



The Position of the Sustainable Development Principle in the Legal Order of the Czech Republic and in the Framework of the Vietnam Act on Environmental Protection

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Abstract

The principle of sustainable development, expressed, inter alia, in the “Earth Charter” and “Agenda 21”, approved at the UN Conference on Environment and Development (UNCED) in Rio de Janeiro in June 1992, has become a motto and a basis for many countries in planning and defining their development policies. Sustainable development can be interpreted as a way of developing human society that reconciles economic growth and social progress with the preservation of the environment in order to meet the needs of future generations. Environmental protection is part of this principle and cannot be separated from it. Our paper examines the position of the principle of sustainable development within the legal order of the Czech Republic and in terms of the Vietnam Environmental Protection Law; at the same time, it analyses, compares and evaluates approaches to the implementation of the principle of sustainable development in the above-mentioned legal systems.

Keywords: sustainable development, Czech legal order, Czech Act No. 17/1992 Coll., on the Environment – Czech Environmental Act, Vietnam Environmental Protection Law, Vietnam Law on Environment Protection, Vietnamese Environmental Act

Introduction

Unlimited, endless growth is not possible in an environment with a limited volume of natural resources. [1] This idea was defined as early as 1972 in a publication called *The Limits to Growth*. The concept of sustainable development was subsequently accepted within the *World Strategy for Environmental Protection – World Conservation Strategy (WCS)*. Sustainable development was probably first explicitly defined as a concept in the 1987 UN World Commission on Environment and Development (WCED) report. According to the above report, sustainable development is “a way of development that meets the needs of the present without weakening the ability of future generations to meet their own needs.” [2] From the environmental protection view it is a policy which presupposes the use of natural resources only to the extent that future generations of people can also use them. The principle of sustainable development was officially adopted by the international community in the framework of the Declaration of the United Nations Conference on Environment and Development (Earth Charter), which was followed by a document called “Agenda 21”. The Earth Charter and the “Agenda 21” were adopted at the United Nations Conference on Environment and Development (Earth Summit) on 14 June 1992 in Rio de Janeiro. Agenda 21 is the international community's action plan in the field of environmental protection, according to which the principle of sustainable development was to become a priority matter on the agenda of the international community. [3] Agenda 21 represents a strategic plan on

how to achieve a balance between civilizational development and environmental protection on a global scale. The principle of sustainable development has three basic pillars. It is an economic pillar, a social pillar and finally an environmental pillar. All pillars are closely interlinked. [4] In accordance with the principle of decentralization, Agenda 21 is followed by individual “Local Agenda 21”, which represent a means of implementing sustainable development at the local level. The leading role in the implementation of individual local Agenda 21 is played by the state administration and self-government, whose activities should be governed by the principle of good administration. Sustainable development has the status of a legal principle, i.e., a kind of guiding idea that interweaves the legal order. The characteristics associated with legal principles are generality, abstractness, normativeness and recognition by the state. [5]

Sustainable development in the legal order of the Czech Republic

Like any legal system, the Czech legal system distinguishes between sources of law as sources of knowledge of law into material sources of law and formal sources of law. The material sources of law represent the facts that lead the legislator to regulate a certain social phenomenon. In other words, as a material source of law we can imagine everything that affects why law is as it is. On the contrary, by formal sources of law we mean legal norms. Formal sources of law mainly consist of normative legal acts, normative contracts, individual legal acts, etc. [6]

The material sources of law for embedding permanently sustainable development into the legal order of the then Czech and Slovak Federal Republic were the social and economic conditions at the time of the UN Conference on the Environment, i.e. society's demand for the normative embedding of permanently sustainable development.

However, this paper will focus more on formal sources of law. The legal order of the Czech Republic is part of the continental type of legal culture, which emphasizes the written law. The Czech legal order includes:

- primary law of the European Union and regulations of the European Parliament and of the Council (EU);
- promulgated international agreements approved by the Parliament of the Czech Republic;
- constitutional laws, laws, legal measures of the Senate;
- government regulations, decrees of ministries and other central state administration bodies, decrees of local self-government bodies;
- findings of the Constitutional Court in the role of a negative legislator.

Sustainable development in the law of the European Union

Sustainable development is enshrined both in primary European Union law and secondary European Union's law. Under the concept of the primary law of the EU, it is necessary to imagine the founding treaties of the EU. These are the Treaty on European Union, the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union. The term secondary law of the European Union includes both binding legal instruments, including regulations, directives and decisions, and non-binding legal instruments, including recommendations and opinions.

