

Balancing Public Interests in Nature Protection

Abstract

This thesis focuses on the broader scope and the implications of balancing of public interests in nature protection. Czech Nature and Landscape Protection Act (Act No. 114/1992 Coll.) often requires the existence of an overriding public interest in order to allow interference with protected environmental interests. Furthermore, it implements requirements of the Birds Directive and the Habitats Directive, which introduced the concept of IROPI in protection of habitats and particular derogatory regimes from the protection of wild birds and endangered species. The traditional Czech nature conservation system has not been consumed or displaced by the requirements of EU rules. Both systems employ a slightly different approach to territorial protection, but the derogations in general rely on the same set of conditions including the concept of public interest, which needs to be interpreted in each individual case.

The core of the thesis lies in the analysis of the case law of the Czech courts and the Court of Justice of the European Union, in particular with an emphasis on common requirements for the identification and balancing of public interests in protection of nature. The author suggests that balancing of nature protection and other public interests takes place even at a much earlier stage than within the derogating procedures under the Nature and Landscape Protection Act.

The author concludes that there is basically no major difference in divergent procedures between the long-established national system of nature protection and the requirements of EU law. Nevertheless, general and vague stipulations on balancing public interests seem to render the nature protection fragile. At first glance, the concept of IROPI should leave no backdoor from unbiased considerations on values and virtues represented by various public interest. In practice, however, the whole process seem to be largely influenced with the political considerations which tend to support industry and infrastructure development and does trigger to conceive nature conservation as an opportunity for human activities. In this respect, it is possible to argue that further elaboration of conditions and requirements of balancing of public interests in nature protection is more than desirable.

Keywords

Public interest, nature protection, IROPI, case law