

INTERACTION OF SUSTAINABILITY AND ENVIRONMENT IN THE CASE LAW OF THE LATVIAN CONSTITUTIONAL COURT

Abstract

The article provides an analysis of interaction of the principle of sustainability and environmental protection in the case law of the Constitutional Court.

The principle of sustainability in Latvian constitutional law is a quite new one. Still, it is applied by the Constitutional Court reviewing different cases. It is included also in the written text of the Constitution and all development of the state is focused on sustainability. As environmental protection is the core of this principle, the Constitutional Court has applied it by solving different environmental issues.

The article points out also the content of environmental constitutionalism. Namely, in Latvia, it is implemented also as a specific fundamental right to live in a benevolent environment. Legal remedies such as those before the administrative court and the Constitutional Court are analysed which can be used to protect violated fundamental rights.

To get insight into the case law of the Constitutional Court, three different issues are explained. First, the importance of agricultural land and its cultivation and protection by achieving the idea of sustainability is given. Then the author explains the main arguments of the application of this principle in spatial planning. In the end, sustainable energy cases where sustainability is applied lead to conclusions about the future and importance of renewable sources.

Keywords: *sustainability, environmental constitutionalism, benevolent environment, agricultural land, spatial planning, renewable resources*

1. Introduction: Content of the Sustainability

In legal science, sustainability is a new concept, which originated and has developed facing with challenges to global politics, economy, and environmental protection. Sustainability gained international recognition in 1987 when the World Commission on Environment and Development (known as the Brundtland

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Commission) published the statement “Our common future” (Bruntland, 1987). Naturally, the ideas of sustainability were reflected in the policies of nation-states¹, as well as in law. Today, sustainable development is an ideal or an aim for all states, as well as for the European Union and all global communities.

The definition of sustainability, provided by the Bruntland Commission, which explains the most essential aspects of this concept, is used also by the Constitutional Court² of the Republic of Latvia (hereinafter Constitutional Court or CC, Judgement by the CC in case No. 2010-48-03, para. 6.1 and case No. 2007-11-03, para. 15) Namely, sustainability is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Bruntland, 1987). Quite a similar definition of sustainable development is included in environmental legal acts, *i.e.*, Section 1 of the Environmental Protection Law.³ In other words, sustainability combines the development interests of the present generation with the future generations, requiring long-term thinking and actions.

Undeniably, in each area where this principle is applied, it is filled with appropriate content, and courts play a major role in revealing it. Although sustainability continues to cover new areas and fields (in Latvia, for example, sustainability has been applied in higher education (Judgement by the CC in case No. 2018-15-01, para. 14.1), legislation procedure (Judgement by the CC in case No. 2018-11-01 para. 18.1., para. 18.4.1), preparing the state budget (Judgement by the CC in case No. 2020-40-01, para. 8.2), taxation policy (Judgement by the CC in case No. 2016-14-01, para. 26), it cannot be denied that sustainability, first of all, was applied focusing to environmental issues. Moreover, examination of sustainability from the perspective of its central axiom (interests of generations) reveals that the environment and all related to it are an indispensable element and the central focus of sustainability because the environment is the pre-condition for the existence of human beings (Kamal, 1995, p. 17). This idea is encoded also in the Rio Declaration on Environment and Development, which emphasizes that human beings must be at the centre of concerns for sustainable development and

¹ See, for example, **National Development Plan of Latvia for 2021-2027 (NDP2027)**. Available at: https://pkc.gov.lv/sites/default/files/inline-files/NAP2027__ENG.pdf; *Sustainable Development Strategy of Latvia until 2030*. https://pkc.gov.lv/sites/default/files/inline-files/LIAS_2030_en_0.pdf (28. 7. 2022).

² The terms “Court” and the “Constitutional Court” will be used interchangeably in this paper.

³ The law states that “principle of sustainable development should be regarded as the integrated and balanced development of public welfare, the environment and economy, which meets the present social and economic needs of inhabitants and ensures the compliance with environmental requirements, not endangering the possibility to meet the needs of the future generations, as well as ensures the preservation of biologic diversity”.

that human beings are entitled to a healthy and productive life in harmony with nature (UN, 1992; Judgement by the CC in case No. 2010-48-03, para. 6.1.1).

Judge Weeramary has said that sustainability is a principle of normative value and this is because it (sustainability) is widely and generally accepted by the global community (Lowe, 2001, p. 21). Latvia is part of this global community. Therefore, also the Latvian legal space which has become acquainted with, has recognised, and developed sustainability as one of the central elements for national development. Moreover, it has been concluded that the State's existence is based on the principle of sustainability (Judgement by the CC in case No. 2020-40-01, para. 8.2).

