

## PUBLIC ADMINISTRATIVE CONTROL IN GEOLOGICAL LAW – – NATIONAL AND EU PERSPECTIVES

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### Introduction

The aim of this paper is to explain the role of public administration inspections (hereinafter referred to as “inspections”) in enforcing legal regulations designed to protect the geological environment and the environment as a whole from the impacts of mining, and to assess whether the current legal framework governing this type of inspection is adequate. In addition to binding legislation, I will also mention non-binding documents that may assist competent authorities in enforcing mining and related laws through inspections.

The environment is naturally a synergistic system composed of many interconnected components. The legal regulation of the protection of individual components reflects this interconnectedness. In relation to mineral resources and the geological environment, two branches of regulatory protection can therefore be distinguished. The first concerns the protection of this segment of the environment *stricto sensu*, while the second encompasses the protection of other environmental components that may also be threatened by interventions in the geological environment (in particular, mining and the chemical processing of minerals). While the latter branch is extensively regulated under EU law, the former is addressed by EU law only marginally. Both branches, however, should function synergistically so as to ensure the sustainability of mining and related activities.

An inherent part of public law regulation are instruments designed to respond to situations that deviate from the state of affairs anticipated by such regulation. Within the scope of environmental legislation, the emergence of an undesirable situation can typically be addressed by the imposition of remedial measures, which primarily serve a restorative purpose, or by establishing administrative or, in more serious cases, criminal liability of the polluter. Another integral element of environmental regulations is the reflection of the principles of prevention and precaution<sup>1</sup>.

None of the above-mentioned functions of environmental law could, however, operate satisfactorily without effective public administration inspections. These serve both as a preventive tool and as a means of collecting information for subsequent sanctioning procedures or proceedings on the imposition of remedial measures.

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<sup>1</sup> For deeper understanding of the precautionary principle see: BÁNDI, Gy (2020): Interests of Future Generations, Environmental Protection and the Fundamental Law In: JAEL (29) 7-22 DOI: <https://doi.org/10.21029/JAEL.2020.29.7>.

## Regulation of Environmental Inspections in European and Czech (Including Mining) Law

Taking into account the synergistic nature of the environment and the European Union's persistent efforts to regulate certain of its components, one might expect that a comprehensive secondary legal act dedicated specifically to environmental inspections would exist at the EU level. As will be discussed below, however, this assumption does not reflect reality. Inspections are carried out almost exclusively by national inspection authorities under domestic legislation, which is influenced by EU law to a rather limited extent.

The European Union has long been aware of the need to regulate environmental inspections. This need arises primarily from the differing quality and inconsistency in the way inspections are conducted across Member States, which can have highly negative effects, especially in cases of transboundary pollution—not to mention their adverse impact on fair competition. To summarize briefly, the EU's attempts to achieve comprehensive harmonisation of environmental inspections have so far been unsuccessful. In 2001, in cooperation with the non-profit organization IMPEL, the European Parliament and the Council adopted the *Recommendation of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States* (so-called “minimum standards”; see below). In 2011, the European Commission issued an evaluation report on the implementation of this Recommendation<sup>2</sup>, concluding that implementation had been uneven across Member States, and that the form and quality of inspections therefore remained highly variable throughout the EU. In the report, the Commission expressed support for a revision of the minimum standards (which ultimately did not take place) and for the inclusion of inspection rules into individual sectoral EU instruments, while keeping the possibility of broader harmonisation open for the future. Scholarly literature generally considers the harmonisation of inspections both inevitable and desirable<sup>3</sup>. This view has recently been reinforced by the adoption of the new *Directive on Environmental Crime*<sup>4</sup>, which explicitly and implicitly highlights the

<sup>2</sup> Impact assessment study into possible options for revising Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI) Final Report ENV.G.I./FRA/2006/0073. 2011. Accessible from here: <https://cdm21069.contentdm.oclc.org/digital/collection/ppl1/id/147455/>.

<sup>3</sup> See i.e. VOMÁČKA, V., STROUHAL, J. (2017). Požadavky uijního práva na provádění kontrol v oblasti ochrany životního prostředí. In HANÁK, J. PRŮCHOVÁ, I., a kol. Kontrolní mechanismy při prosazování ochrany životního prostředí. Brno: Masarykova univerzita, 2017. ISBN 978-80-210-8597-8., HEDEMANN-ROBINSON, M., (2016). Environmental Inspections and the EU: Securing an Effective Role for a Supranational Union Legal Framework. *Transnational Environmental Law* [online]. 6(1), 31–58. [20 January 2025]. Available from: doi: 10.1017/s2047102515000291.

