Protection of Environmental Human Rights in the Scope of European Union Law

Juraj Jankuv*

Summary: European Union law enshrines altogether six environmental human rights. The first group of these rights is composed of substantive environmental human rights – right to environment, right to water and right to sanitation (right to safe hygienic conditions of environment). The second group represent three human procedural environmental rights – right of access to information on environment, right of public participation in decision-making in environmental matters, and right of access to justice in environmental matters. All mentioned rights originated in international public law. The research of mechanisms of the protection of these rights under European Union law is important today in view of the severe deterioration of the state of environment of in Europe and because European Union law includes somewhat better implementation mechanisms of its law compared with international public law. In the light of the above, European Union law is capable to make a significant contribution to clarifying the implementation, interpretation and implementation of human environmental rights in the legal orders of the Member States of the European Union. The aim of this article is therefore to identify enshrining human environmental rights in European Union law and mechanisms of the protection of these rights in European Union law.

Keywords: Law of the European Union – environmental law of the European Union – human rights law of the European Union – international public law – international environmental law – international human rights law – environmental human rights – substantive human right to environment – procedural environmental rights – right to water – right to sanitation

Foreword

European Union law (also EU law) has emerged in the scope of international public law, and naturally takes over and develops the mechanisms for protecting human rights. This concerns even environmental human rights created within the framework of the international public law. Under EU law, it is therefore possible

* Jankuv, J. Associate Profesor, Trnava University in Trnava, Faculty of Law, Slovak Republic. Contact: juraj.jankuv@truni.sk

to identify the provisions enshrining substantive environmental human rights – right to environment, right to water and right to sanitation (right to safe hygienic conditions of environment) and even procedural environmental human rights – right of access to information on environment, right of public participation in decision-making in environmental matters, and right of access to justice in environmental matters, as they have been formulated in international public law.

The research of mechanisms of the protection of these rights under EU law is important today in view of the severe deterioration of the state of the Earth's planet environment, and because European Union law includes somewhat better implementation mechanisms of its law compared with international public law. In the light of the above, European Union law is capable to make a significant contribution to clarifying the implementation, interpretation and implementation of human environmental rights in the legal orders of the Member States of the European Union. The aim of this article is therefore to identify enshrining human environmental rights in European Union law and mechanisms of the protection of these rights in European Union law. As a theoretical basis in order to fulfil this goal we will provide for concise analysis of mechanisms of protection of human rights in the EU law in general.

1. Legal arrangement of protection of human rights in the scope of European Union law in general as a basis for protection of environmental human rights

The European Communities (also the EC) and later the European Union (also the EU) were originally created mainly for economic reasons. The gradual deepening of the competences of the various EU bodies has resulted in the extension of the EU agenda to the area of human rights, including human environmental rights. Development in the area of protection of human rights law in European Union law generally appear at first sight to be very complex.[1] The unifying and sticking element in protection of human (fundamental) rights in the scope of EU law are,

[1] To this very complex problematic see ŠIŠKOVÁ, N. *Dimenze ochrany lidských práv v EU.* Praha: ASPI, 2003, 228 p.; ŠIŠKOVÁ. N. *Dimenze ochrany lidských práv v Evropské unii.* 2. rozšířené a aktualizované vydání. Praha: Linde, 2008. 256 p.; ŠIŠKOVÁ, N. Regulace lidských práv na úrovni EU – vývoj a perspektivy. *Mezinárodní a srovnávací revue,* No. 10, 2004, p. 29–36; KERIKMÄE, T., HAMUĽÁK, O., CHOCHIA, A. A Historical Study of Contemporary Human Rights: Deviation or Extinction? *Acta Baltica Historiae et Philosophiae Scientiarum*, 2016, Vol. 4, No. 2, p. 98–115. ISSN 2228-2009.

in particular, the provisions of the *Treaty on European Union* (1992, hereinafter referred to as the TEU)[1] as amended by the *Treaty of Lisbon* (2007).*Treaty of Lisbon* (2007)[2] significantly amends both the Treaty on European Union and the Treaty establishing the European Community, the title of which, as a consequence of the Treaty of Lisbon, was changed to the *Treaty on the Functioning of the European Union* (1957, TFEU).[3] Treaty of Lisbon caused even certain modifications in the area of protection of human rights. The issue of the protection of human rights is, in general, in line with the provisions of the *Lisbon Treaty* (2007), enshrined in Articles 2 and 6 of the *Treaty on European Union* (1992). More detailed analysis of these articles goes beyond the scope of this paper. In order to reach the goal of this paper it suffices to say that within the European Union, coming up from provisions of Article 6 of the Treaty on European Union, there are in parallel three binding human rights catalogues – catalogue of rights enshrined in the *Charter of Fundamental Rights of the European Union* (2000, 2007),[4] catalogue enshrined in the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950)[5] created by the Council of Europe and the catalogue of rights created under the *doctrine of fundamental rights* created by Court of Justice of the European Union or its predecessor Court of Justice of the European Communities.[6] These catalogues are complementary to each other and to a certain extent overlap. Some of these rights are anchored even in *secondary EU law* even as far as the environmental rights are concerned. Certain number of environmental rights are anchored in *international treaties concluded by the European Union with the third states*[7] or in *multilateral treaties signed and ratified by the European Union*. The leading multilateral treaty in this sense is the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (1998) concluded in

[1] *Consolidated version of the Treaty on European Union* (1992). OJ C 326, 26. 10. 2012, p. 13–390.

[2] *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, signed at Lisbon, 13 December 2007. OJ C 306, 17. 12. 2007, p. 1–271.

[3] *Consolidated version of the Treaty on the Functioning of the European Union* (1957).OJ C 326, 26. 10. 2012, p. 47–390.

[4] *Charter of Fundamental Rights of the European Union* (2000, 2007). OJ C 326, 26. 10. 2012, p. 391–407. To the practical application of this charter see HAMUĽÁK, O., MAZÁK, J. The Charter of Fundamental Rights of the European Union vis-á-vis the Member States – Scope of its Application in the View of the CJEU. *Czech Yearbook of Public & Private International Law*, Vol. 8, 2017, p. 161–172.

[5] *European Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, Council of Europe.

[6] See ŠTURMA, P. *Mezinárodní a evropské kontrolní mechanismy v oblasti lidských práv.* 3. doplněné vydání. Praha: C. H. Beck, 2010, p. 51–68.

[7] See ŠTURMA, P. *Mezinárodní a evropské kontrolní mechanismy v oblasti lidských práv.* 3. doplněné vydání. Praha: C. H. Beck, 2010, p. 56–57.

the Danish city of Aarhus (hereinafter the Aarhus Convention or the Convention), which will be analysed in a detailed manner in this paper later.

In view of the possibility of claiming protection of human rights under EU law, it is generally appropriate to mention the rules of EU law that make it possible to claim protection of human rights in proceedings before the Court of Justice of the European Union or other EU bodies. In EU law, a variety of means of enforcing or safeguarding the human rights are available to individuals. The means of enforcing individual rights in European law are diverse and feasible at different levels. There have been no major changes in this are by the Lisbon Treaty. First of all, it is possible to *invoke human rights under EU law directly before the national court*. It is a group of rights that have direct effect in national law. Where an individual invokes a right under EU law that has no direct effect, the national level of protection is inapplicable and the realization of individual rights takes place at EU level. An individual may use several procedural procedures that may be extra-judicial or judicial in this regard.

Extrajudicial remedies are underpinned by Article 24 TFEU (former Article 21 TEC), which sets out for every EU citizen the *right to petition the European Parliament* under Article 227 (former Article 194 TEC), the *right to apply to the Ombudsman* established in accordance with Article 228 (former Article 195 TEC) and the *right to apply in writing to any institution, body, office or agency* referred to in Article 13 TEU (former Article 7 TEC) *in one of the languages referred* to in Article 55 (1) TEU (former Article 314 TEC) and the *right to receive a reply in that language*. In this area, the Treaty of Lisbon has not brought major changes except the changing of the article numbers.

