

# The Development of Mining Laws and Property Rights over Natural Resources in Hungary Since the 19<sup>th</sup> Century

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## ABSTRACT

The recent discoveries of potential gold deposits in the Börzsöny Mountains has ignited intense legal and political debate in Hungary, raising fundamental questions about the ownership of mineral resources and the rights to their extraction. This article, therefore, holds not only historical importance but also provides valuable insights into the current issue by analysing the legal framework governing mining rights from the 19<sup>th</sup> century to the present. The study explores three distinct mining regimes that shaped the 20<sup>th</sup> century: the 1854, 1960, and 1993 Mining Acts. The article begins by defining key terms and addressing fundamental legal questions pertaining to mining law. The discussion then turns to the 1854 “General Mining Act”, highlighting its pivotal provisions, which will shed light on the legal traditions governing the mining sector. The third section examines the profound impact of Hungary’s territorial changes after the First World War and the influence of the totalitarian regime established after the Second World War on the aforementioned Mining Act, which led to the adoption of a new Mining Act in 1960. This section also provides an analysis of the broader legal framework imposed during the Soviet-style dictatorship, particularly its aggressive nationalisation and socialisation of mineral resources. The article proceeds to trace the development of the current regulatory framework, focusing on the liberalisation of the mining industry during Hungary’s transition to a free market economy in 1989, with particular emphasis on the significance of the 1993 Act. Finally, it compares the three legislative regimes, offering a comprehensive overview of the legal evolution that has shaped the governance of Hungary’s mining sector.

## KEYWORDS

Natural resources, mining rights, exploitation of minerals, post-socialist legal systems, rights of future generations.

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## Dezvoltarea legilor miniere și a drepturilor de proprietate asupra resurselor naturale în Ungaria din secolul 19-lea până în prezent

### REZUMAT

Descoperirile recente ale unor posibile depozite de aur în Munții Börzsöny au stârnit debateri juridice și politice intense în Ungaria cu privire la proprietatea asupra resurselor minerale și drepturile de exploatare a acestora. Prin urmare, acest articol nu are doar o importanță istorică, ci oferă și perspective valoroase asupra problemei actuale, analizând cadrul juridic care reglementează drepturile miniere din secolul al 19-lea până în prezent. Studiul examinează trei regimuri miniere distincte care au fost în vigoare în secolul 20: Legea Minieră din 1854, Legea Minieră din 1960 și Legea Minieră din 1993. Articolul începe prin definirea unor termeni-cheie și abordarea unor întrebări juridice esențiale legate de dreptul minier. Ulterior, analizează „Legea Generală a Minelor” din 1854, evidențiind dispozițiile sale esențiale, care oferă o perspectivă asupra tradițiilor juridice ce au guvernat industria minieră. A treia secțiune examinează impactul schimbărilor teritoriale ale Ungariei după Primul Război Mondial și influența regimului totalitar instaurat după cel de al Doilea Război Mondial asupra Legii Miniere adoptate anterior, ceea ce a condus la adoptarea unei noi Legi Miniere din 1960. Această secțiune explorează, de asemenea, cadrul juridic general sub legislația dictaturii de tip sovietic și analizează naționalizarea agresivă a resurselor minerale sub regim. Articolul prezintă în continuare evoluția actualului cadru de reglementare, concentrându-se pe liberalizarea industriei miniere în timpul tranziției Ungariei către economia de piață liberă, în 1989, subliniind importanța Legii din 1993. În final, sunt comparate cele trei regimuri miniere, oferind o imagine de ansamblu asupra evoluției juridice a guvernanței industriei miniere.

### CUVINTE CHEIE

Resurse naturale, drepturi miniere, exploatarea mineralelor, sisteme juridice post-socialiste, drepturile generațiilor viitoare.

## I. INTRODUCTION

What distinguishes the ownership of mineral resources from the right to extract them? To what extent should minerals be considered state property, or ought they fall under the ownership of private landowners? Which legal and administrative bodies are responsible for granting authorisation for resource extraction?

In Hungary, where mining regulations have long been regarded as particularly detailed and transparent, such questions have arisen repeatedly throughout the country's history. Surprisingly, they remain just as pertinent today, especially in light of recent geological research suggesting the presence of a significant gold deposit in the Börzsöny Mountains—yet authorities remain reluctant to grant companies the necessary extraction rights.<sup>2</sup>

This article, therefore, seeks to explore and provide answers to these pressing legal and economic questions. While primarily employing comparative and historical methodologies to examine key mining regulations from the 19<sup>th</sup> century

2 Website of Varga's Invest and Consulting Zrt. on Gold Mining. Available at: <https://aranybanyaborzsony.hu/about.php> (accessed on 11.02.2025).

onward, it not only offers a comprehensive overview of Hungary's historical mining traditions but also yields insights that may illuminate contemporary regulatory practices.

The Mining Acts of 1854, 1960, and 1993—each of which governed the sector at different points in the 20<sup>th</sup> century—represent distinct phases in Hungary's legal traditions concerning mining. These acts not only chart the evolution of the country's mining sector but also reflect unique elements specific to each regulatory framework. Accordingly, this article is structured around these legislative milestones: first, it examines the period covered by the Austrian General Mining Act of 1854, which remained in force until 1960. It then turns to the Soviet-style dictatorship and its impact on both the mining industry and legislative framework (1960–1989). Finally, it explores the 1993 Mining Act, which continues to regulate the sector to this day.

## 1. An overview of mining law and key definitions

Mining has long been a cornerstone of human civilisation, serving as a fundamental driver of economic and social development across nations. During the medieval period, the Kingdom of Hungary rose to prominence as Europe's foremost gold producer, maintaining this position until the 16<sup>th</sup> century. At its peak, Hungary accounted for nearly one-third of global gold production, estimated at around 1,000 kilograms annually. By the latter half of the 16<sup>th</sup> century, the country's output represented approximately five-sixths of Europe's total gold production and continued to supply one-third of global production.<sup>3</sup> As a result, mining emerged as a driver of Hungary's economic prosperity during the medieval era. It is, therefore, no coincidence that this sector became the first in Hungarian industrial history to come under formal state regulation.<sup>4</sup>

This regulatory intervention was necessitated, first and foremost, by the need to safeguard the ruler's treasury revenues, prompting the introduction of written economic and technical regulations.<sup>5</sup> Additionally, given the inherently hazardous nature of—requiring specialised technical expertise and rigorous professional training—specific safety protocols and strict oversight became indispensable.<sup>6</sup>

These considerations continue to be relevant today, embedded within mining laws, which continue to fulfil vital social protection and security functions. Beyond regulating industry practices, these legal frameworks include safety provisions designed to

3 Béla Nagy: A magyarországi aranytermelés története, *Természet Világa*, 2/1998, pp. 57–60. Available at: <https://www.aranypiac.hu/tudastar/tudnivalok-a-nemesfemekrol/a-magyarorszagi-aranytermeles-tortenete> (accessed on 11.02.2025).