<sup>4</sup> Directive (EU) 2024/1203 of the European Parliament and of the Council of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC. Accessible from here: Directive – EU – 2024/1203 – EN – EUR-Lex.

importance of inspections in the enforcement of environmental criminal law. The proposal for this directive<sup>5</sup> also indicates that problems associated with inspection practices across Member States persist<sup>6</sup>.

At present, the regulation of environmental inspections can be found only in certain sector-specific directives and regulations, and even then, it is often rather fragmented and general in nature. In relation to mining-related regulation, reference may be made to the *Directive on the management of waste from extractive industries*<sup>7</sup>, which contains only a general framework for inspections. However, this framework is specified in detail by a Commission implementing decision<sup>8</sup>, representing the most extensive binding EU regulation of inspections related to mining law – and one of the most detailed EU instruments on environmental inspections overall. It lays down detailed rules for conducting routine, non-routine, and unannounced inspections of extractive waste facilities; rules for inspection documentation; requirements regarding the professional competence of competent authorities and the planning of inspections; and particular attention to different types of facilities, depending on the kind of extractive waste and the stage of the facility's life cycle.

From the field of geological law, the *Directive on the geological storage of carbon dioxide*<sup>9</sup> can be mentioned, which contains only general conditions for inspection planning, the conduct of extraordinary inspections, their frequency, the requirements for the final inspection report, and, where relevant, the aspects of the operation or activities of the inspected entity to which the inspecting authority should pay particular attention.

<sup>5</sup> Návrh směrnice Evropského parlamentu a Rady (EU) o trestněprávní ochraně životního prostředí a o nahrazení směrnice 2008/99/ES a 2009/123/ES. Accessible from: IMMC.COM%282021%29851%20final.CES.xhtml.1\_CS\_ACT\_part1\_v2.docx (europa.eu).

<sup>6</sup> For deeper understanding of the history of the EU efforts in this field, the differences between national environmental inspections laws, and the influence of the inspections on criminal liability enforcement, see JIMRAMOVSKÝ, P. (2025). Úprava environmentálních inspekcí v právu Evropské unie a její budoucí vyhlídky. Časopis pro právní vědu a praxi, 33(3), 471–497. <https://doi.org/10.5817/CPVP2025-3-4>.

<sup>7</sup> Art. 17 of the Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC, implemented to § 16 of the Act No. 157/2009 Coll., on the Management of Mining Waste. Accessible from here: Directive – 2006/21 – EN – EUR-Lex. All Czech laws are accessible from: *Zákony pro lidi – Sbírka zákonů ČR v aktuálním konsolidovaném znění*.

<sup>8</sup> Commission Implementing Decision (EU) 2020/248 of 21 February 2020 laying down technical guidelines for inspections in accordance with Article 17 of Directive 2006/21/EC of the European Parliament and of the Council (notified under document C(2020) 889) (Text with EEA relevance). Accessible from here: *Prováděcí rozhodnutí – 2020/248 – EN – EUR-Lex*.

<sup>9</sup> Art. 15 of the Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (Text with EEA relevance). Accessible from here: *Directive – 2009/31 – EN – EUR-Lex*.

Mining activities are also covered by the *Regulation on reducing methane emissions in the energy sector*<sup>10</sup>. This regulation imposes a requirement on national inspection authorities to conduct so-called “initial routine inspections” of relevant installations. On the basis of these inspections, a risk assessment must be drawn up for each site, followed by a plan of subsequent routine inspections. The regulation also provides for the possibility of carrying out “non-routine inspections,” intended for investigating complaints, verifying compliance, or remedying acute undesirable situations. It further specifies the operational aspects to be addressed during both routine and non-routine inspections, as well as the requirements for final inspection reports, which may serve as a basis for imposing corrective measures on operators.

