

Access to Justice in the Czech Republic: Statistics and Data Analysis

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Structure and Contents

- **Research goal and objectives**
- **Reasons and motivation behind the project**
- **Related aspects**
- **Provisional results and conclusions**
- **Methodology**
- **Suggestions**

Research Goals and Objectives

- **How often does the public concerned access the courts?**
- **How many NGOs access the courts?**
- **Are they local or state-wide?**
- **What kind of legal actions do they employ?**
- **During which phase of the permitting procedure do they access the courts?**
- **Do they ask for preliminary measures?**
- **Are they successful? On what grounds?**

***The most unfair court decisions are
the ones that never happen...***

Kateřina Šimáčková, The Constitutional Court of the Czech Republic

**In practice:
If there is a will, there is a way**

Example 1: Until recently, the NGOs could not challenge the urban planning documents. They had to find a natural person which met the locus standi criteria.

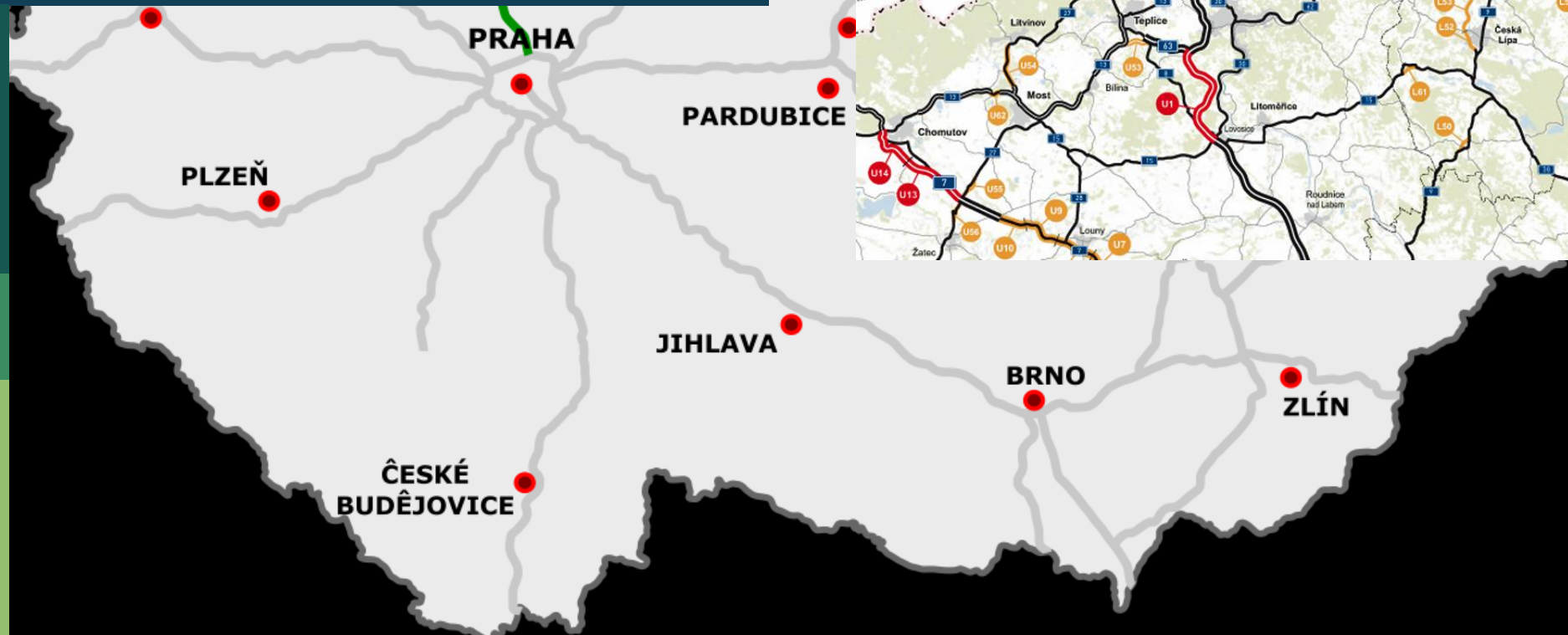
Example 2: Tenants are not deemed affected which, in effect, eliminates their judicial protection. Similarly, they have to find a proper plaintiff (the owner) in order to access the court.

