LEGAL INSTRUMENTS FOR SECURING CRITICAL RAW MATERIALS IN THE CZECH REPUBLIC: A PATH TO A BROADER REGULATORY TOOLBOX?

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1. Introduction

The EU's decarbonisation strategy, electrification of transport and digitalisation have transformed access to minerals from a largely technical issue into a core question of economic security and geopolitical resilience. For the Czech Republic, a country with a long mining tradition and several prospective deposits of lithium, manganese, graphite and other minerals, this is not merely an abstract European debate. It raises very concrete questions: which deposits should be developed, under what conditions, how quickly and with what impact on local communities and the environment.

Until recently, Czech legal and political discussion around mining policy was dominated by one topic: expropriation of land for mining purposes. The abolition of the mining expropriation title in 2013, its re-introduction in 2024 and the constitutional controversies around this move have attracted significant attention. That perspective, however, seems rather narrow. The 2024 EU Critical Raw Materials Regulation (2024/1252) requires Member States to create an enabling environment for domestic projects across the entire value chain – extraction, processing and recycling – while respecting environmental standards and public participation, thus securing the resources for the green and digital transitions. Expropriation is only one, and arguably the most intrusive, element in a much broader set of legal instruments needed to meet those obligations.

This article therefore deliberately shifts the focus. Instead of reconstructing in detail the historical debate on expropriation, it examines the wider legal toolbox that the Czech Republic must assemble to implement the Regulation: exploration and data generation, spatial planning, permitting procedures, special fast-track regimes, environmental impact assessment, participation rights and, only in the background, expropriation. The guiding question is not whether expropriation is in principle legitimate, but how different instruments can be combined to secure access to critical raw materials in a manner that is constitutionally defensible, environmentally responsible and politically sustainable.

The argument is structured as follows. Section 2 summarises the main features of the Critical Raw Materials Regulation and identifies the points where it creates concrete expectations towards Member States. Section 3 analyses the existing Czech framework, in particular the legal concepts of "critical minerals" and "deposits of

strategic importance" in the Mining Act (No. 44/1988 Coll.)[1] and the emerging practice around them. Section 4 turns to permitting procedures for mining projects linked to critical raw materials and assesses their capacity to satisfy the Regulation's requirements on speed, coordination and legal certainty. Section 5 focuses on spatial planning and local self-government, highlighting the growing importance of sub-national actors for the acceptability and feasibility of mining projects. Section 6 develops a more normative perspective and sketches how an integrated toolbox for implementing the Regulation could look in the Czech context. Section 7 offers concluding remarks on future challenges.

Throughout the article, examples such as the prospective lithium projects in the Krušné hory (Ore Mountains) and manganese extraction in Chvaletice serve to illustrate how European requirements intersect with national law, local politics and social expectations.

2. The EU Critical Raw Materials Regulation: Objectives and Obligations

2.1 Critical and strategic raw materials: lists and benchmarks

Regulation (EU) 2024/1252 is the first binding EU-level instrument dedicated specifically to critical raw materials. It replaces earlier soft-law initiatives (communications and action plans[2]) with a directly applicable framework that combines industrial policy, internal market regulation and elements of security of supply. Besides the general aim of the Regulation to address the EU's current challenges concerning raw material independence and the shift to a circular economy[3] (along with related topics such as decarbonisation, digitalisation, and defence), the Regulation is part of a global trend towards increasing self-sufficiency and protectionism in specific sectors. Similar steps have been taken in the USA, Korea, Canada, and China (including export-restricting measures).[4]

[1] For general information about Czech mining law, see VÍCHA, O., Czech mining law in a nutshell, Prawne Problemy Górnictwa i Ochrony Środowiska, 2/2021, pp. 1–17, https://doi.org/10.31261/ppgos.2021.02.09.

[2] For example, 2008 Raw Materials Initiative, COM(2008) 699 final or 2020 Action Plan on Critical Raw Materials, COM/2020/474 final.

[3] Critical raw materials play, and will continue to play, a vital role in the EU's economy. Therefore, a shift towards a circular economy is necessary to satisfy the EU's growing demand. At the same time, the EU should introduce a legal framework that expands producers' responsibility, enhances the recovery and recycling of critical raw materials, and, where possible, reduces the need for such materials; see VAN GAALEN, J. M. and SLOOTWEG, J. C., From critical raw materials to circular raw materials, ChemSusChem, 2/2024, vol. 18, p. e202401170, https://doi.org/10.1002/cssc.202401170.