4 Rita Gyurita, Dominika Borsa, Gábor Hulko, Tamra Tóth (2016): A bányászati igazgatás, in András Lapsánszky (ed.): *Közigazgatási jog II.*, Wolters Kluwer, Budapest, pp. 105–164. Available at: [https://mersz.hu/dokumentum/wk51\\_\\_72/#wk51\\_69\\_p1](https://mersz.hu/dokumentum/wk51__72/#wk51_69_p1) (accessed on 11.02.2025).

5 István Izsó (2004): *Magyar bányajog*, Miskolc Egyetemi Kiadó, Miskolc, p. 8. Available at: <https://mek.oszk.hu/21100/21156/21156.pdf> (accessed on 11.02.2025).

6 Izsó (2004): p. 7.

safeguard human life and health, as well as measures aimed at the preservation of both the built and natural environment.<sup>7</sup>

But how, precisely, can mining regulations be defined, and what fundamental legal principles underpin the framework of mining law? In broad terms, mining law may be described as a “*set of rules that define the relationships between individuals engaged in mining, the state, and other citizens.*”<sup>8</sup> But, it also refers to the legal framework governing

*“the exploration of natural resources and subterranean materials, as well as the processes involved in their extraction and preparation for human use, while also addressing ownership-related legal considerations.”<sup>9</sup>*

In Hungary, as in other countries with significant mining operations and advanced legislative systems, the most effective means of regulating the sector is typically through a distinct mining code (*lex specialis*), distinct from general legal regulations. This ensures a comprehensive and specialised approach to the governance of mining activities.<sup>10</sup>

## 2. Mining regulatory models

The historical analysis of Hungary’s mining industry reveals two fundamentally opposing legal approaches to mineral resource ownership, forming a spectrum that ranges from “*full mining lordship*” to “*unrestricted freedom to mine.*”

The principle of “*full mining lordship*” asserts that all natural resources are the exclusive property of the state, entirely independent of land ownership. In early legal traditions, mineral resources were not regarded as belonging to the landholder but were classified under the jurisdiction of the king’s sovereign lordship rights.<sup>11</sup> These sovereign rights granted the monarch authority over mineral extraction, including the power to transfer and grant mining rights—though these rights did not constitute ownership in the modern legal sense.<sup>12</sup> A notable example of full mining lordship is found in the patrimonial system, where mining rights fell within the monarch’s private economic domain. Under this arrangement, the king exercised control over all land, forests, and mineral resources within the realm. During the reign of Stephen I of Hungary, the crown had absolute control over the nation’s entire territory, ensuring a

7 Árpád Sipos (1872): *Magyar bányajog, tekintettel a francia, szász, porosz bányajogokra, a magyar bányatörvényjavaslatra és az újabb igazságügyi reformtervekre*, Edition of Hügel Ottó, Nagyvárad, p. 4. Available at: <https://mek.oszk.hu/06700/06762/06762.pdf> (accessed on 11.02.2025).

8 Sipos (1872): p. 4.

9 Mór Katona (1903): *A magyar bányajog vázlatja*, Edition of Stampfel Károly, Pozsony–Budapest p. 1. Available at: [http://real-eod.mtak.hu/8120/2/MTA\\_Konyvek\\_EncyclO52\\_110.pdf](http://real-eod.mtak.hu/8120/2/MTA_Konyvek_EncyclO52_110.pdf) (accessed on 11.02.2025).

10 Sipos (1872): p. 4.

11 Gusztáv Wenzel (1866): *A magyar és erdélyi bányajog rendszere*, Királyi Egyetemi Nyomda, Buda, p. 27. Available at: <https://mek.oszk.hu/05200/05273/05273.pdf> (accessed on 11.02.2025).

12 Gyurita, Borsá, Hulko, Tóth (2016).

steady flow of royal revenues. This led to the establishment of the “*mining regalia*”—a sovereign right requiring landowners to surrender mining areas to the royal treasury unless they had been granted a special mining privilege by the monarch.<sup>13</sup> Therefore, while all minerals belonged to the ruler, only the monarch retained the right to grant extraction privileges.

Conversely, the doctrine of full mining lordship, the principle of “*full freedom to mine*” takes an entirely different stance, asserting that land ownership encompasses not only the surface but also the subsurface, granting landowners the unrestricted right to extract mineral resources without external interference. Under this principle, no formal authorisation was required for mining activities.<sup>14</sup>

This approach gained prominence with the expansion of the Árpád dynasty, particularly following the donation of royal lands. During this period, barons were free to exploit the mineral wealth within their domains and retain the profits, all without state oversight. This shift marked a weakening of royal authority, the emergence of individual rights, and the establishment of special privileges for certain mining towns.

Clearly, these two classifications stand in stark contrast to one another, yet modern mining regulations tend to occupy an intermediate position along this spectrum. Nevertheless, it is noteworthy that, when viewed through a contemporary lens, medieval mining regulations appear remarkably sophisticated, as they laid the groundwork for later regulatory frameworks, sifting inspiration from these historical precedents, and building upon their foundational principles and practices. By positioning each Hungarian Mining Act of the 20<sup>th</sup> century within this conceptual spectrum—between full mining lordship and complete mining freedom—the article explores the historical evolution of mining regulations and the legal and economic forces shaping these regulatory developments.