Primary law of the European Union

The Treaty on European Union (hereinafter "TEU") mentions the principle of sustainable development in its Preamble, in which the high contracting parties declare "DETERMINATION to promote the economic and social development of their peoples with a view to the principle of sustainable development and in the context of completing the internal market and strengthening of cohesion and environmental protection, and to pursue a policy that ensures that the development of economic integration is accompanied by the development of other areas." [7] Furthermore, the concept of sustainable development is dealt with in the Article 3 paragraph 3, Article 3 paragraph 5 and Article 21 paragraph 2 letter d) and f) TEU. Article 3 paragraph 3 TEU states that "The Union shall establish an internal market. It seeks the sustainable development of Europe, based on balanced economic growth and price stability, a highly competitive social market economy leading to full employment and social progress, and a high level of protection and improvement of the quality of the environment. It supports scientific and technical progress. (...) ". At first glance, it might seem that the TEU is only concerned with the sustainable development of Europe. The global perspective of (sustainable) development is enshrined in Article 3 (5) TEU, which states, inter alia, that "(...) [the Union] shall contribute to peace, security and the sustainable development of this planet (...)". In Article 21 (2) (a), (d) and (f) the TEU

stipulates that the Union shall define and implement common policies and activities and seek to achieve a high degree of cooperation in all areas of international relations in order to promote sustainable economic, social and environmental development in developing countries with the primary objective of eradicating poverty and to contribute to the development of international measures to protect and improve the quality of the environment and the sustainable management of the world's natural resources in order to ensure sustainable development. [7]

The Treaty on the Functioning of the European Union (hereinafter "TFEU") enshrines the principle of sustainable development in Article 11 TFEU which states that "environmental protection requirements must be integrated into the definition and implementation of Union policies and activities, in particular: with a view to promoting sustainable development." [8] The European Union's environmental policy is set out in Title XX of the TFEU in Articles 191 to 193. Although the concept of sustainable development does not appear explicitly in Articles 191 to 193 TFEU, it follows from the interpretation of the above articles that it is implicitly enshrined in these articles. However, the problem is that Articles 191 to 193 TFEU are not directly applicable and their content have to be specified through secondary European Union law. [9]

The Charter of Fundamental Rights of the European Union (hereinafter "CFR") speaks about the principle of sustainable development in its Preamble. According to the CFR Preamble, "The Union (...) seeks to promote balanced and sustainable development and ensures the free movement of persons, services, goods and capital, and the freedom of establishment." [10] Furthermore, the CFR deals with sustainable development in Article 37 which states that "A high level of environmental protection and the improvement of the quality of the environment must be integrated into policies of the Union and ensured in accordance with the principle of sustainable development." [11]

Primary European Union's law provides only a general framework of environmental protection requirements, which are further specified and implemented through the secondary European Union's law.

Secondary law of the European Union

Due to the limited scope of this article, it will focus only on regulations and directives of the European Union. Unlike directives, regulations have a so-called direct effect, which means that they become part of the legal systems of individual member states as soon as the legislative process within the European Union is completed, without the need for transposition. Thus, they directly establish, amend or repeal the rights and obligations of individual citizens of the member states. Regulations are the main means of unifying legislation in the individual member states. On the contrary, directives do not have, with a few exceptions, the direct effect. They only oblige individual member states to transpose the issue covered by a directive into national law by means of national law.

In relation to environmental protection, regulations constitute a smaller part of the body of EU's legislation in number. Regulations that affect environmental protection can be divided into two groups. The first group is composed of the regulations governing administrative matters. These regula-

tions include, for example, Regulation (EC) No. 1907/2006, on the Registration, Evaluation, Authorization and Restriction of Chemicals (the so-called REACH Regulation) or Regulation on the establishing a Cohesion Fund and repealing Regulation (EC) No 1164/1994. The second group is formed of the regulations that transpose international conventions obligations into the EU's legislation. These regulations include, for example, Regulation (EC) No 1005/2009 on substances that deplete the ozone layer or Regulation (EC) or Regulation No 338/97 on the protection of species of wild fauna and flora by regulating trade therein. [9]

As indicated above, directives are the most common EU environmental legislation. Due to the large number of directives we will only list the most important ones. These are, in particular, Directive 2001/92/EU of the European Parliament and of the Council of 13 December 2001 on the assessment of the effects of certain public and private projects on the environment, Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment, or Directive (EU) 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions.

National legislation of the Czech Republic

Except of the implicit enshrinement in the constitutional order of the Czech Republic (Article 7 of Constitutional Act No. 1/1993 Coll., The Constitution of the Czech Republic, Article 11 and Article 35 of the Charter of Fundamental Rights and Freedoms) the sustainable development principle can be found, thanks to its three pillars, in several branches of public law. Except for environmental law we can find it also in social security law, financial law, agricultural law, construction law, energy law, etc. Due to the focus of this paper, the following passage will focus itself exclusively on national environmental law.

Czech environmental law distinguishes so-called cross-cutting legal regulations and component legal regulations. Cross-cutting legislation sets out the basic general framework for the protection of all components of the environment, while component legislation sets out specific rights and obligations for the protection of individual components of the environment. Gross of this paper will be devoted to the comparison of an Act No. 17/1992 Coll., on the Environment, as a cross-cutting legal regulation with the Vietnam's Act on Environmental Protection. The aim of this paper is to compare the concept of cross-cutting and component environmental legislation with the concept of a single comprehensive code of environmental protection.

