„Prawne Problemy Górnictwa i Ochrony Środowiska" 2/2024, s. 1–26
ISSN 2451-3431
DOI: https://doi.org/10.31261/PPGOS.2024.02.06

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Advocating for environmental law – grounds for its status as an independent branch of law in Slovak legal doctrine*

Summary

The article traces the historical development of environmental regulation in Czechoslovakia, and subsequently Slovakia, highlighting the transition from fragmented legal frameworks to comprehensive legislation, notably Act no. 17/1992 Coll. on Environment. It explores theoretical debates on whether environmental law constitutes an independent legal branch, examining criteria, such as subject matter, objectives, distinct principles, regulatory methods, and international dimensions. While advocating for environmental law's recognition as a distinct branch, the article acknowledges ongoing debates and emphasizes the need for continued inquiry to reach consensus. Overall, it provides insights into environmental law's evolution, challenges, and potential role within legal theory and practice.

Keywords: environmental law development, theoretical perspectives, independent branch of law, criteria analysis, scholarly discourse

* This work was supported by the Slovak Research and Development Agency under the Contract no. APVV-19-0494; this work was also supported by the Slovak Research and Development Agency under the Contract no. APVV-23-0645.

Introduction

Environmental law or the law of the environment[1] as an integral component of legal systems worldwide, plays a critical role in addressing environmental challenges and promoting sustainability. In the 21st century, it has greatly increased in importance due to the utmost urgency of combating climate change, preserving biodiversity, and managing natural resources responsibly. Effective environmental law is essential for guiding international cooperation, enforcing regulations that mitigate environmental degradation, and fostering innovation in green technologies, thereby ensuring a sustainable future for generations to come. Within the context of Slovakia, a nation rich in natural beauty and biodiversity, the significance of environmental law is particularly noticeable. As Slovakia navigates the complexities of economic development, industrialization, and environmental preservation, the role and status of environmental law within its legal framework come under scrutiny. Since we constitute a part of the group of authors preparing a comprehensive textbook in the Slovak language for law students in Slovakia, we must have confronted a truly fundamental question, to which we were temporarily unable to find a comprehensive and satisfactory answer, namely: Is environmental law in Slovakia a distinct branch of law, separate from other legal disciplines, or does it function within an interdisciplinary framework? Due to constraints in our prior work on the textbook, we were unable to adequately address this question and come to a definite answer.[2] Consequently, we have chosen to explore it in a separate research article. One of our objectives is to stimulate broader professional discussion on this subject and to solicit fresh perspectives, thereby extending the boundaries beyond the confines of previously published legal literature. Despite prevailing opinions suggesting that from a purely practical standpoint, the recognition of the legal system as a distinct branch may be inconsequential, we contend that it bears practical significance for legal practitioners, policymakers, and environmental advocates.

In this article, we will provide a brief historical outline about the evolution of legal norms and regulations pertinent to environmental law within our region. The resultant overview encompasses historical perspectives, including both past opinions and contemporary notions of environmental law. Furthermore, we present arguments both advocating for and opposing the recognition of environmental law as a distinct branch of law within our legal conditions. In our conclusions, based on a thorough analysis of available literature and our profes-

[1] For the sake of comprehensiveness, it is imperative to acknowledge that these terms are synonymous; however, in our study (as well as in the forthcoming textbook in the Slovak language), we favor the term "environmental law."

[2] However, addressing this matter is neither required nor appropriate as one of the objectives of the environmental law textbook, given its nature and purpose.

sional expertise, we conclude that environmental law in the legal framework of the Slovak Republic can be reasonably regarded as a separate legal branch. Furthermore, we contend that its recognition is arguably justified and for recognizing it as a separate branch of law.

1. Historical development of environmental regulation in Czechoslovakia, and subsequently Slovakia

The origins of legal regulation of behavior in connection with the environment can be traced back to ancient civilizations, where rudimentary forms of regulations were established to manage natural resources and protect the environment. Early societies recognized the importance of preserving the land, water, and air for future generations, leading to the development of customary laws and religious codes. However, the subject of our interest is the true origins of environmental law, thus our contribution in this part focuses on the second part of the 20th century when it is possible to talk about the emergence and growth of environmental law as we know it today. The beginning of modern environmental law can be traced back to the 1970s, a pivotal era marked by growing awareness of environmental degradation and its impact on human health and ecosystems in most countries of the world. While it might be tempting to believe that this was primarily the case in Eastern Bloc countries under the political influence of the Soviet Union, this is not entirely accurate. On the contrary, as articulated by Miroslav Vaňek,[3] even in developed nations during the early 1970s, the slowdown in labor productivity growth and the manifestation of ecological crisis indicators led to crises in social and political domains. However, it is necessary to point out the difference in how individual states (groups of states) approached the solution of these problems. Developed countries reacted to this circumstance by progressively restructuring their economies and adapting to the swiftly evolving conditions. For example, the environmental movement gained momentum in the United States of America during this time, spurred by events such as the publication of Rachel Carson's groundbreaking book *Silent Spring* in 1962, which exposed the harmful effects of pesticides on wildlife and human health. This subsequently led to the adoption of several important legal regulations limiting the impact of humanity on the environment.

In response to mounting public concern, governments around the world began enacting legislation to address environmental issues, which also applied

[3] M. Vaňek: *Nedalo se tady dýchat*. 1st edn. Prague: Maxdorf, 1996, p. 170.

to Czechoslovakia,[4] albeit only to a limited extent. It should be pointed out that in the conditions of Czechoslovakia, several legal regulations existed, which we would likely classify as part of environmental law today, even before this period. However, these regulations primarily targeted specific segments or elements of the environment.[5] During the 1970s and 1980s, Czechoslovakia also witnessed a surge of interest in environmental protection, leading to the amendment and enactment of new legal regulations related to environmental law.[6] However, as Milan Damohorský[7] notes, if these regulations did not build upon earlier legal frameworks, they often only made a modest contribution to environmental protection.

Finally, we arrive at the late 1980s, a period during which Czechoslovakia had over 170 legal regulations in place pertaining to the protection of the environment and its components.[8] The pitfall of such a legal circumstances, however, was still the support of strict departmentalism of the adopted measures – that is, the adopted laws fell under the department – the responsibility of a certain ministry and practically never exceeded its scope.[9] This only supported the further separation of the protection of individual components of the environment and the impossibility of creating a common concept of environmental protection which would necessitate the cooperation between the then ministries. It is crucial to recognize that despite having a comprehensive system of environmental regulations, Czechoslovakia ranked among the countries with the most severely affected environment and depleted natural resources globally. In 1992, the World Bank[10] identified the following as the major issues stemming from extensive industrial development within the territory of Czechoslovakia:

[4] It is worth mentioning that the Slovak Republic, as we recognize it today, was officially established on January 1, 1993. Prior to this, from 1945 to 1993, the territory was part of a state referred to in this article as Czechoslovakia, notwithstanding the various names adopted during this period.