As already noted above, mining and related activities naturally affect various components of the environment. Some EU legal acts therefore regulate such activities indirectly through other environmental instruments that also contain provisions on inspections. This is the case, for instance, with the *Birds and Habitats Directives*<sup>11</sup>, which are reflected in the *Czech Act on the Protection of Nature and the Landscape* (“ZOPK”)<sup>12</sup>. This act does not contain specific provisions on inspections, but it is rich in provisions concerning the protection of mineral resources, nature, and the landscape against the impacts of mining<sup>13</sup>. Worth mentioning is also Section 62 of the Act, which regulates a specific instrument related to inspections—*entry onto land*<sup>14</sup>. The scope of this instrument is broader, as it serves to enable competent authorities to perform all tasks entrusted to them under the ZOPK<sup>15</sup>. Although its title might suggest that it merely provides authorization for officials to enter land, it also includes a range of additional powers, such as taking samples, performing measurements, and requesting information. Unlike inspections under

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<sup>10</sup> Art. 6 and Art. 33 of the Regulation (EU) 2024/1787 of the European Parliament and of the Council of 13 June 2024 on the reduction of methane emissions in the energy sector and amending Regulation (EU) 2019/942 (Text with EEA relevance). Accessible from here: Regulation – EU – 2024/1787 – EN – EUR-Lex

<sup>11</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. Accessible from here: Directive – 2009/147 – EN – Birds Directive – EUR-Lex and Directive – 92/43 – EN – Habitats Directive – EUR-Lex.

<sup>12</sup> Act No. 114/1992 Coll.

<sup>13</sup> For instance, Section 4 (protection of significant landscape features), Section 12 (protection of landscape character), Sections 16, 29, 35 and 36 (special area protection), and Section 51 (a provision on specially protected minerals, which has not yet been applied in practice).

<sup>14</sup> For more detailed understanding of this institute see Jimramovský, P. (2025). Právní aspekty ochrany dřevin rostoucích mimo les. *Časopis pro právní vědu a praxi*, 1(2025). Retrieved from [https://www.cspz.com/wp-content/uploads/2025/08/CSPZP\\_1\\_2025\\_3.pdf](https://www.cspz.com/wp-content/uploads/2025/08/CSPZP_1_2025_3.pdf).

<sup>15</sup> For example emergency works etc.

the *Inspection Code* (kontrolní řád)<sup>16</sup>, however, Section 62 ZOPK does not authorize entry into buildings.

A number of European environmental acts limit their provisions on inspections to setting out requirements to carry them out, defining parameters for inspection planning, specifying cases in which extraordinary inspections must be conducted, or regulating the outputs of inspections and the aspects that should be addressed by inspecting authorities. This is also true of the *Industrial Emissions Directive* (on integrated pollution prevention and control)<sup>17</sup>. For a long time, this directive did not apply to mining or related activities. This changed with the 2024 amendment<sup>18</sup>, which introduced a new point 3.6 in Annex I, adding the extraction of specified mineral resources to the list of regulated activities<sup>19</sup>. According to the new Article 73(4) of the Directive, the Commission will also review the need to regulate emissions from onshore and offshore oil and gas extraction, as well as from non-energy industrial minerals used in sectors other than construction and from newly initiated ore mining.

As already mentioned, the protection of the geological environment and the regulation of mining activities are, to a large extent, governed by national legislation. In the Czech Republic, this includes the *Act on Geological Works*<sup>20</sup>, the *Mining Act*<sup>21</sup>, and the *Act on Mining Activities*<sup>22</sup>. Only the latter provides more detailed regulation of inspection-related powers; however, it is primarily a technical and safety regulation and therefore cannot be regarded as an environmental law act in the narrower sense<sup>23</sup>.

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<sup>16</sup> Act No. 255/2012 Coll.

<sup>17</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast) (Text with EEA relevance). Accessible from here: Directive – 2010/75 – EN – EUR-Lex.

<sup>18</sup> Directive (EU) 2024/1785 of the European Parliament and of the Council of 24 April 2024 amending Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC on the landfill of waste (Text with EEA relevance), with the transposition date until 1 July 2026. Accessible from: Directive – EU – 2024/1785 – EN – EUR-Lex.

<sup>19</sup> To a large extent, these comprise so-called strategic raw materials as defined in Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework to ensure 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 (Text with EEA relevance)—that is, for instance, bauxite, nickel, manganese, cobalt, lithium, and tungsten, as well as other „non-strategic“ materials such as iron, lead, and chromium. Accessible from here: Directive – EU – 2024/1785 – EN – EUR-Lex.

