

The Right to a Favourable Environment

Abstract

The diploma thesis deals with the right to a favourable environment. The main objective of the thesis is to answer the question of how this fundamental human right is applied nowadays and what is the role of international treaties by which the Czech Republic is legally bound in its interpretation. These findings are then critically evaluated and possible directions of the future development of this right are suggested.

The thesis is divided into four parts. The introductory part of the thesis defines the basic concepts and introduces the fundamental principles of the environmental protection. The second part of the thesis approaches the possible forms of the relationship between environmental protection and the protection of human rights following the way they were defined by Dinah Shelton in 1991. The third part of the thesis focuses on the right to a favourable environment in the European legal area. First, on the example of the case-law of the ECHR one of the discussed approaches consisting in extending traditional human rights with environmental aspect is presented in more detail. Furthermore, this part deals with the Aarhus Convention and its significance for the right to a favourable environment.

The last part of the thesis is devoted to the way in which the right to a favourable environment is enshrined in the Czech legal system. This part of the thesis deals in detail with the question of how the subjective right to a favourable environment enshrined at the constitutional level in Article 35 paragraph 1 of the Charter of Fundamental Rights and Freedoms can be invoked in the Czech Republic and how it can be used as a means of environmental protection. Despite the fact it has been constitutionally guaranteed for three decades, the right to a favourable environment has not yet been operating very effectively. This part of the thesis aims to answer the question of the reasons for these difficulties. For this purpose, it deals with the specifics arising from the including of the right to a favourable environment within the fourth chapter of the Charter among the so-called socio-economic rights, which in accordance with Article 41 paragraph 1 can be invoked only within the limits of the implementing laws, then it deals with the question of defining the content of the right to a favourable environment –i.e., in particular, the definition of “*favourability*” of the environment and the obligations of the state, as the guarantor of this right, arising from them. Last but not least, the attention is also drawn to the issue of holders of the right to a favourable environment and the subjects who are allowed to bring an action before court

arguing the infringement of the right, as aspects that are dealt with in rather voluminous case-law of the highest Czech courts.

Key words: favourable environment, environmental protection, human rights