

Resumé

This thesis deals with the legal aspects of economic instruments for environmental protection in the Czech Republic. The text is divided into seven chapters with first two parts introducing the current interest in economic instruments and their placing among the full range of regulatory instruments in the broad area of environmental policy. Bearing in mind the unsettled classification of regulatory instruments we deem as economic instruments those fulfilling the following four criteria: (1) provide motivation to market actors by affecting their benefit function, (2) allow for dynamic efficiency, (3) aims at favouring environmental protection, and (4) are not sanctions.

The third chapter explores normative rationale for regulatory measures in environmental protection. It starts with the notion of market failures, the economic concept of environmental benefits and discusses criteria for instrument choice, including broadly defined effectiveness, distributional impacts and political feasibility. Furthermore, main differences between command-and-control and market-based instruments, their limitations and acceptance are addressed.

The fourth chapter is devoted to general delimitation of economic instruments to environmental taxes and charges (levies), tradable permits, direct and indirect environmental state aids, deposit-refund schemes, compulsory insurances and bails. In addition, some key concepts such as environmental tax reform, environmentally harmful subsidies and EU state aid control are depicted.

The two following chapters provide an in-depth analysis and assessment of economic instruments applied in different branches of Czech environmental law. The aim is to trace back the first occurrence of a particular instrument, its original aim and set up and the subsequent evolution. The main focus is with environmental charges that are the most frequently applied economic instruments in environment protection to date. The major areas of environmental policy concerns are covered – air, water, soil, nature and biodiversity, waste management, mining, radioactive materials use and disposal, hazardous substances, energy generation and use, and transport.

While the origins of economic instrument use in environmental policy dates back to 1960s it was only after 1990 when more instruments were put in place (e.g. waste and mining charges) but the dominant role of command-and-control instruments persists. A new impetus was given with the EU accession bringing an extension to energy taxation and a bright new instrument – emission trading. Currently, the deployment of economic instruments is broadly comparable with other EU countries. However, the system often lacks coherence and similar instruments are used in a different way despite addressing similar problems (e.g. emissions to air vs. emissions to surface water). Moreover, we identified two charges totally inapplicable due to lack of implementing legislation, and a few instruments that lack an appropriate legal basis as postulated in Constitutional Court judicature. Only recently a reform aiming at increasing administration efficiency of environmental has been undertaken.

In spite of relatively abundant portfolio of economic instruments we can hardly call them efficient and effective. While emission trading is substantially flawed from over-allocation of permits that are moreover granted for free, majority of emission charges tax rates are well below a marginal abatement costs implying close to zero motivation effect. Hence, the majority of environmental charges serve as a pure revenue rising instruments for state environmental policy.

The last chapter concludes with summing up the main findings and calls for a broader use of ex-ante and ex-post analyses.