Act No. 17/1992 Coll., on the Environment

The Czech Act on the Environment was approved by the then Federal Assembly of the Czech and Slovak Federal Republic on 5 December 1991. It was published in the Collection of Laws under No. 17/1992 Coll. It entered into force on 16 January 1992. After the disintegration of the Czech and Slovak Federal Republic, it was reciprocated into the legal order of the independent Czech Republic through Constitutional Act No. 4/1993 Coll., on measures connected with the dissolution of the Czech and Slovak Federal Republic. From the moment of its adoption the Act No. 17/1992 Coll., on the Environment (hereinafter "Czech Environmental Act") was gradually

amended three times. For the first time it was amended by an Act No. 123/1998 Coll., on the Right to information on the Environment. The first amendment repealed Section 14 of the Czech Environmental Act, which dealt with the right to information on the environment. The first amendment basically only changed the system where provisions similar in content to the repealed provisions are ex nunc contained in an Act on the Right to information on the Environment.

For the second time, the Czech Environmental Act was amended by an Act No. 100/2001 Coll., on Environmental Impact Assessment and amending some related laws (hereinafter "EIA act"). Through the EIA act sections 20 to 26 which regulated the assessment of the environmental impact of the plans were repealed. We can summarize that the second amendment also represents only systematic change. The area previously regulated by the Czech Environmental Act was transferred into a special act, in this case into the EIA act.

For the third time, the Czech Environmental Act was amended by an Act No. 183/2017 Coll., on Amendments to Certain Laws Following the Adoption of the Act on Liability and Proceedings for Misdemeanors concerning them and the Act on Certain Misdemeanors. The third amendment brought the change of section 28 of the Czech Environmental Act which deals with misdemeanors.

To date, the Czech Environmental Act, as amended, is systematically divided into 6 parts and 28 sections (see Table 1).

The Czech Environmental Act can be characterized as a cross-cutting legal regulation in the field of environmental protection. From the above follows its abstractness and brevity. At the time of its adoption, the Czech Environmental Act was divided into 8 parts, which were further divided into 35 sections. Its original wording also contained a total of 4 annexes.

The Czech Environmental Act was built on three basic theses. The first thesis represents the legislator's belief that "(...) Man is together with other living organisms an inseparable part of Nature, recalling the natural interdependence between Man and other organisms." The second thesis represents the legislator's belief in "(...) the right of Man to adapt Nature in compliance with the principle of permanently sustainable development." The legislator's third thesis represents that the legislator keeps in mind "(...) his responsibility for the conservation of favorable environment to next generations and emphasizing the right to a favorable environment as one of Man's basic rights."

The purpose of the Czech Environmental Act was formulated in § 1. According to this paragraph, "The Act stipulates the basic concepts and determines the basic principles of environmental protection and the duties of legal and natural entities for the protection and improvement of environment conditions and for the utilization of natural resources; as well as it follows from the principles of permanently sustainable development." [12] Even thirty years after the Czech Environmental Act's adoption § 1 is still up to date. None of the above-mentioned amendments has affected it.

The Czech Environmental Act is currently divided into six parts. Due to its brevity the legislator does not follow the classic division of laws into pieces, titles, parts, sections and subsections. However, in its original version, the Czech Environmental Act contained the following sections:

- Principal terms
- Principles of environmental protection
- Obligations with regard to environmental protection
- Environmental impact assessment of activities
- Assessment of the environmental impact of activities and their consequences extending beyond national borders
- Responsibility for the breach of obligations in environmental protection
- Economic tools
- Temporary and final provisions
- Legislation deriving from the Czech Environmental Act
- Act. No. 244/1992 Coll., on environmental impact assessment (effective from 01.07.1992 to 31.12.2001)
- Act. No. 114/1992 Coll., on the protection of nature and the landscape
- Act. No. 334/1992 Coll., on the protection of agricultural land fund
- Act. No. 439/1992 Coll., on the protection and exploitation of mineral resources (the Mining Act)
- Act. No. 289/1995 Coll., on Forests and Amendment to some Acts (the Forest Act)
- Act. No. 123/1998 Coll., on the right to information on the environment
- Act. No. 258/2000 Coll., on the protection of public health
- Act. No. 100/2001 Coll., on environmental impact assessment and on amending some related Acts (the Act on Environmental Impact Assessment - effective from 01.01.2002)
- Act. No. 185/2001 Coll., on waste and amending some Acts (effective from 01.01.2002 to 31.12.2020)
- Act. No. 541/2020 Coll., on waste (the Waste Act) (effective from 01.01.2021)
- Act. No. 254/2001 Coll., on waters and on amending and supplementing some Acts (the Water Act)
- Act. No. 167/2008 Coll., on prevention and remedying ecological damage and amendment on some laws
- Act. No. 201/2012 Coll., on air protection (the Air Protection Act)

The Czech Environmental Act was adopted during the first stage of the Czech environmental law development after the velvet revolution. It is based on three main theses listed in its preamble. It is a framework act which is followed by component legislation. Together with component legislation it forms the system of environmental law in the Czech Republic.