[5] Examples from this period include: Act no. 1/1955 Coll., on State Nature Protection, Act no. 312/1948 Coll., on the Organization of State Forests and Estates, Act no. 11/1955 Coll., on Water Management, Act no. 43/1955 Coll., on Czechoslovak Spas and Springs, Act no. 84/1958 Coll., on Territorial Planning, Act no. 48/1959 Coll., on the Protection of Agricultural Land Fund, Act no. 35/1967 Coll., on Measures Against Air Pollution.

[6] Examples from this period include: Act no. 138/1973 Coll., the Water Act, Act no. 124/1976 Coll., on the Protection of the Agricultural Fund, Act no. 61/1977 Coll., on Forests.

[7] M. Damohorský et al.: *Právo životního prostředí*. 3rd edn. Prague: C. H. Beck, 2010, p. 25.

[8] E. Kružíková: *Právo životního prostředí*. In: *Komunistické právo v Československu. Kapitoly z dějin bezpráví*. Eds. M. Bobek, P. Molek, V. Šimíček. Brno: International Institute of Political Science, Masaryk University, 2009, p. 653.

[9] A similar situation persists to a certain extent to the present time in the conditions of the Slovak Republic.

[10] World Bank: *Czech and Slovak Federal Republics, the European Community and the World Bank*. Volume 2: Technical report. Report no. 9623-CS. [online], https://documents1.worldbank.org/curated/en/179031468028433502/pdf/multi-page.pdf [access: 25.03.2024].

- air pollution resulting from the widespread use of brown coal;
- significant damage to forests due to air pollution;
- decline in soil quality due to erosion, compaction, and waterlogging resulting from inappropriate agricultural methods and practices;
- pollution of rivers;
- water scarcity caused by the contamination of water sources.

Following the initial examination, this paradoxical scenario – that is, the coexistence of a robust legal framework alongside poor environmental conditions – becomes evident, yet it can be rationalized by several factors. First of all, an important factor influencing the effectiveness of regulations aimed at protecting and improving environmental conditions was the state ownership of enterprises contributing to environmental pollution, as state-imposed fines were not an effective solution to the situation (the state would not fine itself). This condition was also influenced by the fact that for businesses, it was often more advantageous to pay a fine than to invest in pollution prevention measures.[11] One of the additional reasons could be attributed to the relative international isolation of the Eastern Bloc, thus making it impossible to examine and draw inspiration from the legal frameworks of Western European countries. Similarly, the restricted access to information about the state of the environment limited residents' awareness. Some data on environmental pollution and its impact on public health were even classified in certain areas of Czechoslovakia, which also contributed to the deterioration of the environmental conditions. Eva Kružíková eloquently describes another reason for the dysfunctionality or inefficiency of socialist environmental law – she illustrates how two fundamental principles of environmental protection, "the polluter pays principle" and the "principle of prevention," were enshrined in the legal framework of Czechoslovakia but were poorly implemented in practice.[12]

The Velvet Revolution in November 1989 marked a period of rapid development and extensive transformation in Czechoslovakia. This event led to the demise of 41 years of one-party rule and the subsequent dismantling of the centrally planned economy and the transition to a market economy. Additionally, it instigated the transition to a parliamentary republic. During the period from 1989 to January 1, 1993, new-generation legal regulations emerged in Czechoslovakia within the field of environmental law. These regulations were enacted at the level of the Federal Assembly of the Czech and Slovak Federative Republic,[13]

[11] B. Moldan et al.: *Životní prostředí České republiky. Vývoj a stav do konce roku 1989*. 1st edn. Prague: Academia, 1990, p. 281.

[12] E. Kružíková: *Právo životního prostředí*…, p. 665.

[13] Examples of acts enacted during this period by this legislative body include: Act no. 238/1991 Coll., on Waste, Act no. 309/1991 Coll., on Air Protection Against Pollutants (Air Protection Act).

as well as through the national legislative bodies (the Slovak National Council for the Slovak Socialist Republic[14] and the Czech National Council for the Czech Socialist Republic). One of the significant legislative enactments in the domain of environmental law is Act no. 17/1992 Coll. on the Environment (hereinafter: Act on Environment), adopted by the Federal Assembly of the Czech and Slovak Federative Republic in December 1991. This legislation remains a foundational legal framework within the Slovak Republic,[15] enshrining fundamental concepts, principles, basic obligations, and legal instruments pertinent to environmental protection. Despite the position of the Act on Environment in the system of environmental legal regulation as an overarching legal statute, its significance in the current legal application is limited, which arises from its character as a *lex generalis*. Consequently, any provisions contained in specific acts, which are considered *lex specialis*, take precedence over the provisions of this act. Furthermore, the absence of any procedural provisions within its content hampers its practical application in legal practice. Due to these factors, the predominant function of this comprehensive legislation is primarily to serve as an interpretive guideline, especially in regard to the elucidation of specific environmental terminology.

On January 1, 1993, the independent Slovak Republic was established, and the continuity of the legal order was ensured by maintaining the legal framework of the federal state. Constitutional laws, statutes, and other generally binding legal regulations remained in force, irrespective of the state authority that enacted them, with the possibility of assessing their compliance with the Constitution.[16]

The historical trajectory of Slovak environmental law can theoretically be divided into three distinct periods: the implementation period (1993–1998), the pre-accession period (1999–2004), and the period of European integration (2004–present). However, due to constraints on length and focus, this article does not delve into a detailed analysis of these periods. While each phase undoubtedly contributed to the evolution of environmental regulation in Slovakia, their exploration falls beyond the scope of this article, which prioritizes

[14] Examples of acts enacted during this period by this legislative body include: Act no. 494/1991 Coll., on State Administration in Waste Management, Act no. 134/1992 Coll., on the State Air Protection Administration, Act no. 311/1992 Coll., on Charges for Air Pollution, Act no. 128/1991 Coll., on the State Environmental Fund of the Slovak Republic, Act no. 307/1992 Coll., on Protection of Agricultural Land Fund.

[15] It is noteworthy to mention that this act was also adopted into the legal framework of both the Slovak Republic and the Czech Republic, and it remains in force in both countries (albeit with individual modifications) to the present day.

[16] Provision of paragraph 1 of Article 152 of the Act no. 460/1992 Coll., on Constitution of the Slovak Republic, as amended: Constitutional laws, statutes, and other generally binding legal regulations remain in force in the Slovak Republic if they do not contradict its constitution. The competent authorities of the Slovak Republic have the authority to amend or revoke them.

examining the theoretical perspectives and criteria surrounding the recognition of environmental law as an independent branch of law.

