

Abstract

The Legal regime of Antarctica, primarily the protection of its environment and the position of the Czech Republic

The purpose of my thesis is to analyse a legal regime of Antarctica, with regards to protection of its environment and position of the Czech Republic. The thesis is divided into four chapters. Chapter One contains basic introduction of the Antarctic Continent, its geography and history.

Chapter Two investigates legal regime constituted in Antarctica by the Antarctic Treaty and other international documents, known as the Antarctic Treaty System. This chapter consists of six parts, each concentrating on special subject. Part one examines the path of development the Antarctic treaty, part two deals with treaty itself, part three looks at dispute settlement, part four focuses on liability in this international space, part five addresses the issue of inspections held in Antarctica. Part six describes structure and organisation of the Antarctic Treaty System, Antarctic Treaty Consultative Meetings, its legal documents and Secretariat of the Antarctic Treaty.

Chapter Three concentrates on the problem of protection of antarctic environment. First part of this chapter focuses on protection of living resources, guaranteed by the Convention for the Conservation of Antarctic Seals and the Convention on the Conservation of Antarctic Marine Living Resources. Second part describes the Convention on the Regulation of Antarctic Mineral Resource Activities which has never entered into force. Part three looks at complex protection of the environment provided to Antarctica by the Protocol on Environmental Protection to the Antarctic Treaty. In the fourth part of Chapter Three, I deal with problem of tourism which can be potentially very harmful to antarctic environment.

Chapter Four contains two parts and deals with the position of the Czech Republic with regards to Antarctica. Part one explores national law represented by the Act on Antarctica, part two focuses on scientific research held in Antarctica by the czech party, mainly on the czech antarctic station named by scientist Johann Gregor Mendel on James Ross' island.

Antarctic Continent, so different from other continents, not only by its environment, but also by its legal regime – a system of international treaties and other instruments, named together Antarctic Treaty System. This designation is defined by The Protocol on Environmental Protection to the Antarctic Treaty as „the Antarctic Treaty, the measures in effect under the Treaty, its associated separate international instruments in force and the measures in effect under those instruments.“

By this international documents was made and is still being improved an unique legal regime specific for this area, territorially defined by the Antarctic Treaty as the area south of 60° South Latitude. The specifics of the antarctic regime include prohibition of its appropriation which however it does not rest in an absolute ban as is typical for other international spaces. Territorial claims asserted by states – Argentina, Australia, Belgium, Chile, France, Great Britain, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics and the United States of America – were, as a result of the Antarctic treaty (1959), only suspended for the time period the Treaty is in force. Furthermore, Antarctica is the biggest demilitarized area in the world, the Treaty prohibits any measures of military nature, except those used for science or research purposes. All nuclear explosions and the disposal of radioactive waste material is also prohibited.

Not every party to the Treaty has, as is typical for international treaties, the same position in terms of decision making. Parties to the Treaty are „divided“ into three groups – in the first one we can find 12 states, which stood by the development of the Treaty from the beginning, states in the second group acceded to the contract later on, however they have been conducting substantial scientific research activity in Antarctica. Both of these groups are Consultative parties to the Antarctic Treaty, which among other things means they have the authority to adopt legal documents on Antarctic Treaty Consultative Meetings which are held every year. Third group of states also acceded to the Antarctic Treaty later, but this parties lack the required „substantial scientific research activities“ and they have no such authority as parties in first two groups. The Antarctic Treaty also includes regulations for dispute settlement among parties and inspections carried out in Antarctica.

As is mentioned above, the Antarctic Treaty System consists also of two conventions which focuses on protection of parts of antarctic environment. The Convention for the Conservation of Antarctic Seals (CCAS, 1972) provides protection for several species of seals, listed in the Convention, in the area south of 60° South Latitude. The protection of three species is not absolute, but it lays more in significant hunting limitations. Other species are protected completely. An exception can be provided due to special permits, but only for

purposes of providing indispensable food for men or dogs or for scientific research. The number of seals killed or captured in accordance with these permits must also be very limited. The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR, 1980) is territorially applicable not in the area south of 60° South Latitude, but in area limited by so called antarctic convergence – an imaginary line where the south and north waters collide. Its main objective is to take measures to ensure rational use of this resources and protection of antarctic marine ecosystems.

A part of the Antarctic Treaty System was meant to be the Convention on the Regulation of Antarctic Mineral Resource Activities, but it never entered into force.

In relation to the protection of antarctic environment a vital document is the Protocol on Environmental Protection to the Antarctic Treaty (1991). It designates Antarctica as a natural reserve, devoted to peace and science and mainly consists of environmental principles for its protection, listed actions any party shall take in case of environmental emergency and prohibits any activity relating to mineral resources, other than scientific research. We can find more elaborate regulations in annexes to the Protocol: Annex I – Environmental Impact Assessment, Annex II – Conservation of Antarctic Flora and Fauna, Annex III – Waste Disposal and Waste Management, Annex IV – Prevention of Marine Pollution, Annex V – Area Protection and Management, Annex VI – Liability Arising from Environmental Emergencies.

Czech Republic can be considered more active state in relation to Antarctica which is proven not only by its own national law, but also by its scientific and research activities held in Antarctica. National law is represented by the Act on Antarctica (2003) which implements obligations from the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty. In 2007 the Czech Johann Gregor Mendel antarctic station was officially opened where scientific and research activities has been done ever since. Both of these facts are necessary predispositions to obtain consultative status at the Antarctic Treaty Consultative Meetings, which is a goal the Czech Republic persuades in a long-term.