Judicial remedies are based on the possibility for an EU citizen to bring proceedings before the Court of Justice of the European Union. The actions may be brought before this court coming up from various articles of the EC Treaty. The most important type of human rights remedy is an *action for annulment of an act of the Union institutions and bodies* under Article 263 TFEU (former Article 230 TEC).[8] Under that article, any natural or legal person may, under the conditions laid down in the first and second paragraphs, bring an action against the acts addressed to him or to him which are directly and individually concerned, as well as regulatory acts which are of direct concern to him and do not require implementing measures. Legal acts establishing Union institutions, bodies, offices and agencies may lay down special conditions and arrangements relating to actions brought by natural or legal persons against acts of those Union institutions or bodies which give rise to legal effects against them. The proceedings referred

[8] See VARGA, P. *Fundamentals of European Union Law. Constitutional and Institutional Framework.* Plzeň: Aleš Čeněk, 2011, p. 80–81.

to in this Article shall be initiated within two months of the publication of the measure or its notification to the applicant or, in the absence thereof, from the date on which the applicant became aware of it.

Thus, that article allows individuals, but also environmental non-governmental organizations, access to the Court of Justice of the European Union (CJEU) to bring an action against the acts addressed to them or directly or individually related to them and to the regulatory acts directly related that do not need implementing measures. The CJEU has interpreted the provisions of this article quite restrictively and therefore, paradoxically, it is very difficult to file an environmental complaint under this article.[9]

After the European Community ratified the Aarhus Convention, the situation was to change. Under Article 216 TFEU, the Aarhus Convention is binding on all EU institutions. While in a number of cases, the CJEU stated in the context of the Aarhus Convention that the law of the Member States and the courts of the Member States should do everything to implement the Aarhus Convention, it still takes a restrictive stance on the issue of direct access to it in environmental actions in the spirit of Article 263 TFEU, that environmental protection is a public interest and not an individual's interest[10] and also because the international treaty has a lower legal force than primary law in the hierarchy of sources of EU law.[11] However, this approach is contrary to Article 9 (3) of the Aarhus Convention and is unacceptable.[12] However, in the case of the case-law od CJEU or in the past CJES, the question of the protection of procedural environmental rights, paradoxically, appears in other mentioned types of proceedings. Also important is *an action for failure to act by the Union institutions and bodies* under Article 265 TFEU (former Article 232 TEC).[13]

However, in both proceedings, an EU citizen has a so-called non-privileged position even under the Lisbon Treaty. In relation to both articles, a citizen must prove his interest in the case by designating that act or by an act or omission of the institution directly and individually concerned, with the exception of the procedure under Article 263 in relation to regulations which are not transposed

[9] KRÄMER, L. The EU Courts and Access to Environmental Justice. In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, p. 132–133.

[10] KRÄMER, L. The EU Courts and Access to Environmental Justice. In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, p. 127.

[11] See case *EEB and Stichting Natuur en Milieu v Commission*, T-236/04 a T-241/04, 28. November 2005.

[12] See KRÄMER, L. The EU Courts and Access to Environmental Justice. In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, p. 128–133.

[13] See VARGA, P. *Fundamentals of European Union Law. Constitutional and Institutional Framework.* Plzeň: Aleš Čeněk, 2011, p. 83–84.

and do not require the adoption of implementing measures, it is necessary to show only direct concern.

The free access to the EU judicial authorities in the meaning of the unconditional *locus standi* without the need to prove interest in the case, has the EU citizen in the case of an *action for damages* under Article 268 TFEU (former Article 235 TEC) and Article 340 TFEU (former Article 288 TEC) in *disputes between the Union and its servants*, under Article 270 TFEU (former Article 236 TEC) and in *disputes arising from the application of competition rules*. In the context of these three procedures, given their focus, issues of protecting human rights with the dimension of the need to protect human environmental rights can rarely occur.

However, human rights issues, including issues concerning environmental human rights, can often be raised in proceedings base on *reference for preliminary ruling* brought by a national court under Article 267 TFEU (former Article 234 TEC) concerning the interpretation of founding treaties or the validity and interpretation of acts adopted by the institutions, bodies, offices or agencies of the Union.[14] The EU citizen can only take part in the proceedings indirectly by initiating proceedings. The issue and the hearing of the preliminary question can no longer be influenced. This decision is the responsibility of the CJEU. Human-law issues may also be also a part of proceedings based on *action for failure to fulfil obligations* by a Member State under Article 258 TFEU (former Article 226 TEC). However, even this action cannot be initiated by the individual.

2. Protection of substantive human right to environment under European Union law

Scientific discussion on the stabilization of the new human right to environment (further even shortened "right to environment") strengthened in the mid-sixties of the twentieth century.[15] The result of this discussion was the embodying of this right, according to some views of international public law science understood as a basic human right,[16] into an international document of a fundamental nature for the protection of environment – *Declaration of the United Nations Conference*

[14] See VARGA, P. *Fundamentals of European Union Law. Constitutional and Institutional Framework.* Plzeň: Aleš Čeněk, 2011, p. 77–78.

[15] ZÁSTĚROVÁ, J. Jednotlivci: právo na životní prostředí. In: Šturma, P. et al. *Mezinárodní právo životního prostředí, I. část (obecná).* Beroun: Eva Rozkotová – IFEC, 2004, p. 36.

[16] ZÁSTĚROVÁ, J. Jednotlivci: právo na životní prostředí. In: Šturma, P. et al. *Mezinárodní právo životního prostředí, I. část (obecná).* Beroun: Eva Rozkotová – IFEC, 2004, p. 37.

on the Human Environment[17] adopted at the United Nations Conference on the Human Environment, June 5–16, 1972, Stockholm.Principle 1 of this declaration reads: *"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations."*

Almost twenty years after the Stockholm Conference the UN General Assembly recalled the language of the Principle 1 of the Stockholm Declaration in resolution 45/94 (1990) stating that *"Recognizes that all individuals are entitled to live in an environment adequate for their health and well-being; and calls upon Member States and intergovernmental and non-governmental organizations… to enhance their efforts towards ensuring a better and healthier environment."*.[18]

The enactment of substantive human right to environment in the Declaration of the Stockholm Conference on the Human Environment (Stockholm declaration) has influenced lately adopted international public law normativity. This right was implemented in various other international instruments and conventions adopted within the framework of the United Nations, conferences organized by the United Nations, international organizations associated to the United Nations as well as conventions and documents international regional organizations such as African Union, Organisation of American States, League of Arab States or Association of Southeast Asian Nations.

The right to environment was anchored even at the European level, in the binding, form by the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (1998, the Aarhus Convention), which was adopted by the UN Economic Commission for Europe.[19] The Aarhus Convention is a new type of convention on international environmental law, which links international environmental law and international human rights law.

Coming up from the international public law science opinions, this provision is enshrining substantive right to environment called even substantive right to a healthy environment,[20] or substantive right to a decent environment.[21] Title of this right is used in the international public law scientific literature even in the

[17] *Declaration of the UN Conference on the Human Environment*. Stockholm. 5–16 June 1972, UN Doc. A/Conf.48/14/Rev. 1 (1972).

[18] Resolution *„Need to Ensure a Healthy Environment for the Well-Being of Individuals "*, G. A. Res. 45/94, at p. 1–2, U. N. GAOR, 45th Sess., U. N. Doc. A/RES/45/94 (Dec. 14, 1990).

[19] Convention on Access to Information, Public Participation on Decision-making and Access to Justice in Environmental Matters (1998), United Nations, Treaty Series, vol. 2161, p. 447.

[20] DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, p. 10.

[21] BOER, B. Human Rights and the Environment: Where Next? In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, p. 219.

different form as far as the grammar is concerned. Some authors are using the formulation – substantive right to the environment[22] some of them are using the simplified form – substantive right to environment.[23]As far as this article is concerned, we will use the title of this right in the form *"substantive human right to environment"* or in its shortened form *"right to environment"*.

European Union law has reflected to the previous international public law documents and enshrined substantive human right to environment beyond the framework of the three basic mentioned human rights catalogues, in the scope of EU environmental law, through secondary EU law and in the scope of international treaties concluded by the European Union. Gradually, however, we can observe the process of linking this issue to the issue of human rights protection, as in international public law.