Example 3: Some local NGOs do not have enough supporters or history of environmental activity. In practice, they team up with the professional NGOs.

**In practice:
The real data is missing**

- **The official reports provide only general information that the NGOs participate in the decision making and are provided with judicial protection. It is concluded, that the court proceedings are time consuming and that the NGOs effectively slow down some important projects.**
- **The NGOs are labelled eco-terrorists and blamed for failures of both administrative bodies and developers.**
- **There are even attempts to claim damages from the public concerned and to start criminal proceedings against them.**
- **The courts are blamed by the politicians for supporting the NGOs.**

D8 Highway construction



D8 Highway construction



D8 Highway construction



Research Goals and Objectives

- **Some difficulties in infrastructure development may be ascribed to abuse of procedural rights of various actors, but this alone should not draw attention away from other issues that have huge impact on the effectivity of decision making.**
- **The analysis should identify and address some weak points of the state administrative and bring some facts to the table.**
- **We believe it is time to analyse the public participation as a coherent social and legal instrument and indicator of effectivity of the state power. Because it is here to stay.**

Related Aspects



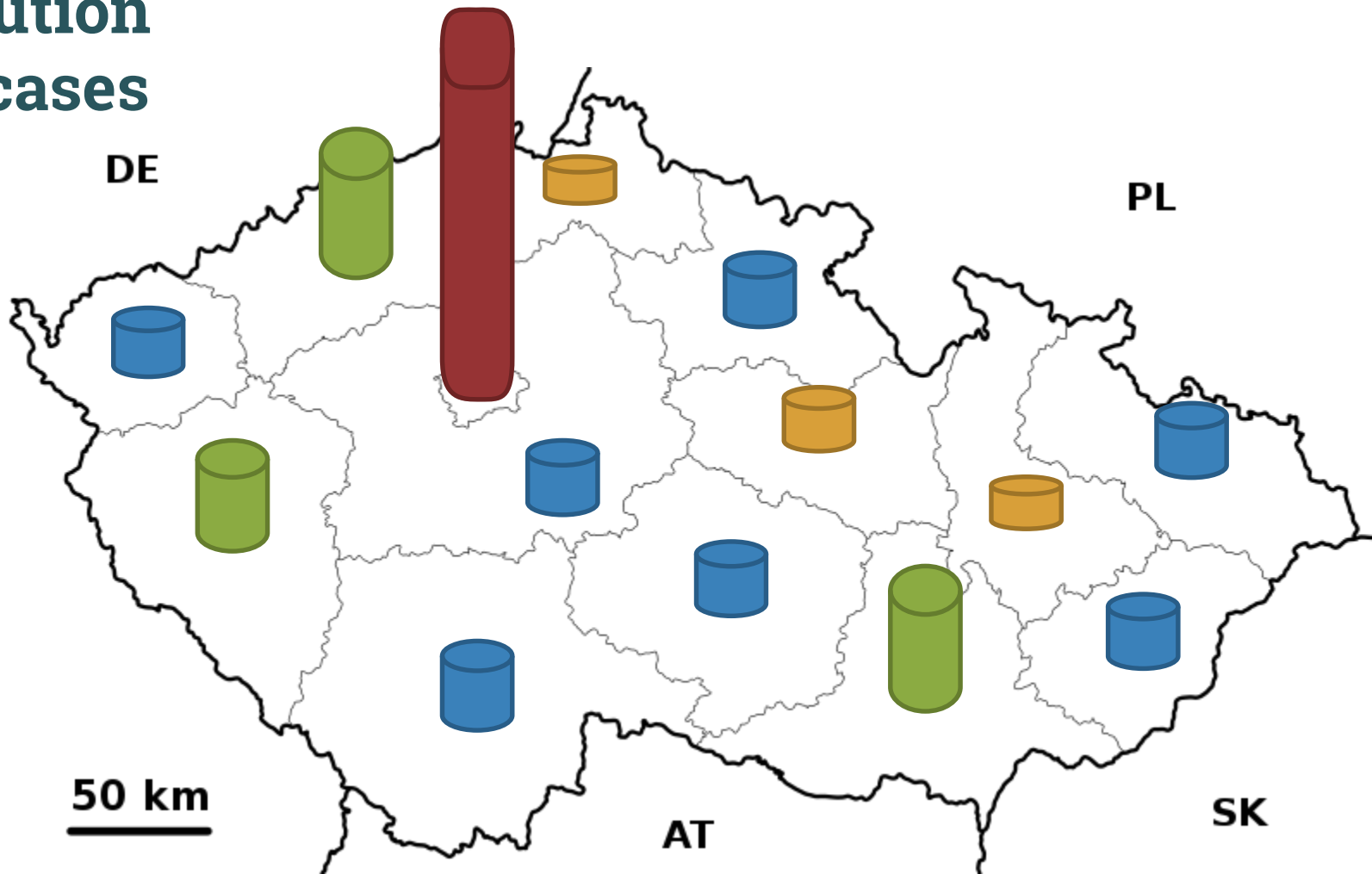
Example:

