

Act XLVIII of 1993

On Mining Consolidated with Government Decree No. 203/1998. (XII. 19.) Issued for its Execution

[Act XLVIII of 1993 (hereinafter: Mining Act) in bold letters, while the text of the Government Decree No. 203/1998. (XII. 19.) (hereinafter: Execution Decree) in thin letters.]

The purpose of the Act shall be to regulate mining of mineral raw materials, mineral exploration and exploitation of geothermic energy, construction and operation of hydrocarbon pipelines and related activities, in harmony with protection of life, health, safety, environment and property, as well as with management of resources consisting of mineral raw materials and geothermic energy.

On the basis of authorization granted in Section 50/A (1) of Act XLVIII of 1993 on Mining (hereinafter: Mining Act) Government Decrees are as follows:

PART I

GENERAL PROVISIONS

Scope of the Act

Mining Act Section 1. § (1). The scope of the Act shall cover:

- a) mining of mineral raw materials;*
- b) suspension of exploitation and landscape rehabilitation after exploitation;*
- c) establishing, utilization and liquidation of waste heaps;*
- d) maintenance, utilization and abandonment of the workings, remaining open, of the terminated underground mines;*
- e) underground activities, which are not covered by another Act, serving no mining purposes, carried out with methods of mining (shaft sinking, deep hole drilling, tunnel and drift driving);*
- f) construction, putting to use, technical operation, abandonment and demolition of technological facilities used in exploitation, preparation and primary processing of hydrocarbons, pipelines, lines conveying hydrocarbons, distributing natural gas and target lines, as well as the pipelines of other gases and the products thereof;*
- g) shaping of geological structures suitable for the storage of hydrocarbons and their utilization for storage;*
- h) utilization of geothermic energy;*
- i) facilities and equipment required for exercising the activities listed in paragraphs a) to h).*

(2) Exploration and exploitation of mineral raw materials found in outcrops, alluvial deposits shall also be qualified as activities defined in subsection (1) a).

(3) Provisions of the Act relating to mine damage (Section 37), use of real properties (Section 38) and to the competence of mining supervision for technical safety and licensing, prescribed for deep hole drilling and industrial explosion activities (Section 44) shall also be applied in connection with geological exploration of geological formations and structures.

(4) Unless the Act otherwise provides, legal rules of environmental protection and water shall govern the waters.

(5) The following shall not be covered by the scope of the Act:

- a) exploration and exploitation of subsurface waters carrying geothermic energy,*
- b) construction, levelling of ground and shaping of the beds of waters for water management purposes defined in a separate Act, as well as gold-washing carried out manually,*
- c) exploitation of mineral raw materials required for prevention of natural disasters, if this was carried out in a disaster situation, defined in a separate legal rule.*

(6) Mine railways, cableways and stringways as well as the collecting conduits within the field and between the fields shall be qualified as facilities, required for the listed activities, covered by the Act.

(7) Provisions of Sections 20 and 41 of the Act shall apply to exploitation of mineral raw materials related to ground levelling, carried out on the basis of the license of the building or soil protection authority, as well as to the bed shaping carried out on the basis of water license.

(8) Provisions of the Act shall only apply to exploitation activity carried out at target places of exploitation, required for the construction of the earth works (embankments) of expressways defined in Schedules Nos. 1 and 2 to Act CXXVIII of 2003 on Public Interest in, and the Development of, Expressway Network of Republic of Hungary (hereinafter: Motorway Act), inasmuch as this is ordered by Motorway Act.

Exercising Activities

Mining Act Section 2. Activities circumscribed by the Act may only be carried out securing the protection of human life, health, environment, arable land and property, as well as enforcement of the requirements of mineral resource and geothermic energy management.

BH2002. 8. Trespass realized through mining carried out legally [Section 98, Section 188 (1) and (2), Section 192 (3) of the Civil Code, Section 2, Section 7 (1), Section 37 (2), Section 38 of Act XLVIII of 1993].

Right of the State

Mining Act Section 3 (1) Mineral resources and geothermic energy, at their natural place of occurrence, are in state property. Mineral raw materials exploited by a mining entrepreneur shall become the property of the mining entrepreneur through exploitation, while the geothermic energy exploited for the purposes of generation of energy shall become the property of the mining entrepreneur through utilization. The mining entrepreneur holding an operation license for natural gas storage, defined in a separate Act, may acquire an ownership title to the hydrocarbon, owned by the state, located in the underground gas storage facility as a natural place of occurrence, at request, by the application of the general rules relating to the rate of the mining royalties, by the payment of 1.4 times the amount of mining royalty fixed on the basis of Section 20 (3) b) even prior to exploitation.

Act CXXXVIII of 2004 on the Amendment to Act XLVIII of 1993 on Mining (hereinafter: Mining Act) created harmony with Directive 94/22/EC on the Conditions of Granting and Using the Licenses Relating to the Exploration, Exploration and Exploitation of Hydrocarbons. Act CXXXVIII of 2004 inserted into Mining Act the conditions and rules, which stimulate to a more acute competition in the exploration of hydrocarbons, by prescribing that the areas available for exploration shall also be published in the Official Journal of the European Union. Pursuant to the 2004 amendment to the Act Section 22/A of Mining Act also provides for the aspects, to be examined by the mining supervision in connection with granting right of exploration, in the course of proceedings. At the same time there is no due stimulating force and guarantee in the relation that the parties having been granted right of exploration should actually perform the contents of the program of exploration. Thus it may occur that the parties being granted right of exploration occupy certain areas, but the non-performance of the program or default the obligations of mining indemnification, landscape rehabilitation and environmental protection have no consequences. By prescribing the requirement of appropriate financial securities, harmonized with the international practice, the Act creates the guarantee of the performance of the tasks included in the program of exploration.

Along with the regulation of the financial securities, provided as a condition for being granted right of exploration, and of the revocation of right of exploration, the Act precises several provisions of the Act in the interest of harmonization with the other Act, of the reduction of the cost of administration and the simplification of the proceedings.

It shall be made clear and unambiguous that Section 3 (1) of Mining Act may not apply to each underground gas storage facility having the license of the mining authority, but only in the case of the undertakings holding an operation license, which was issued by the Hungarian Energy Office on the basis of the Act on Gas Supply.

Pursuant to the amendment the mining entrepreneur shall pay the mining royalties in two instalments. The first instalment shall be paid upon the acquisition of property, while the second instalment in the course of exploitation. In consequence of the regulation all fundamental resources of the underground gas storage facility operated by the mining entrepreneur, including the cushion gas, shall become the property of the mining entrepreneur, the earlier situation, when the entrepreneur made use of state owned resources

free of charge for pursuing his storage activity shall not be maintained. The payment of 12% of the mining royalties upon exploitation is adjusted to the general rules of the payment of royalties.

In this case the mining entrepreneur shall pay

a) the part exceeding 12% of the value coming into existence on mineral raw materials, of the 1.4 times amount of mining royalties, within 60 days of becoming non-appealable of the decision of the mining supervision providing for the transfer of property,

b) while the part corresponding to 12% of the value coming into existence on mineral raw materials of the 1.4 times amount of mining royalties upon exploitation.

The ownership title to the hydrocarbon shall devolve upon the mining entrepreneur at the date of the payment of the amount fixed in paragraph a).

(2) The conveyance through pipelines of mineral oil, mineral oil products, and hydrocarbon gases (with the exception of natural gas) shall be exclusively a state activity.

(3) Save for the cases regulated in subsection (4), the Minister responsible for mining cases (hereinafter: Minister) may concede the exercise of activities listed in Section 8 through a concession contract for a definite period of time.

(4) Preliminary surface exploration defined in Section 4 of the Act may be carried out on the basis of reporting, mining activities regulated in Sections 5 and 6 on the basis of the authority's license (liberalized activities), while in the cases defined in Section 50 (6) they may be carried out on the basis of the Act.

Surface Exploration carried out on the Basis of Reporting

Mining Act Section 4 (1) Any exploration in open area, which does not involve destruction of the surface of soil, may be carried out on the basis of an agreement entered into with the owner (manager, user) of the real property and on the basis of a previous reporting of the starting date of exploration to mining supervision.

(2) The agreement entered into with the owner (manager, user) of the real property shall not exempt the party carrying out prospecting from obtaining other official licenses prescribed compulsorily in a separate legal rule.

(3) Damages caused by preliminary surface exploration shall be refunded according to provisions of the Civil Code.

(4) The report shall be considered accepted, if mining supervision does not initiate any measures against preliminary surface prospecting within fifteen days preceding the date indicated for starting exploration.

Execution Decree Section 1 (1). Preliminary surface exploration (hereinafter: preliminary prospecting) shall be reported to the regionally competent mining district authority at least 30 days prior to starting it.

(2) The report shall contain the exploration plan, consisting of a textual part and of a layout plan. The textual part shall contain:

a) the name and head office of the party carrying out the preliminary prospecting;

b) the name of mineral raw material wished to get acquainted with through the activity;

c) the administrative location and topographical lot number of the area affected by the activity;

d) the planned period of time and method of preliminary prospecting.

(3) The official license, prescribed in a separate legal rule, the agreement entered into with the owner (manager, user) of the real property concerned by the preliminary prospecting and the layout plan shall be attached to the report.

(5) The mining district authority shall take a measure, if it can be found on the basis of the report that

a) preliminary prospecting affects an area, which is closed in relation of mineral raw material wished to be getting acquainted with;

b) the mining district authority issued a license under Section 5 of Mining Act for the area for the same mineral raw material, or such a proceeding is in progress;

c) the planned methods of prospecting do not qualify as preliminary exploration.

(6) Geological data obtained in the course of the preliminary prospecting shall be sent to the Hungarian Office for Mining and Geology (hereinafter MBFH).

Mining Activities to be Carried out on the Basis of Official License

Mining Act Section 5 (1) Mining supervision shall license

- a) exploration of mineral raw materials in open area,*
- b) exploration and exploitation of mineral raw materials after designation of a mining lease, furthermore*
- c) utilization of a waste heap,*
- d) research, shaping and utilization for storage of geological structures suitable for the storage of natural gas, if this does not endanger environment,*
- e) construction, putting to use, demolition or abandonment of facilities under Section 1 (1) (f), as well as facilities of underground gas storage,*
- f) the construction, putting to use and demolition or abandonment of filling and storage facilities and distributing pipelines of liquid propane and butane gases and mixtures thereof,*
- g) prospecting, exploitation and utilization of geothermic energy, including the construction and putting to use of the underground and surface facilities required for this purpose, if this shall not affect the raising to the surface of subsurface waters.*

(2) With the prior consent of Hungarian Energy Office the mining entrepreneur, entitled to mining of mineral oil and natural gas, may initiate with the mining supervision the licensing of extension of the mining lease to underground gas storage, unless this pollutes, endangers or damages environment.

(3) Activities subject to a license under the Act shall be commenced on the basis of the license issued by the mining supervision and exercised according to the conditions included therein.

(4) Mining supervision may not refuse the issuance of the license, if the contents of the application for license meet the requirements defined in legal rules. Licensing procedure shall be conducted taking into consideration prohibition of discrimination.

Mining Act 6. (1)

(2) Right of mining activity, exercised on the basis of an official license, may be transferred with the consent of mining supervision at request.

Mining Act Section 7 (1) The mining entrepreneur shall carry out his activity with the performance of the requirements prescribed in Section 2 and according to the general rules defined in Part III.

(2) Only Sections 20 and 41 shall apply, from among the general rules defined in Part III of the Act, to exploitation of mineral raw materials carried out under Section 1 (2), on the basis of a water license.

Execution Decree Section 1/A. The party holding an official license for construction, ground levelling or shaping of waterbed for the purposes of water management, may use mineral raw materials exploited in the course of his activity according to the provisions of his license or he may utilize or sell them in a businesslike manner, acquiring an ownership title under a separate legal rule.

Execution Decree Section 1/B. The mining entrepreneur shall submit an application for preliminary exploration under a separate legal rule to the authority of environmental protection not later than 9 months after the termination of prospecting.

Execution Decree Section 1/C. The documentation prescribed in Section 3 (2) and (3) shall be attached to the application under Section 6 (2) of Mining Act.

PART II

THE CONCESSION

Mining Act Section 8 Through a concession contract entered into with domestic or foreign legal entities and natural persons or the partnerships thereof without legal personality the Minister may concede for definite period of time:

- a) prospecting, exploration and exploitation of mineral raw materials in closed areas,*
- b) construction and operation of pipelines conveying mineral oil, mineral oil products and other hydrocarbon gases, with the exception of natural gas.*

Designation of Concession Areas

Mining Act Section 9 (1) On the basis of available geological data and entrepreneurial initiatives the Minister shall take into account closed areas to be designated for concession, in which the occurrence of the given mineral raw material may be made probable.

(2) The Minister shall establish in a decree, jointly with the Minister responsible for tasks of environmental protection, the rules relating to the contents and preparation of examinations of regional sensitivity and loadability, to be carried out in the areas of occurrence of mineral raw materials surveyed by types, suitable for the designation of concession, with regard to the country's conception of regional development, and the economic, environmental, natural and social effects thereof.

(3) In the invitation for concession tenders the Minister shall publish – taking into consideration the sensitivity and loadability examinations under subsection (2) – the closed areas, in which mining of mineral raw materials promises to be favourable.

(4)

The Concession Tender

Mining Act Section 10 (1) For the conclusion of the concession contracts the Minister shall invite a public tender, save for the cases defined in Section 22 (7) and Section 50 (6).

(2) In addition to the issues defined in Act XVI of 1991 on Concessions, the invitation for tenders shall contain:

a) territorial delimitation of the area made available for tenders, with the indication whether a third party has already acquired, in the area or a part thereof, right for mining some mineral raw material or for exercising any other activity covered by the Act;

b) definition of the activity subject to concession, covered by the Act;

c) professional, environmental, soil, water, public health, health protection, nature conservation and landscape protection requirements of the concession activity, and obligations to provide security, serving the performance of requirements;

d) main substantial requirements of the work program to be submitted;

e) conditions of participation in the tender (e.g. participation fee, information provided on economic and financial conditions of the applicant);

f) payment obligations to be performed on the basis of the Act in case of winning the concession: mining royalties, fee payable in case of other activity subject to concession;

g) stipulation, relating to landscape rehabilitation and re-cultivation of the area affected by the concession activity, as well as any possible securities serving the performance of the obligation (e.g. security deposit, taking out of liability insurance);

h) aspects of judgment of the tenders (e.g. contents of the work program, undertaking to pay mining royalties to an extent higher than fixed in the invitation);

i) information on the compulsory foundation of a concession company;

j) any further conditions and stipulations, which shall be settled upon the conclusion of or in the concession contract (e.g. reimbursement of the costs related to the expropriations undertaken by the state, stipulation of the state's right of pre-emption for mineral raw materials).

(3) In addition to the terms included in Act XVI of 1991 on Concessions the public invitation for tenders shall also be published in the Official Journal of the European Union at least ninety days prior to the expiry of the deadline open for the submission of the tenders.

Judgment of Tenders

Mining Act Section 11 (1) The tenders shall be judged, which meet conditions of the invitation.

(2) The Minister shall decide on granting the concession, on the basis of evaluation of the tenders. The result of the competition shall be published and each tenderer shall be notified thereof.

Execution Decree Section 2 (1) If the invitation for tenders prescribed the payment of a participation fee, the evaluation of the conditions of tender shall also cover the issue, whether the tenderer has certified the payment of the participation fee.

(2) If several parties submit jointly a tender for the same concession activity or area, they shall designate and indicate in their tender a representative from among themselves.

(3) The President of Hungarian Office for Mining and Geology (hereinafter: MBFH) shall set up a Qualification Committee for the evaluation of the tenders.

The members of the Qualification Committee shall be the representatives of:

- a) Ministry of the Interior,
- b) Ministry of Health,
- c) Ministry of Agriculture and Rural Development,
- d) Ministry of Economy and Transport,
- e) Ministry of Defence,
- f) Ministry of Environmental Protection and Water,
- g)
- h) Ministry of National Cultural Heritage,
- i) Ministry of Finance and
- j) MBFH.

(4) Revenues deriving from the payment of the tender participation fees shall be spent on the preparation of the mining concession tender invitations and the control of the execution of the contents of concession contracts. The President of MBFH shall decide on utilization of revenues.

(5) For the closed area designated for concession no right of exploration may be granted and no mining lease may be designated without concession.

The Concession Contract

Mining Act Section 12 (1) The Minister shall conclude a concession contract with the winner of the competition. The concession contract may be concluded for a period of no more than 35 years, which may be extended on one occasion, by no more than half of the term of the concession contract.

(2) The parties shall agree in the concession contract on the contents of work program and securities serving its performance. The Minister may stipulate, in the contract, the reimbursement of the costs required for completion of the work program for the case if the holder of concession fails to perform his obligation undertaken in the accepted work program.

(3) If the Minister invites new tenders, the concession shall be due to the earlier holder of concession in case of undertaking the conditions of the most favourable tender.

(4) Unless the concession contract provides otherwise, open air facilities constructed on the basis of the concession contract shall become the property of the mining entrepreneur as of the date of commissioning. If facilities cannot continue to be operated upon the termination of the concession contract, the mining entrepreneur shall demolish them and re-cultivate the area.

The Concession Company

Mining Act Section 13 The holder of the concession may commence mining activity, if he certifies within 90 days of signature of the contract that

- a) he has established a domestic business association for carrying out mining activity,
- b) the foreign undertaking, defined in Act CXXXII of 1997 on the Branch Establishments and Commercial Representative Offices in Hungary of Foreign Based Undertakings, established a branch establishment in Hungary with its own participation for carrying out mining activity.

THE MINING CONCESSIONS

Prospecting, Exploration and Exploitation

Mining Act Section 14 (1) The planned period of prospecting may not be longer than 4 years, within the period of the concession. The period of exploration may be extended on no more than two occasions, by half of the original period of exploration per occasion.

(2) Within the period of 1 year of the completion of prospecting, the mining entrepreneur may initiate a designation of a mining lease. The period of licensing proceeding for environmental protection and unified environment usage licensing shall not be included in the period of 1 year.

Mining Act Section 15 If the holder of concession fails to commence exploitation within the deadline set in the contract, but no later than within 5 years of designation of the mining lease, he shall pay a compensation fixed in the contract in order to make up for lost mining royalty. If he fails to meet his obligation to pay compensation, the concession shall cease to exist.

Conveyance and Underground Storage of Hydrocarbons

Mining Act Section 16 (1) Provisions set forth in Section 10 to 13 shall govern conveyance of mineral oil, mineral oil products and hydrocarbon gases, with the exception of natural gas, under a concession contract.

(2) On the basis of a concession granted for construction and operation of a pipeline, conveying mineral oil, mineral oil products and hydrocarbon gases, the mining entrepreneur shall be entitled to submit to the mining supervision the application for licensing the construction and operation of the pipeline and facilities required for its operation.

(3) Concessions relating to the construction and operation of pipeline, conveying mineral oil, mineral oil products and hydrocarbon gases, may be granted even jointly.

Prospecting Geothermic Energy and Exploitation thereof on Purposes of Generation of Energy

Mining Act Section 17

Transfer of the Concession

Mining Act Section 18 For the transfer to a third party of exercising the mining concession activity the consent of the Minister shall be required. The Minister shall grant the consent, if the transferee has assumed the performance of all contractual obligations charging the transferor and he meets the conditions defined for exercising the concession activity.

Execution Decree Section 3 (1) The application for the consent prescribed for the transfer to a third party of exercising mining concession activity shall be submitted to MBFH.

(2) The following shall be attached to the application:

a) a public deed or a deed countersigned by an attorney at law (legal advisor) on the assumption of the obligations charging the transferor in connection with right and activity of mining;

b) a statement on the quantity of mineral raw materials to be exploited at the date of transfer;

c) a certificate of incorporation no older than one month of the transferee;

d) the transferee's offer for providing security under Section 41 (7) of Mining Act, which may not be less than the security provided by the transferor;

e) certification of the performance of statutory conditions, professional and other requirements prescribed for exercising the activity;

f) the transferee's declaration on the performance of obligations of landscape rehabilitation, closure of mine (abandonment of field), environmental protection and nature conservation, as well as of the payment of outstanding mining royalty, charging the transferor;

g) agreement relating to the settlement of the ownership title to, and right of use of, facilities constructed by the transferor.

(3) In case of the transfer of a mining right relating to prospecting and exploitation of hydrocarbons the following shall also be attached to the application for consent, in addition to the enclosures prescribed in subsection (2):

- a) the transferee's annual accounts prepared according to Accounting Act, relating to three years preceding the submission of the application, or in case of a new organization, an audited business plan for 3 years;
- b) a report relating to three years preceding the submission of the application, presenting the transferee's professional activity and the performance of his/her obligations;
- c) certificate of a financial institution certifying the solvency of the transferee.

Exercising Mining Concession Activity

Mining Act Section 19 The holder of concession shall carry out mining activity with the performance of the requirements prescribed in Section 2 and according to the general rules defined in Part III.

PART III

GENERAL RULES OF EXERCISING MINING ACTIVITY

The Mining Royalty

Mining Act Section 20 (1). On exploited mineral raw materials and geothermic energy the state shall be entitled to a share, a mining royalty.

(2) Mining royalty shall be paid by:

- a) the mining entrepreneur, furthermore
 - b) the party carrying out the activity under Section 1 (2) and (7),
 - c) the party exploiting geothermic energy for utilization for purposes of generation of energy,
 - d) the natural persons or legal entities or partnerships having no legal personality,
- on mineral raw materials and geothermic energy exploited by them.

(3) The rate of the mining royalty shall be, with the exception defined in subsections (4) and (5):

a) 12% of the value derived from the quantity of mineral raw materials, exploited on the basis of official license, in the case of exploitation of mineral oil, of natural gas derived from the forced exchange of cushion gas in the case of underground gas storage, as well as in the case of natural gas and carbon dioxide gas exploited in fields, where production commenced after 1 January 1998;

b) in case of natural gas exploited in fields, where production commenced prior to 1 January 1998

ba) J % of the value derived from the quantity of mineral raw materials exploited on the basis of official license, where

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bb) 12% of the value derived from the quantity of mineral raw materials exploited on the basis of official license, if the rate, calculated according to paragraph ba), of mining royalty does not reach 12%,

c) 5% of the value derived from the quantity of mineral raw materials exploited on the basis of official license, in event of non-metallic mineral raw materials produced through open air method, save for energy carriers,

d) 0% in case of deep mining of solid mineral energy carriers,

e) 2% of value derived from the quantity of mineral raw materials exploited on the basis of official license, in case of other solid mineral raw materials.

The Minister may, in agreement with the minister responsible for tax policy, reduce the rate of mining royalty due to the interest of mineral resource management or other public interest.

(4) The part, exceeding 12%, of mining royalty paid in according to paragraph ba) of subsection (3) shall be transferred to a separated account of payment of the Energy Prices Compensation.

(5)

(6) No mining royalty shall be paid on

a) the quantity of mineral oil and the associated natural gas accompanying the oil, exploited by the application of high-efficiency and environment-friendly exploitation processes,

b) exploitation required for protection against the damages of waters and exploitation required for protecting, as well as on utilization of exploited mineral raw materials in the course of construction of public purpose hydraulic facilities.

Government Decree No. 341/2004. (XII. 22.) on the Responsibilities and Authorities of the Regional Organs Subject to the Direction of the National High Supervision of Environmental Protection, Nature Conservation and Water Management, the National Directorate-General of Environmental Protection, Nature Conservation and Water Management and the Minister of Environmental Protection and Water, Containing the Organizational Solutions of Modernization (hereinafter: Government Decree) entered into force on 1 January 2005.

On the basis of the Government Decree a considerable change occurred in case of the regional organs subject to the direction of the Minister.

By the merger of 12 supervisions of environmental protection and 12 water management supervisions providing for the official tasks of water management at first instance, as well as by the allocation of the tasks of authority and specialized authority of 10 national park directorates providing for the regional tasks of nature conservation, to the new type of organ, 12 supervisions of environmental protection, nature conservation and water, providing for the tasks of authority of first instance in environmental protection, nature conservation and water management came into existence (hereinafter: supervision). The authority's powers of the national park directorates ceased to exist. These organizations provide only for non-official state tasks (e.g. conservation of natural values) and the related tasks of property management and maintenance.

The establishment of the supervisions the termination of the water management supervisions and the change in the responsibilities of the national park directorates necessitated the revision of legal rules entered into force prior to 1 January 2005, establishing responsibilities and authorities, and their adjustment to the new organizational system and to the provision for the tasks.

Responsibilities and authorities for environmental protection, nature conservation and water management may be established by Acts, government decrees and Ministerial decrees. The government decrees and Ministerial decrees have been amended.

In order to maintain the constitutional order and the legal safety Section 122 (23) of Act CXXXV of 2004 on the 2005 Budget of the Republic of Hungary pronounces that if an Act provides for the official task of nature conservation and water management, the supervision shall be understood by the organ providing for the task. In addition to this provision, the Acts concerned shall be amended even in detail, and measures shall be taken for repealing certain provisions thereof, with particular regard to the division of tasks in the direction of nature conservation, to the coming into existence of a new type system of official organs, as well as in order to avoid any possible legal disputes, and due to the change in the name of the preceding organ and to the termination of certain powers of the authorities and specialized authorities.

The rules, relating to the obligation, of paying mining royalty, of Mining Act shall also apply in the course of exploitation and utilization, required for the purpose of protection against and prevention of damages of waters and in the course of the construction of public purpose hydraulic facilities. With regard to the fact that the protection and the implementation of protective facilities are tasks of the state, it is unreasonable to transfer the relevant money instruments from one budgetary organ to the other. The purpose of the Act is to connect the exemption to the purpose of the activity, i.e. to the prevention and protection, thus relieving each organization providing for such task. According to the aforementioned the complementation, according to the Act, of Mining Act shall be required. The passing of the Act is particularly important due to the Vásárhelyi Plan implemented on the basis of the government program.

(7) The rate of mining royalty shall be 2% of the exploited geothermic energy, in case of geothermic energy. No mining royalty needs to be paid on the quantity, utilized in excess of 50%, of the exploited geothermic energy.

(8) In case of mining activity exercised under a concession contract (Section 12) the rate of mining royalty shall be established by the Minister taking into account the differences of

- types of mineral raw materials,

- natural features influencing success of exploitation,
- other public interest,

As for places of exploitation.

(9) Mining royalty shall be paid in cash. Mining supervision may license or prescribe the performance in kind, in mineral raw materials of mining royalty. The mining royalty paid in or performed in kind may be accounted for as cost.

(10) The rules of payment, performance in kind of mining royalty, as well as of the compensation to make up for lost mining royalty due to a mining activity carried out contrary to the rules, without, or in difference from, an approved technological operation plan (Section 15) and of the fee payment [Section 30 (3)] shall be established by the Government.

(11) The amount expressed in cash of mining royalty shall be a percentage, defined in the Act or in a concession contract or in a contract under Section 26/A. (5), of the value of exploited mineral raw materials. The basis of calculation of the mining royalty shall be the value of the quantity delivered through mining opening, measured at the casinghead, or in the absence thereof measured in a manner re-projected to the casinghead.