[4] HOOL, A., HELBIG, C. and WIERINK, G., Challenges and opportunities of the European Critical Raw Materials Act, Mineral Economics, 3/2023, vol. 37, pp. 661–668, https://doi.org/10.1007/s13563-023-00394-y. See also VESA, S., Critical Raw Materials in the Anthropocene: Regulatory Perspectives on their Promise and Pitfalls, in Bristol University Press eBooks, 2025, pp. 94–120, https://doi.org/10.51952/9781529232912.ch005. See also ARREAZA, A. G., Natural resource sovereignty and economic development in the WTO in light of the recent case law involving raw materials and

The Regulation operates with two concentric categories. The list of critical raw materials covers 34 substances identified as economically and strategically important, exposed to high supply risk. a smaller subset is defined as strategic raw materials, indispensable for key technologies in the green and digital transitions as well as for defence and space applications. These lists are not static; they must be regularly reviewed in light of technological and geopolitical developments.[5] This dynamic element is central: the Regulation is not a fixed mineral canon, but a mechanism for continuously reassessing which materials are critical to the Union's resilience.

Beyond classification, the Regulation formulates quantitative benchmarks to be reached at Union level by 2030.[6] In simplified terms, it seeks to ensure that a substantial proportion of the Union's annual consumption of strategic raw materials is processed and recycled within the EU, while avoiding excessive dependence on a single third country for extraction. These targets are not directly binding on individual Member States, but they set the policy horizon against which national reforms will be measured. For a country such as the Czech Republic, with limited current extraction of critical materials but significant geological potential, the Regulation therefore functions as both a pressure and an opportunity.

2.2 Strategic projects, one-stop shops and time-limited permitting

A key innovation of the Regulation is the concept of "strategic projects". Projects along the value chain – extraction, processing, recycling and, in certain cases, substitution – may be recognised as strategic if they meet criteria relating to their contribution to Union supply, technological relevance, environmental performance and social acceptance. Recognition is granted at Union level and entails several legal consequences.

First, strategic projects benefit from streamlined and time-limited permitting procedures. The Regulation requires Member States to designate a single national competent authority – a "one-stop shop" – responsible for coordinating and facilitating all permits and authorisations upon which the project depends. For extraction projects, the overall duration of the permitting procedure is capped in years rather than decades. The aim is not to abolish substantive requirements (such as environmental impact assessment or compliance with nature conservation law), but to compress and coordinate procedures that are often fragmented across multiple authorities and stages.

rare earths, Review of European Comparative & International Environmental Law, 3/2017, vol. 26, pp. 266–275, https://doi.org/10.1111/reel.12209.

[5] The Commission updates the list of strategic raw materials through delegated acts.

[6] The Regulation uses the term 'benchmarks', which, from a terminological perspective, signals a shift towards a more lenient legal framework compared to 'targets' or 'binding targets' (cf. Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources)

Secondly, the Regulation grants strategic projects priority status and the highest national significance possible, where such a status exists in national law. This means that all relevant authorities must treat strategic projects as matters of urgency when resolving disputes or deciding on issues pertaining to permits – in accordance with the time limits prescribed in the Regulation.[7]

Furthermore, the Regulation requires that strategic projects be treated as being in the public interest, at least in a general sense if environmental impacts or specific environmental obligations in EU environmental law[8] are concerned. This does not automatically override all competing interests – the text leaves considerable discretion to Member States when balancing conflicting objectives – but it provides a clear signal for national authorities and courts that critical raw materials projects cannot be treated as ordinary industrial ventures.

2.3 National exploration programmes and monitoring duties

The Regulation is not limited to project-based measures. It also requires Member States to adopt national programmes for geological exploration of critical raw materials. These programmes should expand and update knowledge about the occurrence and characteristics of relevant deposits, including through mapping, geophysical and geochemical campaigns and improved data sharing. Without such information, rational planning of mining projects and infrastructure is impossible.

Moreover, the Regulation establishes a framework for monitoring and risk assessment. Member States must collect data on production, imports, exports, stocks and demand, and cooperate in Union-wide risk assessments, including stress tests for supply chains. This monitoring dimension is easily overlooked in legal debate, yet it is crucial: the ability to react to disruptions depends on an accurate and timely picture of where vulnerabilities lie.

Taken together, the Regulation thus lays down three distinct but interrelated expectations towards Member States: to know their geological potential, to plan and permit projects in a coordinated and timely way, and to monitor supply chains and risks. The following sections examine how far the Czech legal order already responds to these expectations and where adjustments are needed.

[7] BOGOJEVIĆ, S., The European Green Deal, the rush for critical raw materials, and colonialism, *Transnational Legal Theory*, 4/2024, vol. 15, pp. 600–615, https://doi.org/10.1080/20414005.2024.2399408

[8] Article 6(4) and Article 16(1), point (c), of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1), point (a), of Directive 2009/147/EC or in Union legislative provisions regarding the restoration of terrestrial, coastal and freshwater ecosystems.

3. The Czech Legal Framework for Critical Raw Materials

The aims of the legal framework are formulated in the Czech Raw Material Policy for Minerals and Their Resources (2017), issued by the Ministry of Industry and Trade of the Czech Republic. This policy responds to the European Commission's revised list of critical and supercritical minerals from 2014.

