

Climate Change Legislation Czech Republic

Report on the Concepts and Directions
of Climate Legislation

Legal Analysis

Justice and Environment 2011

**Climate Change Legislation
Czech Republic**

**Report on the Concepts and Directions
of Climate Legislation**

Legal Analysis

The aim of this paper is to analyze climate related legislation and to assess whether the legal measures are sufficient in order to reach long term reduction targets. J&E compares the outcome with other countries and develops policy recommendations based on the national reports.

1. Emission mitigation, prevention

Attainment of the Kyoto targets

- 1.1. List legislative documents which directly ensure the attainment of the Kyoto targets!

UNFCCC Act (Notification of Ministry of Environment No. 80/2005 Coll., on the promulgation of the UN Framework Convention on Climate Change. Sdělení Ministerstva zahraničních věcí č. 80/2005 Sb. m. s., o vyhlášení Rámcové úmluvy OSN o změně klimatu.)	This Act promulgates the UNFCCC in the Czech law.
Kyoto Act (Notification of Ministry of Environment No. 81/2005 Coll., on the promulgation of the Kyoto Protocol to the UNFCCC, 2007. Sdělení Ministerstva zahraničních věcí č. 80/2005 Sb. m. s., o vyhlášení Rámcové úmluvy OSN o změně klimatu.)	This Act promulgates the Kyoto Protocol in the Czech law.
ETS Act (Act No. 695/2004 Coll., on the conditions of greenhouse gas emission allowance trading and amending certain laws. Zákon č. 695/2004 Sb., o podmínkách obchodování s povolenkami na emise skleníkových plynů a o změně některých zákonů.)	This Act implements the EU Emission Allowances Trading Scheme in the Czech Republic.
Resolution of the Government Of The Czech Republic No. 702 of 2011, on the application for transitional free allowances for the modernisation of electricity generation, under Art. 10c of the Directive 2003/87/EC. Usnesení vlády České republiky č. 235/2004 k Žádosti o	According to the plan over 108 million free EU ETS allowances will be allocated to 51 companies for their 85 installations between 2013-2019.

<p>přidělení bezplatných povolenek pro využití k investicím do vybavení a modernizace infrastruktury a do čistých technologií a národní plán investic)</p>	
<p>State Environmental Policy (Resolution of the Government Of The Czech Republic No. 235 of 2004, on the State Environmental Policy of the Czech Republic. Usnesení vlády České republiky č. 235/2004.)</p>	<p>This Resolution defines a consensual framework for long-term and medium-term directing of the development of the environmental dimension of sustainable development in the Czech Republic. As Resolution of the Government it is not a law and accordingly it cannot be directly enforced.</p>
<p>National Programme to Abate the Climate Change Impacts in the Czech Republic (Národní program na zmírnění dopadů změny klimatu v České republice)</p>	<p>Non-binding strategic document of the Czech government for identifying the climate protection goals of the Czech Republic and the measures to be realized to achieve them.</p>
<p>Air Act (Act No. 86/2002 Coll., on the Protection of Air and the Amendment of Certain Other Acts. Zákon č. 86/2002 Sb., o ochraně ovzduší a o změně některých dalších zákonů.)</p>	<p>The Act sets targets, principles and tools for air pollution protection. In terms of the climate change mitigation it sets a basic framework for the use of biofuels and establishes a targets for decreasing GHG emissions per unit of fuel as well as transposes the obligations stemming from the REGULATION (EC) No 842/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 May 2006 on certain fluorinated greenhouse gases</p>

1.2. Are the listed documents sufficient enough to fulfil the international commitments of your state?

At the present time our GHG emissions are about 21,5 % lower than in the base year (1990). However, this significant reduction is a consequence of the regime change in Czech Republic in 1989. Social changes were linked with radical changes in economy of Czech Republic. The production of GHG emissions decreased in almost every economic sector including industry and agriculture. Accordingly, already in 1995 GHG emission in CR were about 24 % lower than in 1990 and in 2002 decrease even about 28 %.

Consequently, Czech Republic has fulfilled its international commitments resulting from the Kyoto Protocol. Nevertheless, it is evidently that the essential emission mitigation is a consequence of the radical economical changes, which are unrepeatable. It confirms also fact that in comparison with 2002 GHG emission increase about 8 %. That is why in our opinion the existing laws and strategies cannot ensure the attainment of the long term emission mitigation commitments of the state (see the documents mentioned bellow). We are persuaded that it will be necessary to adopt complex legal regulations for ensuring mitigation commitments.

