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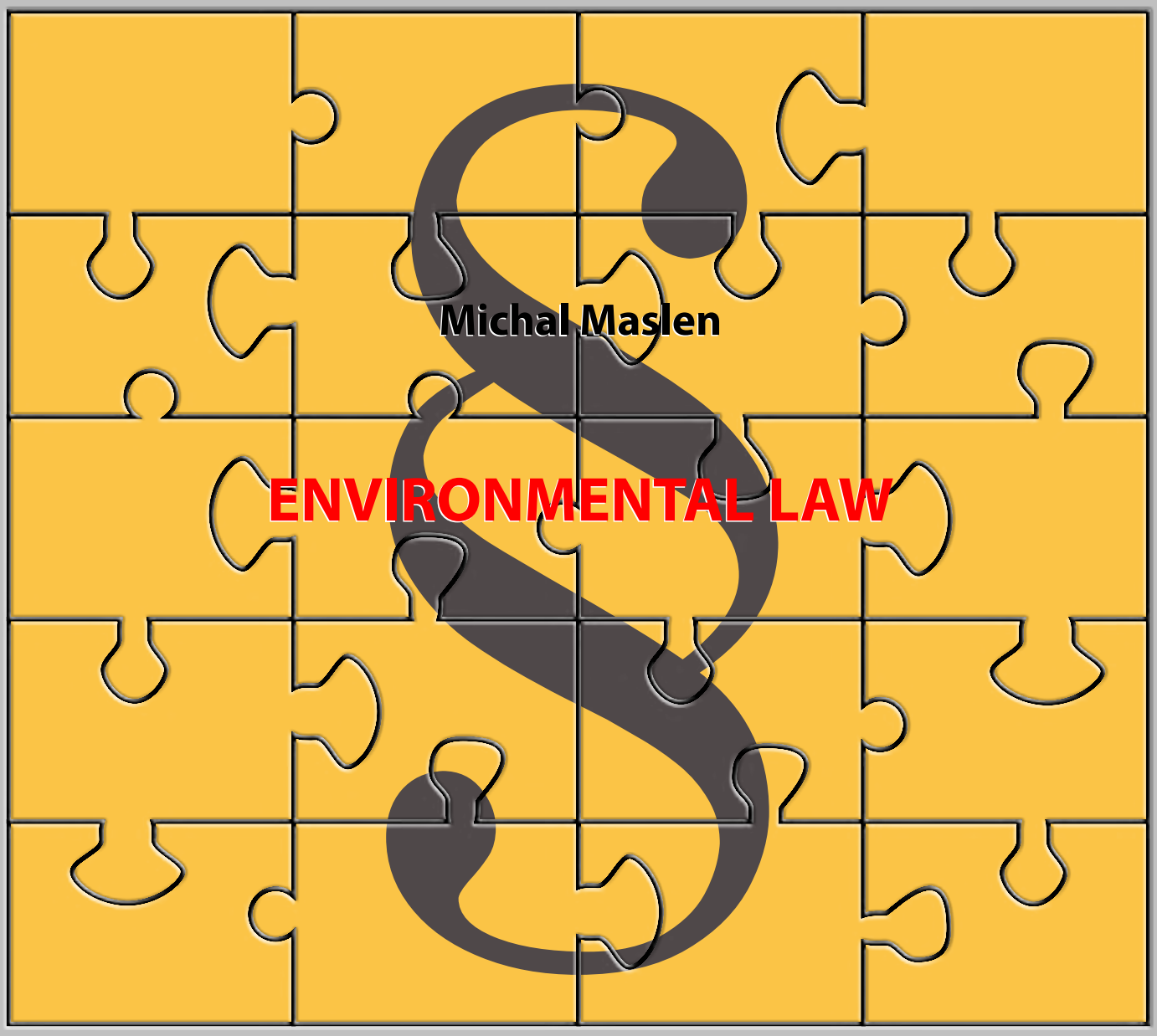

Michal Maslen

ENVIRONMENTAL LAW

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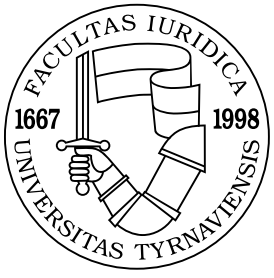

Environmental Law

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Content

Environmental protection and local self-government

Outlines of the issues set out by the European Charter of local self-government

The issue of environmental protection can be viewed within the scope of a limited territory, or region boundaries. There is no doubt that its impact has in today's period of its European and global dimension also.

Already the preamble the European Charter of local self-government (hereinafter referred to as the Charter), which is – in our opinion – particularly from the point of view of application, stresses the importance of territorial self-government and interpretative.

Local authorities are one of the main foundations of any democratic system. The right of citizens to participate in the management of public affairs is one of the democratic principles accepted by Member States to Council of Europe. The existence of local authorities with real powers can provide the performance report, which is an efficient and at the same time and close to the citizen. Protection and strengthening of local government in different European countries is an important contribution to building a Europe based on the principles of democracy and the decentralization of power.

The Constitution of the Slovak Republic in art. 64 considers the municipality as a basis of territorial self-government. Under art. 67. 1 self-government is carried out on the population of the village, a local referendum, and referendum rallies in the territory of the higher territorial unit, the authorities of the municipality or by the authorities of the higher territorial unit. How a local referendum and the referendum in the territory of the higher territorial unit shall lay down the law. This requirement is reflected in Art. 3 of the Act of the Slovak National Council no. 369/1990 Coll. on municipal establishment, as amended (hereinafter referred to as the law on municipal establishment).

Under the art. 3. 1 of the Charter, "the local government the right and capacity of local authorities within the law to administer and manage a substantial share of public affairs within the framework of their competences and, in the interests of the local population". The definition of characteristic of self-government in a dynamic

sense, i.e. as an activity. The definition of in static terms, that answers the question "who is authorized to carry out local government" is located in the following the provisions of art. 3 of the Charter. The right to manage and administer the carrying out of the Council or councils, whose members are free to be elected on the basis of direct, equal and universal suffrage and a secret ballot that may be available to them subordinated to the Executive agencies. This provision shall be without prejudice to the possibility of the Assembly of citizens, the referendum act or use any other form of direct participation of citizens, where allowed by law.

The Charter thus does not describe as "architecture" of the autonomous power, but also outlines the mechanism of its formation. These requirements are reflected in the Charter from the legislative point of view, the Act SNR No. 346/1990 Coll. on elections to the self-government of municipalities, as amended, and Act No. 303/2001 Coll. on elections to the bodies of self-governing regions and on completion of the code of civil procedure as amended by law No 335/2007 Coll.

Scope and jurisdiction of the local self-government

The scope of the executor of public administration presents the definition of the matters which the public administration is hearing the promoter, and for the enforcement of decisions which corresponds to.

Of the art. 4. 1 of the Charter is an important legal requirement, that the basic rights and obligations of local authorities have been enshrined in the Constitution or the law. Performance of power of the Government must have a legal basis.

Established in paragraph 4 of the law on municipal self-government is defined. The village itself decides and carries out all the tasks related to the management of the municipality and its assets, all matters which, as its scope is governed by a special law, if such acts of self-government, by law, is not a State or other legal person or natural person. The Slovak legislature has defined the scope of the self-government in a negative way. The provisions of Art. 4. perform the listed tasks to belong to a municipality. Calculating permissions is only demonstrative and entitles to the implementation of other essential tasks, taking account of the limits laid down in article 4. 1 of the Act. Such a legislative solution has a foothold in art. 4. 2 of the Charter. Local authorities have the full right to act within the law in all matters that are not excluded from their scope, or are not in the scope of another authority, hence the other legal persons or natural persons.[1]

[1] Legal or natural person shall also be regarded as executor of the public administration, and thus the Government, as far as the bearer of public authority or public service (public service). An example might be the definition of administrative authority pursuant to Art. 1 (1). 2 Act No. 71/1967 Coll. on administrative proceedings (administrative procedure), as amended, under which the administrative authorities is also a natural or legal person to whom the law has conferred decision-making on the rights, interests or obligations of natural persons protected by the law and legal persons in the field of public administration.

The provision of art. 4. 3 of the Charter expresses the requirement that governance carried out in preference to those authorities which are closest to the citizen. The granting of powers to another body should take into account the extent and nature of the tasks of the requirement of efficiency and performance. The provision does not preclude the possibility that the population of the municipality was involved in local government, i.e. a person who has a permanent residence on its territory. The existence of permanent residence in the territory of the municipality creates a basis to claim the existence of an effective relationship between the municipality and a particular person.

Power of the executor of public administration presents a summary of the legal instruments available in connection with the fulfillment of tasks resulting from its scope.

Under the art. 4. 4 of the Charter of the powers granted to local authorities are usually "full and exclusive" and must not be violated or restricted by any central or regional authorities (except in cases provided for by law).

Under art. 67. of the Constitution of the Slovak Republic the obligations and limitations of the 2 and 3, in the exercise of territorial self-government can be village and higher territorial unit to impose the law and on the basis of an international treaty under art. 7 the State may interfere with the activity of municipalities and higher territorial unit only in the manner established by law. Force adjustment takes into account the requirements laid down by the Charter, so as far as this in art. 4. 5 which provides for special requirements in relation to the delegated power of the State Government. Where the powers of the delegates of the central or regional authority, and if possible, have the local authorities the right to adapt their implementation to local conditions. However, this provision cannot be interpreted exclusively as a privilege. Carried over the performance of the State Government is first and foremost the obligation. Government in this case does not act independently and separately from the organs of the State administration. An example in this direction may well be the jurisdiction of the municipality to issue generally binding regulation in matters of Government under art. 71 of the Constitution of the Slovak Republic. Jurisdiction in this case, the municipality is carried out only on the basis of express authorization by law and within its limits. Such regulation must be in conformity with the regulations of the Government as well, with generally binding regulations of ministries and other Central Government bodies.

The Charter does not go into detail, but only provides for the basic principles of selfgovernment[2], its scope and powers in the Member States of the Council of Europe zverovania. Since the protection of the environment of Slovakia belongs to

[2] Pursuant to Art. 4 the establishment of a Town Council in the exercise of self-government) of, inter alia, provides a public-service mission, in particular the disposal of household waste and the fine construction waste, maintaining cleanliness in the village, managing and maintaining public greenery and street lighting, water supply, waste water treatment, wastewater management of drainage sumps and the local public transport. In addition, the municipality under Art. 4 (2). 3 (a). h) taking shape and protects healthy conditions and a healthy way of life and the work of the inhabitants of the village, protecting the environment, as well as taking shape policies for the provision of health care, on education, culture, an awareness activity, artistic activities, physical culture and sport interest.

the competence of municipalities as representatives of territorial Governments, it is necessary to apply the requirements of the Charter and on the legal adjustment of the subject area and to interpret them in accordance with the Charter.

In the case law of the Constitutional Court of the Slovak Republic regulatory jurisdiction of the municipality

Standardization policies in matters of self-government and jurisdiction of the municipalities the illustration in a case transferred power of the Constitutional Court of the Slovak Republic bold none can serve the State Government (hereinafter referred to as the Constitutional Court), SP. zn. II. the TC 39/98 of 3 November 1998 November 1998. According to him, "If a mandatory regulation addresses the issue of dealing with all the waste (including waste arising outside the community) and it does not solve the issue of municipal waste only, to which it gives to the law impermissibly regulates the issue of waste management, which the law confers on the well within the competence of a specialized State administration".

The Prosecutor General of the Slovak Republic has filed a proposal for a regulation of general application to non-compliance with the regulation of Pezinok and with the Act No. 238/1991 Coll. on waste, as amended and with the Act of the Slovak National Council no. 494/1991 Coll. on State administration in waste management, as amended. According to the Attorney General by establishing the jurisdiction of the city of Pezinok to lay down specific conditions for imports of waste that originated outside the resolutions of the city exceeded the scope defined for the exercise of self-government. Based on the fact that all activity of bodies of territorial self-government is bound by the law of the territorial Government as an entity, is a city in standardization policies respecting the Constitution, laws and other activities generally binding legislation. The scope and power of the community in the exercise of self-government within the protection of the environment is determined by the provisions of the law on municipal establishment. According to the decision of the Constitutional Court of the municipality can be transferred by statute certain tasks of the State administration, in this way, a more rational and more effectively if their performance[3] (Art. 5 (1). 1 of the law on municipal establishment). Determining the scope of such tasks is in the exclusive jurisdiction of the legislature and, therefore, not be confused the regulation and implementation of social relations involving the State Government with the regulation and implementation of social relations within the scope of the territorial Government. Waste Management Act confers on the authority of the State Government and the municipalities were carring over their tasks, just as for the disposal of household waste, namely the waste, which originated in the territory of the commune. Municipalities Act

[3] Given the finding of the Constitutional Court shall correspond to the requirements of the Charter under art. 4 (2). 5.

gives the possibility to regulate those aspects of waste management, which are important from a local point of view, and for which the municipality is responsible, ultimately, as the originator of municipal waste. The municipality therefore cannot generally binding regulation to adjust any treatment of other types of waste. The regulation of general application, however, allows you to import into the territory of the town Pezinok any waste and to store it (i) disposed of in that territory.

Pezinok in proceedings argued that the concept of municipal waste is not defined and could go well for waste from nuclear power plants. The legislation does not provide for the role of Government in this regard and therefore you have modified this issue its own city generally mandatory regulations. In the opinion of the representative of Government does not have competence in this respect, so that this area was considered for the role of City Government. The purpose of the arrangements is to protect the life of citizens and the environment of the healthy conditions.

According to the legal opinion of the Constitutional Court, the Constitution limited the power of the village to issue generally binding regulation, decision, is given by the subject of the statutory scheme. Only within the limits of the territorial Governments and to the extent one can speak of a universally binding regulation such as the autonomous decisions.

The municipality belongs to the internal affairs report, under the law on the establishment of a municipal collection and removal of municipal waste and cleaning the village. In the opinion of the Constitutional Court cannot accept the argument of the city of Zurich, the concept of municipal waste is not legally defined. The contested regulation addresses the general application dealing with all of the waste management (waste incurred outside the territory of the municipality), not only the issue of municipal waste, which goes beyond the framework of the statutory scheme. The contested regulation were struck by the general application of specialized State administration by a municipality does not have conferred on them by law, and not to touch the issues of autonomy of the village.

Competence of the community in the management of household waste and waste in the case law of the Constitutional Court building

According to the Act No. 223/2001 Coll. on wastes and on amendments to certain laws (hereinafter the law on waste) is a general contractor of public administration. Its job is to so, together with the national administration to prevent waste and to perform tasks in the management of wastes. A municipality under the provisions of Art. 72 of the Act control the compliance with the obligations in the field of waste management and liable for administrative offences within the regime, as the performance draws the State Government.

The disposal of household waste, which originated in the territory of the municipality and with only minor construction waste arising in the territory of the municipality belongs to the municipality. A municipality is obliged to provide for or permit the introduction of a suitable collection system of waste collection and transport municipal waste arising in its territory with a view to their recovery or disposal operations, including ensuring appropriate collection system municipal waste bins in the village and security space, where citizens can upload separate components of municipal waste in the framework of separate collection.

The village is further obliged to ensure, as appropriate, at least twice a year, collection and transport of bulky waste for recovery or disposal operation, separate waste from households with the contents of selected pollutants and minor construction waste. Details of these activities are a mandatory regulated by generally binding regulation.

The Constitutional Court was 20. in May 2002, received a proposal from the Prosecutor's Office of the Slovak Republic to the non-compliance of the Art. 6. 1 and the regulation of the capital city of the Slovak Republic Bratislava generally binding regulation No. 12/2001 of 8. November 2001 on the management of communal waste and minor construction waste on the territory of the capital city of the Slovak Republic Bratislava, as generally binding regulation No 3/2002 of 14 October 2002 March 2002 (hereinafter referred to as the regulation) with the Constitution, the law on municipal establishment, by Act No. 377/1990 Coll. on SNR, the capital city of the Slovak Republic, Bratislava, Slovakia, as amended (hereinafter referred to as the Act on the capital city of the Slovak Republic Bratislava) and the law on waste.

Under Art. 6. the property administrator shall out of days of removal Regulations was of mixed waste to ensure the maintenance of cleanliness on the station and its surroundings, and in over a 3-metre. The administrator is obliged allow input to the unit for the purpose of Regulation) emptying bins, containers.

The Constitutional Court therefore (Finding no. III. ÚS. 100/02 of January 30th 2003) stated that "the obligation imposed by the administrator of the specified days (excluding days of removal) was also able to maintain the cleanliness of the unit; it is beyond the scope of the obligation imposed by the statutory arrangements".

For the decision in the case was not relevant whether the regulation has been issued in the case of territorial self-government or whether it was issued in the exercise of State administration. In both cases, the municipality must respect the obligations when to follow the Constitution, according to which the obligation can be saved only within the confines of the law.

Whereas the scope of the autonomous communities in matters under art. 68 of the Constitution in conjunction with art. 65 (2). 1 of the Constitution and Art. 4. 4 of the law on the establishment of the municipal law was issued; the municipality could not impose new obligations beyond the regulation of the law. In so doing, the Constitutional Court was based on the view that under the legal concept of waste management can be designated as the obligation to maintain the cleanliness of the unit and in its surroundings. For failure to comply with these statutory

obligations is a village and the waste producer, not the administrator of the property.

The powers of the municipalities in the livestock

The decision of the Constitutional Court, no. III. ÚS. 88/01 of February 19th 2003, did not relate directly to issues of animal welfare, but – in the framework of general application regulation compliance issues of the village of 25 Golianovo June 1999 on principles of livestock and pet animals kept in the household in the municipality with the Constitution, the civil code, Golianovo with the law on the establishment of the Council and with the law on the protection of animals – dealt with the powers of the municipality as a self-governing entity constitutional dimension.

The Prosecutor General of the Slovak Republic that regulation lamented in particular that it was not issued on the performance of the tasks of the State administration, local government, but beyond the scope of its self-governing powers of standardization policies. The National Council of the Slovak Republic – in his opinion – did not reverse the roles of the State administration and bodies of territorial self-government nor the community's animal protection authorities between. Council regulation issued under the authority of both the de facto itself has been granted. In addition, generally binding regulation would limit the owners of farm animals. In art. 5 provided the maximum number of farm animals that can be kept on one parcel of their owner.

A municipality of Golianovo argued that only wanted to control the breeding within the meaning of Act No. 337/1998 Coll. on veterinary care and on amendments to certain other laws, as amended (hereinafter referred to as the law on veterinary care) on the basis of the requirements of the inhabitants of the village.

Performance of the Government of the village especially when shaping and safeguarding healthy conditions and a healthy way of life and the work of the inhabitants of the village, in the protection of the environment, with its jurisdiction under the Act on veterinary care, i.e. with the competence to regulate and register livestock and pets and also the responsibility to shape the conditions for healthy living conditions, working conditions and a healthy way of life within the meaning of Art. 10 of the Act No. 272/1994 Coll. on the protection of public health, as amended.

The Constitutional Court agreed with the legal reasoning of the village. The text of the tagged articles of the contested regulation has not gone according to him, beyond the limits, prohibitions or obligations that have been modified by laws. Municipal representation of more or less re-interpreted the legal text to local circumstances, in some cases almost literally transposed the provisions of the law on veterinary care.

In the example above, so you can keep track of how to adapt the performance of its powers, in practice local government within the meaning of art. 4 (2). 5 of the Charter.

A municipality and air pollution charges

The scope of the municipalities is regulated by Act No. 401/1998 Coll. on air pollution as amended in Art. 2. 2 so that the legislature ranks a municipality among the authorities of the air protection. In Act No. 478/2002 Coll. on the protection of air quality and supplementing the Act No. 401/1998 Coll. on air pollution as amended (Clean Air Act) is the legal status of municipalities, as defined by Art. 34, which exhaustively lists the tasks in the field of air protection.

The Prosecutor General of the Slovak Republic attacked the constitutionality of general application of Snina Regulation No 43/1998 air protection in the territory of the city and the charges for air pollution, which entered into force on May 11th 1998. It's Supplement No 1, which have been incorporated into the regulation within a provision of art. 4. 3 forming the subject of this proposal, entered into force on 14. on June 20, 2002. The town of Snina regulation prohibited the creation of new small sources of air pollution[4] disconnect from the existing central source of heat. In the opinion of the Attorney General of the Slovak Republic, the city errored the legislation, because the city was not authorized by law to issue such a ban. The scope of the municipalities in the field of air protection and related charges is carried over power of the State Government, and, therefore, on the issue of general application regulation it was necessary to express statutory authorization.

The municipality has, in addition, under Art. 34. of the Act the right to consent to the authorization of small sources, including the obligation to make their changes, and on their use, as well as to determine the conditions of their operation. This activity, however, must be carried out within the regulation of the Act No. 71/1967 Coll. on administrative proceedings (administrative Code), as amended. It follows that it cannot prohibit the creation of new sources of air pollution at a flat rate of small, but of any request of this kind must be decided individually by the decision. On the part of the village so there was a confusion of powers of decision makers standardization policies.

[4] Source of air pollution is in the meaning of Art. 3 of the Act 478/2002 z. z. technological unit, warehouse or storage of fuels, raw materials and products, or any other area with the possibility of a quarry landfill zaparenia, burning or drift of pollutants or other structure, object, device, and an activity that pollutes the air, hence the stationary source, or it may pollute the soil. Stationary sources are broken down into large, medium and small. On local air quality can be the source of the saying, if, by law, it is not a big or moderate source of air pollution.