Based on the Commission's list and the national policy, several critical minerals were identified in Czechia, specifically graphite and tungsten (wolfram).[9] At the same time, the policy suggests prioritising the recovery of critical raw materials from former ore mining waste (tailings and sludge ponds). This approach is significant because, by prioritising the use of mining waste, the state may avoid resorting to more intrusive legal instruments—such as expropriation—thereby minimising the interference with property rights (as described further below).

Additionally, the policy prioritises the economical use of resources, the maximum possible recycling of used commodities, and efforts to achieve the highest possible material productivity. However, these objectives must not remain in the realm of political proclamations; they must trickle down into other policies and binding legal obligations. The ultimate aim is to achieve a sustainable balance between the economic efficiency of material consumption and the environmental impact of material flows.

3.1 Ownership of mineral resources and the notion of "critical minerals"

Czech mining law retains the traditional dualism between "reserved" *(vyhrazené)* and "non-reserved" (*nevyhrazené*) deposits. Reserved deposits – including most metallic ores, energy minerals and certain industrial minerals – are in the ownership of the State regardless of the ownership of the surface. Non-reserved deposits belong to the owner of the land.

Against this background, the Mining Act introduces a third category: "critical minerals". The provision currently lists a broad group of substances, ranging from radioactive minerals and hydrocarbons to minerals used for the production of metals, certain types of limestone and specific non-reserved construction materials where they occur on deposits treated as reserved. The concept was developed before the adoption of the EU Regulation and reflects Czech concerns about energy security and construction materials more than the Union's classification of critical and strategic raw materials.

This divergence is more than terminological. The Czech category of "critical minerals" is broader and structured differently than the EU lists. Some EU critical raw materials are not clearly covered; conversely, certain Czech "critical minerals"

[9] Both minerals are listed in Annex I – Strategic raw materials and Annex II – Critical raw materials of the regulation 2024/1252.

have limited relevance under the EU framework. For the purposes of implementing the Regulation, this misalignment creates problems of coherence and legal certainty. It is already recognised in legislative discussions, and a proposal to re-align the Mining Act terminology with the EU classification has been prepared. Whether this alignment will be purely formal, or whether it will be used to recalibrate policy priorities, remains to be seen.

3.2 Deposits of strategic importance and government designation

In 2024 the Czech legislator introduced the concept of "deposits of strategic importance" into the Mining Act.[10] a deposit attains this status only if two conditions are met: It must concern a "critical mineral" within the meaning of the Act. Furthermore, the Government must designate the specific deposit by regulation, based on its exceptional importance for raw material or energy security or for the realisation of projects covered by the act on the acceleration of construction of strategic infrastructure.

In theory, this mechanism allows the State to single out a small number of deposits whose development is vital for national interests. In practice, several weaknesses appear.

The first is the timing and selectivity of governmental designation. For more than a year after the re-introduction of the expropriation title, no implementing regulation was adopted. Only in 2025 did the Government designate two deposits – one of them the manganese deposit at Chvaletice – as deposits of strategic importance. Other potential critical raw materials projects, such as lithium in the Ore Mountains, remain in an uncertain position. The political sensitivity of such decisions is obvious; however, legal uncertainty undermines the predictability that both investors[11] and affected communities require.

The second weakness is the lack of systematic connection between Czech "deposits of strategic importance" and EU "strategic projects". The Mining Act's mechanism is purely national and operates independently from the Union's procedure for recognising strategic projects. In principle, a Czech deposit may be designated as strategic without ever obtaining Union-level recognition, and vice versa. From the point of view of the Critical Raw Materials Regulation, this parallelism risks fragmenting policy and complicating coordination. It would be more rational to design national mechanisms with the Union procedure in mind, so that they mutually reinforce rather than compete.

[10] Amendment No. 465/2023 Coll.

[11] Severočeské doly a.s. (owned by ČEZ, a.s.) and European Metals (UK) Limited.

3.3 Expropriation as an exceptional instrument

The new § 32b of the Mining Act re-introduces expropriation for mining purposes, but only for deposits of strategic importance and for certain underground structures such as CO_2 storage. Expropriation is to be carried out under the general Expropriation Act (No. 184/2006 Coll.), with some modifications deriving from the Act on the Acceleration of Strategic Infrastructure (No. 416/2009 Coll.).[12]

This article does not revisit the rich constitutional debate about the compatibility of this solution with the Charter of Fundamental Rights and Freedoms[13], nor the question whether delegation of the identification of specific strategic deposits to a governmental regulation satisfies the requirement that expropriation be "on the basis of law". For present purposes, two more pragmatic observations suffice.

First, expropriation is in practice a last resort. Almost all mining projects depend, before any expropriation is considered, on a complex web of planning decisions, permits, consents and contractual arrangements. Second, the EU Critical Raw Materials Regulation does not require Member States to introduce a special expropriation regime for strategic projects. What it does require, however, is a functioning enabling environment in which potential conflicts over property and land use are anticipated and managed. The following sections therefore turn to those less visible, but more frequently used, instruments: permitting and spatial planning.

