

2. CZECH ENVIRONMENTAL LAW – GENERAL PART

2.1. Participation of the public in the environmental protection

2.1.1. Definition of the public

The public itself is not defined unanimously in the Czech legislation. Generally, it is presumed that the public may be represented by:

- a) a natural or legal person (anybody),
- b) groups of these persons (one or more persons),
- c) non-governmental organizations (civic associations and similar common welfare organizations with the interest in environmental protection) as a special legal person with special rights set forth by certain acts.

The content of the definition depends on specific laws regulating different areas of legal relations. This approach is similar to the international law; under the Espoo Convention, the public means one or more natural or legal persons while the Aarhus Convention differentiates the public and the public concerned. According to the Aarhus Convention, the **public** means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups. The **public concerned** means the public affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

There are different forms of public participation in the environmental protection under the Czech law:

- 1) the right to gather
- 2) the right to associate
- 3) the right to participate in administration of public matters including the right to vote
- 4) the right to petition
- 5) the right to environmental information
- 6) the right to complain
- 7) the right to participate in procedures that do not have a character of administrative procedure (the result is not an administrative decision)
- 8) the right to participate in the administrative proceedings
- 9) participation in civil proceedings before court
- 10) participation in the criminal proceedings
- 11) administrative agreements
- 12) participation in the state institutions.

The first five forms represent fundamental civil rights. They are included in the Charter of the Fundamental Rights and Freedom. These rights are further implemented by different legal acts. The violation of constitutional rights may be challenged before the Constitutional Court.

2.1.2. The right to gather

Executing this right, the public can express their opinion and create a pressure to state authorities in order to solve a certain political problem. The more people get together, the bigger pressure they can create. This right can be limited by conditions set by the law.

2.1.3. The right to associate

The right to associate enables people to form political parties or other associations. It can be also limited by legally set conditions. In the Czech Republic the “Green Party” is not a parliamentary party and its influence is not very important.

On the other hand, there are a lot of non-governmental organizations (NGOs) such as the Children of the Earth, the Czech Union for Conservation of Nature, Greenpeace, Rainbow and many others that received quite good support and play an unreplaceable role in environmental protection.

2.1.4. The right to participate in administration of public matters including the right to vote

This right is a part of the right to participate in administration of public matters. Citizens may participate either directly or through their representatives (deputies).

2.1.5. The right to petition

The petition is a complaint or a claim or a proposal related to a public matter. What is interesting, the duty to deal with the petition was set only by the legal act, not by the Constitution. The Charter of the Fundamental Rights and Freedoms ensures only the right to prepare and to file the petition. The consequence of this is that petitioners cannot claim their right to an appropriate answer before the Constitutional Court.

2.1.6. The right to environmental information

From the international point of view, the basic source of the law is the Aarhus Convention. As far as the Aarhus Convention is concerned, the Czech law is in compliance with this convention, even though the legal regulation of the access to environmental information in the Czech Republic was primarily based on the Council Directive 90/313/EEC. However, the Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313/EEC has brought some changes that had to be incorporated into the Czech law. That is why the amendment of the Act No. 123/1998 Coll. was passed at the beginning of 2005.