First step in order to recognize substantive right to environment in EC/EU law was made in the scope of non-bindinghigh-level political declaration of the European Council in the *Dublin Declaration on "The Environmental Imperative"*, adopted on 7 July 1990, the heads of state and government of the member states of the European Community proclaimed that the objective of Community action for the protection of the environment "must be to guarantee citizens the right to a clean and healthy environment". The European Commission, for its part, has twice recommended to intergovernmental conferences for the reform of the Community treaties that the right to a healthy environment be included in the Treaty provisions on citizens' rights, but the member states have thus far failed to act on this recommendation. But it should be recalled that "protecting human health" is one of the explicit objectives of EC environmental policy, as laid down in Article 130r (1) of the EC Treaty, and that the Court of Justice of the European Communities has held that EC directives laying down environmental quality standards for air and water must be understood as conferring rights on individuals which are to be upheld by domestic courts.[24]

An important role in the development of the protection of substantive human right to environment in European Union law also play the rules of international environmental law, which the European Union has become a party to. The already mentioned *Convention on Access to Information, Public Participation in*

---

22 BOER, B. Human Rights and the Environment: Where Next? In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, p. 3.

23 See RIVERA-RODRIGUEZ, L. E. Is the Human Right to Environment Recognized under International Law? *Colorado Journal of International Environmental Law and Policy*, Vol. 12, No. 1, (2001), p. 31–37 or DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, p. 19.

24 DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, p. 16.

Decision-Making and Access to Justice in Environmental Matters (1998, hereinafter the Aarhus Convention),[25]to which the European Union is a Contracting Party, plays a particularly important role. The Aarhus convention became a part of the EU law by virtue of *Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters* (2005/370/EC).

The Aarhus Convention is a new type of convention on international environmental law, which links international environmental law and international human rights law. Right to environment is primarily enshrined in the preamble to the Convention in the wording of *"...every person has the right to live in an environment adequate to his or her health and well-being..."*.Furthermore, this right is referred to in Article 1 of the Convention, entitled *"Purpose",* within the formulation *„in order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention."* For the first time, substantive human right to environment has been explicitly recognized in the Aarhus Convention in the operative provisions of the international legal instrument at the European level.[26] Article 1 of the Aarhus Convention creates a very specific form of protection of substantive right to environment. In the first part of the article there is evident a clear recognition of the substantive right to environment. However, it is clear from the second part of this article that the protection of this right will be exercised through three procedural rights, which have the unique relationship with the substantive right to environment.[27]

This provision has been followed by some proposals to formulate a general human right to a clean environment in the EU constitution, which would include even the environmental procedural rights.[28]

---

[25] *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (1998), 2161 UNTS 447. 2005/370/EC: *Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters.* OJ L 124, 17. 5. 2005, p. 1–3.

[26] See DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, p. 16–17.

[27] DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, p. 18.

[28] See JENDROSKA, J. Public information and Participation in EC Environmental Law; Origins, Milestones and Trends. In: Macrory, R. (ed.). *Reflections on 30 Years of EU Environmental Law. A High level of Protection.* Groningen: Europa Law Publishing, 2006, p. 67.

Certain form of enactment of substantive right to environment in EU law can also be identified under secondary EU law, namely in the framework of *Directive 2003/35/E Cof the European Parliament and of the Council of 26 May 2003 providing for public participation inrespect of the drawingup of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.*[29] This directive was adopted in order to implement provisions of the abovementioned Aarhus (dan. Århus) convention. Paragraph 6 of the preamble of that directive states that "*Among the objectives of the Århus Convention is the desire to guarantee rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.*" This provision, in our opinion, indicates another form of declaratory recognition of the existence of substantive environmental law in EC / EU law. When examining other EU law standards, it is clear that they do not further develop this substantive right, but instead concentrate itself on the development of procedural environmental rights and substantively-understood rights – rights to water and right to sanitation (right to safe hygienic conditions of the environment) whose practical application contributes to the protection substantive right to environment indirectly.

To the protection of this right also contributes indirectly the very existence of EU environmental law as such, which protects the environment as a value essential to the realization of the environmental right itself in a substantive form.

EU law also includes the potential for indirect protection of substantive right to environment by respecting the abovementioned *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) and certain provisions of the abovementioned *Charter of Fundamental Rights of the European Union* (2000, 2007). However, these options have not yet been used.

3. Protection of human procedural environmental rights under European Union law

Protection of human procedural environmental rights developed itself in the scope of international public law in wide range of documents and conventions.[30]

[29] *Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC,* OJ L 156/17.

[30] See ANTON, D. K., SHELTON, D. L. *Environmental Protection and Human Rights.* New York: Cambridge University Press, 2011, p. 356–435.

One of the key documents in this sense is the United Nations *Rio Declaration on Environment and Development* (1992),[31] which created the base for development of human environmental procedural rights in its Principle 10. This principle reads: *"Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."* The most important international public law document anchoring human procedural environmental rights is the abovementioned Aarhus convention.

Human procedural environmental rights, in the context of EU/EC law, have been emerging for the first time in earlier EU/EC secondary legislation before the European Community signed and ratified the Aarhus Convention (1998). The milestone in order to enshrine the procedural environmental rights to the EU/EC law was ratification of the Aarhus Convention (1998). Later, procedural environmental rights were further enshrined in some secondary rules of EU/EC law adopted to implement the Aarhus Convention and as well as the directives on environmental protection, unrelated to the Aarhus Convention.[32]

The process of anchoring procedural environmental rights under EC/EU law was relatively complex. Within the period before the European Community signs and ratifies the Aarhus Convention, it is possible to identify provisions enshrining procedural environmental rights in earlier standards of European secondary Community law at that time. The general right to information on the environment was contained in *Directive 90/313/EEC on the freedom of access to information on the environment*, which aims at ensuring free access to environmental information at the disposal of public authorities and the free dissemination of such information.[33]

This relatively brief directive provided for free access to environmental information as well as free circulation of this information. The preamble to this directive highlights the idea that access to environmental information by public authorities will improve environmental protection. The Directive defines and describes basic conditions for the exercise of this right by establishing entities obligated to provide for the information and the procedure leading to its

[31] *Rio Declaration on Environment and Development* (1992). UN Doc. A/CONF.151/26 (vol. I).

[32] See ŠIŠKOVÁ, N. *Dimenze ochrany lidských práv v EÚ.* Praha: ASPI, 2003, p. 66–67.

[33] *Council Directive 90/313/EEC of 7 June 1990 on the fredom of access to information on the environment,* OJ 1990 L 158/56.

acquisition. At the same time, it provides for cases where their granting may be refused, together with the possibility to appeal against such refusal.[34]

This Directive seems to be the first more comprehensive document adopted in the scope of the EU/EC law devoted exclusively to one of the procedural environmental rights. Historically this directive probably had great inspirational importance. The content of this directive maybe inspired states by creating the Aarhus Convention itself. However, in the meantime, this Directive has been repealed by *Directive 2003/4/EC on public access to environmental information and repealing Directive 90/313/EEC*. Following Directive 90/313/EEC, there is also the case law of the CJEU (CJEC). It is for example the case *Wilhelm Mecklenburg v Kreis Pinneberg-der Landrat* (1998)[35] or case *Commission v Germany* (1999).[36]

Both cases concerned exceptions to the right to environmental information, the first of which was a preliminary ruling under Article 234 of the Treaty establishing the European Community (now Article 267 of the Treaty on the Functioning of the European Union) following a request by the German court and a second of the United Kingdom under Article 226 of the Treaty establishing the European Community (now Article 258 of the Treaty on the Functioning of the European Union). In the case of Wilhelm Mecklenburg v Kreis Pinneberg-der Landrat (1998), the complainant sought a copy from the local authority of Kreis Pinneberg of a statement from the competent country protection authority to permit the construction of the road.

The local authority rejected the request, arguing that it is not environmental information. In that regard, the Court of Justice of the European Union (at that time the Court of Justice of the European Communities) found that the opinion delivered in the relevant proceedings should also be regarded as environmental information, since that position may affect the outcome of that procedure and thus have an environmental impact.

In the case of the Commission against Germany (1999), the Court of Justice of the European Union (at that time the Court of Justice of the European Communities) found that the transposition of Directive 90/313/ EEC by Germany was incorrect, since its national legislation did not contain express provisions on the possibility of disclosing part of the information the provision of which was rejected as a whole.