- 1.3. Are there any other emission mitigation concepts discussed on political or social level?

<p>Draft of Climate Change Policy of Ministry of Environment (Návrh politiky ochrany klimatu Ministerstva životního prostředí)</p>	<p>This draft should substitute valid National Programme to Abate the Climate Change Impacts in the Czech Republic. The aim of Climate Change Policy is to mitigate national greenhouse gas emission about 20 % between 2005 and 2020.</p>
<p>Updating of State Energetic Policy (Aktualizace Státní energetické koncepce)</p>	<p>The State Energy Policy's vision specifies the state's priorities and determines the objectives that the state wants to achieve in influencing the development of energy sector in the horizon of the next 30 years in the conditions of a market—oriented economy.</p>

- 1.4. Outline the emission mitigation concept(s) of the draft CC Act!

In autumn 2009 a proposal of Climate Change Act was introduced for the first reading to the Czech Parliament by the Czech Social Democrats Party. The draft is designed as an amendment of the ETS Act incorporating a few CC Act principles into it. The draft contains a basic mitigation target of 50 % in 2050 compare to the base year (2009) in form of a yearly moving average reduction. The draft was however of very vague wording and insufficient scope as well as almost no enforcement framework. The draft did not find support in the Parliament and since that time no other draft of Climate Change Act has been presented to the legislators.

Support of renewable energy sources

- 1.5. List all legislative documents which support the use of renewable energy sources!

<p>Act on Promotion of Use of Renewable Sources (Act No. 180/2005 Coll., on the promotion of electricity production from renewable energy sources and amending certain acts. Zákon č. 180/2005 Sb., o podpoře výroby elektřiny z obnovitelných zdrojů energie a o změně některých zákonů (zákon o podpoře využívání obnovitelných zdrojů.))</p>	<p>This Act regulates the method of promoting the production of electricity from renewable energy sources.</p>
<p>Act on energy management (Act No. 406/2000 Coll., on energy management. Zákon č. 406/2000 Sb., o hospodaření energií.)</p>	<p>This Act stipulates proceedings for economical use of natural resources and efficient use of energy. This act stipulates also right and obligations of natural and legal persons in the management of energy.</p>

<p>Air Act (Act No. 86/2002 Coll., on the Protection of Air and the Amendment of Certain Other Acts. Zákon č. 86/2002 Sb., o ochraně ovzduší a o změně některých dalších zákonů.)</p>	<p>The Act sets targets, principles and tools for air pollution protection. In terms of the climate change mitigation it sets a basic framework for the use of biofuels and establishes a targets for decreasing GHG emissions per unit of fuel as well as transposes the obligations stemming from the REGULATION (EC) No 842/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 May 2006 on certain fluorinated greenhouse gases</p>
<p>Energy Act (Act no. 458/2000 Coll., on business conditions and public administration in the energy sectors and on amendment to other laws. Zákon č. 458/2000 Sb., o podmínkách podnikání a o výkonu státní správy v energetických odvětvích a o změně některých zákonů.)</p>	<p>This Act provides the conditions for business activity, the exercise of public administration, and non-discriminatory regulation in the energy sectors, including the electricity sector, the gas sector and the heat sector, as well as the rights and obligations of individuals and legal entities related thereto.</p>
<p>State Energy Policy (Government Decision No. 211/2004, Státní energetická koncepce přijatá jako usnesení vlády České republiky č. 211/2004)</p>	<p>The State Energy Policy specifies the state's priorities and determines the objectives that the state wants to achieve. This document also stipulates goals in the area renewable sources.</p>
<p>National Programme for the energy management and the use of renewable sources of energy for 2006 – 2009 (Národní program hospodárneho nakládání s energií a využívání jejich obnovitelných a druhotných zdrojů na roky 2006 – 2009)</p>	<p>The main priority of National Programme is the maximization of energy effectiveness and higher use of renewable and secondary energy sources. The important target is a increase of energy effectiveness by 2.6% per year and energy savings by some 11 PJ per year.</p>
<p>Decree No. 482/2005 on setting the kinds, uses, and parameters of biomass in the support of electricity generation from biomass (Vyhláška 482/2005 Sb., o stanovení druhů, způsobů využití a parametrů biomasy při podpoře výroby elektřiny z biomasy, ve znění pozdějších předpisů).</p>	<p>The Decree sets out the kinds and uses of biomass that are subject to support, in terms of environmental protection, under the Act. Furthermore, the Decree sets out the parameters of biomass according to which the categories of biomass are set with different support for the generation of electricity.</p>

