

The Quality of Life in Legal Context

The quality of life is closely linked to the law. In today's strongly heterogeneous society the law is supposed to primarily serve as a protection of citizens and their interests. Legal rules set the limits which must not be broken in spite of different opinions. This is especially true in the issue of quality of life which primarily concerns an individual, his values and living environment where the law plays an important role in protecting both private and public interests. The law is trying to find the boundary between these two categories and make sure that basic human rights and freedom of an individual are always protected while respecting public interest. As we will show onwards, it is often very difficult to find this boundary. However, it is often vital for the issue of quality of life.

The legal protection is based on the combination of several levels. Starting at the highest, worldwide level, the legal protection is then transferred onto European, state and local levels of which the citizens are best aware.

The highest level of protection of human values is conventions which are established at world conferences and summits. If there is an agreement at this level, an easier implication of law into lower levels is supposed by means of international pressure. Since war era, when Geneva conventions came into being, regarding protection of civil inhabitants in time of war, status of prisoners of war and other issues of war law, the basic „rules“ for the protection of human rights have gradually been formed (Convention on the Rights of the Child - 1989, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - 1984, International Convention on the Elimination of All Forms of Racial Discrimination - 1965).

The conventions do not only regard the human rights. They also deal with environment protection, permanent sustainability etc. which affect the quality of life too. The fact that we have the right to intervene into procedures about landscape changes and that we have the right to be informed is possible, among others, owing to Aarhus Convention which was one of the first to include the public into solution of environmental issues.

In the past there was a rule in Europe according to which the conventions were more or less transferred into the national law. As the European integration advances, the European law assumes more importance. In this text we shall leave out the primary law which comprises fundamental agreements on the functioning of European Union and we shall concentrate on secondary law.



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European Union has the „power“ to influence national law by means of directives, regulations and recommendations. In practise this means that when the EU has decided to struggle against smoking, thus protecting the public interest, it has several options. One of them is to create a regulation for member states. The member states have to adopt this regulation unchanged and this regulation is superior to national law. The directive is more liberal. The state has to include the directive into state law but it is up to the state itself to decide what means it will use to do so. In other words, the EU is interested in the aim, not in the means to reach the aim.

At present the EU is preparing a directive to toughen up the obligations in the production of tobacco products. The changes should affect product labelling, contents description, internet sale etc. The EU will be content if the suggested conditions are met „somehow“ regardless of the means to introduce them in the Czech Republic (law, directive, government regulation...) On the other hand, if the EU fulfils its „warning“ that smoking shall be banned in all public places, it is supposed that this ban will be issued through a regulation which will allow no deviations.

The law in the Czech Republic is not only formed by the transposition of European law. The Czech law has a long history dating back before the formation of independent Czech state. The fundamental documents for the protection of basic values in Czech law are the constitution and Charter of Fundamental Rights and Freedoms. Basic behaviour rules for different areas of quality of life can be found in these documents. They set a binding standard for other legal norms which must always be in accordance with constitutional legislation. These regulations often include foundations which are then used to solve conflicts of individual and public interests.

The constitution states that „*a man can do whatever is not banned by the law and no one can be forced to do whatever the law does not impose*“. As far as smoking is concerned, if the ban on smoking is not given by the law, the smokers do not have to respect the non-smokers. However, the Charter states that a man has a right to protection of health and also to favourable living environment. The question arises which principle should be given priority.

In the Czech Republic, the fundamental legal regulation is the law. The legal regulations must observe the main principle, i.e. a regulation of minor legal force must not be in contradiction to a regulation of major legal force. This means that if a municipality decides to regulate public life, its regulation must not be in contradiction to a law.

Non-smokers are protected by several laws in the Czech Republic. Probably the most important is the Act aimed at protection against harm caused by tobacco products. This act



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bans smoking at selected public places such as public administration buildings, medical facilities or roofed platforms and waiting rooms of train, road and municipal public transport. This group does not include catering establishments which must only be visibly labelled as smoking or non-smoking. Smoking on stops was banned till 2010 by an act of 2006. The problem of this act was lack of definition where the stop starts and ends. Czech lawmakers came up with a typically Czech solution. Instead of defining the stop area, they cancelled this ban. Since 2010 the ban is in force only for roofed platforms, shelters and waiting rooms of train, road and municipal public transport. A cigarette in this area can cost you up to 1000 crowns. A better „income“ could be fining the smokers when they cast away cigarette butts. The fine can reach 1000 crowns in other areas too.

The quality of life can be improved by the municipalities themselves who are entitled by the constitution to regulate their own matters by means of generally binding ordinances. As mentioned above, the ordinances must not be in contradiction to a law. If the law allows this, the municipality is entitled to regulate certain spheres by means of ordinances but it is the decision of the municipality if it creates such an ordinance. The ordinance is a right, not an obligation of the municipality.

The amendment of the act on measures aimed at protection against harm caused by tobacco products enables the municipalities to issue an ordinance which restricts smoking in public areas. These public areas are playgrounds, publicly accessible sports grounds and buildings for sporting, cultural and social events. It can also ban smoking at events intended for people under 18.

Literature used:

Act No. 1/1993 Coll., The Constitution of the Czech Republic as subsequently amended

Act No. 2/1993, Resolution of the Presidium of Czech National Council on the Declaration of Human Rights as part of constitutional law of the Czech Republic as subsequently amended

Act No. 258/2000 Coll., on protection of the public health and on amendment to some related laws as subsequently amended

European Commission: Going tobacco-free (online) available at: http://ec.europa.eu/news/environment/090708_en.htm

European Commission: Discourage from smoking and show that there is nothing attractive about it available at: http://ec.europa.eu/news/environment/121220_cs.htm

Act No. 200/1990 Coll., on contraventions as subsequently amended



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Act No. 379/2005 Coll., on measures aimed at protection against harm caused by tobacco products, alcohol and other addictive substances and amendments to related acts as subsequently amended



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