It was prepared in accordance with the following basic principles:

- the principle of sustainable development;
- load-bearing principle;
- the principle of prudent natural resource management;
- principle of prevention;
- the polluter pays principle;
- precautionary principle;
- principle of rehabilitation and restitution;
- the right of citizens to environmental information.

The terms used in the Czech Environmental Act have been defined using the latest scientific knowledge, considering historical experience and a vision for the future. That is why they are still up to date. The Czech Environmental Act was prepared in accordance with European Community's legislation and international conventions in the field of environmental protection. Even today, almost 30 years after its adoption, the Czech Environmental Act is still not losing its relevance and continues to be an inspiration for further scientific research in order to further improve it. Although it had been amended three times during its existence, all amendments carried out only systematic changes, when certain provisions were moved to special laws. Therefore, the high standard of environmental protection was not reduced.

Vietnamese Law on the Protection of the Environment

The United Nations Conference on Environment and Development (UNCED) was held for the first time from 3 to 14 June 1992 in Rio de Janeiro, Brazil. It is also known as the Earth Summit, or Rio Conference. It was attended by 172 world governments, with 116 heads of state or government present in person. Representatives of 2,400 NGOs (non-governmental organizations) with 17,000 people formed a parallel non-governmental "Global Forum", which had an advisory status at the conference. Vietnam and the Czech Republic participated in this conference. The Earth Summit resulted in the adoption of the following important documents: the Rio Declaration on Environment and Development,

"Agenda 21", Principles of Forest Management etc. The first principle in the Rio de Janeiro Declaration reads as follows: "Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature".

Vietnam began its economic reconstruction in the 1980s and 1990s. At the instigation of this declaration and under the pressure of economic reconstruction, the law on environmental protection was drafted and approved by the Vietnamese parliament on December 27, 1993 and entered into force on the day of the approval. Since then, until now (2021), Vietnam's Law on Protection of the Environment (hereinafter "Vietnamese Environmental Act") has also been amended three times (see Table 2).

Table No. 3 shows the structure of Vietnamese Environmental Act and its later amendments. Its first edition contained an introduction and 7 chapters with a total of 55 paragraphs without appendices. The introduction to this law includes the following definition "The environment is particularly important for the lives of humans and creatures and for the economic, cultural and social development of the country, the nation and mankind; the efficiency of state governance and the accountability of governments at all levels of state agencies, economic organizations, social organizations, the armed forces, the people and all individuals in environmental protection need to be improved. Protecting human health, ensuring human rights, living in a healthy environment, serving the country's sustainable development, contributing to the protection of the regional and global environment".

The first chapter, entitled "General provisions", defined the terms and terminology used in the law. There were only 12 of them in the first edition. The first amendment already included

	Act No.	Announcement in the Collection of Laws	Effectiveness since – to	sections/chapters	Number of paragraphs
Promulgation	17/1992 Coll.	05.12.1991	16.01.1992 – 30.06.1998	8	35
First amendment	123/1998 Coll.	13.05.1998	01.07.1998 – 31.12.2001	7	34
Second amendment	100/2001 Coll.	20.02.2001	01.01.2002 – 30.06.2017	6	28
Third amendment	183/2017 Coll.	09.06.2017	01.07.2017 – To this day	6	28

	Law number	Approval date	Effectiveness since – to	Chapters	Articles
Promulgation	29-L/CTN	27.12.1993	27.12.1993 – 30.6.2006	7	55
First amendment	52/2005/QH11	29.11.2005	01.7.2006 – 31.12.2014	15	136
Second amendment	55/2014/QH13	23.6.2014	01.1.2015 – 31.12.2021	20	170
Third amendment	72/2020/QH14	17.11.2020	01.01.2022 –	16	171

Chapter No.	Names of individual chapters		
	1993	2005	2014
1	General provisions	General Provisions	General Provisions
2	Preventing and resisting environment degradation, pollution and incidents	Environmental standards	Planning for environmental protection, strategic environmental assessment, environmental impact assessment and environmental protection plan
3	Overcoming environment degradation, pollution and accidents	Strategic environment assessment, environmental impact assessment and environmental protection commitments	Environmental protection concerns during the extraction and utilization of natural resources
4	State management of environment protection	Conservation and rational use of natural resources	Response to climate change
5	International cooperation in environment protection	Environmental protection in production, business and service activities	Protection of marine and island environment
6	Environment inspection and settlement of violation	Environmental protection in urban and residential areas	Water, air and land protection
7	Execution provisions	Protection of marine environment, river water and other water resources	Environmental protection in manufacturing, trading and service provision
8		Waste management	Environmental protection in urban areas and residential areas
9		Environmental incident prevention and response, pollution remedies and environmental rehabilitation	Waste management

22 terms. In the second and third amendments, there were a total of 29 and 38. Their content was different in most cases.

The term "sustainable development" was missing in the first edition. This concept was introduced in the first amendment to the 2005 law.

The second and third chapters were devoted to Preventing and resisting environment degradation, pollution and incidents; Overcoming environment degradation, pollution and accidents.