<sup>20</sup> Act No. 62/1988 Coll., on Geological Works

<sup>21</sup> Act No. 44/1988 Coll., Mineral Resources Act (Mining Act)

<sup>22</sup> Act No. 61/1988 Coll., on Mining Activities, Explosives, and the State Mining Administration

<sup>23</sup> § 15, § 42

There is no specific legal act regulating environmental inspections in the Czech Republic, unlike in Poland<sup>24</sup>, for example. Public administration inspections are governed uniformly across all administrative sectors by the *Inspection Code*, the provisions of which are further modified by special administrative laws. Under the regime of the Inspection Code, inspections should be understood as a procedure applicable prior to the possible initiation of administrative proceedings (either sanctioning proceedings or proceedings on the imposition of remedial measures). Once administrative proceedings have been initiated, the administrative authority—usually identical to the inspection authority—must treat the inspected entity as a party to the proceedings. This entails stronger protection of that entity's rights and thus a more challenging position for the authority when gathering additional evidence<sup>25</sup>. This fact has in the past manifested itself in difficulties in applying the concept of *environmental damage* (*ekologická újma*)<sup>26</sup>. Proceedings on the imposition of preventive or remedial measures<sup>27</sup> may be initiated upon request by (a) a person (potentially) affected by environmental damage or (b) an environmental NGO, in which case administrative proceedings are deemed to have been initiated under § 44 of the Administrative Procedure Code. The other possibility is for proceedings to be initiated *ex officio* by the authority itself. In practice, this typically occurs following a *submission* (*podnět*)<sup>28</sup>, in which case the authority may carry out an inspection beforehand. However, if the submission is made by a person under point (a), that person cannot become a party to the proceedings and therefore cannot defend their rights, including access to court. Currently, an amendment to the *Act on Environmental Damage* has been submitted to the Chamber of Deputies with the aim, among other things, of remedying this situation. The amendment would replace the “request for initiation of proceedings” with a “motion to initiate proceedings,” combining features of both a request (the applicant becomes a party to the proceedings and can appeal the dismissal of the motion) and a submission (the motion does not automatically trigger the initiation of proceedings, allowing for prior inspection). The environmental damage legislation may in the future find application in connection with geological and mining law, especially in cases of accidents affecting several environmental components simultaneously<sup>29</sup>. However,

<sup>24</sup> Ustawa z dnia 20 lipca 1991 r. o Inspekcji Ochrony Środowiska. Accessible from here: Legal basis – Chief Inspectorate for Environmental Protection – Portal Gov.pl ([www.gov.pl](http://www.gov.pl)).

<sup>25</sup> Mainly § 54 and § 138 of the Act No. 500/2004 Coll., the Administrative Code.

<sup>26</sup> Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, implemented into Act No. 167/2008 Coll. Accessible from here: Directive – 2004/35 – EN – EUR-Lex.

<sup>27</sup> § 8

<sup>28</sup> § 42 of the Administrative Code.

<sup>29</sup> Government Bill Amending Act No. 167/2008 Coll., on the Prevention and Remediation of Environmental Damage and on Amendments to Certain Acts, as amended, and Other Related Acts (Parliamentary Press No. 870). Accessible from: Sněmovní tisk 870.

deliberation on the proposed amendment has been suspended for several months and appears to be indefinite<sup>30</sup>.

As a final note, spatial information within the meaning of the *INSPIRE Directive* – including data on energy and mineral resources and geological information – may serve as a useful tool for inspection authorities, particularly when planning inspections<sup>31</sup>.

### Non-binding instruments

At the EU level, there are a number of non-binding methodological documents from which national inspection authorities can draw guidance on good inspection practices. These documents often include case studies, lists of aspects that should be taken into account during inspections, or elements of protected sites that may be particularly affected by certain activities and should therefore receive special attention during inspections.

In relation to mining activities, examples include the Commission's guidebook "*Non-energy Mineral Extraction and Natura 2000*"<sup>32</sup>, the *JRC Science for Policy Report – a Review of European Union Legal Provisions on the Environmental Impact Assessment of Non-energy Minerals Extraction Projects*<sup>33</sup>, and the *EU Principles for Sustainable Raw Materials*<sup>34</sup>.

