

# **The concept of public interest when deciding on granting exemptions under the Nature and Landscape Protection Act**

## **Abstract**

The master's thesis examines the concept of public interest within the context of Act No. 114/1992 Coll., on Nature and Landscape Protection (hereinafter referred to as the "Act"), in particular when authorizing exemptions under the provisions of § 43 and § 56. In the Czech Republic, nature and landscape protection is generally understood as a public interest, since natural wealth and biodiversity embody values whose conservation benefits society as a whole. However, circumstances may require considering other public interests that conflict with nature protection – and they can be given priority if the legal conditions are met.

This thesis aims to analyze in detail the role of public interest in legal norms, judicial case law of Czech courts (particularly the Constitutional Court and the Supreme Administrative Court) and the practical application by nature protection authorities. The analysis reveals that public interest constitutes a vague legal concept requiring concrete definition in every case. The thesis first summarizes the general nature of public interest, including its reflection in the commentary literature of administrative law, and recalls the fact that this concept is not uniformly defined anywhere in the applicable law. Consequently, competent administrative authorities must find and duly justify, when granting an exemption under § 43 or § 56 of the Act, whether and why an alternative public interest outweighs the legally recognized public interest within the protection of nature and landscape in each instance.

The thesis further examines the legal framework of special territorial and species protection in the Act in order to determine the scope of prohibitions to which the exceptions actually apply. A fundamental topic is mutual conflicts of interest: on one hand, there is an interest in preserving unique ecosystems or valuable species of plants and animals, on the other hand, there may be a public interest in transport infrastructure, flood protection measures or socio-economic development. The analysis of the jurisprudence of the Supreme Administrative Court and the Constitutional Court indicates that the legislator itself assumes that nature protection may not always prevail – provided, however, that the social urgency of the conflicting project, its general benefit for a wider range of people and possible less harmful solutions are thoroughly examined.

In the third, crucial part of the thesis, a proposal for the categorization of public interests is elaborated, which could help, in particular, administrative authorities or parties to the proceedings to better understand what levels of argumentation are possible when authorizing

exceptions (whether it is an economic, infrastructure, security, social, cultural interest, etc.). However, this categorization does not complement the individual examination of a particular case; it serves only as a methodological aid. The appendix to the thesis mentions statistics from selected regional authorities and NP Administrations, which show that most applications for exemptions are allowed in practice, which may mean that applicants often adapt their intentions to the requirements of nature protection authorities or simply predominantly apply for intentions that are not too harmful in terms of their intervention.

The thesis also demonstrates that public interests gain meaning only within the context of specific objectives, and highlights that independent judicial review remains vital for effectively safeguarding the public interest in nature and landscape protection.

It would be appropriate to further reflect on the implications of the absence of a standalone concept (any concept in general appears / functions/ gets its meaning only within its—even if unspoken or unconscious—context) for the legal field as a whole.

**Keywords: public interest, nature and landscape protection, categorization of public interests and intentions in question**