4. Permitting Procedures for Mining Critical Raw Materials

4.1 General structure of mining permitting

Mining projects in the Czech Republic are subject to a multi-stage permitting architecture, involving several legal regimes and authorities. At a simplified level, three clusters of decisions can be distinguished:

1) There are decisions under mining legislation *sensu stricto*: exploration licences, the establishment or modification of a mining area (*dobývací prostor*) and permits for mining operations under the Act on Mining Activities (No. 61/1988 Coll.). These decisions are primarily handled by the Czech Mining Authority and regional mining offices.
2) Mining projects usually require land-use and building permits under planning and building law, including, where applicable, environmental impact assessment (EIA). The recodification of public construction law and the entry into force of the new Building Act have modified institutional competences and procedural structures, but have not eliminated the need to integrate mining projects into the general construction framework.

[12] ŽIDEK and HANÁK (2025), p. 253.

[13] Constitutional Act No. 2/1993 Coll., Charter of fundamental rights and freedoms.

3) a range of sectoral permits and consents may apply, including nature and landscape protection, water law, waste management and protection of agricultural land. For projects involving critical raw materials, obligations under EU environmental directives – such as the EIA, Habitats and Water Framework Directives[14] – are often decisive.

This fragmented permitting architecture is not unique to the Czech Republic; similar complexity characterises most Member States. From the perspective of the Critical Raw Materials Regulation, however, such fragmentation is problematic if it results in duplication, inconsistent conditions or excessive duration of procedures. The Czech response has been to introduce special provisions for critical minerals and deposits of strategic importance.

4.2 Fast-track procedures for critical minerals and strategic deposits

The Mining Act and the Act on Mining Activities now contain specific provisions intended to simplify and accelerate permitting for critical minerals and deposits of strategic importance. For example, the Act provides for special rules on the establishment of mining areas for critical minerals and strategic deposits and for simplified or time-bound procedures when authorising mining activities in such areas.

These provisions mirror, to some extent, the logic of the EU Regulation. Projects considered crucial for raw material security should not be allowed to drift in administrative limbo. At the same time, the Czech legislator has so far limited these simplifications primarily to mining law decisions themselves. The broader permitting chain – in particular, spatial planning, building permits and sectoral environmental authorisations – has been only indirectly affected. There is, as yet, no fully fledged national "one-stop shop" with authority to coordinate the entire permitting process for a strategic project in the sense of the EU Regulation.

This partial approach creates the risk that acceleration at one stage will merely shift bottlenecks to others. a mining area may be established relatively quickly, but land-use decisions or environmental consents can still take many years, especially where public opposition is strong. From the point of view of Union law, the Czech Republic will eventually have to address this by designating a single coordinating authority and ensuring that all relevant procedures can be completed within the maximum time-limits set by the Regulation.

[14] 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
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora
Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

4.3 Environmental law constraints and safeguards

Any attempt to streamline permitting for critical raw materials must confront the reality that many of the relevant environmental requirements are determined not by national law, but by EU directives and international commitments. That is particularly true for environmental impact assessment, nature and landscape protection and water management.

In practice, mining projects connected with critical raw materials will frequently be subject to mandatory EIA. For projects near or within Natura 2000 sites, an appropriate assessment of impacts on the integrity of the site will be necessary, with the full weight of EU case-law concerning alternatives, mitigation measures and "imperative reasons of overriding public interest". This applies regardless of whether the project is classified as strategic under EU or national law. The Critical Raw Materials Regulation does not create new exemptions or derogations from these environmental regimes.

For the Czech legislator, this has two important implications. First, any national fast-track or "special" procedures must be designed so as to preserve the substance of environmental assessments and public participation – otherwise they risk incompatibility with EU law. Secondly, the quality of early-stage environmental assessment becomes even more important when time-limits are imposed on the overall permitting procedure: poor documentation and inadequate baseline data will generate conflict and litigation that cannot be readily compressed.

4.4 Public participation, administrative review and judicial protection

The Critical Raw Materials Regulation does not abolish existing guarantees of public participation; it presupposes that national permit-granting processes comply with Union environmental law and with the Aarhus acquis. The Regulation explicitly frames permit-granting as the place where environmental, social and safety concerns must be integrated into decision-making on critical raw materials projects, while at the same time calling for streamlined and predictable procedures for "Strategic Projects".

From the perspective of Czech mining law this creates a familiar tension. On the one hand, the Union demands faster and more coordinated handling of projects. On the other hand, EU law requires that the public concerned – including affected individuals, municipalities and environmental organisations – can effectively participate at a stage when all options are still open. The way in which Czech administrative courts have approached participation in proceedings on the delimitation of a mining area (*stanovení dobývacího prostoru*) is therefore central to assessing whether the national framework can accommodate the new EU requirements.

