

## Legal Regulations in the Republic of Croatia as Well as Oil and Gas Exploration and Exploitation Activities

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**Key words:** Legal regulation, Oil, Gas, Exploration, Production, Croatia.

### Abstract

Although Croatia does not belong to countries that have an especially rich mineral wealth, it has a long tradition of mining industry. Even the beginnings of internal oil exploitation occurred in the middle of the nineteenth century, at the time when the oil era began with the first oil-well in North America in 1859.

The mining legislation in these areas is also very old, and it has been recognizable by the existence of the mining provisions and laws since the 16th century. Special mention has to be made of the Austrian General Mining Law of 1854, that was valid for all countries of the Austro-Hungarian monarchy. In Croatia it remained in effect until 1945.

Present mining legislation in Croatia has been brought into conformity with the new legal system of the Republic of Croatia, but also with the current mining legislation of Europe, primarily of Central Europe.

The field of oil and gas exploration and exploitation in Croatia is covered chiefly by the provisions of the Mining Law but also by the Concessions Act, the Law on Geological Explorations and the Maritime Code. These legal regulations allow the exploration and exploitation of oil and gas to run smoothly from a mining-and-legal standpoint.

### 1. INTRODUCTION

The lengthy tradition of the exploitation of mineral raw materials in Croatia is confirmed by numerous archeological finds from the pre-Greco-Roman times. The current mining legislation in the Croatian state can be traced through:

- Mining Regulations of Maximilian II (1573);
- Mining Law of Joseph II (1788);
- Mining Law of Napoléon (1810);
- Austrian General Mining Law (1854).

The Austrian General Mining Law from 1854 remained in effect in Croatia until 1945 and it covered all mineral raw materials. In the 1920's the interest in the exploration and exploitation of oil and gas increased in the territory of the then Kingdom of Serbs, Croats and Slovenes, so that the "Law on Exploration and Pro-

cessing of Mineral Oils, Natural Pitch and Gas in the Kingdom of Serbs, Croats and Slovenes" came into force on 31 March 1922. This new law prescribed the procurement and use of concessions for exploration and exploitation, while for all other activities the Mining Law continued to be valid.

From 1945 until the present exploration and exploitation of oil and gas have been regulated by the regularly revised Mining Law. With the formation of the Republic of Croatia in 1990, and on the basis of the Constitution of 1990, the new Mining Law was adopted in 1991; its provisions were brought into harmony with the new legal order in the state but also with the market economy suitable for Europe.

Except for the Mining Law, activities with regard to exploration and exploitation of oil and gas are also partly regulated by the Concession Act of 1992, by the Maritime Code of 1994, and by the Law on Geological Explorations of 1986.

### 2. THE CONSTITUTION OF THE REPUBLIC OF CROATIA

The Constitution of the Republic of Croatia establishes protection for the sea, the seashore and islands, waters, air space, mineral wealth and other natural resources which are of legal interest to the Republic. The Law regulates the way in which goods of interest to the Republic may be used and exploited by the holders of the rights to them and by their owners, and provides rules governing compensation for the restrictions they are subject to.

The state guarantees the right of ownership. A foreign person may acquire the right of ownership under conditions specified by the law. The state ensures all entrepreneurs an equal legal status on the market. Monopolies are forbidden. A very important part of the Constitution is that the rights acquired through the investment of capital cannot be lessened by the law or by any other legal act.

### 3. THE MINING LAW

The Mining Law (final draft) has been in effect in the Republic of Croatia since 1995.

The Mining Law established that mineral wealth is the property of the Republic of Croatia. The mineral wealth is considered to comprise all organic and inorganic mineral raw materials, namely:

1. Energy raw materials (coal, hydrocarbons in solid, liquid or gaseous states, all kinds of bituminous and oil rocks, other gases located in the earth, and radioactive mineral raw materials).
2. Mineral raw materials from which metals and their compounds can be produced.
3. Non-metallic mineral raw materials (graphite, sulphur, gypsum, silica sand, etc.).
4. Dimension stone.
5. All sorts of salts and salt waters.
6. Mineral and geothermal waters from which mineral raw materials can be won or whose accumulated heat can be used for energy-producing purposes, except for mineral and thermal waters that are used for curative, balneological and recreational purpose or as drinking water.
7. All types of aggregates and building stone.

