

SUMMARY

RIGHT TO A HEALTHY ENVIRONMENT IN CZECH LAW AND IN THE LAW OF BRITISH COLUMBIA

Master's degree dissertation compares right to a healthy environment in the Czech Republic and in British Columbia, a Canadian province, and makes this comparison upon a variety of standpoints. The work also broaches the environmental regulation in both these mentioned countries in general, as the regulation gives us the context in which the right in question is applied and enforced.

The first part of the work is an introductory part that leads us into the area. The first part of work compares definition of fundamental terms related to the focus of this work between legal systems of the Czech Republic and British Columbia. The comparison shows the term "environment" is defined in both these countries quite similarly, but the term "healthy environment" is in none of these countries defined positively, but rather negatively, by enacting values and conditions under which environment can be declared unhealthy. The following part describes the development of legal regulation of environment and in that scope also the right to a healthy environment. The chapter shows that British Columbia, in its hundred years of modern history of legal protection of environment, developed into a phase where environmental law is basically an "arbiter" of current development, while the Czech Republic is rather behind in many aspects. The next part gives review of key enactments of environmental law, shows differences of legal systems of these two countries, that is the different grasp of the matter taken by continental law and common law. Before all the chapter focuses on the Czech Republic incorporating the right to a healthy environment into the Bill of Rights and indirectly also into the Constitution of the Czech Republic, while British Columbia "merely" regulates this via case law. The next part of work describes vital principles of legal protection of environment in the Czech Republic and in British Columbia and compares these principles and their concept in both these compared countries as well as causes of similarities and differences. This comparison of basic principles of environmental

law of these two countries clearly demonstrates that regardless of incompatible legal system, dissimilar history of environmental protection, differing opinion on significance of environmental protection and given varying theoretical takes on the matter, where all the concepts of these basic principles may differ, we may see nonetheless that principles of this legal protection are identical in their essence, even though they may seem to be expressed in different words, the idea they express remains the same. Hereafter in the work is a concise section on significance of right to a healthy environment in these compared countries, describing methods of regulation in the legal systems and generally also the approach of general public and professionals to this area. In the Czech Republic it is impossible to directly apply and enforce the right to a healthy environment and hence the significance and practical usefulness for legal practice in environmental law is rather low. British Columbia uses this right a lot more often, before all as a principle governing this whole area of protection of environment incorporated in several precedents, those that are often mentioned in decisions of lower courts.

The first five chapters make up a certain general introduction in this area, after which comes the theoretical part of right to a healthy environment. The sixth chapter focuses on concept of right to a healthy environment as fundamental human right, on its incorporation into constitutional systems of these two countries and impacts this concept has on environmental protection. The chapter shows the right to a healthy environment is included in constitutional systems of both the Czech Republic and British Columbia, and Canada in wider view, but not really in the form of a legal clause which could be directly enforced. It applies before all as a principle governing the whole area of legal protection of environment. The next part of work focuses on right to a healthy environment as public right and about it as subjective right that is about the personal claim to have it and the addressees of the title. Concept of environment as set of public rights, as an indivisible value common to all people, is identical in both these legal systems. Czech law evaluates right to a healthy environment as subjective right of natural persons, British Columbia gives this right to all with permanent residence within Canada.

Further chapters include comparison of practical features and impacts of right to a healthy environment. The eighth chapter describes organization of environment

protection in both these countries, the work compares organization of state administration, focuses on special government agencies in whose competence environment protection is, and legal tools these agencies have at their disposal. The role of courts in environment protection is described. In both these countries the greatest measure of responsibility and competence lies with state agencies. Both these countries also established special agencies for environment protection and district agencies also play a significant role, as these are capable of sensitive approach to environment protection and in careful considering of local needs and conditions. The work also mentions several interesting institutes further enacted by the law of British Columbia, such as the *Environmental Appeal Board* or *Conservation Officers*. The following part of work compares legal liability in environmental protection and enforceability of right to a healthy environment in both these countries, and describes the fact that this right is directly enforceable in neither of them. It further studies its enforceability as of a principle, via statutes regulating technical issues. The chapter goes through all legal areas which know legal protection of environment, describes liability for offences, liability for breaching of statutes of administrative law, restitution of damaged environment, being private law, and finally focusing on legal regulation of environment protection in criminal law. Here especially do we meet the issue of criminal liability of judicial persons as incorporated by laws of British Columbia.

The last chapter is dedicated to the question of right to a healthy environment *de lege ferenda* and before all looks at the bill of the *Canadian Environmental Bill of Rights*, which, if enacted, shall represent an essential breakthrough in legal protection of environment, especially because it shall enact direct enforceability of right to a healthy environment and consequently gives authorized persons right to file a petition for protection of this right.

Klíčová slova (*Keywords*)

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Healthy Environment – Fundamental Human Rights – British Columbia