(12)- (13)

(14) In the course of licensing the extension of the mining lease under Section 5 (2) and the licensing of mining lease for underground gas storage the mining supervision shall establish the quantity of state owned hydrocarbons in the underground gas storage facilities, to which the holder of the mining lease may acquire a title, taking into consideration the expert opinion of the organ responsible for state geological tasks. The mining entrepreneur may request the transfer of property of the state owned hydrocarbons located in the underground gas storage facility within 180 days of becoming non appealable of the decision providing for the mining lease, which has been designated for underground gas storage. The mining supervision shall resolve in a decision on the application. The mining royalty shall be fixed within 30 days of the approval of the first technological operation plan.

(15) The mining entrepreneur shall report to the mining supervision, during the existence (including the suspension) of his mining right, whether the court instituted liquidation proceedings against it or the entitled party ordered final accounting.

Execution Decree Section 4 (1) The basis of calculation of mining royalty shall be the value of mineral raw materials

- a) exploited from the prospecting area, mining lease or waste heap,
- b) exploited from the outcrop, alluvial deposit on the basis of a water license,
- c) exploited in the course of construction and ground levelling for agricultural purposes or the shaping of river bed, having become the property of the licensee on the basis of a separate legal rules pursuant to Section 1/A,
- d) defined by measurement on the casinghead, or in the absence thereof defined through measurement, re-projecting to the casinghead, in case of hydrocarbons, including hydrocarbons and other mineral raw materials exploited from water wells, and sold or utilized in businesslike manner,
- e) defined by measurement at the casinghead of the exploited geothermic energy, or in the absence thereof defined through measurement and re-projecting to the casinghead,
- f) derived from the quantity of cushion gas located in underground storage facility and having become the property of the licensee on the basis of Section 3 (1) of Mining Act.

(2) The Minister of Economy and Transport (hereinafter: Minister) may, in agreement with the Minister of Finance, reduce the rate of the mining royalty, if the mining entrepreneur

- a) certifies by economic calculations that he is applying a more expensive process of production or exploitation in order to diminish production losses of mineral raw materials and to increase the quantity of industrial resources, or
- b) agrees to maintain exploitation, which is not economical for him, in the interest of employment policy, energy supply or other public interest, or
- c) warrants, upon the redemption of the cushion gas owned by the state in the underground gas storage facility, not to exploit the cushion gas for 15 years or to secure as reserve, for 15 years, the natural gas quantity corresponding to the redeemed cushion gas in another available underground storage facility.

(3) The application for the reduction of the rate of mining royalty shall be submitted to the MBFH.

(4) With the difference included in subsection (12) the mining royalty shall be defined in a self-assessment according to the contents of a separate legal rule. A self-assessment shall be submitted as of the first deadline following the commencement of exploitation carried out in course of prospecting, or following becoming non-appealable of the decision approving the first technological operation plan, or licensing the activity regulated in a

separate legal rule. The self-assessment of mining royalty shall also be submitted, if no obligation to pay mining royalty comes into existence during the given period. Mining supervision shall check the calculation of mining royalty, the data serving as basis of the self-assessment, as well as payment of mining royalty, and it shall keep a record of the persons obliged to pay mining royalty and those of have fulfilled their obligation of payment.

(5) Mining royalty shall be paid to the accounts of the central budget separated for this purpose

a) on a monthly basis, by the 20th day of the month following the subject month, in the case of mineral oil, natural gas and carbon dioxide gas,

b) on a quarterly basis, by the 20th day of the month following the quarter, on other mineral raw materials and exploited geothermic energy,

c) according to subsection (13) on natural gas located in underground gas storage facility and has become the property of the licensee pursuant to Section 3 (1) of Mining Act.

(6) The MBFH may license or prescribe the performance in kind, in mineral raw materials, of the mining royalty, if this is justified by public interest, and the conditions of takeover and utilization of mineral raw materials exist. Performance in kind of redemption of the state owned cushion gas in underground gas storage facilities [Section 3 (1) of Mining Act], of compensation established for extension of deadline of starting exploitation [Section 26/A (5) of Mining Act], of the fee imposed for the case of the suspension of exploitation [Section 30 (3) of Mining Act] and of the fee defined for making up for mining royalty lost due to a mining activity contrary to rules [Section 20 (10) and 41 (3) of Mining Act], as well as of part of mining royalty serving the financing of defaulted landscape rehabilitation tasks belonging to the responsibility of the state, which cannot be devolved upon the mining entrepreneur [Section 20/A (1) of Mining Act] may not be licensed. The performance in kind of the mining royalty shall be controlled by mining supervision.

(7) If the party obliged to pay mining royalty according to the contents of Section 20 (2) of Mining Act

a) exceeds the extent of loss in mineral raw materials, of retention licensed in the approved technological operation plan, by violating rules and prescriptions relating to mining activity, or

b) makes impossible future exploitation of or makes unsuitable for exploitation as useful material mineral raw materials, by violating the rules and prescriptions relating to the activity,

the mining district authority shall establish a fee payment obligation to make up for the mining royalty, lost on the quantity concerned of mineral raw materials.

(8) The rules relating to the mining royalty shall be applied to the compensation established due to the defaulting or extension of the deadline set for exploitation [Sections 15 and 26/A (5) of Mining Act] as well as to collect fees established for making up for mining royalty regarded to the period of suspension [Section 30 (3) of Mining Act], as well as for the losses caused by violating rules of mineral resource management.

(10) The mining entrepreneur may request to establish that the process of exploitation planned to be applied by him/her is of high efficiency. The process of exploitation may be considered to be of high efficiency, if its effect exercised by strata treatment, exploitation technology or surface technology interventions on the increase of the industrial resources is proven. The MBFH shall decide on the qualification.

(11) Application for acquisition, under Section 3 (1) of Mining Act, of ownership title to the state owned hydrocarbon located in underground storage facilities shall be submitted to mining district authority. The application shall contain the data required for fixing payable mining royalty, thus particularly:

a) reference to the documents certifying the mining entrepreneur's mining right relating to the storage facility or mining lease concerned;

b) the quantity of natural gas as per storage facility, that may be exploited and is wished to be taken into property, expressed in cubic meters and its heat quantity in MJ, as well as supporting data.

(12) The quantity of the state owned natural gas located in underground gas storage facilities shall be defined on the basis of a balance of hydrocarbon products. The amount of payable mining royalty shall be fixed in a decision by the mining district authority, also with regard to the decision of the Minister made on the basis of subsection (2).

(13) The mining royalty payable under subsection (12) shall be established in cash, and it shall be payable under Section 3 (1) of Mining Act, in a manner separated from the royalty payable on the exploited hydrocarbons. The ownership title to hydrocarbon shall devolve upon the mining entrepreneur simultaneously with the payment of the royalty, payable under the provisions of Section 3 (1) (a) of Mining Act.

Execution Decree Section 5

Licensing mining activity

Mining Act Section 21 (1) The mining entrepreneur may commence mining activity with the license of mining supervision and carry it out in compliance with the conditions included therein.

Licensing Prospecting

Mining Act Section 22 (1) A right of exploration shall be granted for prospecting definite mineral raw material

- a) by the Minister, in a concession contract, in a closed area, within the framework of concession,
- b) by mining supervision, in an open area.

(2) Right of exploration shall grant an exclusive right for the mining entrepreneur in the area of exploration, to submit a technological operation plan for the prospecting for mineral raw material, to initiate the approval, to carry out exploration of mineral raw material on the basis of an approved technological operation plan of prospecting and to initiate the designation of a mining lease on the basis of an accepted closing report of exploration.

The primary objective of the amendment (Section 22 (1) and (2)) is to put an end to the superfluous official proceedings repeating each other. Namely, according to the provision currently in force the mining supervision shall license the exploration of mineral raw materials in open area by issuing a exploration license. The legal institution of exploration license under the current regulation does not express that this right is only in the nature of a principle. The regulation in force subjects already the issuance of the exploration license, as a generation of a right in principle to an official proceeding, which would be justified exclusively by the licensing of the activity. It results from the spirit of the Act that the granting of right of exploration is a deed, in the course of which the applicant acquires the exclusive right (in open area), for a definite area and period of time, to prepare the plan of the exploration activity, to acquire the special license entitling to carry out the exploration activity and to carry out the exploration activity in the possession thereof.

(3) Over and above the conditions defined in subsection (1) prospecting activity may only be commenced on the basis of an approved technological operation plan of prospecting.

(4) The rules relating to shaping and size of prospecting area shall be established by the Government.

(5) The deadlines, prescribed in case of a concession for the planned period of prospecting and for the initiation of the designation of a mining lease (Section 14) shall also apply in case of granting a right of exploration. In case of defaulting the deadlines the exclusive right granted for the mining entrepreneur in subsection (2) shall cease to exist.

(6) The holder of the given concession shall have an exclusive right to execute his work program of prospecting on the area and under the conditions defined in the contract, while the holder of an official license of mining shall have such right on the area and under the conditions defined in the license. In the framework thereof he/she shall be entitled to carry out the instrumental measurements, tests and drillings, to prepare exploration drifts and shafts serving the definition of occurrence, location, quantity and quality of mineral raw material(s), as well as to initiate the designation of the mining lease.

(7) If the mining entrepreneur finds some mineral raw materials in the course of the performance of work, which are not covered by his entitlement, he shall report the findings to mining supervision and may initiate the extension of his contract or license to this mineral raw material. Right of exploration may only be extended to mineral raw materials, other than mineral raw material defined in Section 22 (1), if the area of prospecting shall not be qualified as an area closed from the aspect of mineral raw material indicated in the application. The mining entrepreneur shall have priority for mining of mineral raw material concerned by the extension.

(8) Right of prospecting granted on the basis of contents of subsection (1) shall cease to exist, if the holder of license fails to initiate the approval of technological operation plan of exploration with mining supervision within 6 months reckoned from the signature of the concession contract or from the executability of the decision granting right of prospecting, or if mining supervision has rejected the application for the approval of technological operation plan, and the decision is executable.

Special Rules of Licensing Prospecting, Exploration and Exploitation of Hydrocarbons

Mining Act Section 22/A (1) Based on the contents of Section 9 the Minister shall designate closed areas, in relation to which licensing for prospecting, exploration and exploitation of hydrocarbons in the framework of concession shall commence after the elapse of 90 days following the publication (announcement) of the areas in two dailies of nationwide coverage, in the *Mining Journal* and in the *Official Journal of the European Union*, with simultaneous judgment of submitted tenders.

(2) Mining supervision shall take measure for the publication of announcement.

(3) In the announcement activities covered by the concession, the geographical area, for which a tender may be submitted, furthermore, the planned date or deadline of judgment, and any possible aspects of preference shall be defined. In the announcement it shall also be indicated, where it shall be possible to obtain detailed information relating to the area and licensing proceeding.

(4) There shall be no need to apply provisions of subsections (1) to (3), if it is supported by the aspects of geology and production, in case of an area, that the holder of a mining lease already designated on the area should initiate the granting of right of exploration for the enlargement of his mining lease. The provisions of subsections (1) to (3) do not need to apply in the case either if it is supported by the aspects of geology and production, in case of an area, that the license holder of the neighbouring area should receive a right of exploration for such area. In this case the mining supervision shall inform the license holders of the neighbouring area that they may submit, within 30 days, an application for granting of right for prospecting.

(5) Mining supervision shall also provide for publication, in *Mining Journal* and in *Official Journal of the European Union*, of the areas,

- a) which do not belong to the areas designated under subsections (1) to (3), since they qualify as areas available on a permanent basis, from the aspect of an application for exploration license, for any undertaking;
- b) for which no license has been issued following the proceeding under subsections (1) to (3);
- c) for which the licensee has returned the prospecting areas;
- d) which has been released under Section 26/A (6).

(6) In the announcement setting forth the areas defined in subsection (5) also the venue shall be indicated, where detailed information may be obtained relating to the area and licensing proceeding. Furthermore, any possible aspects of preference shall be indicated in the announcement. When determining these aspects, the requirement of equal treatment shall be met. A newer announcement shall be published on any material change in the announcement. Any application for licensing relating to these areas may only be judged after the publication of the announcement, in the sequence of the receipt of applications by mining supervision.

(7) The license may be refused or revoked for reasons of national security in case of an undertaking, which is under the control of third party countries or citizens of third party countries in respect of the European Union.

(8) In the proceeding directed to the granting of right of prospecting, to the approval of technological operation plan and the estimated costs (budget) of exploration, established in a separate legal rule, shall be attached. Condition of right of exploration is a payment of 200 million HUF per exploration block – but not more than 1 billion HUF – in the case of more areas of exploration in the same time leased for one entrepreneur, regardless of the figure and the measure of the areas or the whole amount of exploration budget.

Financial guarantee can be accepted if the applicant can present a guarantee of loan released by a bank represented with a seat in the European Free Trade Association (EFTA). In the case of the guarantee of a bank that is not represented in any countries of EFTA, an over-guarantee released by a bank represented in EFTA is needed.

(9) The following shall be qualified as granting of financial approval: irrevocable bank guarantee or revocable guarantee if and only mining supervision gives the permit. Mining supervision shall give an approval for revocation of financial guarantee if the entrepreneur has fulfilled his operation project or gives back the exploration area and if the entrepreneur has fulfilled his obligations in accordance with mine compensation, country planning or nature conservation. In the case of withdrawing right of exploration by mining supervision in accordance with 22. § (9), or in the case of concession contract the Minister – on the base of suggestion of mining supervision – applies the legal consequence of the contract, the financial guarantee is validated for the sake of the central budget in an extent of the breach of duty. Decision in accordance with making use of financial guarantee is passed by mining supervision.

(10) The enforcement of the Directive 94/22/EC of the European Parliament and the Council 'on the licenses relating to the exploration, exploration and exploitation of hydrocarbons and the conditions of the use thereof', referred to in Section 51 of Mining Act, is indispensable in the regulation subject to the Act, the amendment satisfies the requirements worded in the Directive in the following spirit. The position of the Council dated 16 September 1986 defined as a purpose of the energy policy of the Community and the member states to intensify the integration of the internal energy market and increase the trade free of restrictions, in order to increase the safety of supply, to reduce the costs and to improve the economic competitiveness. For its own hydrocarbon supply the Community needs imports to a high extent, therefore it is expedient to support the best possible methods of the exploration, exploration and exploitation of the resources to be found within the territory of the Community. The member states have sovereignty and sovereign rights relating to the hydrocarbon resources located under own territories. Accordingly, steps shall be made to allow the exploration, exploration and exploitation of the hydrocarbons and the exercise thereof without discrimination, under conditions, which stimulate a more intense competition in this industry, and to support the best possible methods of the exploration, exploration and exploitation of the resources of the members states and to reinforce the integration of the internal energy market.

For this purpose it is required to create common procedural rules in order to achieve that the proceedings relating to the issuance of licenses, entitling to the exploration, exploration and exploitation of hydrocarbons, should be open for all undertakings having the required aptitude; since the licenses have to be granted on the basis of objective and public criteria; since otherwise the undertakings participating in the proceeding have to be aware well in advance of the conditions of granting such license.

(11) Execution Decree Section 6 (1) The application for granting right of prospecting relating to an open area shall be submitted to the competent mining district authority.

The application shall contain

- a) the name (corporate name), address (head office) of the applicant;
- b) the administrative designation of the area of prospecting, its delimitation with the coordinates according to the Standard National Projection (hereinafter: EOV) system, in case of solid mineral raw materials the topographical lot numbers of the real properties covered by the requested area of prospecting;
- c) the name of mineral raw material(s) planned to be search for and period of time requested to carry out prospecting;
- d) the methods of prospecting wished to be applied.

(2) The topographical map and layout plan of the area of prospecting shall be attached to the application in the Standard National Map System.

(3) The mining district authority shall resolve in a decision on granting right of prospecting.

(4) The application for granting right of prospecting shall be rejected in respect of the part of the area indicated in the application, in relation to which the granting of right would violate a right of mining established already. No right of exploration may be granted to the person, who failed to perform his obligation prescribed for returning and paying mining royalty [Section 20 (2) of Mining Act] in relation to any site of exploitation cultivated by him, or who has a debt of mining fine [Section 41 (1) and (2) of Mining Act] or a debt of supervision fee [Section 43 (9) of Mining Act].

(5) The decision granting right of prospecting shall contain

- a) the area of prospecting with the coordinates of the corner points and mineral raw material(s) it is providing a right of prospecting for;
- b) the preliminary period of time requested to carry out the prospecting;
- c) the methods of prospecting.

(6) The period licensed for prospecting shall be determined in the decision approving technological operation plan of prospecting. The period of time licensed for prospecting shall be counted as of the date of becoming non-appealable of the decision approving technological operation plan of prospecting.

(7) The prospecting may be licensed for a period of no more than 4 years, and this period may be extended on two occasions, by half of the period licensed initially.

(8) The extension of the period of prospecting by the modification of technological operation plan of prospecting may be licensed, if the mining entrepreneur has commenced to carry out his tasks of prospecting approved in the work program or technological operation plan and

a) he/she certifies that he/she cannot accomplish the prospecting by the deadline for a reason, which is not imputable to him/her; or

b) he/she undertakes the justified enlargement of the approved tasks of prospecting.

Execution Decree Section 6/A (1) In case of tenders under Section 22/A (1) of Mining Act the Minister shall determine the system of aspects of judgment of the tenders and publish it together with an announcement of the tender, in *Official Journal of the European Union*.

(9) In the respect of the licence of exploration for the sake of studying geological structures Section (1)-(3) shall be adopted.

(2) The result of the tenders shall be established on the basis of the aspects determined and published under subsection (1).

(3) If the Minister establishes a requirement for the ownership structure and the nature of the operator of the undertaking that may be granted a license, this requirement shall be objective and shall meet the requirement of equal treatment.

(4) The system of aspects under subsection (1) shall contain the indication of legal rules relating to the licensing proceeding, carrying out and completion of the activity and such legal rules shall be made available for the tenderers at request.

(5) The published aspects, conditions and requirements shall be enforced according to the requirement of equal treatment.

(6) The tenderers, whose tenders have not been accepted, shall be informed on the reasons of decision related to the tender at request.

Execution Decree Section 6/B. In addition to items prescribed in Section 6 (1) the application for granting a right of prospecting relating to hydrocarbons shall contain

a) the report certifying the professional and technical aptitude of the applicant;

b) the applicant's annual accounts relating to three years preceding the submission of the application, complying with the Accounting Act, the report relating to three years preceding the submission of the application, presenting the applicant's professional activity and performance of the obligations, or in the case of a public shareholders company – according to its decision – the annual stock operation report concerned or, in case of a new organization, the applicant's audited business plan for 3 years.

c) the work program of prospecting (in a professional breakdown per calendar years with a calculation of annual costs).

(2) The technological operation plan of prospecting prescribed in Section (1) c) shall consist as follows:

a) the plan of completion geological, geophysical and geochemical explanations and re-explanations,

b) the plan of surface geophysical surveying, breaking in types and measures (gravities, magnetic, two-dimension or three-dimension seismic surveys, etc.)

c) researching sinking planned for deepening, defining the depth of each drilling or the target objects, and the geophysical surveys in them.

d) in the case of resorting to a deepened (according to the c) point) or an existing deep boring (well essential technical parameters of the planned well-sinking (deepening, stratigraphic research, stratigraphic locking out) referring each of the wells and all the activities in them.

(3) Proof of the payment of financial guarantee, defined by Act 22/A. § (8) in accordance with granting exploration right of hydrocarbons, shall be attached during the proceeding for the notice of mining supervision.

(4) The application shall be rejected if the applicant does not fulfil his obligation regarding the financial guarantee.

Execution Decree Section 6/C (1) The exploration activity shall be carried out according to an approved technological operation plan of exploration.

a) the number of the concession contract or official decision granting right of exploration;

b) the evaluation of earlier prospecting, if any;

c) the knowledge relating to the geological and stratigraphic conditions of the area and to mineral raw material(s);

d) the planned tasks of prospecting and the technological and safety conditions required for the performance thereof;

e) the list, location and preparatory routes of the planned prospecting facilities;

f) the planned period of time of prospecting, disclosure of the method (quantity, depth), scheduling and technology thereof, as well as of the measures planned for the prevention of hazards anticipated in the course of the prospecting;

g) the planned technical measures for prevention and mitigation of harmful environmental impacts of the activity and of the hazards posed to environment, a waste management plan, as well as a scheduled landscape rehabilitation tasks;

h) description of the securities serving for the settlement of damages anticipated in connection with the activity, for the performance of the obligations of environmental protection and nature conservation, landscape rehabilitation and mine damage [Section 41 (7) of Mining Act];

i) identification according to the real estate register of real properties affected by the prospecting facilities and – in the case of solid minerals – the list of the names and addresses of the owners (property managers, users) of such real properties.

(3) The technological operation plan of prospecting shall be submitted to the mining district authority, together with an application for approval, within six months of the conclusion of the concession contract or of the becoming non-appealable of the decision granting right of prospecting.

(4) The mining district authority shall resolve on the approval of technological operation plan relating to the prospecting based on the position taken by specialized authorities concerned, and, in case of an excluded area (Section 49, paragraph 16 of Mining Act), based on a special consent, relating to the excluded area, of the cooperating authority, in a decision, in which it shall define the licensed period of time of prospecting, as well as the conditions required in the interest of mineral resource management, safety and the protection of property. The technological operation plan of prospecting may not be approved in respect of the part of the area indicated in the application, where the prospecting activity affects an excluded area, and the cooperating authority has not consented to the performance of the activity.

(5) The decision shall be communicated to the mining entrepreneur, to the authorities cooperating as specialized authorities in the proceeding, and, in case of solid minerals, to the owners (property managers, users) of the real properties affected by the exploration facilities. After the decision has become non-appealable,

(6) If it is not possible to determine with due details all elements of the prospecting activity at the beginning of the period of prospecting, or the place and method thereof depends on the result of certain prospecting carried out, then the technological operation plan shall be amended. If the amendment concerns also the competence of another authority, the proceeding according to Section 6/C (4) shall be followed in respect of approval of the amendment.

(7) The mining entrepreneur shall report in writing to mining district authority the planned date of the commencement of prospecting activity 8 days in advance and it shall be completed within 8 days.

Execution Decree Section 7 (1) The exploration area shall be designated in blocks. The mapping projection of the exploration block shall be a closed polygon delimited by straight sections. A projection borderline may also be the state border or the borderline of any other artificial objects or natural formations. Within one exploration area every block shall be in direct contact with the neighbouring block at least with one bordering side.

The maximum area of a prospecting block shall be

- a) 400 square kilometres in case of hydrocarbons;
- b) 50 square kilometres in case of coals and bauxite;
- c) 30 square kilometres in case of mineral resources with ore contents;
- d) 8 square kilometres in case of other solid mineral resources.

A mining entrepreneur – except for hydrocarbons - may have a right of exploration for the same mineral raw material on no more than eight prospecting blocks simultaneously.

(2) The prospecting may be licensed without the designation of blocks, for a seismic prospecting line or for a prospecting planned with aerial photography.

(3) The mining entrepreneur may return the exploration area or a part thereof within the period licensed for exploration. The mining entrepreneur shall return the part of the exploration area, for which he/she has not initiated designation of a mining lease within one year of completion of the prospecting, but not later than the following expiry of deadline established in the license. Also the part of the prospecting area shall be returned, for which the designation of a mining lease has been non-appealable rejected. Mining district authority may accept the return of area, if the mine damages have been refunded in the area announced for return, and the obligations of landscape rehabilitation and environmental protection and soil protection have been performed.

(4) The mining entrepreneur shall announce to mining district authority exploitation of solid mineral raw materials, carried out in the course of exploration, the anticipated quantitative and qualitative data thereof at least 8 days prior to the commencement of exploitation, while the quantitative and qualitative data characterizing exploitation of hydrocarbons within 8 days of commencement of exploitation. Mining district authority may restrict exploitation for reasons of the protection of mineral resources, while it may be restricted by the supervise environmental protection, nature conservation and water for reasons of water management.

(5) In a closed area a right of exploration may be granted for the mining entrepreneur carrying out an activity of exploitation on the basis of an official license for the one-up enlargement of existing mining lease, on the border of the existing mining lease, for the area of no more than one prospecting block, for the same mineral raw material, without concession. The enlargement may not violate right relating to enlargement of another mining entrepreneur.

Execution Decree Section 8 (1) A closing report shall be prepared on the result of the exploration, which shall be countersigned by a geological expert holding a license under a separate legal rule. The mining entrepreneur shall submit a closing report to the mining district authority in 2 copies, within 6 months of the completion of the exploration, but no later than within 6 months of the expiry of the period licensed for exploration.

(2) The closing report of exploration shall contain

a) the name of the person holding a license for exploration, the number of the document granting right of prospecting activity and approving technological operation plan of prospecting, in case of purchased data the certificate of the person submitting the closing report, entitling to the use of the data;

b) purpose of the exploration and the name of the persons executing the exploration;

c) description of the geological structure of the area of prospecting;

d) surface and subsurface prospecting carried out, the methods and results thereof,

e) stratigraphic, tectonic, hydro-geological conditions of the site of resources and the environment thereof;

f) definition and qualitative characterization of mineral raw material(s) learned through prospecting, quantitative and qualitative definition of mineral resources and reliability thereof;

g) quantitative and qualitative data of mineral raw material exploited in the course of the prospecting;

h) the summary of data of mining geology.

(3) The following shall be attached to the closing report of prospecting:

a) the basic data of prospecting (data of geological and technical material testing of prospecting facilities, basic documentation of geophysical measurements, data of the hydro-geological examinations),

b) quantitative and qualitative basic data used for evaluation of mineral raw materials,

c) topographical map of the area of prospecting with the indication of the prospecting facilities; geological, tectonic and hydro-geological map of the prospecting area, as well as the maps and sections serving as basis for quantitative and qualitative evaluation of mineral raw materials,

d) a summary prepared on the execution of the approved technological operation plan of prospecting, as well as on the performance of obligations prescribed in the decision approving technological operation plan of prospecting [Section 6/C. (4)] or in the concession contract [Section 10 (2) c) and g) of Mining Act], as well as in Section 7 (3).

(4) The closing report of prospecting shall be accepted by mining district authority if the countersigning geological expert is included in the list of experts, the closing report of prospecting satisfies the prescriptions of subsection (2), and annexes prescribed in subsection (3) have been attached.

(5) Mining district authority shall resolve in a decision on the acceptance of the closing report of prospecting. The decision shall contain:

a) the identification of the area of prospecting,

b) the name of mineral raw materials identified in the course of exploration,

c) the name and asset calculation data of mineral raw materials, which shall be included in National Register of Mineral Resources in the course of the preparation of mineral resource balance following the approval.

(6) The asset calculation report, prepared on the basis of the data of preliminary surface exploration carried out on the basis of archive data, the results of a new theoretical geological interpretation or reporting under Section 26/A (2)

b) of Mining Act, shall meet, as to the professional contents, the professional and enclosure, requirements defined in subsections (2) and (3). The report of asset calculation shall be countersigned by a geological expert included in the list of experts.

Mining Act Section 23 (1) With the exception included in Section 26 (2) the holder of the mining lease may receive a license for exploration and exploitation of mineral resources. Following the second year reckoned from the end of the period of exploration, established in the concession contract or in a decision granting right of prospecting, exploration and exploitation may only be continued on a mining lease even in the case of hydrocarbons.