1.6. Are there any other ways of emission mitigation? List laws aiming at emission mitigation in different way!

<p>Nature and Landscape Conservation Act (Act No. 114/1992 Coll., on the</p>	<p>The act is relevant to climate protection with regard to the protection and</p>
---	--

<p>Conservation of Nature and Landscape. Zákon č. 114/1992 Sb., o ochraně přírody a krajiny.)</p>	<p>enhancement of carbon sinks through proper landscape management.</p>
<p>Integrated Pollution, Prevention and Control Act (Act No. 76/2002 Coll., on integrated pollution prevention and control, on the integrated pollution register and on amendments to some Acts. Zákon č. 76/2002 Sb., o integrované prevenci a omezení znečištění, o integrovaném registru znečišťování a o změně některých zákonů (zákon o integrované prevenci))</p>	<p>The Act sets-out the rules for integrated permit proceeding.</p>
<p>The EIA Act (Act No. 100/2001 Coll., on environmental impact assessment and amending some related Laws (the Law on environmental impact assessment). Zákon č. 100/2001 Sb., o posuzování vlivů na životní prostředí a o změně některých souvisejících zákonů (zákon o posuzování vlivů na životní prostředí))</p>	<p>The act sets-out the targets, principles and rules of Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). Both proceedings are potentially very relevant for the enforcement of climate protection goals, since they should ideally provide a detailed assessment of the environmental impacts of certain investment or strategy prior to its realisation.</p>
<p>Waste Act (Act of 15 May 2001 on waste and amendment of some other acts, in the wording of later regulations. Zákon č. 185/2001 Sb., o odpadech a o změně některých dalších zákonů)</p>	<p>This Act regulates the rules of on the prevention of the waste production and on the waste management in compliance with environmental protection.</p>
<p>Act on Packaging (Act of 4 December 2001 on Packaging and Amendments of Some Related Acts. Zákon č. 477/2001 Sb., o obalech a o změně některých zákonů (zákon o obalech))</p>	<p>The purpose of this Act is to protect the environment by preventing the incidence of packaging waste, in particular, by reducing the weight, volume, and harmfulness for the environment of packaging and chemical substances.</p>
<p>Organic Farming Act (Act No. 242/2000 Coll, on organic farming. Zákon č. 242/2000 Sb., o ekologickém zemědělství.)</p>	<p>This Act regularizes the conditions of management in organic farming. It stipulates also rules for marking of bio-foodstuffs.</p>
<p><u>Decree No. 80/2008 of the Government of the Czech Republic, on National Allocation Plan of the Czech Republic 2008 – 2012. (Nařízení vlády o Národním alokačním plánu pro obchodovací období roků 2008 – 2012)</u></p>	<p>National Allocation Plan stipulates total quantity of CO2 emission allowances, which will be issued in every year and distributed for each year in the period 2008 / 2012.</p>

<p>Regulation No. 148/2007 of Ministry of Industry and Trade of the Czech Republic, on energy intensity of buildings. (Vyhláška Ministerstva průmyslu a obchodu č. 148/2007, o energetické náročnosti budov.)</p>	<p>This Regulation stipulates specific claims for energy intensity of buildings.</p>
<p>Regulation No. 193/2007 of Ministry of Industry and Trade of the Czech Republic, on details of efficient use of energy in thermal energy distribution. (Vyhláška ze dne 193/2007, kterou se stanoví podrobnosti účinnosti užití energie při rozvodu tepelné a vnitřním rozvodu tepelné energie a chladu.)</p>	<p>This Regulation stipulates specific claims on efficient use of energy in installation for thermal energy distribution.</p>
<p>2nd Energy Efficiency Action Plan (2011)</p>	<p>Action Plan created based on the requirements of Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services and repealing Council Directive 93/76/EEC. The plan inter alia quantifies the 9% target for energy saving in the Czech Republic (in total 20 309 GWh) and sets a framework for implementation of the target.</p>
<p>Regulation No. 12/2009 of Ministry of Environment. (Vyhláška č. 12/2009 Sb., o stanovení postupu zjišťování, vykazování a ověřování množství emisí skleníkových plynů a formuláře žádosti o vydání povolení k emisím skleníkových plynů)</p>	<p>This Regulation regularizes extent and process of detection, declaration and confirmation of quantity of greenhouse gas emission.</p>

Several amendments of the Act on Promotion of Use of Renewable Sources (Act No. 180/2005 Coll.) have been adopted since the beginning of 2009, some of them with potentially negative implications on the development of renewable energy sector in the Czech Republic. Due to a lenient approach of the legislator towards the decline of investment costs of photovoltaic (PV) installations and wrong setting of the feed in tariff scheme that allowed also large greenfield PV installations to get the support, the return rate of large PV investments felt down from 15 years to 7 and less years. As a result a big number of large installations have been constructed and linked to the grid and costs of feed in tariffs raised unsustainably high for this particular segment of renewables. The reaction of the government and the legislator however led to a significant destabilization of the renewable energy sector while for instance:

- Removing feed in support to island (grid neutral) systems.
- Imposing a retroactive tax on PV investors
- Removing 5 year income taxation immunity to all renewable energy projects.