The fourth chapter was devoted to state management of environmental protection. It dealt with the role of the state in environmental protection.

The fifth chapter dealt with international cooperation in environment protection. At this time, Vietnam, as a member of the United Nations and a signatory to the 1992 Rio Conference, realized the importance of international cooperation in environmental protection. International cooperation was

therefore described in a separate chapter of this Act and its amendments.

The sixth chapter described Environment inspection and settlement of violation.

The seventh chapter contained implementation provisions.

Amendments

The Vietnamese Environmental Act, issued in 1993, was mainly used for preventing and resisting environment degradation, pollution and incidents and overcoming environment degradation, pollution and accidents in order to provide investors with the best conditions for their investments. Between 1986 and 2005, the development of the economy was given priority over environmental protection in Vietnam.

Therefore, the basic principles set out in the Rio Declaration such as the "principle of sustainable development" or the

"right of man to have a favorable environment" as one of the fundamental rights were missing.

The shortcomings of the first edition of the Vietnamese Environmental Act were resolved through its amendments.

For the first time the Vietnamese Environmental Act was amended in 2005, after twelve years since its adoption. Ten new chapters have been added.

The Vietnamese Environmental Act, amended in 2005, included many important additions to enable the state to provide new instruments for its environmental protection policy (Chapters II, III, IV and VIII, Law No. 52/2005/QH11). The amended law also confirmed the human right to a favorable environment and the right to information on the state of the environment (Chapter X - Environmental monitoring and information of Act No. 52/2005 / QH11, etc.). The amended law specified the protection of the environment in production, business and service activities, further in urban and residential areas and protection of marine environment, river water and other water resources. Chapters V, VI, VII and another important content of this amendment is contained in article 5, paragraph 5 of the law "Investing in environmental protection means the investment in development; diversifying investment capitals for environmental protection and designating expenditures for environmental protection from the State budget annually".

This means that the state has begun to focus on a new development policy, where environmental protection is an important factor in development. Unlike the previous period, where economic development was prioritized at the expense of the environment.

Sustainable development was, in terms of Vietnamese legislation, for the first time introduced and defined in the Vietnamese Environmental Act, as amended in 2005. Under the concept of sustainable development, we can imagine the development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs based on a close and harmonized combination between economic growth, assurance of social advancements and environmental protection. Unfortunately, the interpretation of the sustainable development concept remained unclear for many addressees of this legislation. In other words, many addressees of this legislation understood this concept in their own way.

The Vietnamese Environmental Act, as amended in 2005 despite creating a solid basis for state administration in the field of the environment; significantly contributed to the protection and reduction of negative effects on the environment, raised community awareness of environmental protection and created an initial orientation for the harmonious combination of economic growth with environmental protection.

Through the second amendment adopted in 2014: the number of chapters increased from 15 to 20 and the number of articles raised from 136 to 170. New terms such as technical regulations on environment, environmental health, environmental industry, pollution control, environmental documents, planning for environmental protection, environmental protection infrastructure, greenhouse gas, response to climate change, carbon credit and environmental security were added. Important chapters such as response to climate change; pollution control, environmental remediation and improve-

ment, compensations for environmental damages, etc. were listed. The amended law contained a total of 20 chapters and 170 articles.

One of the important milestones for the 2014 amendment was the fact that Article 43 of the Vietnam Constitution of 2013 clearly sets out people's rights and obligations towards the environment: "Everyone has the right to live in a healthy environment and has a duty to protect the environment". This is in line with the Rio Declaration of Rio de Janeiro. In accordance with the Constitution of 2013, the Vietnamese Environmental Act, as amended in 2014 took over the content of the Vietnamese Environmental Act, as amended in 2005 and at the same time removed its limitations and shortcomings.

Chapter II "Planning for environmental protection, strategic environment assessment, environmental impact assessment and environmental protection plan" is completely new and important in the framework of the amended law. Planning for environmental protection is a completely new content of this law, containing 5 articles (8 to 12). The following principles are set out here: principle of levels (state and provincial levels), planning period (10 years and vision of 20 years), planning responsibilities, consultation, evaluation, planning approval, revision and adjustment of planning. Planning will be the scientific and legal basis for the environment in the strategic planning or preparation of socio - economic development plans in order to link socio - economic development closely with environmental protection. Strategic environment assessment, environmental impact assessment and environmental protection plan are also an important part of this chapter to prevent environmental pollution and ensure sustainable development.

According to a study (20) by the World Bank published in 2011, Vietnam was one of the countries most affected by climate change. Therefore, the issue of responding to climate change was included in the Vietnamese Environmental Act, as amended in 2014 as Chapter IV. This chapter contains 10 articles (39 to 48) which set out: general provisions on responding to climate change; integrating climate change response content into socio-economic development strategies and planning; management of greenhouse gas emissions; management of ozone depleting substances; development of renewable energy sources; environmentally friendly production and consumption; use of energy from waste; the rights and obligations of the community in response to climate change; development and application of science and technology in the field of climate change and international cooperation in response to climate change.