Procedural environmental rights can also be identified in some other directives from this period. *Council Directive 85/337/EEC on the assessment of the effect of*

[34] See KRUŽÍKOVÁ, E., ADAMOVÁ, E., KOMÁREK, J. *Právo životního prostředí Evropských společenství.* Praha: Linde, 2003, p. 86–88.

[35] *Case C-321/96 Wilhelm Mecklenburg v Kreis Pinneberg-der Landrat(1998), ECR I-3809.*

[36] *Case C-217/97 Commission v Germany (1999),* ECR I-5087.

certain public and private projects on the environment, as amended,[37] lays down the obligation for Member States to ensure that applications for approval, designation of the assessment and documentation are made available to the public within a reasonable time to allow the public to express their views before the consent is granted. Consequently, the public has a right to participate in environmental matters in that regard.[38] *Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control,*[39] enshrined the right of the public to participate in environmental decision-making as well as the right to environmental information in connection with applications for new installations or substantial changes to the business operations that may increase the level of environmental pollution.[40] Public access to information of an environmental nature was defined by reference to the relevant provisions of Directive 90/313/EEC. *Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants*[41] defined terms such as air pollution, air quality limit values, emission limit values and sets out the need to issue permits for the operation of certain air pollutants. In this context, it has enshrined the commitment of Member States to ensure that requests for such authorizations and final decisions by the competent authorities are made available to the public in accordance with national rules.

These directives were later superseded by *Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control,*[42] which was later repealed by *Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).*[43]

Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants[44] and *Council Directive*

---

[37] *Council Directive 85/337/EEC on the assessment of the effect of certain public and private projects on the environment, as amended,* OJ 1985 L 175/40.

[38] See KRUŽÍKOVÁ, E., ADAMOVÁ, E., KOMÁREK, J. *Právo životního prostředí Evropských společenství.* Praha: Linde, 2003, p. 54.

[39] *Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control,* OJ 1996 L 257/26.

[40] See KRUŽÍKOVÁ, E., ADAMOVÁ, E., KOMÁREK, J. *Právo životního prostředí Evropských společenství.* Praha: Linde, 2003, p. 84.

[41] *Council Directive 84/360/EEC on the combating of air pollution from industrial plants, as amended,* OJ 1984 L 188/20.

[42] Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control. OJ L 24, 29. 1. 2008, p. 8–29.

[43] *Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).* OJ L 334, 17. 12. 2010, p. 17–119.

[44] *Council Directive 89/369/EEC on the prevention of air pollution from new municipal waste incineration plants.* OJ 1989 L 163/32.

89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste-incineration plants,[45] enshrined a commitment to inform the public of the requirements applicable to new and existing incineration plants. These directives were repealed by *Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste*.[46] Even this directive was later repealed by mentioned *Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)*.[47]

Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management[48] enshrined the commitment of Member States to inform the public of programs processed for zones and agglomerations where the level of pollutants exceeds certain limits and to exceed the alert thresholds. This directive was repealed by *Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe*.[49] The provisions of this group of directives indicate the existence of a long-term tendency to anchor procedural environmental rights in directives relating to various environmental activities.

The protection of procedural human environmental rights (and even substantive human right to environment) within the European Union (hereafter the EU) was significantly improved by the act of signing and ratifying the Aarhus Convention by the European Community (hereafter EC)[50] The EU is therefore now a full Contracting Party to this Convention. All Member States of the European Union are also parties to the Aarhus Convention. The Slovak Republic became a party to the Aarhus Convention by accessing the Treaty on 5 December 2006.[51]

As it was mentioned above the Aarhus Convention, in its Article 1, states as follows: *"In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or*

---

[45] *Council Directive 89/429/EEC on the reduction of air pollution from existing municipal waste-incineration plants.* OJ 1989 L 2003/50.

[46] *Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste.* OJ L 332, 28. 12. 2000, p. 91–111.

[47] *Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).* OJ L 334, 17. 12. 2010, p. 17–119.

[48] *Council Directive 96/62/EC on ambient air quality assessment and management.* OJ 1996 L 296/55.

[49] *Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe*. OJ L 152, 11. 6. 2008, p. 1–44.

[50] See Decision 2005/370/EC on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters. OJ L 124, 17. 5. 2005, p. 1–3.

[51] See Slovak Collection of Laws – Announcement No. 43/2006 Col. of Laws.

her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention."

As it was mentioned above, this provision, on the one hand, contains the declaratory recognition of the existence of substantive right to environment. This provision stipulates, on the other hand,also the main goal of the Aarhus Convention to protect substantive right to environmentthrough three procedural environmental rights – right of access to environmental information, right to participate in environmental decision-making and right of access to legal protection in environmental matters, in accordance with the provisions of the Convention, and acts of national authorities in the field of application of their national rules. The Aarhus Convention provides, in its content, the necessary definitions, general provisions, detailed legal regulations for all three procedural environmental rights, and creates scope for the gradual completion of the Convention's control mechanisms, including mechanisms of communications from the public to the international authority in case of violation of these rights.

The control mechanisms of the Convention shall be established in the spirit of Articles 10 (2), 12, 14 and 15. Article 10 (2) in the first sentence states *"... At their meetings, the Parties shall keep under continuous review the implementation of this Convention on the basis of regular reporting by the Parties...".* This is a reporting procedure similar to the reporting procedures of the UN human rights conventions. Article 12 creates a special body of the Aarhus Convention – Secretariat. Article 10 (1) creates another specific international body of the Aarhus Convention – Meeting of the parties. Article 15 further states that *"... The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention. ..."* These authorities have been created over time. Several bodies have been set up within the meetings of the parties. From the point of view of compliance with the provisions of the Convention, it is probably the most important the Compliance Committee, also called the Aarhus Committee, created by *the Decision 1/7 (2002) on the examination of the compliance* of the Meeting of the Parties. The mechanism of this committee may be triggered by the communication of a Contracting Party on compliance by another Contracting Party with the Convention, by the communication by a Party of compliance with the Convention on its part, by the reference of the Secretariat of the Meeting of the Parties to the Aarhus Committee, and by communication of compliance by the State to the Convention made by members of the public (individuals or legal

personalities). In addition, the Compliance Committee may examine compliance with the Convention on its own initiative, make recommendations, prepare compliance reports at the request of a meeting of the Parties, and monitor, assess and facilitate the implementation of the reporting requirements of the States pursuant to Article 10 (2). Details regarding the implementation of the reporting procedure were elaborated in the framework of *Decision No. 1/8 (2002) on the Reporting Requirements of the Meeting*. In addition to the Aarhus Committee, the Secretariat has an important role to play in this procedure.

Given the recent creation of the Aarhus Committee, there is not enough information in the literature to make it absolutely clear the nature of this body. But there is the potential for creating a quasi-judicial mechanism.[52]

The Aarhus Committee currently records a smaller number of communications from states against another state and a higher number of communications from the public (individuals) against the state. In several cases (including the Slovak Republic), the Aarhus Committee found non-compliance with the provisions of the Aarhus Convention.[53]

The act of ratifying the Aarhus Convention by the European Community has created a new legal situation. As in other cases, in relation to the application of the Aarhus Convention, a new situation of shared competence between the European Union institutions and the Member States has arisen. This situation has also caused some conflicts, particularly concerning access to justice in environmental matters. Ultimately, Member States have expanded their commitments, and from the EU level they have an obligation to implement all secondary legislation adopted following the Aarhus Convention, and at their own national level, adopt legal standards to implement the Aarhus Convention itself. The European Union itself has a primary obligation, following the Aarhus Convention, to adopt legislative, administrative and other measures, including measures to ensure compliance with the provisions of the Aarhus Convention pursuant to Article 3 thereof, as well as the other Contracting Parties, as well as the obligation to submit to control mechanisms under Article 10 (2). 2 and Article 15 of the Aarhus Convention.

Following the commitment of the European Union to submit to the Aarhus Convention's control mechanisms, the European Union implements the reporting procedure under Article 10 (2). of this Convention and has also created a space for notifications under Article 15 of the Convention. The European Union made

[52] See SHAW, M. N. *International Law.* Sixth Edition. Cambridge: Cambridge University Press, 2008, p. 848–849.