(2) Exploration and exploitation of mineral raw materials and the utilization of the waste heap shall be licensed by mining supervision through the approval of the technological operation plan (Section 27). The rules of open air exploitation shall apply to exploitation of mineral raw materials from the waste heap.

(3) The mining entrepreneur shall be exclusively entitled, on the area and under the conditions defined in the concession contract or in the official license issued for mining, to exploration, exploitation, preparation,

primary processing, utilization, sales of mineral raw materials, or the placement of facilities required for these activities, as well as for the use of facilities defined in the contract or official license.

(4)

Execution Decree Section 9 (1) The mining entrepreneur shall report in writing to the mining district authority the commencement of exploitation of solid mineral raw materials, carried out in the course of exploration of mineral raw materials, as well as the anticipated quantitative and qualitative data thereof at least 8 days prior to the commencement of exploitation. In case of hydrocarbons the obligation of data supply and reporting shall be performed within 8 days of the commencement of exploitation.

(2) The mining entrepreneur, as well as the licensee exploiting mineral raw materials in the course of his construction or soil protection activity or activity carried out on the basis of a license of water authority, prescribed in a separate legal rule, shall report the quantity and quality of mineral raw material(s) exploited in the given year to mining supervision by 28 February of the year following the subject year. In case of open air exploitation the report provided for mining supervision shall also contain a material balance [the quantity of the full exploited material, of this: the quantity of useful material and refuse, used for landscape rehabilitation, utilized (sold) or placed in the waste heap, the quantity saved or used for landscape rehabilitation or utilized for another purpose of the upper humus stratum of the soil]. The mining supervision shall send the data relating to the upper humus stratum of the soil of the material balance to the competent soil protection authority by 30 April of the year following the subject year.

Construction and Operation of Hydrocarbon Pipeline

Mining Act Section 24 (1) On the basis of a concession or official license granted for the construction and operation of hydrocarbon pipeline the licensee shall be entitled to construct and operate the pipeline and facilities required for its operation, and to use facilities defined in the contract. The hydrocarbon pipeline may be the object of marketing on its own.

(2) A natural gas conveying and distributing pipeline, an underground gas storage facility may be operated by a licensee for conveyance, distribution and storage disposing over a license based on a separate Act. In the decision licensing the putting to use of a pipeline the mining supervision shall designate the safety zone of the pipeline and shall provide for the foundation of easement by setting a deadline.

(3) The licensee shall elaborate a quality assurance system for the planning, construction, renovation, operation and demolition of the conveying, distributing and target pipelines and the storage facilities, which shall be approved and supervised by the mining supervision.

(4) The provisions of a separate Act shall be governing for the free access to the natural gas conveying and distributing pipelines and the underground storage facilities.

(5) A separate legal rule may prescribe to make available the technological pipelines between the fields, used for exploitation, preparation and processing of mineral oil and natural gas, the connected gas plant and storage facilities, as well as the free capacity of mineral oil pipelines and storage facilities for the purpose of the conveyance or storage of hydrocarbons exploited in Hungary. The access may be granted, if

a) the free capacity suitable for satisfying the demand is available, and

b) mineral raw material shall not cause any disturbance in the operation of the system planned to be used.

Execution Decree Section 10 (1) The provisions set forth in Section 31 of Mining Act shall apply to the construction and putting to use, while the provisions set forth in Section 28 and 32 to 35 of Mining Act shall apply to the operation of hydrocarbon pipelines, the components and appurtenances thereof (referred to hereinafter collectively as hydrocarbon pipeline), based on an official license. The line ensuring the supply of the consumer directly from the natural gas conveying pipeline shall be the appurtenance of the hydrocarbon pipeline up to the borderline of the plot of land of the consumer, unless it is qualified as a target pipeline under a separate legal rule.

(2) The construction and enlargement of a hydrocarbon conveying pipeline may only be licensed at the request of and for an economic organization entitled to the conveyance of hydrocarbons.

(3) Pipelines conveying gas, mineral oil and mineral oil products may not be placed:

a) under a track facility, with the exception of crossing, as well as in a tunnel and on a bridge serving the purposes of transport;

b) in a ditch or tunnel common with another public utility;

c) under structures and facilities, as well as in areas affected by strata movements caused by mining;

d) on the protected area or in the safety zone of a structure or facility, unless the pipeline shall be required for the proper use of the structure, facility.

(4) facilities belonging to the technological equipment of the telecommunications network connected to the hydrocarbon pipelines (facilities within the borderlines of the plot or at the access points of the telecommunication network) shall be licensed by the mining district authority, with the involvement of the communication authority, as specialized authority. In the licensing proceeding for other facilities of the telecommunications network the mining district authority shall cooperate as specialized authority.

(5) The mining entrepreneur, as well as the holder of an operational license for conveyance, storage and distribution on the basis of the Act on Natural Gas Supply shall make available for another entrepreneur the free capacity of the pipelines defined in Section 24 (5) of Mining Act and the connected

a) underground storage facilities having an independent surface storage technology and

b) surface mineral oil storage facilities, with a volume exceeding 1,000 cubic meters,

for the purposes of the conveyance and storage of hydrocarbons exploited in Hungary. On the basis thereof the mining entrepreneur shall conclude a contract with the customer against fee payment, up to the extent of the free capacity, by the application of the provisions included in subsections (6) and (7).

(6) The capacity available over and above the capacity

a) satisfying the own need of the operator,

b) used due to an obligation of stockpiling based on a state disposition,

c) undertaken in a mining concession contract or

d) already contracted by a contract

shall qualify as free capacity.

(7) to (9)

Execution Decree 10/A (1) The plan of the quality assurance system shall be presented to the MBFH in advance.

(2) The quality assurance system shall be approved by the MBFH and supervised by the mining authority competent for the area.

Execution Decree 10/B. § (1) Executive Decree 10/B. Organisations and mine entrepreneurs involved in geographical exploration (hereinafter together: economical organizations) are obliged to send geographical data obtained during the exploration for finding of geological and mineral raw materials (including water-geological and construction geotechnical exploration activity as well as exploration occurrences of mineral raw material, its quality, quantity and place of presence).

(2) The deadline of the obligation to supply data and the circle of them are included in insert No 4.

(3) Data supplying may be completed in written (printed) form or computer's data carrier, all the form that can be read or used with the equipments disposed by mining supervision, or natural form (sample). The form handed out by the President shall be filled in and attached without exception.

(4) The economical organization shall preserve sample material obtained during the exploration activity until the finishing or ceasing the exploration activity; the samples can be destroyed or discarded with the permission of mining supervision. The planned discarding shall be reported to mining supervision 60 days before the procedure, the pieces of sample material - claimed by mining supervision - shall be prepared and handed over in a designed sample-store or premises to mining supervision.

(5) Regarding the procedure of allowing inspect and handing out geological data of general interest handled by mining supervision and the measure of payment in accordance with data supplying belong to the President's sphere of authority. The President shall publish his decision in *Bányászati Közlöny*, the official periodical of mining supervision.

Geological Data Supply and Handling of the Data

Mining Act Section 25 (1). The mining entrepreneur shall send annually the geological data obtained in the course of his mining activity to the state organ of geological sphere of authority.

(2) The mining entrepreneur shall send to the state organ of geological sphere of authority the initial data relating to the quantity, quality and location of mineral raw materials in the closing report of exploration, the changes occurred in mineral resources following commencement of exploitation annually, and the statement prepared on mineral raw materials left back, upon the closure of the mine or the abandonment of the field.

(3) The data supplied by the holder of right of exploration in the closing report of exploration and in any other manner shall be handled as business secret during the period of the license; the data supplied by the mining entrepreneur in the closing report of exploration, in the report on the calculation of resources and in

any other manner shall be handled so until the approval of the plan of closure of the mine (Section 42), while, in the absence of the designation of a mining lease, for one year after the acceptance of the closing report of exploration, and in any other case for one year after the coming into existence of the obligation of data supply. During this period of time the geological data handled as business secret shall be marketable, over which the entitled party may freely dispose. The information relating to the site of the explorations carried out and to the holder of the exploration data shall not be within the scope of business secret.

(4) The mining entrepreneur shall be liable for the truthfulness of the supplied data, which may be controlled by the state organ of geological sphere of authority.

(5) The state organ of geological sphere of authority shall register mineral raw material and geothermic energy treasure of the state, for which the organ shall hand out the required certificate – for the fee defined in a different decree - to the entitled person.

Mining Lease

Mining Act Section 26 (1) Mineral raw materials may be explored and exploited, and geological structures may be utilized for the underground storage of hydrocarbons at the part delimited for this purpose of the surface and depth of the earth (hereinafter: mining lease).

(2) There is no need to designate a mining lease for exploration and exploitation of mineral raw materials in the framework of the exploration and in the course of the utilization of waste heap.

(3) The mining lease shall be designated in a decision by the mining supervision at request, on the basis of the consent of the state organ for geological sphere of authority, taking into account the real property owners' remarks relating to the anticipated utilization schedule for the real properties planned to be covered by the mining lease, as well as relating to right of use, utilization and disposition to the real properties.

BH2001. 43. It shall be compulsory to obtain the opinion of the specialized authorities in the course of licensing mining lease [Section 20 of the Act on the State Administration Proceedings, Section 26 (1) of Act XLVIII of 1993, Section 20 (1) of LIII of 1996, Section 12 (1), Section 33 (5) of Government Decree No. 115/1993. (VIII. 12.)].

BH1997. 561. The construction authority shall participate as a specialized authority in the proceeding relating to the designation of a mining lease [Section 7 (2) and Section 26 (1) of Act III of 1964, Section 26 (3) and (5), Section 39 (3) of Act XLVIII of 1993].

Mining Act Section 26/A. (1) The decision on the designation of a mining lease shall be communicated by the mining supervision through service to the applicant, to the specialized authorities, in the case of its involvement, furthermore, in case of a mining lease designated for open air and deep mining, to the owners of the real properties covered by the mining lease, and the non-appealable decision shall be sent to the competent land office, for the registration of the mining lease in the real estate register. The mining lease designated for exploitation of mineral oil and natural gas (including the carbon dioxide gas) does not need to be registered in the real estate register. The designation of a mining lease shall not qualify as commencement of the use of area.

(2) The designation of a mining lease may be requested from the mining supervision

a) by the mining entrepreneur having a right of exploration under Section 22 (1), as well as

b) by the natural person or legal entity or business association having no legal personality, who/which shall not qualify as mining entrepreneur, but prepares a report on asset calculation on the basis of archive data, the results of a new theoretical geographical interpretation or of the data of surface exploration carried out on the basis of report.

(3) The mining supervision shall designate a mining lease for exploration and exploitation of definite mineral raw materials, if the applicant

a) certifies by data of exploration (closing report of exploration or report on asset calculation) that exploitable mineral resources are to be found at the site requested to be delimited by the mining lease,

b) holds the license of environmental protection required for carrying out the activity or, if provided by a separate legal rule, a unified license of use of environment,

c) defines the mining technology wished to be applied by him/her/it (deep mining, open air mining, exploitation by drilling), and certifies the possibility of the fulfilment of exploitation conditions by a technical description, and indicates the date of exploitation according to the time schedule,

d) meets the requirements prescribed in a legal rule for the contents of the documentation of mining lease,
e) certifies, in case of a mining lease planned for deep mining or open air mining, that he/she/it has notified the owners (property managers, users) of the surface real properties, planned to be covered by the mining lease, of the intent to designate a mining lease, furthermore, in case of open air mining, of the method and anticipated date of the use for mining purposes of the individual real properties wished to be affected by the mining operations, in writing, at least 15 days prior to the submission of the application,

(4) The designation and the registration in the real estate register of the mining lease shall not alter the ownership title to and the designated purpose and use of the surface real properties covered by the mining lease.

(5) The mining entrepreneur shall commence exploitation, the operational underground storage of hydrocarbons within 5 years reckoned from the designation of the mining lease. The mining entrepreneur may, in relation to a mining lease, request no more than on one occasion from the mining supervision to extend the deadline set for the commencement of exploitation or operational storage, by no more than 5 years. In case of extension the mining entrepreneur shall pay compensation. The quantity of mineral raw materials serving as basis for the compensation and the percentage rate of the mining royalty payable on the value shall be established in the contract concluded between the Minister and the mining entrepreneur in a rate higher than the percentage rate applied at the date of the application, but no higher than 1.2 times of the original value. The mining supervision shall resolve in a decision on the extension of the deadline. In the decision, also the value, fixed in the contract, of the obligation to pay compensation shall be stipulated. The mining entrepreneur may be granted the extension of deadline for more than two mining leases simultaneously, if the application of the increased mining royalty fixed for the mining leases affected by the extension of the deadline shall be expanded to all mining leases of the mining entrepreneur in a contract, entered into for a period of no less than 5 years. In the case of extension of deadline requested for more than five mining leases, a further one-up compensation may be established in addition to the increased mining royalty, corresponding to no more than 20% of the amount payable on the basis of the increased mining royalty, in the contract concluded between the Minister and the mining entrepreneur.

Rendering expensive the extension of right of exploitation according to the text in force of Section 26/A (5) shall make the mining entrepreneur interested in commencing exploitation of the exploration area within 5 years. In addition to précising the Act in force the amendment has the purpose that the extension of right of exploitation for more than five mining leases should be requested by the mining entrepreneur only in really justified cases, if this shall be economical even with the costs increased in this way, and should provide a compensation for the state budget as well. At the same time the provision allows, in each of its elements, for the mining entrepreneur to consider the extent of the surplus cost, to be undertaken by him for the extension of right of exploitation. The regulation in force contains, as a misinterpreted element of guarantee, the obligation to communicate the decision providing for the extension of the deadline for commencing exploitation to the parties, who have been notified of the designation of the mining lease. At the same time the obligation of notification results, in contrast to its original purpose, in a considerable uncertainty of right by causing to communicate the decision providing for the extension of the deadline for the commencement of exploitation even to subjects of law, in whose case no legal status of party may be shown in the matter, with regard to the fact that the designation of a mining lease itself, as a legal effect, shall exist without deadline, perpetually.

(6) In case of defaulting the deadline set for the commencement of exploitation or operational storage, in the absence of license, furthermore, the failure of the mining entrepreneur to meet his obligation to pay the prescribed compensation, as well as in case of the termination without legal successor of the mining entrepreneur the mining supervision shall cancel right of mining of the mining entrepreneur, and it shall publish right of mining existing for the mining lease for the purpose of transfer on the homepage of mining supervision in the Mining Journal, and, in case of hydrocarbons, also in the Official Journal of the European Union.

The utilization of the waste heaps and exploitation of mineral raw materials therefrom may not be bound to the designation of a mining lease, with regard to the fact that the waste heaps are not parts of the earth's crust and mineral resources accumulated here do not occur in their natural condition either. The complementation by subsection (2) of Section 26 of Mining Act simplifies the utilization, for road construction purposes, of the materials to be found in the waste heap, while the précising of the regulation shall increase the legal safety.

The amendment to Section 26 (3) and the regulation in Section 26/A makes up for the deficiency, established in the resolution of the Constitutional Court referred to already, according to which the Act in force ‘... does not regulate the rules of substantive law of the designation of a mining lease’ from the aspect of exercising the powers of the owners of the real properties planned to be covered by the mining lease, and ‘... it does not set any deadline whatsoever, within which the mining has to be commenced after the designation of the mining lease.’

It follows from the reasoning of the resolution of the Constitutional Court that the Constitutional Court finds missing in Mining Act the minimum conditions, indispensable for the designation of a mining lease, which ensure, in the course of the designation of a mining lease in accordance with the designated purpose and use of the mining lease, the guarantees of right to property for the owners of the real properties involved, in the form of ‘making a declaration on the merits relating to the proceeding’.

Pursuant to the regulation the owners of the real properties affected by the planned mining lease shall become aware, already prior to the institution of the official proceeding directed to the designation of the mining lease, of the plans of the mining entrepreneur, as well as, in case of open air exploitation, of the date and method, according to which the mining entrepreneur wishes to use the individual real properties wished to be covered by the mining lease. The preliminary information shall also allow to clear up the actual ownership conditions, as well as to give the owners of the real properties affected the necessary information, and to provide them an opportunity to communicate their remarks, to ‘make a declaration on the merits’ in connection with the anticipated time schedule of use of the real property, which are essential from the aspect of right of use, utilization of and disposition over the real properties.

It is an essential element of the amendment that the possibility to carry out mining activity, the issue, whether mining activity may be permitted from the aspects of environmental protection and use of environment, over and above the technical and technological aspects and aspects of supply with mineral raw materials, shall be decided already in the proceedings of environmental protection licensing and the unified environment use licensing, in which the local government, the NGOs and the population shall also be granted a wide opportunity for the enforcement of interests. Thereby the system of requirements worded by the Constitutional Court in relation thereto shall also be asserted.

The amendment provides five years for the mining entrepreneur to commence exploitation after the designation of the mining lease. Thereby it satisfies the requirement of the resolution of the Constitutional Court, according to which ‘no kind of deadline is set, within which the mining shall be commenced after the designation of the mining lease.’ At the same time, the amendment satisfies, through the complementation, also the objection in the resolution of the Constitutional Court, according to which Mining Act currently in force ‘fails to create entirely the guarantees of the protection of property, in the absence of setting a deadline’, and ‘it fails to differentiate according to Mining Activities in respect of the restrictions related to the qualification as mining lease.’

Mining Act Section 26/B (1) The mining entrepreneur shall be entitled to initiate, with the mining supervision, to order a prohibition of construction and a plot formation according to the provisions of the relevant legal rules on construction, for the real properties covered by the mining lease, after the designation of the mining lease serving for open air mining, but not later than 5 years prior to the date indicated in the time schedule mentioned in Section 26/A (3) c) and e). In case of defaulting the deadline the mining entrepreneur’s rights relating to the initiation of a prohibition of construction and plot formation shall cease to exist.

(2) In case of a mining lease serving for deep mining the mining entrepreneur shall be entitled to initiate the ordering of a prohibition of construction and plot formation, if it may be anticipated that mining activity shall affect the surface real property.

(3) In the proceeding for the judgment of an application directed to the designation or modification (expansion, diminution, unification, or division) of a mining lease the mining supervision shall establish the quantity of mineral raw materials to be found in the mining lease, their classification as useful material or refuse, on the basis of the data of exploration (calculation of resources). The mining supervision shall keep a record of the area of exploration, the mining lease and the areas affected by the mining operations.

(4) If this is justified by the location of mineral resources, the mining supervision may modify the mining lease at request. If the modification affects also a mining lease registered in the real estate register, also the competent land office shall be notified of the modification by sending the non-appealable decision, which provides for the modification. The rules relating to the designation of the mining lease [Section 26/A (1) to (4)] shall apply to the proceedings directed to the expansion or diminution of the mining lease.

(5) The mining supervision shall delete the mining lease in the register at the mining entrepreneur’s request or ex officio and it shall notify thereof the interested parties, and it shall contact the competent real estate

authority for deleting the mining lease in the real estate register. The obligations of the earlier holder of the mining lease in respect of the refund of the mine damages, landscape rehabilitation and safety, as well as environmental protection and nature conservation shall continue to exist even after the deletion of the mining lease.

In case of open air mining under Section 26/B the mining entrepreneur shall have the possibility to initiate the ordering of the prohibition of construction and plot formation defined in Section 39 (1) of Mining Act for the real properties to be built in, covered by the mining lease, after the designation of the mining lease, until the commencement of exploration and exploitation, but not later than five years prior to the date indicated in the time schedule setting forth the use of area and approved by the mining supervision.

Exploitation through deep mining or open-air mining of mineral raw materials, thus particularly of solid mineral raw materials may result in the joint exploitation of useful materials and refuses. It is an interest of mineral resource management and mining royalty revenue that the classification of mineral raw materials exploited should occur already simultaneously with the designation of the mining lease, in order to allow the planning and control.

Mining Act Section 26/C (1) If in the course of carrying out the mining operations natural, environmental, historical or archaeological values become known, on the area of the mining lease licensed for mining, prior to the completion of exploitation or to the termination of the concession, which cannot be protected otherwise, the mining supervision may reduce the mining lease ex officio, on the basis of the decision of the authority concerned, in which a provision shall also be made for the indemnification of the mining entrepreneur.

(2) The provisions of the Civil Code shall apply to the indemnification for the mining entrepreneur due to the reduction ex officio under subsection (1) of the area of the mining lease under mining.

(3) If the area of the mining lease already designated shall be declared an excluded site under paragraph 16 of Section 49, prior to the completion of exploitation or to the termination of the concession, the mining entrepreneur shall be entitled to indemnification for the damages resulting therefrom. In the decision serving the declaration of an excluded site or serving for the enforcement thereof on the basis of legal rules, provision shall also be made for the indemnification.

Execution Decree Section 11 (1) The mining lease shall be designed and designated in such a manner that the impact area of surface rock movements anticipated in consequence of mining activity be within the borderlines of the mining lease. In the interest thereof the mining district authority shall take measure for the designation of boundary pillars.

(2) When designating a mining lease attention shall be paid to the geological position, expansion and quality of mineral resources, the features of the seam, to other reserves of mineral resources, to presumable environmental impacts of Mining Activities and facilities required for them.

(3) Also mining leases covering or including each other in part or in full may be designated for the same area, for different mineral raw materials.

(4) The mining lease shall be delimited by perpendicular planes crossing each other (in projection representation by straight lines meeting in breaking points), as well as by the definition of basic and covering planes (lying and covering levels). Also the line of the state border or a natural formation may define the borderline of a mining lease. In case of the occurrence of identical and coherent mineral raw materials the mining lease shall be designated in such a manner that the borderlines of the neighbouring mining leases should be contiguous with each other.

Execution Decree Section 11/A (1) The application for the designation of a mining lease shall be submitted to the competent mining district authority.

(2) The following shall be attached to the application:

a) in case of an activity covered by a separate legal rule, relating to the totality of a mining lease requested to be designated:

aa) the decision, in which the supervision of environmental protection, nature conservation and water has found that the planned activity should not be subject to an environmental protection license or to a unified license for use of environment, or

ab) the license of environmental protection, or

ac) the unified license for use of environment;

b) in case of a mining lease planned for deep mining or open air mining

ba) the list of the names and addresses of the owners (property managers, users) according to the real estate register, and

- bb)* the description of the designated purpose and of the condition of use of the real properties affected by the mining lease requested to be designated;
- c)* in case of a mining lease planned for open air mining the time schedule of the anticipated use of the real properties planned to be covered by the mining lease, in a breakdown of
 - ca)* each year, relating to the first five years reckoned from the planned date of the commencement of exploitation,
 - cb)* five years, for the future;
- d)* in case of a mining lease planned for deep mining or open air mining a copy of the information prescribed in Section 26/A (3) *e)* of Mining Act, as well as the original certificates proving the fulfilment of the obligation of information or the certified copy thereof;
- e)* in case of an application under Section 26/A (2) *b)* of Mining Act the report on the calculation of resources;
- f)* the technical description of the mining lease;
- g)* the map of mining lease according to a separate legal rule;
- h)* the preliminary landscape rehabilitation plan in case of a mining lease planned for open air mining.

(3) The annexes under subsection (2), paragraphs *a)* to *d)* shall be submitted in one copy each, the Annexes according to paragraph *e)* in two copies, the annexes according to paragraphs *f)* to *h)* in a number of copies identical to the number of the authorities concerned, cooperating as specialized authorities in the proceeding for the designation of the mining lease [Section 35 (10), Schedule No. 1].

(4) The technical description included in subsection (2) *f)* shall contain:

- a)* the coordinates according to the EOVS system of the breakpoints of the borderline of the mining lease, the height of the ground at the breakpoints of the borderlines, the height of the basic and covering stratum, the lying and covering levels of the useful material (mBf);
- b)* the geological characteristics of the mining lease and the quantitative and qualitative characteristics of the exploitable mineral resources thereof, on the basis of the closing report of exploration or the report on the calculation of resources;
- c)* the designation of facilities, residential settlements, water basis, fresh or still water requiring protection against the surface rock movements anticipated in consequence of Mining Activities;
- d)* the boundary or protective pillar to be designated, the dimensioning thereof, as well as mineral raw materials bound therein;
- e)* the mining leases bordering on or including partly or fully the mining lease to be designated and the borderlines and the height of the basic and covering planes thereof;
- f)* in case of a mining lease requested to be designated for underground gas storage the technical condition of the drilling holes prepared in the geological structure, natural or artificial cavities serving for storage, the possibilities of the utilization thereof, the required open air equipment and the technical characteristics thereof, as well as the technology of the gas storage, which excludes the jeopardizing, pollution and damaging of the environment.

(5) The following shall be disclosed in the technical description:

- a)* the physical and chemical properties of the by-products and wastes anticipated upon exploration or exploitation;
- b)* the mining methods to be selected for exploration and exploitation of mineral raw materials (deep mining, open air mining, exploitation by drilling, within that directed inclined or horizontal drilling), and their presumable impacts on the subsurface waters and other elements of the environment;
- c)* the name of the open air and sub-surface facility groups required presumably for exploration and exploitation;
- d)* the possibility of the fulfilment of the conditions of exploitation (including the carriage of the exploited mineral raw materials to the next national public road or hydrocarbon pipeline).

(6) The preliminary landscape rehabilitation plan set forth in subsection (2) *h)* shall be prepared with regard to the environmental protection license, the regional planning or regulation plans in force and the time schedule of the use of real properties. The preliminary landscape rehabilitation plan shall contain the textual description and the map of the ground conditions coming into existence in the course of the planned mining activity, as well as of facilities to be constructed.

(7) In the textual part of the preliminary landscape rehabilitation plan the purpose of re-utilization and the tasks required for the implementation of this purpose, the new ground conditions and facilities to be developed through the landscape rehabilitation and the scheduling and method of their formation shall be made known.

(8) The new ground conditions established through the landscape rehabilitation, the height data thereof and the sections promoting the intelligibility, as well as the contents of the map of the real estate register shall be represented on a map, corresponding to the scale of the mining map defined in a separate legal rule.

(9) If the formation of stagnant water deriving from the subsurface water reserve and its subsistence after the termination of mining have to be reckoned with in consequence of the planned mining activity within the borderlines of the mining lease, then the relevant preliminary water management, environmental protection, nature conservation

and landscape protection conditions shall be defined in the landscape rehabilitation plan (taking into consideration a separate legal rule), which conditions shall be taken into account upon the landscape rehabilitation and the closure of the mine.

Execution Decree Section 12 (1) The mining district authority shall resolve on the designation of a mining lease, through the enforcement of the positions taken by the cooperating authorities, in a decision. Upon the decision-making the mining district authority shall, in case of a mining lease planned for deep mining and open air mining, examine on the merits also the remarks of the owners (property managers, users) of the real properties planned to be covered by the mining lease made in connection with right of disposition, use and utilization to the real estates, in case of open air mining also in connection with the time schedule of the use of the real properties.

(2) In each decision designating a mining lease the mining district authority shall provide for the technical measures and conditions required for preventing or mitigating the jeopardizing accompanying the mining, in case of the mining of solid minerals it shall approve the purpose of re-utilization, and in case of a mining lease planned for open air mining it shall prescribe the requirements to be defined on the basis of the preliminary landscape rehabilitation plan.

