

# Private law instruments of environmental protection

## Abstract

Private law deals primarily with the regulation of relations between individuals and the protection of their individual rights, whether personal or property. The aim of this dissertation is therefore to determine whether and how the instruments of private law can be used to protect the environment. For this purpose, an analysis of the relevant private law institutes has been carried out, such as the protection of the personality, neighbourhood law, and the prevention and compensation of damage, which are the most important means of protecting the rights of an individual.

Protection of personality in private law is primarily designed to protect the life, health and privacy, but it is useful to indirectly protect the environment from the effects that these values threaten, as shown by extensive decision-making practice of the European Court of Human Rights. The right to live in a favourable environment is a new institute in Czech civil law, which could have a great potential for environmental protection purposes, but it still lacks a more detailed regulation and there is also no case law.

Neighbourhood law serves to protect the real estate owners against the disruptive effects of the activities of their neighbours. These are referred to as imissions and may include, for example, noise or air pollution. There is a lot of case law on this issue, which was used for analysis the important topic of imissions posed by noise caused by road traffic.

The Czech Civil Code further governs the obligations concerning the prevention of damage, including the obligation to take preventive measures in certain cases. These preventive measures may also be ordered by the courts. With respect to the importance of prevention as a part of the environmental protection, these measures are useful means to prevent, in particular, the damage to the owned environmental components. The importance of compensation of the damage incurred is supported by the number of successful disputes concerning damage to forest caused by industrial exhalations.

The above-mentioned instruments of Czech private law were also compared with legal regulations in the countries neighbouring to the Czech Republic, namely Slovakia, Austria, Germany and Poland. Their legal regulations show considerable similarity with the Czech one, because they use similar instruments. Especially Austrian neighbourhood law is an important model for the Czech Republic. The thesis also include *de lege ferenda* proposals, which are based on established legal deficiencies or on foreign inspiration.

The conclusion of the thesis is that private law instruments are usable for the protection of the environment, but the protection is only indirect and not complex. For this reason, these tools cannot replace public environmental law, but they can be a valuable addition to it.

**Key words: private law, protection of environment, ownership, Protection of personality, neighbourhood law, prevention of damage, compensation of damage**