A particularly significant non-binding document is the aforementioned set of minimum standards for environmental inspections, issued in the form of a Recommendation based on a document prepared by the non-profit organization IMPEL. Although the minimum standards do not specifically target inspections related to mining activities as such – since they are designed to reflect existing EU environmental legislation – that legislation, as already noted above, often regulates components of the environment that may be affected by mining. The minimum standards explicitly refer to the protection of air and water, the regulation of waste management, industrial emissions, and the inspection of the implementation of remedial measures<sup>35</sup>. They are

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<sup>30</sup> Ibidem.

<sup>31</sup> Annex II, points 4, 20 and 21 of the Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), implemented to the Czech § 11a etc. of the Act No. 123/1998 Coll., on the Right to Information about the Environment. Directive accessible from here: Directive – 2007/2 – EN – EUR-Lex.

<sup>32</sup> Accessible from here: Guidance document on non-energy mineral extraction and Natura 2000 – Publications Office of the EU

<sup>33</sup> Accessible from here: JRC Publications Repository – a review of European Union legal provisions on the environmental impact assessment of non-energy minerals extraction projects

<sup>34</sup> Accessible from here: EU principles for sustainable raw materials – Publications Office of the EU

<sup>35</sup> Recommendation of the Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States. OJ L 118, 27.4.2001. Accessible from here: EUR-Lex – 32001H0331 – EN – EUR-Lex

not highly specific; rather, they define desirable objectives for inspections rather than concrete parameters. They emphasize the educational and restorative functions of inspections, outline the general powers of inspection authorities, inspection planning, situations warranting unplanned inspections, and parameters for investigating serious accidents.

The IMPEL organization — whose primary mission is to provide a platform for cooperation and exchange of experience among national inspection authorities and to facilitate their communication with the European Commission — has also developed a number of other methodological documents that inspection bodies may use in their activities. With respect to mining operations and their environmental impacts, these include, for example, *Permitting and Inspection under Article 6(3) of the Habitats Directive: Quarries and Open Cast Mining* (2018)<sup>36</sup>, the *Management of Mining Waste Project* (2019), and *Guidance for Tackling Illegal Groundwater Drilling and Abstraction* (2024)<sup>37</sup>.

## Summary

Public administrative environmental inspections have not yet been uniformly regulated at the level of European law, despite the fact that environmental interests are the subject of EU regulation and that European institutions are aware of the importance of inspections for their effective enforcement, as well as of the persistent differences in the quality and manner of their implementation across Member States. EU law generally does not intervene in matters concerning the protection of mineral resources; however, mining activities may adversely affect numerous components of the environment whose protection the European Union actively promotes. The unification of rules governing environmental inspections should therefore be regarded as both an inevitable and appropriate step, which would undoubtedly have an impact on the conduct of inspections in the field of mining and geological law as well.

In my view, although a number of non-binding methodological documents exist that can serve as a basis for inspections related to this area of law, only a clear, comprehensible, and—above all—binding regulation of inspections can ensure the effective enforcement of European environmental law, including its criminal law dimension, and enable the remediation of environmental damage, particularly in cases with cross-border implications.

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<sup>36</sup> Accessible from here: Permitting under Article 6 (3) of the Habitats Directive – Permitting under Article 6 (3) of the Habitats Directive – Impel

<sup>37</sup> Accessible from here: Tackling illegal groundwater drilling and abstractions (TIGDA) – Tackling illegal groundwater drilling and abstractions (TIGDA) – Impel

**About the author**

*Petr Jimramovský* focuses on geological, mining and environmental law, with particular attention to public administrative inspections and enforcement mechanisms.

**Abstract**

This article examines the role of public administrative inspections in geological and mining law, with particular attention to their environmental dimension and to the interaction between national inspection regimes and EU law. It shows that, although mining-related inspections remain regulated primarily at the national level, EU law increasingly shapes their objectives and minimum parameters through sector-specific legislation, environmental liability rules and the broader enforcement agenda reflected in the new Environmental Crime Directive. The article analyses the Czech framework for inspections in mining and related environmental matters, highlights its links to the general Inspection Code, and discusses the practical significance of non-binding EU and IMPEL guidance. It concludes that only clearer and binding rules on environmental inspections can ensure effective enforcement, prevention and remediation, especially where mining activities create cross-border environmental risks.

**Key words**

geological law; mining law; environmental inspections; public administrative control; Inspection Code; environmental liability; EU environmental law; IMPEL; Czech Republic.