The third amendment was adopted in December 2020. In its new form the law will particularly come into force on 01.01.2022. Paragraph 3 of article 29 "The content of the preliminary environmental impact assessment includes" will come into force later (on 01.02.2022). In its new form the law will consist of 16 chapters and 171 articles with important new points, such as:

- expanding the scope: "residential communities" is regulated as a subject in environmental protection, which strengthens environmental protection activities;
- information on environment: The law includes a principle that environmental protection activities

must be public and transparent; clearly sets out responsibility for publishing information on air quality, environmental quality, hazardous waste, waste monitoring results – in accordance with the principle of prevention and awareness;

- environmental criteria for classifying investment projects including the scope, capacity and type of production, trade or services; land use areas, land with water level and/or sea area, extent of the use of natural resources; and sensitive environmental factors. Such criteria will help to determine which projects are subject to a preliminary environmental impact post-assessment (EIPA), an environmental impact assessment (EIA) and issuing a positive opinion in the field of environmental impact;
- regulation of conditions for maintaining a healthy environment complements many solutions for the protection of individual components of the environment. This approach is in line with the Rio Declaration of Rio and the Vietnam Constitution of 2013, which guarantee everyone's right to a healthy environment;
- synchronization of environmental management instruments in each phase of the project, starting with the consideration of the investment policy, project approval, project implementation until the official commissioning of the project;
- amendments to the content of measures to combat climate change: The aim is for the law to be systematic, logical and in line with the theory of the response to climate change, to be consistent and synchronous with similar regulations and organizational structures in the Natural Resources, Marine and Island Environment Act 2015; to comply with the Natural Disaster Prevention and Control Act of 2013 and with relevant international treaties, such as: the Paris Agreement on Climate Change; Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP); The EU-Vietnam Free Trade Agreement (EVFTA) and to contribute to improving the capacity and effectiveness of the climate change response in Vietnam in the future;
- activities of the state managing body in accordance with the principle of comprehensive, uniform and thoroughly decentralized management for the individual regions;
- concretizing regulations on the response to climate change and support the development of the domestic carbon market;
- individual policies for the development of sustainable models of economic growth, renewal and development of natural capital and others.

According to the evaluation, the Vietnamese Environmental Act, as amended in 2020 shortens more than 40% of administrative procedures, shortening their duration to 20-85 days. The law has a great response among experts.

Weaknesses of the Vietnam Environmental Protection Law
Weaknesses of the Vietnamese Environmental Act include:

- limited period of validity. One of the principles of environmental protection included in this law is defined as follows "Environmental protection must comply with the natural laws and characteristics, cultural and historical identities as well as the level of socio-economic development of the country";
- some terms used in this law have not been defined using new scientific knowledge, technology and practice. The most basic concept of "environment" is different in all editions. On the other hand, the definition of this term in the Czech Environmental Act is made with the highest possible use of knowledge of current science and technology;
- the addition of both new terms and articles is proof that the law did not comply with in practice. One example is the fact that Vietnam is a "coastal" country with a coastline of more than 3000 km. Vietnam is strongly affected by climate change, especially in the lower Mekong region, but until the second amendment in 2014 the response to climate change was not included in the Vietnamese Environmental Act;
- industrial parks and export processing zones have been established and operated since 1991, but environmental issues related to these industrial parks were not enshrined in the Vietnamese Environmental Act until 2005. The environmental requirements for these industrial zones are now described in article 36. Until 2006 up to 70% of industrial parks did not have their own waste treatment system; 90% of production, sales and service companies did not treat wastewater;
- The Vietnamese Environmental Act was first approved in December 1993 following a conference in Rio. However, the basic principles set out in the Rio Declaration such as the "principle of sustainable development" and the "human right to a favorable environment" as one of the fundamental rights were missing;
- sustainable development was introduced for the first time in the first amendment from 2005 and further in the amendments from 2014 and 2020. However, it is not understood as in Czech law, i.e., as one of the basic legal order principles;
- the "human right to a favorable environment" has not been implemented until the second amendment in 2014;
- the right to environmental information is not guaranteed.

The Vietnamese Environmental Act was born in 1993 in the context of economic recovery and at the instigation of the Declaration of the Rio Conference. It was confirmed from the introduction that "The environment is of particular importance for the lives of humans, organisms and the economic, cultural and social development of the country, the nation and humanity". Thus, the importance of the environment has been gained.

It can be confirmed that between 1993 and 2005, environmental protection in Vietnam focused mainly on the prevention and control of environmental degradation, pollution,

environmental incidents and overcoming environment degradation, pollution and accidents. There was a period when economic development took precedence over environmental protection, and it was even necessary to sacrifice the environment for economic development. Therefore, sustainable development was not mentioned in the original wording of the Vietnamese Environmental Act.

The Vietnamese Environmental Act, as amended in 2005 stated that "investment in environmental protection is investment in development". It ensured diversified sources of investment capital for environmental protection and separate expenditures on environmental needs in the state budget for the given year. The principle of environmental protection is to be consistent with economic development and to ensure social progress for the sustainable development of the country. National environmental protection must be linked to regional and global environmental protection.