(3) The decision in the matter of the designation of a mining lease shall be communicated through service to the applicant, to the authorities having proceeded as specialized authorities in the proceeding and, in case of solid minerals, to the owners (property managers, users) of the real properties covered by the mining lease. The non-appealable decision and the map of the designated mining lease, provided with the clause of the mining district authority, shall be sent to the applicant and, in case of a mining lease designated for solid mineral, to the competent real estate authority for recording the mining lease, as legal nature in the real estate register.

(4) In the proceeding of modification of a mining lease, the rules related to the designation of mining lease shall be applied. If the modification targets to alter the classification of mineral raw material(s), the mining authority shall decide on the basis of the stock accounting report, countersigned by a geological expert.

(5) The holder of the mining lease shall notify the mining district authority of any change in his identifying data included in the register within 30 days.

(6) The mining lease may be deleted [Section 26/B (5) of Mining Act], if the damage to the environment connected to the mining has been eliminated and no soil movement posing hazard to the surface may be expected any more.

(7) No mining lease may be designated for the party, who has not performed his obligations prescribed for returning and paying the mining royalty [Section 20 (2) of Mining Act] in relation to any site of exploitation cultivated by him, or who has a debt of mining fine [Section 41 (1) and (2) of Mining Act] or supervision fee [Section 43 (9) of Mining Act].

Execution Decree Section 12/A (1) The application for the extension of the deadline set for commencing exploitation shall be submitted to the MBFH prior to the expiry of the deadline. The application shall contain the mining entrepreneur's proposal for the period of the extension and for the extent of the compensation as per mining leases, and, in case of more than two mining leases for the period of time of the contract, as well as for the extent of the mining royalty payable on the individual mining products, as per mining leases.

(2) There is no need to apply any mining royalty increased with regard to the extension, for the quantities of mineral oil and oil-accompanying natural gas with reduced mining royalty licensed by the Minister in agreement with the Minister of Finance, as well as for those exploited by the application of high-efficiency processes of exploitation.

(3) During the period of extension the mining entrepreneur shall be entitled to commence exploitation of anyone of his mining leases defined in the contract, as of which date he shall pay the mining royalty according to the general rules.

(4) The mining lease may not be deleted between the certified date of the submission of the proposal for contracting and the conclusion of the contract, during the period of time of the official proceedings of legal remedy and during 60 days following that.

(5) The MBFH rejects the application for extension, if the parties have not concluded the contract within 180 days reckoned from the submission of the contractual offer.

Technological Operation Plan

Mining Act Section 27 (1) mining activity shall be carried out according to approved technological operation plan.

(2) The technological operation plan shall be prepared taking into consideration the rules relating to technical safety, health protection and fire protection, as well as the requirements of mineral resource management, water management, as well as environmental protection, nature conservation and landscape protection, so as to ensure the protection of life, health, the surface and sub-surface facilities, as well as of the lands designated for agriculture and forestry, the possible prevention or reduction of mine damage, of any damage to environment and nature, as well as the performance of landscape rehabilitation.

(3)

(4) The technological operation plan shall be approved by the mining supervision with regard to the aspects defined in subsection (2) and to the time schedule for the use of real property, if the mining entrepreneur has certified his right of use relating to the real properties, planned to be affected by Mining Activities defined in the technological operation plan.

The amendment to Section 27 (4) is adjusted to the system of complementary regulation required by the resolution of the Constitutional Court, ensuring the real property owners' rights embodied in the real property ownership, the undisturbed right of disposition, possession and utilization, by defining, as a condition precedent to the approval of the technological operation plan, the certification of right of use of the mining entrepreneur relating to the real properties planned to be affected by the activity.

(6) The mining entrepreneur shall inform the organ competent for environmental protection and handling protected natural areas, on minerals, mineral associations and fossils, important from professional and scientific aspects, discovered in the course of mining activity, and allow the saving of the findings.

Execution Decree Section 13 (1) The technological operation plan shall define the planned mining activity of the mining plant. The plan shall consist of a textual part and of a plan map.

(2) The request for approval of the technological operation plan shall be submitted to the competent mining district authority. The certification of the mining entrepreneur's right of use relating to the real properties, affected by Mining Activities or planned facilities defined in the technological operation plan, which may be

a) the certified copy no older than 3 months of the ownership sheet proving the ownership of the mining entrepreneur,

b) an agreement entered into with the owner (property manager, user) of the real property, countersigned by an attorney at law (legal advisor),

c) a non-appealable authority's decision or court judgment proving right of use, shall be attached to the application.

(3) The textual part of the technological operation plan related to the exploration, exploration, exploitation of the mine, to the utilization of the waste heap, as well as to the landscape rehabilitation carried out simultaneously therewith or after the termination thereof shall contain

a) the report relating to the performance of the previous technological operation plan (report on the tasks of exploration, exploration, exploitation and landscape rehabilitation carried out and the mine's situation of technical safety and accident protection);

b) Mining Activities scheduled for the period of the plan, the technological and safety conditions, as well as the definition of the mining plant delimited on the plan map;

c) the name of the areas (sites) of mine required for the performance of the tasks, the situation of ownership (use) of the open air areas planned for use, as well as the disclosure of the anticipated geological conditions and the hazards of the mine;

d) the list of the works of research required for the maintenance of exploitation and for the inclusion of new areas (settle sites), as well as of the new sub-surface and open air facilities, the most important technical characteristics thereof;

e) the disclosure of the planned method, scheduling (e.g. seasonal suspension), technology of the mining, as well as the order of technical supervisory controls;

f) the method and system of tools for the determination of the quantity and quality of the exploited mineral raw materials;

g) the technical measures required preventing or diminishing the main hazards of mine and the anticipated mine damages, as well as the detailed description of the execution of the scheduled tasks of landscape rehabilitation;

h) the characteristics of mineral resource management

ha) the activity of exploration (drilling, drift-driving) planned in order to get better acquainted with the quantitative and qualitative parameters of mineral resources,

hb) the quantity of mineral raw materials planned to be left over from mineral resources recorded in the area (part area) affected by exploitation (loss in mineral raw materials) and the justification thereof, as well as the measures planned to optimise the loss in mineral raw materials,

hc) the loss affecting the quantity of the exploited mineral raw materials (loss in product) and the justification thereof;

i) the disclosure of the impact exercised by mining on environment, the measures required to prevent and diminish the harmful environmental effects, the method of monitoring the impacts, the order of the formation and operation of facilities and points of measurement serving for this purpose, as well as the plan of waste management;

j) a statement on the obligations anticipated in connection with the planned activity and the calculated costs thereof, the method and extent of the securities offered by the mining entrepreneur for the financial cover of the performance of the obligations;

k) in case of exploration and exploitation of hydrocarbons and in case of the storage of natural gas

ka) the quantity of oil, gas and condensate water planned to be exploited as per sites, as well as the quantity of hydrocarbon and carbon dioxide to be injected,

kb) the disclosure of the planned method, scheduling (e.g. seasonal suspension), technologies of the mining, a reference to the plans of mining,

kc) the number and planned place of the wells to be deepened, required for the maintenance of exploitation and for the inclusion of new areas (sites), the system of collection of the field and the list and main technical characteristics of the new open air facilities,

kd) the trial productions planned in the subject period;

l) the scheduling and method of any possible archaeological disclosure, the measures taken for the safekeeping of the archaeological site parts to remain undisturbed after the discovery.

(4) The part, relating to exploration and exploitation, of the technological operation plan may not be approved for the party, who has not satisfied his obligation prescribed for returning and paying the mining royalty [Section 20 (2) of Mining Act] in relation to any exploitation site cultivated by him, or who has a debt of mining fine [Section 41 (1) and (2) of Mining Act] or supervision fee debt [Section 43 (9) of Mining Act].

(5) In case of any mining activity under Section 29 of Mining Act the mining entrepreneurs shall prepare a consolidated technological operation plan within the scope affecting directly the activities of each other.

(6) If the suspension of exploitation or the closure (termination) of the mine, the abandonment of the hydrocarbon field is planned for the period under Section 14 (3), the technological operation plan shall also contain the plan part under Section 17 or Section 26

(7) The substantial requirement of the plan map shall be established by the Minister in a mine safety regulation.

(8) The mining authority shall resolve in a decision on the approval of the technological operation plan in accordance with exploration and exploitation taking into consideration the opinion of the involved authorities. The decision shall be communicated through service to the authorities cooperating as specialized authorities in the proceeding, to the mining entrepreneur, as well as to the owners of the real properties planned to be affected by Mining Activities or facilities defined in the technological operation plan.

Execution Decree Section 14 (1) The measures planned in the technological operation plan shall be reasoned and the scheduling of the execution thereof shall be provided. If the scheduling of the technological operation plan requested to be approved deviates from the time schedule, set forth in Section 11/A (2) *c*), of the use of the real property covered by the mining lease, then also the certification of the relevant information to the owners of the real properties concerned shall be attached to the technological operation plan.

(2) If the technological operation plan forecasts third mining, the mining district authority shall involve the specialized authorities and the other interested parties in the proceeding.

(3) A technological operation plan relating to exploitation may be prepared for the period of no more than 2 years in case of deep mining, and for no more than 5 years in case of mineral oil and natural gas mining and open air mining. If the plan is prepared for several years, it shall be revised annually and adjusted to the conditions, which have possibly changed. The report on the revision shall be sent to the mining district authority by the 25th day of the second month following the revision. If the mining entrepreneur has not put to use the area defined for exploitation in the approved plan during the plan period, the performance deadline of the approving decision may be extended on no more than one occasion, by half of the period of performance licensed originally.

(4) The technological operation plan, or the proposal relating to the amendment based on the annual revision of the licensed plan shall be submitted for approval to the mining district authority at least 60 days prior to the commencement of the activity or to the planned modification, or, if the modification shall not require the cooperation of any specialized authority, than at least 15 days prior to the commencement of the activity or to the planned modification.

Execution Decree Section 15 (1) Any deviation from the approved technological operation plan – in connection with the protection against the main hazards of mining, with the activities affecting mineral resource management, water management, environmental protection and mine damage shall only be possible with the mining district authority's approval based on the position taken by the interested specialized authority.

(2) The application for the approval of the deviation from the technological operation plan shall be submitted to the mining district authority at least 60 days prior to its planned execution or at least 15 days prior thereto, if the deviation shall not require the cooperation of any specialized authority. The provisions of Section 14 (4) shall apply to the cooperation of the specialized authority.

Rules of Operation

Mining Act Section 28 (1) The mining entrepreneur shall comply with the Act and with the technical, technological safety provisions issued on the basis of the Act, and provide for the execution thereof.

(2) In the mining plant a responsible technical leader and a deputy shall be appointed. The responsible technical leader shall be liable for the execution, in the mining plant, of the provisions included in Section 27 (2), the technical prescriptions and mine safety rules, as well as for controlling compliance therewith. His liability shall not exclude the liability charging the mining entrepreneur or other persons on the basis of their positions or jobs.

(3) The appointed responsible leader and his deputy shall be reported to the mining supervision. The requirements of qualification in respect of the responsible technical leader and the deputy shall be defined by the Minister.

Execution Decree Section 16 (1) The mining entrepreneur and the party executing gas industrial activity shall provide for the availability of operational instructions (in respect of operation, technology, maintenance, health protection, etc.) relating to the installation and operation of the machines, equipment, materials and facilities applied in the course of the activity, for material handling, loading and transportation within the plant.

(2) Any work that may be executed on the basis of an operational instruction may only be commenced, if the employees involved have been trained in the provisions thereof, and the person ordering the work has satisfied himself thereof prior to the start of the work.

(3) If the dimension of the mining plant, the distance of the places of work from each other, as well as the extent of the sources of hazard justify this, several deputy responsible technical leaders shall be appointed. In case of the appointment of several deputy responsible technical leaders the mining entrepreneur shall be entitled (with the obligation of reporting) to appoint a general deputy for the case of absence or prevention of the responsible technical leader. The appointment may also be ordered by the mining district authority ex officio.

(4) In the matters belonging to the scope of responsibility of the (deputy) responsible technical leader his superiors may give him instructions only in agreement with him, unless an immediate hazard to life or the danger of any other serious damage justifies the prompt taking of measures.

(5) The mining district authority may initiate the revocation of the appointment of the (deputy) responsible technical leader, if the (deputy) responsible technical leader repeatedly, in spite of warning, violates their technical requirements defined in legal rules and standards, as well as the rules of labour safety and occupational health care relating to the safe performance of work not jeopardizing the health, or the rules of environmental protection or mineral resource management.

(6) The mining entrepreneur shall provide for the periodical control of mining facilities placed in the bed of live waters and for compliance with the safety conditions defined upon the licensing of establishment.

Joint Exploitation

Mining Act Section 29 (1) If several mining entrepreneurs are entitled simultaneously to exploitation of a coherent site of mineral resources, they shall coordinate the exercise of their activities and ensure, in the framework thereof, the conditions of joint, workmanlike and reasonable exploitation. In the absence of agreement the sequence and conditions of exploitation shall be established by the mining supervision.

(2) The parties exploiting jointly hydrocarbons shall appoint their representative from among themselves, who shall have rights and obligations due to the mining entrepreneur.

(3) If several mining entrepreneurs are entitled to exploitation of mineral resource sites covering each other or touching each other directly or through chain pillars, the mining entrepreneurs shall agree on the

consolidation of the areas and on the conditions of exploitation. The approval of the mining supervision shall be required for the validity of the agreement. In the course of the approval the mining supervision may prescribe conditions for the performance of the contractual obligations, in the interest of mineral resource management, safety and the protection of property.

Suspension of Exploitation

Mining Act Section 30 (1) Exploitation may be suspended for a period exceeding 6 months exclusively with the license of the mining supervision, based on an approved technological operation plan of suspension.

(3) For the period of suspension the Minister may fix in the concession contract, in case of another mining entrepreneur the mining supervision may fix in the decision approving the technological operation plan prepared for the suspension, an obligation to pay a fee making up for the lost mining royalty. When fixing the rate of fee payment the approved technological operation plan or the mining plan serving as basis for it shall be taken into consideration. No fee may be established to make up for the mining royalty, if the suspension of exploitation was required by an Act of God or a hazard of mine.

(4) In case of the suspension longer than 3 years of exploitation the mining supervision may, ex officio take a measure for the closure of the mine, for causing to carry out the landscape rehabilitation, for the handling of the waste derived from exploitation of mineral raw materials and for the deletion of right of mining of the mining entrepreneur.

(5) If the suspension has a reason of economic efficiency and the mining entrepreneur undertakes the obligation of fee payment to make up for the lost mining royalty and he pays the imposed fee, the termination of right of mining of the mining entrepreneur may not be initiated and the closure of the mine may not be ordered.

In a given case exploitation may be inevitably suspended for a short period of time due to the seasonality of exploitation, transitional market difficulties and other reasons independent of the mining entrepreneur. Without establishing a bottom limit of time also the date of instituting the proceeding may be disputable. It is unjustified to conduct the proceeding compulsorily in case of a transitional interruption of production, lasting only for a short time.

Execution Decree Section 17 (1) A technological operation plan relating to suspension may be approved for a period of no more than 3 years.

(2) The technological operation plan elaborated for suspension shall contain

- a) the designation of the reason and the planned period of time of the suspension;
- b) the works to be carried out until the commencement and during the period of the suspension, the scheduling of the works and the fulfilment of the conditions thereof;
- c) the examination and method of observation of the impact exercised by the suspension on the environment, as well as the technical safety measures serving the protection of the surface, the waters, mineral resources and natural values;
- d) the name of the mine workings remaining open even during the period of suspension, the purpose, destination of the opening, as well as the operating equipment (e.g. shafts, underground mine workings, as well as conveyance, ventilation, water lifting, energy supply);
- e) the order of control required during the period of suspension;
- f) the mine workings abandoned (shut off) due to the suspension, the equipment and materials remained therein;
- g) the method of abandonment of the individual mine workings planned to be abandoned in the period of suspension;
- h) the conditions of resuming the mining;
- i) the maps according to a separate legal rule.

(3) After the suspension the resumption of exploitation may only be commenced on the basis of a technological operation plan elaborated and approved for this purpose.

(4) The rate of the annual fee payable by the mining entrepreneur to make up for the lost mining royalty in case of the suspension at request, on the basis of Section 30 (5) of Mining Act, of exploitation may be no more than 30% of the rate of mining royalty fixed according to the rules of Section 20 of Mining Act on the value of exploitation quantity approved in the technological operation plan of exploitation for the last year preceding the suspension.

(5) In the mining of mineral oil and natural gas no fee payment may be fixed to make up for the mining royalty due to the suspension until the commencement of the high efficiency process of exploitation or of the field liquidation after exploitation of the industrial resources through primary and secondary processes, but for no longer than 3 years.

Prescriptions of Establishment

Mining Act Section 31 (1) The license of the mining supervision shall be required for the construction and commissioning of mining facilities defined in the Act or a separate legal rule, as well as for the use in mines of certain machines and equipment.

(2) If a legal rule binds the operation of certain mining or related facilities to the license of another authority, the mining supervision shall be involved in the licensing proceeding.

(3) The mining supervision shall control the construction and operation of the mining facilities being within its authority of licensing.

EBH2004. 1167. *The fulfilment of a request for the foundation of mining easement may not be refused alleging that the construction of gas pipeline was contrary to the rules. The mining supervision shall be entitled to deduce the legal consequences of construction contrary to the rules, therefore the authority deciding on the foundation of mining easement may not sanction the construction contrary to the rules within its own proceeding [Section 38 (3), Section 31 (1) of Act XLVIII of 1993; Section 10 (2) of Government Decree No. 203/1998. (XII. 19.)].*

BH2001. 198. *For granting a license for the construction of gas pipeline a mining easement founded for the placement of facilities shall be required, which shall be certified within the scope of construction entitlement. Suspension of the lawsuit instituted for the repeal of the decision granting license for the construction of a gas pipeline until the non-appealable termination of the proceeding directed to the foundation of mining easement. [Section 31 (1), Section 38 (3) of Act XLVIII of 1993; Section 35 (9) of Government Decree No. 203/1998. (XII. 19.); 4/1979. (NIM É. 23.) OBF Szab.]*

Execution Decree Section 18 (1) The construction and operation of mining facilities, machines and equipment shall be controlled by the mining supervision.

(2) The construction, use and operation according to standard design of facilities (machines, equipment) within the scope of licensing by the mining supervision shall be controlled by the MBFH.

(3) The consent of the licensing authority shall be required for the joint use by several mining entrepreneurs of facilities subject to license.

(4) Unless the authority's license is required therefore, the abandonment, demolition of facilities licensed by the mining supervision shall be reported to the mining district authority at least 15 days prior to starting the works. The abandonment of a warehouse for explosives shall also be reported to the police office competent for the area. Unless the mining district authority takes a measure during the aforementioned period of time, the abandonment, demolition may be executed.

Safety Zone and Chain Pillar

Mining Act Section 32 (1) In order to protect mining facility, the pipelines conveying mineral oil, mineral oil products, natural gas, other gas and gas products, as well as the distributing lines for natural gas, other gas and gas products and the environment thereof a safety zone shall be designated. The extent of the safety zone, as well as the prohibitions and restrictions to be enforced in the safety zone shall be prescribed by a legal rule. On the real property affected by the safety zone, easements, pipeline rights and rights of use may be founded in order to enforce the restrictions and prohibitions prescribed in a legal rule or in the authority's decision.

(2) If necessary, the residential settlement, the other surface or underground facilities, the water resources, the fresh or standing water, historical monuments, archaeological or protected natural areas shall be protected from the effect of any activity carried out in connection with facilities defined in subsection (1) by designating chain pillars (boundary pillars, protective profile). The chain pillar may not be jeopardized in the course of the performance of the activity. The mining supervision may license the third mining or the weakening of the chain pillar, if the designated purpose thereof has ceased to exist or the safety and protection requirements can be satisfied in another manner, after having heard the interested parties.

(3) It shall be prohibited or restricted to place any building or facility (subject to the exceptions within the scope of the Act), to plant any vegetation (trees) or to carry out any activity within the safety zone, which may jeopardize the safety of the pipeline, or life, corporeal integrity or the safety of property. The detailed rules of the prohibitions and restrictions shall be established in a separate legal rule.

(4) The track of the pipeline shall be designated and designed in such a manner that it should cover, if possible, the public domain, and touch to the smallest possible extent any arable lands or other real properties, which are not in public ownership. The pipeline shall be designed, executed and operated in such a manner that the impact thereof should not jeopardize the health of the population of the area concerned, the natural environment and its landscape value, and that it should change the environmental elements in general to the smallest possible extent.

(5) No easement may be founded on public roads, public domain, railway line, or the areas of fresh waters and channels for the purpose of mining. In case of the designation of a safety zone touching the aforementioned areas the bodies concerned shall conclude an agreement satisfying the technical and safety rules and standards.

In the course of the application of law more and more problems are caused by the attitude of the organs applying the law, which excludes, on the basis of a formal approach to the contents of the statutory provisions, that in the safety zone of a facility subject to Mining Act another facility subject similarly to Mining Act should be placed. These circumstances justify absolutely the alteration of the regulation. It is not expedient to found a mining easement on public roads, in the public domain and on railways tracks. In case of the designation of a safety zone touching the aforementioned areas it is purposeful if the parties concerned define the technical and safety requirements in an agreement. Section 64 of Decree No. 1/1977 (IV.6.) NIM, which was repealed by Section 37 (3) of Government Decree No. 111/2003 (VII.29.), expressly prohibited the registration of any mining easement on public roads, public domain and railways track. After that the operators of pipelines became entitled to the registration of easement, with regard to Section 38 (3) of Mining Act and the provisions of Decree No. 6/1982. (V. 6.) IpM on the Safety Zones of the Gas and Mineral Oil Plant Facilities, while rights to the enforcement of other public interests attached to facilities of traffic safety and transport facilities, secured in Act I of 1988 on the Public Road Transport for the operators of public roads and railways, are prejudiced by the claims for mining safety. The solution of this situation is served by the integration of the relevant provisions of the repealed legal rule in the text of Mining Act.

Execution Decree Section 19 (1) The chain pillar shall be designated by the mining district authority at the request of the mining entrepreneur and/or upon the initiative of the authority having powers and competence according to the subject-matter of the protection, after having heard the interested parties and the opinion of authorities concerned in the matter.

(2) The application shall contain the following:

a) description of the facility, water resource, fresh or standing water, natural value (referred to hereinafter collectively: protected facility), requiring protection against impacts of mining operations (deep mining, open air mining) and the geographical location thereof;

b) the dimensioning of the proposed chain pillar and the quantitative and qualitative data of mineral raw materials bound therein;

c) names and addresses of the owners (managers) of the real properties concerned;

d) the borderline of the chain pillar and its main sections, as well as the mining lease map indicating the protected facilities.

(3) The authentic copy no older than 3 months of the ownership sheets of the real properties touched by the chain pillar shall be attached to the application.

(4) The mining district authority shall oblige the mining entrepreneur to the designation of a chain pillar, if it finds that the applied mining operations jeopardize any protected facilities.

(5) The chain pillar and the safety zone shall be indicated in the mine map. The mining entrepreneur may request from the competent construction authority to order a prohibition or restriction of construction in the safety zone.

(6) The rules of dimensioning of the chain pillar shall be established in the mining safety regulation.

(7) In the application for the weakening of the chain pillar or for third mining the detailed technical description of the mining operations planned in the chain pillar shall be disclosed, over and above the contents of subsection (2), with particular regard to the planned method of support and of the abandonment of the pit (e.g. backstowing, break).

(8) The mining district authority shall send to the specialized authorities concerned and to the competent construction authority its non-appealable decisions issued in connection with the designation, modification, partial or full third mining or deletion of the chain pillars and the relevant maps.

(9) In the course of the placement of facilities and equipment defined in Section 1 (1) *i*) of Mining Act the fact of their fixed location, their environment and possibility of safe operation shall be taken into consideration.

(10) In case of the closing of the drilling holes prepared for mining purposes provisions shall also be made for the maintenance and the contents of the safety zone, in the framework of the measures regulated in Section 42 of Mining Act.

Execution Decree Section 19/A (1) In order to secure the protection and the smooth operation (control, maintenance, repair and elimination of breakdowns) a safety zone according to the dimensions subject to the Safety Regulation shall be designated to protect facilities for mineral oil and natural gas mining, pipelines conveying mineral oil, mineral oil products, natural gas and other gases and gas products (hereinafter: conveying pipelines) as well as the pipelines distributing natural gas, other gases and gas products (hereinafter: distributing pipelines) and the environment.

(2) Save for the contents of subsections (7) and (8) the following shall be prohibited within the safety zone:

- a*) construction activity and the placement of any structure whatsoever;
- b*) firing and the burning of materials;
- c*) open air mining of solid minerals;
- d*) pouring out and spreading of casting materials and materials involving the hazard of fire, jeopardizing the condition of mineral oil and natural gas mining facilities and the conveying and distributing pipelines;
- e*) any explosion activity;
- f*) placement and storage of materials;
- g*) irrigation through flood and the preparation of rise plantation, fish pond, water reservoir and pulp reservoir;
- h*) plantation of trees and other vegetation jeopardizing the integrity of facilities for pipelines, as well as soil cultivation in a depth more than 0.5 meter, as well as the performance of any earthwork save for archaeological exploration carried out with manual work, ground levelling to the full extent of the safety zone of mineral oil and natural gas mining facilities, the stations and torches forming part of the distributing and conveying pipelines, and within a distance of 5 meters measured from the axis on both sides, in case of conveying pipelines;
- i*) permanent or temporary storage of vehicles in case of conveying pipelines;
- j*) covering, damaging or relocation of the signs and surface engineering structures of mining facility, gas distributing and conveying pipelines.

(3) The operator (or the agent thereof) shall control compliance with the prohibitions and restrictions prescribed for the safety zone on a regular basis, and in case of the violation thereof he shall take measures for the restitution of the status prescribed in the legal rule. He shall notify the competent mining district authority of the measures taken and the result thereof (without delay, for taking the required authority's measures).

(4) The licensee shall report to the mining supervision, if there is any change in the extent of the safety zone or in the conditions of technical safety serving for the establishment of the relevant restrictions and prohibitions, or a considerable alteration thereof is planned, and the licensee shall request the modification of the restrictions related to the safety requirement.

(5) Prior to the commissioning of the facility measures shall be taken for the entry in the real estate register of the pipeline right, right of use, founded to enforce the restrictions and prohibitions prescribed in respect of the real properties, which are touched by the safety zone.

(6) In the cases when the easement, pipeline right, right of use may not be entered in the real estate register, the operator shall notify in writing the owner (property manager, user) concerned of the real property of the safety zone, the prescribed restrictions and prohibitions and the alteration thereof, prior to the commissioning, and within 30 days after the alteration.

(7) facilities and materials required for operation, maintenance and repair may be placed and such activities may be carried out within the safety zone.