## II. THE ERA OF THE 1854 MINING ACT

The Industrial Revolution in the 19<sup>th</sup> century ushered in an era of unprecedented and rapid exploitation of natural resources, necessitating the establishment of a modern legislative framework to regulate mining activities. To facilitate large-scale mining operations, a decisive departure from the feudal system was required. Therefore, on 23 May 1854, Habsburg King Franz Joseph exercised his autocratic authority to promulgate the Austrian General Mining Act in Hungary—then a part of Habsburg Monarchy—through an imperial decree.<sup>15</sup> This legislation marked a turning point in the evolution of mining law.

<sup>13</sup> Izsó (2004): p. 9.

<sup>14</sup> Izsó (2004): p. 68.

<sup>15</sup> Ödön Alliquander, Imre Bán, Ernő Tassonyi (ed.) (1931): *Magyar bányajog. A bányászatra vonatkozó törvények, rendeletek, döntvények és elvi jelentőségű határozatok teljes gyűjteménye*, Atheneum, Budapest, pp. 4–8. It refers to the General Mining Act of the Habsburg Empire from 1854. The Hungarian translation of the law is available at: <https://mek.oszk.hu/06800/06871/pdf/banyajog2.pdf> (accessed on 11.02.2025).

At the heart of the Mining Act lay the principle of “general freedom” to mine,<sup>16</sup> which ensured that mining activities were open to all, thus eliminating mining as a privilege and instead establishing it as a right granted to anyone who met the legal requirements.<sup>17</sup> This principle sought to guarantee equal access to mining rights<sup>18</sup> while simultaneously regulating resource extraction within a structured legal framework.

However, the Act also introduced significant limitations to this freedom through the principle of Mining Lordship.<sup>19</sup> The second section of the Act declared: “[t]he princely right<sup>20</sup> confers exclusive disposal rights over certain minerals occurring in natural deposits to the prince.”<sup>21</sup>

However, unlike “full mining freedom”, which placed no restrictions on private extraction, “general freedom to mine” was considerably constrained by state authority over resource extraction. The fifth section of the Act specifies that “extraction of reserved minerals can only commence after obtaining a license, which is issued by the mining authorities.”<sup>22</sup>

Thus, while the right to extract resources was theoretically available to all, it is not without limitations, and does not imply that the state lacks intervention mechanisms within the sector. In practice, the exercise of mining freedom was carefully regulated, with administrative authorities overseeing operations to protect the state’s interests. These authorities possessed broad discretionary powers, including the right to designate the extractable mineral resources and determine the specific mining plots where extraction could take place.<sup>23</sup>

Additionally, the Mining Act imposed strict restrictions on the free disposal of certain mineral resources by designating them as “reserved minerals”<sup>24</sup> and providing an exhaustive list of those subject to state control. The exploration and extraction of these minerals could only proceed under a state-issued mining license, as ownership of these resources remained exclusively within the framework of Mining Lordship.

As a result, any mineral not explicitly classified as a reserved mineral fell into the category of “bound minerals”, which were legally tied to land ownership, and were regarded as accessories to the land itself. Therefore, their extraction required the landowner’s consent, thereby preserving a clear distinction between state-controlled and privately-owned resources.<sup>25</sup> This category primarily encompassed raw materials of relatively low economic value or limited occurrence and, crucially, remained within

16 In German: *Bergbaufreiheit*.

17 Gyurita, Borsa, Hulko, Tóth (2016).

18 Kristóf Szívós: A köszénbányászati jog adományozásának egyes kérdései, *Acta Universitatis Szegediensis: Publicationes Discipulorum Iurisprudentiae*, 1/2018, pp. 627–658, p. 630. Available at: <http://publicatio.bibl.u-szeged.hu/20275/1/forum-banya.pdf> (accessed on 11.02.2025).

19 In Hungarian: *bányaúrjog*.

20 In Hungarian: *fejedelmi jog*.

21 Alliquander, Bán, Tassonyi (1931): p. 4.

22 Alliquander, Bán, Tassonyi (1931): p. 2.

23 Gyurita, Borsa, Hulko, Tóth (2016).

24 In Hungarian: *föntartott ásványok*.

25 Katona (1903): p. 8.

the domain of the landowner's proprietary rights. Unlike reserved minerals, bound minerals were not subject to explicit regulation under mining law; instead, their extraction was governed by general private law principles. This regulatory absence reflected the enduring feudal elements within the broader mining framework, as such minerals were traditionally considered common resources, accessible at the discretion of the landowner.

## 1. The impact of the World Wars and the Treaty of Trianon on the mining industry and its regulations

After the First World War, the Treaty of Trianon (1920) had profound and far-reaching consequences, not only redrawing Hungary's territorial boundaries but also fundamentally changing its industrial and economic landscape. Designed to weaken Germany and its allies, the treaty imposed severe war reparations and dismantled multinational entities such as the Austro-Hungarian Monarchy.<sup>26</sup> For Hungary, the treaty resulted in the loss of two-thirds of its pre-war territory, including vast mountainous regions rich in mineral resources. Overnight, the country was transformed from *a stronghold of mining activity into a predominantly lowland nation*. The consequences were devastating: approximately 80% of Hungary's mining areas were ceded to successor states, leading to a drastic decline in production levels—99% reduction in ore production, 96% in iron ore production, 70% in coal production, and 100% in rock salt production.<sup>27</sup> The treaty therefore marked a significant turning point in Hungary's industrial history, severely undermining its resource base and economic potential.

Surprisingly, the mining industry underwent a rapid and effective reorganisation in the wake of war and territorial losses. In a pioneering move, Hungary became the first country in the world to implement a highly detailed annual monitoring system for its manufacturing sector—an initiative that played a crucial role in fostering industrial recovery and laying the groundwork for future advancements.<sup>28</sup> Furthermore, several ore mines transitioned to a more efficient state supervision due to the country's altered geography, with the Recsk ore mine emerging as the country's sole metal mine during the interwar period.<sup>29</sup>

Political developments also played a significant role in reshaping the administrative structure of Hungary's mining sector. The *First Vienna Award* (1938), restored parts

26 Treaty of Peace between the Allied and Associated Powers and Hungary and Act XXXIII of 1921 adopted on 4 June 1920, concerning the North American United States, the British Empire, France, Italy, Japan, Belgium, China, Cuba, Greece, Nicaragua, Panama, Poland, Portugal, Romania, the Serb-Croat-Slovene State, Siam, and Czechoslovakia.