The Constitutional Court has issued a ruling on the subject on the agenda (SP. zn. I. TC 129/04 of 12. November 2004)[5]. In particular, examined the question whether the contested regulation has been issued on the basis of general application of the original (original) standardization policies of the city or on the basis of its devolved standardization policies covered. The Constitutional Court came to the conclusion that the City Council in the town of Snina on the issue for no 1 to regulation had not acted constitutionally in the prescribed manner. Yaws from the limits of the scope of standardization policies under art. 72. 2 of the Constitution, because the laws governing the issue did not contain an explicit authorization for municipalities, which could create new sources of air pollution ground general prohibition a small disconnect from the existing central source of heat.

In art. 4. Of the generally binding regulation the town of Snina regulated the a ban that does not impose any law, and which has not been empowered by law to store any. As a result, was treated and was given to the conflict also unconstitutionally with the first sentence of Art. 6. 2 of the Act on municipal establishment.

The village and town in Slovakia as the representatives of the territorial governments are trying to actively act in protecting the environment. They, however, do not always manage to implement its powers constitutionally vested in the scope of the law in a way within the confines of projection.

The exercise of rights and obligations within the territorial Government needs to have a foothold in the Constitution and in the laws. Government authorities may not interfere with the exercise of the powers of the other executors of public administration provided for by law. In the assessment of their practice is always to be interpreted in accordance with the Charter and privileges. In doing so, the permissions of the territorial self-government enshrined by the Charter should be interpreted as constituting the obligation of the local Government's responsibility for the quality performance of the public administration.

The decision of the Constitutional Court referred to in particular, on the issue of standardization policies Conference focus the powers of municipalities. On the basis of their analysis may be to generalize some of the basic problems that accompany% amp% standardisation municipalities, and which have a basis in a misunderstanding of the relationship between the performance of tasks of territorial self-government and local government devolved.

The most delicate problem appears to be the articulation of good faith community as a legislature when editing relationships within its municipal jurisdiction (in order to protect local interests, the interest of the inhabitants of the region, the effectiveness of the performance of the local government, etc.) with the respective requirements of such a legal regulation (prohibition of imposition of obligations on persons that do not have a foothold in the Act, etc.).

The Constitutional Court in this area is designated by its numerous findings seen on the constitutional aspects of the question of the way municipalities and cities in the performance of their municipality, and in their interpretation of the scope of the Charter was based. It will be interesting to see how they will continue

[5] It was published in the journal of laws of the Slovak Republic, the amount of 279, under no 665/2004.

to develop in this respect, the case-law in the administrative judiciary, which came within the competence of the power to decide on the legality of binding regulation of territorial Governments in General.

The chapter deals with the legal status of municipalities within the meaning of the European Charter of local self-government and their powers in the field of environmental protection. The Charter sets out the basic principles of the exercise of the authority, its scope and powers in the Member States of the Council of Europe. In view of this legal status is to be construed in accordance with the Charter and the competences of the communities set out to apply the requirements of (i) the regulation of the area. The exercise of rights and duties in the Government is illustrated by the decisions of the Constitutional Court, quoted in the text of the post. These shall in particular focus on the issue of the powers of the municipalities and some major problems, generalize standardization policies that accompany% amp% standardization municipalities, and which have a basis in a misunderstanding of the relationship between the performance of tasks of territorial self-government and local government devolved.

Bird protection

Environmental protection plays an important role in today's society. Of scientific and technological developments will also develop human interventions into the environment. These influence not only on the factual status of the different components of the environment, but also to the legal requirements of their protection. The life and health of people, the quality of the landscape and nature is inevitably intertwined with anthropogenic elements within it.

The environment is an excellent example of interdependence in Europe, but also with the rest of the world.[6] Also for this reason, the Council of Europe proper attention paid to the issue of environmental protection. It sets out the requirements for the preservation of the landscape and its effective protection. It searches for the balance between environment protection and industrial activities in the company.

Convention for the protection of the environment through criminal law

In order to achieve the unity of the Council of Europe in 1998 acceded to the incorporation of environmental protection at the level of international law, in the form of a Convention for the protection of the environment through criminal law (hereinafter referred to as "the Convention"). The intention of the creators of this document is expressed in its preamble. The need for keeping a common criminal policy and the role of criminal law motivated the creators of a document to its incorporation. Environmental damage had to be edited in the form of refuge of criminal offences to protect the environment.

It must be said that the role of criminal law in the protection of the environment is relatively new. Criminal law is – in our opinion – the extreme means of protection of the public interest expressed in place of the facts of the crime. And protection of the environment is such a substantive public interest. Concise and easily applicable means of environmental protection can also provide administrative law. The Con-

[6] Akcie na ochranu životného prostredia, dostupné na http://www.radaeuropy.sk/?290, 02.11.2010, 22:26 hod.

vention sets out three groups of illegal activities. Defines the requirements for the formation of the constituent elements of:

1. intentional offences
2. criminal offences
3. criminal offences and other offences

Currently has been ratified by the signatory States of this Convention exclusively from the Group of Estonia. From the time of the adoption of this document, it has been 12 years. Status of ratification itself speaks volumes about the interest of Member States to resort to the strict sanctions at the level of environmental protection as a means of providing criminal law.

Another argument for this claim is a distinct style of understanding of the concept of "criminal charge" under art. 6 (1). 1 of the European Convention for the protection of human rights and fundamental freedoms (hereinafter referred to as the "European Convention"). This provision establishing the essential requirements of the right to due process and at the same time specifies the width of the legal relations that fall within the set of things.[7] If the European Convention defined in procedural terms set of things that are perceived by the autonomous rights protection bodies from štrasburskými treatment of the Member States, so maybe the requirements of the Convention also apply to offences. Determination of the limits of criminal or administrative responsibility by the Convention also creates preconditions for its procedural drawing according to the requirements the European Convention. The continuity of international agreements is reflected not only in the preamble to the Convention, but gradually it for its decision to the Strasbourg authorities produce activity rights.

The Convention defined in art. 1 basic definition of terms. Under art. 1 and unlawful means violative of law, administrative regulation modification or adoption of a decision by the competent authority to protect the environment. The provision thus refers to ' in the following articles of the Convention. Enter into force on the importance of defining the requirements for objects to the constituent elements of criminal offences. However, the Convention itself expresses an infringement of rights in the administrative plane. By applying the principle of proportionality is thus in place to apply these requirements and for the treatment of infringements. In addition, in art. 1 of the Convention defines the concept of water. Water means all kinds of groundwater and surface water including the water of lakes, rivers, oceans and seas.

[7] Svák, J. Ochrana ľudských práv. II. rozšírené a doplnené vydanie, Bratislava : Eurokódex, 2006, s. 427, ISBN: 80-88931-51-7

The requirements for the formation of the constituent elements of criminal offences and administrative infringements

The Convention focuses on the creation of measures, in particular in the form of requests for objects and objective site the constituent elements of criminal offences. In articles 2 to 4 calls for the enactment of environmental protection by means of the mentioned groups of crimes and misdemeanors. Form of fault and the seriousness of the proceedings while still considered to be of differing levels of environmental protection criteria. Doing so means the active activity which is contrary to the legislation in force as an omission obligation, which these regulations enshrine entities. Consequently, in these provisions shall be appointed by each of the procedures that are to be set aside as national law unlawful. From the context of these provisions implicitly derive the following constituent elements of criminal acts and offences of characters:

- object
- the objective site
- subjective site

To the entity of the facts is expressed in article 9 of the Convention. Each Contracting Party shall take appropriate measures, as may be necessary for it to be able to impose criminal or administrative sanctions or measures on legal persons on whose behalf the offences referred to in articles 2 and 3 committed by their bodies or their members, or other representatives. An entity of a crime or infraction, the Convention is considered to be as physical as well as legal person. The nature of the referral of that provision also allows to apply the requirements for the treatment of the offender's responsibility, not only in terms of criminal law, but also of administrative law. Application of the liability of a legal person shall not exclude liability to the person drawing the physical.

Intentional crimes causing serious injury in the form are bound to the aftermath of the death of, or substantial damage to protected buildings, in the country and the great outdoors. Scale effect on the lives and health of natural persons stipulates, in particular, national case-law. On the question of significant harm or serious damage to the environment will provide a response by national law. Act No. 300/2005 Coll. the criminal code effective in the Slovak Republic from 1.1.2006 provides in Art. 124. the concept of harm in criminal offences against the environment.[8]

[8] Offences against environmental damage means the totality of organic material, with the injury and property damage involves the cost of putting the environment into the previous state. For the criminal offence of illegal waste management according to Art. 302 range of offence shall mean the price at which the waste at the time and in the place of finding of crime usually collects, exports, imports, transports, stores or disposes of, and recovers, the price for the removal of waste from the site that the save is not intended.

The inner relationship of the offender is the decisive criterion for the requirements for the treatment of mental conditions of the offences referred to in article 3 of the Convention. The Convention here also provides Member States with the option to mark certain types of proceedings for criminal negligence and conscious implement certain objects only in conjunction solely to the constituent elements of the intentional criminal offences.

In the event that a Member State does not include the protection of the interests of certain types of protected under articles 2 and 3 of the Convention, it has a right to do so through the constituent elements of the offences. The Convention here is expanding lines of responsibility and to the area of administrative relations. If the proceedings are not subject to the provisions of articles 2 and 3, each Party shall adopt such appropriate measures as may be necessary for the introduction of criminal offences or administrative offences, able to introduce sanctions or other measures under national law, in so far as those acts committed intentionally or negligently.

Directive of the European Parliament and of the Council on the protection of the environment through criminal law

Another instrument at European Union level is Directive of the European Parliament and of the Council 2008/99/EC of 19 September 2002. November 2008 on the protection of the environment through criminal law (hereinafter referred to as "the directive"). The purpose of the directive is expressed in order to introduce penalties for acts detrimental to the various components of the environment. The directive is also just like the Convention focused on the substantive law. It provides the requirements for the treatment of offences detrimental to the environment. Therefore, it does not regulate the procedural aspects of inferring criminal liability. Under art. 3 of the directive is to be garnering the offences relate to intentional actions or make at least at the conscious negligence. Each group of criminal offences are also classified according to the specific objects, on which there is a public interest protection.[9]

Objects, objective and subjective sites are expressed in art. 3 of the directive. Entities dedicated to art. 4 and 6 of the directive. From this perspective, the internal layout of the directive operates in a fragmented manner. In article 4 the directive defines the assistance and encouraging. Article 6 of the directive sets out the liabili-

[9] For example, under art. 3 (a). (i) criminal proceedings involving the manufacture is to be) of the directive, the import, export, placing on the market or use of substances that Deplete the ozone layer. The legislation contained in the Act No 17/1992 Coll. on the environment is deemed under Art. 2 of the air for the component of the environment. The environment is everything that creates the natural conditions of the existence of organisms, including humans, and is a prerequisite for their further development. Its ingredients are, in particular, air, water, rock, soil, organisms.

ty of legal persons, said that in paragraph 3 of this article at the same time describes the responsibility of individuals. The directive thus preceded by their involvement in the crimes, from incorporation to the liability of legal persons and natural persons governs the responsibilities afterwards. In the event that within that Member State is not established criminal liability of legal persons, required by a directive under art. 6. 1 and 2 the state can draw the liability to person who represents it, accepts her decisions, or is carries them out by the control authority[10]. There is also the incorporation of liability of natural persons. Omitting the paragraph 3 of this article, however, in the present case correspond to natural persons only for legal entities Act.

The penalties for these violations to be article 7 of effective, proportionate and dissuasive. The penalty under Art. 34 of the. 1 Act No. 300/2005 Coll. the Criminal Code provide for the protection of society from criminals by giving it prevents you from committing further crime and creating conditions for its upbringing to lead an orderly life and at the same time other people refrain from committing offences; at the same time expresses its condemnation of the offender's sentence of moral society. The penalty for damage to the environment has so to act, in particular, at the same time take into account the requirements of educationally and oppressive, but has the adequacy. Damage to the environment are different from property damage in the options to return to the original state of the consequences incurred. Serious damage to living or inanimate nature are hard to reverse it and reach a State against unwanted interference.

Article 8 of the directive lays down a time-limit for transposition into 26.12.2010. Yet there is to date the date this regulation reflected into the Slovak legal order. The role of the Ministry of Justice of the Slovak Republic and in the transposition is carried out by the responsible government departments are the public prosecutor's Office of the Slovak Republic and the Ministry of environment of the Slovak Republic.[11] Occurs so situation where neither the Convention over 12 years since the adoption of the directive are not embedded or to the Slovak legal order.[12]

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[10] Under Art. 128 (1). 8 of law No. 300/2005 Coll. third sentence of penal law if the law provides that the offender must be carrier-specific features, capabilities or positions, it is sufficient for this property, or the status of legal person in whose name the offender meets the takes place. Slovak legislation takes the responsibility of a natural person from the characteristics of the legal person. This arises from an understanding of the principles of individual criminal responsibility, which is tied exclusively to natural persons.

[11] Resolution of the Government of the Slovak Republic No. 247 of 25. March 2009 on the proposal for the establishment of gestorských Central Government bodies responsible for the transposition and application of the directives and framework decisions

[12] Chart of signatures and ratifications to the Convention for the protection of the environment through criminal law, the status of a 11.08.2010, available at http://conventions.coe.int/treaty/Commun/QueVoulezVous.asp%3FNT%3D172%26CL%3DENG

Infringements in the field of nature protection and landscape and problems of application of the Convention and the directive

Act SNR No. 372/1990 Coll. Offences Act, as amended (hereinafter referred to as "criminal law"), in its second part governs offences in the field of agriculture, hunting and fishing and infringements in the field of environmental protection. The facts of the offence in the field of environmental protection has reference refers to the use of the laws of nature and the law of the environment. Special rules in the field of nature protection and landscape sets out the Act No. 543/2002 Coll. on the protection of nature and landscape, as amended (hereinafter referred to as the "law for the protection of nature and landscape"). Here the legislature covering offences in Art. 92 ranked in the seventh part of the law. The downside to the structure of these provisions is that they have also the nature of the referral. The content of the infraction, expressed in characters of the facts will change according to changes in legislation.

According to the list of legal acts of the European communities and the European Union law on the protection of nature and landscape to the directive does not refer. On the contrary, the directive refers to the use of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (hereinafter referred to as the "directive on the conservation of wild birds") and on the use of Council Directive 92/43/EEC of December 21st 1988 on the conservation of natural habitats and of wild fauna and flora. To those referred to in the annex of the law and the law on the protection of nature and landscapes. Directive on the protection of the environment through criminal law refers to the same directive as the Act on the protection of nature and landscapes. It picks up both legally binding acts of the European communities, where the law on the protection of nature and landscapes. In art. 3 it suggests a framework makes provision for the requirements for the crime of damaging Habitat in protected site.[13]

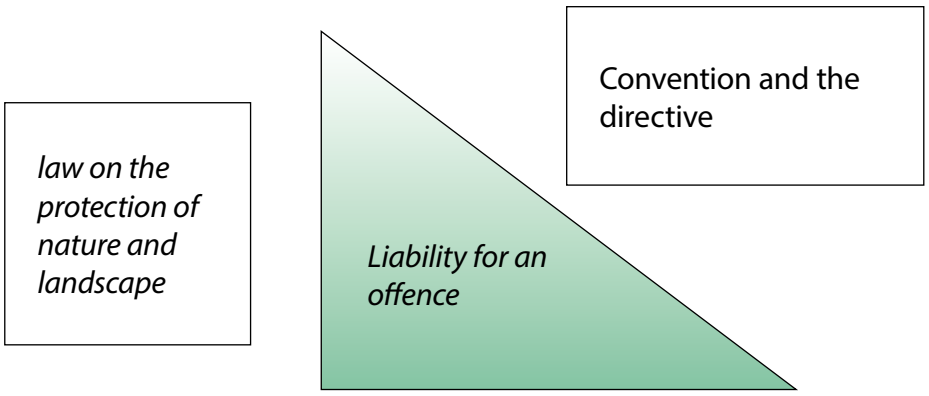
Protection of birds falls under the nature conservation pursuant to Art. 2 of the law on the protection of nature and landscape[14]. Wild birds as a species create a folder within the meaning of the ecosystem of the Art 2 of the the Act on the protection of nature and landscapes. Directive on the conservation of wild birds emphasizes quality of the selected territory over to their spatial arrangement. According to the directive it must be declared for the selected species of birds. The directive requires the protection of all species of birds naturally occurring in like manner within the

[13] Member States shall ensure that the procedure constitutes a criminal offence, as it is illegal and it intentionally, or at least serious negligence: any act that leads to a serious deterioration of the Habitat in a sheltered location.

[14] Nature and landscape protection under this law shall be understood as limiting the interventions that can threaten, harm or destroy the conditions and forms of life, natural heritage, landscape, reduce its environmental stability, as well as the Elimination of the consequences of such interventions. Nature conservation also means taking care of ecosystems.

territory of the State.[15] Under Art. 26. 5 of the Act on the protection of nature and landscapes in the protected territory of the birds it shall be prohibited to carry out activities which may have a negative effect on the subject matter of its protection. These activities shall be appointed by the annex to be taken to the national list of proposed spas.[16] The national list of proposed spas has been approved in the form of a resolution of the Government of the Slovak Republic in 2003. The requirements of the resolution have been transformed into implementing provisions to the law at a later date for the protection of nature and landscape.

The directive requires the protection of the Habitat. In accordance with the Act on the protection of nature and the country the bird habitats are protected. Under Art. 92 of the Act on the protection of nature and the landscape of the misconduct in the field of nature protection and landscape commits one who carries on the activity prohibited under Art. 26. 5 of this Act. Should we present the relations of nature protection and landscape as triangle, its cathetuses would form the requirements of the law on the protection of nature and landscapes and the rescue of wild birds. Hypotenuse would constitute the regulation of the Convention and the directive as a binder. Requirements for the treatment of infringements in the field of the protection of birds would have been complete.



directive on the conservation of wild birds

Under art. 8. 1, subparagraph b. 2 of the directive, Member States shall adopt measures or in their official publication reference to this directive. Under art. 8 Member States shall communicate the texts of the main provisions of the commissions of the national legislation which they adopt in the field governed by this directive and a table between those provisions and this directive. The directive has its place in the law for the protection of nature and landscapes. It Creates a legally

[15] Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds, available at: http://sk.wikipedia.org/wiki/Smernica_Rady_79/409/EHS_o_ochrane_vo%C4%BEne_%C5%BEij%C3%BAcich_vt%C3%A1kov, 06.11.2010, 14:16 hod.

[16] For example, in the immediate surroundings of selected nests for it is forbidden to remove or reduce crop odbahňovať, modify or enhance bottoms and shorelines.

binding acts of the European communities, to which this law took over. The content of the concept of "criminal charge" under art. 6 of the European Convention and the resulting width of the legal relations between the State and the perpetrators of the deed, so it affects also the transposition of the directive.

Problems of interpretation of the constituent elements of the offences

The facts of the offence under Art. 92 of the Act on the protection of nature reference character. The merits of this article 92 (3) therefore consists of. 1 of the Act on the protection of nature and landscapes. In the field of nature protection and landscape commits an offence one who carries on the activity prohibited under Art. 26 under Art. 26 of the Act on the protection of nature and landscape is in the protected territory the prohibited to carry out activities which may have a negative effect on the subject matter of its protection. Activities with a negative impact on the birds ' territory defines the implementing rules for this law.

The fair site fact of the offence constitutes a prohibited activity in Art. 26 of the Act on the protection of nature and landscapes. Specific content of the infringement, which leads to irregular effect, therefore, provides for subordinate legislation. Determination of the content of the term pursuant to Art. 26. 5 of the Act on the protection of nature and the country therefore has its legal bounds, however, will come from a public authority, which issued the rules. The reasoning, however, must not result in the extension of the boundaries of the administrative liability. Therefore the negative impact on protected bird area must be limited.

Limits of liability must be determined by law. It is also about the basic requirements of art. 1. 1 and art. 2. 2 of the Constitution of the Slovak Republic (Constitutional Act No. 460/1992 Coll.). The Slovak Republic is a sovereign, democratic and legal State. Not bind to any ideology or religion. Everyone can take place, which is not prohibited by law, and no one shall be forced to act on something that the law does not impose. The primary legal obligation enshrined in law is in this case an indefinite content.

The Convention also requires the emergence of a directive as to the violations of the law, an administrative regulation or a decision of a public authority. The decision of the authority of Government must have their legal basis in order to meet the requirements of illegality within the meaning of the directive and the Convention. Only in such a way as to ensure security and stability of the State body within the administrative relations.

This issue is expressed also the decision of the Supreme Court of the Slovak Republic, decision no. 5Sž 106/01. The principle of legality of legality enshrined in art. 2 (2). 2 of the Constitution means that all State law must be applied both in the area of commitment to the State by the Constitution, constitutional laws and laws, as well as in the areas of their implementation, which must in principle to proceed

only on the basis of the laws and their limits. In the field of administrative punishment and the imposition of administrative sanctions the principle of legality to the administrative authorities to rigorously adhere to the premise that no one will be punished otherwise than by reason and in the manner laid down in applicable law.[17]

It is fundamental that the reason and method of administrative punishment was regulated by law. The law may authorize the implementing regulation or the authority may order that established that the activity is illegal. Responsibility for the offence it is therefore possible to draw also on the basis of legal empowerment.