2. Defining environmental law in legal condition of Czechoslovakia, and subsequently Slovakia and Czechia

As it is evident from the previous section, environmental law in the territory of Slovakia has undergone significant quantitative and qualitative development over the past fifty years. The legal regulations have increased in number from a few dozen to several hundred, primarily attributed to Slovakia's efforts to join the European Union and the subsequent obligation to transpose all EU regulations in this area. In this section of the article, we focus on the evolution of theoretical perspectives on environmental law, analyzing the viewpoints of individual Slovak and Czech authors with an emphasis on answering our research question about the existence of environmental law as an independent branch of law.

In the postwar Czechoslovakia, the legal framework for environmental care until around 1989 was fragmented, with a predominant emphasis on the protection of specific environmental components without close interconnection. During the 1970s and 1980s, there was indeed significant legislative activity in this area. However, it is characteristic that environmental law norms were scattered across almost all branches of law – economic law, criminal law, civil law, and especially administrative law. One of the pioneering authors who intensively engaged with environmental law was Zdeněk Madar. In his works, he employed the term "legal regulation of environmental care […] although, in his earlier works, he argued that this issue is not regulated by a single branch of law […]."[17] Nevertheless, it is possible to identify the first attempts and discussions regarding the possibility of sectoral independence of environmental law, albeit acknowledging that these were relatively premature.

At this point, it seems pertinent to highlight the viewpoint of Boleslav Pospíšil,[18] who, within his work published in 1981, did not consider it sufficiently feasible for the scope of legally regulated relationships in the field of environmental care to meet all necessary conditions for autonomy in terms

[17] Z. Madar: *Československé právo, státní správa a životní prostředí*. Prague: Ústav státní správy, 1976; Z. Madar: *Právo socialistických státu a péče o životní prostředí*. Prague: Academia, 1983, *passim*.

[18] B. Pospíšil: *Životní prostředí očima právnika*. 1st edn. Brno: Jan Evangelista Purkyně University, 1981, p. 52.

of quality, content, and breadth of addressed issues. As the main drawback, he pointed out that relationships associated with the care for individual components of the environment are, in the vast majority of cases, merely the result of other wider substantive legal relationships, and the entire issue falling within the defined scope is fundamentally a set of provisions predominantly of a preventive, liability, sanctioning, and reparative nature. A completely different opinion was held by the Slovak lawyer Jozef Klapáč,[19] who in the same year published an impressive article in which he explained fairly extensively the position of environmental law within the system of Czechoslovak socialist law. He stated that environmental law as an independent branch of law has a coherent system of basic principles and legal institutions, and it enters into functional connections with other branches within the legal system. This assertion is truly impressive and appealing, although it is questionable whether it can be fully endorse with benefit of hindsight. Similar views also appeared in one of the early textbooks of environmental law written at the Faculty of Law of Comenius University in Bratislava under the leadership of Katarína Tóthová.[20] Opinions of that kind published during this period cannot be dismissed and it should be highlighted that they were articulated before the substantial legislative expansion between 1989 and 1993 in this area of law, preceding the enactment of a separate Act on the Environment and, naturally, preceding the dissolution of Czechoslovakia and the alignment of environmental legislations with the EU legal framework.

For these reasons, it seems only natural to us to move directly to the period after the dissolution of Czechoslovakia and the subsequent formation of independent republics, which began to develop their own environmental legal regulations (while mutually motivating their legal systems, complementing them, and drawing inspiration from each other in the process). When considering the period that followed, it is essential to acknowledge the conference organized by Masaryk University in Brno in February 1995, during which the representatives of environmental law theory from the law faculties of Prague, Brno, and Bratislava[21] met. From our perspective, it was rather intriguing (one may even say unique) that the discussions at the conference focused on theoretical issues of environmental law, including its designation as a separate branch of law, its subject matter, regulatory methods, and the role of law in this area of societal life. While discussing the published proceedings from the conference in question, we concentrate on three contributions therein, since later on their authors focused in their academic works on analyzing the very same matter in depth.

[19] J. Klapáč: *Právo životného prostredia v systéme práva*. "Právnik" 3 (1981), pp. 261–288.

[20] K. Tóthová et al.: *Vybrané problémy práva životného prostredia*. Bratislava: Comenius University in Bratislava, 1985, pp. 31–34.

[21] The participation of personalities such as Milan Damohorský, Milan Pekárek, Soňa Košičiarová, Ivana Průchová, Jozef Cingroš, and others is the evidence of the excellence of the collective that convened.

The first contribution is by Milan Pekárek,[22] who focuses, among other things, on the analysis of various criteria that could be used to verify a certain part of the legal system as an independent branch of law. Specifically, he elaborates on the criterion of the subject matter of legal regulation – the criterion clearly relating to societal relations regulated by law, and the criterion of the method of legal regulation, which he identifies as fundamental, along with other supplementary criteria.[23] However, in his conclusions, he does not come up with an unequivocal answer. On the one hand, he argues that all criteria for the existence of environmental law as a separate branch of law are fulfilled, but at the same time, he adds that whether we designate environmental law as a separate branch of law will not change its essence. The reasons why efforts should continue in the theory of environmental law to be recognized as a separate branch of law are primarily seen in the field of normative creation, where it can significantly influence the shape of legal regulation.

The second contribution we would like to mention was authored by Soňa Košičiarová,[24] who also analyzes individual criteria and examines whether they had been fulfilled in the case of environmental law. However, there is a more moderate opinion that the definitive recognition of environmental law as a separate branch of law in the Czech or Slovak legal system remains a preliminarily open question, despite the visible shift towards its recognition. Milan Damohorský,[25] the author of the third contribution of our choosing, primarily addressed questions regarding environmental law as a pedagogical discipline. Nevertheless, he states that environmental law was already established, first as a scientific and legislative discipline, and subsequently as a completely independent and distinct branch of law.

In the same year, the first edition of the textbook on environmental law was published with Soňa Košičiarová as its chief editor. In the textbook, she elaborates on her theory of environmental law and arrives at the same conclusions as in her previous work, asserting that the recognition of environmental law as an independent branch of law remains still an open question.[26]

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[22] M. Pekárek: *Právo životního prostředí – jeho místo a funkce v systému českého práva*. In: *Právo životního prostředí: (sborník příspěvků z konference)*. Brno: Masaryk University, 1995, pp. 5–15.

[23] The analysis of individual criteria, both fundamental and supplementary, is elaborated on in the third section of this article.

[24] S. Košičiarová: *Právo životného prostredia v systéme českého práva, 16.2.1995, Brno*. In: *Právo životního prostředí: (sborník příspěvků z konference)*. Brno: Masaryk University, 1995, pp. 15–27.

[25] M. Damohorský: *Několik poznámek k problematice právo životního prostředí jako pedagogické disciplíny*. In: *Právo životního prostředí: (sborník příspěvků z konference)*. Brno: Masaryk University, 1995, pp. 41–44.

[26] S. Košičiarová et al.: *Právo životného prostredia*. Bratislava: Publishing Department of the Faculty of Law, Comenius University in Bratislava, 1995.