27 László Benke (1996): Bányászat, in István Kollega Tarsoly (ed.): *Magyarország a XX. században: IV. kötet. Tudomány 1. Műszaki és természettudományok*, Babits Kiadó, Szekszárd, pp. 433–452, p. 436. Available at: <https://mek.oszk.hu/02100/02185/html/904.html> (accessed on 11.02.2025).

28 László Halkovics (1996): Ipar, in István Kollega Tarsoly (ed.): *Magyarország a XX. században: II. kötet. Természeti környezet, népesség és társadalom, egyházak és felekezetek, gazdaság*, Babits Kiadó, Szekszárd, pp. 572–587, p. 583. Available at: <https://mek.oszk.hu/02100/02185/html/904.html> (accessed on 11.02.2025).

29 Nagy (1998): pp. 57–60.



of the Highlands to Hungarian control from Czechoslovakia, while the Second Vienna Award (1940) re-annexed Northern Transylvania, including Szeklerland (or Székely Land), from Romania. Subsequently, Hungarian mining legislation was extended to these reclaimed territories, necessitating the establishment of new Mining Departments to oversee operations in these regions.<sup>30</sup>

## 2. The path to the nationalisation of the mining sector

In stark contrast to the profound economic and societal changes that followed the Second World War, the Austrian Mining Act, although formally retained, gradually lost its practical relevance and regulatory efficacy. Its provisions became increasingly obsolete, unable to meet the demands and challenges of the evolving landscape. As economic life transformed, the growing demand for mining materials swiftly elevated the importance of mining—particularly coal mining—making it one of the most vital sectors of the national economy. This shift in priorities necessitated the creation of new mining regulations, often introduced through mechanisms outside the scope of the Mining Act, such as decrees from the National Assembly or constitutional provisions, which effectively supplemented or bypassed the existing legal framework.<sup>31</sup>

The most substantial regulatory changes emerged in connection with coal mining. Coal, once regarded as part of real estate ownership (classified as a bound mineral), could only be extracted within the confines of the regulatory system outlined by the Mining Act. Significant changes to the mining sector emerged with the nationalisation policies introduced through a 1945 decree of the Hungarian National Assembly,<sup>32</sup> which placed the most significant coal mines under state control. This process continued in 1946, when all coal mines were fully nationalised, consolidating state ownership and administration of the entire industry.<sup>33</sup> These legislative measures shifted coal mining rights—formerly granted to landowners—back to the state, while exploration and mining rights were strictly reserved for government control. The rationale for these legal actions lay in the urgent need for coal to facilitate the country's post-war reconstruction and sustain its economy. The broader justification for nationalisation also extended to the management of all mineral resources, with the government arguing that even the most industrially advanced nations could not afford to relinquish control over coal, given its essential role as a key industrial and economic resource.<sup>34</sup> Remarkably, nationalisation efforts were illustrated by events such as the “coal battle” held in Tatabánya on 8 February 1946, where miners competed to meet the nation's

30 Izsó (2004): p. 50.

31 István Izsó (2021): *Bányatörvény-alkotásunk krónikája (1545–1945)*, Miskolc, p. 131. Available at: <https://mek.oszk.hu/21700/21740/21740.pdf> (accessed on 11.02.2025).

32 12200/1945 M.E. (Decree of the Prime Minister). Available at: [https://library.hungaricana.hu/hu/view/OGYK\\_RT\\_1945/?pg=196&layout=s&query=sz%C3%A9n](https://library.hungaricana.hu/hu/view/OGYK_RT_1945/?pg=196&layout=s&query=sz%C3%A9n) (accessed on 11.02.2025).

33 Act XIII of 1946 on the Nationalization of Coal Mining. Available at: <https://net.jogtar.hu/ezer-ev-torveny?docid=94600013> (accessed on 11.02.2025).

34 Izsó (2004) p. 52.



coal requirements, with promises of significant rewards for those who excelled in fulfilling the demanding quotas.<sup>35</sup>

The nationalisation of the complete mining sector was finalised with the enactment of the first and last Constitution of the Soviet-style dictatorship,<sup>36</sup> which laid the foundations for a socialist society. Article 6 of the Constitution declared that “*the treasures of the earth and the mines are the property of the state as the property of the entire people.*” By classifying all mineral materials as exclusive state property, the Constitution effectively brought all usable minerals under the category of “reserved mineral materials” in line with the terms defined by the Austrian Mining Act.<sup>37</sup> This provision ensured that all minerals were uniformly owned by the state,<sup>38</sup> extending its ownership over every mineral resource and the rights to extract them. Additionally, Workers’ Committees were established,<sup>39</sup> granting miners a degree of influence over issues directly affecting them, including wages, workplace safety, social benefits, assistance programs, and other welfare-related matters.<sup>40</sup>

The legal system deriving from the Soviet Constitution imposed an unsustainable economic model on Hungarian society, characterised by the *forced development* of the military-industrial sector to meet Cold War demands, far exceeding the nation’s actual capabilities.<sup>41</sup> Consequently, the mining industry experienced such accelerated development that its regulatory framework increasingly diverged from traditional mining laws, relying primarily on government decrees and ministerial directives. This shift favoured the use of lower-level legal instruments offering greater flexibility for decision-making, thus prioritising the goals of forced industrialisation over the creation of a cohesive and comprehensive legislative framework.<sup>42</sup> During this period, the focus of mining regulation was not on developing comprehensive legislation but on reconstruction efforts, the establishment of a state-driven economic management system, ensuring economic stability, and meeting the demands of central planning, which aimed at achieving continuous increases in production volumes. Additionally, the legislative process was heavily influenced by the communist party’s ideology, which downplayed the importance of regulatory law, favouring instead the guiding influence and political directives from key figures.<sup>43</sup>

35 See *Széncsata* in the Hungarian online lexicon. Available at: <https://mek.oszk.hu/adatbazis/magyar-nyelv-ertelmezo-szotara/szotar.php?szo=SZ%C3%89NCSATA&offset=57&kezdobetu=SZ> (accessed on 11.02.2025).

36 See Article 10 of Act XX of 1949, the Constitution of the Republic of Hungary. Available in English at: [https://static.valasztas.hu/ujweb/alk\\_en.htm](https://static.valasztas.hu/ujweb/alk_en.htm) (accessed on 11.02.2025).