The object of these constituent elements of offences is the public interest in the protection of the bird's territory.

The Convention also requested the opportunity to make an individual directive. This law regulates the criminal in Art. 5 and 6 of the conditions of age and responsibility for the breach of the obligation imposed on the legal person and sanity. Age adjustment is a matter of national law, sanity and whereas the Convention and the directive of the Curt note the requirement of accountability to the individual drawing. In the event of a breach of the duty imposed on the legal person is the starting point for the purpose of the directive and the Convention. The perpetrators of the offence can be only a natural person by the Slovak legislation.[18] The directive obliges Member States to take the responsibility of persons for legal persons acting, editing, decide, or have the power to exercise control.[19] The Convention in article 9 edits in a similar way drawing accountability to legal persons. Each Contracting Party shall take the appropriate measures, which may be necessary for it to be able to impose criminal or administrative sanctions or measures on legal persons on whose behalf the offences referred to in articles 2 and 3 committed by their bodies or their members, or other representatives. In this regard, the requirements of the Convention and the adjustment of the liability for an offence reaching to the directive. An offence under Art. 92 of the Act on the protection of nature and landscape can commit each. The legislation, therefore, accepts generic entity of this offence.

Expressed in the form of the criminal law is governed by the PLC by page fault in Art. 3 and 4[20]. The degree of fault that law requires is negligence. Law on the pro-

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17 Judgment of the Supreme Court of the Slovak Republic, SP. zn. 5Sž 106/2001, ASPI, the status text to 4.2.2009, to the amount of 11/2009 Coll., the content and the text of the (Rs) 5Sž 106/2001

18 Under Art. 6 of the Act of infringement for breach of the obligation imposed on the legal person is responsible under this act as a legal person, the one who held or had held, and in the case of a command, the one who gave the order.

19 CF. art. 6 (1). 1 of Directive

20 Under Art. 3 of the Act on liability for infringement infringement just fault of negligence, if the law expressly provides that it should be a deliberate fault.
Pursuant to Art. 4 (2). (1) an infringement of the law an offence is committed through negligence, if the perpetrator knew that the conduct may violate) or jeopardise the interest protected by law, but without adequate reasons, relied on the fact that this interest would not undermine or compromise, or (b)) did not know that his conduct may violate or jeopardise the interest protected by the law, although it given the circumstances and on your personal circumstances and should be able to know. Pursuant to Art. 4 (2). 2 of the Act of infringement

tection of nature and the country is on the need for the existence of intent while committing an offence under Art. 92 (1). 1 (a). zd). According to the Act of infringement will be the rise of liability for this offense because enough fault of negligence.

On the contrary, the directive in article. 3 expressly enshrine the condition of intentional fault, and in the event that a Member State fails to comply with this condition as a condition of the conscious negligence. That is according to the directive; it should be on the emergence of the liability for an offence under Art. 92 (1). 1 (a). zd) law on the protection of nature and earth conscious negligence. Intention and conscious negligence established under the directive, the criminalization of the procedure. In the case of slight negligence is on the decision of the Slovak Republic, if the procedure is classified as administrative offence or a criminal offence. In both cases, however, must not be forgotten that the state its commitment where the European Convention and the regime of criminal responsibility, which the Council of Europe requirements is wider than the Slovak Republic.

Framework requirements for this type of infraction include Convention into art. 4 (a). (f) the Member State has the obligation to take measures) for the introduction of criminal offences or administrative offences for which it could be imposed penalties or measures under national law, when committed intentionally or negligently and cause harmful changes to the natural national park, a nature reserve, water area or other protected areas. The directive on the formation of a higher degree of fault liability so requests. Evaluation of the degree of transposition of the requirements therefore has two aspects. Administrative law as opposed to criminal law focuses its interest on the offenses with lower social hazards. In that respect, should take over the country's law on protection of nature and the requirements of the directive. Is a key requirement that the authorities take into account the degree of damage to the environment, conservation of nature and the seriousness of intention of the proceedings. On the other hand, the offender is to send it to the accepted treatment. This applies in particular to his person. The activity of organs of State power as a result of his action is therefore.

is committed the offence intentionally, if the perpetrator and the Act to violate or undermine the protected interest) wanted to act or (b)) knew that his conduct may violate or jeopardise the interest protected by the law and in the event that you violate or jeopardise, was to understand. Pursuant to Art. 4 (2). 3 of the Act of infringement proceedings means the omission of the proceedings to which the offender has been given the circumstances and your personal circumstances required.

Nature and Landscape Protection

By law NR SR No. 287/1994 Coll. on the protection of nature and landscapes to ensure widespread protection of nature and landscape materials in five degrees of protection and introduced new categories of protected areas. The law can recognize the following categories protected areas: parks, national parks, protected areas, nature reserves, natural monuments. It was a category within the national system of protected areas. Their protection was ensured by means of protection as well (it was not possible to set up only around protected landscape areas).

At the time of the validity of this law existed in Slovakia, the national system of protected areas, which consisted of 9 of the 14 protected landscape areas, national parks, nature reserves, national nature reserves, 219 383 230 natural monuments, natural monuments and protected areas national 60 181. The total area of this system was 23, 15% of the territory of the Slovak Republic.

The proportion of protected areas to the total area of Slovakia since 1992 has not been significantly changed in 2002. Gradually it increased the number of smaller protected areas. Area of the national network of protected areas based on large-scale. 12.2010 was the territory of the Slovak Republic, of which 22,65% of the area of the nine national parks account for 6.48 based% of the Slovak Republic, the area under the protection of national parks was 5.51% of the Slovak Republic and the area of the 14 protected landscape areas formed 10,66% of the Slovak Republic.

This result undoubtedly has helped the environmental policy of the Slovak Republic. The Government approved a national environmental action programme (II) from 1999 for the area of nature protection the following aims:

- to design and to establish new national parks and protected landscape areas
- to complete the system of protected areas and to review it according to European criteria,
- build the territory of Community importance proposed by the Natura 2000 network.

The entry of Slovakia into the European Union gave rise to the need for a European system of protected areas Natura 2000 sites on its territory and also creates a legal basis for its existence. The legislative basis has become Act No. 543/2002 Coll., which left in place continue to be five degrees, however, changed the rules regarding the territorial protection limitations of activities in these sectors, and in particular enshrined the new categorization of protected areas in order to ensure

the protection of habitats and species not only national, but also European importance.

The basis for the creation of Natura 2000 in Slovakia was:

- Council Directive 79/409/EEC of 2. April 1979 on the conservation of wild birds,
- Council Directive 92/43/EEC of 21 December 1976 May 1992 on the conservation of the habitats of wild fauna and flora.

On the basis of them, Act No. 543/2002 Coll. has introduced two new specific categories of protected areas:

- spas (Art. 26 of the Act No. 543/2002 Coll.), which are special areas of conservation pursuant to Directive,
- the territory of European importance (Art. 27 of the Act No. 543/2002 Coll.), which are special areas of conservation within the meaning of the directive.

The territory of the Natura 2000 network is made up of 38 spas and 382 sites of Community importance. The total size of protected areas has increased by 12.9%, of the total so 36, 05% of the territory of Slovakia. It is only seemingly a lot of territory, which is in the highest degree of protection, has an area of less than 1.8% of the territory of Slovakia. Those Territories should enjoy protection under the second through the fifth grade. Depending on the level of protection they apply restrictions on the activities that may be carried out only on the basis of the consent of the authority here of nature protection or are completely excluded.

The Slovak Republic is a signatory to many international conventions in the field of nature protection. The multilateral international treaties to which the Czech Republic has acceded are the source of Slovak law. The contracts are not samovykonateľné or do not establish rights and obligations of natural and legal persons. The contract of such nature cannot have direct effect. However, the State has the obligation to transpose the requirements arising from international treaties. The only way to the adoption of legislative acts regulating the legal status of commitments lies in the approval of natural and legal persons in relation to the protection of nature in the Carpathian region.

Act No. 543/2002 Coll. on the protection of nature and landscape

Act No. 543/2002 Coll. on the protection of nature and the country plays a key role in the implementation of the requirements and international commitments, with respect to the protection, sustainable use of biological and landscape diversity and. The prescription is one of the key rules of environmental law in the Slovak Republic. Any person who wishes to carry out activities affecting the environment, it needs a permit, approval or other opinion of the nature conservation authority of the reminder. The place of the law in the system of Slovak environmental law under the principle of "lex specialis derogat legi generali" is an Act No. 543/2002 Coll. "lex

specialis" and other laws protecting environmental and ecosystems are the "leges generales". This means that, for example, hunting associations, the right to hunt bears, for example, performing as of game pursuant to law No 274/2009 Coll. on hunting and on amendments to certain laws, must first get the permission of Ministry of environment of the Slovak Republic for hunting those animals, because the Act No. 543/2002 Coll. on the protection of nature and the country prohibits their trapping and hunting in places of their natural range.

Act No. 543/2002 Coll. on the protection of nature and the landscape provides a general and special protection of nature and landscapes. General nature and landscape protection includes:

- obligations of legal and natural persons
- General protection of flora and fauna,
- protection of natural habitats.
- Special protection of the country includes:
- territorial protection of nature and the landscape,
- protection of the species (protection of protected plants, animals, minerals and fossils)
- the protection of trees.

Territorial protection also plays a crucial role within the framework of NATURA 2000. According to the Act No. 543/2002 Coll. on special protection of nature and landscapes in the Slovak Republic or a part thereof.

As mentioned previously, territorial protection specifies five degrees of protection. The range of constraints increases depending on the increasing degree of protection (person needs to perform some activities of the consent authority for nature conservation and some activities are within the protected territory of the disabled). The degree of protection shall be valid for the protected areas, as well as for their protection.

Sites with habitats of the European or national importance, habitats or areas of international importance may be marked with a special law for protected areas. Under Art. 17 of the Act No. 543/2002 Coll., there are seven categories of protected areas.

Protected areas can be broken down into zones. However, the breakdown is not required. Zones are identified and broken down by nature of their natural values. Protected areas, zones of protected areas and protection of protected areas are announced generally binding legislation or decrees.

Development and care of the territorial system of nature protection and landscape is determined by the public interest. However, the Act No. 543/2002 Coll. also supports a private interest in the creation of new protected areas. The owner of the land, which owns the land, fulfilling the requirements of the protected area, a nature reserve or natural monuments under the Act No 543/2002 Coll. may apply to the authority for nature conservation and landscape, to declare his land for a private protected area.

Act No. 543/2002 Coll. subdivides all protected species into two categories – types of European significance and types of national importance. It includes a number of prohibitions and restrictions governing the protection of protected species and habitats. However, there are also exceptions to the conditions of protection of protected areas. Exceptions are possible only in the absence of other alternatives, and the exemption will not jeopardize the preservation of the population under the assumption that the species concerned.

Bird protected areas

Spas of the territory of European importance and their protection in the Slovak Republic are part of a coherent network of European networks of protected areas. The territory may be declared as protected bird habitat of migratory bird species and habitat types of birds of European importance. The Ministry of environment of the Slovak Republic caters to a national list of proposed spas, which approves the Government of the Slovak Republic by a resolution.

A list of the spas after its approval by the Government forwarded to the Commission. The Ministry Announces bird protected areas legislation. Also provides for the boundaries of the specially protected area and a list of activities that are prohibited in the bird protected territory. In this context, it may also restrict such activities spatially or temporally.

Protection of birds on the protected territory includes the judgment of the Supreme Court of the Slovak Republic, no. 3 Sžp 2/2008 from December 4th 2008. The decision of the relationship of the adequacy of penalties and public interest confronts the protection of nature and landscapes.

By decision No 3397000707/3941-18120/25/2007/Lív of Slovak environmental inspection – Head Office decision was confirmed 07.06.2007 Inspectorate of environment, Department of nature and landscape protection inspections Bratislava dated 08.02.2007 no 4115/16-3397100607/Kro to impose a fine in the amount of CZK 500,000 under Art. 90 of the Act No. 543/2002 Coll.[21] P.D. d. applicant (hereinafter referred to as ' the applicant ').

[21] According to article 90 (3) (a). and the Act No. 543/2002) z. z. fine to 33 193, 91 of the euro, that is, at that time, to 1,000,000,-CZK and forfeiture of things of nature protection authority could save the entrepreneur or legal person commits an unlawful act by carrying out activities prohibited under Art. 26 (1). 5, Art. 34 (1). (1) or Art. 35 (1). 1 and 2. Under Art. 26 (1). 5 of the Act No. 543/2002 Coll. in the protected territory of the vtáčom shall be prohibited to carry out activities which may have a negative effect on the subject matter of its protection. Under Art. 35 (1). 1 the Act No. 543/2002 Coll. of the protected animal is forbidden to intentionally odchytávať or put down in its natural site in the wild, wilfully disturb, in particular during the period of breeding, rearing, hibernation or migration, deliberately damage, destroy or collect his eggs in the wild, damage or destroy its breeding or resting places, medzidruhovo cross, stick, transported, sold, exchanged or offered for sale or Exchange.

The applicant had deception to harm the Habitat of a protected animal Bustard (Otis Tard) and protected species of bearded Falcon (Falco vespertinus) from červenonohého. The fair page of the administrative procedure the applicant's merits were handed down by the active, i.e. plowing parcels no "X" to "X" in the "R" at the time of the day August 11th 2005. The land was part of the specially protected territories of s. p., on which paid I. degree of protection in law No 543/2002 Coll.

Pursuant to Art. 12 of the Act No. 543/2002 Coll. applies in the territory of the Slovak Republic, the first level of protection, if this law or generally binding legal regulation issued pursuant thereto provides otherwise. In the first degree of protection the provisions of a general nature and landscape protection, according to the second part of the Act.

The animals are protected under Art. 33 (1). 3 the Act No. 543/2002 Coll.[22] and within the meaning of the Ordinance of the Ministry of environment of the Slovak Republic No 24/2003 Coll., implementing Act No. 543/2002 Coll. on the protection of nature and landscapes as well as species of European importance. The social value of the protected animal species, the was at that time owned a sum of 130.000 Sk

His defense against an imposed sanction was founded by the claimant in the review of a decision of the authority for nature conservation, in particular, on the following objections:

- **insufficient facts things**
- **insufficient justification of the fine**
- **the lack of justification for the conclusions of the inquiry,**
- **incorrect application of the law to the facts.**

The decision given at first instance and, therefore, the applicant is challenging the authority of the second instance District Court in Bratislava, proceedings of 11.07.2007. Regional Court in Bratislava that the contested decision concludes an administrative procedure is based on the assessment of the case and the administrative bodies in the procedure was in accordance with the law. Fine, however, was considered to be unreasonably high.

Regional Court in Bratislava has requested the opinion of the head of State of nature protection, from which it concluded that, on the site of the drop occurs year round, even in the parcel set up since 2001, thanks to the trávnatému of the crop (called the food and hniezdny Habitat). Parcel is also suitable as a Habitat for the Falcon. Analogous conclusions voiced in its opinions and the Institute of Zoology Slovak Academy of Sciences and the Austrian expert Mag. r. r., which marked one of the most important západopanónskej to be part of the parcel of sub-populations of bustard population.

The administrative courts act in matters of administrative punishment in full jurisdiction. Within the meaning of Art. 250j of the Act No. 99/1963 Coll., as amended, code of civil procedure can therefore moderate the imposed administrative penalty. The authority expresses the transposition of the requirements of art. 6 of the

[22] According to Art. 33 (1). 3 the Act No. 543/2002 Coll., the protected animals under this Act include all kinds of wild birds naturally occurring in the European territory Member States of the European Community

Convention No. 2009/1992 Coll. on the protection of human rights and fundamental freedoms. In the opinion of the author, however, the problem occurred in the grounds of this moderation by a regional court in Bratislava.

In accordance with the conclusions of the regional court in Bratislava, take into account the circumstances of the infringement of the applicant's previous lack of administrative authorities, in particular its title to the land.

The applicant's property right vs. the right to a favorable environment.

With the above mentioned arguments, the regional court in Bratislava, the applicant lodged an appeal against the judgment did not identify and, therefore, to the Supreme Court of the Slovak Republic (hereinafter referred to as the "Supreme Court of the SLOVAK REPUBLIC"). The applicant claimed that the regional court in Bratislava incorrectly assessed the evidence, in particular the expert expression of the nature of the plot. The regional court in Bratislava, such a procedure should be in accordance with settled case-law, the applicant's right to a fair trial to violate. The defendant remained at their previous pleadings to the administrative authority in principle and did not propose to the Supreme Court of the SLOVAK REPUBLIC way of dealing with the appeal of the applicant.

The Supreme Court of the SLOVAK REPUBLIC therefore reviewed the question of the relationship of ownership and the right to a favourable environment in the context of procedural requirements to comply with the guarantees of protection of the right to a fair trial.

According to the decision of the Supreme Court of the SLOVAK REPUBLIC public interest in the protection of the environment, taking into account art. 44 of the Constitution of the Slovak Republic No. 460/1992 Coll. and Art. 17 of the Act No. 17/1992 Coll. on the environment is extraordinary.

The legal order of the Slovak Republic therefore devotes special attention to him in the event of conflict with the exercise of certain rights of the individual. In the case of the conflict of public interest, for example, is evident with the proprietary law guaranteed art. 20 of the Constitution of the Slovak Republic, in particular because of its increased protection in administrative justice is embodied in art. 46 of the Constitution of the Slovak Republic.

Unilateral denunciation by the applicant at the date of the agreement on the property must be true on 03.08.2005 ended the use for the specific purpose of nature protection for an annual rent of 476.749,-CZK. This was the administrative body called upon to keep land in the existing condition in order to protect the Habitat. The regional governing body began to action under Art. 4 (1) on 16.08.2005 2 Act No. 543/2002 Coll. against him, in which he explicitly placed upon certain specific prohibitions. Property owned by the applicant, was originally left State nature and landscape protection for temporary use. The applicant wanted to set out and re-

plant crops on them for plowing, which later also did. From the administrative file that already has the date of the applicant's first-instance administrative authority that drew 14.07.2005 intended activity would be contrary to the Act No. 543/2002 Coll.

The Supreme Court of the SLOVAK REPUBLIC in its decision stated that starting in 2003, the Government of the Slovak Republic by order No. 636 was the procedure initiated on the specially protected territories on parcels owned by the applicant, and that the procedure under Art. 50 of the Act No. 543/2002 Coll. with the effects referred to in article 26 of the Act No. 543/2002 Coll.

Violation of obligations established by the Act No. 543/2002 Coll. creates a presumption of administrative liability. The plowing of the grass crops suitable to the occurrence of the endangered animal species then specifies the procedure banned by the law. The Supreme Court of the SLOVAK REPUBLIC therefore expressed disagreement with modification of the fine imposed on it.

In the proceedings before the Constitutional Court made the Attorney General of the Slovak Republic to protect the interests of the owners. It Argued that regularization of the Act No. 543/2002 Coll. violates their rights guaranteed by the Constitution. The Constitutional Court, however, ruled in 2008 that the provisions of the Act No. 543/2002 Coll. are in accordance with the Constitution of the Slovak Republic. The Court took the view that the Constitution guaranteed the fundamental right to use property is not constitutionally guaranteed the basic right to a favorable environment of the parent. By applying one of them there must be no undue restriction, or even denial of the second of them. In the case of compensation for the limitation of the current management isn't a forced restriction of the owner, the owner was part of the compensation under art. 20 of the Constitution, because it presents individual selective intervention in the position of a particular owner. In the case of regulation of the current management the respect of the compensation for the limitation to preserve a fair balance between the protections of fundamental rights of the owner, as defined in art. 20 of the Constitution arose. The Constitutional Court of the Slovak Republic decided to 1. October 2008, while the regional court in Bratislava the decider at the turn of the years 2007 and 2008.

Nevertheless, in the opinion of the author by the regional court in Bratislava of the Slovak Environmental Inspection of 500,000 fine,-en,-CZK 50,000, gave priority to the ownership of the applicant prior to the right to a favorable environment and violated the constitutionally guaranteed rights of the balance.

However, according to the decision of the Supreme Court of the SLOVAK REPUBLIC in Bratislava Regional Court's own reasoning could not reverse the verdict decision, since the respondent did not challenge the administrative authority a disproportionate reduction of the fine.

The right to the proper taking of evidence – justification fines

Authority for nature conservation imposed a fine to the accused. Legislation in the field of administrative punishment often chooses as a form of legislation and technical solution while editing a drawing of liability for the administrative offence structure proper consideration. The spread of the fine chosen by the legislator creates requirements for the executor of the public administration to its decision not only properly detected and found a legal solution, but subsequently, duly justified.

The right to the proper taking of evidence and justification for the decision in the present case has two plane - the plane of the administrative procedure, and the plane of the trial.

In the first, the author wanted to appeal to the Council of Europe Committee of Ministers Recommendation no guarantees built (91) 1 on administrative penalties (hereinafter referred to as ' the recommendation '). The accused claimed the lack of justification for the fine, i.e. the absence of conclusions and findings in the actual state of things. The recommendation provides in art. 6 of the Convention a number of procedural rules, which are linked with the above mentioned guarantee:

- the right to be informed of the reasons behind the accusations
- rights of the defense
- the right to a say in things
- the right to justify the decision.

From the above guarantees of rights may be waived, however, subject to the consent of the accused, cumulative below-lower the severity of the breach of primary legal obligations and lower sanction in the form of a monetary fine. The case did not meet even one of the listed assumptions of reasoning of the decision.