In another textbook edited by Košičiarová (in 2002),[27] a partial shift of her perspective on environmental law is visible. Therein, she notes that the customary way of classifying law in Slovakia has been and still is its division into legal branches, which can be categorized based on differential criteria into branches belonging to the subsystem of public law, those belonging to the subsystem of private law, and legal branches of a hybrid nature (among which she also includes environmental law). On the one hand, it should be noted that regarding the autonomy of the legal branch of environmental law, she mentions that this branch of law is still in the process of "maturing" despite its dynamic development since the 1980s. On the other hand, in the conditions of Slovakia after 2002, we do not find any direct (or, in fact, indirect) works addressing the issue of recognizing or not recognizing environmental law as a separate branch of law. This is partially because there are painfully few legal scholars who devote their works/research to this area of legal regulation in Slovakia (fewer than ten, according to our estimates). Worth mentioning in this context is the textbook *Environmentálne právo* (Environmental Law) by Branislav Cepek,[28] which, however, does not provide a clear answer or even a discussion on this issue. In the latest textbook on environmental law published in Slovakia by Soňa Košičiarová, there has been a shift in perspective towards environmental law. However, much to our surprise and chagrin, this shift does not lead to the recognition of environmental law as a separate branch of law, but only as an area within the legal order. The anticipated "maturation" has thus not occurred according to her, with the main reason cited being that norms regulating environmental protection and the use of natural resources are part of the regulation of various legal branches.[29]

A somewhat more progressive approach to this issue is evident in the Czech Republic, where in 2003 the first edition of the textbook on environmental law was published under the lead of Milan Damohorský,[30] who had no doubts about its existence for quite some time. In the textbook in question, it is stated that environmental law is not only very young but also a dynamically evolving branch of law. This approach is also visible in the the textbook's third edition published in 2010,[31] where while it defines the basic criteria used to determine whether it is a separate branch of law or not, it no longer opens the debate on environmental law and unequivocally treats environmental law as a distinct

[27] S. Košičiarová et al.: *Právo životného prostredia – Všeobecná časť.* Šamorín, Heuréka 2002, pp. 82–86.

[28] B. Cepek: *Environmentálne právo. Všeobecná a osobitná časť.* Pilsen: Publishing House Aleš Čeněk, 2015, pp. 11–32.

[29] S. Košičiarová: *Právo životného prostredia. Všeobecná časť.* Pilsen: Publishing House Aleš Čeněk, 2022, p. 46.

[30] M. Damohorský et al.: *Právo životního prostředí.* 1st edn. Prague: C. H. Beck, 2003.

[31] M. Damohorský et al.: *Právo životního prostředí.* 3rd edn. Prague: C. H. Beck, 2010.

branch of law. The year 2000, marked the establishment of the Česká společnost pro právo životního prosředí (Czech Society for Environmental Law). Among its initiatives, the society commenced the publication of the scholarly journal *České Právo Životního Prostředí* (Czech Environmental Law), with its first issue released in 2001. The said volume may serve as an excellent source of insights into the perspectives of experts on environmental law from that time and we would like to focus on two articles therein. The first one is the editorial by Milan Damohorský,[32] who (as we mentioned earlier) unequivocally asserts that environmental law constitutes a distinct branch of law. Within his contribution, he elaborates on this assertion, acknowledging that environmental law emerges as a separate, relatively cohesive, and extensive branch of law. He views discussions (more or less fruitful) regarding its existence as a distraction, diverting time and energy from legal theorists and practitioners that could be better utilized elsewhere – in the legislative process, application, pedagogy, advocacy, and educational endeavors. One is compelled to agree with this opinion, but in the conditions of the Slovak Republic, we did not encounter a clearly defined opinion that environmental law is a separate branch of law, and therefore, while preparing our environmental law textbook, we used the current article to resolve this issue.

3. Criteria for acknowledging a branch of law as distinct and their fulfillment in the context of environmental law

In the realm of legal studies, the classification of various fields of law into distinct branches of law serves as a foundational framework for understanding their unique characteristics, principles, and applications. This classification serves several purposes, including pedagogical, scientific, legislative, and applicative dimensions. Legal branches delineate the boundaries within which legal principles operate and provide a framework for legal analysis and discourse. However, the said delineation is not always straightforward, particularly in areas where the subject matter overlaps with multiple fields or where specialized considerations come into play. In this section, we embark on an exploration of the criteria commonly used to identify and evaluate a distinct branch of law, examining how they apply to the domain of environmental law. Our primary focus lies in scrutinizing the subject matter of legal regulation, the method of legal regulation, and the distinguishing legal principles, particularly in the context of

[32] M. Damohorský: *České právo, Česká společnost a český časopis, a to vše pro životní prostředí*. In: *České Právo Životního Prostředí*. Prague: IFEC s.r.o., no. 1, 2001, pp. 3–5.

environmental law. Additionally, we delve into the substantial body of law and its international dimension. Furthermore, we consider public interest and policy considerations in evaluating environmental law as a distinct legal branch.

To begin with, we must emphasize that environmental law, with its intricate interplay of regulatory frameworks, scientific principles, and global ramifications, presents a compelling case for independent classification within legal doctrine. By scrutinizing the criteria traditionally employed in recognizing distinct branches of law, we aim to illuminate the unique attributes of environmental law and assess its standing as an autonomous branch of law in the legal system of Slovakia. Throughout our evaluation, we will consider both the merits and challenges associated with recognizing environmental law as a distinct branch of law. While its specialized subject matter and interdisciplinary nature may argue in favor of independence, potential complexities along with its overlapping with other legal domains must also be carefully weighed. By engaging in this analysis, we seek to provide insights into the evolving landscape of legal scholarship and advocate for a nuanced understanding of environmental law's role within the broader framework of legal theory and practice.

3.1. Subject matter of legal regulation – the nature of social relationships

A distinctive feature of any branch of law is its unique subject matter, setting it apart from other realms of law. In the pursuit of recognition as an autonomous legal domain, the legal imperative of this kind of investigation lies in identifying a coherent set of societal relations that are both internally consistent and, at the same time, distinct from other societal frameworks. Despite humanity being undoubtedly the most intelligent species, it is also the most destructive species on this planet. It is important to recognize that we have not been able to "command" nature, and thus environmental law can only regulate and govern human behavior and actions towards the environment. Notably, environmental law does not seek to regulate the environment *per se* but rather concentrates on human interactions with and impacts upon it. A compelling argument in this regard is presented by Milan Pekárek,[33] who argues that there exist social relations in which individuals and other entities engage to protect the environment, and also social relations in which individuals and other entities primarily seek to satisfy their other needs and interests, such as protecting their environment. However, the general understanding of the necessity to protect the environment as a fundamental condition for the continued existence of life and the human race

[33] M. Pekárek: *Právo životního prostředí – jeho místo a funkce v systému českého práva*. In: *Právo životního prostředí: (sborník příspěvků z konference)*. Brno: Masaryk University, 1995, p. 8.

on Earth leads to the inclusion of environmental protection as both the goal and content of these relations.