(8) Mineral oil and natural gas mining facilities, conveying pipelines, distributing pipelines may cross or approach each other, and any other track facility may cross or approach these facilities, if the investor, owner or, upon the commission thereof, the designer, of the crossing, approaching facility provides:

- a*) for the preparation and reconciliation of the required licensing plans and detailed drawings and plans of operation (technological plans),
- b*) for the preparation, execution, and bearing of the costs, of any transformation, required in the existing facilities,
- c*) for the acquisition of the consent of the operator of the crossed or approached facility. The licensing plans or the detailed drawings and operation (technological) plans shall be attached in 3 copies to the application for consent.

(9) Any facility disposing over a valid license of establishment or putting to use or a valid license for area utilization or building permit in the period of the planning of the crossing or approaching facility shall be considered an existing facility for the purposes of subsection (8).

(10) Upon the crossing or approaching of a mineral oil or natural gas mining facility, conveying pipeline or distributing pipeline the operator thereof may subject to conditions the granting of its consent. If professional supervision shall be required for compliance with the conditions, the operator of facilities shall provide for that, and the construction or any other activity may not be commenced without such supervision.

(11) The costs incurred in the interest of the formation of an appropriate safety zone shall charge the investor or owner of the facility licensed later on.

Mine Map

Mining Act Section 33 (1) The mining entrepreneur shall prepare, and complement with the alterations, the maps prescribed in the mining safety regulations, relating to mining and mining facilities (mine map).

(2) After the termination of mining a copy of the mine map shall be handed over to the mining supervision for custody.

Execution Decree Section 20 (1) On the mine map the surface formations, engineering structures, mining facilities, mining operations and borderlines (mining lease, chain pillar, exploration area, internal area, location of mineral resources) shall be represented and authenticated with the standard mapping signs according to the relevant separate regulations.

(2) The authentication of the mine map may be carried out by a certified mine surveyor. The certified mine surveyor shall supervise the mine measurement, and the measurement tasks related to mining operations, mine damages, landscape rehabilitation following mining activity, charging the mining entrepreneur.

(3) The certified mine surveyor shall carry out his professional task on his own, with individual liability, his activity shall be supervised by the mining district authority.

(4) A copy of the mine maps shall be handed over to the mining district authority, as an annex to the technological operation plan.

(5) In compliance with the prescriptions corresponding to the qualification of the map the mining district authority shall allow inspection of the mine map for the interested parties.

(6) The prescriptions relating to the size and contents of the mine map, the requirements and conditions relating to the qualification and professional practice of the certified mine surveyor, as well as the order of registration shall be defined in a separate legal rule.

Safety and Plant Supervision of the Mining and Gas Industrial Activity

Mining Act Section 34 (1) mining activity, as well as the gas industrial activity defined in a separate Act shall be carried out according to safety prescriptions.

(2) The safety regulations shall be published in a separate legal rule.

(3) The mining entrepreneur and the gas industrial licensee shall provide for the availability for the employees of the plant regulations, elaborated for the protection of persons, environment and property, as well as for the control of compliance with the safety regulations and for the supervision of the activity. The plant prescriptions relating to control and to the order of the supervision shall be sent to the mining supervision.

(4) In the plants designated by the mining supervision the mining entrepreneur shall provide for mine rescue service and gas protection service and he shall prepare a plan for the elimination of breakdown and for burst protection. The plan shall be sent to the mining supervision.

(5) The mining entrepreneur shall provide for the preparation of the qualification of the mine from the aspect of the main hazards of mining (hazard of water, hazard of gas outburst, hazard of pit gas, hazard of coal dust explosion, hazard of fire, hazard of dust and hazard of silicosis).

(6) The mining district authority may oblige the mining entrepreneur and the gas industrial licensee, as employer, in a decision, to provide written information on the fulfilment of the indicated requirements of labour safety.

Execution Decree 21 (1) Based on the contents of Section 34 (5) of Mining Act the underground mines shall be qualified from the aspect of all major mine hazards, while the open air mines and the surface facilities of mines shall be qualified from the aspect of the hazard of dust and the hazard of silicosis. A separate legal rule provides for the qualification of underground mines and for the qualification from the aspect of the hazard of radiation of the surface facilities of underground mines qualified as hazardous due to radiation.

(2) Various parts of the mine may receive also different qualifications from the aspect of the same hazard.

(3) The qualification of the mine shall be approved by the mining district authority upon the designation of the mining lease or the judgment of the technological operation plan.

(4) If in the course of mining a new circumstance is perceived or an enlargement is planned, which may affect the qualification of the mine, the mining entrepreneur shall immediately provide for the protection of the persons and the preparation of the new qualification of the mine.

(5) The mining entrepreneur may employ for the performance of certain mining activities, while the organization holding a license for conveyance, storage and distribution operations on the basis of the Act on Natural Gas Supply may employ for the performance of certain gas industrial activities covered by Mining Act, such another person (referred to hereinafter collectively as entrepreneur) who has the professional qualification, practice, conditions, examination, license prescribed by the legal rule for the activity, or employs persons meeting these requirements. The employment of the entrepreneur shall be reported to the mining district authority at least 15 days prior to the commencement of the employment. The cooperation of the entrepreneur shall not affect the employer's liability for the activity covered by Mining Act. The reporting shall not exempt the organization holding a license for conveyance, storage or distribution on the basis of the Gas Supply Act from obtaining a license relating to the use of the entrepreneur, prescribed in a separate legal rule.

(6) Any work may be carried out, any machine, equipment or instrument may be mounted and used, any chemical material may be used in the mine by the application of the rules corresponding to the qualification. Mining supervision shall control compliance with the prescriptions relating to the qualification.

(7) The report under subsection (5) shall contain

a) the name and head office of the mining entrepreneur or operational licensee;

b) the name (description) of the activity planned to be carried out by another entrepreneur;

c) the place of the activity;

d) the name and head office of the entrepreneur wished to be employed;

e) the certification of such entrepreneur's aptitude according to this subsection.

(8) The mining district authority may make an objection against the employment within 8 days of the report under subsection (5).

Serious Accidents and Serious Breakdowns

Mining Act Section 35 (1) The mining entrepreneur shall report any serious accident and serious breakdown without delay to the mining supervision, and if this was caused by water inrush, then also to the authority of water-supply. The order of reporting and examination shall be defined in the mining safety regulation. The scope of serious breakdown shall be defined by the Minister in a decree.

(2) The mining supervision shall investigate the serious accident and serious breakdown. In the course thereof it shall establish the cause of the accident or breakdown and take the measures required for preventing similar cases.

Landscape Rehabilitation

Mining Act Section 36 (1) The mining entrepreneur shall gradually re-cultivate the surface area, the usability of which ceased or was considerably restricted due to mining activity, in accordance with the technological operation plan, and bring thereby such area into a condition suitable for reuse, or shape it adjusted to the natural environment (landscape rehabilitation).

(2) The mining supervision shall make a decision on the tasks required for landscape rehabilitation in the proceeding of approval of the technological operation plan for exploration and exploitation, prepared by the mining entrepreneur, after having heard the interested parties.

(3) After the landscape rehabilitation the owner shall freely dispose of the real properties affected.

(4) The person being the owner of a deep hole drilling serving mining purposes on 31 December 2004 shall be obliged to carry out the landscape rehabilitation tasks related to the deep hole drilling for mining purposes, made prior to the entry into force of the Act. The owner shall carry out the landscape rehabilitation tasks under this subsection in relation to the mining deep hole drillings out of use by 31 December 2014, with the proviso that he shall perform his obligation to re-cultivate the area, to bring it into a condition suitable for reuse and/or to shape it adjusted to the natural environment gradually, in an equal pace regarding the totality of the landscape rehabilitation tasks based on this provision.

Preliminary landscape rehabilitation plan serving as basis for landscaping, to be accepted in the proceeding of mining lease designation, defining the objective of reuse.

It is no requirement according to life experience to define the detailed plan of landscape rehabilitation in a single technological operation plan (to be prepared within 3 years of the designation of the mining lease under the regulation currently in force), elaborated for a long period of mining, covering even several decades from time to time. With regard to the fact that the execution of landscape rehabilitation is in close correlation with mining activity, it is justified to elaborate in, and to execute according to, the technological operation plan the landscape rehabilitation tasks, with regard to the objective of reuse defined in the preliminary plan.

The unambiguous definition of the plan to be prepared by the mining entrepreneur and of the related proceeding justifies the exact designation of the plan.

In accordance with right of disposition over the property it is the owner who has to be named and entitled, instead of the mining entrepreneur, to freely dispose over the real properties concerned, after the landscape rehabilitation.

The provision makes unambiguous the tasks and responsibility related to the restitution of damages to nature incurred prior to 1993, and it lies down that the owner shall be obliged to provide for these tasks of landscape rehabilitation. At the same time, it is necessary to secure a longer period of ten years for the owner, beside the obligation of fulfilment at a permanent pace, due to the high number and considerable demand for time and cost of the landscape rehabilitation tasks belonging to this scope.

Execution Decree Section 22 (1) The landscape rehabilitation tasks shall be designed in the technological operation plan [Section 13 (1)] in accordance with the contents of the preliminary plan for landscape rehabilitation and with the prescriptions of the decision made on the subject-matter of the designation of the mining lease. If the concept included in the preliminary plan for landscape rehabilitation cannot be, fully or partially, realized anymore due to any change in the circumstances, the mining entrepreneur shall initiate the modification of the preliminary plan for landscape rehabilitation, which may take place in the framework of the approval of the technological operation plan.

(2) The chapter of landscape rehabilitation in the technological operation plan shall contain the planned objective of the environment-friendly re-utilization of the surface area affected by mining activity and its surface facilities, or permanently altered due to mining activity, as well as the description and scheduling for the planned period of the tasks required for the implementation.

(4) The mining entrepreneur shall report to the mining district authority the execution of the technological operation plan relating to the termination of exploitation and the closure of a mine, as well as the completion of landscape rehabilitation within 30 days. The mining district authority shall decide on the closure of mine and the execution of the landscape rehabilitation and the termination of mining activity with the involvement of the specialized authorities concerned. After this decision has become non-appealable, the mining district authority shall make a decision on the deletion of the mining lease; in case of a mining lease entered in the real estate register, it shall contact, with the non-appealable decision, the land office competent for the area in order to delete the mining lease from the real estate register.

(5) The mining entrepreneur shall report in writing to the mining district authority any proceeding of compulsory or voluntary liquidation instituted against him, within 8 days. The liquidator shall take measures for the performance of the obligations charging the mining entrepreneur in relation to environmental protection and nature conservation, landscape rehabilitation and mine damage, over and above the contents of a separate legal rule.

(6) If the mining supervision deletes right of mining of the mining entrepreneur in the cases defined in Section 26/A (6) of Mining Act, right of mining existing in the mining lease shall be published, together with the obligations

related to the mine damage, landscape rehabilitation, environmental protection and nature conservation, for the purpose of transfer, by the MBFH, in *Bányászati Közlöny*, on the homepage of the MBFH and, in case of hydrocarbons, also in the Official Journal of the European Union. In case of the transfer of right of mining the provisions set forth in Section 1/C shall apply, with the proviso that the transferor shall be the Hungarian State. The presentations based on the announcement shall be considered applications and they shall be judged in the sequence of their receipt. If right of mining is not transferred to another person within one year of the announcement, the mining supervision shall delete the mining lease ex officio, and it shall take measures for the performance of the remaining obligations to the debit of the security available under Section 41 (7) of Mining Act.

(7) The provisions of legal rules on water shall be governing for the mine ponds, which came into existence in the course of mining activity but remained even after the termination thereof, as well as the bank thereof, along with the contents of the separate legal rule.

(8) In the framework of landscape rehabilitation tasks a decision shall be made on the conditions of the continued existence and utilization of mine ponds affecting the subsurface water resources, in a proceeding defined in Section 36 (2) of Mining Act, on the basis of the position taken by the specialized authorities of water, environmental protection and those defined in a separate legal rule.

Mine Damages

Mining Act Section 37 (1) The mining entrepreneur shall refund the damages defined in subsection (2) (mine damages) according to the provisions set forth in subsections (3) to (5).

(2) The damages incurred in a third party's real property, building, other constituent parts and appurtenances of the real property, caused by mining activity, as well as the damages incurred due to the drainage of water, including the expenses spent on the prevention, reduction and elimination of the damages shall qualify as mine damages. The provisions of the Civil Code shall govern the refund of any other damages caused by mining activity.

(3) No indemnification shall be due for a damage incurred in a building, if the building has been erected on an area reserved for mining or within the borderlines of a mining lease, without a building permit, or by the violation of the conditions prescribed therein in order to prevent the damages.

(4) In the absence of any deviating agreement the mining indemnity shall be paid in cash.

(5) In case of an indemnity having become due the mining entrepreneur shall attempt to make a compromise. In the absence of agreement the mining entrepreneur shall pay an indemnity supported by an expert opinion to the injured party, within 30 days of the due date of the indemnity.

(6) The injured party may enforce its claim for indemnity having become due but not performed within the prescribed deadline, as well as his claim for excess indemnity exceeding the indemnity already paid but in the framework of a civil proceeding instituted against the mining entrepreneur.

(7) Any disadvantage occurred in the proper use of a real property based on a mining facility, which has been placed on the basis of easement or expropriation [Section 38 (3) and (4)] shall be no mine damage. The indemnity due for being hindered or other disadvantage (e.g. reduction in the market value of the real property) shall be established for the owner (manager, user) of the real property upon the foundation of easement or in the proceeding of expropriation.

BH2002. 8. *Trespass realized through mining, which is carried out legally [Section 98, Section 188 (1) and (2), Section 192 (3) of the Civil Code, Section 2, Section 7 (1), Section 37 (2), Section 38 of Act XLVIII of 1993].*

Restriction of Surface Real Property Ownership

Mining Act Section 38 (1) The owner (manager, user) of a real property shall tolerate that the mining entrepreneur or the organization entitled to geological exploration should carry out observations and measurements, place signs or establish conduits under or above the surface of the real property, in a manner, which does not prevent the proper use of the real property. The mining entrepreneur and the organization entitled to geological exploration shall refund the damages caused by such activities according to the rules relating to mine damages.

(2) The control, the performance of the works required for maintenance and repair of the conduits and its appurtenances from case to case, as well as the seismic explosion and recoding shall be considered to be activities under subsection (1).

(3) In the absence of agreement the mining entrepreneur may claim the foundation of an easement for the use of the real property, for the performance of construction and exploration, until the termination thereof, in order to place mining facilities, conveying pipelines, equipment required for exploration operations, hindering the proper use of the real property. The damage caused thereby shall be refunded according to the rules relating to mine damage. The mining entrepreneur may claim the foundation of easement against payment of indemnity payable to the owner of the real property, for the period of time of the operation of mining facilities and conveying pipelines, including the activity involved by the termination of the operation, hindering the proper use of the real property. The mining entrepreneur may claim the foundation of an easement against indemnity payable to the owner of the real property, to the extent of the safety zone, in order to place and operate the tools required for the proper operation of facilities covered by the Act, particularly means of power supply, data transmission and cathode protection (hereinafter: mining cables), pipelines and other tools serving technological purposes.

(4) On the basis of the easement the mining entrepreneur shall be entitled to use the real property to the extent required for the performance of the activity, particularly for executing the measures required for control, repair, maintenance, preservation and enlargement of capacity, operation, maintenance of safety, prevention and elimination of breakdown.

(5) The damage caused in the course of the use of the real property shall be refunded according to the rules relating to mine damages. The damage incurred in the real property shall be refunded in accordance with the restriction under the easement. The mining entrepreneur shall attempt to conclude a compromise with the owner (property manager, user) of the real property through sending an offer on the foundation of the easement and the method and extent of the indemnity. In the absence of agreement the foundation of easement and the indemnity due for it shall be established by the administration office at the request of the mining entrepreneur. The rules of the proceeding of expropriation shall apply to the proceeding directed to the foundation of easement; the costs incurred in the proceeding shall be borne by the applicant. No appeal shall lie in the administrative way against the decision of the administration office. The party finding injurious the indemnity may request the alteration of the decision ordering the foundation of easement from the court, within 30 days of the receipt of the decision. Right based on an agreement or on an official decision shall be judged equally in the course of the application of the provisions set forth in Sections 108 and 171 of the Civil Code and in Section 16 (f) of Act CXLI of 1997 on Real Estate Registration.

(6) If the mining facilities planned to be placed put an end to or considerably hinder the proper use of the real property, furthermore, if the mining entrepreneur is permanently in need of the real property for mining activity, he may initiate the purchase of the real property or the acquisition of the manager's right, and if this is unsuccessful, he may request the expropriation of the real property. This right shall also be due to the owner (manager) of the real property, if in his judgment mining facility placed there put an end to or hinders considerably the proper use of the real property. The owner (manager) of the real property may submit his claim within 1 year reckoned from the placement of the facility.

(7) The expenses (indemnity, procedural costs, etc.) incurred in connection with the expropriation undertaken in the concession contract or becoming necessary in the course of licensing shall be borne by the mining entrepreneur. The mining entrepreneur shall advance the amount of the expenses for the organ entrusted with conducting the proceeding of expropriation. During the period of right of mining the mining entrepreneur shall be entitled to rights relating to the possession and free-of-charge use of the real estate, which has been expropriated.

EBH2004. 1167. *An application for the foundation of mining easement may not be rejected, alleging that the construction of the gas conveying pipeline was contrary to the rules. The mining supervision shall be entitled to apply the legal consequences of establishment contrary to the rules, therefore the authority deciding on the foundation of mining easement may not sanction the construction contrary to the rules in the framework of its own proceeding [Section 38 (3), Section 31 (1) of Act XLVIII of 1993; Section 10 (2) of Government Decree No. 203/1998 (XII.19.)].*

BH2002. 416. *It is required that the obliged of the easement shall participate in the lawsuit, which has been instituted for the revision of the administrative decision made on indemnity, which has been established due to the foundation of mining easement [Section 171 (1) of the Civil Code, Section 4 (1) and (2), Section 15 of Act XLI of*

1994; Section 19 (2) of Law-Decree 26 of 1976; Section 38 (3) of Act XLVIII of 1993; Section 65 (2) of Decree No. 1/1977 (IV.6.) NIM; Section 96 (2), Section 125 (1) of the Code of Civil Proceedings]

BH2002. 8. *Trespass realized by mining carried out legally [Section 98, Section 188 (1) and (2), Section 192 (3) of the Civil Code; Section 2, Section 7 (1), Section 37 (2), Section 38 of Act XLVIII of 1993].*

BH2001. 198. *The easement founded for the placement of the facility, to be certified within the scope of the entitlement to construction, shall be required for granting a license for the establishment of a gas pipeline. Suspension of a lawsuit instituted for the repealing of the decision granting license for the construction of gas conveying pipeline until the non-appealable termination of the proceeding directed to the foundation of mining easement. [Section 31 (1), Section 38 (3) of Act XLVIII of 1993; Section 35 (9) of Government Decree No. 203/1998. (XII. 19.); 4/1979. (NIM É. 23.) OBF Szab.]*

Execution Decree Section 23 (1) The mining entrepreneur or the organization entitled to geological exploration shall notify the owner (manager, user) of the real property in advance, at least eight days prior to commencing the activity mentioned in Section 38 (1) and (2) of Mining Act. The obligation of notification shall not exist if the mining entrepreneur or the organization entitled to geological exploration is entitled to the use of the real property.

(2) The provisions of Section 38 of Mining Act shall also apply to the aerial conveyors serving mining purposes, as well as to the transformer equipment and switchgears belonging to the conduits.

(3) If several entrepreneurs are responsible for facilities covered by Mining Act in the safety zone and the safety zone and the easement are not divided between them, the entrepreneurs shall be jointly and severally entitled to protect facilities and obliged to refund the damages caused. The joint and several obligation or right shall not affect the contents of the easement and the extent of the restriction. Section 346 of the Civil Code shall apply to the liability of the entrepreneurs against each other.

(4) The contents of subsection (3) shall apply to facilities constructed after 1 January 2004, covered by the Act, if

- a) they have been constructed according to the rules and
- b) they became from an appurtenance into a main thing.

(5) If the owner of the real property fails to make a declaration to the offer of purchase, lease or foundation of easement sent according to the rules, within 15 days, the mining entrepreneur may initiate the institution of the proceeding of expropriation or easement. If the owner of the real property cannot be found at his residential address recorded in the real estate register or elsewhere, his residential address cannot be searched, the mining entrepreneur may request the appointment of an ad hoc curator.

(6) The mining entrepreneur may be obliged by the mining supervision to the foundation of easement in the extent of the safety zone. During the period of the existence of the safety zone the mining entrepreneur shall be entitled to found an easement.

(7) The prohibition of the foundation of any easement defined in Section 32 (5) of Mining Act shall apply to the area

a) of public road and engineering structures and appurtenances forming part of the public road network under Section 32 (1) of Act I of 1988, in case of a public road,

b) of the railway track of public transport and the appurtenances thereof [defined in Section 15 (a) to (d) of Act XCV of 1993] under Section 2 (3) of Act XCV of 1993, in case of railways,

c) of the channel defined in paragraph 3 of Schedule No. 1 to Act LVII of 1995 in case of a channel,

d) of the bed and protective structures of watercourse defined in Section 23 (1) of, and in paragraph 21 of Schedule No. 1 to, Act LVII of 1995 in case of fresh waters.

if the owner of the bed, the protective structure and the safety zone located between them is identical, the restriction shall also apply to the intermediate area.

Mining Act Section 38/A (1) The distribution licensee and the owner of the distributing pipeline, as well as the supplier of pipeline propane and butane gases under the separate Act on Gas Supply (referred hereinafter collectively as licensee) may request

- a) a right to preliminary work,
- b) a conduit right,
- c) a right of use, or
- d) expropriation

for the usage of the third party's real property.

(2) The licensee shall refund the damage caused to the owner, user (referred to hereinafter collectively as owner) of the real property in the course of exercising rights defined in subsection (1)

- a) by the placement of signs, the measurements and examinations,

b) by the placement of or access to facilities and the performance of work thereon,

c) by hindering (restricting) the use of the real property and by the reduction of the market value thereof.

(3) Rights listed in subsection (1) may be exercised in other excluded areas exclusively with the preliminary consent of the obliged of the excluded area.

(4) In case of the termination of rights under subsection (1) the licensee or the owner of the distributing pipeline shall restore the original condition of the real property.

(5) Right to preliminary work and the conduit right, furthermore, in the absence of agreement, right of use shall be licensed by the mining supervision, while the proceeding of expropriation shall be conducted by the organ defined in a separate legal rule.

(6) The detailed rules relating to the contents, licensing, termination of rights relating to the restriction of the surface real property and to the indemnity shall be established by the Government in a decree.

Right to Preliminary Work

Mining Act Section 38/B (1) In connection with the construction of a gas distributing pipeline (hereinafter: distributing pipeline) the licensee or the owner of the distributing pipeline may request the licensing of right to preliminary work.

(2) On the basis of right to preliminary work the owner of the real property shall tolerate, against indemnity, that the necessary signs shall be placed and the measurements and soil tests shall be carried out on his real estate. Prior to the commencement of the works the owner of the real estate shall be notified.

Right of Conduit

Mining Act Section 38/C (1) A right of conduit may be licensed for the benefit of the licensee or the owner of the distributing pipeline against indemnity, to the extent of the safety zone, for the placement and operation of the distributing pipeline on a third party's real property, if this does not hinder materially the use of the real property. There is no need to establish a right of conduit for the distributing pipeline established in the public domain and for the safety zone thereof touching a third party's real property. In case of the construction of a structure in this zone the construction authority may oblige the licensee of distributing pipeline to diminish the safety zone, if this is justified by the nature of the use of the structure.

(2) The distributing pipeline may be placed and operated also with the consent of the owner of the real property. The owner's consent shall generate rights and obligations identical with those relating to right of conduit, as established in the Act. The owner's consent may not be revoked.

(3) Based on right of conduit the licensee or the operator of the distributing pipeline may, on the third party's real property,

a) place and operate the distributing pipeline together with the fittings belonging thereto,

b) maintain, repair, transform and remove facilities placed,

c) remove the trees, bushes and the branches and routes thereof, to be found along the pipeline and damaging the safety zone,

d) approach and cross any track facilities, rivers, watercourses, lakes, channels and structures in the manner defined in a decree issued by the Minister jointly with the minister responsible for water economy, as well as with the minister responsible for information and electronic telecommunication

(4) The licensee, as well as the owner of the distributing pipeline shall request the entry of right of conduit in the real estate register. Right of conduit shall be due to the licensee or owner from time to time of the gas distributing pipeline and it shall charge the owner from time to time of the real property. Right of conduit may be exercised, on the basis of a non-appealable administrative decision or the consent of the owner, even prior to the registration.

(5) Right of conduit shall terminate, if the licensee or the owner of the distributing pipeline does not construct, within five years of the licensing, facilities defined in subsection (3) *a)*, or removes them definitively.

(6) In case of the termination of right of conduit the deletion from the real estate register shall be requested by the licensee or by the owner of the distributing pipeline, in case of defaulting such obligation also the owner of the real estate shall be entitled to request it, at the cost of the licensee or the owner of the distributing pipeline. The ex-holder of right of conduit shall issue the declaration, required for the fulfilment of the application for deletion submitted by the owner of the real property.

Right of Use

Mining Act Section 38/D (1) Gas receiving stations, measurement stations, district or individual pressure control stations belonging to the distributing pipeline, in the case of the supply of conduit propane and butane gases any containers and reservoirs serving the storage of the propane and butane gases and the mixtures thereof may be established, placed, operated, repaired and maintained on a third party's real property on the basis of a right of use.

(2) Right of use shall come into existence on the basis of an agreement concluded with the owner of the real property.

(3) The licensee or the owner of the distributing pipeline may request the mining supervision to establish right of use relating to the use of a real property, if no right of use can be established in the absence of agreement.

(4) The licensee, or the owner of the distributing pipeline, shall request to enter right of use in the real estate register. Right of use shall be due to the licensee or to the owner from time to time of the distributing pipeline, and it shall charge the owner from time to time of the real property. Any delay in the entry shall not affect the exercise of right.

(5) Right of use shall terminate if the licensee, or the owner of the distributing pipeline fails to construct the equipment defined in subsection (1) on the real property encumbered by right of use within five years of the coming into existence of right, or removes it definitively. Right of use shall also terminate by the agreement of the parties.

(6) In case of the termination of right of use the licensee, or the owner of the distributing pipeline shall request the deletion of right of use from the real estate register; in case of defaulting such obligation also the owner of the real property shall be entitled to request it at the cost of the licensee or the owner of the distributing pipeline. The ex-holder of right of use shall issue the declaration required for the fulfilment of the application for deletion submitted by the owner of the real estate.

Expropriation

Mining Act Section 38/E (1) The licensee or the owner of the distributing pipeline may initiate expropriation proceedings for the purpose of the placement and operation of a gas receiving station, measurement station and district or individual gas pressure control station, propane, butane gas reservoir or container only in the event if the parties were unable to agree on right of use defined in Section 38/D or if this was not licensed by the mining supervision due to the termination or material hindering of the proper use of the real property.

(2) The real property expropriated under subsection (1) shall be transferred to the ownership of the state or the local government and to the free-of-charge use of the licensee or the owner of the distributing pipeline.

Rights Related to Natural Gas Target Pipelines

Mining Act Section 38/F. The provisions of the Civil Code shall apply to the foundation, subsistence and termination of rights, encumbering a third party's real property, related to the construction and operation of target pipelines.