- To build an average wastewater treatment plant, the investor must obtain **six or seven decisions in the separate administrative procedures.**
- All of these procedures are governed by common rules, yet **differ in their scope, the range of participants and the competent authority.**
- Specific rules for these procedures are spread among a **huge amount of legislative pieces** dealing with land use and building, protection of nature, water management, waste treatment etc.

Provisional Results and Conclusions

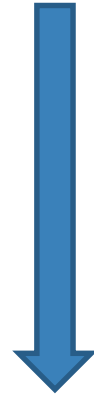
- **So far, we have analysed around 300 cases from 2012 - 2016.**
- **In the first phase, we focus on activities of the NGOs. The rest of the public concerned will follow.**
- **We focus on the substantive decisions and omit the cases concerning access to information.**

distribution of the cases

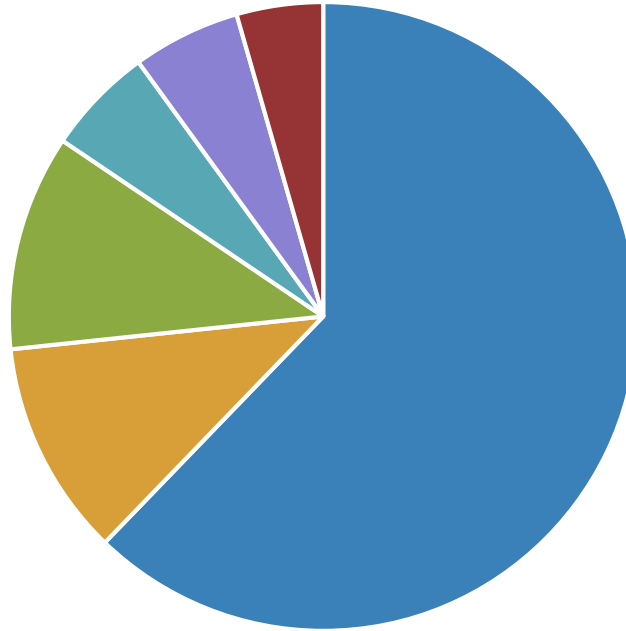


Main factors:

- **Seat of the ministries and other central authorities**
- **Number of the NGOs and seat of the main NGOs**
- **Industrial activities and development**
- **Population affected**
- **Environment affected**
- **Media coverage**