Environmental law serves as a prime example of this principle, primarily concerned with regulating human activities to safeguard the environment and preserve natural resources. Its purview encompasses a wide array of legislative domains, including pollution control, biodiversity conservation, natural resource management, and climate change mitigation and adaptation related thereto. When examining the distinctions that separate environmental law from administrative law, it becomes evident that administrative law oversees the organizational framework, authority, and procedural aspects of administrative agencies and their engagements with the populace. Although administrative agencies may enforce environmental regulations, environmental law encompasses substantive measures extending beyond administrative procedures. What distinguishes environmental law from its counterparts, such as criminal law, contract law, or property law, is its steadfast focus on environmental protection and sustainability.

Therefore, it is undeniable that environmental law possesses a sufficiently specified subject matter of legal regulation, which represents a domain of social relations sufficiently coherent and distinct from other groups of social relations. Milan Damohorský defines it as "social relations of the environment and its protection regulated by legal norms, which also include responsibility for endangering and damaging the environment."[34] Ilona Jančářová,[35] in turn, defines the subject matter of environmental law as social relations whose object is the environment. She also points to the fact that these relations are characterized by several defining characteristics, which arise from the particularity of the object of these relations, namely, the uniqueness of the environment.[36]

[34] M. Damohorský et al.: *Právo životního prostředí*. 3rd edn. Prague: C. H. Beck, 2010, p. 30.

[35] I. Jančářová: *Pojem a predmť právo životního prostředí*. In: I. Jančářová et al.: *Právo životního prostředí: obecná část*. 1st edn. Brno: Masaryk University, 2016, p. 21.

[36] These defining characteristics are identified as follows:

a) The environment is a prerequisite for any form of life.
b) Every living organism is part of the environment and forms a unity with it, which humans must respect when utilizing natural resources. Interventions in a certain part (component) of the environment manifest in other parts (components).
c) The condition of the environment is the result of the interaction of a variety of factors, and the consequences of these interactions do not manifest immediately but with a delay.
d) The environment is the subject of study of many scientific disciplines, from which it is necessary to draw insights in mutual connections and relationships.
e) The necessity to respect natural laws.
f) The fact that the environment and its condition and quality, is a prerequisite for human existence, makes environmental care a matter of public interest. (I. Jančářová et al.: *Právo životního prostředí*...).

3.2. Purpose and objectives of legal regulation

The purpose and objectives of legal regulation within any branch of law are manifold, serving as the cornerstone for the functioning of society and the protection of individual rights and interests. At its essence, legal regulation aims to establish a framework of rules and principles that govern human behavior, interactions, and transactions within a specific domain of societal affairs. Ultimately, the overarching objective of legal regulation within any branch of law is to contribute to the well-being and prosperity of society, fostering a stable, equitable, and lawful legal order for all members of the community. The primary purpose of environmental law is to regulate human activities to protect the environment and natural resources. Unlike many other branches of law that primarily focus on governing human conduct in relation to social and economic interactions, environmental law is specifically geared towards safeguarding the natural world and addressing ecological concerns. Yet, when considering the objectives of legal regulation, the distinctiveness of environmental law becomes even more pronounced. This is because the primary objective of environmental legal regulation is to achieve and preserve a favorable environment for future generations. Soňa Košičiarová[37] further elaborates on this objective, stating that it consists in ensuring a favorable state of the environment that enables the existence and healthy development not only of the present generation but also of generations to come. Additionally, it aims to establish an optimal relationship between the state of the environment and economic and reproductive processes (consumption models). We would like to build upon the aforementioned discussion, and upon closer examination, delineate the five fundamental objectives of environmental law:

I. Sustainable development

Environmental law advocates for the concept of sustainable development, aiming to fulfill present needs while safeguarding the ability of future generations to meet their own needs. It strives to strike a balance between environmental conservation and socio-economic advancement, ensuring enduring prosperity.

II. Conservation and preservation

Environmental law endeavors to conserve biodiversity, safeguard endangered species, and preserve natural ecosystems. Its objective is to prevent the degradation of ecosystems and uphold the equilibrium of natural processes vital for sustaining life on Earth.

[37] S. Košičiarová: *Právo životného prostredia. Všeobecná časť.* Pilsen: Publishing House Aleš Čeněk, 2022, p. 7.

III. Pollution control

A pivotal objective of environmental law is to regulate pollution and mitigate its adverse impacts on the environment and public health. This involves regulating emissions, waste disposal, and hazardous substances to minimize environmental harm.

IV. Public health protection

Environmental law assumes a critical role in protecting public health by regulating exposure to harmful pollutants, contaminants, and hazardous substances present in the air, water, soil, and food.

V. International cooperation

Given the transboundary nature of numerous environmental challenges, environmental law frequently entails international collaboration and agreements to address global issues such as climate change, biodiversity loss, and pollution.

3.3. Distinct legal principles

One of the criteria used to distinguish a separate branch of law, which is significant for environmental law, is the existence of its own set of principles. Within Slovak legal theory, there is still no unanimous agreement on what a principle actually is. In general, this term refers to fundamental ideas from which law originates, expressing the ideological source and various developmental tendencies of regulating selected areas of social issues.

Principles within the legal framework of a state play pivotal and arguably indispensable roles, with the foremost being the interpretative, applicative, and legislative functions. Given the distinct objectives and subject matter of environmental law, it is unsurprising that principles specific to this field have been formulated. Within this conceptual framework of principles, there exist those that are inherent to law in general and transcend specific legal domains – exemplified by the principle of prevention. Subsequently (and of greater relevance for this article), are those principles that epitomize the unique legal tenets of environmental law, distinct from any other legal domain, or only partially overlapping with them. It is necessary to note that, within the legal framework of Slovakia, it is a relative advantage that the principles of environmental law are sufficiently codified, which, on the other hand, cannot be said of certain principles of "established" branches of law. Their non-exhaustive list is found in the Act on Environment. Among the most important legal principles of environmental law at present are:

– the principle of the highest value,
– the principle (concept) of sustainable development,
– the principle of state responsibility,
– the principle of prevention,
– the principle of precautionary action,
– the polluter pays principle,
– the principle of rectification at source,
– the principle of ecologization, enlightenment, and education,
– the principle of public information and participation.[38]

Without a doubt, we dare to assert that environmental law possesses a distinct and relatively comprehensive toolbox of principles, which are typically unique to this branch of law and usually have a statutory expression in *lex generalis*.

