

Summary

The right to a healthy environment as a fundamental human right

The thesis presented analyses the individual aspects of possible links between environmental protection and human rights instruments. A human right to a healthy (appropriate, clean, balanced...) environment is seen as a logical climax of these linkages. The emphasis of the thesis therefore lays in the guarantees of the right to a healthy environment, analysed in the positive international, European and national law and thought over in the „lege ferenda“ prospects.

There are two main lines of human rights instruments application in the field of environmental protection : firstly, using existing (traditional) human rights as right to life or right to respect for his private and family life for the benefit of the environment, due to their so called environmental or green interpretation, and secondly, recognition of a new human right to an environment of a certain quality.

Expanding the scope of existing human rights through their environmental interpretation has been widely acknowledged by international human rights bodies. Most of human rights conventions were adopted before environmental protection became a matter of international concern and had hardly any references to environmental matters. Therefore, the main emphasis lies in the way of their interpretation, which has to correspond to changing social and legal conditions; in relation to human environment this means to the increasing global environmental problems. The mechanisms of such an expansive interpretation of human rights treaties and limits of their application for environmental protection have been illustrated by the example of the decision-making practice of the European Court of Human Rights on the interpretation of the European Convention on Human Rights.

The guarantees of a human right to a healthy environment were analysed firstly in the domain of positive law. The conclusion, that in international convention law such a human right (in its material aspect) has not been generally acknowledged yet, is true also for the European Communities law. On the contrary, during the evolution of the right to a healthy environment the development of procedural guarantees of this right has untypically separated from the material right development, and the procedural guarantees have been posited by hard law norms in international law as well as in European Communities law. As regards the national law systems, the right to an environment of certain quality (healthy, favourable, decent, balanced etc.) has been already recognized by several dozens of national constitutions, which was documented on the detailed analysis of the respective constitutional regulation of the Czech Republic, France and Portugal.

With regard to the actual absence of the international recognition of the human right to a healthy environment, the reflections on the possible future shape of this right were put forward in the following chapter of the thesis. These reflections concentrated firstly on dealing with the most frequent arguments against the recognition of the right to a healthy environment as a new human right (especially with the arguments regarding anthropocentric nature of human rights and specific character of the environment as a legal object) and secondly on considerations on advisability of the recognition of such a right; then the prospective essential elements of the right's structure were sketched.

The thesis argues for the application of human rights instruments in environmental cases, that has appeared as being capable to be benefiting to the efficiency of environmental protection. Despite the fact, that the human right to a healthy environment has not yet been recognised by the international community, the expansion of human rights instruments application in the field of environmental protection seems to be the right way in the current search for solutions to emergent environmental problems of the Earth.