Execution Decree Section 23/A (1) The date of the foundation of the easement shall be governing upon the establishment of the indemnity due because of the hindering of the proper use of the real estate – unless the hindering has not come into existence earlier –, in case of an easement founded for the operation of facilities covered by Mining Act.

(2) Upon the establishment of the market value the data of the real estate market shall be taken into consideration. In the absence of data of the real estate market the value of the real property shall be established on the basis of the characteristics of use (particularly the actual use, yield, and value upon purchase by the state).

(3) The rate of indemnity shall be defined on the basis of the actual damage incurred due to the verified restriction of use, at the date under subsection (1).

(4) The application for the entry of the easement in the real estate register shall be submitted by the mining entrepreneur to the competent land office. After the termination of the real property use involving the hindering the mining entrepreneur shall have the easement deleted from the real estate register.

(5) The absence of entry in the real estate register may not hinder the exercise of the mining easement based on agreement or an authority's decision.

(6) The owner (manager, user) of the real property shall handle carefully the mining facilities and measurement signs placed on the real property.

(7) The real property expropriated for the benefit of the state on the basis of Section 38 (4) of Mining Act shall be owned by the Treasury under a separate Act.

(8) The Treasury Property Directorate shall initiate, with the land office, the entry of the ownership title to the real property expropriated for the benefit of the state, as well as of right of use due to the mining entrepreneur under Section 38 (5) of Mining Act in the real estate register.

(9) The mining entrepreneur shall advance the amount of the expenses even in the case if the expropriation of the real property was requested by the owner of the real property, because mining facility placed on his real property had put an end to or seriously hindered the proper use of the real property.

Execution Decree Section 23/B (1) The licensee according to Section 38/A (1) of Mining Act (hereinafter: licensee) and the owner, user of the third party's real property (referred to hereinafter collectively as real property owner) shall agree on the amount of the indemnity payable for the reduction of the value of the real property, for the damage incurred therein or for the expropriated real property in the course of the exercise of rights defined in Sections 38/A to 38/F of Mining Act. In the absence of agreement the licensee may only commence the works set forth in the license, if he has handed over the amount of indemnity for the damage included in the expert opinion prepared at his cost to the real property owner, or if he places that into judicial deposit for the owner's benefit, according to the provisions of a separate legal rule on the deposits handled at the courts, and informs thereon the real property owner.

(2) If the licensee fails to pay to the owner of the real property the damage and amount of indemnity related to the work performed on the basis of rights under Section 38/A (1) of Mining Act or to the non-performance or inappropriate performance of the obligation of restitution under Section 38 (4) of Mining Act or if the amount offered by him and not taken over by the real property owner or placed into judicial deposit does not cover the damage, the damaged party may enforce his further claims in the course of court proceedings.

(3) If the owner of the real property does not agree with the amount of indemnity in case of expropriation, he may enforce his further claims according to legal rules on expropriation.

Execution Decree 23/C (1) The licensee shall prepare the technical prescriptions, layout plans and time schedule to be attached to the application for right to preliminary work with the contents, in the size and in the number of copies according to Schedule No. 2.

(2) On the basis of right to preliminary work the licensee or his agent shall be entitled, against indemnity, to carry out an on-site visit on the real property owned or used by a third party, to place signs, to carry out measurements and soil tests, which are required for the placement of a gas distributing pipeline (hereinafter: distributing pipeline), within one year of the licensing. The obligee of right to preliminary work shall notify the owner of the real property of the commencement of the work that may be carried out on the basis of right to preliminary work 15 days in advance. The period of validity of right to preliminary work may be extended at request, on one occasion, by further one year.

Execution Decree Section 23/D (1) A preparatory proceeding shall be conducted prior to the submission to the mining supervision of the application for licensing right of conduit. The preparatory proceeding shall be conducted by the licensee, or on the basis of his commission, by the designer.

(2) Prior to the preparatory proceeding the licensee shall prepare a technological operation plan, which shall contain, among other things, the track of the distributing pipeline, as well as the size of the area occupied by the distributing pipeline (and its appurtenances), and the safety zone thereof. The connection points of the conduits connected to the distributing pipeline and the consumer's plot borderline shall be indicated in the technological operation plan.

(3) In the course of the preparatory proceeding attention shall be paid to the ideas of town planning having material importance from the aspect of the protection of the settlement, settlement environment and architectural heritage touched by the distributing pipeline, to the promotion of the workmanlike elaboration of the architectural plans, as well as to the objectives of town planning, architectural-technical shaping of environment and other important architectural objectives, as well as to the harmonized enforcement of the relevant legal rules, and to the real property owner's medium-term plans concerning his real property.

(4) Upon the conduction of the preparatory proceeding the protection, renewal of the settlement part having an importance from the aspect of history or the view of the settlement, deserving conservation, and that of the architectural heritage, as well as the view of the valuable structures and landscape details shall be ensured.

Execution Decree Section 23/E (1) After the preparatory proceeding an on-site inspection shall be conducted, which shall be organized by the licensee. The mining district authority, the owners of the real properties touched by right of conduit, the specialized authorities concerned, listed in Schedule No. 1, as well as the operators of the public utilities concerned shall be invited to the on-site inspection at least 8 days prior to the scheduled date of the inspection. Simultaneously with the invitation also the licensing documentation relating to right of conduit, defined in Schedule No. 2, shall be sent to the specialized authorities concerned and to the operators of the public utilities concerned.

(2)

(3) The specialized authority shall be obliged to take a position in respect of the specialized authority's consent, while the operators of public utilities shall be obliged to take a position in respect of their areas of interestedness within 30 days of the on-site inspection and to communicate such position to the mining district authority and to the applicant.

(4) If the specialized authority makes its consent subject to deviation from the technical prescriptions or the national standards or makes an individual prescription compulsory to the charge of the licensee, furthermore, if it refuses its consent, it shall reason its position.

Execution Decree Section 23/F (1) The size of safety zone of the distributing pipeline shall be defined in the license of right of conduit.

(2) A separate legal rule shall regulate licensing of the distribution conduit by building authority (establishment) and the licensing of its putting to use.

(3) The licensee shall refund the damage caused by its activity set forth in Section 38/C (3) of Mining Act, based on right of conduit, according to provisions of Section 23/B.

(4) If the licensee removes, making use of his entitlement under Section 38/C (3) c) of Mining Act, trees, bushes, the branches and roots thereof, and the owner of the real property does not claim them, the licensee shall remove them from the real property at its own expense.

(5) In the case of crosscut of a wood and afforested area required on purpose of constructing a distributing pipeline, felling of trees, removal and utilization thereof shall be the right and obligation of the owner of the wood or afforested area, on the basis of an agreement. If the owner fails to perform his obligation defined herein in spite of a notice by the licensee, the licensee may fell the trees at the expense of the owner, and in such case timber shall be due to the owner.

Execution Decree Section 23/G (1) Mining supervision shall communicate the decision licensing right of conduit to the real property owners concerned, to the holder of right of conduit, to the specialized authorities participating in the proceeding and to the operators of the public utilities concerned.

(2) Based on right of conduit the licensee may construct the distributing pipeline, as defined in the license of establishment and put it to use and operate it on the basis of his/her approved system of quality assurance. The licensee shall inform the owner of the real property and the clerk of the local government of the settlement on the commencement of the works of establishment at least 8 days in advance and on the completion thereof within 8 days.

Execution Decree Section 23/H. The owner of the real property may request the licensee to remove, transform or relocate the distributing pipeline and the appurtenances thereof, if the technical conditions are given, if they do not result in a material disadvantage in the operation of the distributing pipeline (system) and he agrees to pay the relevant costs.

Execution Decree Section 23/I. The licensee and the real property owner shall agree on the foundation of a right of use. In the absence of agreement the licensee may request from the mining supervision the foundation of a right of use. The contents of Sections 23/D to 23/H shall apply, *mutatis mutandis*, to the foundation of right of use, otherwise Sections 108 and 171 of the Civil Code shall be governing. There is no need to found a right of use, if the facility shall be placed in public domain, as part of a distributing pipeline.

Prohibition and Restrictions of Construction

Mining Act Section 39 (1) Within the deadline set in Section 26/B (1) the mining entrepreneur may request from the mining supervision to initiate, with the competent construction authority, the ordering of a prohibition of construction and plotting for the real property located within the borderlines of the mining lease, which has been designated for deep mining or open air mining. The mining entrepreneur shall refund

the damages resulting from mining activity to the owner (property manager, user) of the real property. The mining entrepreneur may not request the initiation of ordering the prohibition of construction and plotting, if the mining lease has not been entered in the real estate register.

(2) The mining entrepreneur shall be involved as party in each proceeding of construction or plotting affecting the mining lease or the safety zone. If the mining entrepreneur initiates the prescription of conditions for the construction or plotting, which aim expressly the avoidance of disadvantages caused by mining, he shall refund the damages resulting from mining activity, not yet refunded, to the owner (property manager, user) of the real property.

(3) The areas containing registered mineral raw materials shall be taken into consideration upon the elaboration of the regional regulation plans and means of town planning, by contacting the mining supervision. Upon the proposal of mining supervision restrictions of area use and construction restrictions may be put into force on the area of the designated mining lease, in the regulation plans.

BH1997. 561. *The construction authority shall participate as a specialized authority in the proceeding relating to the designation of mining lease [Section 7 (2) and Section 26 (1) of Act III of 1964, Section 26 (3) and (5), Section 39 (3) of Act XLVIII of 1993].*

Execution Decree Section 24 (1) In case of the division of a real property located in the safety zone the easement, right of conduit and right of use, relating to the safety zone according to the division shall be enforced. The layout plan of division shall be caused to be countersigned by the obligee. The obligee may not refuse to countersign.

(2) After the termination of mining activity the prohibition or restriction of construction, ordered on the basis of the provisions set forth in Section 39 (2) of Mining Act may be repealed, if the mining district authority has contacted the competent land office for deleting the mining lease from the real estate register.

Mining Act Section 40 §

Fines, Measures and Securities

Mining Act Section 41 (1) The mining supervision may inflict a fine to, and prohibit from the continuance of the activity, the legal entity or natural person or business association having no legal personality, who/which carries out or has any mining activity carried out without authorization. In the event that the suspicion of the misappropriation of mineral raw materials arises in the course of the examination of the illegal mining activity, the mining supervision shall initiate penal proceedings. mining activity is carried out illegally by the party, who

a) carries out the surface exploration under Section 4 by omitting the compulsory reporting,
b) carries out the exploration or exploitation of mineral raw materials without mining concession or the license of the mining authority,
c) exploits mineral raw materials without the authority's license prescribed in a separate legal rule or in the course of activities deviating from such license.

(2) If the mining entrepreneur carries out Mining activity contrary to the rules or in a manner deviating from the license, the mining supervision may inflict a fine to the mining entrepreneur, it may suspend the continuance of his activity, it may withdraw the license or initiate the termination of the concession contract or it may order the restitution of the original state, or, if this is not possible any more, the landscape rehabilitation.

(3) Mining activity is exercised contrary to the rules by the mining entrepreneur, who exercises it
a) without, or in deviation from, a technological operation plan or plan of exploration,
b) in violation of the rules prescribed in Part III of the Act, or
c) performing erroneously, belatedly, or defaulting his obligation of reporting, self-assessment or payment relating to the establishment of the mining royalty, prescribed in a legal rule.

(4) The mining supervision may inflict a fine to, and prohibit from the continuance of the activity, the natural person or legal entity or business association having no legal personality, who/which carries out without a license any gas industrial activity covered by a separate legal rule, subject to the official license issued by the mining supervision (storage, distribution through pipeline, conveyance of natural gas, conveyance through pipeline of other gases, distribution through pipeline and sales in container or bottle of liquid propane-butane gases and the mixtures thereof) without a license.

(5) The mining supervision may inflict a fine to, suspend the activities of, and withdraw the license of, the licensee entitled to carry out the gas industrial activity defined in subsection (4), who exercises his activity in a manner deviating from the prescriptions set forth in the legal rule or in the license. In the event that a measure affects a natural gas industrial activity covered by a separate Act, the mining supervision shall notify the Hungarian Energy Office of the proposed measures.

(6) The fine may be inflicted repeatedly.

(7) The Minister may, in the concession contract, on the basis of the offer of the mining entrepreneur, while the mining supervision may, in the license, prescribe the conclusion of an insurance contract or the supply of security for the financial cover of the performance of the obligations charging the mining entrepreneur, particularly the obligation to refund the mine damages and of landscape rehabilitation. If the mining entrepreneur fails to meet this obligation by the said deadline, the mining supervision may suspend the commencement or continuance of mining activity until the performance of the obligation.

(8) The unpaid mining royalty, fine and supervision fee, as well as the default interest thereof shall be collected in the manner of taxes.

(9) If in the course of the proceedings set forth in subsections (4) and (5) the mining supervision finds that the matter is also within the authority of another administrative organ, it shall notify the authority having competence without delay. If the mining supervision finds the lack of its competence, it shall transfer the matter to the competent authority without delay.

Execution Decree Section 25 (1) The upper limit of the fine based on the provisions of Section 41 of Mining Act shall be HUF 3 million. If the obligor fails to put an end to the illegal condition serving as basis for the infliction of the fine by the deadline, or he commits the infringement repeatedly, the fine may be inflicted even repeatedly. The upper limit of the repeated fine shall be HUF 10 million. When establishing the rate of the fine:

- the conscious nature and direct objective of the illegal conduct,
 - the jeopardizing nature of the illegal conduct,
 - the extent of the disadvantage caused by the illegal conduct,
 - the repetition of the infringement
- shall be taken into consideration.

(2) In the course of the investigation of the illegal mining activity or activity contrary to the rules, the mining district authority may order, at the expense of the party carrying out the activity, the geodetic measurement of the site of exploitation and the definition of the quantity of the exploited mineral raw materials with the involvement of a geological expert.

(3) The mining district authority shall send to the land office competent for the area the decision ordering the restitution of the original state of the real property, in case of mining activity contrary to the rules.

(4) The amount of the fines received shall be due to the MBFH. 60% of the amount of the fines shall be spent on safety and labour safety researches and the implementation thereof, on searching for and conservation of mining souvenirs important for industrial history, on fostering the professional traditions of mining, on the support of the mining literature and on providing for the conditions required for such activities, as well as on the support of the operation of the industrial museums having a nationwide scope of collection in mining. The President of the MBFH shall decide on the utilization of the fines.

(5) The mining district authority may order the supply of a security serving the performance of the obligations charging the mining entrepreneur – save for the case of concession contract –, in the framework of the proceeding instituted for the transfer of the mining right or the approval of the technological operation plan, furthermore, on the basis of the revision of the technological operation plan. To establish the rate of security the mining district authority may oblige the mining entrepreneur to prepare and submit a cost plan. Prior to making the decision prescribing the supply of security the mining entrepreneur's offer relating to the supply of security shall be requested.

(6) The coverage agreement concluded by the mining entrepreneur for this purpose with a credit institution or insurance company, the bank guarantee, mortgage, pledge, agreement on the assumption of debt, the earmarked reserve created under a separate legal rule or a cash deposit blocked with a credit institution for this purpose on a permanent basis may serve as security set forth in subsection (5). For the utilization of the cash deposit the consent of the mining supervision shall be required, and such condition shall also be stipulated in the contract entered into with the financial institution. The mining supervision may take a measure in a decision of execution to the debit of a cash deposit.

(7) The mining supervision shall contact the taxation authority for the collection of the non-paid mining royalties, fines and supervision fees, as well as the default interest thereof.

(8) The mining district authority shall notify the competent clerk, as well as the authority of first instance of environmental protection, nature conservation, water, protection of cultural heritage and soil protection, of the proceeding instituted ex officio in the matter of illegal mining activity.

Executive Decree 25/A. § (1) Bank guarantees can be acceptable as financial guarantee if:

a) it covers the amount of fee defined by Executive Decree 22/B.§ (8) and validated for the period of exploration required, and the Bank supplying the financial guarantee can fulfil the provision defined by Executive Decree 22/B. § (8)

b) in an official document the Bank undertakes to fulfil its obligation of payment towards MBFH within 3 days after the notice of MBFH, without making conditions.

(2) The bank guarantee cannot be accepted if an exceptional action – defined in Act 1996 CXII. 157. § in accordance with credit banks and financial enterprises - is taken against the bank that provided the guarantee or over-guarantee.

(3) bank guarantee shall include:

a) name and account number of the bank providing the guarantee

b) in the case of a bank providing the guarantee yet has not represented in EFTA, the name and bank account number of the credit bank that provides over-guarantee shall be given,

c) the name, address, bank-account number and tax number of the client,

d) the amount of guarantee with figures and writing,

e) the starting and ending times of the guarantee,

f) statement of taking responsibility according to (1) b) and c),

(4) in the case of hydrocarbon exploration that is obliged for providing financial guarantee, if the amount of guarantee does not reach the amount defined by Executive Decree 22.§ A. (8), it shall be completed to the amount stipulated by law within thirty days,

(5) financial guarantee shall be recorded and kept in register by mining supervision so that it shall be proper to establish:

a) the entity obliged for taking responsibility of financial guarantee, with all his data needed to identification, his legal council or representative,

b) the exploration activity in accordance with the licensee,

c) the amount of guarantee and its way,

d) the official documents of the credit bank that gives financial guarantee, furthermore the official documents of giving a loan

e) withdrawing, appropriation, assertion and completion of the financial guarantee,

f) the amount of available fund, detailed by the times of overdue.

Closure of Mine, Abandonment of Field

Mining Act Section 42 (1) In the course of judging the technological operation plan [Section 27 (4)] elaborated for the closure of mine, for the abandonment of hydrocarbon field upon the termination of exploitation also the opportunities for the utilization for other purposes of the underground workings and other facilities, usable for public purposes, of the closed mine or of the abandoned hydrocarbon field shall be examined. In the course thereof attention shall be paid to the utilization and liquidation of waste heap(s).

(2) The underground mine working, which shall not be utilized, may be abandoned in a condition that it should not involve any hazard for the environment and the surface.

(3) The mining supervision shall license the technological operation plan prepared for the utilization for other purposes of the underground mine workings and other mining facilities, taking into consideration the expert opinions of the interested organ of geological cases, and the mining supervision shall control the execution thereof.

(4) Based on the consent of the local government, the mining supervision shall take measures, in its license defined in subsection (3), for the elimination or further operation in public interest of facilities serving public utility water supply.

Execution Decree Section 26 (1) The closure, (termination) of a mine, the abandonment of a field, and the completion of a landscape rehabilitation may be planned in a technological operation plan prepared for exploitation [Section 14 (3)], or in a technological operation plan prepared for this specific purpose.

(2) The technological operation plan prepared for the closure (termination) of a mine, for the abandonment of a field shall contain:

- a) the examination of the impact exercised by the closure of mine or the abandonment of field on the environment;
- b) the technical-safety measures serving the conservation of the surface, as well as of the subsurface waters and the natural values;
- c) the measures planned for the completion of landscape rehabilitation and the scheduling thereof;
- d) the description of mining facilities, equipment and underground mine workings suitable for other utilization;
- e) the description of facilities and equipment planned to be terminated, demolished in the course of the closure (termination) of mine, abandonment of field;
- f) the time schedule relating to the prevention, elimination, mitigation, refund of mine damages still anticipated after the closure (termination) of mine, abandonment of field, as well as relating to the execution of the obligations of nature conservation, environmental protection and water protection, as well as the definition of any possible required monitoring system;
- g) the proposal prepared for the termination or further operation in public interest of facilities serving public utility water supply;
- h) the measures related to the utilization or disposal of waste heaps;
- i) the list of, and the proposal relating to, the custody of the equipment and documents having importance for industrial history, which became superfluous.

(3) In the plan a proposal shall be given for the utilization for other purposes, which shall not pose any hazard to the environment, and the scheduling of the tasks prescribed in subsection (2) *e* to *h*) shall be given. The list prescribed in paragraph *i*) shall be sent and offered free of charge to the industrial museums having a nationwide scope of collection in mining.

(4) The following shall be attached to the technological operation plan:

- a) the list of documents of mining geology;
- b) a statement prepared on the residual mineral raw materials [Section 25 (2) of Mining Act];
- c) the technological operation plan prepared for the utilization for other purposes of the underground mine workings and other mining facilities;
- d) the mine map reflecting the status upon termination of the mine;
- e) the map of environmental protection;
- f) the environmental license prescribed in a separate legal rule.

(5) Upon the judgment of the technological operation plan prepared for the closure (termination) of a mine, abandonment of a field at the end of exploitation, as well as of the reports on the abandonment, demolition of the mining facilities [Section 18 (4)] the mining district authority shall examine the possibility of preservation of the machines, equipment, facilities and documents important for the industrial history, having become superfluous.

(6) Upon the sales of the tangible souvenirs disclosed, having importance for the industrial history, the museums founded for the collection of mining souvenirs and the custody thereof shall be entitled to right of pre-emption.

(7) Over and above the conditions defined in a separate legal rule, the utilization for other purposes of the workings, remaining open, of the terminated underground mine may be licensed by the competent authority, if

- a) the mining entrepreneur has executed his obligations prescribed in the technological operation plan of the closure of mine, in connection with the mine workings affected by the utilization for other purposes;
- b) the mining entrepreneur has refunded the mine damage caused by mining activity and restored the damage to environment or nature, unless these were assumed by the utilizer;
- c) the utilizer supplies a security to cover the refund of the mine damages, which may occur in connection with the mine workings remaining open.

(8) The mining supervision shall license the abandonment of the underground mine workings utilized for other purposes. The technological operation plan relating to the abandonment of underground mine workings shall be attached to the application for license.

(9) In the event of hydrocarbon fields, field parts, where an exploitable mineral raw material is still existing, but exploitation thereof is not profitable under the given conditions, the mining entrepreneur may initiate the securing, conservation of the possibility of the resumption of exploitation of the field, by placing into safety the subsurface and surface facilities, in lieu of the abandonment of the field.

PART IV
STATE SUPERVISION OF MINING
MINING SUPERVISION

Mining Act Section 43 (1) The tasks of direction and official administration of mining shall be provided by mining supervision.

(2) The responsibility of the mining supervision shall be to protect, in the course of the performance of the activities subject to its supervision (Sections 44 to 46), the employees' life, corporeal integrity and health, to control compliance with the rules relating to mineral resource management, environmental and landscape protection and nature conservation, as well as to technical safety and fire protection.

(3) The mining supervision shall exercise, in the framework of its official supervision, powers of technical safety, labour safety, construction authority, construction supervision, mineral resource management and market supervision, defined in the Act and in separate legal rules. The authority of fire protection organ of the mining supervision shall cover the underground part, as well as the open-air part subject to the same consideration, of the mines.

(7) Mining supervision shall make preparations for the Minister's decisions related to mining resource management and concession contracts, furthermore, for the safety regulations of mining and gas industry included in Section 34 (2), and control the execution thereof, and it shall provide for the state tasks defined in Section 20/A.

Ad subsection (1), amending subsection (7) of Section 43 of Mining Act: Act CXXXVIII of 2004 on the Amendment to Act XLVIII of 1993 on Mining (hereinafter: Mining Act) was adopted by Parliament at its session of 20 December 2004. Section 20 (3) of the Act amended Section 44 (7) of Mining Act deviating from the original intent of the legislator, with an erroneous reference, which is correctly Section 43 (7) of Mining Act. The provision carries out this correction.

(8)

(9) The mining supervision shall cover its operations from its own revenues. The holder of the mining lease shall pay a supervision fee of licensee of natural gas storage, conveyance and distribution, propane-butane gas distribution, to the mining supervision for its supervisory activity. The annual rate of the supervision fee shall be 0.3% of the part subject to mining royalty of mineral raw materials exploited from the mining lease in the year preceding the subject year, in other cases 0.3% of the licensee's price revenue from the activities in the year preceding the subject year. An administration servicing fee shall be paid for the proceedings of the mining supervision. The party paying a supervision fee for the mining supervision shall be exempted from the payment of the administration servicing fee.

87/2005. Issue of accountancy. *What a price revenue shall be taken into consideration upon the determination of the base of mining supervision fee? The question is topical, since the judgment thereof is not standardized among the various market actors.*

Section 43 (9) of Act XLVIII of 1993 on Mining (hereinafter: Mining Act) provides for the base of the supervision fee and the rate of the fee. According to this prescription: the annual rate of the supervision fee shall be 0.3% of the value of the part subject to mining royalty of mineral raw materials exploited in the year preceding the subject year, in other cases it shall be 0.3% of the price revenue of the licensed activity in the year preceding the subject year.

In the domestic regulation the term of price revenue is defined primarily by Act C of 2000 on Accounting (hereinafter: Accounting Act). Where another legal rule mentions price revenue (and fails to provide the terms, contents thereof, potentially deviating from the Accounting Act), there it is justified to apply the term of price revenue as defined in the Accounting Act.

The Accounting Act understands by price revenue, in each case, the net price revenue of sales. According to Section 72 (1) of the Accounting Act the consideration, including no general turnover tax [VAT], of the stocks purchased and of own production sold and of the services performed within the business year, in the period of performance defined in the contract, increased by price subsidies and margins and reduced by discounts, shall be shown as the net price

revenue of sales. (The detailed prescriptions relating to the items amending the net price revenue of sales are to be found in Section 72 and 73 of the Accounting Act.)

It is justified to consider the net price revenue of sales, derived from the activity subject to license, shown in the accounting accounts prepared and accepted on the business year preceding the subject year, to be the basis of the supervision fee payable under Mining Act by the undertaking holding a license for natural gas storage, conveyance and distribution or propane-butane gas distribution (hereinafter: licensee), covered by the Accounting Act. As explained above, this amount may not include the general turnover tax payable upon sales; furthermore, it may not be reduced by the excise tax paid by the licensee.

If the licensee is not covered by the Accounting Act, then it is justified to take into consideration, *mutatis mutandis*, the term included in Section 72 (1) of the Accounting Act, as well as the prescriptions relating to the items amending the net price revenue of sales, laid down in Sections 72 and 73, upon fixing the base of the supervision fee under Mining Act.

[Section 43 (9) of Act XLVIII of 1993]

According to the Act the Office is a central budgetary organ having independent financial management, covering its operations from its own revenues. According to the current prescriptions of Mining Act the Office covers also its costs related to the supervision of construction authority, construction supervision, technical and safety supervision, fire protection and market supervision, exercised over the activity of the holders of mining, natural gas and PB gas industrial licenses, from the central budgetary subsidy. With particular regard to the fact that the tasks of administrative and official supervision provided for by the mining supervision do not concern the wide layers of society, but they cover only a well-delimited scope of business organizations in professional nature, it is justified to reduce the burden of support of the central budget, coming into existence from the public bearing of charges, and to devolve the bearing of the charges upon the scope of the parties interested therein. The supervision fee shall serve to cover the control and supervision, to an increased extent and in full range of the parties active as license holders in the mining, natural gas industry and PB gas industry, and the proceedings instituted ex officio and other tasks allocated to the responsibility of the Office.

It is in harmony with the aforementioned objective and the contents of the Duties Act that the administrative service fee due to the mining supervision shall be fixed by the Minister – in agreement with the Minister of Finance – in a decree.