The existence of contradictions between the grounds for the decision is not unusual. In such a situation it is governing body required to properly describe the procedure and evidence but logically and factually convincingly justify, how it was with these mismatches and deal on what grounds he believed one of the mutually conflicting factual updates.[23]

District Environmental Office in Bratislava, Slovakia, in its decision pursuant to Art. 4 and Art. 8 of the Act No. 543/2002 Coll. forbade the applicant country to the Declaration as a protected area with p. carried out in the affected lands intended activities. The governing body thus saved by the accused, in violation of the obligation to fulfill the primary legal accused one of the assumptions of administrative liability. This decision also justified the public interest. Moreover, in the opinion of the author of nature protection authority at the same time as a precaution, he rose through the ranks of the owner of the parcel drew attention to a contradiction of the intended activity with law No. 543 advisable/2002 Coll. on the protection of nature and landscapes.

This procedure is in accordance with the authority for nature conservation and landscape art. I of the Convention for the protection of the environment through criminal law and art. II. of the directive of the European Parliament and of the

[23] Judgment of the Supreme Administrative Court of the Czech Republic, SP. zn. 52 of 2/2011 dated 21.09.2011

Council 2008/99/EC of September 19th 2002 on the protection of the environment through criminal law.

The governing body has found that the accused had acted contrary to the imposed decision, i.e. parcels and damaged Habitat of two protected species plowed. The procedure for the issue and the subsequent decision to impose a fine on the grounds of misconduct did not involve the administrative body which would not be possible to conclude that the accused has fulfilled the merits of administrative misconduct. The obligation of proof lies within the meaning of article 7 of the recommendations of an administrative authority. Legislation on the provisions of the Act No. 543/2002 Coll. on the protection of nature and landscape conservation authority to seek to impose a fine up to 1.000.000 Sk to the owner of the parcel.

In the opinion of the author of a fine of 500.000 Sk stored in the administrative procedure is proportional to the seriousness of the violation by the law of a protected interest. Your opinion based on the facts of the social values of both author of protected animal species, the State incurred costs for the protection of birds on the site, i.e. the rent to the owner smoothly and the time that would have to pass on the restoration of the Habitat to its destroying parcels.

The applicant in the framework of his defense before the Administrative Court argued with the regulation of the right to a fair process. The original fine of 500.000,- SK that was lately lowered to a fine of 50,000,- SK he considered unreasonable and excessively high, considered to be contrary to the proper taking of evidence. However, in the opinion of the author and the procedural status proves and testifies to the contrary. The author is inclined to the justification of the decision of the Supreme Court of SR, no. 3Sžp 2/2008 dated of April 12th. The Supreme Court of the SLOVAK REPUBLIC judgment of the regional court in Bratislava, in which the disease was confirmed, in particular, the moderation of the fine, but in the grounds for its decision, welcomed opposition to modification of the sanction.

The content of the right to a fair trial is also a guarantee of a fair and appropriate sentence. Otherwise, the administrative courts have not been able to act in full jurisdiction. Jurisdiction of the administrative court to examine whether the enforcement of the public administration does not abuse its power, by promoting the principle of respect for the law is related to the established purpose. The Court in the administrative judiciary is entitled to consider whether the administrative authority within his discretion respected the law provided for the purpose of the Act.

The constitutionality creates the core of the rule of law. The Administrative Court is also obliged to protect constitutionality. We have considered that the regional court in Bratislava by the modification of the fine from the sum of 500.000,- SK for an amount of 50,000,- SK to the applicant before the law on property rights gave priority to the favorable environment, not decided yet at the same time denied the right to constitutionally projection manner which favoured the environment.

Regional Court in Bratislava is equally bound by art. 2. 2 of the Constitution. The content of this article is an explicit expression of the main substance of the rule of law. If the public authority (Court) fails in a manner and to the extent, which shall

lay down the law, violates the primary basis of art. 2. 2 of the Constitution, i.e. the principle of the rule of law.[24]

As the constitutionality of creating the core of the rule of law, so we have to consider that the Supreme Court did not have to confirm the decision of the regional court in Bratislava, the SLOVAK REPUBLIC, but could be set aside for error of law pursuant to Art. 221 of the Act No. 99/1963 Coll. and in conjunction with Art. 221 of the Act No. 99/1963 Coll. could return to court for first thing. That line of reasoning could serve a disproportionate sanction which does not match the intensity of the action and breach of the statutorily protected interest and the relationship of the two constitutionally guaranteed rights are in imbalances.

Of the legal-technical point of view it might be most appropriate if the administrative courts, by virtue of its argumentation on the relationship of the two constitutionally guaranteed rights, proceedings under Art. 109 of the Act have decided no 99/1963 Coll. civil procedure to stay and turn to the Constitutional Court of the Slovak Republic, or wait for his opinion.

The need for the protection of nature and the country is now highly topical. For this purpose, was adopted by the Council of Europe Convention on the land of twelve years ago on the protection of the environment through criminal law. The Convention systematically earmarks field of environmental protection. To this day, however, the Convention has been ratified by only Estonia. In support of environmental protection, the European communities have adopted the directive two years ago to protect the environment. Editing these two acts are superimposed. The directive, however, is more rigid on the issue of adjustments to the fault while committing crimes. Time-limit for transposition of the directive expires by about two months. The Slovak Republic has so far failed to insure the transposition of the directive. In doing so, the directive is likely to pick up on the rules of the European communities, which have already taken over nature and landscape protection act to create a comprehensive nature protection and landscape. It imposes on Member States the obligation to provide for in their national legislation for effective, proportionate and dissuasive criminal sanctions for serious violations of the provisions of EC law on the protection of the environment.[25] It focuses on the material side of the offending act. It sets out the requirement for a clear definition of the boundaries of criminal liability and administrative liability.

[24] Procházka, R. Ľud a sudcovia v konštitučnej demokracii, Plzeň : Aleš Čeněk, 2011, s. 33, ISBN 978-807380-328-5

[25] Legislative round-up of EU activities in the field of cooperation in criminal matters in 2009, available at http://www.ucps.sk/node/934, 08.11.2010, 19:12 hod.

Territorial protection

Country as part of the environment creates a substantial space in which we live. At the level of international law is its status of one of the objects of the right to protection of the environment. The right to the environment within the international law is in the third generation of human rights, which has so far characterized by a low degree of protection and enforcement. According to the case law of the judicial and quasi judicial bodies in the field of human rights protection and its indirect protection is possible through other codified and recognized human rights, especially the first generation[26], i.e., civil and political rights.[27]

The country as a basic component of the environment a person legally recognized even European Convention for the country (hereinafter referred to as "the Convention"). The Convention is a territorial environmental protection documents. It is the first European Convention, which deals with protection, care, planning, and sustainable use of the country as a whole, i.e. all types of countries in Europe. The content of the Convention does not refer only to the natural and rural areas, but also in the territories of the suburban and exclusively urbarial.[28]

The documents of the Council of Europe Convention is aimed at the protection, management and planning of landscapes.[29] In terms of the scheme is divided into a preamble and four chapters, in which they are expressed and defined its objectives, concepts, and provided for cooperation mechanisms between Member States. On the process of ratification of the Member countries was presented

[26] In the case of Elia s. r. l. v. Italy judikoval the European Court of human rights protection of the special land use through the protection of property rights. The Strasbourg authorities protect the rights stated inaction of Italian public administrations procurement land-planning documents and approval of the master plan, which makes it the owner assigned to use the land in his possession.

[27] Jankuv, J., Ľudské právo na životné prostredie a jeho ochrana podľa Európskeho dohovoru o ochrane ľudských práv a základných slobôd, Rada Európy a Ochrana Životného Prostredia, Zborník príspevkov z medzinárodnej vedeckej konferencie konanej 11. septembra 2008 (Projekt VEGA č. 1/0387/08), TYPI UNIVERSITATIS TYRNAVIENSIS, vydavateľstvo Trnavskej univerzity v Trnave, spoločné pracovisko TU a SAV, Trnava : 2008 s. 94

[28] Knotek, J., Evropská úmluva o krajine v českém právním řádu, Rada Európy a Ochrana Životného Prostredia, Zborník príspevkov z medzinárodnej vedeckej konferencie konanej 11. septembra 2008 (Projekt VEGA č. 1/0387/08), TYPI UNIVERSITATIS TYRNAVIENSIS, vydavateľstvo Trnavskej univerzity v Trnave, spoločné pracovisko TU a SAV, Trnava : 2008 s. 113

[29] The Program of the implementation of the European Convention for the country in the CITY DISTRICT I/2006 Enviromagazín, SR., p. 28,http://www.sazp.sk/slovak/periodika/enviromagazin/enviro2006/enviromc1/17.pdf

in Florence on October 20th 2000 and entered into force after ratification of the ten countries March 1st 2004. This Convention, Member States shall lay down the quality and diversity of the countries of Europe focused on the tool at the service of its protection, management and planning. The signing of the Convention, a country considered to be an important part of Europe have confirmed that the natural and cultural heritage, fosters consolidating European identity and conditioning the creation of local cultures.[30]

The causes of the adoption of the Convention are set out in its preamble. The country plays a significant role in terms of public interest, is a prerequisite for the development of economic activities. Its protection, management and planning can contribute to job creation. First of all, the economic and social importance of countries such as points out a subsistence environment of the human being. The country, however, is conditional on the creation of local cultures and is an essential component of the European natural and cultural heritage. Subject-matter of the Convention is thus perceived to comprehensively. The follow-up document to other accepted conventions. Maybe mention the Berne Convention for the conservation of European Wildlife and natural habitats, the Convention on the protection of the architectural heritage of Europe, the European Framework Convention on transfrontier cooperation between territorial entities and authorities, as well as the European Charter of local self-government. The country as one of the basic elements of the environment thus interferes and affects the quality of all walks of life. And for this reason its framework adjustment should not be isolated, but should respond to the current legal and factual situation of environmental protection in Europe.

Definitions under the Convention

Under art. 1 of the Convention is to be understood as part of the territory of the country), as perceived by people. Is the result of many years of the formation of natural phenomena, shipbuilding and other human activities to its current perceptions. The current character of the country is mainly caused by the anthropogenic interventions into it. It reflected in the landscape concepts as defined in art. 1. as the expression of general principles, strategies and methodological guidance to public authorities. Make it possible to adopt specific measures aimed at the protection, management and planning of landscapes.

These activities are directed to the finish quality of the landscape. Under art. 1 the requirements of this Convention refers to the desire and the public concerning the characteristics of the country, expressed for the country by the competent authorities of the public administration.

[30] The Program of the implementation of the European Convention for the country in the CITY DISTRICT I/2006 Enviromagazín, SR., p. 28,http://www.sazp.sk/slovak/periodika/enviromagazin/enviro2006/enviromc1/17.pdf

The Convention defines the various activities that make up the landscape in a complex concept. In art. 1 the protection of the country as a summary of the activities of the consultative process) describes to preserve and maintain the significant or characteristic features of a country resulting from its historical heritage and natural arrangement and/or human activity.

The management of the country it is understood under art. 1 activity that has in terms of the perspectives of sustainable development to ensure regular care of the landscape in order to guide and harmonize changes which are brought about by social, economic and environmental processes. Member States shall provide for effective mechanisms of protection of the country that are able to respond to the economic and social development. In conclusion, it is to this part of the Convention included landscape planning. Under art. 1 the member state shall include actions for increasing quality, to restore or create landscapes.

These definitions are of relevance only in connection with definig the objectives of the Convention and in the context of under art. 3. In this respect, it is therefore crucial to support protection, management and planning of the country and the Organization of European cooperation in this area.

The obligations of the Convention

Articles 1 to 9 of the Convention describe obligations arising from it. These require analysis in terms of national legislation and allocation of responsibilities in relation to the development of General and specific measures, as well as of European cooperation. For the fulfillment of the implementation of articles 5 and 6 are the most important, which contain a total of fourteen measures. Within the meaning of art. 5 of the Convention, each Contracting Party undertakes:

a) legally recognize the country as an essential component of the environment of the population, as an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity;

b) to introduce and implement landscaping concept aimed at protecting, managing and planning of the country through the adoption of the specific measures referred to in article 6;

c) establish procedures for the participation of the general public, local and regional authorities and other parties involved in defining and implementing the landscape concepts according to point (b) above;

d) to integrate landscape into its regional and land-planning concepts and their cultural, environmental, agricultural, social and economic approaches, as well as to other concepts with possible direct or indirect impact on landscape.

The requirement of legal recognition of the country

In the legal order of the Slovak Republic there are two relatively comprehensive legislation, namely Act No. 543/2002 Coll. on the protection of nature and landscape, as amended (hereinafter referred to as the "law for the protection of nature and landscape") and Act No. 50/1976 Coll., on zoning and the building code (hereinafter referred to as the "construction Act"), as amended. These are in terms of content and in terms of its suits to the Convention.

The purpose of the Act on the protection of nature and the landscape is a modification of the competence of the bodies and the establishment of rights and obligations of natural and legal persons in the protection of the country. Construction law was adopted in view of the legislative activity mainly due to anchor legal room layouts and functional use of the territory. Relationship of laws is not linked so much to be able to talk about how they would implement their respective commitments to the Convention requirements. Although the construction law according to Art. 139a defines the term country, perceptions of the country is different from the adjustments in the law on the protection of nature and landscape. The definition of a country absents within the Act. Use the definition of the building code is not possible because of the different purposes of these regulations.

The gap could be bridged so far have been adopted the draft law on landscape planning. Among the key objectives of the proposal can be included modification of the environmental aspects of land-use planning, procurement and processing of land planning documents and approval of land planning documentation. Art. 1 of this Act, would according to the proposal set out activities should be the subject of his treatment. In the framework of considerations de lege ferenda would be in this generally binding legal regulation should not be forgotten that the definition of the country. In the case of the adoption of this law, it would be possible to claim the move towards meeting the requirements of the Convention. Due to the fact that whereas such adjustment in Slovakia is missing, it cannot be argued the fulfillment of the requirements of the Convention, not even in the area of town planning and land use management, since that is aimed, in particular, the spatial location of the urban elements in the territory and creates only one element of the legal recognition of the country.

Request the implementation of landscape policies through measures under art. 6 of the Convention

Specific measures under art. 6 of the Convention include:

a) awareness-raising measures,

b) measures of education and training,

c) the identification of measures and evaluation

d) the measures target the quality of the country

e) the measures of implementation.

Following up on the implementation of this international commitment, the Slovak Republic has adopted many strategic, conceptual and programming documents, which included protection, management or planning of the country.

The requirement of raising awareness is more of a social and political requirement. This is done mainly through the national strategy for sustainable development. The population of the Slovak Republic within the meaning of this document, the awareness is the most forming in particular through scientific and popular production and art. This objective is to be an adequate institutional base as well. First of all, this base is made up of, in particular, scientific research, and the scientific and educational departments, in particular the SAV and Matica Slovenská. Quantitative, however, are represented by a school, educational and awareness-raising device. The task of the Matica Slovenská is to promote patriotism and strengthen the relationship of citizens to the Slovak statehood. Therefore, we do not consider it appropriate to entrust its awareness-raising questions about the country. Environmental education is better suited to implement through the development of practical skills and curriculum support creativity in particular, exploring its own region. The requirement of awareness-raising and education, it would therefore be appropriate to entrust the municipalities in particular, which are the competent authorities of the territorial management. The exercise of those activities to the municipality in terms of the competences confreres the communes of assumptions.

The national strategy for sustainable development is assessed on the territory of the Slovak Republic, five basic types of land – lowland, basin, sub-mountain, mountain and high-mountain. Each type of landscape is characterized by specific characteristics of the environment conditioning the stability of the country and its productivity in terms of different types of usage. Landscape structure represents the current use of the land by man, reflects the degree of the impact on the natural structure of the country. Landscape structure is statistically evaluated and re-registration of land. Identification and evaluation of the territorial system of stress factors conducive to the country, which defines the basic elements of the damage and the threat to the country in the form of nuclear, and large-scale elements of liner stress factors. Thus, for example, helps to analyze the construction of the territorial system of stress factors placed in proceedings under Art. 36 of the building code. The legislative proposal also called for amendment to the enactment of the territorial system of stress factors building code no of 3. February 2010, in the form of land-ecological plan, which was to create territorial-technical documentation? However, in this legislative proposal as amended was adopted. land-ecological plan should in our opinion meet the purposes of the landscape plan, according to the draft law on landscape planning. Such an enactment would, however, create a landscape plan is only one of the supporting documents from the local authorities the technical documentation, which was a purpose of the landscape plan and its

compulsory participation belied in the formation of land planning of the documentation, as it establishes the draft law on landscape planning.

The quality of the country's system of landscape components is the characteristic of human interventions and the varying degrees of the environment. It is also the interactions of positive and negative factors.

Achieving the target of quality is the price of Slovakian tool landscape of the Slovak Republic for the country. The aim is to reward the activities geared to quality and sustainable land management. This is a motivational tool, which is in charge of the Slovak Environmental Agency. Eligible candidates for the prize are, in particular, local and regional authorities, in the development of projects involving landscaping concept, i.e. the instruments the legislative enactment of a draft law on landscape plan envisaged. For the current legal status of the existence of such social and political is a positive instrument of territorial environmental protection.

Requirement for public participation in landscape concepts

Public access to information about the landscape planning and landscape concepts is an expression of the right to information on the State of the environment. This human right is enshrined in art. 45 of the Constitution of the Slovak Republic (Constitutional Act No. 460/1992 Coll.). According to him, everyone has the right to timely and complete information on the State of the environment and on the causes and consequences of this condition. Regularization exercise of the right of access to information in Slovak legislation, in particular Act No. 211/2000 represents Coll. on free access to information and on the amendment of certain laws (the freedom of Information Act), as amended, which provides for the subject to be published information, limiting their disclosure and procedure in making information on the basis of the application.

In terms of the requirement for public participation in the preparation of the building code to the principle of public land-use planning documents transposes. Construction law in more places the public procurement, consultation and approval stresses of documentation.

The principle of publicity under the proposed Act has also control the procurement planning, negotiation of land planning documentation. According to the explanatory memorandum to this Act has the land planning documentation to create part of the land planning documentation. Of the relation of these two institutions so theoretically it can be argued the extension of the principle of the public and the landscape planning.

The territorial proceedings even for these reasons, it is not controlled by the principle of the public. Construction law enshrines the supporting the use of Act No. 71/1967 Coll. on administrative proceedings (administrative procedure), as amended. This is governed by the terms and conditions in Art. 21 oral hearing, which is not public. Pursuant to paragraph 3 shall not be public unless a specific

law is an oral hearing or administrative organ decide otherwise. The Building Code guarantees the right to information and the right to be heard only to the parties.[31]

The only exception is the procedure under Art. 36 of the building code. In this case, the types of territorial management, with a particular subject are. A preliminary zoning proceedings on the location of a structure or liner in justified cases and in particular the extensive construction work, the building with the large number of parties, as well as territorial control on the use of territory of building enclosure and the protection zone covers a vast territory, shall notify the participants in the regional public authority building management Ordinance. Building the Office shall communicate the opening of territorial management by public decree, even if the parties to the proceedings or their residence permit are not known.

The meaning of Art. 139 of the building code represent the highways, pipelines, airports, building code construction of paths, water supply and sewage Board, protective levees, the fairway and channels. In given cases is because the public opening of the proceedings. Besides the lack of edits to landscape planning, spatial management principle is therefore in public in our opinion sufficiently. In proceedings with the subject different from Art. 36 of the building code we suggest the public proceedings to leave on an assessment of the administrative body. Such a right could be limited by the legislator, for instance, the nature of the reasoning of the construction to be by decision of the place.

Request the inclusion of the country into the regional, land-planning and other responsibilities

Territory and does not form a closed system or planning. This means that operate on what is going on outside of the defined territory and time. The consequences of an incorrect concept of planning for the development of the territory, then through the wrong decision or wrong application affect a large number of people and a wide range of activities in the territories for a long time. Landscape planning is not the theme of basic research, but the problem of practice, in this case the environmental (and land planning), that is, the problem of maintaining and fostering the environment as the basic conditions for human existence.[32]

Currently the Slovak legal order lacks a comprehensive regulation of landscape planning. Amendment to the building code (Act No 227/2000 Coll.) landscape plan-

[31] Košičiarová, S., Odporúčanie výboru ministrov č. (87) 16 a predpisy environmentálneho práva, Rada Európy a ochrana životného prostredia, Zborník príspevkov z medzinárodnej vedeckej konferencie konanej 11. septembra 2008 (Projekt VEGA č. 1/0387/08), TYPI UNIVERSITATIS TYRNAVIENSIS, vydavateľstvo Trnavskej univerzity v Trnave, spoločné pracovisko TU a SAV, Trnava : 2008, s. 124

[32] Drdoš, J., K otázkam krajinného plánovania, časopis Životné prostredia, 6/2002, Ústav krajinnej ekológie SAV Bratislava : 2002, http://uke.sav.sk/zp/2002/zp6/drdos.htm, 07.09.2010, 15:34 hod.

ning in the Slovak Republic from the academic position shifted to the legislative. While it is included only in the category of surveys and analyses (Art. 19 c (2) of the building Act), i.e. to the supporting documents for land use plans of municipalities, however, in comparison with the past is a great progress.[33]

The draft law on landscape planning, however, counted on to be written to a separate definition of landscape planning, explaining the individual steps of the land-organic process. Its result is the creation of land-ecological plan. Did not omit even and its importance in terms of land planning activities and land use management.