3.4. Method of legal regulation

In the context of legal regulation, if the subject matter of legal regulation answers the question: "What do we regulate?," then in the case of the method of legal regulation, we find the answer to the question: "How do we regulate it?" Through the method of legal regulation (as one of the dividing criteria), it is possible to divide the legal system of Slovakia into public law and private law. It should be noted that this division has recently faced criticism, but we do not have space to address it in this article. Ilona Jančářová[39] provides a superb explanation of what needs to be understood by the method of legal regulation:

– defining what "legal" means to the legislator who endevours to regulate certain areas of social relations;
– what position the subjects of these relations take towards one another;

[38] In the context of application of the Article 15 of the Treaty on the Functioning of the EU [3] we can also speak about the need for transparency in the implementation of environmental policy. It is generally respected that the principle of transparency creates a kind of "communication tool" between the public administration and the public authorities on the one hand and the public, citizens, and individuals on the other one. Under the Article 15 sec. 1 of the Treaty on the Functioning of the EU: "In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible." The importance of this principle is also emphasized by the doctrine of Environmental Law in Slovakia and in the Czech Republic (J. Hanák, I. Průchová et al.: *Kontrolní mechanismy při prosazování ochrany životního prostředí.* 1st edn. Brno: Masaryk University, 2017. Spisy Právnické fakulty MU, řada teoretická, edice Scientia, sv. č. 595.

[39] I. Jančářová: *Pojem a predmť právo životního prostředí*. In: I. Jančářová et al.: *Právo životního prostředí: obecná část.* 1st edn. Brno: Masaryk University, 2016, p. 22.

– what leeway these subjects have to regulate their relations among themselves by their own expressions of will;
– what legal consequences are associated with the violation of the established rules.

However, it is necessary to point out that when considering the method of legal regulation as one of the criteria for analyzing whether a particular branch of law is independent or not, we encounter the objective fact that there are substantially fewer legal branches than legal methods. Subsequently, we must agree with the overwhelming majority of authors who argue that in the case of environmental law, it represents a public law method of regulation with elements of the private law method.

3.5. Substantial body of law

The recognition of environmental law as a distinct branch within the legal landscape is corroborated by its substantial body of legal doctrines, principles, and regulations. Unlike traditional legal disciplines, environmental law navigates the intricate relationship between human activities and the natural world, addressing topical concerns related to ecological sustainability, resource management, and environmental protection. This segment delves into the expansive framework of environmental law, elucidating its multifaceted dimensions and supporting the rationale behind its classification as an independent branch of law. Through an exploration of its substantive legal corpus, we unveil the unique attributes that delineate environmental law as a specialized and indispensable facet of contemporary legal doctrine.

In the Slovak legal system, environmental law operates across three distinct levels of legal regulation: international, European Union, and national. Each level contributes to the comprehensive legal framework governing environmental protection and management within the country. At the international level, Slovakia participates in various international agreements, treaties, and conventions aimed at addressing global environmental challenges. These agreements often involve cooperation with other nations to tackle transboundary issues such as climate change, biodiversity conservation, depletion of the ozone layer and pollution control. By adhering to these international commitments, Slovakia aligns itself with global efforts to safeguard the environment and promote sustainable development. Within the EU, Slovakia is bound by EU environmental law, which consists of directives, regulations, and decisions formulated by the European institutions. Environmental legislation at the EU level sets common standards and objectives for member states, ensuring a harmonized approach to environmental

protection across the whole EU.[40] Through EU directives, Slovakia is obligated to transpose European environmental norms into its national legal framework, thus facilitating the integration of EU environmental policies into domestic law. Alignment with EU law was paramount for Slovakia's accession to the European Union, ensuring compliance with European standards and facilitating its integration into the EU. At the national level, Slovakia has its own body of environmental legislation tailored to address specific environmental challenges within the country. National laws and regulations complement international and EU legal instruments, providing additional measures for the protection of the environment, conservation of natural resources, and management of pollution. Slovakia's national environmental laws reflect its commitment to fulfilling international obligations and complying with EU legislation while addressing unique environmental issues at the domestic level. Overall, the tripartite structure of environmental law in Slovakia ensures a versatileapproach to environmental governance, incorporating international cooperation, legislation of the EU, and national legislation to achieve comprehensive environmental protection and sustainability.

3.6. International dimension

The international dimension is a crucial criterion in considering environmental law as a distinct branch of law, particularly due to its unique engagement with transboundary environmental issues. Unlike many other legal disciplines, environmental law often necessitates international cooperation and treaties to

[40] At the level of the EU law, the protection of environment plays the key role of the environmental policy according to the Article 191 of the Treaty on the Functioning of the EU. Under the Article 191 sec. 1 of TFEU: "1. Union policy on the environment shall contribute to pursuit of the following objectives: preserving, protecting and improving the quality of the environment, protecting human health, prudent and rational utilization of natural resources, promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change." It must be said that the environmental policy expresses a certain link between the values of health and environmental protection as these values represent the basic pillars of European environmental law. This statement is also emphasized by the enshrinement of public health protection in the Article 168 of the Treaty on the Functioning of the EU, under which "[a] high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health. The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention."

address global challenges such as climate change, biodiversity loss, and pollution. This international aspect sets environmental law apart, as it requires collaboration beyond national borders to effectively regulate and manage environmental concerns, showcasing its distinctiveness as a separate branch of law. This international dimension of environmental law underscores its unique character and necessity to recognize it as a separate branch of law. While disciplines like contract law or criminal law may have limited or no international component, environmental law is deeply intertwined with international cooperation and governance structures. Through treaties such as the Paris Agreement[41] or the Convention on Biological Diversity,[42] nations come together to set common goals, standards, and mechanisms for environmental protection and sustainability.

Furthermore, environmental law extends beyond mere compliance with international agreements; it encompasses the intricate interplay between national regulations and international obligations. Legal practitioners in this field must navigate complex layers of domestic legislation, regional directives, and global frameworks to ensure effective environmental governance. In essence, the international dimension of environmental law highlights its unique role in

[41] For example, the Slovak Republic became the fourth EU country to ratify the Paris Agreement. On September 21, 2016, the National Council of the Slovak Republic voted to ratify this convention. See: *Slovakia becomes fourth EU country to ratify the Paris Agreement*, 2016. [online], https://www.euractiv.com/section/climate-environment/news/slovakia-becomes-fourth-eu-country-to-ratify-the-paris-climate-agreement/ [access: 30.03.2024].