types of cases



■ LAND USE AND BULDING

■ ENDANGERED SPECIES

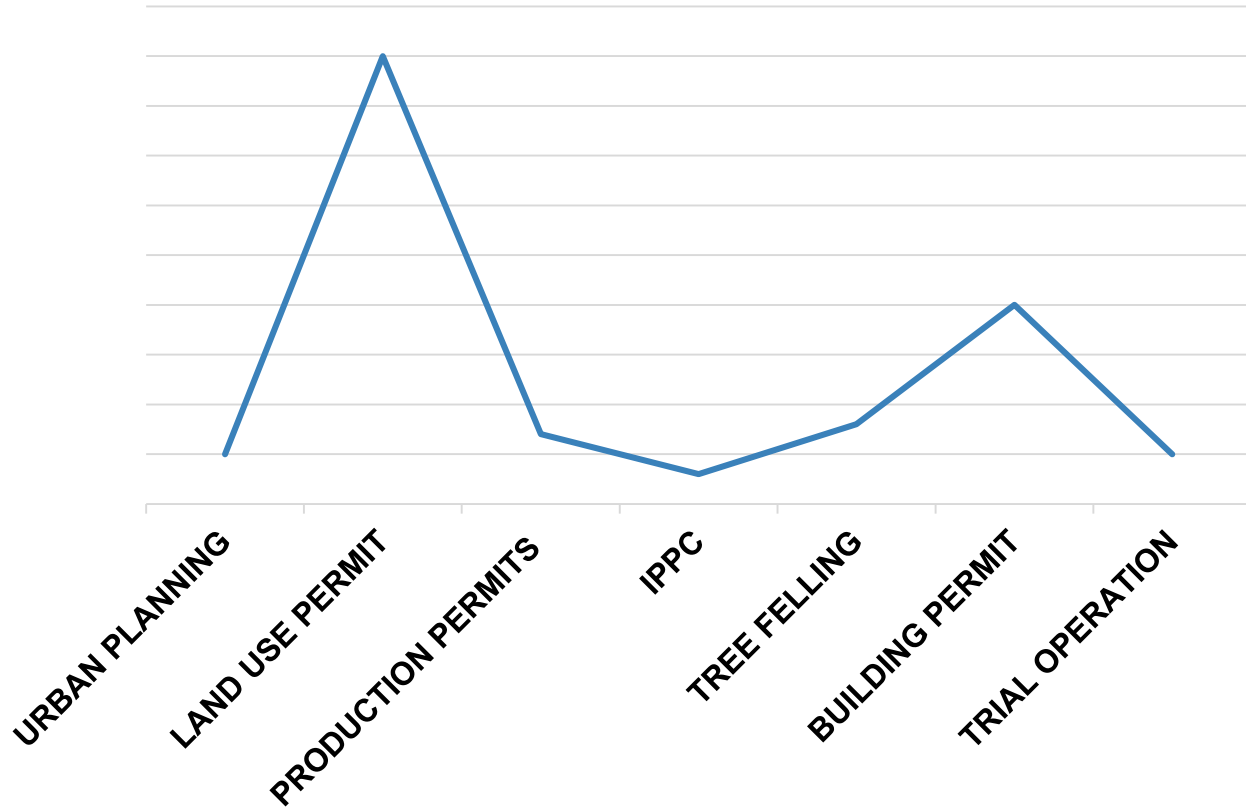
■ URBAN PLANNING

■ PRODUCTION PERMITS AND IPPC

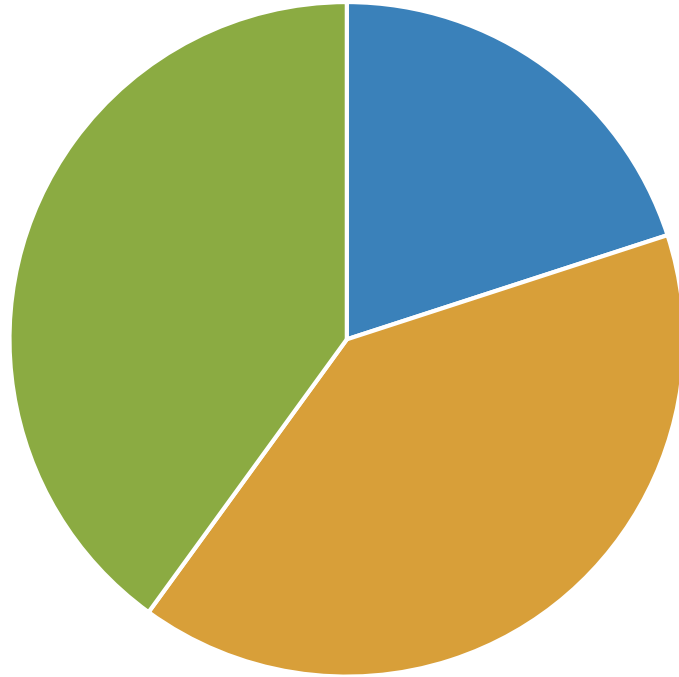
■ TREE FELLING

■ OTHERS

phases of development



types of NGOs



■ LOCAL AD HOC ■ REGIONAL ESTABLISHED ■ NATIONAL

success rate



victory

loss



first level victory

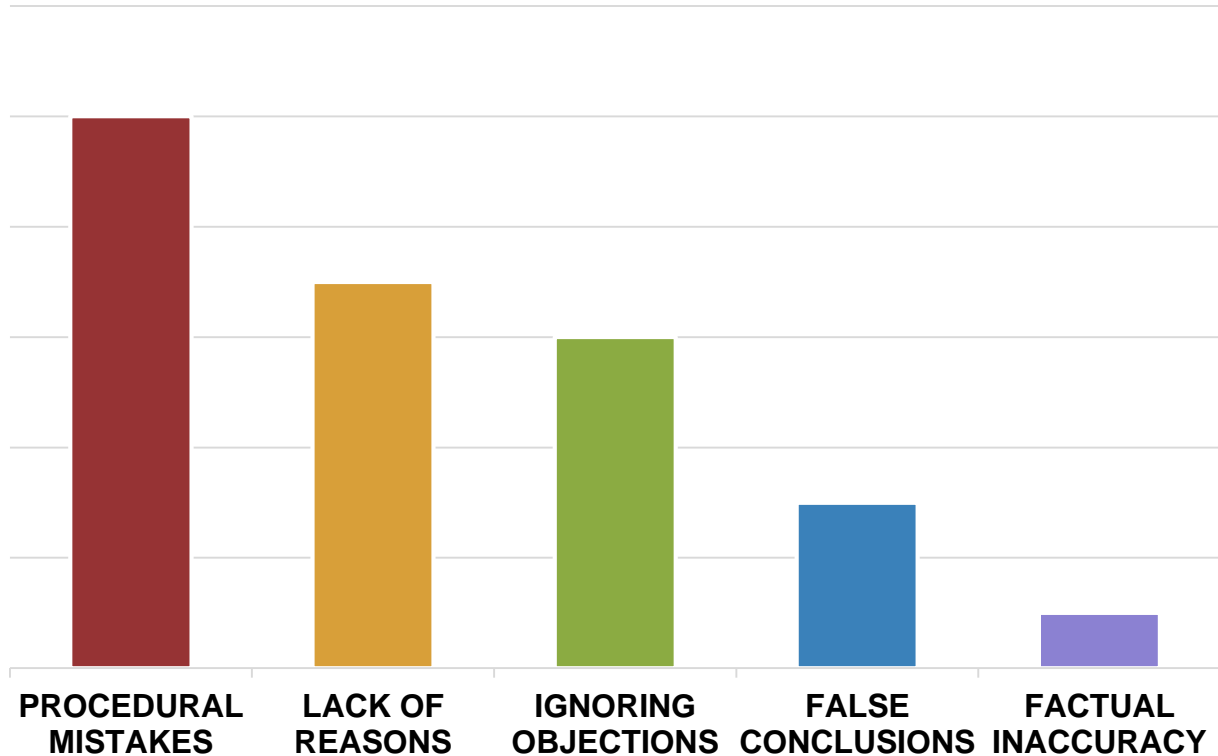
second level victory

first level loss

second level loss

reasons behind success

(defects of the administrative decisions)



Methodology: Possible Issues

- **Access to data**
- **Personal links, shared attorneys**
- **Public concerned in non-environmental matters and “on the dark side”**
- **Landmark judgments**
- **Major projects generating case law**
- **Notorious complainants generating losses**

Suggestions

**Integration of
administrative
procedures**

**Selective
approach**

**Guidance &
Assistance**

THANK YOU FOR YOUR ATTENTION!

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