A link to the territorial proceedings can be under this track, in particular, in paragraph 23 of the draft law on landscape planning. This provision lays down a new kind of decision issued by an administrative procedure, decisions on the use of the land, which is required for the execution of field adjustments to the territorial system of ecological stability which substantially alters the use of important elements or drainage in the ratios of the territory. Proceedings has further edit procedures for the cancellation of a public orchards, ornamental gardens and other green spaces, if they are associated with the field of the works and with removing the greenery, mining work, in a similar work and related work.

With regard to the coherence of the adjustments of the country in the Convention the question arises, what would be the relationship of the present proceeding to land-use procedures according to the building code? The procedure for the use of land, according to the draft law is to be implemented, in particular in relation to the territorial system of ecological stability (hereinafter referred to as "USES"). The USES shall be considered such a structure of interconnected ecosystems, their components and elements, which provide for the diversity of conditions and forms of life in the country. The basis of this system (the most stable elements of landscape eco-structure) is a supraregional bio centers, bio-corridors (linking migration and exchange of genetic information organisms and to supraregional bio centers) and interaction elements (they are linked to a supraregional bio centers and bio-corridors and provide favorable action on the surrounding part of the country) of supraregional, regional or local importance. The purpose of the proceedings within the meaning of Art. 32 of the territorial building code decision on the location of the building, on the use of the territory, a decision on the protected territory, or a protection zone, the decision to close the building. In the event that the territorial proceedings to be decided on the use of the territory, it would be in our view necessary to first perform a procedure on the use of land, or to examine the existence of a decision on the use of the land. We share this view and in particular because of anticipated relations landscape and urban plans. Under the proposed legislation, if the plan take into account the landscape ecological aspects of spatial planning, so a decision on the use of land may be based the decision on the location of the building, or on the contrary promote the obstacles to building close. Of course, that argument sounds very simplistically. The adoption of such adjustments should

[33] Drdoš, J., K otázkam krajinného plánovania, časopis Životné prostredia, 6/2002, Ústav krajinnej ekológie SAV Bratislava : 2002, http://uke.sav.sk/zp/2002/zp6/drdos.htm, 07.09.2010, 15:34 hod.

be avoided, in particular by addressing the relationship of public administration professional discussion dealing, preskúmateľnosti decision on the use of the territory, public participation in its development, but above all the respect of such decision, to decisions in European regional procedures.

The current pressure on the need for new approaches to the protection of the country brings. One of the basic international instruments in this area concluded under the auspices of the Council of Europe's European Convention for the country. Its main goal is to integrate all the interests in the territory, in particular the protection of natural and cultural heritage. Territorial protection by Convention does not distinguish between natural and anthropogenic elements of country, but sees them comprehensively. In the conditions of the Slovak legislation is currently operative adjustment of the building code and the law on the protection of nature and landscapes. The absence of adjustment of the proposed law on landscape planning, landscape planning, which would further enshrined the account of ecological aspects of town planning and landscaping has defined the concept.

It must be said that public participation in these processes is currently marginal. Public attention focuses primarily on the planned construction of large scale and liner construction. In proceedings with a different subject matter this is not so. It is, in our opinion, in particular, the task of the public involved in the possible public in the above procedures.

So, in conclusion, the legislation lacks instruments of landscape planning in Slovakia and also legislation of public participation in such procedures. In this respect the situation in the field of implementation of the obligations arising from the Convention cannot be considered satisfactory.

Constitutional principles of punishment within the nature and landscape protection

Systems of criminal sanctions on the one hand, and administrative punishment on the other hand, although linked together, but at the same time are largely autonomous. Is different in that greatly protect different types of social relationships. Legislation sanctioning of crimes and administrative offenses falls within the exclusive competence of the legislature. As regards offenses, the principle of "no crime and punishment without law" explicitly express the Slovak Constitution and constitutional laws. Rules on penalties for misdemeanors and other administrative offenses so explicitly expressed in the Constitution and constitutional laws we find. However, safeguards to protect individual rights can found in the Art. 2. 2 of the Constitution, according to which the public authorities may act only on the basis of the Constitution, within its limits, and to the extent and in the manner provided by law. Similarly, Article. 2. 3 of the Constitution, which provides that everyone can do what is not prohibited by law, and nobody should be forced to do what the law does not require the express protection of the individual against unauthorized administrative legal action taken by the public authorities. The Art. 4 Constitutional Act. 23/1991 Coll., Introducing the Charter of Fundamental Rights and Freedoms (the "Charter"), and that was reflected in the modification of Article. 13 of the Constitution, we can also derive a rule that sanctions for administrative offenses can be established only by law. Duties may be imposed only by law, within its limits, and just regard for the rights and freedoms.

The regulation of Article. 39 of the Charter establishes constitutional due to the judiciary in the Czech and Slovak Republics and conditions governing public accountability adopted by the legislature. Guarantee of the measures and conditions, legal status, for which the offender may be ordered only fault about the case, which could perpetrator at the time it was committed, reasonably assume that it is a criminal act. The Art. 39 of the Charter and follows the requirement that the offender may, at the time of committing their offense to recognize its culpability.

Illegality, predictability fulfillment of the constitutive elements and visibility of illegality considered Czech and foreign doctrine in terms of individual criminal responsibility. These three elements do not stand next to each separately, but are contingent upon each other. The duty of care may soon come from a certain predictability effect. Predictability can exist only in the performance of certain duties. Visibility of illegality cannot prevail on the merits of predictability fulfillment. Breach of legal obligation must therefore be in a reasonable relation to the claims

experience aftermath. Legal theory and practice illustrates argument mentioned in particular theories of causation.[34]

The above theory and constitutional interpretation of the concept of accountability contribute to reducing the criminalization of everyday human activities, which fulfill the constitutional arrangements arising from Art. 1. 1 of the Constitution, according to which the Slovak Republic is a sovereign, democratic state and state of rule of law. It is not bound to any ideology or religion. That position ensures the democratic state and the rule of nature, in which the use of criminal law presents the last resort of social relations.

Mentioned constitutional law declares the common assumptions and conditions of inferring criminal and administrative legal liability in the rule of law. On the other hand, it also reflects differences between the two institutes, which are especially evident in the severity of the case, due to the aftermath of the subject's liability and diversity interest protected by law.

Relationship criminal and administrative legal liability in the field of environmental decision-making reflects the activity of the Supreme Administrative Court of the Czech Republic. Decision of a criminal nature, which is the decisions of other administrative offenses, public authorities must clearly and definitely include conduct for which the body affects. This operator can only guarantee specific enough data containing description of the act, putting the place, time and manner of its commission, or other essential facts necessary to make cannot be confused with any other act. Individual factual information to decide on the identity of the offense, to exclude the possibility of future confusion Indeed, the possibility of repeated prosecution for the same offense, while allowing public authorities to assess whether the death occurred responsibility for the committed offense.

The Constitutional principles of punishment in drawing administrative legal liability apply the Supreme Court of the Slovak Republic. It argues respective constitutional foundations of responsibility. According to Art. 152. 4 of the Constitution of the Slovak Republic, interpretation and application of laws must be in accordance with the Constitution, in Article. 1. 1 and Art. 50. 6 of the Constitution. Legal certainty and justice, as the principles of substantive law in individual cases do not permit the application of sanctions, which are clearly disproportionate and unreasonable nature of the offense and its consequences. Public authority is, however, imposes sanctions shall be based on the principle of strict individual responsibility for an act that has a degree of seriousness and consequences.[35] The adequacy or inadequacy of the penalties imposed must be assessed in relation to the conditions laid down by law, and then in relation to personal and financial circumstances of the perpetrator of the offense.[36] The relative lack of severity of punishment that comes

[34] Solnař, V., Fenyk, J., Císařová, D.: Základy trestní odpovědnosti, Praha: Orac 2003, str. 196 násl.

[35] Rozsudok Najvyššieho súdu Slovenskej republiky zo dňa 08.02.2011, sp. zn. 3Sžo 256/2011

[36] Rozsudok Najvyššieho správneho súdu Českej republiky zo dňa 20. 12. 2006, sp. zn. 2 As 33/2006 - 102

in the offense in mind, could not deprive offense as a kind of innate administrative offense of criminal nature.[37]

The validity of constitutional guarantees of criminal sanctions applicable administrative courts thus the area of administrative punishment. Similar conclusions are also apparent from the case law of the European Court of Human Rights (hereinafter "the Court"), which generally concludes that the rights guaranteed by the Convention for the Protection of Human Rights (hereinafter "the Convention") in proceedings for criminal charges only apply in proceedings for offenses falling under the laws of the States Parties to the crimes, but also for the acts which the authorities of the Parties considered as misdemeanors or other administrative offenses as these offenses are criminal in nature.[38]

In the process of investigation of criminal the nature of the offenses the administrative courts apply the the so-called. "Engel Criteria",[39] which are following:

- Formal inclusion in criminal or administrative (disciplinary) rights within the legal system of the State;
- The nature (severity) of the offense;
- The nature (severity) of the sanctions;

As regards the assessment of the nature of the offense, must by law or regulation to protect the general interest and not partial. To meet the second criterion is sufficient inclusion of of the offenses by the legislature in administrative law. As regards the nature and severity of sanctions under normal sense of the term generally fall under criminal law offenses for which the offender threatened punishments designed primarily to prevent induced deterrent effect, which usually consist of measures to deprivation of liberty and fines, with the exception of those which, by their nature, duration or manner of performance can result in significant harm to the rights of the accused. For example, the consequences in terms of the upper limit of the penalty provisions of the legislation on the amount of 16 596, - Euros or the amount of 500.000, - CZK, not according to the settled legal opinion of the administrative courts negligible and designed inter alia to ensure that discourage potential offenders from repeating the procedure prohibited by law.

The interest on the environmental protection

Our intention is mainly to address the treatment of punishment to protect the environment. Constitutional framework of environmental protection ranked fram-

[37] Rozsudok Najvyššieho súdu Slovenskej republiky zo dňa 18. 05. 2010, sp. zn. 2Sžo 253/2010

[38] Rozsudok Najvyššieho správneho súdu Českej republiky zo dňa 16. 2. 2005, sp. zn. A 6/2003 - 44.

[39] „Engel criteria" named the Court in case of Engel and others c. Netherlands, Judgement of the European court for human rights of June 8th 1976, case no. 5100/71, 5101/71, 5102/71, 5354/72 a 5370/72.

ers of the Constitution in Art. 44 of the Constitution, according to which everyone is entitled to a favorable environment. Everyone is obliged to protect and enhance the environment and cultural heritage. No one must above the limits laid down by law threaten or damage the environment, natural resources and cultural heritage. The State shall ensure the prudent use of natural resources, the ecological balance and effective care for the environment and ensures the protection of designated species of wild plants and wildlife. Details of the rights and obligations under this Article shall be established by law.

The constitutional right to protect the environment touches three areas. The first is the right to a favorable environment, the second is the right to information on the environment and the third area is a matter of constitutional law to impose a duty, but also to other entities in the environment.[40]

Framers of the Constitution thus incorporated proprietary interest in protecting the environment directly into the Constitution. In the hierarchy of norms, it is built on the same level as constitutional guarantees punishment. The balance of these two groups is then guarantees the opinion of the author balance constitutionally guaranteed rights of the individual in drawing its public responsibility and constitutionally entrenched interest in environmental protection.

For example, French framers of the Constitution incorporated the interest in protecting the environment in the French constitutional constitutional Act no. 2005-205 from March 1st 2005 called the Charter of the environment. This document establishes the address of the authority the right to a favorable environment, but it also corresponds to the obligation of all individuals and entities involved in protecting and improving the environment. In addition, the Charter imposes natural and legal persons an obligation to prevent environmental damage and the obligation to repair the damage caused to the environment.[41]

In the field of environmental law we are talking about legal liability in the field of environmental protection. It consists of criminal responsibility, which create subcategories criminal and administrative legal responsibilities and also consists of liability for environmental damage. Author's interest is mainly focus on security inferring criminal responsibility in the field of environmental protection instruments governed by public law.[42]

The basic principles of of modern criminal law include principle of individual subjective criminal liability. Closely related to it is the principle of certainty criminal laws. The legislature reaches to vary criminal liability while maintaining predictability Rights formal legal definition of criminal offenses and penalties coming into

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[40] Majerčák, T. : Ústavnoprávny rozmer práva na priaznivé životné prostredie. In.: Ochrana životného prostredia v podmienkach územnej samosprávy. Zborník príspevkov z vedeckej konferencie. Košice : Univerzita Pavla Jozefa Šafárika Košice, 2011. s. 9

[41] Műllerová, H. : Ochrana životního prostředí ve francouzské Ústavě – Charta životního prostředí. In.: České právo životního prostředí. Praha: Česká společnost pro právo životního prostředí, 2/2009, s. 7

[42] Stejskal, V. : Legal liability in the area of environmental protection and Act on prevention and remedying of environmental damage. In.: Czech and European environmental law. Yearbook. Vol. 3. Prague: Czech society for environmental law. 2008, s. 41

consideration. A similar situation persists in the field of administrative punishment. Protecting the environment involves many social, but above all legal relations which differ in content. Therefore, the Constitution expressed interest in the protection of the environment must be reflected in changes of legislation. According to the Supreme Administrative Court of the Czech Republic, would approach the legislature, which would set out in the Act one general merits of an administrative offense and kept the administrative authorities a wide margin of discretion in its proper use, based inadmissible in a state of legal uncertainty for individuals.

A similar example is the criminal laws with blanket disposition. Offense and the threat of environmental damage under the Art. 300 of the Act no. 300/2005 Coll. Criminal Code, the offender may commit only to such environmental damage, which corresponds to its legal definition, and which was a violation of generally binding legal regulations on environmental protection and the conservation and management of natural medicinal resources. To engage the liability of the offender is not enough violation of other laws (eg road traffic), even if it results occurred pollution or other damage to soil, water, air, forest, or other environmental media (eg leakage of transported fuel the soil and the water flow after a truck accident due to excessive speed). Depending on the circumstances, however, may also breach other legislation generally considered as hazardous action under the Art. 284. 1 of the Act. 300/2005 Coll. Criminal Code. Legally protected interest is expressed differently within the individual crimes stipulated by the Act no. 300/2005 Z. z. Criminal Code.

The regulation of the Act on the nature and the landscape protection

Act no. 543/2002 on Coll. on nature and landscape protection (hereinafter referred to as the "Act. 543/2002 Coll.") provides in its seventh part of the liability for breach of obligations in the field of nature protection. Relatively comprehensive substantive and procedural standards of liability provision for the offenses provide the Art. 92 of Act no. 543/2002 on Coll. Refers to amend the Act of the Slovak National Council No. 372/1990 Coll. on Offences, as amended (hereinafter referred to as Act of the Slovak National Council No. 372/1990 Coll.). Moreover, it provides conditions for sanction of recidivism, applications, law-enforcement and administrative measures.

With regard to the treatment of other administrative offenses, such was incorporated into Art. 90 and 91 of the Act no. 543/2002 Coll., where the Art. 90 reflects the substantive assumptions of liability for breach of obligations in the field of nature protection and the Art. 91 provides for certain procedural aspects of inferring administrative legal liability. Problems under other administrative offenses are that public authorities make decisions about them in the process mode Act no. 71/1967 Coll. on Administrative Proceedings (Administrative Code). In contrast to the Act

no. 372/1990 Coll., The Administrative Code contains the general rules of administrative procedure. The legislature did not create it only for the purposes of administrative punishment. His regime is more general and therefore not able to take into account all standard procedure for administrative offenses of a criminal nature. The regulation on the administrative procedure in this respect is very brief. However, if the public authority imposes a penalty by the addressee of the fine, it is a form of administrative punishment, which is governed by the principles applicable in criminal law.

On the other hand, consider the positive adjustment of Art. 91. 1 of the Act. 543/2002 Coll. , by which to determine the amount of the fine for another administrative offense shall be hard to its gravity, in particular the way it was committed and the consequences thereof, including injury suffered, the extent and degree of imminent harm or endanger social values and the circumstances under which it was committed . The legislature established the conditions and sanctions, especially constitutional-legal principle expressed in Article 49 of the Constitution of the Slovak Republic. The Art Paragraph 91. 1 of the Act 543/2002, therefore, the rule specifies "any crime and punishment without law". One of the fundamental principles of the rule of law is the principle of legal certainty. This principle is expressed as a number of assumptions This group includes assumption of action and legislation in the future, as well as to the protection of rights acquired in good faith.

E.g. the Art. 90 paragraph 1 point c) Act 543/2002 Coll. z. provides for nature conservation authority authorized to impose a fine in 9958, 17 euro and forfeiture entrepreneur or legal person who is guilty of unlawful conduct by failing to comply with a restriction or ban promulgated pursuant to Art. 4 paragraph 2 of Law no. 543/2002 Coll. Art No Paragraph 91 1 of the Act 543/2002 Coll. z. then provides a legal way for an authority conservation inferred administrative law and liability, violate constitutional-legal guarantee of Art. 49 of the Constitution of the Slovak Republic.

To the said modification follows Art. 91 paragraph 15 Act 543/2002 Coll. , according to which for more other administrative offenses of the same legal entity or natural person authorized to do business in a pending proceeding shall be penalized in accordance with the provisions applicable to other administrative offense punishable with rigorous Provision reflect a commitment of state power absorption principle From a legal point of view it is essential expressly set out in the Act, as well as determining the legal definition of the requirements of Article 49 of the Constitution of the Slovak Republic.

The current Slovak judicial law responds to that guarantee even if the law does not stipulate the requirements The courts do not accept a situation where the public authority prevented by law, which confers the executor of public authority powers, does not overlapping administrative offenses or absorption principle and the imposition of fines for administrative offenses Also point out that even in cases of infringement character are obliged authorities infringement in imposing sanctions respecting the principle of administrative legal punishment According to the European Court of Human Rights is also necessary sanctions in cases of administrative offenses in the form of fines regarded as repressive sanctions, and in these cases

reach the European Court of Human Rights concluded that it is also a criminal case, and notwithstanding the relatively low penalties.

If the responsible entity would like by one or more actions violate the restriction or prohibition pursuant to Art. 4 paragraph 2 of Law no. 543/2002 Coll. , damaging protected minerals and fossils or plants protected under Art. 90 paragraph 2 point b) Act 543/2002 Coll. z. protected and exported minerals or fossils protected without the consent of nature conservation authority under Art. 39 of Act no. 543/2002 Coll. z. or they try to export pursuant to § 90 paragraph 3 point f) Act 543/2002 Coll. z. is punishable with rigorous and illegal export of fossils, his body could impose a fine of nature with a maximum rate of 33,193.91 Euros.

Another constitutional-guarantee, which expresses the Act 543/2002 Coll., the adjustment of Art Paragraph 50 6 Constitution of the Slovak Republic, according to which the offense of assessing a penalty imposed by the law in force at the time when the offense was committed A law is used when it is favorable for the offender The requirement of non-retroactivity, if somewhat piecemeal, responding Art. 103 and Art. 104a of the Act no. 543/2002 Coll.

According to Art. 103 of the Act 543/2002 Coll. z. on penalties applicable to infringements of the provisions of this Act, which occurred before the entry into force of this Act, shall apply the provisions of this Act, if the one who broke the law, the better. It reaffirms the legislature this guarantee in Art. 104a paragraph 5 Act 543/2002 Coll. z. under which the penalties applicable to infringements of the provisions of this Act as in force before 1 May 2010, which occurred before the effective date of this Act, shall apply the provisions of this Act, if the one who broke the law, the better.

The regulation of Art. 104a of the Act 543/2002 Coll. z. were linked by explanatory memorandum to the amendment of Law no. 543/2002 Coll. z. the incorrect transposition of Council 92/43/EEC of 23 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended, and Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds On the other hand, however, according to the author the legal-technical terms more appropriate if the legislator had no provision for a guarantee of non-retroactivity in Law 543/2002 Coll. z. duplicate, but said it generally governed by § 91 Act no 543/2002 Coll.

If the subsequent legislation contrary to the rules in force at the material time, provides criteria for determining the amount of sanctions clearly preferable and availability to sanction the entity that is the offense committed before its entry into force, then it follows directly constitutional principle of sentencing under later if the law is more favorable to the offender Subsequent legislation only applies if the offender favorable If the the opposite is true, it is necessary to decide on the imposition of sanctions under the law applicable and effective at the time of breach of statutory duty.

The shortcomings of the legislation

In addition to these constitutional safeguards regulation Act no. 543/2002 Coll. z. expressly did not take other guarantees Art. 50 of the Constitution of the Slovak Republic Those provisions of the Constitution enshrine the Slovak Republic:

- The principle of the presumption of innocence;
- The right to prepare a defense;
- The right to a fair hearing;
- The right to remain silent;
- The principle of not twice in the same case.