This form of financing, which is not carried out through the central budget, is adjusted to the practice of the EU and has also the aim to reinforce the financial independence from the political power. (Section 43 (9))

(10) For the persons providing for tasks of mining administration a card, for the persons providing for authority's tasks a service badge with a serial number identical with that of the card shall be provided.

Mining Act Section 43/A (1) In the proceeding instituted for the designation of a mining lease in the case of solid mineral raw materials, as well as in the proceeding instituted for the approval of the technological operation plans of exploration, exploitation, suspension or the closure of mine or abandonment of field, furthermore, in the licensing proceeding within the construction authority's powers of the mining supervision the owner of the real property touched by the areas actually used by mining activity planned in the technological operation plan and by the area of the facility and the safety zone thereof, as well as the lawful user of the real property, entered in the real estate register, shall qualify as parties.

(2) The mining supervision shall notify the known party of the proceeding instituted ex officio, the known opposing party or the party concerned of the proceeding instituted at request within 10 days.

(4) In the event that the mining supervision appoints an expert in the proceeding investigating a serious accident and a serious breakdown defined in Section 35 (2), it may suspend its proceeding until receipt of the expert opinion.

Ad subsection (2): the establishment of a mining lease, as legal nature, shall not entitle to perform any activity. Therefore, the scope of effect thereof shall, if the mining lease has to be entered in the real estate register, affect the owners of the real properties (the scope of effect shall cover such owners), to which the mining lease shall be registered. The technological operation plans define mining activity planned within the borderlines of the mining lease. With regard to the fact that mining activity is an activity subject to environmental license, where the license is a condition to the designation of the mining lease, it is necessary to establish the scope of the real properties affected by the impacts for the entire area used actually and to carry out simultaneously the delimitation thereof. The same rule shall apply to the licensing proceeding of certain mining and gas industrial facilities subject to the

license of the construction authority, where the impact area shall be defined by the safety zone established in the legal rule.

Ad subsection (3): in the event of the cases within the competence of the mining supervision it is characteristic that a high number of parties are present in the proceedings instituted both at request and ex officio. The definition of their scope takes more time than the basic case defined in the Act.

Ad subsection (4): the background of the provisions relating to the official control by the mining supervision is created by Section 89 (1) and (3) of the Administrative Proceedings Act.

Ad subsection (5): in its investigation proceedings under the provision referred to it is characteristic that the mining supervision makes use of the opportunity to appoint an expert, since special expertise, and often the possibilities provided by a laboratory are required to clear up certain issues.

Mining Act Section 43/B (1) In the course of the proceedings instituted for the designation of a mining lease the deadline of administration shall be 90 days, while the administration deadline of the proceeding relating to the granting of a right of exploration shall be 20 days.

(2) If the party has incompletely submitted the application, the mining supervision shall call upon him to make up for the deficiencies, within 15 days of the receipt of the application, by setting an appropriate deadline and warning to the legal consequences of the default.

(3) In the event that the proceeding affects more than 20 real property owners and lawful users entered in the real estate register, the mining supervision may employ an official mediator.

(4) In the proceeding instituted for the approval of the technological operation plans the owners and the lawful users entered in the real estate register of the real properties in the neighbourhood within 500 meters of the area delimited in the technological operation plan shall be entitled to the inspection of documents on the basis of the Act.

(5) In a proceeding instituted ex officio the party shall communicate the data required for decision-making on the merits upon the call of the mining supervision. The mining supervision may inflict the party with a procedural fine, in case of the reproachable violation of the obligation of data supply (in case of defaulting or the supply of untrue data).

(6) The mining supervision may declare each decision executable, regardless of appeals

a) in case of the approval of a technological operation plan,

b) in case of a prohibition from the activity based on Section 41 (1) to (5) and (7),

c) in case of the decision directed to the elimination of a condition of a mining facility jeopardizing the environment, for reasons of labour safety, environmental protection or nature conservation, furthermore, in the interest of the establishment of a public transport infrastructure or securing the ongoing energy supply,

d) in case of the foundation of a right of conduit, right of use in the interest of the establishment of a public transport infrastructure and securing the ongoing energy supply.

Ad Section 43/B (1): in a proceeding instituted for the designation of a mining lease the mining supervision carries out the time consuming examination of documents, a high number of time consuming reconciliation meetings in the interest of clearing up the full range of the facts, therefore the basic administration period defined in the Act is not sufficient. At the same time 20 days are sufficient for conducting the proceeding for granting right of exploration, with regard to the simplified proceeding.

Ad subsection (2): it is characteristic that the legal rule requires a high number of technical documents with prescribed contents as annexes in the proceedings of the mining supervision instituted at request. The call for making up for deficiencies may only become due after having got acquainted with the technical documents, which absolutely requires the period of 15 days.

Ad subsection (3): on the basis of Section 41 (1) of the Administrative Proceedings Act the amendment provides an opportunity for the mining supervision to employ an official mediator in a proceeding concerning a high number of parties. This provision secures the possibility to employ an official mediator independently of the number of the real properties concerned, in case of the involvement of at least 20 parties being owners or lawful users entered in the real estate register.

Ad subsection (4): on the basis of Section 69 (5) of the Administrative Proceedings Act the amendment enlarges the scope of the third parties entitled to the inspection of documents to the owners and lawful users of the real estates in the 500-metre neighbourhood of the area delimited in the technological operation plan.

Ad subsection (5): in the proceedings instituted ex officio the party's obligation of data supply is indispensable for clearing up the facts.

Ad subsection (6): on the basis of Section 27 (2) of Mining Act the technological operation plans define the detailed conditions of mining activity, thus particularly the requirements of technical safety, labour safety, environmental protection and nature conservation applicable in the course of the performance of the activity. mining activity is a durable, continuous activity of long term. Within this longer perspective each technological operation plan regulates in detail only a definite part term (of two years in case of deep mining and of five years in open air mining and bored whole exploitation). Due to these regulations built on each other in time, with regard to the continuity of the requirements, the enforcement of these obligations is often inevitable already upon the communication of the decision of approval, regardless of appeal, in the interest of the protection of life, health, safety and environment. Similarly it is necessary to secure right of conduit, right of use without delay in the extent of the safety zone for creating the safety; the prohibition from certain hazardous activities and the obligation to the elimination of the hazardous condition shall not, in the given case, tolerate any delay. In case of the licensing of right of conduit, right of use relating to the safety zone of the natural gas distributing pipelines the ordering of execution regardless of appeal is justified, furthermore, by the continuous securing of energy supply in the cooperating public utility natural gas system, as well as by the establishment of the public transport infrastructure, e.g. in the cases, where the relocation of existing natural gas distributing pipelines becomes necessary due to the construction of the national expressway network.

Mining Act Section 43/C (1) The decision shall have the force of *res iudicata* after the elapse of 15 days following service of the decision, in the proceedings of designation of mining lease, of licensing the technological operation plans of exploration, exploitation, suspension, closure of mines and abandonment of fields, as well as in the licensing proceedings of construction authority within the competence of the mining supervision, in respect of the provisions, challenged by no appeal, of the decisions, in the proceedings for the foundation of easement in respect of the real property affected by no legal remedy, and within that, independently, for the foundation of easement and indemnity, if an appeal has been submitted against certain provisions of the decision, and the judgment of the appeal shall not affect, due to the nature of the matter, the provisions, which have been challenged by no appeal.

(2) A new proceeding may be initiated against the non-appealable decision designating a mining lease, until the becoming non-appealable of the decision approving the first technological operation plan, but no later than within six months of the becoming non-appealable of the decision designating the mining lease. No new proceeding may be initiated against a non-appealable decision made on the subject-matter of the transfer of the mining right.

(3) Decision passed in an official proceeding shall be executed by mining supervision.

Ad 43/C (1): connected also to the reasoning provided for Section 43/B (6), in the cases listed the decision of the mining supervision shall not contain a mere license, but it establishes also obligations, conditions adjusted to the process, in the interest of safety, in connection with the licensed activity. It is indispensable that in these cases the force of res iudicata of the decision should set in in the case of the provisions, which have not been challenged by appeal and the decision can be performed or, in case of the default of the performance, enforced.

Ad subsection (2): the designation of a mining lease generates a right in principle, on the basis of which the actual activity may only be commenced and carried out on the basis of a further license, the approval of the technological operation plan. The mining right is an exclusive right, which excludes the liability of any third party in respect of the obligations. This right is marketable, it may be transferred with the consent of the mining supervision. The conditions of consent are established in a legal rule, its legal basis is a civil law contract made between the transferor and the transferee. The right exercised and the liabilities borne after the transfer, on the basis of non-appealable decision, are complete. Any opportunity to be provided for the revision of the non-appealable decision designating the mining lease, after the becoming non-appealable of the subsequent decision, or for the revision of the non-appealable consenting decision granted for the transfer of right would generate a disproportionate legal uncertainty.

Ad subsection (3): in execution proceedings requiring special professional knowledge of mining supervision, particularly in the proceeding directed to the execution of a certain act it is justified that execution should be effected by the authority acting at first instance.

Execution Decree Section 27 (1) On the basis of Section 51 a) of Mining Act the Minister shall communicate the names, powers and competence of competent authorities defined in Section 43 of Mining Act and any occurring changes to the European Commission, for the publication of the list of competent authorities in *Official Journal of the European Union*.

(2) Save for the cases defined in Section 1 (1) *d*) and *g*), the official supervision established for mining supervision in respect of mining activity shall terminate after the termination of exploitation and the performance of the tasks of landscape rehabilitation.

Execution Decree Section 28 (1) The mining authority's powers of fire protection authority shall cover the following underground facilities of the mines and their open air facilities subject to the same consideration:

a) underground mine workings established by mining technology for the purpose of exploration and exploitation of mineral raw materials, as well as the workings remaining open of abandoned mines;

b) structures and equipment connected directly to the underground mine workings on the ground surface (e.g. the shaft tower, the shaft conveyance equipment, the ventilation equipment, the surface machinery house of the underground conveyance equipment);

c) the open air mine space established for the purpose of exploration and exploitation of mineral raw materials and the structures thereof (e.g. technological buildings, waste heaps, pulp reservoirs, conveyors);

d) deep hole drillings directed to the exploration, exploitation of liquid and gaseous mineral raw materials, as well as the equipment required for the drilling activity, located within the safety zone or the drilling site;

e) the wells serving exploitation of liquid or gaseous mineral raw materials, as well as the equipment, appurtenances related to exploitation activity, located within the safety zone (well separator, casinghead fitting, glycolizing equipment, sway beam of deep pump, etc.);

f) geological structures, natural or artificial cavities serving underground gas storage, and the well system belonging thereto and the casinghead fitting of the wells;

g) mineral oil and natural gas pipelines in the field and the appurtenances thereof (e.g. the connected separators, gas thickeners, pumps and rainwater separators);

h) mineral oil, mineral oil product and gas conveying pipelines and the appurtenances thereof, save for the starting stations, nodes and transfer stations with a capacity exceeding 1,000 cubic meters.

(2) At the request of the mining entrepreneur the fire brigade shall cooperate in extinguishing the fires occurred in facilities of the mines, listed in subsection (1) *b*) to *h*), by using available forces and means.

(3) The mining district authority shall be invited to the fire protection control of the underground facilities of mines.

(4) The Minister shall establish, in agreement with the Minister of Health and with the Minister of Environmental Protection and Water, the technical and organizational conditions of the tasks related to underground fire protection, as well as the rules within the mines of the activities related to hazardous substances and hazardous preparations.

Execution Decree Section 29 (1)

(2) The rules of licensing mining test stations shall be established in a separate legal rule.

(3) The organization and bylaws of mining district authorities and MBFH, as well as the qualification and experience requirement of the employees of mining supervision shall be established by the President of the MBFH.

(4) The MBFH shall coordinate conditions of granting official licenses, required in connection with exercising the concession activities covered by Mining Act, with the administrative organs interested, relying on the results of examinations under Section 9 (2) of Mining Act, prior to the publication of the tender.

(5) The technological operation plans prescribed in Sections 22, 23, 27, 30, 36 and 42 of Mining Act shall be countersigned by the responsible technical leader of the mining district authority.

Execution Decree 29/A.§ Mining supervision works as specialized authority:

***a*) in the water licensing proceedings directed to exploit subsurface geothermic energy;**

***b*) proceedings directed to the formation, dredging of the bed of waters serving water management purposes or to the creation of artificial water spaces or reservoirs, if this activity affects any mineral raw materials mineral resource management defined by Execution Decree, as well as in the proceedings of the authority of soil protection and in those directed to ground levelling subject to a building permit.**

Mining Act Section 44 (1) The authority mining supervision, regarding to the 43. § (3) shall cover:

***a*) the mining of mineral raw materials,**

***b*) the underground facilities serving for mining and geological exploration, as well as the deep hole drilling carried out for this purpose,**

***c*) the maintenance and abandonment of the workings remaining open of the terminated underground mines,**

***d*) exploration of geothermic energy, its exploitation and utilization for purposes of generation of energy, construction, putting to use and operation of facilities and equipment required for this purpose,**

***e*) construction, putting to use, operation, demolition and abandonment of technological facilities, pipelines, hydrocarbon conveying, natural gas distributing and target pipelines and the conveying pipelines of other gases and the products thereof, used in production, preparation and primary processing of hydrocarbons,**

f) exploration, utilization for storage of the geological structures suitable for the storage of hydrocarbons, construction, putting to use and operation of facilities and equipment required for this purpose,
g) construction, putting to use, operation and demolition of filling and storage facilities, pressure testing and repair facilities in the filling plant, of the liquid propane and butane gases and the mixtures thereof, of the equipment thereof and of the distributing pipelines,
h) construction, putting to use and operation of warehouses for civil purpose explosives,
i) establishment, utilization and removal of waste heaps,
j) production of civil purpose explosives, which may not be primed by cap, at the site or premises of utilization and distribution, through mixture,
k) civil purpose explosion activity,
l) certain underground activities carried out with mining methods, serving non-mining purposes (shaft sinking, deep hole drilling, tunnel and drift driving), save for civil engineering,
m) research activity in explosion technology,
n) construction, putting to use, operation and demolition of the high pressure equipment and systems used for the activities and facilities listed in paragraphs a) to m).

(2) to (4)

(5) The mining supervision shall take measures in connection with the exercise of the activity covered by its official supervision immediately after becoming aware thereof, in order to prevent or put an end to the injury of the public interest defined in Section 2

Execution Decree Section 30 (1) At the request of the mining entrepreneur or gas industrial licensee the mining district authority may grant deviation, exemption from certain restrictions of the safety regulations.

(2) In the cases of contraventions defined in a separate legal rule the mining supervision shall act as a contravention authority.

(3) The representative of the mining supervision may make a provision on site for ceasing the deficiencies he/she perceived in the course of the on-site controls and investigations, in the 'Book of Official Instructions' prescribed for each mine plant. Such entry shall be considered a simplified decision, against which a legal remedy may take place.

(4) The requirements regarding technical safety, labour safety (safety and health) of civilian explosion activity shall be established in a mine safety regulation.

(5) The mining supervision shall provide for the official tasks established for it in a separate legal rule.

(6) The mining supervision's official competence established for the activity of the filling and storage of liquid propane butane gases and the mixtures thereof and for the domestic distribution thereof in bottle or container (Section 44 of Mining Act) shall not cover the fuel supply equipment of gas driven public road vehicles and work machines or the filling facilities of car gas filling stations.

Execution Decree Section 30/A (1) The mining supervision as market supervision authority shall control, whether the safety of the products, equipment or systems integrated in facilities subject to its official supervision satisfies the requirements included in the relevant separate legal rule.

(2) Within the framework of the market supervision proceeding, also the safety of products shall be judged,

a) for the putting to use of which mounting, assemblage or other installation operation shall be required;

b) the usability of which may be affected by distribution operations, particularly by conveyance and warehousing;

c) in case of which no marketing was made prior to the putting to use, with particular regard to the products produced for own use.

Execution Decree Section 30/B (1) In order to provide for its official tasks of market supervision, mining supervision may

a) request information from the manufacturer,

b) have access to all premises, sites required for controlling the product, in case of being hindered it may make use of the assistance of the police,

c) inspect all documents required for control and prepare copies needed

(2) If in the course of its official proceeding of market supervision the mining supervision finds that the product does not meet safety requirements, it shall be entitled

a) to order information in large scope, so that the persons concerned should be notified in time and in due manner, if necessary, by the use of the mass media, of the hazard resulting from the use or operation of the product,

b) to order the making unusable or destruction of the product.

(3) If in the course of its official proceeding of market supervision the mining supervision finds that the condition, location of the product does not meet the requirements included in the licenses or in the separate legal rules, it shall prohibit the use of the product.

(4) If the mining supervision finds that the conformity marking was not indicated, or was indicated groundless on the product, it shall call upon the operator, the manufacturer, the distributor or the Hungarian proxy of the manufacturer (referred to hereinafter collectively as manufacturer), in a decision, for the sake of the termination of the infringement, to remedy the deficiencies according to the prescriptions. If the manufacturer fails to act in accordance with the authority's decision or the product does not meet the prescriptions, the mining supervision may restrict or prohibit the marketing, production, commissioning and use of the product. In case of immediate and serious hazard it may order the withdrawal of the product from the market.

(5) Within its authority of market supervision the mining supervision may inflict with a fine the natural person or legal entity and the association thereof having no legal personality, carrying out an activity under Section 44 (1) of Mining Act, who/which deviates illegally from the contents of the separate legal rule or official decision relating to the technical and safety conformity of the product or equipment, thus particularly if he uses the machine, equipment, work tool subject to license in deviation from the license or without license, or if he uses non-certified machines, equipment or work tools.

(6) The upper limit of the fine under subsection (5) shall be HUF 10,000,000. The fine shall be paid to the account of the MBFH kept with the Hungarian State Treasury, within the deadline prescribed in the non-appealable and executable decision inflicting the fine. 40% of the fine received shall be due to the MBFH, while 60% thereof shall be handled as revenue of the budget.

Supervision by Mining Authority of Raising to the Surface of Subsurface Water

Mining Act Section 45 (1) Mining supervision shall practice supervision on works directed to raise deep waters to the surface, carried out with mining technology. In the framework of official supervision mining supervision shall directly take measures in the issues relating to safety and workmanlike nature of the works and operation, while it shall initiate taking of measures serving protection of water resources with the authority of environmental protection and water.

(2) The mining authority shall cooperate from the aspect of mining technology in the proceeding of water licensing related to the raising to the surface of deep waters affecting a mining lease.

(3) The authority of the mining supervision shall cover the official supervision of the placement of water extracted together with hydrocarbons in hydrocarbon storage facilities.

Execution Decree Section 31 (1) The official safety technology supervision of by the mining supervision in respect of the raising to the surface of waters shall not cover, with the exception of the wells deepened for the placement of waters extracted together with hydrocarbons in hydrocarbon storage facilities, the operation of water wells.

(2) The mining district authority shall cooperate as a specialized authority in the official proceeding directed to the raising to the surface of deep waters located deeper than 500 meters.

Official Supervision of Underground Storage Spaces

Mining Act Section 46 (1) Mining supervision shall proceed as specialized authority in the licensing proceedings of creation, putting to use and termination of underground workings shaped by mining methods, with a basic area in excess of 300 square meters, above which a natural rock stratum is to be found, if it is not an organic part of an surface structure (underground storage space).

(2) The clerk of the competent local government shall keep the list of the underground storage spaces.

(3) The owner (manager) shall provide for the conservation of the condition of the underground storage spaces.

Execution Decree Section 32 (1) Upon the calculation of the basic area of 300 square meters the joint basic areas of the cavities, excavated artificially in the ground, having a basic area in excess of 100 square meters each, opening from the land part with the same topographical lot number, shall be taken into account.

(2) The provisions of separate legal rules shall apply, when licensing the creation, putting to use and closure of underground storage spaces.

(3) Any work of renovation in the framework of the conservation of condition of underground storage spaces shall be done by the entrepreneur or maintainer. Underground renovation may only be carried out with the cooperation of mining experts.

Mining Act Section 47

PART V

DEFINITIONS

Mining Act Section 49 § The several terms used in the Act shall include the following:

1. *‘Mineral raw material’* shall mean mineral materials usable at the given level of scientific and technical development. The soil, subject to a separate Act, and the water, independently of its state shall not qualify as mineral raw materials.

2. *‘Mineral resources’* shall mean the part of mineral raw materials, whose quantity and quality shall be defined by estimation or calculation, on the basis of aspects of geology, mining technology and mining economy.

3. *‘Mineral resource management’* shall mean activities, measures, production programs, systems and methods of exploration, exploration and exploitation, which serve the economical exploitation of mineral raw materials in a manner, which shall not damage and shall preserve the non-mined parts of the site, in order to secure the later exploitability; and allow at the same time the reduction of losses and the possibly fullest exploitation of mineral resources, as allowed by technology and justified by the market conditions.

4. *‘Mining (mining activity)’* shall mean the exploration, exploration and exploitation of mineral raw materials and mineral resource management. The following shall qualify as mining activity:

a) preparation, classification carried out locally of the exploited mineral raw material, in case of hydrocarbon mining the primary processing thereof,

b) suspension, closure of a mine, abandonment of a hydrocarbon field,

c) landscape rehabilitation following the termination of mining activity,

d) exploration of geological structures suitable for the storage of hydrocarbons, the shaping and utilization thereof for storage, furthermore,

e) exploration of geothermic energy, involving no search for and raising to the surface of subsurface waters, and also the utilization thereof for the purposes of the generation of energy.

5. *‘Mining entrepreneur’* shall mean the legal entity or natural person or association having no legal personality (referred to hereinafter collectively as person), entitled to carry out mining activity.

For the purposes of the Act: also the persons entitled to

a) the utilization based on a water license of the geothermic energy exploited for the purposes of the generation of energy, for the purposes of the rules of Section 3, Section 20 and Section 41,

b) the establishment and operation of hydrocarbon conveying pipelines, for the purposes of Section 2, Section 16 (4), Section 18, Section 21 (1), Section 24 (1), Section 28 (1), Sections 31 to 35, Section 37, 38 and 41 of the Act, as well as

c) the maintenance and utilization of the workings remaining open of a terminated underground mine, for the purposes of the rules of Section 2, Section 21 (1), Section 28 (1), Sections 31 to 34 and Sections 41 and 42, shall qualify as mining entrepreneurs.

6. *‘Preparation’* shall mean the activity following immediately exploitation, which includes the gathering in the plant, conveyance, physical separation, splitting, classification and enrichment by physical methods of the solid mineral raw materials, the purification and separation of mineral oil and natural gas.

7. *‘Preliminary exploration’* shall mean exploration directed to showing the existence of a site of mineral raw materials and to defining the approximate expansion and quantity of mineral raw materials.

8. *‘Primary processing’* shall mean the activity carried out by the mining entrepreneur following immediately the preparation, whereby he makes suitable the prepared mineral raw materials for further processing or for further use (extraction of propane and butane, processing of gasoline; bricketting, etc.)

9. *‘Exploration’* shall mean a mining activity directed to the commencement of exploitation of mineral raw materials.

For the purposes of the Act exploration shall mean

- the opening of a mine (main exploration), exploration of a field and preparation for breaking in the case of deep mining,
- the removal of refuse layer (uncovering) and shaping of the opening ditch, in open air mining,
- the bleeding of field and trial production, as well as production during exploration and exploration, in the hydrocarbon mining and the utilization of geothermic energy carriers.

10. *‘Geological exploration’* shall mean a technical and scientific activity directed to the learning of the substantial, structural and historical features of the earth’s crust save for the research of protected natural values and of natural values deserving protection.

11. *‘Geothermic energy’* shall mean the inherent energy of the earth’s crust.

12. *‘Carriers of geothermic energy’* shall mean, for the purposes of the Act, substances in various states (e.g. subsurface waters, steams), which allow exploitation of the inherent energy of the earth’s crust for the purposes of the generation of thermal energy through exploitation or through the application of another technology.

13. *‘Industrial explosion activity’* shall mean the distribution, storage, custody, use and destruction of explosives, which serve for non-defence and for non-policing purposes.

14. *‘Industrial resources’* shall mean the part of the geological resources, which can be profitably exploited at a given date.

15. *‘Exploitation’* shall mean the extraction, separation and bringing to the surface of mineral raw material from their natural site of occurrence. For the purposes of the Act exploitation of mineral raw materials from abandoned waste heaps shall also qualify as exploitation.

16. *‘Excluded area’* shall mean an area, where any mining activity may only be carried out with the consent of, and in compliance with the special conditions prescribed by, the competent authority having powers according to the subject-matter of the exclusion. The internal area, the part designed for development of the external area, the area serving traffic purposes, the cemetery, the beds of watercourses or standing waters, the safety or protective zone of aerial railway or cable, any hydraulic facility, potable water, mineral and medicinal water, any source and the designated protective area thereof, protective forest, the protective zone of spa resorts and holiday resorts, the protected natural area, the real property subject to the protection of a historical monument or to archaeological protection, as well as the area of defence facilities, and, in relation to the open air mining, the arable land, and everything qualified as such by a legal rule in relation to mining activity, shall qualify as excluded area.

17. *‘Exploration’* shall mean mining activities carried out with geological (geophysical, geo-chemical) and engineering methods, whose purpose is

- the detection of the sites of mineral raw materials,
- the delimitation of the detected mineral raw materials and learning thereof from quantitative and qualitative aspects, furthermore,
- getting acquainted with geological structures from the aspects of aptitude for the underground storage of hydrocarbons.

Legal rules on nature conservation shall provide for the activities directed to the discovery and research of caves.

18. *‘Exploration area’* shall mean an area delimited for the exploration of mineral raw materials, defined in the concession contract or in the decision granting a right of exploration.

19. *‘Site’* shall mean the place of the natural occurrence of mineral raw materials (e.g. strata, seam, and deposition).

20. *‘Open area’* shall mean all areas, which shall not qualify as closed area in relation to a certain mineral raw material.

21. *‘Waste heap’* shall mean the accumulated mass of solid materials exploited in the course of exploitation of, or together with, mineral raw materials and separated therefrom by physical methods.

22. *‘Hydrocarbon conveying pipeline’* (long distance pipeline) shall mean a pipeline together with its appurtenances and components, which carries the natural gas, mineral oil or the product thereof from the output point of production (preparation, manufacture, storage) (plant for the preparation of mineral oil, and natural gas, refinery, gas processing plant), from the starting station thereof or from the crossing of the state border up to the delivery station of use (residential settlement, industrial facility) or processing, or up to the state border.

Components of the conveying pipeline:

- starting and delivery station,

- technological facilities serving the operation of the conveying pipeline (pressure increasing, filling, racking, blow-off, sectioning and purifying stations), as well as the device serving to signal the track,
- facilities serving the operation, control and supervision of the conveying pipelines (remote supervision, communication, anticorrosion protection) up to the access points of the service securing remote data transmission.

The remote data transmission devices owned by the mining entrepreneur are the appurtenances of the conveying pipeline.

23. *'Landscape rehabilitation'* shall mean the making suitable for re-utilization of the area affected by mining activity (mine re-cultivation) or its shaping adjusted to the natural environment.

24. *'Closed area'* shall mean an area designated for concession tender and delimited for the purpose of the exploration, exploration and exploitation of certain mineral raw materials, as well as the areas defined in Section 50 (6) a) to c) of the Act in relation to the given mineral raw material.