37 Izsó (2004): p. 60.

38 Izsó (2004): p. 53.

39 In Hungarian: *Üzemi Bizottságok*.

40 Péter Korompay, Zoltán Králl: *Bányász anekdoták*. Available at: <http://banyaszmult.uw.hu/drkp001.pdf> (accessed on 11.02.2025).

41 László Bernát Veszprémy: A legsötétebb kommunizmus: utazás a bányászperek mélyére, *Mandiner*, 29<sup>th</sup> of August 2019. Available at: <https://mandiner.hu/belfold/2019/08/banyaszperek> (accessed on 11.02.2025).

42 Izsó (2004): p. 54.

43 Izsó (2004): p. 54.

Even criminal laws were enacted to support this economic policy, frequently enforced against workers who failed to meet the regime's expectations. During the post-Second World War reorganisation of social relations, targeted efforts were made to penalise individuals carrying out traditional economic practices, leading to court proceedings that culminated in numerous so-called "Miner Lawsuits." These trials were highly orchestrated, serving as showcase proceedings designed to advance the regime's ideological agenda. Furthermore, during the Rákosi and Kádár regimes, criminal law was instrumental in legitimising the use of mining labour camps for both political prisoners and common law offenders. These camps operated in Komárom-Esztergom County, notably in Csolnok, Oroszlány, and Tatabánya, where the punitive legal measures intersected with forced labour practices within the mining sector.<sup>44</sup>

In response to the state's strict regulations and the oppressive nature of the dictatorship, the unexpected revolutionary events of 1956 exposed a fundamental flaw in Stalinist policies: the absence of legislative safeguards and predictability. Recognizing this shortcoming, the regime acknowledged the necessity of initiating legal reforms, including the mining law. Beginning in 1957, the National Mining Inspectorate and the Ministry of Heavy Industry undertook preparatory efforts to draft Hungary's first comprehensive mining legislation.<sup>45</sup> This initiative was further shaped by developments in neighbouring socialist states, where mining activities were being regulated to align with the socialist economic framework.

Notable examples include Poland's adoption of mining regulations in 1953, followed by similar legislative advancements in Romania, Bulgaria, and Czechoslovakia in 1957. These developments underscored the urgency of modernising Hungary's mining legal framework in order to remain consistent with the regional shift towards state-directed economic planning.<sup>46</sup>

### III. MINING LAW DURING THE SOVIET-STYLE REGIME AND THE TRANSITION PERIOD

#### 1. Mining regulation in the dictatorship

Under the pressure of Soviet leadership, the Hungarian Parliament finalised and enacted the 1960 Mining Act.<sup>47</sup> This legislation consolidated regulatory processes that had evolved over centuries, while also incorporating internationally recognised legal principles, such as the concepts of mine sites, mine damage, and the responsibilities of technical managers. Furthermore, the Act introduced provisions that aimed to morally

44 Ferdinánd Cservenka: A föld mélyén egyenlők – Bányamunkatáborok, *Újkor*, 2<sup>nd</sup> of May 2020. Available at: <https://ujkor.hu/content/a-fold-melyen-egyenlok-banyamunkataborok> (Accessed: 17 November 2023).

45 In Hungarian: *Országos Bányaműszaki Főfelügyelőség és a Nehézipari Minisztérium*.

46 Izsó (2004): p. 55.

47 Act III of 1960 on Mining. Available at: [https://jogkodex.hu/jsz/bt\\_1960\\_3\\_torveny\\_5513057?ts=1961-07-01](https://jogkodex.hu/jsz/bt_1960_3_torveny_5513057?ts=1961-07-01) (accessed on 11.02.2025).

recognise and financially remunerate miners, thereby formalising their professional and social standing.

Chapter 1 of the Act outlines the purpose and scope, stating: “[i]n order to build socialism and meet the needs of the national economy, this law regulates the safest and most economical extraction of the country’s mineral resources.”<sup>48</sup> This foundational principle suggested that all mineral raw materials deemed essential to the national economy were the exclusive property of the state, with mining rights reserved solely for the state’s control. The Act also introduced a precise legal definition of mineral materials, encompassing those found both in the Earth’s crust and on the surface. While it sought to establish an exhaustive list of mineral materials within its scope, the Act ultimately failed to regulate these resources comprehensively. As technological advancements expanded the range of exploitable materials, new mineral raw materials emerged, consequently rendering a static list insufficient for the Act’s ever-expanding remit.<sup>49</sup>

Chapter 2 of the Act focuses on “Mining Rights”, asserting that “*the right of mining belongs to the state.*”<sup>50</sup> Within this framework, only socialist economic entities, such as state-owned enterprises and production cooperatives, were permitted to acquire mining rights for the extraction of mineral raw materials. However, the Act did include a narrowly defined exception, permitting property owners

*“to extract construction mineral raw materials by hand without an official permit to satisfy their personal needs or smaller local needs, if the state issued a mining permit for these occurrences otherwise, he did not assert his right.”*<sup>51</sup>

This provision underscored the state’s commitment to maintaining centralised control over mineral resources while granting limited concessions to individual property owners.

Interestingly, much like contemporary regulations, the mining law categorised mining activities into three distinct phases: exploration, mine development, and landscape planning. The concept of landscape planning involved restoring mined areas to a condition suitable for reuse, addressing the environmental impacts caused by mining operations. This approach to landscape planning aimed to gradually rehabilitate areas to a state fit for recycling, a practice that remains integral to modern mining systems.<sup>52</sup> To ensure compliance with safety regulations, the Mining Act introduced stringent requirements for state oversight of mining activities. It specified that “[t]he research activities of state bodies are determined by the national geological research plan, coordinated by the central geological authority, and approved by the Council of Ministers.”<sup>53</sup>

48 Act III of 1960 on Mining, Section 1 §.

49 Izsó (2004): p. 57.

50 Act III of 1960 on Mining, Section 3 §.

51 Act III of 1960 on Mining Section 5 § (1).

52 Izsó (2004): p. 59.

53 Act III of 1960 on Mining, Part Geological Research Mining.

Furthermore, the law mandated the regular preparation of a technical plant plan for all mining operations, subject to approval by the mining authority.<sup>54</sup>

