

Summary

Public participation in decision making is an increasingly important aspect of modern democracy. State and international institutions often set goals for themselves, including environmental protection and improvement.. Pollution will become an even more serious issue as large Asian nations continue to expand their economies. In this context, institutions require help and control from the public to ensure they make the proper decisions.

In this thesis, I focus on public participation on three levels: international law, European law and national law.

On the international level, the Aarhus Convention is the controlling legal document. Its three pillars regulate access to information, public participation in decision making, and access to justice. This document contains procedural rights, but the term “public concerned“ is especially important. The Convention leaves it up to member states to determine who comprises „the public“. Similarly, European law regulates public participation. It does so by means of directives. The Czech Republic is thus bound by international as well as European law.

The third chapter of this thesis focuses on specific activities. Several laws are important for public participation, namely the EIA Act, the Water Act, and the Act on Protection of the Nature and Landscape. Although there have been positive steps towards the integration of the public into decision making processes, there must be considerable improvement before that participation is truly effective. The Parliament often passes acts which do not conform with the Czech Republic’s obligations under international and European law. For example, the definition of the „public concerned“ is still too narrow to satisfy the requirements of broad participation.

Another serious issue is the restrictive interpretations courts apply to NGOs. NGOs are often denied standing because courts feel they do not have the substantive right to a favorable environment. This is a major problem, as NGOs are the bodies with the greatest capacity to effectively pressure state institutions. Public corruption and corporate money often create an unfair environment for decision making. It is thus crucial to grant NGOs access to justice.

The recent amendment to the EIA statute provides a good example of the power of special interest lobbying. This amendment expressly prohibits the possibility of suspending Executive decisions the Court must rule on.

The fourth chapter of this thesis describes public participation in plans, programs and policies relating to the environment. The Construction Act is of great importance. Under this Act, important administrative decisions are made which, if inconsistent with the needs of nature preservation, may have a negative impact on the environment.

Chapter five explains how Article 8 of the Aarhus convention is incorporated into Czech law. Regulatory Impact Assessment („RIA“) is a very helpful tool for this analysis.

Finally, the sixth chapter assesses and evaluates the role of the Czech Constitutional Court.