25. *'High efficiency mining processes'* shall mean a process for extraction of a final surplus quantity of oil, which increases the oil quantity exploitable by primary and secondary mining processes. The stratigraphic energy shall be increased by thermal, gaseous, chemical or other methods (e.g. electromagnetic method).

26. *'Geological data subject to supply'* shall mean the geological data learned by the mining entrepreneur directly, through measurement, sampling, or indirectly, through the processing of the basic data, for the purpose of exercising mining activity in conformity with the rules.

27. *'Arable land'* shall mean, for the purposes of the Act, a land part located in the external area of a settlement, which is recorded in the branch of cultivation of ploughland, vineyard, orchard or garden in the real estate register, and belongs to quality classes 1 to 4.

28. *'Mineral materials'* shall mean the organic or inorganic compounds, as well as chemical elements occurring in the earth's crust, being of natural origin, in solid, liquid or gaseous state (referred to collectively as minerals), as well as the associations thereof creating a body coherent in space, being of identical genetics (rocks).

29. *'Useful materials'* shall mean mineral raw material, which are the primary aim of the designation of a mining lease, and which represents a value justifying its exploitation in the given geological-stratigraphic technical and economic conditions. Within a mining lease several useful materials may be located.

30. *'Geological mineral resources'*: the full quantity, certified by exploration data, of mineral raw material, which is defined by the parameters (counting conditions) characteristic for the given mineral raw material, without the application of technological and economic restrictions.

31. *'Exploitable mineral resources'* shall mean the part of the geological mineral resources within the space of the mining lease, exploitable at the current level of scientific and technical development, reduced by the resources bound in the pillars (boundary pillar, chain pillar).

32. *'Refuse material'* shall mean a mineral material in relation to a given site of mineral raw materials (mining lease), which shall not qualify as mineral raw materials, or which is a mineral raw material, as opposed to the useful material, which occurs above, below, beside the seam (rock body) constituted by the useful material, or within that, but in a separated rock body, and which cannot be exploited economically on its own, but the mining of the useful material requires its exploitation to a certain extent.

33. *'Civil engineering'* shall mean, for the purposes of the Act, an underground construction activity, where no rock strata of natural condition shall remain above the structure, i.e. the construction of the underground facility shall be made by uncovering up to the surface.

34. *'Deep hole drilling'* shall mean the result of the technological process, in the course of which a hole (cylinder-shaped mining space) shall be created in the earth's crust mechanically, for geological or mining purposes, together with the formation, maintenance and armouring of the hole, in case of which the length (depth) of formation, as compared to its defined diameter relatively small, is large. The deep hole drilling may be perpendicular, of directed inclination, or, in the finishing phase of the hole formation, horizontal.

35. *'Civil explosion activity'* shall mean the manufacture, acquisition, storage, use and destruction of explosives for civil use.

36. *'Target exploitation site'* shall mean exploitation sites established for the production of sand, gravel and clay (including the versions and mixtures thereof), required for the construction of the earthworks (embankments) of expressways covered by a separate Act, which shall not affect any subsurface waters.

PART VI

MORAL AND FINANCIAL APPRECIATION OF MINERS

Mining Act Section 49/A. (1) In accordance with the professional traditions the first Sunday of September each year shall be celebrated as ‘Miners Day’, while the fourth of December shall be celebrated as ‘Barbara’s Day’ by the miners of the country.

(2) In recognition of the miners’ unique professional traditions and distinguished work they shall be entitled to wear the miners’ uniform and to use their own anthem.

(3) The Central Mining Museum in Sopron and the Hungarian Oil Industry Museum, as well as the network of mining museums coordinated by them shall provide for the collection, processing and presentation of the cultural souvenirs of the life and profession of Hungarian miners.

(4)

PART VII

PROVISIONS PUTTING INTO FORCE AND TRANSITIONAL PROVISIONS

Mining Act Section 50 (1) The Act shall enter into force on the 30th day following its promulgation.

(2) The geological data and mineral resource calculations and records having come into existence in the course of the activities of exploration financed by the state budget or of state owned mining undertakings prior to the entry into force of the Act shall be made available for the organ responsible for geological cases.

(3)

(4)

(5) Mining supervision shall provide, on the basis of the expert opinion of the organ responsible for geological cases, for the qualification of the areas indicated in Section 9 of the Act, for the revision of the qualification every five years and for the publication of the closed areas to be designated for concession.

(6) The business organizations [Section 685 (c) of the Civil Code] and natural persons holding a right of mining upon the entry into force of the Act

a) may continue mining activity in their mines under mining; and

b) acquire a right of exploitation for the areas prospected already by them and covered by a mining lease, exploration of which shall be undertaken by them with the appropriate application of the conditions defined in Section 15; furthermore

c) may complete their exploration in progress for raw material defined in their license for exploration, issued and valid by the deadline defined in their license, but no later than within 4 years, and they may initiate, by the submission of the work program after the designation of the mining lease, the conclusion of a concession contract for exploration and exploitation with the Minister, or they may apply for being granted a license (Section 23) to the mining supervision in the cases defined in Section 5 of the Act, as well as in the cases defined in Section 2 (a) of Act XVI of 1991 on Concessions.

(7) In case of a exploration carried out with a special method the Minister may set a deadline longer by no more than 2 years than the deadline defined in subsection 6 (c), at the request of the exploration party.

(8) The business organizations and natural persons carrying out a mining activity shall send to the Minister their statement of area prepared on the basis of the provisions of subsection (6), within 3 months of the entry into force of the Act. The Minister may invite public tenders for the areas, which have not been included in the statements of area sent by the deadline, and for the areas released on the basis of the provisions of subsection (6) (b) and (c).

(9) The Budget Act may define a mining royalty deviating from the rate fixed in Section 20 (2) a) of the Act but not exceeding 40%, diminishing equally in each year, until 1997 on an annual basis, on mineral oil and natural gas exploited and sold from the hydrocarbon fields covered by the provisions of subsection (6) a) and b)

(10) If the holder of the mining lease fails to perform its obligation defined in subsection (8), the mining supervision shall take a measure ex officio for the cancellation of right of mining of the party in default and for the delivery of the geological data.

(12) to (14)

Execution Decree Section 33 (1) The geological data, mineral resource calculations and records defined in Section 50 (2) of Mining Act, the geological sample materials (referred to hereinafter collectively as data) shall be made available for the MBFH free of charge. The obligation of making available shall not cover the data, that MBFH or its legal predecessor, MBFH received and it can be certified, or which are deposited in the archives.

(2) The delivered data shall be in the inventory of the MBFH, the Director-General of the MGSZ shall provide for the custody and handling thereof and for securing the access.

(3) The archives regulation of the organization possessing the data, which have not been taken over by the MGSZ (save for the sample material) shall govern the custody and handling thereof.

Execution Decree Section 34. For the purposes of this Decree:

1. *Mine* shall mean the surface or subsurface space of exploration and exploitation of mineral resources within the mining lease, including any cavity shaped in the geological structure or prepared artificially for the purpose of the storage of hydrocarbons.

2. *Mining plant* shall mean a site defined in the technological operation plan, for the performance of mining activities – save for the exploration under Section 22 of Mining Act and the utilization of geothermic energy for the purposes of the generation of energy – and for the placement of facilities and equipment required for this activity in the technological operation plan.

3. *Mine opening (casinghead)* shall mean the first technological point of a mine, a mineral oil and natural gas mining plant, where the exploited raw mine product appears in open air (together with the refuse and the accompanying mineral resource).

4. *Mine railway* shall mean the railway, funicular, suspended railway, long-distance conveyor (referred to hereinafter collectively as railway) of own use, serving for mining purposes, which satisfy the need for conveyance of the mining plant in such a manner that they transport the employees and products of the mining plant to the plant facilities within or without the area of the mining plant (classifying, grinding plant, loading plant etc.), or to the public railway, public road or waterway, for the purpose of further transport.

5. *Closure of mine (termination of mine), abandonment of hydrocarbon field*: termination of all mining operations, abandonment, stowing, closure according to the rules of the workings, opening to the surface, of the mine and the completion of the landscape rehabilitation.

6. *Mining re-cultivation*: abandonment of the underground workings affected by mining activity, or making them suitable for another utilization, which shall not pose any hazard to the environment.

7. *Preliminary exploration of the surface* shall mean an activity carried out by

- remote sensor,
- aerial geophysical measurement,
- surface geophysical measurement, save for the seismic measurement methods with explosion,
- topographical geological perception and measurement,
- sampling to laboratory extent on the surface (near the surface) or
- exploration methods similar to those listed, which do not result in the breaking of the soil surface.

8. *Geological expert* shall mean a person holding a valid license, relating to an appropriate special field (geology of solid mineral resources or hydrocarbons), issued on the basis of the authorization granted in Section 7 of Government Decree No. 132/1993. (IX. 29.).

9. *Natural gas* shall mean the collective designation of mineral resources occurring under the surface of the earth in gaseous state (hydrocarbon gases, carbon dioxide, sulphur dioxide, sulphur hydrogen, etc.).

10. *Utilized quantity of geothermic energy*: the part, utilized for the purposes of the generation of energy, of the quantity of energy exploited from the energy carrier produced by the mining entrepreneur, with a temperature exceeding +30 °C. In this relation the person using geothermic energy for medicinal, balneology or water supply purposes on the basis of a water license shall not qualify as mining entrepreneur, even if this is used also for the purposes of the generation of energy through secondary utilization.

11. *Propane butane filling plant*: a site established for the storage of the propane-butane gases and mixtures thereof transported there, and for filling them into bottles or into containers serving the supply of consumers, owned, used and operated by the gas supplier, the gas distributor or gas seller under a separate legal rule. The site and facility of racking serving other purposes (e.g. small-container supply, village gas system) shall not belong here.

12. *Suspension* shall mean mining activity, where, due to some reason, no exploration (drift driving, field development) and exploitation (mining) works are carried out in the mine, save for the case of seasonal work, with the claim of resuming of the mining, for a period exceeding 6 months.

13. *Field* shall mean a mining plant term related to exploitation of hydrocarbon sites. This is the surface projection of a geological space containing one or more hydrocarbon storing strata or seams, being in no hydrodynamic relation.

Mining Act Section 50/A (1) The Government shall be hereby authorized to establish in a decree the detailed rules relating to

- a) the preliminary surface exploration that may be carried out on the basis of reporting,**
- b) the activities covered by the Act that may be carried out on the basis of the authority's license**
- c) the judgment of the concession tenders, the application related to the transfer of concession,**
- d) the mining royalty,**
- e) granting processing right and minimal requirement of content of the processing working plan, furthermore financial guarantee in accordance with granting exploration right,**
- f) the safety zone and the chain pillar,**
- g) the mine maps,**
- h) the safety and operational supervision of the mining and gas industrial activities,**
- i) the restrictions of the surface real property ownership,**
- j) the measures, securities, the upper limit of the fine, the aspects to be considered upon the establishment of the rate of the fine,**
- k) the contents of Sections 43 to 46,**
- l) the specific value of solid mineral resources and geothermic energy, and the calculation of such value, in connection with the calculation of the mining royalty,**
- m) the detailed requirements of mineral resource management,**
- n) rights and obligations relating to a pond touching the subsurface water resources, remaining or coming into existence after the termination of mining, taking into consideration the provisions of a separate Act on water management.**
- o) designation of the organ or organs of geological cases and mining supervision or supervisions.**

(2) The Minister shall be hereby authorized to establish in a decree

- a) the provisions relating to the professional qualification and practice required for filling the jobs important from the aspect of technical safety,**
- b) the requirements of qualification of the persons entitled to provide for certain tasks, which qualify as labour safety special activity,**
- c) the rules relating to the certified mine surveyor,**
- d) the scale and substantial requirements of the mine maps,**
- e) the rules relating to the loyalty reward of miners,**
- f) the regulation containing the technical safety requirements of civil explosion activity,**
- g) the provisions relating to the moral and financial appreciation of miners, thus particularly the juniors of the profession, the preservation of traditions and other special benefits, the scope, beneficiaries and extent of the benefits, as well as**
- h) the safety regulations of mining and gas industry,**
- i) the preparation of the report on the exploration, exploration and exploitation of mineral resources and relating to mineral resource management, prescribed in the Directives of the European Union, as well as the order of forwarding them to the European Commission and of their publication.**

(3) The Minister shall be hereby authorized to establish in a decree the detailed rules of the payment of the supervision fee established in Section 43 (9), as well as the scope, rate of the administration service fees, and the rules of the collection, handling and recording of the fees, in agreement with the minister responsible for tax policy.

(4) The Minister shall conclude a contract with the mining entrepreneur exercising mining right on the basis of the license of the authority, pursuant to Section 26/A (5).

(5) In agreement with the minister responsible for tax policy the Minister may reduce the rate of the mining royalty in the interest of mineral resource management or for other public interest, and he shall conclude a contract with the mining entrepreneur on the conditions related to the reduction, according to the provisions relating to the authority's contract of the Act on the General Rules of the Administrative Proceedings and Servicing.

Mining Act Section 50/B (1) The holder of a mining lease serving for open air mining, already designated, shall prepare a time schedule relating to the still non-used part of the mining lease within two years of the entry into force of this provision and send it to the mining supervision. The time schedule shall contain the method and anticipated scheduling of the putting to use for mining purposes of the various real properties. The mining supervision shall send the time schedule to the owners of the affected real properties with a call for declaration, setting a deadline of 30 days. The mining supervision shall resolve in a decision on the acceptance of the time schedule. Prior to the decision-making the mining supervision shall examine on the merits the declaration of the real property owner concerned, relating to the expectable date of putting to use, which is material from the aspect of his right of use, utilization or disposition.

(2) In case of a mining lease designated prior to the entry into force of this provision, in relation to which the mining entrepreneur does not yet hold an environmental license, or, if ordered by a separate legal rule, a unified environment use license, the mining entrepreneur may only submit to the mining district authority his first technological operation plan relating to exploration or exploitation together with the non-appealable environmental license, or, if ordered by a separate legal rule, together with the unified environment use license, relating to the mining lease.

(3) The technological operation plan of landscape rehabilitation approved already in a non-appealable decision by mining supervision, relating to the mining lease, upon the entry into force of this provision, shall be taken into consideration as valid upon the preparation of the technological operation plan and in the procedure for the approval thereof.

(4) The mining entrepreneur holding a mining lease for underground gas storage upon the entry into force of this provision may apply to the mining supervision for the transfer of the property of the state-owned hydrocarbon in the underground gas storage facility [Section 3 (1)] until 15 September 2005. Upon the taking into inventory of the non-exploited hydrocarbon, located in the underground gas storage facility, having become the property of the mining entrepreneur according to Section 3 (1) of the Act, the rules set forth in Section 50 (4) of Act C of 2000 on Accounting shall apply. The value, recognized by price regulation, of the hydrocarbon transferred into ownership on the basis of Section 3 (1) and the value serving as basis for the mining royalty payable by the mining entrepreneur in connection with the transfer of property shall be the value defined on the basis of a separate legal rule relating to the definition of the value of mineral resources.

It follows from the resolution of the Constitutional Court that all real property owners, whose real property is touched by a mining lease serving open air mining, shall be entitled to the same legal safety, regardless of whether this is existing already or this will occur upon the designation of mining lease following the entry into force of the Act. A transitional regulation shall be required also for the cases, where the mining entrepreneur does not yet hold an environmental (unified environment use) license for the performance of mining activity, in case of a mining lease already designated, and also the conditions of the further application of the technological plans for landscape rehabilitation already approved shall be settled. The transitional provisions satisfy the enforcement of this requirement, also with regard to the time demand of the tasks.

In order to enforce the principle of equal treatment the opportunity of the redemption of state owned cushion gases shall also be secured for the mining entrepreneurs disposing over underground gas storage facilities already upon the entry into force of the Act.

Execution Decree Section 35 (1) This decree shall enter into force on the 30th day following its promulgation.

(2) Simultaneously with the entry into force the text part ‘furthermore, if the mining lease is modified’ shall be repealed from Section 2 (1) f) of Government Decree No. 115/1993 (VIII. 12.) issued for the implementation of Act XLVIII of 1993 on Mining, as well as of Joint Decree No. 25/1994 (VII. 14.) KTM-IKM on the (Omitted) Tasks of Landscape Rehabilitation not to be Devolved Upon the Mining Entrepreneurs, as well as of Government Decree No. 152/1995. (XII.12.).

(3) The mining district authority shall deliver the data recorded under Section 32 (4) of Government Decree No. 115/1993. (VIII. 12.) to the clerk competent for the area (hereinafter: clerk) within 30 days of the entry into force of the decree. The person having failed to meet his obligation of reporting under Section 32 (4), shall make the report to the clerk subsequently, within 90 days of the entry into force of the decree.

(4) After an unsuccessful notice the mining district authority shall cancel right of mining of the mining entrepreneur failing to initiate the designation of the mining lease within the deadline prescribed in Section 33 (5) of Government Decree No. 115/1993. (VIII. 12.), and it shall order the closure of the mine and the landscape rehabilitation.

(6) The organization or mining entrepreneur carrying out geological exploration shall keep in custody the sample material obtained during the exploration in the quantity and condition existing upon the entry into force of this decree. The samples may only be discarded in case of the prior consent of the MBFH.

(7) The first revision of the qualification of the closed areas shall be carried out within 60 days of the entry into force of this decree. Upon the annual revision of the closed areas the results of the prognostic explorations, as well as of the examinations of the economic, environmental, natural, archaeological and social impacts shall be taken into consideration.

(8) The list of the areas set forth in Section 2 (5) shall be published by the MBFH in the official journal of the ministry.

(9) The legal successor of the National Mining Technology High Supervision and its regional organs (District Mining Technology Supervisions) shall be the Hungarian Mining Office and its regional organs, the mining district authorities. The Minister shall provide for the replacement of the regulation published by the President of the National Mining Technology High Supervision, by the issuance in a decree of new regulations.

(10) The list of the authorities concerned, cooperating as specialized authorities in the special administration proceeding of mining is set forth in *Schedule No. 1* to the decree.

(11) The substantial and formal requirements of the technical descriptions, layout plans and time schedules to be attached to an application for right to preliminary work shall be set forth in *Schedule No. 2.* to the decree.

(12) The detailed rules of the service card and badge to be provided for the persons executing official tasks of mining supervision shall be set forth in *Schedule No. 3.*

Mining Act Section 51 The Act serves compliance with the following Directives:

a) Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the exploration, exploration and production of hydrocarbons, as well as

b) Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC.

Execution Decree Section 36 This decree together with Act XLVIII of 1993 on Mining serves conformity with the Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the exploration, exploration and production of hydrocarbons.

Schedule No. 1 to Government Decree No. 203/1998. (XII. 19.)

Authorities concerned, cooperating as specialized authorities in the special administration proceeding of mining

1. In the field of the Ministry of Interior:

1.1. fire protection (save for the underground facilities of mines and for the open air facilities coming under the same consideration)

- at first instance:

- at appellate instance:

1.2. Construction matters

- at first instance:

- at appellate instance:

2. In the field of the Ministry of Health:

2.1. Health care

- at first instance:

- at appellate instance:

2.2. Protection of spa resorts, sites of mineral, medicinal waters and medicinal sludges

- at first instance:

- at appellate instance:

3. In the field of the Ministry of Agriculture and Rural Development:

3.1. Agriculture

3.1.1. Protection of arable land

- at first instance:

- at appellate instance:

3.1.2. Soil protection

- at first instance:

- at appellate instance:

3.2. Forestry

- at first instance:

- at appellate instance:

4. *In the field of the Ministry of Economy and Transport:*

4.1. In road matters

in case of national public roads

in case of expressways (motorways, speedways) as well as the structures of transport of public road border crossings

- at first instance: National Transportation Authority, Regional Directorate of Mid-Hungary

- at appellate instance: National Transportation, Central Office

In case of other national public roads

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority, Central Office

In case of local public roads

In case of public roads owned by the settlement' local government

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority

In case of public roads owned by the Metropolitan Local Government

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority

In case of the public roads owned by the local governments of the metropolitan districts

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority

4.2. in railway matters

In case of national public railways

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority, Central Office

In case of railways for local transport and of own use

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority, Central Office

4.3. in matters of water transport:

In proceedings relating to hydrocarbon pipelines crossing waterways

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority, Central Office

In other cases

- at first instance: National Transportation Authority, Regional Directorate

- at appellate instance: National Transportation Authority, Central Office

4.4. in matters of civil aviation

- at first instance: National Transportation Authority, Aviation Directorate

- at appellate instance: National Transportation Authority, Central Office

5. *in the field of the Ministry of Defence:*

5.1. in matters of defence

- at first instance:

- at appellate instance:

5.2. in official matters of state aviation

- at first instance:

- at appellate instance:

6. *In the field of the Ministry of Environmental Protection and Water:*

In official matters of environmental protection, nature conservation and landscape protection and water matters

- at first instance:
- at appellate instance:
- 7. *In the field of the Ministry of Information Technology and Telecommunications:*
In official matters of communication
 - at first instance:
 - at appellate instance:
- 8. *Ministry of National Cultural Heritage:*
In the field of the protection of cultural heritage
 - at first instance:
 - at appellate instance:

Schedule No. 2. to Government Decree No. 203/1998 (XII.19.)

Substantial and formal requirements of the technical descriptions, layout plans and time schedules to be attached to application for licensing right to preliminary work and right of conduit

I. Documentation of a license for right to preliminary work

1. Technical description (2 copies):
 - a) site and designated purpose of the facility,
 - b) name of the conduit to be established,
 - c) name and address of the owner,
 - d) name and address of the planner, indication of the planning entitlement,
 - e) list of technical characteristics (material, nominal pressure and diameter of the conduit),
 - f) description of the track by giving the administrative areas and topographical lot numbers touched,
 - g) preliminary consents under Section 38/A (3) of Mining Act.
2. Transparency layout plan with the indication of the area of planning, on the basis of the map of the real estate register – scale: no more than M 1:500, but no less than M 1:4000 (2 copies)
3. Location and outlining plan of other structures being the appurtenances of the conduit (2 copies)

II. Documentation of a license for right of conduit

1. The documentation listed in paragraph I, as precised and finalized (4 copies).
2. Minutes on the local on-site inspection following the preparatory proceeding (1 copy)
3. Declarations (positions, consents) of specialized authorities concerned, of the interested parties and public utility operators concerned; in the absence thereof a certificate proving in a creditworthy manner that they have been contacted.
4. Layout plan with a map copy, containing:
 - a) the track of the conduit to be established,
 - b) the perpendicular location of the conduit and its track (the borderlines of its spatial location),
 - c) dimension and indication of the area occupied by the track of the conduit (and its appurtenance) and the safety zone thereof,
 - d) the crossings,
 - e) the borderlines, topographical lot numbers and branches of cultivation of the real properties touched,
 - f) the administrative borderlines and designations,
 - g) the individual design number and designation.
5. The authentic copy of a non-appealable environmental license in case of a facility subject to environmental impact study.

Schedule No. 3 to Government Decree No. 203/1998 (XII. 19.)

Detailed rules of the provision, use and recording of the service card and badge to be provided for the persons executing official tasks of mining supervision

1. The President of the Hungarian Office for Mining and Geology (MBFH) shall provide a mining supervision service card and a service badge with serial number identical to the card according to Appendix No. 1, for its civil servants providing for the tasks of mining supervisory authority, following the entry into force of this decree.
2. The civil servants of the mining supervision shall, where providing for their official tasks, wear the badge on their clothing, or show it in certification in order to verify their official proceeding.
3. Description of the badge: a metal badge in silver colour, in oval shape, with a diameter of 60x65 mm, in which the arms of the Republic of Hungary in enamelled colours, placed in the middle of the open stems of Turkey oak branches running from right and left hand sides in a semicircle, where the symbol of miners (hammer and wedge with handles) crossing each other in the centre of the semicircles, and below that the inscription 'MINING SUPERVISION' shall be located.
4. The MBFH shall keep a record of the persons holding a mining supervision service card and provided with badge, carrying out official tasks, on the basis of the sample included in Appendix No. 2.
5. The loss of the service card and badge shall be reported to the MBFH without delay.
6. Upon the termination of the job of mining supervision authority or of the civil servant's relation with the mining supervision the badge and the card shall be returned.

Schedule No. 4 to Government Decree No. 203/1998 (XII. 19.)

Data supplying Obligation towards Hungarian Office For Mining and Geography about Geographical Features of Mineral raw material Findings explored and Deadline

1. Circle of geographical data shall be reported are:
 - a) gained by transversal drilling of geographical formations;
 - b) underground geological formation during different, not drilling exploration activities (incision, trial trench, shaft, adit, gangway, tunnel, etc., hereinafter together: exploration)
 - c) data on activities exploring geographical features on the surface, from aircraft, distant observation, cartographical work from space, geophysical, hydrogeological, geochemical, geotechnical, geotectonical and further, special or regular observation(s), sample-collection(s), measuring procedures;
 2. The official form, issued by the President shall be filled in and enclosed with the annual report of preliminary results.
 3. The report on finished geological exploration activity, if it was expanded to the following, shall include:
 - a) data sheet on data that were not reported annually;
 - b) purpose of exploration, names of contractors;
 - c) site-map of exploration area, with signing projection structure, scale of map, at least two coordinative control points, and the exploration basis;
 - d) description of geographical structure of exploration site;
 - e) geographical and technical material exploration data of exploration basis;
 - f) basic documentation of geophysical measuring;
 - g) data of hydrogeological exploration.
 4. Essential parts of data supplying are and shall be added: applied measuring method and the title of its description, data needed to elaborate measuring data, furthermore the documentation of measuring report, date and place (track) of measuring, contractor of the measuring, the place of sample collecting, identification of the sample, Place and time of laboratory works, methods of measuring and exploration activities.
 5. In the case of figurative data, the applied unit of measurement shall be added, in the case of coordinates, the planar and vertical referential structure (projection, basic level) shall be added.
 6. In the case of primarily elaborated data, the method of the elaboration, the regulation of it, and the title or identification of the computer software shall be added.
- II. Deadline of data supplying:

In the case of geographical exploration in prospect an annual report shall be presented until 31st January, every year, in the case of finished exploration activity, within 60 days counted from the date of finishing exploration.

Appendix No. 1 to Government Decree No. 203/1998 (XII. 19.)

MINING SUPERVISION SERVICE CARD
providing for the official tasks of mining supervision

Number of Certificate:..... (Validate until withdrawal!)

PHOTO Name and Headquarters of the Employer.....

Name:.....

Position:.....

The owner of this certificate is justified to proceed in official cases of mining supervision in the.....
 **Region.**

Date:.....

LS

President of Hungarian Office for Mining and Geology

Supplementary sheet:

In the course of his/her administrative preceding the holder of the card shall be entitled to the penal law protection due to official persons. He/she shall be entitled to the controls and measures defined in Act CXL of 2004 on the General Rules of the Administrative Proceedings and Servicing in Act XLVIII of 1993 on Mining and its decrees of implementation as well as in a separate legal rule.

Appendix No. 2 to Government Decree No. 203/1998 (XII.19.)

Record of the persons provided with service card and badge, carrying out official tasks of mining supervision

Serial No.									