For more than a quarter of a century, this mining law faithfully upheld the fundamental requirements upon which it was founded. Mineral resources *were governed by a unified regulatory framework*, mining operations the exclusive domain of *socialist economic organisations*—such as state companies and cooperatives—and the exploration and exploitation of the country's mineral wealth was assumed as a direct responsibility of the state.<sup>55</sup> However, with the tide of legislative reform that gathered momentum in the latter half of the 1980s, coinciding with the gradual weakening of the Soviet Union, a succession of new statutes were introduced. These encompassed regulations on business companies, corporate transformations, and concessions, which introduced a broader and more flexible interpretation of mining law. Among the most significant of these changes was the provision allowing non-state economic entities to acquire mining rights, contingent upon obtaining the requisite permits. This development gradually expanded the principle of mining freedom, marking a decisive shift from the law's previously rigid constraints and, for the first time, enabling entities beyond the sphere of state-controlled organisations to secure mining rights under clearly defined conditions.<sup>56</sup>

## 2. The end of state-controlled mining and the shift to a free-market economy

Although the mining sector enjoyed considerable favour under the socialist regime, its forced development often disregarded the country's actual economic and resource capacities. By 1988, the growing tension in the sector over unpaid wages, coupled with the continued reliance on outdated, *production methods* heavily reliant on manual labour, led to widespread miners' strikes. These upheavals not only severely destabilised the industry but also played a crucial role in undermining the regime itself.<sup>57</sup>

As the structural fragility of the mining sector became increasingly apparent, with a growing wave of bankruptcies and liquidations, the newly formed government sought to steer the economy towards a free-market model, aiming to reconstruct the mining industry on a market-driven foundation.

However, privatisation within the mining sector lagged behind that of other industries, as foreign investors initially favoured medium-sized and smaller enterprises over the large-scale companies that had long dominated Hungary's mining industry. This protracted transition precipitated a wave of industrial bankruptcies and corporate dissolutions, resulting in extensive job losses and the closure of numerous mines. The collapse of the socialist regime, the dissolution of Comecon market opportunities and the downsizing of large enterprises precipitated a sharp decline in industrial

54 Izsó (2004): p. 59.

55 Izsó (2004): p. 53.

56 Izsó (2004): p. 62.

57 In August 1988, a miners' strike broke out at the István mine belonging to the mines around Pécs.

production,<sup>58</sup> with the mining sector bearing the brunt of this downturn—suffering a staggering 45% contraction between 1990 and 1994.<sup>59</sup>

It is essential to recognise that, as a consequence of these developments, certain companies gained even greater autonomy, successfully engaging in market operations and sustaining strong economic ties with Central and Eastern European countries. Meanwhile, as state-owned entities, their primary function remained the execution of state investments and the advancement of government interests. Consequently, during the privatisation process, these operational companies also encountered significant challenges in adapting to a market-driven economic framework.<sup>60</sup> One of the most profound and disruptive consequences of the regime change was the extensive liquidation of enterprises, resulting in substantial and, in many cases, irreversible losses of assets. This necessitated direct governmental intervention. For instance, in the latter half of 1989, efforts to restore the financial viability of the Mecsek Coal Mines prompted a collaborative investigation conducted by foreign companies British Mining Consultants Limited and the Operational Research Executive in partnership with the Central Mining Development Institute. Their objective was to provide expert analysis and recommendations for developing a new regulatory framework for preventing the liquidation of mining enterprises—an imperative societal need to ensure the continuous production of coal.

Furthermore, the stability of the mining industry was crucial for safeguarding domestic energy security and preserving employment levels in the sector. To achieve these objectives, the government recognised the necessity of a systemic transformation within the Hungarian coal mining industry. This entailed ensuring the sector's profitability by eliminating all forms of state subsidies, creating a self-financing and self-sustaining operational model. Such a transformation could only be realised through the *modernisation of organisational and management systems*, shifting away from a highly centralised bureaucratic system towards the creation of independent economic units and establishing industrial business cooperation.<sup>61</sup> These structural reforms could only be realised through the implementation of a new legal framework for mining activities, underscoring the imperative need to revise the existing Mining Act adopted during the Soviet-style dictatorship to align with the evolving economic landscape and market-oriented principles.

58 Vera Nyitrai (1996): Az ipar helyzetének alakulása 1985–1996 között, in István Kollega Tarsoly (ed.): *Magyarország a XX. században: II. kötet. Természeti környezet, népesség és társadalom, egyházak és felekezetek, gazdaság*, Babits Kiadó, Szekszárd, pp. 587–622, p. 615. Available at: <https://mek.oszk.hu/02100/02185/html/356.html> (accessed on 11.02.2025).

59 Nyitrai (1996): p. 618.

60 Máté Tóth, Gergely Baksay, Péter Bilek, Veronika Czákó, Pál Gáspár, Gábor Orbán (2003): *A privatizáció összehasonlító elemzése a csatlakozó és egyes átalakuló gazdaságokban*, ICEG Európai Központ, Budapest, p. 15. Available at: [http://www.icegec-memo.hu/hun/kutatasi\\_projektek/privatization.pdf](http://www.icegec-memo.hu/hun/kutatasi_projektek/privatization.pdf) (accessed on 11.02.2025).

61 Erzsébet Sipos (as Sipos Antalné): A mecseki szén, *ArchívNet*, 3/2010. Available at: [https://www.archivnet.hu/gazdasag/a\\_mecseki\\_szen.html](https://www.archivnet.hu/gazdasag/a_mecseki_szen.html) (accessed on 11.02.2025).

## IV. OVERVIEW OF THE MODERN MINING ACT

The enactment of the 1993 Mining Act<sup>62</sup> heralded a fundamental shift in the regulatory framework, transferring the financial and operational risks of mining activities from the state to private enterprises and thereby facilitating the transition to a market-oriented system.<sup>63</sup> While mining activities remain subject to state supervision, the codification of the Act was carefully designed to align with the principles established in the 1991 Concession Act, which permits the temporary exploitation of state-owned natural resources.<sup>64</sup> Together with its implementing regulations, the Mining Act forms a comprehensive and structured legal framework governing mining operations within Hungary's legal system. However, neither the Mining Act nor its enforcement mechanisms operate in isolation; rather, they constitute the cornerstone of a broader regulatory framework that integrates additional legislative provisions.<sup>65</sup> This interconnected approach enhances its effectiveness in addressing historical regulatory challenges while ensuring comprehensive governance of the mining sector.