2. Adaptation to the impacts of climate change

- 2.1. List the specific legal documents related to adaptation to the impacts of climate change!

National Programme to Abate the Climate Change Impacts in the Czech Republic and draft of Climate Change Policy mention 6 basic fields of adaptation in the Czech Republic.

- water management
- nature protection
- agriculture
- forestry
- health service
- spatial planning

National Programme to Abate the Climate Change Impacts in the Czech Republic (Národní program na zmírnění dopadů změny klimatu v České republice)	Non-binding strategic document of the Czech government for identifying the climate protection goals of the Czech Republic and the measures to be realized to achieve them. It contains list of areas of adaptation in the Czech Republic and brief outline of possibilities of adaptation proceedings.
The Czech Republic Strategy for Sustainable Development (Strategie udržitelného rozvoje)	This Strategy provides long-term framework for deciding in the context of international obligations. It is also basic document for creation of conceptual materials and strategic deciding in the framework of public administration.
Draft of Climate Change Policy of Ministry of Environment (Návrh politiky ochrany klimatu Ministerstva životního prostředí)	This draft contains list of basic fields of adaptation in the Czech Republic and list of planned proceedings in them.

Any strategic document concerning the climate change adaptation does not exist in the Czech Republic so far. Presently the adaptation measures are being realized only in the framework of the general agenda of the different state departments. During 2009 the Ministry of Environment announced that it will prepare a general programme for support of adaptation process. However, until now, any draft hasn't been presented yet.

- 2.2. Does the (draft) CC Act cover this issue? If yes, please outline its basic elements!

The current draft of CC Act does not cover this issue.

3. Public awareness raising

- 3.1. List the specific legal documents related to public awareness raising with regard to climate change!

Draft of Climate Change Policy of Ministry of Environment (Návrh politiky ochrany klimatu Ministerstva životního prostředí)	This draft contains basic information about system of environmental education in the Czech Republic and list of documents regarding the environmental education.
Act on Access to Information on the Environment (Act. No. 123/1998 Coll., on Access to Information on the Environment. Zákon č. 123/1998 Sb., o právu na informace o životním prostředí.)	The Act sets rules for access to information on the environment special to the general rules under the Access to Information Act. In § 13 is stipulated the duty of central administrative authorities to create the conditions for realization and development of environmental education.
Education Act (Act No. 561/2004 Coll. Zákon č. 561/2004 Sb., o předškolním, základním, středním, vyšším odborném a jiném vzdělávání (Školský zákon)).	This Act regularizes the preschool, basic, tertiary and further education.
State Programme of Environmental Education (Státní program environmentálního vzdělání, výchovy a osvěty v České republice)	This Programme stipulates basic principles of environmental education in the Czech Republic.
Strategy of Sustainable Development Education (Strategie vzdělávání pro udržitelný rozvoj České republiky).	The purpose of this Strategy is the stipulation of priorities and strategic proceedings in area of sustainable development education for period 2008-2015.

- 3.2. Are there any legal provisions in order to support the society to adaptation to the impacts of climate change?

There is very little of legal provisions directly aiming at public awareness raising. The draft of Climate Change Policy mentions environmental education as a standard component of education programmes. In general we can conclude that the Ministry of Environment is quite active in this area and there are general strategic documents (as mentioned above) focused on the general environmental protection awareness raising.

- 3.3. Does the draft CC Act cover this issue? If yes, please outline its basic elements!

The current draft does not cover this issue.

4. Research activities

- 4.1. List the relevant legal documents related to research activity with regard to climate change!