2. The Principle of Sustainability and the Right to Live in a Benevolent Environment in the Constitution of Latvia

In the modern constitutional law theory, constitutions are characterized as a living instrument (Letsas, 2013, p. 106). This means, *inter alia*, also the constitution's openness to new ideas and concepts. Sustainability and environmental protection have entered constitutions relatively recently. However, as noted in a study, in 2021, 41% of constitutions in the world contain a reference to future generations (Araújo & Koessler, 2021, p. 10). Around 20 countries (James, Daly M. & Daly E., 2016, p. 40) clearly recognize sustainability or sustainable development in their constitutions. Whereas constitutions of tens of countries – over 70 – mention the need and the importance of environmental protection (Cho & Pedersen, 2015, p. 401).

Two aspects need to be highlighted with respect to the interaction of the environment and sustainability in the Latvian Constitution (hereinafter also *Satversme*).

Everyone's right to live in a benevolent environment, protected by the State by providing information about environmental conditions and by promoting the preservation and improvement of the environment, has been included in the catalogue of fundamental rights, in Article 115 of the Constitution (*Satversme*). The Constitutional Court, in specifying the scope of this subjective fundamental right (UN, 2022), has recognised that it (this provision of the Constitution), imposes an obligation upon institutions of public power to establish and ensure an effective system of environmental protection; grants to a private person the right to acquire environmental information, in the procedure laid down in regulatory enactments, and to participate in making decisions related to the use of the environment (Judgement by the CC in case No. 2007-12-03, para. 13).

The right to live in a benevolent environment is a person's subjective right, which like other fundamental rights, is directly applicable. Moreover, the fundamental right defined in the aforementioned Article intends the State's obligation to protect a person against both activities actually ongoing, which might jeopardise human health or environment, and such activities planned for the future (Judgement by the CC in case No. 2007-11-03, para. 13.1). This relates to the precautionary principle, known in the case law of the European Court of Human Rights and the Court of Justice of the European Union, pursuant to which environment protection is not limited to protection against imminent danger or liquidation of consequences that have already set it, its aim is to diminish possible negative future effects (Judgement by the CC in case No. 2007-11-03, para. 20.1). Therefore, the term "everyone", used in Article 115 of the Constitution, which points to everyone's right to live in a benevolent environment, protects the interest to live in a benevolent environment not solely of the present but also of the future generations, which must be respected upon deciding on issues related to environment (Judgement by the CC in case No. 2008-03-03, para. 17.1). Namely, the Constitutional Court, in revealing the content of Article 115 of the Satversme, has taken into account the core of the sustainability.

Fundamental rights included in Article 115 of the Constitution, can be protected directly⁴ by the Courts (Gouritin, 2016, pp.11-13). At the same time, the Constitutional Court has also pointed to the close interconnection of Article 115, with other fundamental rights, respecting the principle of unity of the Constitution (Judgement by the CC in case No. 2006-04-01, para. 15.3). Thus, for example, the Constitutional Court has recognised that noise could be examined both from the perspective of Article 115 and Article 96 of the Constitution (Judgement by the CC in case No. 2010-48-03, para. 6.9), *i.e.*, also from the perspective of the right to private life, which is linked to the fact that, *inter alia*, the European Court of Human Rights examines various environment-related issues in the context of Article 8 of the European Convention on Human Rights, considering, for example, that excessive noise is a restriction on the right to private life (Hatton and Others v. the United Kingdom, 2003). Likewise, the Constitutional Court has pointed to the close interconnection between Article 111 and Article 115 of the Constitution, underscoring that Article 115 of the Constitution, similarly to Article 111⁵, defines the State's obligation to protect a person's health. Namely, Article 111 of the Constitution encompasses all areas pertaining to a person's health.

⁴ As opposed to indirect protection of environmental interests when environmental interests or rights related to them are protected with the mediation of another fundamental right.

⁵ Article 111 of the Constitution says: "The State shall protect human health and guarantee a basic level of medical assistance for everyone."

Whereas in the context of Article 115 of the Constitution, this obligation should be examined from the perspective of environmental protection (Judgement by the CC in case No. 2017-02-03, para. 16). Thus, for example, the issue of excessive noise has been repeatedly examined in the Constitutional Court's case law as a circumstance that restricts a person's fundamental rights, included in Article 115 of the Constitution (Judgement by the CC in case No. 2017-02-03, para. 16).

With respect to the environment, the Constitution urges everyone to be responsible, as well as uses *stricto sensu* the term "future generation".