[42] Main documents related to Convention on Biological Diversity in Slovakia are the EU Strategy for the Protection of Biodiversity until 2023, its Action Plans and the Concept of Nature and Landscape protection until 2023. They cover all the relevant items, targets and goal including human rights obligations. Based on the importance of nature, the natural and cultural landscape and its heritage, it is clear that the interest in the protection of environment is a society-wide value, based on mutual cooperation and civil understanding. The environmental policy in the Slovak Republic establishes a framework for the activities of state bodies and institutions, municipalities, private owners of land in protected areas and non-governmental actors in the protection and management of the environment. The Slovak environmental policy also recognizes the fact that the natural diversity of life is a basic prerequisite for the functioning of ecosystems, which provide irreplaceable services to mankind. It promotes food security, regulates and controls infectious diseases, plays an essential role in adaptations to climate change and buffers the consequences of natural disturbances. The lack of biodiversity resources, or the decline in their quality, is a fundamental limiting factor for the existence and development of society. See: Ministry of the Environment of the Slovak Republic and State Agency for Nature Protection of the Slovak Republic: *Concept of nature and landscape protection until 2030*, 2019. [online], https://www.slov-lex.sk/legislativne-procesy?p_p_id=processDetail_WAR_portletsel&p_p_lifecycle=2&p_p_state=normal&p_p_mode=view&p_p_cacheability=cacheLevelPage&p_p_col_id=column-2&p_p_col_count=1&_processDetail_WAR_portletsel_fileCooaddr=COO.2145.1000.3.3748540&_processDetail_WAR_portletsel_file=Koncepcia_ochrany_prirody_a_krajiny_do_roku_2030.pdf&_processDetail_WAR_portletsel_action=getFile [access: 30.03.2024].

addressing transboundary environmental challenges and promoting global cooperation.[43] While other legal disciplines may operate within narrower confines, environmental law's engagement with the international community and its focus on global environmental sustainability underscores its status as a distinct and indispensable branch of law.

4. Conclusions and outlook for the future

The examination of the historical development, theoretical perspectives, criteria for classification, and substantive dimensions of environmental law in the context of Slovakia illuminates its evolution as a distinct and indispensable branch of law within the legal landscape. Over the past decades, environmental law has undergone significant quantitative and qualitative growth, propelled by global environmental challenges, legislative reforms, and international cooperation. The origins of environmental regulation in Czechoslovakia and subsequently Slovakia can be traced back to the mid-20th century, with the emergence of rudimentary laws addressing specific environmental concerns. However, it was not until the latter half of the century, marked by growing awareness of environmental degradation and societal upheavals, that environmental law began to take shape as a distinct field. The transition from fragmented regulations to comprehensive legal frameworks reflected a shift towards recognizing environmental protection as a paramount societal goal.

Theoretical debates surrounding the classification of environmental law as an independent branch of law have evolved over time, reflecting changing legal, social, and environmental paradigms. While early discussions in Czechoslovakia grappled with the feasibility of environmental law as a separate domain, subsequent developments, including legislative reforms and academic inquiries,

[43] It can be mentioned that the Slovak Republic tries to become an active member of the international community as for the concept of environmental justice. It actively promotes the climate financing. The official development assistance has become an integral component of the foreign policy of the Slovak Republic. More than 400 projects in nearly twenty countries in Africa, Asia and Europe have been implemented over the past decade under the SlovakAid logo. The Slovak Republic cooperates with the following partner countries: Afghanistan, Kenya, Moldova (program countries), Albania, Belarus, Bosnia and Herzegovina, Georgia, Kosovo, Ukraine (project countries), South Sudan (country with exceptional humanitarian and development needs). See: Ministry of Environment of the Slovak Republic: *Fourth biennial report. In accordance with the Decision 1/CP.16 and the Decision 2/CP.17*, 2019. [online], https://unfccc.int/sites/default/files/resource/BR4-1-4BR_SVK_SHM%C3%9A_final.pdf#%5B%7B%22num%22%3A40%2C%22gen%22%3A0%7D%2C%7B%22name%22%3A%22XYZ%22%7D%2C68%2C546%2C0%5D [access: 30.03.2024].

have solidified its status as a distinct legal discipline. Key criteria such as subject matter, legal principles, method of regulation, and international dimensions have been examined to elucidate the unique attributes of environmental law. Environmental law satisfies fundamental criteria for classification as an independent branch of law within the legal system of Slovakia.[44] Its subject matter, focused on regulating human interactions with the environment, sets it apart from other legal domains. Environmental law embodies distinct legal principles,[45] methods of regulation, and objectives,[46] emphasizing sustainability,

[44] Over the past 20 years it has become even more relevant in the field of procedural environmental protection. The important level of legal relations pertaining to procedural environmental rights in the Slovak Republic is established by the *UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, adopted in Aarhus on June 25th, 1998* (hereinafter: the Aarhus Convention). The Aarhus Convention follows the enshrinement of procedural environmental rights within the Principle no. 10 of the *1992 Declaration on Sustainable Development adopted at the Rio de Janeiro Conference.* According to this principle, environmental issues are best addressed with the participation of all citizens concerned and at the relevant level. The declaration therefore enshrined the following procedural environmental rights:

- procedural right to environmental information (access to information on the state of the environment held by public authorities, including information on hazardous materials and activities at the local level);
- the right to participate in the decision-making process (wide availability of information);
- access to justice in environmental matters (effective access to administrative proceedings and the right to compensation and effective remedy).

The goal of public participation in environmental matters is arising from the requirements of the EU Law and the Council of Europe documents. The European approaches emphasizing the procedural environmental rights have also been transposed and implemented into the Slovak legal system. The public concerned, organized in associations or, for example, in the form of informal groups of individuals, is proving to be able to exercise the right to a favorable environment in matters of environmental policy. So far, the case law of the courts has largely focused on cases of permits.

[45] The jurisprudence of Slovak courts emphasizes e.g. the application of the precautionary principle, which serves for the environmental protection and prevents it against possible negative impacts. It thus reflects on one of the principles of environmental protection, which is explicitly defined in the Article 13 of Act on Environment. The jurisprudence also states that when applying preliminary protection, one works only with the assumptions and risks of the potential occurrence of a negative consequence. The application of the above-mentioned principle requires consideration of factual circumstances, interests and therefore a considerable degree of correct consideration. It is the task of the administrative authorities to ensure that this correct reasoning is based on reliable sources, factual findings and that it is properly justified and therefore also reviewable. See: The Decision of the Supreme Court of the Slovak Republic of August 5, 2020, no. 3Sžk/29/2019.

[46] In the area of environmental objectives, the case law of the Slovak courts holds the opinion that the Slovak legal order established the objective liability of the individual for the favorable state of the environment without admitting liberating reasons. According to the Article 17 sec. 1 Act on Environment everyone is obliged to prevent pollution or damage to the environment and to minimize the adverse consequences of their activities on the environment,

conservation, and public health protection.[47] Moreover, its substantial body of legislation, encompassing international, EU, and national frameworks, underscores its significance as a specialized area of legal doctrine.