Offenders other administrative offenses under the Act no. 543/2002 Coll. z. are legal entities and entrepreneurs, whose responsibility constructs regulation on an objective principle, namely that responsibility for the result. The principle of the presumption of innocence is traditionally associated with public delinquencies constructed on the principle of individual responsibility subjective. On the other hand, the burden of proof lies in the proceedings of public offenses executors of the public authority. Thus, if the process of inferring a general responsibility involves proving guilt, we can speak of the general applicability of this guarantee in the proper punishment. Finally, the Art. 91. 1 of the Act. 543/2002 Coll. z. requires the public authority must have regard to the conditions provided for by law for the imposition of sanctions. The public authority therefore all the circumstances of committing another administrative offense must prove entity and cannot be assumed. The problem of using the principle of the presumption of innocence for legal persons is currently trying to cope the Russian Federation.[43] Expressly for this principle does reflect the Irish Constitution, which is mainly due to the principle of proper enforcement. These rules consider the Irish courts for an essential element of the right to a fair trial, which enjoys constitutional protection.[44]

The above guarantee also expresses Article 7 of the Recommendations of the Committee of Ministers of the Council of Europe (91) 1 on administrative sanctions. To exercise public administration, this implies that above all else is to remove any doubt that the responsibility founding ruling made just the one to be affected. If there is at least a reasonable doubt that the ruling made by someone else than guilty of an administrative offense, it can not be for this offense affect.

Next set of rights according to art. 50 of the Slovak Constitution include the right to prepare a defense, the right to defense and the right to remain silent. That

[43] Features of bringing the administrative responsibility of organizations and their officials (dostupné na http://yqyq.net/57421-Osobennosti_privlecheniya_k_administrativnoiy_otvetstvennosti_organizaciiy_i_ih_dolzhnostnyh_lic.html, 29.7.2012, 15:13 hod.)

[44] Martin, J. : The status of the presumption of innocence in Irish criminal law. (dostupné na: www.dit.ie/socialscienceslaw/media/ditsocialscienceslaw/JM%2520presumption%2520of%2520Innocence.doc, 29.7.2012, 15:29 hpd.)

group of warranties and guarantees Art. 6. 1 The Committee of Ministers of the Council of Europe (91) 1 on administrative sanctions based on the amendment to the resolution of the Committee of Ministers of the Council of Europe (77) 31 on the protection of individuals with regard to administrative action. For violation of the rights of the accused of an administrative offense as administrative courts consider the situation where the public authority issued a decision imposing a penalty on the basis of the testimony of witnesses against the accused. On the other hand, the current judicial law not considered a violation of the right to prepare a defense and the right to proper evidence when allegations of administrative misconduct was not made available during the administrative procedure act, but he was available for a judicial review of the decision. There is evidence, however, may not be essential for determining the liability of the operator.

Conversely, if an objective feature pages administrative offense is also a result - the destruction of devices designed to protect specially protected nature and landscape designations or protected parts of nature and landscape – so it must be the subject of inquiry. According to the Supreme Administrative Court of the Czech Republic therefore not be automatically considered certain conduct itself as an administrative offense without further examination aftermath. Accountability to the public authority body to prove the formation of the consequences that the law sanctions and therefore, to answer the question whether it is ever on offense. Solely by itself, even if proven ruling entity, not a public authority derived committing an administrative offense. Nature protection body should therefore prove damage and the fact that the procedure caused the resulting entity in the form of damage to public benefit facilities.

A similar situation arises if the decision does not justify such authority conservation alluding to the number of damaged trees when determining specific damaged trees. Such a statement by a public authority and has no basis in the administrative file.

The last of the aforementioned guarantees Art. 50 of the Constitution of the Slovak Republic is not a rule twice in the same case. This rule guarantees and Art. 4 of the Additional Protocol 7 to the Convention. The problem with this rule is that it is limited to only to domestic application. Convention or Protocol no. 7 do not prevent the accused was prosecuted and convicted again for the same offense in another state. This rule also allows a combination of criminal and administrative legal sanctions combination with judicial punishment extrajudicial settlement (out of court settlement) and also a different approach to the definition of "matter" ("Idem"). Some Member States of the Council of Europe and the European Union because the term thing perceived formal definition of the crime, whereas others considered the substantive content of the act itself.[45]

Practical application of Art. 4 of the Protocol. 7 to the Convention may be problematic, because this article nor any other provision of the Convention does not specify the identity of the offense. This is a definition of when it is still under the

[45] Vervaele, J. A. E. : The transnational *ne bis in idem* principle in the EU. Mutual recognition and equivalent protection of human rights, In. Utrecht Law Review, Volume 1, Issue 2, (December) 2005, s. 100,

Convention of the same offense and when it comes to act different. The solution can provide design concept of action in domestic law. Judicial practice assumes that the act of a certain event in the outside world characterized by a definite act and its consequences, i. e. summary of certain facts. It is essential that the same thing is not only in full compliance in the proceedings and in the aftermath, but also in the case of full compliance, at least in proceedings for a different effect, as in the case of full compliance, at least in effect for a different procedure. In addition, the identity of the act is preserved even in the case of at least partial compliance pending or in effect (or both), but only if substantial compliance in the circumstances. Relevant features of the legal practice understand the facts characterizing the conduct or result in terms of legal qualification as appropriate. In the same vein, the article 40. 5 of the Charter and in Article 50. 5 of the Constitution of the Slovak Republic used the term "offense". As for the assessment of whether it is the same act (act) is not decisive of its legal status, its nature remains nothing of whether it is judged as a crime, misdemeanor or other administrative offense.

Public administration controls mainly the principle of legality. The area of administrative punishment is specific in that the executors of public authorities intervene in the legal status of recipients. The content of their legal status created especially constitutionally guaranteed rights of the individual. Also for this reason, the European judicial case law and doctrine speaks in this context of offenses of a public nature, respectively. on administrative offenses of a criminal nature.

The idea behind this approach is applied to the area of administrative punishment the same standard of protection of public subjective rights, as in the case of criminal prosecution. This commitment is an expression of the principle of law. E.g. Estonian Constitution sets out the principle set out in Article. 3, according to which state power may only be exercised on the basis of the Constitution and the laws that are in accordance with the Constitution. [46]

The basis of this principle is the principle of the rule of law. According to F. Ehm this principle can be derived rules such as respect for the independence of the judiciary, equality before the law, the principle of legal certainty, respect for human rights, separation of powers (separation of powers), tying the state law and consistency rules.[47]

The problem Slovak legislation, administrative punishment in the field of environmental protection, as well as administrative punishment in general is that the different laws partly reflect constitutional guarantees punishment. Such guarantees can legislation only partially abstracted. However, in most cases take those principles and rules binding mainly power-law, which applies by analogy guarantees criminal sanctions for administrative offenses area.

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[46] Questionnaire concerning the Regulation of Good Administration in the Member States of the EU - Estonia (dostupné na: http://www.statskontoret.se/upload/publikationer/2005/goodadministrationestonia.pdf, 30.7.2012, 15:31 hod.)

[47] Ehm, F. : The rule of law: concept, guiding principles and framework. In. : Administrative discretion and the rule of law. Trieste : European comission for democracy through law. 2010 (http://www.venice.coe.int/docs/2010/CDL-UDT(2010)022-e.pdf, 30.07.2012, 14:57 hod.)

When deciding on administrative sanctions should be respected and the Council of Europe Resolutions and Recommendations of the Committee of Ministers concerning the decision-making activities of government and protection of individual rights, even though not all are part of our legal system. According to the Supreme Court of the Slovak Republic is primarily the Committee of Ministers Resolution no. (77) 31 on the protection of individuals with regard to decisions of administrative bodies, Committee of Ministers Recommendation No.. (80) 2 on the proper consideration and recommendation of the Committee of Ministers no. (91) 1 in administrative sanctions.[48]

Respect for the public authorities to the resolutions and recommendations of the Committee of Ministers of the Council of Europe is able to ensure the exercise of public authority in accordance with the principle of commitment law and the principle of the rule of law.

[48] Rozsudok Najvyššieho súdu Slovenskej republiky zo dňa 29.9.2011, sp. zn. 5Sžp 6/2011

Protection of the World Cultural and Natural Heritage in Slovakia

Convention concerning the Protection of the World Cultural and Natural Heritage (hereinafter "the Convention") adopted by the General Conference of UNESCO on 16 November 1972 in Paris. It entered into force on 17 December, three years later. The then Czech and Slovak Federative Republic deposited its instrument of acceptance with the Depositary of the Convention, the Director-General of UNESCO on 15 November 1990. Separate Slovak Republic acceded to the Convention on 31 March 1993 as a succession 134th State.

What is the inclusion of international treaties in the hierarchy of sources of law defined by the Constitution of the Slovak Republic 460/1992 Coll. (hereinafter referred to as "The Constitution of the Slovak Republic")? Constitution of the Slovak Republic, the Slovak National Council to September 1st 1992. The Convention is therefore another international agreement, ratified by the Slovak Republic and promulgated in a manner prescribed by law prior to the entry into force of the Constitution of the Slovak Republic. Part of the legal order of the Slovak Republic created by art. Paragraph 154C. 2 of the Constitution of the Slovak Republic.

For Cultural Heritage Convention is considered by art. 1 monuments, namely architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science. Another group of objects of cultural heritage buildings form a group, t. j. groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape of outstanding universal value point of view of history, art or science. The final object of cultural heritage sites under the Convention are, or works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historic, aesthetic, ethnological or anthropological point of view.

Natural Heritage Convention defined in Article. 2 It means three groups of objects. The first group consists of natural features consisting of physical and biological formations and groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view. The second group produces geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation of nature. Last

third group includes natural sites or precisely delineated natural areas of outstanding universal value point of view of science, conservation or natural beauty.

The scope of the state to define cultural and natural heritage in its territory provides Art. 3 of the Convention. Actual national protection of cultural and natural heritage contained in Article. 4, 5 and 6 of the Convention. The State party has an obligation to ensure designation, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Art. 1 and 2 and situated on its territory. To that end, States Parties shall endeavor to:

a) to adopt a general policy aimed at strengthening the role of cultural and natural heritage in the life of the community and the inclusion of protection of that heritage into comprehensive planning programs;

b) to develop services for the protection, conservation and presentation of cultural and natural heritage with an appropriate staff and possessing the means to carry out these functions in their territories, where such services do not exist;

c) to develop scientific and technical studies and research and development of methods of work with which the State is able to counteract the dangers that threaten its cultural or natural heritage;

d) **the adoption of appropriate legal, scientific, technical, administrative and financial measures necessary to indicate the protection, conservation, presentation and rehabilitation of this heritage and**

e) support for the establishment or development of national or regional centers for training in the protection, conservation and presentation of cultural and natural heritage and to promote scientific research in this field.

Article 6. 2 in conjunction with Art. 11 of the Convention sets out the obligation of the Parties to create an inventory of property forming the world cultural and natural heritage and meeting the requirements for inclusion in the World Heritage List. The above list is maintained and updated by the Intergovernmental Committee for the Protection of the World Cultural Heritage. The inclusion of the object in the list requires the consent of the State concerned. In addition to the list provided in Article. Paragraph 11. 4 of the Convention list of World Heritage in Danger, which includes ownership of UNESCO World Heritage, but he could be serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in use or ownership of land; major changes, due to unknown causes; abandonment for any reason; outbreak or threat of armed conflict; calamities and disasters, serious fires, earthquakes and landslides, volcanic eruptions, changes in water level, floods and tidal waves.

Important is the regulation of Article 12 of the Convention The fact that a property belonging to the cultural or natural heritage has not been included in one of the two lists, may not be interpreted as not outstanding universal value for purposes other than those resulting from inclusion in these lists.

21-member World Heritage Committee, elected by the Member States in the General Assembly, not yet approved and entered into the UNESCO World Heritage Sites 7 of the Slovak Republic.

Cultural locations include Banská Štiavnica with the technical monuments in the surroundings, Levoča, Spiš castle and the surrounding monuments, Monument reservation of folk architecture Vlkolínec, The historical core of the city Bardejov a Wooden churches of the Slovak part of the Carpathian arch. Natural sites include The caves of the Slovak Karst with the enlargement of the Dobšinská Ice Cave and Stratenská cave as part of the nomination of the project The Slovak Paradise ravines, submitted on June 26th 1997. The last registered on the list of world heritage natural site were Primeval Beech forests of the Carpathians.

Subsequent locations defined by the Slovak Republic and proposed for inclusion in the list, make up the cultural heritage:

Limes Romanus, t.j. rímske antické pamiatky na strednom Dunaji,

- Limes Romanus, i.e. the Roman Antiquities in the middle Danube,
- Gemer and Abov churches with medieval murals,
- Chatam Sófer Monument,
- Tokaj wine region as a set of wine cellars,
- The lenticular concept of the historic core of the city Košice,

A separate group of sites is made up of natural and cultural landscape of the Danube, which was presented as a joint proposal for a presumes that the Czech Republic, Austria and Hungary.

A group of world heritage natural sites proposed for entry on the list is made up of the following nature:

- A nature reserve, which is expected to be presented as a joint proposal that Slovakia and Poland,
- Karst valleys, and on the basis of a selection of different types of karst valleys as an extension of the Slovak Paradise Ravines and finalization of the project submitted by the nomination, 26. 6.1997,
- Mykoflora of Bukovské mountains,
- Herľan geyser,
- Meadows and pastures of Slovakia.

Slovak Republic also submit nominations for inclusion on the list of world cultural and natural heritage fortress against the Turks in Komárom This project is presented as a joint proposal with Hungary Joint Czech-Slovak nomination submitted by the two countries for Veľkomoravské monuments, namely the chapel of St. Margaret of Antioch in Kopčany and Slovak fortified settlement in Mikulčice.

Legal protection of the cultural heritage

Since 2002 provides the basic legal framework for the protection of cultural heritage Act 49/2002 Coll. on the protection of cultural heritage (hereinafter referred to as Act 49/2002 Coll ") This Act provides for protection of cultural monuments, historic sites, archaeological finds and archaeological sites in accordance with scientific evidence and on the basis of international agreements in the field of European and world cultural heritage, which the Slovak Republic is bound.

The law also regulates the organization and competence of state administration and self-government bodies, as well as the rights and obligations of owners and other legal entities and natural persons and penalties for offenses in the field of cultural heritage protection, which is an important part of the cultural heritage and the preservation of the public interests.

Basic terms of cultural heritage protection are governed by § 2 of Law no. 49/2002 Coll. Monuments Fund is a set of movable and immovable property declared by law as national monuments, historic reserves and conservation areas. The Monuments Fund is consider a matter on which the proceedings for a declaration for cultural heritage, conservation reserves and conservation areas.

The institutional base of the monumental protection fund

Institutional protection of monuments constitutes government bodies and local self-government. In the framework of cultural heritage protection acts in addition to those entities and the Government of the Slovak Republic, this declares conservation reserves under Art. 16 of Act no. 49/2002 Coll.

The Ministry of Culture of the Slovak Republic (hereinafter referred to as the "Ministry of Culture") is the central state administration. Its legal status primarily defined by the Constitution of the Slovak Republic. Detailed regulation of the position of the Ministry of Culture establishes Art. of the Act. 49/2002 Coll. The Ministry of Culture elaborate the concept of cultural heritage protection and outlines the main directions and strategy for the protection of cultural relics and historic sites. In addition, by the Government of the Slovak Republic conceptual proposals and recommendations to address fundamental issues of rescue, recovery and presentation of cultural heritage. Due to its status as a government agency directs the activities of Monuments Board, manages and controls the execution of state administration in the field of cultural heritage protection and carries out the central state supervision in the field of cultural heritage protection for its conservation inspection.

At the same time, however, is also active in the administrative procedure under the Act. 71/1967 Coll. on Administrative Proceedings (Administrative Code). Monuments Board review decisions issued in administrative proceedings.

Transposition of the provisions of the Convention, however, also reflected in the promotion and preservation of cultural heritage. The Ministry of Culture creates conditions for the grant of a multi-source financing conservation and restoration of cultural heritage.

The Ministry of Culture has its monument inspection, which defines the role and scope of Art. 5 of Act no. 49/2002 Coll. Monuments Inspectorate of the Ministry shall perform the central state supervision; the competent authorities of cultural heritage protection implement the provisions of Law no. 49/2002 Coll. and generally binding legal regulations issued for its implementation. In addition, however, is also active in the field of administrative control. Supervises, owners of cultural monuments, legal persons and natural persons comply with Act. 49/2002 Coll. and generally binding legal regulations issued for its implementation and to carry out decisions of the heritage protection.

Monuments Inspectorate under central government supervision and administrative control supervises the status of cultural heritage and to comply with the terms of protection of cultural relics and historic sites and stores bodies for the protection of monuments to adopt measures to eliminate shortcomings in the supervision. Implementation of the measures taken to remedy the shortcomings of course checked.

Other entities that operate in the field of cultural heritage protection are regions and municipalities. These entities in particular create conditions for the protection, restoration and use of monuments. Autonomous region is expressed on the draft declaration and cancellation of historic sites and cooperate in the conservation, restoration and use of state authorities.

Municipality shall in particular the protection of monuments on its territory. Monitors compliance costs for owners of cultural monuments of the law, coordinate building of technical infrastructure in the area of cultural heritage. Keep a register of monuments on the territory of the municipality. In addition, resources can shape the contributions to the restoration of its monuments and decide on creating and keeping records sights municipality.

Heritage Fund and the protection zone

To the third part of the Act. 49/2002 Coll. legislature incorporated regulates the procedure for the promulgation of cultural heritage, announcing a conservation area, conservation area and buffer zone. In addition, this section of the Act contains the procedure for amending and repealing declaration of cultural relics and historic sites, the conditions for their entry into the World Heritage List and edits the central list.

Proceedings for a declaration of cultural heritage carry Antiquities Authority. Declared a cultural monument movable or immovable thing, respectively set of things that have conservation value. Regional Monuments Board and Monuments

Board shall draw up its own initiative or on application by a natural or legal person documents to the declaration as a cultural monument.

To the parties is the owner of the asset and if the matter is real estate and the municipality in which the property is located. Owner must of receipt of the notice of invitation as a cultural landmark case to protect against damage, destruction, loss, theft or exported from the Slovak Republic. Has an obligation to notify Monuments Board intended or realized any change in its ownership. In addition to the written appeal must provide the necessary information on the case or allow inspection of the main beneficiaries in order to produce professional documentation.

Monuments Board shall decide without delay. The pronouncement as a cultural monument or reject the statement as a cultural monument sent to the owner Affairs, Regional Monuments Board, and if it is declared a cultural monument immovable property, and the village. A final decision declaring immovable property as a cultural monument Monuments Board shall send a report of the land. For the alternative procedure is covered by Administrative Order.

Historic reserve declares the proposal of the Ministry of Government Regulation, which specifies its territory. Draft declaration conservation area prepares Antiquities Authority in cooperation with the territorial government. Conservation Area is the area with comprehensive historic residential arrangement and a large concentration of cultural monuments or territory with groups of important archaeological finds and archaeological sites that can be topographically definable.

Historic zone announces the Ministry of Culture by decision on a proposal Monuments Board. The decision shall define the territory of the conservation area. The parties inform the public notice procedures. Historic zone is a territory with a historic residential arrangement, the territory of the cultural landscape heritage values or archaeological sites and archaeological sites that can be topographically definable.

Another type of procedure established by law is the procedure for the declaration of the protection zone. The protection zone is the area designated for the protection and development of the area or neighborhood immovable cultural monuments, historic reserve or conservation area. It declares it to the opinion municipality Monuments Board decision, which specifies its territory and for protection. Parties declaring a protection zone are aware of the initiation by public decree. Notification of a decision declaring a protection zone shall be made public notice.

All relevant information for the aforementioned ruling sends Monuments office competent Cadastral Authority within 30 days after the final decision declaring the area a historical preservation, conservation zone or buffer zone. The above decision of the competent authorities may change or cancel if there are new facts or terminate conservation values.

Monumental protection fund

The fourth part of the Act. 49/2002 Coll. provides for protection of monuments. Basic protection of cultural heritage is defined as a set of activities and measures taken to prevent danger, damage, destruction or theft of cultural relics, the permanent maintenance of good environmental status, including cultural heritage and to use such a method and presentation, which corresponds to its historic value and technical condition.

Act no. 49/2002 Coll. however, limits to the right of the main duties expressly provided, the purpose of which is to protect the heritage value of the property. In this context, it therefore regulation obliges notification to the municipality and the Regional Monuments Board. The owner must notify the change of ownership of cultural memory and any intended change of use. As for the property it must notify their eviction. In the event that the monument would be put at risk, damaged or destroyed or stolen the owner of the obligation to notify also.

The basic protection of cultural relics and historic sites, in general obligation of prevention and formulates proprietary interest in the protection of monuments. Everyone is obliged to behave in such a way that their actions would jeopardize the basic protection of cultural relics and historic sites and does not cause adverse changes in the state of monuments and archaeological sites. Regional Monuments Board acts therefore in the position of the body in relation to other decisions of public authorities, which may be affected by that interest.

However, if you fail basic protection of monuments, must be followed by rectification, ie correction procedure under Act. 49/2002 Coll. The procedure begins with the Regional Monuments Board on its own initiative. Impetus for initiating the knowledge that the owner does not comply with the basic obligations of protection of monuments. Decision may oblige the owner to within a specified time and under specified conditions as its own cost rectify, notably stating things in a condition that does not endanger the preservation of its heritage values. Moreover, it may invite the owner to submit a preparatory documentation, project documentation or other information needed to correct. Similarly, if the owner does not comply with the basic protection of movable cultural monuments, Regional Monuments Board may decide on its acceptance into custody or transferred to custody in vocational institution, and until are reasons to move it.