The Vietnamese Environmental Act, as amended in 2014 is a turning point. The state now has a policy of financial and land benefits for the purpose of environmental protection, environmentally friendly production and business. State now also has a policy of conservation of biological diversity, rational and economically exploitation and use of natural resources, developing clean and renewable energy and for promoting recycling, reusing and waste reduction. Sustainable development has been included in various areas (forest resource development, sustainable urban development etc.). There are laws and policies that address climate change.

The Vietnamese Environmental Act, as amended in 2020 is a systematically comprehensive logical change, drafted in accordance with relevant international treaties, such as: the Paris Agreement on Climate Change; Comprehensive and Progressive Trans-Pacific Partnership Agreement (CTPP); The EU-Vietnam Free Trade Agreement (EVFTA). It should contribute to improving the capacity and effectiveness of the climate change response in Vietnam in the future. It is based on the laws of nature, without sacrificing environmental protection in exchange for economic growth. Environmental protection is no longer just a prevention, control and treatment of waste. Production and development activities must be in harmony with nature and promote the protection and development of nature.

International integration and cooperation in the field of environmental protection is a great success of the Vietnamese Environmental Act which focuses on the management and protection of environmental components, biodiversity conservation, green growth, sustainable development, response to climate change, securing resources and fulfilling obligations arising from international treaties and agreements relating to the environment, fulfilling trends in international integration and promotes international economic integration.

Vietnam's environmental law is becoming more sophisticated and extensive, corresponding to Vietnam's development period.

Comparison of the Czech Environmental Act and Vietnamese Environmental Act

It is obvious there are numerous differences between Czech Environmental Act and the Vietnamese Environmen-

tal Act. These differences are reflected in many respects, including the structure and content of the compared legal regulations.

Czech Environmental Act is based on three basic theses stating that since its adoption it has been working with the principle of sustainable development. On the other hand, the Vietnamese Environmental Act did not work with the principle of sustainable development at the time of its adoption because the country's economic development was given priority over environmental protection. The principle of sustainable development was incorporated into the Vietnamese Environmental law through an amendment in 2005.

Czech Environmental Act is a cross-cutting legal regulation which is followed by component legislation. As a cross-cutting legal regulation it forms together with component legislation the formal sources of environmental law in the Czech Republic. On the other hand, the Vietnamese Environmental Act is to some extent a comprehensive environmental code. It necessarily follows that in its case the legislator had to work with less abstraction. The Vietnamese Environmental Act, as amended, is even more extensive which may bring difficulties in its application in the future, due to its excessive specificity.

The main reasons for the differences between above-mentioned legislations seem to be:

- differences in the legislative process,
- different level of economy (the Czech Republic is a member of the OECD and the EU with an advanced economy while Vietnam is a developing country),
- different legal culture and traditions,
- different geographical location.

Current practice shows that despite the differences between above-mentioned legal regulations both Acts fulfill their purpose, thereby contributing to realization of the principle of sustainable development.

In September 2015 the UN adopted the Sustainable Development Goals (SDGs). The UN has set a total of 17 primary goals for sustainable development. Each primary goal is further specified by individual secondary goals, of which there are 169. The Sustainable Development Goals apply to all states that make up the international community. Each state can contribute to these goals. The Czech Republic, Vietnam and many other countries have followed up on these sustainable development goals and at the same time they prepared their own sustainable development goals. Nowadays the principle of sustainable development forms an integral part of the legal order both in the Czech Republic and Vietnam.

Conclusions

Sustainable development is still an important factor not only in the countries with advanced economies but also in developing countries, i.e. everywhere in the world. Almost all countries in the world face the same problems such as climate change, demographic change, the loss of arable land, deepening inequalities between rich and poor countries and deepening inequalities between people within countries. Behavior in accordance with the principle of sustainable development is a challenge for each of us, for every company, society, region or state, and, after all, for all of humanity and our planet.

Sustainable development is now enshrined not only in the Czech Environmental Act and in the Vietnamese Environmental Act but also in similar laws of other states. Nowadays we have legal instruments both for protecting the environment and for improving the environment. Through them we

can achieve a favorable environment for all citizens and meet the goals of sustainable development.

Spreading awareness about sustainable development and the legislation that includes this concept remains highly current and desirable.