National Innovation Strategy (Národní inovační strategie České republiky)	The goal of this strategy is to create presumptions for Czech Innovation Policy.
National Innovation Policy of the Czech Republic for 2005-2010 (Národní inovační politika na léta 2005-2010)	This Policy stipulates basic aims, methods and instruments of the innovation policy. One of the essential objectives is to intensify research and development as the sources of innovation.
National Policy of Research, Development and Innovation of the Czech Republic for 2009 – 2015 (Národní politika výzkumu, vývoje a inovací na léta 2009 – 2015)	The significant objective of this Policy is to focus public support research and innovation on sustainable development.
National Programme of Research (Národní program výzkumu)	This Programme consists of several thematic programme: Quality of Life, Information Society, Energy for Economy and Society. Among Essential objectives of this programme belong also natural resource conservation and rational usage of energy and renewable resources.
Programme of Research of Ministry of Environment (Resortní program výzkumu v působnosti Ministerstva životního prostředí ČR na léta 2007 – 2013)	This Programme is divided into 4 subprograms: Climate change and Limitation of Pollution, Sustainable Usage of Sources, Research of environmental technology and Observation of the Earth and Tools for Assessment.
Programme to Promote Environmental Technologies (ETAP) (Program podpory environmentálních technologií)	The aim of the ETAP is to remove obstacles in developing and introducing environmental technologies. ETAP wants to take the maximum advantage of the potential that offers expansion and the use of environmental technologies in order to reduce environmental load, improve the quality of life and promote economic growth.

- 4.2. Does the draft CC Act cover this issue? If yes, please outline its basic elements!

The current draft does not cover this issue.

5. Transposition of the EU energy and climate change ‚package‘

5.1. Are there any public concepts regarding transposition of the EU energy and climate change package?

<p>Draft of Climate Change Policy of Ministry of Environment (Návrh politiky ochrany klimatu Ministerstva životního prostředí)</p>	<p>This draft takes knowledge of energy and climate change package and in many respects goes in line with the the EU energy and climate package targets.</p>
<p>ETS Act (Act No. 695/2004 Coll., on the conditions of greenhouse gas emission allowance trading and amending certain laws. Zákon č. 695/2004 Sb., o podmínkách obchodování s povolenkami na emise skleníkových plynů a o změně některých zákonů.)</p>	<p>This Act implements the EU Emission Allowances Trading Scheme in the Czech Republic. It contains transposition of amendment of ETS Directive regarding option for transitional free allocation for the modernisation of electricity generation facilities (Article 10c of the Directive).</p>
<p>Resolution of the Government Of The Czech Republic No. 702 of 2011, on the application for transitional free allowances for the modernisation of electricity generation, under Art. 10c of the Directive 2003/87/EC. Usnesení vlády České republiky č. 235/2004 k Žádosti o přidělení bezplatných povolenek pro využití k investicím do vybavení a modernizace infrastruktury a do čistých technologií a národní plán investic)</p>	<p>According to the plan over 108 million free EU ETS allowances will be allocated to 51 companies for their 85 installations between 2013-2019.</p>

The Directive 2009/29/EC brought substantial changes in the EU Emissions Trading System. New provision sets the obligatory auctioning of the allowances for the power sector within the revised community scheme from 2013. The only exception to this rule is laid down in Article 10c of the revised EU ETS Directive, which provides for the option of allocating a limited number of free allowances to power generators for a transitional period until 2019. The option under Article 10c is available to 10 Member States whose electricity systems meet certain criteria, the Czech Republic among them. The aim of this provision is to help to modernise their electricity sector, thus helping them to overcome the disadvantage resulting from their national circumstances and gradually prepare their energy sector for the full auctioning as the preferred method. Therefore member state applying for the derogation must provide a national plan that provides for investments in retrofitting and upgrading of the infrastructure, clean technologies and the diversification of their energy mix for an amount equivalent to the market value of the free allocation. Just few days after the Directive 2009/29/EC was published in the Official Journal in June 2009, the Czech parliament already had on the table a legislative amendment transposing the Article 10c.

The amendment then smoothly passed through the parliament as part of another, unrelated legislative act, irrespective of non-existing guidance from the Commission and ignoring proper legislative process. The list of investments was then prepared without any prior knowledge or information, requirements and criteria set on the application form and national investment plan. The Czech government decided to allocate for free over 108 million allowances in 2013-2019 to 51 companies for their 85 installations.

5.2. Will the (draft) CC Act transpose these pieces of law in addition?

The CC Act draft partially transposes only the general GHG mitigation target set by the Package.

Contact information:

name: Jan Šrytr
organization: J&E
address: Dvořákova 13, 60200 Brno
tel/fax: 420 575 229/420 542 213373
e-mail: info@justiceandenvironment.org
web: www.justiceandenvironment.org

The Work Plan of J&E has received funding from the European Union through its LIFE+ funding scheme. The sole responsibility for the present document lies with the author and the European Commission is not responsible for any use that may be made of the information contained therein.