[53] See JANKUV, J. Ľudské právo na životné prostredie a mechanizmy jeho ochrany v medzinárodnom práve. In: *Acta Universitatis Carolinae – Iuridica*. Praha: No. 4, 2006 (issued in 2008), p. 75–76 and website http://www.unece.org/env/pp/pubcom.htm

its first report under Article 10 (2) on the implementation of the Aarhus Convention in the second cycle of reports in 2008.[54] To date, the EU has submitted a total of 4 implementation reports to the Aarhus Committee.[55] Following the Article 15 control procedures, a number of communications from the public against the European Communities or the European Union are registered.[56]

One of the latest resolved cases of communications from the public against the EU by the Aarhus Committee is the case of the communication of the United Kingdom non-governmental organisation *Justice and Environment* (2017).[57]

In the scope of this communication, the NGO argued that the EU had infringed Article 9 (3) and 9 (4) of the Aarhus Convention enshrining the right of access to justice by not fully transposing this article into the EU legal order and, accordingly, infringed even the provisions of Article 2 par. 1 to 5, and Article 3 par. 1, 2, 3, 4, 8, 9 of the Aarhus Convention. Indeed, the EU has not yet been able to adopt a directive in this direction. In its defence, the EU has argued that, since the Aarhus Convention is part of European Union law, the European Union and its Member States have a specific obligation under Article 216 (2) of the Treaty on the Functioning of the European Union to respect their international obligations, including the obligations enshrined in the Aarhus Convention. Therefore, even in the absence of European Union legislation, the Member States must comply with the requirements of Article 9 para. 3 and 4 of the Aarhus Convention, as the requirements of the binding source of EU law. The EU further argued that it adopted the Regulations obliging the European Union institutions by the Aarhus Convention,[58] thereby ensuring the implementation of the provisions of the Aarhus Convention within EU law. In this regard, the Aarhus Committee supported the arguments of the EU and stated that, in the circumstances, the non-adoption of the Access to Justice Directive does not mean the EU failed to implement Article 9 of the Aarhus Convention and does not constitute an inconsistency with Articles 2 and 3 of the Aarhus Convention by the EU.

---

[54] See *Implemetation report by European Community*, ECE/MP.PP/IR/2008/EC and report *Compliance with regard to the European Commission* ECE/MP.PP/2008/5/Add.10.

[55] See website http://ec.europa.eu/environment/aarhus/reporting.htm

[56] Communication ACCC/C/2006/17, Communication ACCC/C/2007/21, Communication ACCC/C/2008/32, Communication ACCC/C/2010/54, Communication ACCC/C/2012/68, Communication ACCC/C/2012/72, Communication ACCC/C/2013/96, Communication ACCC/C/2014/121, Communication ACCC/C/2014/123 a Communication ACCC/C/2015/128

[57] Communication ACCC/C/2014/123.

[58] *Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.* OJ L 264, 25. 9. 2006, p. 13–19.

As for the further development it is to say that several rules of secondary EU were adopted to implement the Aarhus Convention. The process of issuing these directives began after the signing of the Aarhus Convention by the European Community, before the ratification act. Primarily it is *Directive 2003/4/EC ofthe European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.*[59] This directive constitutes the implementation of the first pillar of the Aarhus Convention – the right to environmental information. It adapts EU law in a given field to a level that is consistent with the Aarhus Convention. It builds on the earlier Directive 90/313 / EEC, which repeals, extending access to environmental information provided for therein. Its fundamental objectives under Article 1 are to ensure the right of access to environmental information held by or for public authorities, to anchor basic concepts and conditions and practical arrangements for its performance and to ensure that environmental information is progressively available and disseminated to the public. Article 2 lists enshrine most important definitions, including terms such as *"environmental information", "public authority", "applicant", "public"* and so on. Comprehensive Article 3 lays down rules for access to environmental information on demand. Article 4 provides for exceptions under which an application for environmental information can be refused. Article 5 sets out briefly the rules for determining the fees for such information. Very important is Article 6, which regulates the right of access to justice where an application for environmental information has been ignored, incorrectly rejected, inadequately answered or otherwise resolved in contravention of Articles 3, 4 and 5. Member states ensure the possibility of reviewing those acts of public authority by another public body or by an independent and impartial body set up by law. In addition, States Parties shall provide access to appeal procedures before courts or other independent and impartial bodies in which acts or omissions of public authorities may be examined, whose decisions are being final in the case. Article 7 regulates obligations of States in the area of the dissemination of environmental information in the scope of activities of public authorities, including the obligation to create electronic up-to-date databases of all relevant environmental information, texts of international treaties, national, regional or local legislation, policies, reports and other data in the area. Following this article, the next Article 8 sets out the obligation to ensure that environmental information is up-to-date, accurate and comparable. In relation to Directive 2003/4/EC, several cases may also be registered in the case law of the Court of Justice of the European Union.[60]

[59] *Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC,* OJ 2003 L 41/26.

[60] For example, the case T-264/04, WWF-EPO v Council, case C-204/09 Flachglas Torgau GmbH v Federal Republic of Germany, case C-552/07, case Commune de Sausheim v. Pierre Azelvandre and so.

An illustrative approach of the Court of Justice of the European Union to the issue of the right of access to environmental information in the context of Directive 2003/4/EC is documented by the interesting case of the *Commune de Sausheim v Commission* (2009).[61] In this case, Mr Azelvandre, a French citizen, wanted to know about the location of tests of genetically modified organisms carried out under Directive 2001/18 / EC on the deliberate release of genetically modified organisms and the repeal of Directive 90/220 / EEC. After being dismissed by the Mayor of Sausheim, he addressed in this case the French administrative court. The French State Council then referred the case in the scope of proceedings of reference for preliminary ruling to the Court of Justice of the European Community (under Article 234 of the Treaty establishing the European Community, now Article 267 of the Treaty on the Functioning of the European Union). The question was whether it is possible for a public authority to withhold information on the location of land where such attempts are being made for the protection of public order and other interests protected by law. The court took the view that this information could not be concealed in the light of the fact that it was information relating to the environmental risk assessment. Furthermore, referring to Directive 2003/4 / EC, the Court has stated that a State cannot rely on the exceptions provided for by the directives on the freedom of access to environmental information in order to be accessible to the public.

Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation inrespect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access tojustice Council Directives 85/337/ EEC and 96/61/EC[62] represents the implementation of the second pillar of the Aarhus Convention – the right of public participation in environmental decision-making. The basic objective of the directive under Article 1 is to contribute to the implementation of the Aarhus Convention by creating conditions for public participation in relation to the preparation of plans and programs relating to the environment, as well as to create conditions for improving public participation and access to justice under Directives 85/337/EEC and 96/61/EC. Following these objectives, Article 2 regulates the conditions for public participation in environmental plans and programs, Article 4 makes appropriate amendments to Directive 85/337/EEC and modifies Directive 96/61/ EC. Article 5 sets out

[61] *Case Commune de Sausheim v. Pierre Azelvandre,* Judgment of the Court of Justice in Case C-552/07, 17 February 2009.

[62] *Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation inrespect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access tojustice Coucil Directives 85/337/EEC and 96/61/EC.* OJ L 156/17.

reporting obligation of the Commission with regard to the European Parliament and the Council on the effectiveness of this directive. Following Article 5 of the Directive 2003/35/EC it was adopted *Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application and effectiveness of directive 2003/35/EC of the European parliament and of the council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice council directives 85/337/EEC and 96/61/EC*.[63]

In relation to Directive 2003/35/EC, cases have already been solved by the Court of Justice of the European Community (now the Court of Justice of the European Union). For illustration we can mention the case *Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd* (2009).[64] This case concerned the right of public participation in relation to the plan to build a tunnel for the underground location of electric cables and also works to drain the hill through which the tunnel was to be routed. The case was referred to the Court of Justice of the European Community by the Swedish court (Högsta domstolen) as a request for a preliminary ruling under Article 234 of the Treaty establishing the European Community (now Article 267 of the Treaty on the Functioning of the European Union). From the point of view of the procedural environmental right of public participation in environmental decision-making, it is important the formulation in the judgment under which the members of the public concerned must have access to the procedure under Article 1 (2) and (10) and Directive 85/337/EEC as amended by Directive 2003/35/EC in order to challenge the decision by which the court of a Member State has decided to approve the construction of the work, irrespective of the role they would play in the assessment of that request, and should be able to take part in the proceedings before that authority and express their views.[65]

---

[63] Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application and effectiveness of directive 2003/35/EC of the European parliament and of the council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice council directives 85/337/EEC and 96/61/EC. *Document KOM/2010/0143*.