Literatura – References

1. MEADOWS, D., RANDERS, J. The Limits to growth; a report for the Club of Rome's project on the predicament of mankind. New York: Universe Books, 205 p. [online]. ISBN 0876631650. OCLC 307838.
2. Our common future. World Commission on Environment and Development. First Edition. Prague: Academia, 1991, 297 p. ISBN 80-853-6807-2. (in Czech)
3. Agenda 21: Report of the United Nations Conference on Environment and Development Rio de Janeiro, 3-14 June, 1992. Prague: Ministry of Environment of the Czech Republic, 1998, 328 p. ISBN 80-7212-039-5. (in Czech)
4. KRUŽÍKOVÁ, Eva. Environmental policy and environmental law in the European Union. First Edition. Prague: Publishing House of Litomyšl's Seminary, 1997, 186 p. ISBN 809021682X. (in Czech)
5. KRATĚNOVÁ, Adéla. Sustainable development as a legal principle. Prague: 2015. Thesis, Charles University, Faculty of Law. Thesis supervisor JUDr. Karolína Žákovská, Ph.D., 82 p. (in Czech)
6. GERLOCH, Aleš. Theory of law. Fourth Modified Edition. Pilsen: 2007, 336 p. ISBN 978-80-7380-652-1. (in Czech)
7. Preamble of the Treaty on European Union.
8. The Treaty on the Functioning of the European Union, Article 11.
9. DAMOHORSKÝ, Milan. Environmental law. Third Edition. Prague: C.H. Beck, 2010, 629 p. ISBN 978-807-4003-387. (in Czech)
10. Preamble of the Charter of Fundamental Rights of the European Union.
11. The Charter of Fundamental Rights of the European Union, Article 37.
12. Act No. 17/1992 Coll., on the environment, as amended.
13. Act No. 244/1992 Coll., on the assessment of the impacts of development concepts and programs on the environment (15.04.1992, effective from 01.07.1992).
14. Act No. 114/1992 Coll., on nature and landscape protection.
15. Act No. 334/1992 Coll., on the protection of agricultural land resources (12.05.1992).
16. Act No. 439/1992 Coll., on the protection and use of mineral wealth (Mining Act).
17. Act No. 289/1995 Coll., on forests and on amendments to certain acts (Forest Act).
18. Act No. 123/1998 Coll., on the right to information on the environment.
19. Act No. 258/2000 Coll., on the protection of public health.
20. Act No. 100/2001 Coll., on environmental impact assessment and amending some related laws (Act on Environmental Impact Assessment).
21. Act No. 541/2020 Coll., on waste.
22. Act No. 254/2001 Coll., on waters and amendments to some acts (the Water Act).
23. Act No. 167/2008 Coll., on prevention and remedying environmental damage and amendment to some laws.
24. Act No. 201/2012 Coll. on air protection of 2 May, 2012.

25. Vietnamese Law No. 29-L / CTN on Environmental Protection.
26. Vietnamese Law No. 52/2005 / QH11 on Environmental Protection.
27. Vietnamese Law No. 55/2014 / QH13 on Environmental Protection.
28. Vietnamese Law No. 72/2020 / QH14 on Environmental Protection.
29. PHAN, Dao, NGUYEN, Thuy Lan Chi, LAPČÍK, Vladimír, TRAN, Cam Nhung. Overview of the Activities of Industrial Parks and Impacts on Surface Water Quality in Ho Chi Minh City, Vietnam. *Inżynieria Mineralna - Journal of the Polish Mineral Engineering Society*, 2 (44), 2019.
30. KOČÍKOVÁ, Pavla. The European Union and the environment. MONTANEX, 1998.
31. FIELD, Barry C., FIELD, Martha K. *Environmental Economics - an Introduction*. Fourth Edition. McGraw-Hill International Edition, 2006. ISBN 007-125585-0.
32. MOLDAN, Bedřich. *Environment in a global perspective*. Prague: Charles University, Karolinum Publishing House, 2020. ISBN 978-80-246-4677-0.
33. Declaration Rio de Janeiro 1992. https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.

Stanowisko Zasady Zrównoważonego Rozwoju w porządku prawnym Republiki Czeskiej oraz w ramach Wietnamskiej Ustawy o Ochronie Środowiska

Zasada zrównoważonego rozwoju, wyrażona m.in. w „Karcie Ziemi” i „Agendzie 21”, zatwierdzona na Konferencji ONZ ds. Środowiska i Rozwoju (UNCED) w Rio de Janeiro w czerwcu 1992 roku, stała się mottem i podstawą dla wielu krajów w planowaniu i określaniu ich polityki rozwoju. Zrównoważony rozwój można interpretować jako sposób rozwoju społeczeństwa ludzkiego, który godzi wzrost gospodarczy i postęp społeczny z ochroną środowiska w celu zaspokojenia potrzeb przyszłych pokoleń. Ochrona środowiska jest częścią tej zasady i nie można jej od niej oddzielić. Nasz artykuł analizuje miejsce zasady zrównoważonego rozwoju w porządku prawnym Republiki Czeskiej oraz w kontekście wietnamskiej ustawy o ochronie środowiska; jednocześnie analizuje, porównuje i ocenia podejścia do realizacji zasady zrównoważonego rozwoju we wspomnianych systemach prawnych.

Słowa kluczowe: *Zrównoważony Rozwój, Czeski Porządek Prawny, Czeska Ustawa Nr 17/1992 Sb. O Środowisku – Czeska Ustawa O Ochronie Środowiska, Wietnamskie Prawo Ochrony Środowiska, Wietnamska Ustawa O Ochronie Środowiska, Wietnamska Ustawa O Ochronie Środowiska*