

ABSTRACT

Environmental protection within specific proceedings pursuant the Building Act

Unrestrained construction activity damages natural resources and diverse environmental components in irreversible or in difficult-to-repair ways, thereby further thwarting thriving or even surviving of the World population.

In the Czech legal system, the regulatory measures of administrative bodies, along with the participation of the affected stakeholders, contribute to the environmental protection of the individual development project. This dissertation examines the methods, means, and tools of environmental protection within the framework of designated proceedings regulating the construction. Specifically, it analyzes the possibilities of implementing protective environmental measures within the construction-permitting procedures enshrined in the provisions of Sections 103 to 117 of the Building Act. Five construction-permitting regimes are examined separately: the building permit process; notification; public law contract; notification with certificate of the authorized inspector and projects requiring neither building permit nor notification. If followed lawfully, each of the regimes allows the prospect applicant to commence a relevant construction project.

Permitting procedures are significantly influenced by several factors that hinder effective assessment of construction projects in terms of their environmental effects, including fragmentation of public construction law, incessant changes in substantive and procedural regulations, the shifting course of judicial case-law and inconsistent doctrinal interpretations. To comprehend such factors, this dissertation creates a comprehensive summary of the foremost public construction laws in regard to the permitting of the construction realization phase. Furthermore, it analyzes the links between the said laws and the instruments and possibilities of how environmental measures are implemented within the national, European and international context. As for the rapid changes of public construction law, this dissertation also evaluates the significance of two “major” amendments to the Building Act (No. 350/2012 Coll. and No. 225/2017 Coll.). Additionally, it critically assesses the impact of inconsistent judicial and doctrinal approaches. Finally, this study presents proposals for perfecting the permitting

process while upholding appropriate environmental standards in the context of ongoing recodification discussions.

The dissertation is divided into five factual chapters. The first chapter analyzes the legal framework of environmental protection and its basic foundations, and further examine the degree of influence of environmental principles on the decision-making of administrative bodies. To navigate among fragmented construction standards and environmental protection elements based in public constructional law, the second chapter assesses over one hundred legal regulations (national, European and international) and their numerous links to construction-permitting processes. The third chapter investigate institutes, subjects and fundamentals that are common to individually inspected implementation-permitting procedures. These include the definition of the regulated subject matter, the system and functions of building authorities and the involved bodies defending public interests and issuing binding opinions. Among the other construction-permitting procedures detailed in the fourth chapter, critical attention assesses the building permit process and the application of environmental requirements in its various stages. The final chapter summarizes the outcomes of research comparing the Czech building-permit process with the constructional-development review in the legal system of the state of Oregon in the United States.

Key words

Environmental Protection; Public Construction Law; Construction; Building Act; Building Code; Construction Proceeding; Building Permit; Construction Announcement; Public Contract; Authorized Inspector Certificate; Building Authority; Involved Authority; Public Interest; Binding Standpoint; Environmental Group