) v Surrey County Council* and the EFTA Court advisory opinion, which confirm that Scope 3 emissions are assessable "effects". The ECtHR's judgment in *Greenpeace Nordic* further reinforces the procedural duty to assess climate impacts. The article uses this legal landscape to propose a guidance framework for aligning Czech practice with EU law.

## Key words

Environmental Impact Assessment; mining law; climate change; Czech Republic; Scope 3 emissions; downstream combustion; EIA Directive; ECHR; Greenpeace Nordic v. Norway.

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