[64] *Case C263/08, Djurgården-Lilla Värtans Miljöskyddsförening v Stockholms kommun genom dess marknämnd,* Judgment of the Court (Second Chamber) of 15 October 2009.

[65] Relevant part of the judgement stipulates „… Members of the 'public concerned' within the meaning of Article 1(2) and 10a of Directive 85/337, as amended by Directive 2003/35, must be able to have access to a review procedure to challenge the decision by which a body attached to a court of law of a Member State has given a ruling on a request for development consent, regardless of the role they might have played in the examination of that request by taking part in the procedure before that body and by expressing their views…".

A proposal for a *Directive on access to justice in environmental matters* (2003)[66] was drafted to implement the third pillar of the Aarhus Convention – the right of access to justice in environmental matters. In addition to obligatory definitions, this proposal for a directive enshrines the right of members of the public and so-called qualified entities, which are various associations, organizations, or groups aiming to protect the environment, attack acts and omissions of private individuals that are contrary to environmental law. It also contains rules governing the legal position of members of the public and qualified entities, the criteria for the recognition of qualified entities, and the framework rules for proceedings in those cases in the administrative proceedings of the Member States.[67] However, this proposal has not yet been approved for the resistance of many Member States.

In order to implement the Aarhus Convention was adopted even above mentioned*Regulation 1367/2006 of the European Parliament and oftheCouncil of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community.*[68] This regulation covers all three pillars – rights enshrined in the Aarhus Convention. It creates the scope for applying all three environmental rights within all Community institutions and bodies and sets out the conditions for their application. Furthermore, it requires the Community institutions and bodies to create the conditions for public participation in the preparation, modification or review of environmental plans and programs. The Regulation also allows environmental NGOs that meet the established criteria to request an internal review of adopted acts and omissions of EU institutions and bodies under EU environmental law.[69]

Two Commission Decisions were issued to implement this Regulation. Commission Decision 2008/50/EC *of 13 December 2007 laying down detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the Aarhus Convention as regards requests for the*

---

66 *Proposal of the Directive of the European Parliament and of the Council on access to justice in environmental matters, COM(2003) 624 final, 2003/0246 (COD),* Brussels, 24. 10. 003.

67 See JANS, J. H. Did Baron von Munchausen ever Visit Aarhus? Critical Remarks on the Proposal for a Regulation on the Application of the Provisions of the Aarhus Convention to EC Institutions and Bodies. In: Macrory, R. (ed.). *Reflections on 30 Years of EU Environmental Law. A High level of Protection.* Groningen: Europa Law Publishing, 2006, p. 477–492. ISBN 90-76871-50-7.

68 *Regulation 1367/2006 of the European Parliament and oftheCouncil of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community.* OJ L 264/13, 25. 9. 2006.

69 KOŠIČIAROVÁ, S. *EC Environmental Law.* Plzeň: Aleš Čeněk, 2009, p. 36.

internal review of administrative acts,[70] ***and*** Commission Decision 2008/401/EC*, Euratom of 30 April 2008 amending its Rules of Procedure as regards detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institution and bodies.*[71]

In addition to the above-mentioned rules of EU secondary legislation issued directly following the Aarhus Convention, procedural environmental rights have also emerged in other rules of secondary law from the area of EU environmental law since 2000. This group of directives includes Directive 2000/60/EC *of 23 October 2000 establishing a framework for Community action in the field of water policy,*[72] which enshrines the right of public participation in environmental decision-making, *Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC,*[73] where the right of access to environmental information is enshrined, Directive 2001/42/EC *of 27 June 2001 on the assessment of certain plans and programmes on the environment,*[74] including the right of public participation in environmental decision-making, *Directive 2002/3/ES of the European Parliament and of the Council relating to ozone in ambient layer, as amended,*[75] where the right of access to environmental information is enshrined, or *Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community*

---

[70] *Commission Decision 2008/50/EC of 13 December 2007 laying down detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the Aarhus Convention as regards requests for the internal review of administrative acts.* OJ L 013 , 16. 1. 2008, s. 0024–0026.

[71] *Commission Decision 2008/401/EC, Euratom of 30 April 2008 amending its Rules of Procedure as regards detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institution and bodies.* OJ L 140, 30/05/2008, s. 0022–0025.

[72] *Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy.* OJ L 327, 22. 12. 2000, s. 0001–0073.

[73] *Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.* OJ 2001 L 106, p. 1.

[74] *Directive 2001/42/EC of 27 June 2001 on the assessment of certain plans and programmes on the environment.* OJ L 197, 21. 7. 2001, s. 0030–0037.

[75] *Directive 2002/3/ES of the European Parlament and of the Council relating to ozone in ambient layer, as amended.* OJ 2002 L 67/14.

and amending Council Directive 96/61/EC,[76] which enshrines the right of access to information on the allocation of allowances and emission reports required by the competent authority for greenhouse gas emissions permits. A more detailed analysis of these directives already goes beyond this contribution. Therefore, we will briefly state in their context that a given set of secondary EU environmental rules naturally complements the Aarhus Convention and secondary legislation, which follows this convention, in the area of various specialized environmental activities. It also complements the range of directives enshrining procedural environmental rights adopted in the period before the Aarhus Convention was signed and ratified by the European Union. Ultimately, this group of rules implies a further level of protection of human procedural environmental rights. It is highly likely that this group of rules will be gradually extended.

Current EU law also has the potential to protect procedural environmental rights indirectly (as in the case of substantive environmental law) by respecting the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) or through certain provisions of the *Charter of Fundamental Rights of the European Union* (2000) To the protection to procedural environmental rights also indirectly contributes the very existence of EU environmental law as such, which protects the environment as a value protected by the procedural environmental rights.

4. Protection of the human right to water and the human right to sanitation in European Union law

The right to water and the right to sanitation found its grounding primarily in international public law, but later was enshrined even in the EU law. The right to sanitation is also used by the science of international law in the form of the right to safe hygienic conditions of environment.[77] Both of those forms of titles of rights have the same contents. Anchoring of human right to water as well as the right to sanitation (right to safe hygienic conditions of environment) in international public law occurred primarily through some of international treaties falling within the framework of international human rights law. Among the

[76] *Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.* OJ L 275/32.

[77] See MASLEN, M. *Právna úprava starostlivosti o vody v Slovenskej republike.* Praha: Leges, 2017, s. 10–11.

international treaties which explicitly enshrine both rights are the *Convention on the Elimination of All Forms of Discrimination against Women* (1979, Article 14 (2)), the *Convention on the Rights of the Child* (1989, Article 24) and the *Convention on the Rights of Persons with Disabilities* (2006, Article 28).[78]

A key document to recognize both rights at the level of international public law is the *Resolution No. 64/292 of the General Assembly of the United Nations of 28 July 2010*.[79] In this resolution are both of mentioned rights considered as one substantive right in its point 1 as follows: *"The General Assembly...Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights"*. The existence of both rights in the form of one substantive right is confirmed by the subsequent Adoption of the *Report of the Special Rapporteur on the human right to safe drinking water and sanitationCatarina de Albuquerque* at 4 July 2011,[80] discussed at the 18th session of the United Nations Human Rights Council and Resolution No. 24/18 "*The human right to safe drinking water and sanitation.*"[81] of the UN Human Rights Council itself.

Both rights are close. They could be considered as a part of one substantive right but even as two independent substantive rights. Under the views of science of international public law the human right to water and the human right to sanitation are two distinct but related human rights.[82] This view is also supported by fact that those rights can be indirectly protected separately through the case-law of the European Court of Human Rights, following individual complaints by individuals against breaches of certain rights under the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950, ECHR). The human right to water can be protected indirectly in the context of Article 8 of the ECHR enshrining the right to respect for private and family life. This approach demonstrates, for example, the case of *Dubetska and others against Ukraine* (2011).[83] The human right to sanitation can be protected in the context

[78] See MASLEN, M. *Právna úprava starostlivosti o vody v Slovenskej republike.* Praha: Leges, 2017, s. 10–12.