The overarching objective of regulation, as articulated in the preamble of the Mining Act,<sup>66</sup> is to govern mining activities in a manner that upholds the protection of life, health, safety, the environment, and property, while also ensuring the responsible management of mineral and geothermal energy resources, which means that it establishes certain fundamental limitations to ensure that the freedom to conduct mining operations extends only insofar as it does not imperil other societal values.<sup>67</sup>

### 1. State property and limits

The Act firmly upholds the state's monopoly over mining activities, granting it exclusive control and regulatory authority over the exploration and extraction of these resources. Consequently, individuals or entities may only engage in mining operations through concession contracts issued by the state.

A key priority for the legislator is the precise definition of the law's scope, distinguishing specific categories of raw materials from the general concept of mineral

62 Act XLVIII of 1993 on Mining. Available at: <https://net.jogtar.hu/jogszabaly?docid=99300048.tv> (accessed on 11.02.2025).

63 Gyula Koi (2019): *Bányászati igazgatás*, in Imre Miklós (ed.): *Szakigazgatás I.*, Nemzeti Közszerkeleti Egyetem Államtudományi és Nemzetközi Tanulmányok Kar, Budapest, pp. 207–224, p. 208. Available at: [https://antk.uni-nke.hu/document/akk-copy-uni-nke-hu/Szakigazgat%C3%A1s\\_Tank%C3%B6nyv\\_2019\\_09\\_06.pdf](https://antk.uni-nke.hu/document/akk-copy-uni-nke-hu/Szakigazgat%C3%A1s_Tank%C3%B6nyv_2019_09_06.pdf) (accessed on 11.02.2025).

64 Act XVI of 1991 on Concessions.

65 See, for example: Government Decree 267/2006 on the Hungarian Mining and Geological Office, as well as Government Decree 203/1998 on the Implementation of Act XLVIII of 1993 on Mining, and Decree 81/2012 on the Mining Concession Tender Procedure.

66 In accordance with the Preamble of the Act XLVIII of 1993 on Mining.

67 Gyurita, Borsa, Hulko, Tóth (2016).

resources. These distinct classifications are typically governed by dedicated provisions, often set out in separate chapters of the Mining Act.<sup>68</sup>

This principle is closely aligned with the provisions of the new Civil Code,<sup>69</sup> which explicitly designates subterranean natural resources as state-owned assets that cannot be privately traded. As set forth in the legal framework: “[t]he ownership of real estate property shall not extend to the treasures of the earth, nor does it extend to natural resources.”<sup>70</sup> Thus, ownership of surface real estate does not equate to ownership of mineral resources beneath it. This legal distinction serves to dispel any misconceptions that might lead landowners to assume an unfounded right to exploit underground minerals based solely on their property ownership. By clearly delineating property rights and resource management responsibilities, the legislation ensures that the extraction of mineral resources remains subject to strict state oversight and regulatory control.

Even in contemporary legal practice, a recurring issue arises when certain property owners, labouring under the mistaken assumption that their ownership rights extend to the natural resources beneath their land, engage in the unauthorised extraction of mineral materials without securing the requisite official permits. However, property rights are legally confined to the surface of the land and extend downward only to the “*extent required for the intended lawful use of the property*.” This typically includes the right of use, permitting individuals to utilise the land and its resources in a manner that does *not exceed personal needs or those of immediate household members*.<sup>71</sup> Accordingly, the acquisition of real estate does not confer ownership rights over the treasures of the earth or the natural resources that emerge from it. Such resources remain the exclusive property of the state, which acquires ownership by virtue of the law itself.<sup>72</sup>

## 2. The reflection of the free-market economy in the Mining Act

Within the legal framework established by the Public Finances Act,<sup>73</sup> exclusive state-owned property is classified as treasury assets. The administration and management of these assets fall under the jurisdiction of the minister responsible for treasury assets, who exercises ownership rights on behalf of the state through the Treasury Assets Directorate.<sup>74</sup> This centralised administrative structure raises a critical legal and economic question regarding its compatibility with free market principles, particularly in the context of natural resource management. The continued state ownership of mineral resources, despite the broader adoption of market-oriented economic policies,

68 Gyurita, Borsa, Hulko, Tóth (2016).

69 Act V of 2013 on the Civil Code. Available in English at: <https://faolex.fao.org/docs/pdf/hun209514.pdf> (accessed on 11.02.2025).

70 Act V of 2013 on the Civil Code, Section 5:17 (2).

71 Act V of 2013 on the Civil Code, Sections 5:17 (2) and 5:159 (1).

72 Izsó (2004): p. 74.

73 Act CXCV of 2011 on Public Finances. Available at: <https://net.jogtar.hu/jogszabaly?docid=a1100195.tv> (accessed on 11.02.2025).

74 In Hungarian: *Kincstári Vagyoni Igazgatóság*.



exposes the inherent tension between state control and the principles of private enterprise and competition.

Under the pertinent legislation, the sale or transfer of treasury assets requires prior approval from the Treasury Assets Directorate before they can be removed from state ownership. If such approval is withheld, or if mineral raw materials are extracted without the necessary authorisation, they remain subject to the non-tradability provisions outlined in the Civil Code. Consequently, the status of state ownership remains intact, and any assets unlawfully transferred must be restored to their original ownership status.<sup>75</sup> In cases where restoration is not feasible, liability is determined according to civil law principles.