Under conditions stipulated by law may Regional Monuments Board may appeal to the competent authority to prohibit or restrict unauthorized activities and any authorized activity jeopardizing the conservation of cultural heritage or may cause damage, destruction or theft of cultural relics. If it is a serious and immediate threat to cultural heritage properties in a historic site or historic sites, Regional Monuments Board may decide immediately. An appeal against the decision under the preceding sentence shall not have suspensive effect.

Rehabilitation and restoration of cultural monuments and the adjustment of the real estate

Restoration of cultural monuments regulates fifth part of the Act. 49/2002 Coll. Recovery includes a set of specialized professional activities. The Act defines the obligations of the owner under reconstruction, consisting in conjunction with the Regional Monuments Board. Before the restoration, the owner shall request the Authority to carry out the recovery. For this purpose shall submit its plan. If it started to take action without a final decision on the renewal, the Regional Monuments Board shall initiate proceedings on its own initiative and ask the owner to any decision to work on the renovation stopped. In the renovation define the owner of the ratios monuments; monuments anticipated interventions and their consequences. Regional Monuments Board shall decide on the admissibility of recovery. The permit for renewal shall determine the conditions for its implementation.

This part also regulates the conditions for the opening of a new construction or modification of a building which is not a cultural monument in the historic site. The owner in this case must seek a decision of the Regional Monuments Board. If the owner will start the construction works without a final decision of the Regional Monuments Board, the administration will conduct its own initiative. In that case the notice of initiation, the owner and ask him to work until a decision stopped.

Regional Monuments Board shall decide on the admissibility of construction, conservation area. In the event that a positive decision, determine conditions while making adjustments to property in a historic site. Any change of the project documentation the owner is obliged to negotiate with the Regional Monuments Board. This obligation reflects the protection of heritage values in the area with a special legal regime.

The provisions of Act no. 49/2002 Coll. define simplified procedure on the property, which is located in the protection zone. In this case, the Regional Monuments Board does not issue the decision, but only binding opinion on the renovation of immovable property within the protection zone in order to determine whether the proposed plan by the interests protected by this legislation acceptable, the conditions for making adjustments to property.

In the course of restoration of cultural monuments and changes in real estate and historic site protection zone performs the Regional Monuments Board which also disposes state supervision. Identified deficiencies notify the building office. If the Regional Monuments Board finds deficiencies, or the owner detects proceeding in contravention of a decision or a binding opinion, the decision to stop work stops. An appeal against this decision does not suspend.

If the in the course of restoration or modification properties will reveal the unanticipated finding one who performs work is required pending the decision of the Regional Monuments Board to stop the work, finding that threaten or finding situation. Regional Monuments Board shall decide on further action within three working days of notification of award. Owner must complete a copy of documenta-

tion of actual recovery surrender charge within 15 days of completion of the works the Regional Monuments Board.

Specific type of restoration is restoration. Restoration owner may be prepared only on the basis of a previous decision of the Regional Monuments Board of intent to restoration. Species restoration documentation, the extent of restoration research, type, scope and conditions determined by the implementation of restoration work in the Regional Monuments Board decision on a proposed restoration in case of immovable cultural relics in the latest decision of the preparatory documentation restoration of cultural monuments.

The protection of natural heritage

The basic source of law in the field of nature protection in the Slovak Republic Act no. 543/2002 Coll. on nature and landscape protection (hereinafter referred to as the "Act. 543/2002 Coll."). The central concept of law is the protection of nature and landscape. The legislature included under this activity and protection of natural heritage, thereby transposing the obligations the Convention for the Protection of the World Cultural and Natural Heritage. Legislature intended to restrict any actions that could jeopardize the natural heritage, damage or destroy.

To the UNESCO World Heritage list from the Slovak Republic have successfully entered the natural caves of the Slovak Karst site with the extension of Dobšinská Ice Cave and Stratenská cave and Carpathian beech forests. These units are defined by Act no. 543/2002 Coll. especially as significant landscape elements. They are part of the territory that shape characteristic of the landscape and contribute to its ecological stability. The law appointed landscape features and includes demonstration of the elements in this particular forest, bog, bank vegetation, lake, wetland, river, rock, canyon, stone sea, sand dunes, park, alley, draw. In addition, regulation Slovak objects defines world heritage sites as well. Locations are geographically defined areas and their boundaries are clearly defined.

Legal regulation does not unaware or notion cave. The Act describes the cave several criteria. These natural elements must be accessible to man. They are created by natural processes and Law. 543/2002 Coll. describes them as hollow spaces underground in the earth's crust, the length or depth exceeds two meters and dimensions of surface openings are smaller than their length or depth. Caves are also natural monuments and are unique, the Ministry of Environment of the Slovak Republic declared national nature monuments.

In contrast, the concept of forest regulates the Act. 326/2005 Coll. on Forests (hereinafter referred to as the "Act. 326/2005 Coll."). The forest is an ecosystem consisting of forest land to forest cover and its air environment factors, plant species, animal species and soil with its hydrological and atmospheric regimes. Forest covers are treelike plants, shrubby plants, or mixtures thereof. Forest as an ecosystem

is therefore also involved in a territorial system of ecological stability. Nevertheless, none of the mentioned law does define forest.

The Act defines the general protection of habitat as the habitat of a species of plants or animals, their population or community in differentiated geographic, abiotic and biotic features. Nature protection authority issued approval to carry out activities which are not endangered or damaged habitat. The intention of the legislature was to restrict or regulate actions habitats, monitor their condition and extend and maintain their favorable status. Ministry of Environment in collaboration because the Ministry of Economy of the Slovak Republic issued a list of habitats of European importance, including priority habitats and habitats of national importance, which provides a generally binding regulation.

Another instrument of a general nature and landscape protection is to protect the natural species composition of ecosystems by. The law in this regard provides conditions on the spread of non-native species in the rural area, monitoring their presence and their removal if suppress natural species in the ecosystem. The law prohibits the importation, possession and other activities associated with invasive species. The landowner must bear the same responsibilities. Nature protection body may cost the originator of invasive species, if known, otherwise the cost of law, perform their removal.

The last general protection instruments are preventive and corrective action authority conservation and protection of expressions of authority. Preventive measure is restricted or prohibited activities. Prerequisite for preventive measures is resulting in damage to or destruction of nature and landscape. Corrective action authority conservation and land use, where a natural or legal person business decision requiring no damages or destroys wildlife and landscape. 'Use the same measures are applied nature protection body against any person who has not complied with the conditions laid down in the decision, or the obligations imposed in the decision, or operate without consent. Expression provides conservation authority in administrative proceedings under a special law to the institution concerned.

The promulgation of protected areas

Intention to declare a protected area conservation authority competent in their declaration shall notify in writing the owner of the plot of the protections. Nature protection authority must try to find the owner of the registration in the land registry. It announces Intention addition, the affected municipality and government authorities concerned. If there is a larger number of affected landowners or if the residence of the landowners is not known, the initiation is notified by a public notice. The municipality has an obligation within 15 days of receipt of the notice of intent inform the public in their territorial jurisdiction and allow insight into it at the usual venue, especially on the notice board, at least 15 days. The owner, municipality and the authority concerned may within 30 days submit written comments regarding

the objective nature conservation authority. Nature protection authority is obliged to negotiate with those who brought them within days.

Upon notification of intent to the declaration of a protected area must notify the owner of the activity, which needs approval, or that Act. 543/2002 Coll. prohibits nature conservation authority. Nature protection authority may determine the conditions for its exercise, which apply to the declaration of a protected area. These obligations are extinguished by operation of law, if the nature protection authority within two years of notification of intent not declared a protected area. This procedure does not apply to the promulgation of NATURA 2000 areas or on private protected areas.

Primeval Beech forests of the Carpathians

The term forest most probably introduces natural elements, respectively formations typical of the Amazon basin, the Congo or monsoon forests of the Indian subcontinent. Few realize, however, that the term perception professionals much broader and refers to its use as well as the services of European forests.

Primeval forests in Europe are still relatively rare and fragmented natural elements. They are habitats that contain the maximum number of characters forest diversity for a particular geographic area and type of wood. Create a sanctuary for rare species of flora and fauna and also for species sensitive to human interference.[49]

Defining the term forest is not internationally harmonized. There are several English words as "primeval forest, virgin forest, pristine forest, intact forest, old growth forest", each of which literature is understood and applied differently, often given the state of forests and their effect on humans in the country. In addition, often in forests also mentions the concept of "natural forest", which, however, applies generally broader than the concept of forest.[50]

Neither literature is uniform in what is considered a forest. Some authors derive from the forest primeval nature of the genetic age, t. j. the presence of the primordial genetic material. Others emphasize the absence of anthropogenic elements and interventions in the forest. In general, we can talk about forests, which by their nature are close forest, thus they are called natural forests.[51]

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[49] Trass, H. – Vellak, K. – Ingerpuu, N. : Floristical and ecological properties for identifying of primeval forests in Estonia. Helsinki : Annales Botanici Fennici, 1999, s. 67

[50] Jasík, M. – Polák, P. – Tužinský, J. – Vysoký, J. : Metodika na identifikáciu pralesov. Manuál vypracovaný v rámci projektu „Ochrana pralesov Slovenska", číslo podprojektu EN-2009-021, spolufinancovaného z Finančného mechanizmu Európskeho hospodárskeho spoločenstva, Nórskeho finančného mechanizmu, štátneho rozpočtu Slovenskej republiky a Svetového fondu na ochranu prírody (WWF). Banská Bystrica : FSC Slovensko. 2009 s. 2.

[51] Foster, D.R. – Orwig, D.A. – McLachlan, J.S. : Ecological and conservation insights from reconstructive studies of temperate old-growth forests. In. : Trend in ecology and evolution

Given the relatively densely populated in Europe and intensive economic activity, but also with regard to human-induced global impacts - such as emissions - we can now hardly talk about the occurrence of forests in the sense that it is a forest, which one would not present. However, to preserve remnants of natural forests to forest character, even though they cannot rule out some, and indirect human impact in the past or in the future.[52]

Carpathian beech forests that border, bilateral World Natural Heritage, contain natural values of global importance. They consist of a series of ten separate components along a 185 km long axis across the mountains Čornohora Ukraine westward along the ridge Poloniny, Bukovské and Vihorlatské mountains in Slovakia. The UNESCO World Heritage Site enrolled series of ten sites beech forests. Of these, four are in the territory of the Slovak Republic and six in Ukraine. These sites represent the series as the most prominent example of homogeneous undisturbed beech forests. It also contains globally significant natural genetic bank of beech, as well as the amount of movement of species dependent on these forest habitats. Precisely because it is a World Natural Heritage, heads the importance of beech forests of the Carpathians in particular the future. In the case of Carpathian beech forests as a natural laboratory notably the research. Researchers in these areas can be investigated water cycle and other substances, sustainable use of natural resources. Beech Forests also find their use in examining global warming and the greenhouse effect.[53]

These landscape features are not the only forests in Slovakia. Civic association FSC Slovakia, the project protecting forests of Slovakia decided to identify a number of state forests in Slovakia. On the basis of a valid exemption of the Ministry of Environment was permissible exception to the association of movement outside the marked hiking and nature trails in protected areas with 3 to 5 degree of protection and the driving and parking of motor vehicles in protected areas with 2 and 3 Degree of protection throughout Slovakia. Identification of forests in Slovakia took place between 2009 and 2010. Association examined 332 sites with an area of 53,699 hectares. It identified 122 virgin sites with an area of 10,120 hectares. This area constitutes 0.47% of the area of the territory of Slovak forests and 0.21% of the area of Slovakia. The largest area of virgin sites recorded in the Great Fatra an area of 1,520 hectares. Most virgin sites found in association Ďumbier Tatras, t. j. 15 sites. In addition, the association identified a 169-residue sites virgin area to 1,527 hectares of natural forests and the potential to acquire the character of the forest area of 14,235 hectares.

10/1996. San Francisco : Elsevier Ltd. 1996. (http://www.sciencedirect.com/science/article/pii/0169534796100471, 16.08.2012, 17:00 hod.)

[52] Jasík, M. – Polák, P. – Tužinský, J. – Vysoký, J. : Metodika na identifikáciu pralesov. Manuál vypracovaný v rámci projektu „Ochrana pralesov Slovenska", číslo podprojektu EN-2009-021, spolufinancovaného z Finančného mechanizmu Európskeho hospodárskeho spoločenstva, Nórskeho finančného mechanizmu, štátneho rozpočtu Slovenskej republiky a Svetového fondu na ochranu prírody (WWF). Banská Bystrica : FSC Slovensko. 2009 s. 2.

[53] Karpatské bukové pralesy od roku 2007 svetovým prírodným dedičstvom. In. : Enviromagazín 5/2007. Bratislava: Ministerstvo životného prostredia, s. 6 - 9

During the project FSC Slovakia prepared conservation projects for the following area:

- Natural reservation Smrekovica (Veľká Fatra, 294,82 ha);
- Natural reservation Suchý vrch (Veľká Fatra, 288,74 ha);
- Natural reservation Bystrá dolina (Nízke Tatry, 1 544,47 ha);
- Natural reservation Drastvica (Štiavnické vrchy, 206,62 ha);
- Natural reservation Krpcovo (Veľká Fatra, 142 ha);

Projects to protect the forest filed the association to the relevant conservation authorities to initiate proceedings for a declaration of nature reserves. In the case of the proposed Nature Reserve Smrekovica already started the procedure. But in the meantime he managed to nature protection body also stop because locality damaged timber.

Legislation on the protection of the world cultural and natural heritage in Slovakia is quite extensive. Slovak Republic transposed the obligations of a number of international conventions, but also legally binding acts. Objects of cultural heritage and natural heritage create a relatively large group of sites and objects.

The field of protection of cultural heritage the Ministry of Culture established interdepartmental committee to coordinate the tasks of protection of the world cultural heritage sites. The Commission addresses the crucial role of protecting world heritage sites Slovak Republic inscribed in the World Heritage List. The Commission's conclusions have recommendatory character. Ministry of Culture of the conclusions of the Commission invokes its activities or the nature of tasks and measures submitted to the Government of the Slovak Republic.

Management of local authority sites are steering groups representing various interest groups, owners of sites as well as by state and local governments. The basic document management are called. management plans for sites. In recent years it has managed grant program of the Ministry to ensure the development of these plans for almost all locations.

Monuments Board in addition performs regular monitoring of cultural heritage and send periodic reports on the state of conservation of World Heritage Centre in Paris. According to these reports, the Office so far found no significant changes in the authenticity and integrity of the cultural heritage. The objects usually miss the maintenance and repair of historic buildings or trend of gradual loss of small elements in authentic historical objects. Yet Monuments Board previously recorded no significant interference with the values of sites.

Protection of natural heritage provided by the Slovak Republic in particular by Act no. 543/2002 Coll., which is the general regulations on the protection of nature and landscape. Nevertheless, this law does not deal with forests and even self-define. Although UNESCO Beech Forests of the Carpathians was registered on the UNESCO World Heritage five years ago, these units still no place in the current legislation. For the comparison the Act. 543/2002 Coll. stipulates an independent manner, the system constraints and protection of caves, which also played a significance role in the process of writing to the Slovak Heritage List of UNESCO.

According to the Ministry of Environment creates most part of the forest area network NATURA 2000. Effective protection by the Ministry of Environment can not ensure the Slovak Republic because not all areas with occurrence of habitats primeval character in Act no. 543/2002 Coll. Also, according to the Ministry not all protected areas with the occurrence of these habitats are declared in the degree of protection that would allow them adequate protection. In addition, the area under the Ministry of belonging to a complex system of property ownership from which rightly claims arising owners to reasonable compensation for limiting the economic use of forest land. The Ministry intends to review the national network of protected areas. This task is a long-term incorporated in the draft text of the new law on the protection of nature and landscape. The new law on the protection of nature and landscape Ministry wants to be represented separately and territories with the occurrence of forest habitat.

On the other hand, in our opinion, the above-mentioned activities of civic associations - whether in the promulgation of a private natural reservation Vlčia or the mapping of forests in Slovakia and project preparation wildlife sanctuaries - show a sufficient "equipment" of the Slovak Republic for the protection of natural heritage. The problem remains rather rigidity of government decision-making activities, which often reacts too late. In our opinion the government often cannot determine the balance of several proprietary interests affecting the area's natural heritage.

Annex 1: Convention on the Protection of the Environment through Criminal Law

PREAMBLE

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Convinced of the need to pursue a common criminal policy aimed at the protection of the environment;

Considering that unregulated industrial development may give rise to a degree of pollution which poses risks to the environment;

Considering that the life and health of human beings, the environmental media and fauna and flora must be protected by all possible means;

Considering that the uncontrolled use of technology and the excessive exploitation of natural resources entail serious environmental hazards which must be overcome by appropriate and concerted measures;

Recognising that, whilst the prevention of the impairment of the environment must be achieved primarily through other measures, criminal law has an important part to play in protecting the environment;

Recalling that environmental violations having serious consequences must be established as criminal offences subject to appropriate sanctions;

Wishing to take effective measures to ensure that the perpetrators of such acts do not escape prosecution and punishment and desirous of fostering international co-operation to this end;

Convinced that imposing criminal or administrative sanctions on legal persons can play an effective role in the prevention of environmental violations and noting the growing international trend in this regard;

Mindful of the existing international conventions which already contain provisions aiming at the protection of the environment through criminal law;

Having regard to the conclusions of the 7th and 17th Conferences of European Ministers of Justice held in Basle in 1972 and in Istanbul in 1990, and to Recommendation 1192 (1992) of the Parliamentary Assembly,

Have agreed as follows:

SECTION I – USE OF TERMS

Article 1 – Definitions

For the purposes of this Convention:

a "*unlawful*" means infringing a law, an administrative regulation or a decision taken by a competent authority, aiming at the protection of the environment;

b "*water*" means all kinds of groundwater and surface water including the water of lakes, rivers, oceans and seas.

SECTION II – MEASURES TO BE TAKEN AT NATIONAL LEVEL

Article 2 – Intentional offences

1. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law:
   a) the discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which:
      1. causes death or serious injury to any person, or
      2. creates a significant risk of causing death or serious injury to any person;
   b) the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water which causes or is likely to cause their lasting deterioration or death or serious injury to any person or substantial damage to protected monuments, other protected objects, property, animals or plants;
   c) the unlawful disposal, treatment, storage, transport, export or import of hazardous waste which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;
   d) the unlawful operation of a plant in which a dangerous activity is carried out and which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants;
   e) the unlawful manufacture, treatment, storage, use, transport, export or import of nuclear materials or other hazardous radioactive substances which causes or is likely to cause death or serious injury to any person or substantial damage to the quality of air, soil, water, animals or plants,

   when committed intentionally.
2. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law aiding or abetting the commission of any of the offences established in accordance with paragraph 1 of this article.

Article 3 – Negligent offences

1. Each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences under its domestic law, when committed with negligence, the offences enumerated in Article 2, paragraph 1 a to e.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article,

in part or in whole, shall only apply to offences which were committed with gross negligence.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraph 1 of this article, in part or in whole, shall not apply to:
   – subparagraph 1 a 2 of Article 2,
   – subparagraph 1 b of Article 2, insofar as the offence relates to protect monuments, to other protected objects or to property.

Article 4 – Other criminal offences or administrative offences

Insofar as these are not covered by the provisions of Articles 2 and 3, each Party shall adopt such appropriate measures as may be necessary to establish as criminal offences or administrative offences, liable to sanctions or other measures under its domestic law, when committed intentionally or with negligence:

a) the unlawful discharge, emission or introduction of a quantity of substances or ionising radiation into air, soil or water;
b) the unlawful causing of noise;
c) the unlawful disposal, treatment, storage, transport, export or import of waste;
d) the unlawful operation of a plant;
e) the unlawful manufacture, treatment, use, transport, export or import of nuclear materials, other radioactive substances or hazardous chemicals;
f) the unlawful causing of changes detrimental to natural components of a national park, nature reserve, water conservation area or other protected areas;
g) the unlawful possession, taking, damaging, killing or trading of or in protected wild flora and fauna species.

Article 5 – Jurisdiction

1. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention when the offence is committed:
   a) in its territory; or
   b) on board a ship or an aircraft registered in it or flying its flag; or
   c) by one of its nationals if the offence is punishable under criminal law where it was committed or if the place where it was committed does not fall under any territorial jurisdiction.
2. Each Party shall adopt such appropriate measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party after a request for extradition.
3. This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its domestic law.
4. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that paragraphs 1 c and 2 of this

article, in part or in whole, shall not apply.

Article 6 – Sanctions for environmental offences

Each Party shall adopt, in accordance with the relevant international instruments, such appropriate measures as may be necessary to enable it to make the offences established in accordance with Articles 2 and 3 punishable by criminal sanctions which take into account the serious nature of these offences. The sanctions available shall include imprisonment and pecuniary sanctions and may include reinstatement of the environment.

Article 7 – Confiscation measures

1. Each Party shall adopt such appropriate measures as may be necessary to enable it to confiscate instrumentalities and proceeds, or property the value of which corresponds to such proceeds, in respect of offences enumerated in Articles 2 and 3.
2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it will not apply paragraph 1 of this Article either in respect of offences specified in such declaration or in respect of certain categories of instrumentalities or of proceeds, or property the value of which corresponds to such proceeds.