The provisions of the Law refer to the exploration and exploitation of mineral raw materials. Exploration of mineral raw materials is considered to comprise operations and testing with the aim to establish the existence, position and form of mineral raw material deposits, their quality and quantity, as well as the exploitation conditions. According to the Mining Law, the following are not considered to be explorations of mineral raw materials: geological land prospecting, geological, geochemical, geophysical, pedological and geomechanical testing undertaken to discover various minerals, or to elaborate geological maps, to test the soil, or to perform scientific research etc. Extraction from deposits and the refining of mineral raw materials is considered to be exploitation of mineral raw materials.

A concession (approval) for exploration or exploitation of mineral raw materials may be granted to a legal person with their seat in the Republic of Croatia that is registered for carrying out such activity, and to a natural person that has a craft trade for carrying out exploration or exploitation of mineral raw materials registered in the Republic of Croatia. The approval for exploration and exploitation of oil and gas is granted by the Government of the Republic of Croatia, for technical building stone, building sand and gravel, and brick earth it is the county office that is competent for mining matters, while for all other mineral raw materials by the Ministry of Economic Affairs.

For the exploitation of mineral raw materials a compensation is paid at the rate of 2.5% of the income earned from retailing the product. The compensation is paid to the municipality or town in the territory where the exploitation was undertaken.

The holder of any concession for the exploitation of mineral raw materials is obliged, in parallel with the

exploitation, to carry out exploration for the purpose of renewing and maintaining the reserves. To this end he is obliged to allocate at least 3% of the income earned from retailing the mineral raw material. This obligation does not refer to holders of a concession when they have confirmed reserves of the mineral raw material for exploitation during a period of at least 25 years.

Inspection jobs for supervising the exploration and exploitation of mineral raw materials are carried out by the mining inspection according to the Mining Law.

#### 4. THE CONCESSIONS ACT

This act governs the right to use natural resources and other goods, which are of interest to the Republic of Croatia. A concession may be granted to a domestic or foreign legal or natural person for a maximum period of 99 years.

The decision on a concession is made by the Chamber of Representatives of the Sabor (Parliament) of the Republic of Croatia, unless it is otherwise provided by the law. For example, it is laid down by the Mining Law, that a concession for the exploration and exploitation of oil and gas is granted by the Government of the Republic of Croatia, for exploration and exploitation of building stone, gravel, building gravel and brick earth is granted by the county office, while for all other mineral raw materials is granted by the Ministry of Economic Affairs.

The decision on the concession is made on the basis of public gathering of tenders or public invitation for tenders or upon application, unless it is provided otherwise by a special law. The Mining Law, as such, stipulated that a concession for the exploration and exploitation of mineral raw materials is granted upon request.

The Government of the Republic of Croatia, the competent ministry or the executive body of the county or of the town and the user of the concession conclude a concession contract.

#### 5. THE MARITIME CODE

The "maritime good" is of public interest to the Republic of Croatia and enjoys its particular protection. The "maritime good" covers internal sea waters and territorial waters, their sea-bed and subsoil as well as part of the land that is, by its nature, intended for public maritime use or is proclaimed as such. It is considered to include, specifically: seashore, ports, breakwaters, building slips, sea-walls, sandbars, rocks, reefs, mouths of rivers flowing into the sea, canals connected with the sea, as well as living and non-living natural resources in the sea and sea subsoil, fish, ores, etc. Natural and legal persons may be granted authorization for the special use and economic use of the maritime good in terms of a concession.

The economic zone of the Republic of Croatia comprises the sea space from the external border of the ter-

territorial sea in the direction of the open sea to its external border allowed by the general international law. In its economic zone the Republic of Croatia asserts its sovereign rights with regard to exploration and exploitation, the preservation and management of living and non-living natural resources as well as to energy production utilising the sea, sea currents and wind drifts. In its economic zone the Republic of Croatia has the exclusive right to build artificial islands, plants and devices in the sea, sea bottom and sea subsoil.

The use and exploration for the purpose of exploitation of natural resources within the economic zone is performed according to special regulations. As regards ores, special regulations mean the Mining Law.

The continental shelf of the Republic of Croatia comprises the sea bottom and sea subsoil outside the external border of the territorial sea of the Republic of Croatia in the direction of the open sea up to the continental shelves of the neighbouring states.

The Republic of Croatia asserts its sovereign rights over the continental shelf with regard to its exploration and exploitation of its natural resources. Natural resources are understood to comprise mineral resources and other non-living wealth of the sea bottom and its subsoil as well as sea creatures on and near the sea bottom. Exploration and exploitation of mineral resources are also subject to special regulations, which in this case, too, is the Mining Law.