This raises the inevitable question: how can a system be deemed market-based when natural resources remain under state ownership? In much the same way as the principle of “*general freedom to mine*” reflected in the 1854 Mining Act, the exploration, extraction, and commercial exploitation of mineral resources are permitted under the Concession Act, despite state ownership, so long as all legal requirements and necessary permits are obtained.<sup>76</sup>

This regulatory framework ensures that individuals and entities can engage in mining activities within Hungary while complying with established legal provisions.<sup>77</sup> Additionally, the Civil Code allows for the transfer of exclusive state-owned property under specific statutory conditions. In this regard, the Mining Act serves as a key legal instrument, facilitating concession agreements wherein mineral materials extracted by a licensed mining contractor become their property upon extraction and subsequent utilisation.<sup>78</sup> This regulatory mechanism demonstrates how state control over natural resources is balanced with commercial enterprise, ensuring compliance with legal standards while fostering economic activity within the mining sector under strictly regulated conditions. Moreover, it is important to highlight that, under the Mining Act, ownership of otherwise non-tradable mineral materials can only be transferred to mining entrepreneurs—individuals with legally acquired rights to extract specific mineral resources. Consequently, individuals *not classified as mining entrepreneurs* do not have the ability to acquire ownership rights over mineral raw materials.<sup>79</sup>

According to the Hungarian Concession Act,<sup>80</sup> a concession is a form of legal authorisation through which the state or local government temporarily transfers the right to conduct certain activities, as defined by law, within the framework of a reciprocal contract. Concession agreements are typically established for a fixed term, with a maximum duration of 35 years, extendable by an additional 17.5 years under

75 Izsó (2004): p. 76.

76 Act XVI of 1991 on Concessions.

77 Izsó (2004): p. 70.

78 Act XLVIII of 1993 on Mining, Section 3§. (1): “[t]he mineral material extracted by the mining contractor shall become the property of the mining contractor upon extraction and utilization.”

79 Izsó (2004): p. 75.

80 Act XVI of 1991 on Concessions.

exceptional circumstances.<sup>81</sup> A notable characteristic of concession contracts is that, in most instances, they do not result in a transfer of ownership, with the notable exception of mining activities. In the case of mining, the entity awarded the concession gains ownership rights over the extracted mineral raw materials and geothermal energy, subject to the obligation of paying a mining royalty to the state.<sup>82</sup> This arrangement effectively allows non-state entities to temporarily hold a limited market monopoly over the exploitation of specific resources.

The introduction of the new Mining Act enabled mining to be conducted under a licensing regime, thereby making various entities eligible to engage in concession-required activities. This includes not only the state and local governments but also state or municipal institutions, business organisations established for this purpose, and both domestic and foreign individuals or legal entities.<sup>83</sup>

In summary, within the existing legal framework, mineral resources in their natural state remain state property. However, the right to extract these resources can be conferred through a concession. In essence, the state bestows the right to extract, while the mining enterprise assumes the responsibility of paying royalties for the minerals extracted. Ownership of the extracted resources passes to the mining company as part of the extraction process.<sup>84</sup>

## V. CONCLUDING REMARKS

In response to the fundamental questions surrounding the ownership of mineral resources buried deep within the Earth's crust—whether they belong to the state or the landowner—Hungarian legislative history offers varying answers:

The 1854 Mining Act embraced the principle of “*general mining freedom*”, permitting landowners to exercise property rights over mineral resources that were considered accessories to their land. This legislation also introduced certain restrictions on specific types of mineral extraction.

In the aftermath of the two World Wars and the Treaty of Trianon, mining regulations became progressively more restrictive, moving towards a model of absolute state ownership over natural resources. This trend reached its zenith under the Soviet-style totalitarian regime, during which all natural resources were declared the exclusive property of the state, with only a few minor exceptions.

In the current legal landscape, the regulatory framework occupies an intermediate position between full state ownership and unrestricted mining freedom. The current mining legislation is fundamentally structured around the principle of mining royalties, where the rights associated with these royalties are vested in the state itself rather

81 Gyula Koi: A bányajog és a bányászati szakigazgatás jellegzetességei (jogelméleti-jogtörténeti vázlat), *Magyar Közigazgatás*, 8/2006, pp. 475–492, p. 12. Available at: [https://www.academia.edu/8870314/A\\_b%C3%A1nyajog\\_%C3%A9s\\_a\\_b%C3%A1ny%C3%A1szati\\_szakigazgat%C3%A1s\\_jellegzetess%C3%A9gei\\_2004\\_](https://www.academia.edu/8870314/A_b%C3%A1nyajog_%C3%A9s_a_b%C3%A1ny%C3%A1szati_szakigazgat%C3%A1s_jellegzetess%C3%A9gei_2004_) (accessed on 11.02.2025).

82 Koi (2006).

83 Koi (2006).

84 Gyurita, Borsai, Hulko, Tóth (2016).

than in the sovereign.<sup>85</sup> Thus, the existing system bears greater resemblance to state ownership than to absolute mining freedom. However, it remains more liberal than the mining laws enforced under the Soviet-style dictatorial regime, while still being more restrictive than the provisions of the 1854 Act.

In summary, while mining law may seem arcane and insignificant, it has played a pivotal role in shaping Hungary's economic, historical, and legal development. A comparative analysis of mining legislation across political regimes reveals crucial insights into the extent to which a well-functioning society is reliant on its natural resources, and how the legal framework governing these resources reflects broader regulatory and governance structures that strive to balance economic interests with sustainable resource management.<sup>86</sup>

Looking to the future, mining law will continue to be a crucial component of regulatory developments. Hungary's Fundamental Law, which references natural resources on three distinct occasions, underscores the state's responsibility to ensure their preservation and sustainable use, as well as their importance for future generations.<sup>87</sup> Beyond national concerns, mining law extends its influence to international regulatory frameworks, affecting diverse legal domains such as energy law, deep seabed mining regulations, and the legal governance of space resource extraction and utilisation. As such, mining law remains a critical and evolving field with far-reaching legal, economic, and environmental ramifications.

Finally, as a student at the University of Miskolc, nestled in one of Hungary's most historically rich mining cities, I am convinced that this succinct examination of mining law highlights the pivotal and distinctive role that natural resources hold within the regulatory structure of any nation.

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85 Magdolna Gedeon (2017): *Bányajog, mint természeti erőforrások jogának történeti áttekintése, Agrár- és Környezetjog*, 23/2017, 21–35, p. 35. Available at <https://ojs.mtak.hu/index.php/JAEL/article/view/2448/1763> (accessed on 11.02.2025).

86 The Fundamental Law of Hungary from 2011. Available in English at: <https://njt.hu/jogszabaly/en/2011-4301-02-00> (accessed on 11.02.2025).

87 The Fundamental Law of Hungary from 2011, Article P) (1) stipulates that: “*[w]e bear responsibility for our descendants and therefore we shall protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources.*”