Under Czech law, the delimitation of a mining area is formally an act under the Mining Act, but the Supreme Administrative Court has consistently characterised it as the functional equivalent of a land-use decision. Earlier case-law built this link through the explicit cross-reference in § 27(6) of the Mining Act to the concept of "change in land use" under § 80(2)(b) of the 2006 Building Act (Act No. 183/2006 Coll.). More recent judgments have maintained the same approach even after the partial decoupling introduced by the 2023 amendment of the Mining Act and the transition to the new Building Act (No. 283/2021 Coll.): as long as proceedings were initiated under the former regime, the delimitation of a mining area must still be treated as a decision on land use with corresponding environmental and participatory guarantees.[15]

This doctrinal continuity is important, because it closes off the route sometimes suggested by authorities and operators: to reclassify the delimitation phase as a purely internal, "pre-project" act with no direct external effects, and thus with a much narrower circle of participants.

The case-law shows that this restrictive reading has been expressly rejected. In the early strand of decisions on the relationship between mining law and environmental impact assessment, the Supreme Administrative Court held that it is not permissible to separate the delimitation of the mining area and the subsequent extraction into entirely self-standing projects simply in order to avoid environmental scrutiny. In a leading judgment concerning the Hvozdečko quarry, the Court conceded that the act of designating a mining area is not itself a "project" within the meaning of the EIA Directive, but stressed that, as a matter of substantive law, it already crystallises the basic parameters of the future extraction and must therefore be accompanied by an adequate assessment of its environmental implications.[16]

This reasoning was later generalised into a broader doctrinal statement: the principle of prevention and the precautionary principle require that all questions which can meaningfully be assessed at the delimitation stage must be addressed there; only those questions that genuinely depend on the concrete technical design of extraction may be left to the subsequent mining permit.[17]

The same logic has been applied to participation rights. Authorities have repeatedly argued that there is no room for an extensive circle of participants

[15] Judgment of the Supreme Administrative Court of 16 December 2020, case no. 4 As 116/2020-99, ECLI:CZ:NSS:2020:4.As.116.2020.99.

[16] Judgment of the Supreme Administrative Court of 12 April 2018, case no. 1 As 76/2018-60, ECLI:CZ:NSS:2018:1.As.76.2018.60.

[17] Judgment of the Regional Court in Pilsen of 28 August 2024, case no. 55 a 13/2024-39, ECLI:CZ:KSPL:2024:55.A.13.2024.39. For more information, see DOHNAL, V., Obhájili jsme u soudu práva vlastníků při povolování těžby, Dohnal & Bernard [online], accessed 14 November 2024, https://www.dohnalbernard.cz/index.php/novinky/obhajili-jsme-u-soudu-prava-vlastniku-pri-povolovani-tezby.

in the delimitation proceedings because "real" impacts on the environment and individual rights only arise once mining is authorised. Recent judgments show a clear judicial reluctance to accept this view. In a 2023 case concerning the exclusion of a neighbouring landowner from proceedings on the Mírová I mining area, the regional court – relying on a binding legal opinion of the Supreme Administrative Court – held that the statutory requirement of "direct impact" on property or other rights in Section 28(2) of the Mining Act must be interpreted in the same generous fashion as the corresponding concept in Section 85(2)(b) of the 2006 Building Act.[18]

According to this line of reasoning, a person may be excluded as a participant only where it is obvious from the nature of the project or from the facts of the case that her rights cannot possibly be directly affected. Where such exclusion is not self-evident, the person must be admitted to the proceedings and her objections must be dealt with on the merits.

Subsequent decisions by the Supreme Administrative Court confirm and extend this approach. In a line of cases arising from disputes over gravel extraction in western Bohemia, the Court accepted that the physical environmental impacts of mining – noise, dust, traffic, groundwater draw-down – materialise predominantly in the extraction phase. Nevertheless, it emphasised that the delimitation of the mining area "directly restricts the way in which the land included in the area may be used" and that this restriction itself constitutes a direct interference with property rights. The Court also held that, in these proceedings, authorities must already apply and balance the requirements laid down in special legislation on soil protection, nature and landscape protection, water, forests and other sectoral regimes.[19]

This directly contradicts the thesis that the delimitation decision has no external effects and therefore does not require the participation of those whose land, health or environment may be affected by the project.

