

## **CZECH REPUBLIC NATIONAL REPORT:**

### RECENT DEVELOPMENTS IN ENVIRONMENTAL LAW

#### **A. Legislation**

The most important change in the Czech legal order can be seen in the new Civil Code which came into effect 1.1.2014. Many civil and public laws were touched by it, either by direct amendments or indirectly. It is related to environmental protection in many aspects (liability for damage, personal rights and others).

2013 Amendments to the Act No. 185/2011 Coll., on wastes defined some terms more precisely and reflected the problem of waste originating from solar panels. Some minor changes were adopted in 2013 Amendment to the Act No. 157/2009 Coll., on mining waste management as well.

The draft of a new Environmental Impact Assessment Act was completed. It reflects the critique on non-compliance with EU law (environmental impact statement is a non-binding opinion, participation of the public in the decision-making procedures etc.), on the other hand, it raised many objections to it from the public.

To keep the compliance with Directive 2010/75/EU on industrial emissions, the Act No. 76/2002 Coll., on integrated prevention and pollution control was amended substantially. New provisions are related to changes in operation of the facility, basic reports, IPPC information system, authorized persons, the closure of the operation, report on how conditions of operations are met by the facility, change and termination of IPPC permit and its review.

Based on the Directive 2013/2/EU, amendment to the Act 477/2001 Coll., on wrapping was adopted. The changes have mostly technical character, the definitions were changed to comply with Directive's requirements.

The last Air Act No. 201/2012 Coll. was amended in 2014. The amendment (Act No. 87/2014 Coll.) established the possibility for the transfer of emission ceilings among operators and is aimed to eliminate some obstacles to practical implementation of the former law.

The main reason for the change of the Act No. 350/2011 Coll, on chemicals, is adaptation to Regulation of the European Parliament and Council 259/2012. Because of the duplicity of this Regulation with some provisions which are contained in the Water Act, this act was changed as well and duplicated provisions were abolished.

## Jurisdiction

- In August 2013 the Czech Supreme Court decided the case 25 Cdo 3837/2011 on compensation of the lost profit caused by impossibility to log timber in National Natural Reserve Velký Špičák. The Court ruled that the right to compensation is regulated by the Nature Protection Act (Act. No. 114/1992 Coll., as amended). According to its provision 58, the owner/user of the especially protected forest has a duty to respect restrictions aimed at nature protection. It is considered to be a public interest. Therefore, the owner is restricted in use of timber produced by those forests. He has also duty to take measures imposed by the forest administration and nature protection authorities. In both cases, the owner is entitled to financial compensation. The timber production is a significant function of the forest and owners can reasonably expect some profit and if their property rights are restricted in this sense, they should be compensated.

This decision is contradictory to previous findings of Constitutional Court (IV ÚS 2005/09 of 26.4.2012) with different opinion of judge Výborný. In this case, the Constitutional Court ruled that prohibition of logging of timber in National Natural Reserve Ransko without any compensation is legitimate restriction of the property rights based on the Art. 11.3 of the Charter of Basic Human Rights (CHBHR). The court supported the opinion that the restriction (to log timber in NNR) is established directly by the Forest Act (§ 36/3), according to which the owner is entitled to compensation to excessive costs related to specific management requirements related to those forests. However, Judge Výborný insisted that the restriction is based on Art. 11/4 of the CHBHR and that the owner/user should be compensated.

- Solar energy tax was subject to two decisions of the Supreme Administrative Court (1 Aps 4/2013-53 and 1Afs 80/2012-40). In both cases Supreme Administrative Court referred to previous findings of Constitutional Court (Case Pl. ÚS 17/11) and actions were dismissed.
- Decision of the Supreme Administrative Court 7 As 16/2013-53 was dealing with hunting rights. The Court ruled that the execution of hunting rights on the third person's land is legitimate only if such restriction of the owner would not exceed equitable extent. If the owner has a negative personal feeling about hunting, he is entitled to deny execution of hunting rights on his property.