As distinguished from the economic zone and the continental shelf, where the mining legislation is precisely determined as the competent one for exploration and exploitation of the mineral resources, this is not the case, if the internal sea waters and territorial waters are a matter of concern. The Maritime Code and the Mining Law are in conflict, so that the solution will probably be looked for in changing the controversial provisions of the Maritime Code. For this reason with regard to mineral resources the Mining Law is the "lex specialis".

## 6. THE LAW ON GEOLOGICAL EXPLORATIONS

The Law on Geological Explorations from 1986 remains in effect in the Republic of Croatia. A new Law on Geological Activities is being prepared.

According to the current law, geological explorations are considered as: the exploration and establishing of the composition and structure of the earth's crust (land and sea-bed and subsoil), of mineral raw materials, exploration of shallow mineral and thermal underground waters as well as geological testing before the construction of various buildings. This exploration is carried out using geological, geophysical, geochemical, hydrogeological and engineering-geological methods, by surface and underground works as well as by exploration and structural drilling. Fundamental and regional geological explorations are activities of special importance.

The fundamental exploration works are carried out in order to obtain the basic geological data concerning the composition and structure of the earth's crust, and to establish possibilities for locating mineral raw materials, or to determine engineering-geological, hydrogeological, geophysical and petrological characteristics of rocks. Fundamental exploration is also considered to include elaboration of geological maps on the scales of 1:25,000; 1:50,000; 1:100,000; 1:200,000 and smaller scales. Regional geological exploration works are carried out in order to acquire the data concerning the composition and structure of the earth's crust of the given region and to locate deposits of mineral raw materials and aquiferous complex structures.

Detailed geological exploration works are carried out in order to obtain the data concerning the origin, position and form of the deposits of mineral raw materials, and to establish their quantity, quality and possibilities and conditions of their exploitation. These exploration works are performed in conformity with the provisions of the Mining Law. Detailed geological exploration works are also carried out in order to explore underground waters, and to obtain the data for taking measures aimed at environment protection.

## 7. THE EUROPEAN ENERGY CHARTER

The contract with accompanying acts on acceptance of the European Energy Charter was signed by Croatia in Lisbon in December 1994.

The European Energy Charter refers to accelerating economic growth by measures for the liberation of investments and trade in energy sector taking into account the need for the most efficient exploration, production, transformation, storage, transportation, distribution and use of energy.

The contracting parties, signatory states to the Charter, bind themselves, among other things, to:

- act to promote access to international markets in order to develop open competitive market for energy materials and products;
- take the necessary steps to allow the free passage of energy materials and products through their territory over the trading grounds;
- promote the access and transfer of energy technology across the trading and impartial grounds;
- establish conditions for access to the capital market for companies and citizens of other contracting parties for the purpose of financing trade and investments of economic activities in the energy sector;
- allow access to investment in the energy economy over their territory along with the adequate protection of such investments;
- also allow the entrance and temporary stay of natural persons in the territory of the contracting party, who will be, as key personnel, employed with the investor;

- retain the state sovereignty over the energy products. They decide in particular within their territory on areas that are available for exploration, on the renewal of reserves, and on levels of exploitation and exhaustion of deposits; they determine and apply various fees, rentals, and financial payments; they determine safety measures and conditions for environment protection, and their participation in exploration and exploitation of energy goods.

Certain signatory states have the right to transitional adjustment measures that may last up to 5 years, and Croatia is among them. The existing legislation of the Republic of Croatia in the energy sector provides no hindrance to the implementation of the Charter.

## 8. CONCLUDING REMARKS

The mining legislation in the Republic of Croatia is based on the previous Austrian General Mining Law of 1854. Consequently, the tradition of mining legislation in our country is very long. During the very short period of existence of the Republic of Croatia (since 1990) the mining legislation has been brought into harmony with the new legal order in the state but also with the mining legislation that exists in European countries, especially those of Central Europe.

The legal regulations in the field of exploration and exploitation of oil and gas are contained in the Mining Law, but also in some other laws that are today in force in Croatia. Here is reference made primarily to the Concessions Act and to the Maritime Code.

Current legal regulations in the Republic of Croatia make it possible that, from the legal standpoint, the processes of exploration and exploitation of oil and gas can operate in an orderly manner. In the course of time they will be improved, as will be required by the modern mining-and-oil legislation in Europe.