Seen from the viewpoint of public participation, three consequences follow from this case-law. First, the delimitation of a mining area is not a neutral "preparatory" step but the key decision on whether a given deposit will be exploited and under what basic conditions. It therefore attracts both the Aarhus requirements for public participation in decisions on specific activities and the more generous domestic standard developed for land-use proceedings. Secondly, in terms of personal scope, the courts require that the category of participants in the delimitation proceedings be aligned with the well-established case-law under the Building Act: this includes not only owners of land within the mining area but also owners of immediately neighbouring properties, municipalities whose territory will be affected and, where statutory conditions are met, environmental NGOs. Thirdly, in terms of

[18] Judgment of the Supreme Administrative Court of 30 September 2025, case no. 4 As 202/2024-29, ECLI:CZ:NSS:2025:4.As.202.2024.29

[19] Ibid.

material scope, the courts insist that environmental objections that go to the basic acceptability of the project, such as the feasibility of avoiding impacts on protected species or the irreversible loss of high-quality agricultural soil, must be considered at the delimitation stage. Authorities cannot postpone these questions to the mining permit merely because the exact technical design of extraction may still evolve.

The emerging Critical Raw Materials Regulation framework is likely to sharpen these tensions rather than to resolve them. On the one hand, the Regulation explicitly calls for prioritisation and expedited handling of strategic projects, limited time-limits for permit-granting and the use of a single point of contact for investors. On the other hand, it repeatedly reaffirms that these mechanisms must operate "without lowering the level of environmental protection" and in full compliance with Union environmental law, which includes the Aarhus Convention, the EIA Directive and the access-to-justice guarantees developed by the Court of Justice.

Against this backdrop, any attempt to respond to the Critical Raw Materials Regulation by re-labelling the delimitation of a mining area as an internal, non-decisional step – or by narrowing the circle of participants on the ground that only the mining authorisation affects rights – would not only depart from settled Czech case-law but would also risk breaching EU law.

For the Czech legislator and administration, the challenge is therefore not simply to "speed up" proceedings but to redesign them so that participation is both meaningful and predictable. In practice, this points towards clearer statutory articulation of who is entitled to participate in which phase of the procedure, greater reliance on early-stage scoping (including public involvement) and more systematic integration of environmental and land-use issues into the delimitation decision. If the delimitation of a mining area is to remain the central decision on whether and how critical raw materials are to be exploited at a given site, then the procedural rights associated with that decision – including broad public participation – cannot be sacrificed without undermining both domestic constitutional principles and the Union's own vision of a "secure and sustainable" supply of critical raw materials.

5. Spatial Planning, Local Self-Government and Mining

5.1 Mining and spatial planning: from coordination to condition

Recent amendments to the Mining Act have strengthened the link between mining decisions and spatial planning. The establishment or modification of a mining area must not be in conflict with spatial planning documentation and with the objectives and tasks of spatial planning. The competent planning authority is required to issue a statement on the consistency of the proposed mining area with the relevant plans.

This shift from mere coordination to a *de facto* conditionality is significant. It means that mining projects, including those relating to critical raw materials, cannot be authorised in areas where spatial plans do not foresee mining, unless the planning documents are first amended. In practice, this places municipal and regional authorities in a powerful position. They can indirectly influence, or even block, mining projects by shaping spatial plans, which are adopted through political processes at local and regional level.

From the perspective of the Critical Raw Materials Regulation, this dual role of spatial planning is ambivalent. On the one hand, it encourages early integration of mining projects into broader territorial development strategies and allows for cumulative impact assessment and coordination with other land uses. On the other hand, it introduces an additional layer of potential delay and conflict, especially where local authorities are sceptical about mining or face strong opposition from residents.

5.2 Planning agreements and benefit-sharing[20]

One response to the tension between national raw material objectives and local concerns is the use of planning agreements or similar instruments through which investors undertake additional commitments towards municipalities: contributions to infrastructure, environmental improvements, community facilities or other benefits. Czech law recognises such agreements in the field of construction, and they are increasingly used for large residential and commercial projects.

Their direct applicability to mining projects is, however, limited. Mining involves different time horizons, environmental impacts and ownership structures. Reserved deposits belong to the State, not to the investor or the municipality; the investor typically holds mining rights but not full control over the resource itself. Moreover, the specific statutory framework of mining law and the special duties of mining operators (including rehabilitation and aftercare obligations) complicate the direct transplantation of standard planning agreements into the mining context.

A more promising avenue may be to develop a tailored legal framework for agreements between mining operators, municipalities and, where relevant, the State, explicitly addressing issues such as long-term rehabilitation, compensation for loss of amenity, local employment, training, and participation in revenues from

[20] For more information concerning planning agreements and their use under the previous Building Act (Act No. 183/2006 Coll.), see ZAHUMENSKÁ, V., ZAHUMENSKÝ, D., SVOBODA, P. a HUMLÍČKOVÁ, P., Smlouvy o rozvoji území obcí: když je investor za humny, Právo prakticky, Praha: Wolters Kluwer, 2019. ISBN 978-80-7598-597-2. For more recent information concerning planning agreements under the new Building Act (Act No. 283/2021 Coll.), see KALENSKÝ, T., KORBEL,F., GABRHELOVÁ, P. and FOGLAR, F., § 130–132. In: BURSÍKOVÁ, L., KORBEL, F., ČERNÝ, P., LACHMANN, M., ROZTOČIL, A., BOHADLO, D. a kol., Stavební zákon, 1st ed., Praha: C. H. Beck, 2025, pp. 1045–1070.

extracted minerals. Such a framework would not replace formal permitting and spatial planning, but could supplement them by providing more predictable and transparent benefit-sharing mechanisms. This could significantly increase local acceptance of critical raw materials projects, thereby indirectly contributing to the objectives of the EU Regulation.