[79] Resolution adopted by the General Assembly on 28 July 2010, No. 64/292. *"The human right to water and sanitation"*. UN Doc. A/RES/64/292 (2010).

[80] *Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque.* UN Doc. A/HRC/18/33, 4 July 2011.

[81] *Resolution adopted by the Human Rights Council 24/18. The human right to safe drinking water and sanitation.* UN Doc. A/HRC/RES/24/18. 27 September 2013.

[82] COLLECTIVE OF AUTHORS. WaterLex. *The Human Rights to Water and Sanitation. An Annotated Selection of International and Regional Law and Mechanisms.* Geneva: WaterLex. 2017, p. 6.

[83] *Dubetska and Others v Ukraine*, Judgment, Merits and Just Satisfaction, Ap. No. 30499/03, 10. February 2011, European Court of Human Rights.

of Article 5 of the ECHR establishing the right to liberty as well as Article 3 of the ECHR providing for right to prohibition of torture and inhuman or degrading treatment. This approach is clear, for example, in the case of *Riad and Idiab against Belgium* (2008).[84]

Right to water and right to sanitation are anchored in even many other international documents. The profound analyse of those documents goes beyond the scope of this article.[85]

The EU protects these rights through several standards of EU secondary legislation[86] on the protection of water quality and purity, although it often does not specifically emphasize these rights in these rules. The EU also responded to their existence by political documents and concepts.[87]These rules and documents relate mainly to water management, but some of them also relate to the right to sanitation (right to safe environmental conditions).

The right to water and the right to sanitation are especially resonant in the EU document *Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!"* (2014)[88] This document builds on the framework of the European Citizens' Initiative – the legal institute introduced by the Lisbon Treaty to promote greater democratic involvement of citizens in European affairs. This legal institute allows one million citizens of the European Union (EU), coming from at least seven Member States, to call on the European Commission to propose legislation on matters of EU competence. It is the first ever participatory democracy instrument at EU level. Since its launch in April 2012 more than 5 million citizens have signed up to over 20 different initiatives. The mentioned document further stated that *"Right2Water"* is the first European Citizens' Initiative to have met the requirements set out in the *Regulation No 211/2011 of the European Parliament and the Council on the citizens' initiative*.[89] It was officially submitted to the Commission by its organisers on 20 December 2013,

[84] *Riad and Idiab v Belgium*, Judgment, Merits and Just Satisfaction, Applications No. 29787/03 and No. 29810/03, 24 January 2008. European Court of Human Rights.

[85] For detailed commentary to relevant international documents see COLLECTIVE OF AUTHORS. *WaterLex. The Human Rights to Water and Sanitation: An Annotated Selection of International and Regional Law and Mechanisms.* Geneva: WaterLex. 2017. 212 p.

[86] KRUŽÍKOVÁ, E., ADAMOVÁ, E., KOMÁREK, J. *Právo životního prostředí Evropských společenství.* Praha: Linde, 2003, p. 119–166.

[87] See KOFF, H., MAGANDA, C. The EU and The Human Right to Water and Sanitation: Normative Coherence as the Key to Transformative Development. *European Journal of Development Research*, Volume 28, Number 1, 1 January 2016, p. 91–110.

[88] Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!" COM/2014/0177 final.

[89] Regulation (EU) No 211/2011 of the European Parliament and of the Council on the citizens' initiative. OJL 65, 11. 3. 2011, p. 1.

after having received the support of more than 1.6 million citizens. In line with the provisions of the Regulation on the citizens' initiative, the Commission has three months to present its response to this initiative in a Communication setting out "its legal and political conclusions on the initiative, the action it intends to take, if any, and its reasons for taking or not taking that action"

The Right2Water initiative invites the Commission *"to propose legislation implementing the human right to water and sanitation, as recognized by the United Nations, and promoting the provision of water and sanitation as essential public services for all". The initiative urges that the EU institutions and Member States be obliged to ensure that all inhabitants enjoy the right to water and sanitation, that water supply and management of water resources not be subject to 'internal market rules' and water services be excluded from liberalization and that EU increases its efforts to achieve universal access to water and sanitation"*.

In response to the citizens' call for action, the Commission in the mentioned document committed itself to take concrete steps and work on number of new actions in areas that are of direct relevance to the initiative and its goals. In particular, the Commission will reinforce implementation of its water quality legislation, building on the commitments presented in the *7th Environmental Action Programme*,[90] will launch an EU-wide public consultation on the Drinking Water Directive, notably in view of improving access to quality water in the EU, will improve transparency for urban wastewater and drinking water data managementand explore the idea of benchmarking water quality, will bring about a more structured dialogue between stakeholders on transparency in the water sector, will cooperate with existing initiatives to provide a wider set of benchmarks for water services, will stimulate innovative approaches for development assistance (e.g. support to partnerships between water operators and to public-public partnerships); promote sharing of best practices between Member States (e.g. on solidarity instruments) and identify new opportunities for cooperation, will advocate universal access to safe drinking water and sanitation as a priority area for future Sustainable Development Goals. Finally, the Commission invited the Member States, acting within their competences, to take account of the concerns raised by citizens through this initiative and encouraged them to step up their own efforts to guarantee the provision of safe, clean and affordable drinking water and sanitation to all.

The previous document identified even the most important secondary EU law rules relevant in relation to the protection of human right to water and human

[90] *Decisions No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'.*

right to sanitation.These rules include *Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy,*[91] *Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption*,[92] *Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment*,[93] and the *Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.*[94] Comprehensive commenting on these rules goes beyond this paper. We will therefore confine ourselves to commenting on the fact that these standards ensure adequate water quality and sanitation.

In connection with the human right to water, resp. the human right to sanitation can be identified a smaller number of judgments of the Court of Justice of the EU, which do not directly refer to both rights, but their purpose is to ensure the quality and purity of the water, thereby contributing to the protection of both rights. Water management case law in this area highlights consistent water protection. European Union case-law sees water as an environmental component that is capable to affect other parts of the environment. Water is therefore not primarily perceived as a commodity but as part of the environment that exists in interaction with other environmental components. Therefore, case law strictly insists on the consistent transposition of water quality protection measures in the interpretation of environmental policy. At the same time, it emphasizes the obligations of the Member States in the area of the correct transposition and implementation of rules ensuring the protection of waters against dangerous substances. According to the previous case-law approach, water protection is also intended to identify vulnerable waters management areas.[95]

For illustration we will mention case *Commission of the European Communities v Sweden (2009)*.[96] Commission of the European Communities in this case

---

[91] *Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.* OJ L 327, 22/12/2000, p. 0001–0073.

[92] *Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption.* OJ L 330, 5. 12. 1998, p. 32–54.

[93] *Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.* OJ L 135, 30. 5. 1991, p. 40–52.

[94] *Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.* OJ L 134, 30. 4. 2004.

[95] See MASLEN, M. *Právna úprava starostlivosti o vody v Slovenskej republike.* Praha: Leges, 2017, s. 62–63.

[96] *Case C-438/07, Commission of the European Communities v Sweden.* Judgment of the Court (Third Chamber) of 6 October 2009.

brought on 18 September 2007 against Sweden an action under Article 226 EC for failure to fulfil obligations.

By its action, the Commission of the European Communities asks the Court to declare that, by not ensuring, by 31 December 1998 at the latest, that all discharges from treatment plants of urban waste water from agglomerations of more than 10 000 population equivalent (p.e.) which enter directly into sensitive areas or their catchment areas fulfil the relevant requirements of Annex I to *Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment,<?>*as amended by *Commission Directive 98/15/EC of 27 February 1998,*<?> the Kingdom of Sweden has failed to fulfil its obligations under Article 5(2), (3) and (5) of Directive 91/271. The decision of the court in this case stated that, by not ensuring, by 31 December 1998 at the latest, that discharges from the treatment plants of urban waste water from agglomerations of more than 10 000 population equivalent listed in Annexes 2 and 3 to its defence, as amended by its rejoinder, which enter directly into sensitive areas or their catchment areas fulfil the relevant requirements of Annex I to Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998, the Kingdom of Sweden has failed to fulfil its obligations under Article 5(2), (3) and (5) of that directive.