Environmental law encompasses a multifaceted legal framework spanning international agreements, the legislation of the EU, and national regulations. Its primary objectives, including sustainable development, pollution control, and public health protection, reflect societal values and policy imperatives. Furthermore, environmental law's engagement with transboundary issues underscores its international dimension and necessitates global cooperation to address shared environmental challenges. Despite the extensive scope of our article, there are additional supporting criteria that we have not elaborated on in detail. However, these can serve as supplementary arguments and reasons why, like in the Czech Republic, Poland, and other EU member states, we should also recognize environmental law as an independent branch of law in the Slovak Republic. Among these, one can include the evolution of environmental jurisprudence, strong public participation and rights, preventive and precautionary measures, distinct policies and governance, and, among other things, the fact that environmental law is taught as a separate mandatory subject at the Faculty of Law, Comenius University in Bratislava. In conclusion, the evolution and recognition of environmental law as a distinct branch of law within the legal

primarily through measures directly at the source. Thus, on the one hand, the legislator defined the obligation of the individual formulated as general prevention (*a priori*) in the sense of constitutional Article 44 sec. 2 and 3 and Art. 20 sec. 3 last sentence (the public interest in the protection of the environment exceeds the private interest based on the benefits achieved when dealing with the subject of property rights) and at the same time as a general remedy (*a posteriori*) against the deterioration of the level of the environment, regardless of its internal attitude to the consequences for his behavior. On the other hand, the legislator did not set the conditions that would justify the individual's behavior towards the environment in relation to the negative consequences themselves. In this way, the Slovak legal order established the objective liability of the individual for the favorable state of the environment without admitting liberating reasons. See: The Decision of the Supreme Court of the Slovak Republic of June 22, 2010, no. 5Sžp/106/2009.

[47] The jurisprudence of the Slovak courts also analyzes the right to a favorable environment in the scope of personality rights under the Article 11 of the Civil Code, under which "a natural person has the right to the protection of its personality, especially life and health, civil honor and human dignity, as well as privacy, its name and expressions of a personal nature." The number personal rights protected by the provision in question is not closed (compare the word "in particular") and the scope of the values protected by it composition of the personality of a natural person is constantly evolving. The right to an adequate environment, which is very close to the right to private life and family life, should undoubtedly be included in the sphere of these rights. Based on the above, the courts hold the position that the right to a favorable environment, which also includes the right to peaceful and undisturbed use of the home, is a subjective substantive legal entitlement (right) of a natural person, which can be claimed by a procedure established by law before administrative and judicial authorities (The Decision of the Supreme Court of the Slovak Republic of April 30, 2008, no. 5Cdo/126/2007).

system of Slovakia proves its vital role in addressing contemporary environmental challenges and promoting sustainable development.

By integrating principles of public interest, policy considerations, and international cooperation, environmental law serves as a linchpin for environmental governance, safeguarding the health of the planet and the wellbeing of present and future generations. As environmental issues continue to evolve and intensify, the significance of environmental law as a specialized legal discipline is likely to grow, emphasizing the need for ongoing research, legislative reforms, and collaborative efforts to ensure environmental sustainability. While this article presents the opinions and analyses of various authors and our conclusions, we acknowledge that the debate surrounding the classification of environmental law as an independent branch remains open, and we seek to stimulate further discourse and inquiry to arrive at a comprehensive understanding of this complex legal domain. Writing about Slovak environmental law in English allows for broader participation and engagement in future debates, facilitating knowledge exchange and collaboration among international scholars, practitioners, and policymakers interested in environmental regulation and sustainability efforts.

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Matúš Michalovič, Michal Maslen

Głos za uznaniem prawa ochrony środowiska – podstawy statusu prawa ochrony środowiska jako niezależnej gałęzi prawa w słowackiej doktrynie prawnej

Streszczenie

Artykuł śledzi historyczny rozwój regulacji środowiskowych w Czechosłowacji i później na Słowacji, ze szczególnym uwzględnieniem przejścia od rozproszonych ram prawnych do kompleksowej legislacji, a konkretnie Ustawy nr 17/1992 Coll. o środowisku. Zreferowane zostały teoretycznoprawne debaty na temat tego, czy prawo środowiskowe stanowi niezależną gałąź prawa, a analizie poddano kryteria uznania go za osobną gałąź prawną, takie jak: przedmiot i cele prawa, wyraźne zasady, metody regulacji prawnej i międzynarodowy wymiar regulacji. Choć artykuł opowiada się za uznaniem prawa środowiskowego za odrębną gałąź prawa, to jednocześnie autorzy dostrzegają trwające debaty i podkreślają potrzebę kontynuowania badań w celu osiągnięcia konsensusu. Ogólnie rzecz biorąc, artykuł pozwala zaznajomić się z ewolucją prawa środowiskowego, wyzwaniami przed nim stojącymi i jego potencjalną rolą w ramach teorii i praktyki prawniczej.

Słowa kluczowe: rozwój prawa środowiskowego, perspektywy teoretyczne, niezależna gałąź prawa, analiza kryteriów, dyskurs naukowy

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Мнение в пользу признания права защиты окружающей среды – основы статуса права охраны окружающей среды как независимой отрасли права в словацкой правовой доктрине

Резюме

В статье изложено историческое развитие природоохранного регулирования в Чехословакии и Словакии, при этом особое внимание уделяется переходу от разрозненной правовой базы к комплексному законодательству, в частности, к закону № 17/1992 Coll. об окружающей среде. Изложены теоретико-правовые дискуссии о том, является ли экологическое право самостоятельной отраслью права, а также проанализированы критерии признания его отдельной отраслью права: предмет и цели права, четкие принципы, методы правового регулирования и международный аспект регулирования. Хотя авторы статьи выступают за признание экологического права отдельной отраслью права, они также отмечают продолжающиеся дискуссии и подчеркивают необходимость продолжения исследований для достижения консенсуса. В целом, статья дает представление об эволюции экологического права, проблемах, с которыми оно сталкивается, и его потенциальной роли в правовой теории и практике.

Ключевые слова: развитие экологического права, теоретические перспективы, самостоятельная отрасль права, критериальный анализ, научный дискурс

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Una voce per il riconoscimento del diritto ambientale le basi per lo status del diritto ambientale come branca indipendente del diritto nella dottrina giuridica slovacca

Sommario

L'articolo ripercorre lo sviluppo storico della regolamentazione ambientale in Cecoslovacchia e in Slovacchia, con particolare attenzione alla transizione da un quadro giuridico frammentato a una legislazione completa, in particolare la legge n. 17/1992 Racc. Sull'ambiente. Vengono passati in rassegna i dibattiti teorico-giuridici sul fatto che il diritto ambientale costituisca un ramo indipendente del diritto e vengono analizzati i criteri per il suo riconoscimento come ramo giuridico separato, come l'oggetto e gli obiettivi della legge, i principi espliciti, i metodi di regolamentazione giuridica e la dimensione internazionale della regolamentazione. Se da un lato l'articolo sostiene il riconoscimento del diritto ambientale come branca separata del diritto, dall'altro gli autori riconoscono i dibattiti in corso e sottolineano la necessità di proseguire la ricerca per raggiungere un consenso. Nel complesso, l'articolo fornisce una visione dell'evoluzione del diritto ambientale, delle sfide che deve affrontare e del suo potenziale ruolo all'interno della teoria e della pratica giuridica.

Parole chiave: sviluppo del diritto ambientale, prospettive teoriche, branca indipendente del diritto, analisi dei criteri, discorso scientifico