5.3 Municipal revenues and distributional justice

Spatial planning powers are not the only lever that municipalities possess. They also benefit, to varying degrees, from charges and fees linked to mining activities. The structure and amount of these payments influence local perceptions of mining: where communities see tangible benefits, opposition may be lower; where costs are localised and benefits diffuse, resistance is likely.

In the context of critical raw materials, the question of revenue distribution acquires a European dimension. The Union seeks to secure materials needed for technologies that will serve all Member States, yet the environmental and social burdens of extraction are concentrated in mining regions. If the Czech Republic is to expand extraction of critical raw materials in line with the Regulation, it will need to consider whether current fiscal arrangements adequately reflect this asymmetry. Strengthening municipal revenue shares or earmarking part of the proceeds for local development and environmental remediation could form part of a broader strategy to align local and European interests.

6. Towards an Integrated Toolbox for Implementing the Critical Raw Materials Regulation

6.1 Aligning terminology and legal categories with EU law

The first, and in some ways simplest, step is conceptual alignment. The Czech categories of "critical minerals" and "deposits of strategic importance" should be harmonised with the EU concepts of critical and strategic raw materials and strategic projects. This does not mean that national law cannot go further – for example by treating certain construction materials as nationally critical even if they are not on the EU list – but the relationship between national and Union categories must be transparent and rational.

Such alignment would reduce legal uncertainty and facilitate participation in Union-level processes for the recognition of strategic projects. It would also provide a clearer framework for national debates about which deposits should be prioritised and under what conditions. Without conceptual clarity, the risk is that policy will be driven by ad hoc political decisions rather than by coherent criteria.

6.2 Designing an effective "one-stop shop"

The Critical Raw Materials Regulation requires each Member State to establish a single national authority responsible for coordinating permits for strategic projects. For the Czech Republic, this raises institutional design questions. Should the role be assigned to an existing authority (for example the Ministry of Industry and Trade, the Czech Mining Authority or a newly empowered central construction authority), or should a new, dedicated body be created?

Whatever solution is chosen, the "one-stop shop" must be more than a mere contact point. It needs legal powers to coordinate timelines, resolve conflicts between authorities, ensure completeness and consistency of documentation and provide guidance to applicants and the public. At the same time, it must operate within the constraints of EU environmental law and domestic constitutional guarantees of local self-government and access to justice.

A purely formal designation of a coordinating authority, without corresponding changes to procedures and competences, would not satisfy the spirit of the Regulation. Conversely, a central authority endowed with extensive powers but insufficient resources and expertise would risk becoming a bottleneck rather than a facilitator. Careful institutional engineering, based on realistic assessment of administrative capacity, is therefore essential.

6.3 Sequencing instruments: from exploration to expropriation

One of the strengths of the EU Regulation is its emphasis on the entire value chain, from exploration to recycling. National legal frameworks, by contrast, often focus on one stage – usually extraction – and treat others as auxiliary. An integrated Czech toolbox should reflect the full sequence.

At the exploration stage, the national programme required by the Regulation offers an opportunity to modernise geological data collection and open it to a wider set of stakeholders, including municipalities, researchers and investors. Transparent, high-quality data reduce uncertainty and facilitate rational decisions about which deposits to prioritise and which areas to protect.

At the planning stage, early identification of areas with high critical raw materials potential can inform spatial planning documents and infrastructure planning. This does not mean that all such areas should automatically be earmarked for mining, but that potential conflicts can be addressed proactively rather than reactively.

At the permitting stage, specific time-limits, coordinated procedures and clear division of responsibilities should reduce unnecessary delays without compromising environmental standards. This may involve codifying the expectation that certain issues (for example, basic environmental constraints) be resolved at early stages,

whereas others (such as detailed technical conditions of mining operations) can be addressed later.

Expropriation, if it enters the picture at all, should do so only after these instruments have been exhausted. It is a tool for resolving residual conflicts where a project is otherwise fully justified and carefully designed, not a shortcut for bypassing planning, participation or negotiation. In practice, the more effective the upstream instruments are, the less frequently expropriation will be needed.

6.4 Managing conflicts: procedural innovation and benefit-sharing

Critical raw materials projects will inevitably generate conflicts of interest: between national objectives and local concerns, between climate benefits of clean technologies and local environmental impacts, and between different visions of regional development. Legal instruments alone cannot eliminate these conflicts, but they can structure them in more or less productive ways.