Article 8 – Reinstatement of the environment

Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will provide for reinstatement of the environment according to the following provisions of this article:

a) the competent authority may order the reinstatement of the environment in relation to an offence established in accordance with this Convention. Such an order may be made subject to certain conditions;
b) where an order for the reinstatement of the environment has not been complied with, the competent authority may, in accordance with domestic law, make it executable at the expense of the person subject to the order or that person may be liable to other criminal sanctions instead of or in addition to it.

Article 9 – Corporate liability

1. Each Party shall adopt such appropriate measures as may be necessary to enable it to impose criminal or administrative sanctions or measures on legal persons on whose behalf an offence referred to in Articles 2 or 3 has been committed by their organs or by members thereof or by another representative.
2. Corporate liability under paragraph 1 of this article shall not exclude criminal proceedings against a natural person.
3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 of this article or any part thereof or that it applies only to offences

specified in such declaration.

Article 10 – Co-operation between authorities

1. Each Party shall adopt such appropriate measures as may be necessary to ensure that the authorities responsible for environmental protection co-operate with the authorities responsible for investigating and prosecuting criminal offences:
   a) by informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that an offence under Article 2 has been committed;
   b) by providing, upon request, all necessary information to the latter authorities, in accordance with domestic law.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply paragraph 1 a of this article or that it applies only to offences specified in such declaration.

Article 11 – Rights for groups to participate in proceedings

Each Party may, at any time, in a declaration addressed to the Secretary General of the Council of Europe, declare that it will, in accordance with domestic law, grant any group, foundation or association which, according to its statutes, aims at the protection of the environment, the right to participate in criminal proceedings concerning offences established in accordance with this Convention.

SECTION III – MEASURES TO BE TAKEN AT INTERNATIONAL LEVEL

Article 12 – International co-operation

1. The Parties shall afford each other, in accordance with the provisions of relevant international instruments on international co-operation in criminal matters and with their domestic law, the widest measure of co-operation in investigations and judicial proceedings relating to criminal offences established in accordance with this Convention.
2. The Parties may afford each other assistance in investigations and proceedings relating to those acts defined in Article 4 of this Convention which are not covered by paragraph 1 of this article.

SECTION IV – FINAL CLAUSES

Article 13 – Signature and entry into force

1. This Convention shall be open for signature by the member States of the Council of Europe and non-member States which have participated in its elaboration. Such States may express their consent to be bound by:
   a) signature without reservation as to ratification, acceptance or approval; or
   b) signature subject to ratification, acceptance or approval, followed by ratification,

acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
4. In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of its consent to be bound by the Convention in accordance with the provisions of paragraph 1.

Article 14 – Accession to the Convention

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting States to the Convention, may invite any State not a member of the Council of Europe to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.
2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 15 – Territorial application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
2. Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 16 – Relationship with other conventions and agreements

1. This Convention does not affect the rights and undertakings derived from international multilateral conventions concerning special matters.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.
3. If two or more Parties have already concluded an agreement or treaty in respect of a subject which is dealt with in this Convention or otherwise have established their relations in respect of that subject, they shall be entitled to apply that agreement or treaty or to regulate those relations accordingly, in lieu of the present Convention, if it facilitates international co-operation.

Article 17 – Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more of the reservations provided for in Article 3, paragraphs 2 and 3, Article 5, paragraph 4, Article 7, paragraph 2, Article 9, paragraph 3 and Article 10, paragraph 2. No other reservation may be made.
2. Any State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.
3. A Party which has made a reservation in respect of a provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article 18 – Amendments

1. Amendments to this Convention may be proposed by any Party, and shall be communicated by the Secretary General of the Council of Europe to the member States of the Council of Europe and to every non-member State which has acceded to or has been invited to accede to this Convention in accordance with the provisions of Article 14.
2. Any amendment proposed by a Party shall be communicated to the European Committee on Crime Problems which shall submit to the Committee of Ministers its opinion on that proposed amendment.
3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by the European Committee on Crime Problems and may adopt the amendment.
4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.
5. Any amendment adopted in accordance with paragraph 3 of this article shall come into force on the thirtieth day after all Parties have informed the Secretary General of their acceptance thereof.

Article 19 – Settlement of disputes

1. The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the interpretation and application of this Convention.
2. In case of a dispute between Parties as to the interpretation or application of this Convention, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their choice, including submission of the dispute to the European Committee on Crime Problems, to an arbitral tribunal whose decisions shall be binding upon the Parties, or to the International Court of Justice, as agreed upon by the Parties concerned.

Article 20 – Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 21 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Convention of:

a) any signature;
b) the deposit of any instrument of ratification, acceptance, approval or accession;
c) any date of entry into force of this Convention in accordance with Articles 13 and 14;
d) any reservation made under Article 17, paragraph 1;
e) any proposal for amendment made under Article 18, paragraph 1;
f) any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, the 4th day of November 1998, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to it.

Annex 2: UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Adopted by the General Conference at its seventeenth session
Paris, 16 november 1972

The General Conference of the United Nations Educational, Scientific and Cultural
Organization meeting in Paris from 17 October to 21 November 1972, at its seventeenth
session,

Noting that the cultural heritage and the natural heritage are increasingly threatened with
destruction not only by the traditional causes of decay, but also by changing social and
economic conditions which aggravate the situation with even more formidable phenomena of
damage or destruction,

Considering that deterioration or disappearance of any item of the cultural or natural heritage
constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete
because of the scale of the resources which it requires and of the insufficient economic,
scientific, and technological resources of the country where the property to be protected is
situated,

Recalling that the Constitution of the Organization provides that it will maintain, increase,
and diffuse knowledge by assuring the conservation and protection of the world's heritage,
and recommending to the nations concerned the necessary international conventions,

Considering that the existing international conventions, recommendations and resolutions
concerning cultural and natural property demonstrate the importance, for all the peoples of

the world, of safeguarding this unique and irreplaceable property, to whatever people it may
belong,
Considering that parts of the cultural or natural heritage are of outstanding interest and
therefore need to be preserved as part of the world heritage of mankind as a whole,
Considering that, in view of the magnitude and gravity of the new dangers threatening them,
it is incumbent on the international community as a whole to participate in the protection of
the cultural and natural heritage of outstanding universal value, by the granting of collective
assistance which, although not taking the place of action by the State concerned, will serve as
an efficient complement thereto,
Considering that it is essential for this purpose to adopt new provisions in the form of a
convention establishing an effective system of collective protection of the cultural and
natural heritage of outstanding universal value, organized on a permanent basis and in
accordance with modern scientific methods, 2
Having decided, at its sixteenth session, that this question should be made the subject of an
international convention,
Adopts this sixteenth day of November 1972 this Convention.

I. DEFINITION OF THE CULTURAL AND NATURAL HERITAGE

Article 1

For the purpose of this Convention, the following shall be considered as "cultural heritage":

- monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Article 2

For the purposes of this Convention, the following shall be considered as "natural

heritage":

- natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
- geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 3

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;
b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;
c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;
d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.
2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.
3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international cooperation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

III INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 8

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee", is hereby established within the United Nations Educational, Scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organization. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this Convention for at least 40 States.
2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.
3. A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the In-

ternational Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization, representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

Article 9

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.
2. The term of office of one-third of the members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Educational, Scientific and Cultural Organization after the first election.
3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

Article 10

1. The World Heritage Committee shall adopt its Rules of Procedure.
2. The Committee may at any time invite public or private organizations or individuals to participate in its meetings for consultation on particular problems.
3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 11

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.
2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List," a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.
3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or

jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.

4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of "list of World Heritage in Danger", a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicize such entry immediately.
5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.
6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.
7. The Committee shall, with the agreement of the States concerned, co-ordinate and encourage the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

Article 12

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

Article 13

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists mentioned referred to in paragraphs 2 and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.
2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified.
3. The Committee shall decide on the action to be taken with regard to these requests,

determine where appropriate, the nature and extent of its assistance, and authorize the conclusion, on its behalf, of the necessary arrangements with the government concerned.

4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.
5. The Committee shall draw up, keep up to date and publicize a list of property for which international assistance has been granted.
6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.
7. The Committee shall co-operate with international and national governmental and non-governmental organizations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organizations, particularly the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.
8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

Article 14

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization.
2. The Director-General of the United Nations Educational, Scientific and Cultural Organization, utilizing to the fullest extent possible the services of the International Centre for the Study of the Preservation and the Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

IV FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 15

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Fund", is hereby established.
2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organization.
3. The resources of the Fund shall consist of:
   a) compulsory and voluntary contributions made by States Parties to this Convention,
   b) Contributions, gifts or bequests which may be made by:
      i) other States;
      j) the United Nations Educational, Scientific and Cultural Organization, other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations;
      k) public or private bodies or individuals;
   c) any interest due on the resources of the Fund;
   d) funds raised by collections and receipts from events organized for the benefit of the fund; and
   e) all other resources authorized by the Fund's regulations, as drawn up by the World Heritage Committee.
4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

Article 16

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the regular budget of the United Nations Educational, Scientific and Cultural Organization.
2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instrument of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.
3. A State Party to the Convention which has made the declaration referred to in par-

agraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States parties to the Convention.

4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.
5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall not apply to the first election. The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

Article 17

The States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of this Convention.

Article 18

The States Parties to this Convention shall give their assistance to international fund-raising campaigns organized for the World Heritage Fund under the auspices of the United Nations Educational, Scientific and Cultural Organization. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE

Article 19

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

Article 20

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article

22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of Article 11.

Article 21

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible.
2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.
3. Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.

Article 22

Assistance granted by the World Heritage Fund may take the following forms:

a) studies concerning the artistic, scientific and technical problems raised by the protection, conservation, presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;
b) provisions of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;
c) training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;
d) supply of equipment which the State concerned does not possess or is not in a position to acquire;
e) low-interest or interest-free loans which might be repayable on a long-term basis;
f) the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

Article 23

The World Heritage Committee may also provide international assistance to national or regional centres for the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

Article 24

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

Article 25

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

Article 26

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

VI. EDUCATIONAL PROGRAMMES

Article 27

1. The States Parties to this Convention shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.
2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

Article 28

States Parties to this Convention which receive international assistance under the Convention shall take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

VII. REPORTS

Article 29

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural

Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application of this Convention, together with details of the experience acquired in this field.
2. These reports shall be brought to the attention of the World Heritage Committee.
3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization.

VIII FINAL CLAUSES

Article 30

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

Article 31

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the General Conference of the Organization to accede to it.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

Article 33

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system:

a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the

obligations of the federal or central government shall be the same as for those States parties which are not federal States;

b) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 35

1. Each State Party to this Convention may denounce the Convention.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations provided for in Article 35.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization. Done in Paris, this twenty-third day of November 1972, in two authentic copies bearing the signature of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies

of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations.

Annex 3: The Act no. 17/1992 Coll. from December 5th 1991 on the environment.

The Federal Assembly of the Czech and Slovak Federal Republic
based on the fact that man is, with other organisms integral part of nature,
recalling the natural interdependence of humans and other organisms,
respecting the right of man to transform nature in accordance with the principle of sustainable development,
aware of its responsibility for maintaining a favorable environment for future generations and
emphasizing the right to a favorable environment as one of the fundamental rights of man,
resolved to the following Act:

Art. 1

Purpose of the Act

The Act defines the essential terms and establishes the basic principles of environmental protection and obligations of legal entities and individuals in protecting and improving the environment and the use of natural resources, basing itself on the principle of sustainable development.

ESSENTIAL TERMS

Art. 2

The Environment

The environment is everything that creates natural conditions for the existence of organisms including humans and is a prerequisite for its further development. Its components are mainly air, water, rocks, soil, and organisms.

Art. 3

Ecosystem

An ecosystem is a functional system of living and non-living components of the environment, which are interconnected in exchange of substances, energy flow and transfer of information and which interact and evolve in a particular space and time.

Art. 4

Ecological stability

Ecological stability is the ability of an ecosystem to compensate for variations caused by external factors and to preserve its natural properties and functions.

Art. 5

Bearable burden on the area

Bearable burden on area is such a burden on area by a human activity that does not harm the environment, especially its components, ecosystem functions and ecological stability.

Art. 6

Sustainable development

Sustainable development is such a development that the current and future generations to meet their basic needs while not decreasing the diversity of nature and the natural functions of ecosystems.

Art. 7

Natural resources

1. Natural resources are those of the living and inanimate nature that a person uses or may use to meet its needs.
2. When gradually consumed the renewable natural resources have the ability in part or completely rebuilt, and it alone or aggravated by man. Non-renewable natural resources by consumption disappear.

Art. 8

Pollution and environmental degradation

1. Environmental pollution is bringing such physical, chemical or biological agents in the environment due to human activities, which by their nature or quantity are contaminants to the environment.
2. Damage to the environment is worsening the state of the environment by pollution or other human activities beyond the limits laid down by special regulations.

Art. 9

Protection of the environment

Protection of the environment includes actions that prevent pollution of the environment or environmental damage or limit or eliminate the pollution or the damage. It covers the protection of the individual components or specific ecosystems and their mutual relations, but also protects the environment as a whole.

Art. 10

Ecological damage

Environmental damage is the loss or impairment of natural ecosystem functions

arising from damage to the components or disruption of internal linkages and processes as a result of human activity.

PRINCIPLES OF ENVIRONMENTAL PROTECTION

Art. 11

The territory must not be burdened by human activity over the carrying capacity.

Art. 12

1. The permissible level of pollution determine the limits stipulated by special regulations, these values are determined in accordance with the goals of knowledge so as not to endanger the public health and not to endanger other living organisms and other components of the environment.
2. Limit values must be determined taking into account the possible cumulative effect or interaction between pollutants and activities.

Art. 13

If possible, having regard to all the circumstances to assume that the risk of serious or irreversible environmental damage may arise, any doubt must be that such damage actually occurs, a reason for postponing measures to prevent damage.

Art. 14

Revoked.

Art. 15

Anyone can claim in the prescribed manner to the competent authority of their rights under this Act and other regulations governing the area of the environment.

Art. 16

Education, public awareness and learning are carried out so as to lead to thoughts and actions, which are in accordance with the principle of sustainable development, to the sense of responsibility for maintaining the quality of the environment and its individual components and to the respect for life in all its forms.

DUTIES FOR THE ENVIRONMENTAL PROTECTION

Art. 17

1. Everyone is obliged, in particular to take the measures at source, forego the pollution or environmental damage and to minimize the adverse impact of his activities on the environment.
2. Any person who uses a territory or natural resources, projects, or removes structures, shall carry out such activities only after an assessment of their impacts on

the environment and after an assessment of their burden on the area; these obligations need to be followed in particular in accordance with this Act and special regulations.

3. Any person who intends to introduce into production, circulation and consumption technologies, products and substances, or who intends to import them, shall ensure to meet the requirements of environmental protection and in the cases provided in this Act and special regulations shall also ensure to provide their assessment in terms of their potential effects on the environment.

Art. 18

1. Anyone who by their activities pollutes or damages the environment or who uses natural resources, shall at its own expense provide tracking this interaction and know its possible consequences.
2. Revoked.

Art. 19

Anyone who finds that there is damage to the environment or has already occurred, is required to take within the limits of their capabilities the necessary measures to avert the threat or mitigation, and to promptly report the facts to the government, such an obligation to intervene does not have a person who would jeopardize its own life or health or the life or health of a person close. 1)

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1) § 116 of the Civil Code.

IMPACT ASSESSMENT OF ACTIVITIES ON THE ENVIRONMENT

Art. 20

Revoked.

Art. 21

Revoked.

Art. 22

Revoked.

Art. 23

Revoked.

TRANSBOUNDARY IMPACT ASSESSMENT OF ACTIVITIES AND THEIR CONSEQUENCES ON ENVIRONMENT

Art. 24

Revoked.

Art. 25

Revoked.

Art. 26

Revoked.

THE LIABILITY FOR BREACH OF OBLIGATIONS FOR ENVIRONMENTAL PROTECTION

Art. 27

1. Anyone who by environmental degradation or other wrongful conduct has caused ecological damage is obliged to restore the natural ecosystem functions impaired or part thereof. If this is not possible or for serious reasons it´s not effective, a person is obliged to replace the ecological damage by other means (refill); where this is not possible a person is to pay the damage in money. Concurrence of the refund shall not be excluded. The method of calculating the ecological damage and other details shall stipulate a special regulation.
2. The imposition of the obligation under paragraph 1 shall be decided by the competent authority of government.
3. Authorized from the ecological damage caused is the State; details shall determine the laws of the Czech National Council and the Slovak National Council.
4. For the ecological damage shall be used the general rules on liability and damages, subject to paragraphs 1-3 otherwise.
5. The provisions of paragraphs 1 to 3 shall not affect the general rules on liability and damages.

Art. 28

The sanctions for the environmental damage

1. Environmental authorities shall impose a fine
   a) up to 1.000.000 crowns to a legal person or to a natural person authorized to do business, which shall cause in its action breaching the laws the ecological harm,
   b) up to 500.000 crowns to a legal person or to a natural person authorized to do business that does not take measures to remedy or warn the state administration body (Art. 19).
2. A fine may be imposed within one year of the date on which the authority of the Environment found a violation of the obligation, not later than three years from the date when the breach occurred.
3. The imposition of fines shall not affect the general rules on damages.

Art. 29

For breach of the obligations stipulated by special regulations on environmental

protection, fines are imposed or other measures are taken under these Regulations that do not affect any possible criminal liability or liability for damages under general law.

Art. 30

Relevant state administration bodies for the environment are authorized in cases where there is a serious damage to the environment or when damage has already occurred, to order the temporary suspension or restriction of activity that may cause the damage or that it has already caused it, for a period no longer than 30 days (interim measures) and also to propose the measures to remedy to the competent state administration body. The special regulations shall lay down the details.

ECONOMIC INSTRUMENTS

Art. 31

The natural or legal persons shall pay taxes, fees, levies and other payments for the pollution of the environment or its components, and for the economic use of natural resources, if the special laws stipulate so.

Art. 32

Special regulations shall prescribe when the natural or legal persons, protecting the environment or using natural resources in accordance with the principle of sustainable development, may be favored the adaptations of taxes or the provision of loans and subsidies.

Art. 33

Instruments of environmental protection are also environmental funds; the special regulations shall provide the details.

SPECIAL PROVISIONS RELATING TO THE INFORMATION ON THE ENVIRONMENT

Art. 33a

Disclosure of the information on the environmental pollution

1. A natural person authorized to conduct business or legal entity that is under special regulations or rulings there under issued required to measure the quantity of a given type of discharged substances (emissions) into the air or into the water or watch another impact by it operated devices to the environment, is required to publish the results of these measurements and observations in a generally intelligible form and generally easily accessible place regularly within 10 days after the end of each month, in which it had such an obligation, and collectively within 30 days after the end of the calendar year.

2. From the published results of measurements and observations must be clear what the environmental pollution is by the facility and what the association between the measured values to lawful or permitted limits is.
3. The obligation to immediately inform the public is also the natural person entitled business or legal person that caused serious damage or threat to the environment mainly due to operational incidents (accidents), fire or traffic accident. The information shall in the extent to which it is known, a brief description of the incident, its causes, and extent of damage or danger to the environment or its individual parts, and the corrective measures taken. Form and extent of information to the public must comply with the type, the severity and extent of danger or harm to the environment and options obligor.
4. Meeting the obligations under paragraph 3 shall not affect reporting obligations or other obligations pursuant to special regulations. 2)

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2) For example the Art. 5 of Slovak National Council no. 51/1988 Coll. on mining activities, explosives and state mining administration in the wording of the Act of the Slovak National Council no. 499/1991 Coll., Art. 7. 1 point. b) of the Act no. 309/1991 Coll. in the wording of the Act of the National Council of the Slovak Republic no. 148/1994 Coll., Art. 8 of the Act of the National Council of the Slovak Republic no. 330/1996 Coll. on the safety and health at work, Art. 51 of the Act of the National Council of the Slovak Republic. No. 315/1996 Coll. on the road traffic.

Art. 33b

Report on the state of the environment

1. The Ministry of Environment of the Slovak Republic shall annually publish a report on the state of the environment in the Slovak Republic. Competent central bodies of the Slovak Republic 3) shall provide required documentation.
2. The report referred to in paragraph 1 shall be issued by the Ministry till December 15th of the following year. Competent central authorities shall provide the materials till August 31st of the following year.
3. The report referred to in paragraph 1 will be available at the Ministry of Environment of the Slovak Republic, the Slovak Environmental Inspectorate and the Regional Environmental Office and the district office.

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3) Act of the Slovak National Council no. 347/1990 Coll. on the organization of ministries and other central state administration of the Slovak Republic, as amended.

TRANSITIONAL AND FINAL PROVISIONS

Art. 34

1. Use of land, natural resources, buildings, technologies, products and substances that do not comply with the provisions of this Act and the conditions arising from specific legislation on the protection of the individual components of the environment, must be brought into conformity with these regulations within the time

limits provided by them.

2. If the limits laid down by specific legislation fail to comply in accordance with paragraph 1 activity shall be limited or stopped. The decision shall be issued by the relevant state administration bodies.

Art. 35

This Act shall take effect on date of its publication.
Act no. 127/1994 Coll. shall enter into force on September 1st 1994.
Act no. Act 287/1994 Coll. shall enter into force on January 1st 1995.
Act no. 171/1998 Coll. shall enter into force on September 1st 1998.
Act no. 211/2000 Coll. shall enter into force on January 1st 2001.
Act no. 332/2007 Coll. shall enter into force on October 1st 2007.

Havel v.r.
Dubček v.r.
Čalfa v.r.

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