That case-law clearly identifies efforts of the EU to ensure more demanding waste water treatment before it is released into sensitive areas, thereby contributing to maintaining adequate water quality and thus protecting the right to water or the right to sanitation. Thus, the EU environmental law rules, which protect water and environmental components, also contribute to protecting these rights.

5. Conclusion

European Union law enshrines altogether six environmental human rights. The first group of these rights is composed of substantive environmental human rights – right to environment, right to water and right to sanitation (right to safe hygienic conditions of environment). The second group represent three human procedural environmental rights – right of access to information on environment, right of public participation in decision-making in environmental matters, and right of access to justice in environmental matters, as they have been formulated in international public law. These rights were transformed to the European Union law from the international public law documents and treaties.

Key EU documents as far as the protection of substantive human right to environment are the non-bindinghigh-level political Dublin Declaration on "The Environmental Imperative" of the European Council, adopted on 7 July

1990, The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998, Aarhus Convention) signed and ratified by the EU and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation inrespect of the drawingup of certain plans and programmes relating to the environment and amending with regard to public participation and access tojustice Council Directives 85/337/EEC and 96/61/EC.

The most important documents as for the protection of procedural environmental rights are the abovementioned Aarhus Convention, Directive 2003/4/EC oftheEuropean Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC, Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation inrespect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access tojustice Council Directives 85/337/EEC and 96/61/EC and Regulation 1367/2006 of the European Parliament and ofthe-Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community supplemented by other directives enshrining procedural environmental rights in the area of various specialized environmental activities.

Legal basis for the protection of the substantive human right to water and substantive human rights to sanitation in the EU law provides for the in the EU document Communication from the Commission on the European Citizens' Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!" (2014), Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment and the Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

As for the protection of these human environmental rights there is a certain number of case law of the Court of Justice of the European Union or its predecessor Court of Justice of the European Communities. The most numerous case law in this area concerns the protection of human procedural environmental rights.

Protection of all the mentioned human environmental rights is also indirectly supported by the very existence of EU environmental law as such, which protects the environment as a value essential to the realization of these rights. EU law also

includes the potential for indirect protection of all mentioned rights by respecting the abovementioned European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and certain provisions of the abovementioned Charter of Fundamental Rights of the European Union (2000, 2007).

References

ANTON, D. K., SHELTON, D., L. *Environmental Protection and Human Rights.* New York: Cambridge University Press, 2011, 986 p. ISBN 978-0-521-74710-3.

BOER, B. Human Rights and the Environment: Where Next? In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015. pp. 201–240. ISBN 978-0-19-873614-1.

BOER, B.(ed.) *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015, 246 p. ISBN 978-0-19-873614-1.

COLLECTIVE OF AUTHORS. *WaterLex. The Human Rights to Water and Sanitation: An Annotated Selection of International and Regional Law and Mechanisms.* Geneva: WaterLex. 2017, 212 p. ISBN 978-2-940526-08-6

DÉJANT-PONS, M., PALLEMAERTS, M. *Human Rights and the Environment.* Strasbourg: Council of Europe, 2002, 327 p. ISBN 92-871-4777-9.

HAMUĽÁK, Ondrej, MAZÁK, Ján. The Charter of Fundamental Rights of the European Union *vis-á-vis* the Member States – Scope of its Application in the View of the CJEU. In: *Czech Yearbook of Public & Private International Law*, Vol. 8, 2017, pp. 161–172. ISSN 1805-0565, ISBN 978-80-87488-29-4.

Jankuv, J.. Ľudské právo na životné prostredie a mechanizmy jeho ochrany v medzinárodnom práve. In: *Acta Universitatis Carolinae – Iuridica*. Praha: No. 4, 2006 (issued in 2008), pp. 63–83. ISSN 0323-0619.

JANS, J. H. Did Baron von Munchausen ever Visit Aarhus? Critical Remarks on the Proposal for a Regulation on the Application of the Provisions of the Aarhus Convention to EC Institutions and Bodies. In: Macrory, R. (ed.). *Reflections on 30 Years of EU Environmental Law. A High level of Protection.* Groningen: Europa Law Publishing, 2006, pp. 477-492. ISBN 90-76871-50-7.

JENDROSKA, J. Public information and Participation in EC Environmental Law; Origins, Milestones and Trends. In: Macrory, R. (ed.). *Reflections on 30 Years of EU Environmental Law. A High level of Protection.* Groningen: Europa Law Publishing, 2006, pp. 63–86. ISBN 90-76871-50-7.

KERIKMÄE, T., HAMUĽÁK, O., CHOCHIA, A. A Historical Study of Contemporary Human Rights: Deviation or Extinction? In: *Acta Baltica Historiae et Philosophiae Scientiarum*. 2016, Vol. 4, No. 2, pp. 98–115. ISSN 2228-2009.

KOŠIČIAROVÁ, S. *EC Environmental Law.* Plzeň: Aleš Čeněk, 2009, 223 p. ISBN 978-80-7380-219-6.

KRÄMER, L. The EU Courts and Access to Environmental Justice. In: Boer, B. (ed.). *Environmental Law Dimensions of Human Rights.* Oxford: Oxford University Press, 2015. s. 107–134. ISBN 978-0-19-873614-1.

KRUŽÍKOVÁ*, E., Adamová, E., Komárek, J. Právo životního prostředí Evropských společenství.* Praha: Linde, 2003, 410 p. ISBN 80-7201-430-7.

KOFF, H., MAGANDA, C. In: The EU and The Human Right to Water and Sanitation: Normative Coherence as the Key to Transformative Development. *European Journal of Development Research*, Volume 28, Number 1, 1 January 2016, s. 91–110. ISSN 0957-8811.

MACRORY, R. (ed.). *Reflections on 30 Years of EU Environmental Law.A High level of Protection.* Groningen: Europa Law Publishing, 2006, 628 p. ISBN 90-76871-50-7.

MASLEN, M. *Právna úprava starostlivosti o vody v Slovenskej republike.* Praha: Leges, 2017, 112 p. ISBN 978-80-7502-193-9.

MASLEN, M. *Verejná správa a právo na životné prostredie.* Praha: Leges, 2016, 248 p. ISBN 978-80-7502-198-4.

RIVERA – RODRIGUEZ, L. E. Is the Human Right to Environment Recognized under International Law? In: *Colorado Journal of International Environmental Law and Policy*, Vol. 12, No.1, (2001) p. 31–37. ISSN 1050-0391.

SHAW, M. N. *International Law.* Sixth Edition. Cambridge: Cambridge University Press, 2008, 1708 p. ISBN 978-0-521-72814-0.

ŠIŠKOVÁ, N. *Dimenze ochrany lidských práv v EU.* Praha: ASPI, 2003. 228 p. ISBN 80-86395-52-9.

ŠIŠKOVÁ. N. *Dimenze ochrany lidských práv v Evropské unii.* 2. rozšířené a aktualizované vydání. Praha: Linde, 2008, 256 p. ISBN 99788072017102.

ŠIŠKOVÁ, N. Regulace lidských práv na úrovni EU-vývoj a perspektivy. *Mezinárodní a srovnávací revue,* No. 10, 2004. pp. 29–36. ISSN 1213-8770.

ŠTURMA, P. *Mezinárodní a evropské kontrolní mechanismy v oblasti lidských práv. 3. doplněné vydání.* Praha: C. H. Beck, 2010, 170 p. ISBN 978-80-7400-318-9.

TICHÝ, L. et al. *Evropské právo.* Praha: C. H. Beck, 1999, 915 p. ISBN 80-7179-113-X.

VARGA, P. *Fundamentals of European Union Law. Constitutional and Institutional Framework.* Plzeň: Aleš Čeněk, 2011, 112 p. ISBN 978-80-7380-362-9.

ZÁSTĚROVÁ, J. Jednotlivci: právo na životní prostředí. In: Šturma, P. et al. *Mezinárodní právo životního prostředí.* I. část (obecná*).* Beroun: Eva Rozkotová – IFEC, 2004, pp. 35–57. ISBN 80-903409-2-X.