Beyond standard administrative procedures, Czech law could make greater use of procedural innovations such as structured stakeholder dialogues, mediation or negotiated agreements supervised by public authorities. These mechanisms do not replace formal decision-making, but can help clarify interests, identify acceptable compromises and reduce the likelihood of litigation.

Benefit-sharing arrangements, whether through tailored planning agreements, revenue-sharing schemes or community funds, can also play an important role. If local communities can see concrete, predictable benefits from critical raw materials projects, their willingness to accept environmental and social burdens may increase. Conversely, if they perceive that they bear the costs while the benefits flow elsewhere – to the State budget, to distant consumers or to foreign investors – resistance will be strong, regardless of the formal legal framework.

From the perspective of the Critical Raw Materials Regulation, such arrangements are not marginal. The Regulation explicitly recognises social acceptance and environmental performance as criteria for strategic projects. National systems that can credibly deliver both will be better placed to attract investment and to justify, in Brussels and at home, the development of sensitive projects.

7. Conclusion: Future Challenges for the Czech Republic

The adoption of the EU Critical Raw Materials Regulation creates a new context for Czech mining law and policy. It does not dictate which specific deposits must be developed, nor does it require the introduction of special expropriation regimes. Instead, it demands that Member States build a coherent framework within which strategic projects can be identified, planned, permitted and operated at a pace compatible with the Union's climate and industrial objectives, and under conditions compatible with environmental and human-rights standards.

For the Czech Republic, this involves at least four interrelated tasks.

First, the conceptual framework of mining law must be aligned with EU categories, so that "critical minerals", "deposits of strategic importance" and "strategic projects" form a consistent system rather than overlapping and partly divergent classifications.

Secondly, the permitting architecture needs to be adjusted to meet the Regulation's requirements on coordination and time-limits. This cannot be achieved solely by tinkering with mining law; it requires integration with spatial planning, construction law and sectoral environmental regimes, and a realistic assessment of administrative capacity.

Thirdly, the role of spatial planning and local self-government must be recognised not as an obstacle but as a structural element of critical raw materials governance. Municipalities are gatekeepers of land use and key actors in social acceptance. Instruments such as tailored agreements and benefit-sharing mechanisms can help reconcile national and local interests, but they must be fitted into a clear legal framework.

Fourthly, expropriation must be placed in its proper context. It may remain necessary in exceptional cases, particularly for deposits of strategic importance that cannot be accessed otherwise. However, an implementation strategy that relies primarily on expropriation, while neglecting exploration, planning, participation and benefit-sharing, would be politically fragile, constitutionally vulnerable and potentially inconsistent with the spirit of the EU Regulation.

The Czech response to the Critical Raw Materials Regulation is still evolving. Legislative proposals to adjust mining law terminology and to adapt national procedures are under discussion. The examples of lithium in the Ore Mountains and manganese at Chvaletice show both the opportunities and the tensions that lie ahead. Whether the Czech Republic will be able to use its geological potential to contribute to the Union's raw material security, while maintaining high standards of environmental protection and respect for property and local self-government, will depend less on individual legal instruments than on the ability to assemble them into a coherent, forward-looking regulatory toolbox.

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Abstract

The EU Critical Raw Materials Regulation (Regulation (EU) 2024/1252) marks a structural shift in the governance of mineral resources in Europe. Rather than treating mining primarily as a national industrial policy issue, the Regulation reframes critical and strategic raw materials as a common concern of the Union, to be secured through binding quantitative targets, streamlined permitting and coordinated exploration and monitoring. This article examines how the Czech legal order can respond to these requirements and which legal instruments – beyond expropriation – will be decisive for their effective implementation.

The analysis proceeds in three steps. First, it outlines the main obligations stemming from the Regulation, with particular attention to strategic projects, time-limited permitting, one-stop shops, national exploration programmes and monitoring duties. Secondly, it analyses the Czech framework for mineral resources, focusing on the concepts of "critical minerals" and "deposits of strategic importance", on fast-track procedures in mining and mining-related legislation, and on the relationship between mining permits, environmental law and judicial protection. Thirdly, it explores the role of spatial planning and local self-government in managing mining projects, including the potential and limits of planning agreements and benefit-sharing mechanisms.

The article argues that expropriation can only be understood as a subsidiary, last-resort instrument within a much wider regulatory toolbox. Future Czech implementation of the Regulation will be judged less by the formal possibility to expropriate and more by the capacity to integrate exploration, planning, permitting, environmental safeguards and local participation into a coherent, predictable and EU-compatible system.

Key words

Critical Raw Materials Regulation; critical raw materials; strategic projects; Czech mining law; permitting procedures; spatial planning; local self-government; expropriation; energy transition; raw material security.

Acknowledgements

We would like to thank the CoRe (Beyond Security – Role of Conflict in Resilience Building, CZ.02.01.01/00/22_008/0004595) project for its support.