Namely, the third sentence in the fifth paragraph of the Introduction to the Constitution provides: "Each individual takes care of [...] the common good of society by acting responsibly toward other people, future generations, the environment and nature." This reflects an individual's obligations or a person's place and role in relation to the environment and nature (Judgement by the CC in case No. 2018-04-01, para. 20). It is obvious that the Introduction to the Constitution reflects the substance of environmental sustainability – responsible treatment of resources, which prohibits a person from acting in a way that might jeopardise or seriously encumber the life of future generations (Levits, 2019, p. 648). In view of this elaboration in the Introduction, it can be concluded that the Latvian Constitution has clearly joined those modern constitutions that have undertaken and defined not only environmental protection but also the aim of protecting future generations, as well as sustainability as the main direction of the national development, which is directly reflected in the last paragraph of the Introduction.

Legal science knows the term "environmental constitutionalism" (Weis, 2018, pp. 836-870), which means that environmental issues, which may be related to environment protection, ecology, and nature, are referred to in legal provisions of the constitutional level (O'Gorman, 2017, p. 438). The aim of this concept is, *inter alia*, to reach environmental sustainability. Scholars have even defined good practice examples or ideas to be implemented in order to reach this aim (May & Daly, 2016, p. 34).

In Latvia, environmental constitutionalism is implemented both as a specific fundamental right – the right to live in a benevolent environment, and in the principle of sustainability, which should be regarded as one of the fundamental principles of constitutionalism and of the national development in general, which, undoubtedly, also includes environmental protection and environmental sustainability (Judgement by the CC in case No. 2016-24-03, para. 11).

3. Legal Remedies in Latvia: Administrative Courts and the Constitutional Court

One of the important aspects of environmental constitutionalism is access to justice. It is generally known that in countries, where the rules on access to justice are inviting and broad, more cases reach a court that may be significant not only in protecting the fundamental rights of the particular applicant but also to the society in general. The significance of a person (an individual) in the protection of environmental rights follows also from, for example, the 10th principle of the Rio Declaration of 1992 (UN, 1992)⁶, as well as Agenda 21 (UN, 21), and Agenda 2030 (UN, 2030). It should be underscored once again: environmental protection goes hand in hand directly with the protection of human rights because all human beings are entitled to health and well-being.

In Latvia, effective legal remedies, such that ensure real rather than illusory protection in the area of environmental law, are available before the administrative courts, as well as before the Constitutional Court.

The jurisdiction of administrative courts over issues of environmental law is regulated, *inter alia*, by Section 9 of the Environmental Protection Law, the third part of which provides: “The public is entitled to contest and appeal the administrative act or actual actions of a State institution or local government if it does not meet the requirements of the laws and regulations regarding the environment, or creates threats of damage or causes environmental damage.”

The Supreme Court has recognised that the third part of Section 9 of the Environmental Protection Law, in particular in the light of the Law’s purpose to ensure the preservation and recovery of the quality of environment and also sustainable use of natural resources, envisages the right of every person (natural or legal) and associations, established by such persons (associations, organisations, groups), to turn to a court regarding issues of environmental protection (Decision by the Senate in Case No. SKA-989/2018, para. 6). Substantially, the third part of Section 9 of the Environmental Protection Law allows submitting to an administrative court the so-called *actio popularis* (Višķere, 2019) if it meets the following criteria: possible violation of environmental regulatory enactments (or possible damage to environment) *per se* is indicated in the application and there are no grounds

⁶ Principle 10 says that environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

for considering that the provisions of Section 9 of the Environmental Protection Law are being abused (Decision by the Senate in Case No. SKA-824/2016, para. 17).

The Constitutional Court has the jurisdiction to review cases with regard to compliance of normative acts and provisions thereof with the Constitution. To be more precise: the object of the constitutional review can be a law passed by the Saeima, also an international agreement, both after ratification and before ratification (*a priori*), as well as any normative regulation, and in specific cases order of the minister. The Constitutional Court examines, *inter alia*, also cases regarding the constitutionality of spatial or local plans of local governments that have been approved by the binding regulations of local governments.⁷

It is known that a person's access to the constitutional court is always restricted. Opposite to administrative courts, upon submitting a constitutional complaint to the Constitutional Court, a person – physical or legal – must prove an infringement on their rights (Decision by the CC in case No. 2002-07-01, para. 3); *actio popularis* cannot be brought before the Constitutional Court (Decision by the CC in case No. 2021-11-01, para. 10).

Undeniably, the non-governmental sector plays a special role in the protection of environmental rights (Berny, Rootes, 2018, pp. 947-972). To stand before the Constitutional Court also those legal persons have to prove a violation of their fundamental rights, including the right to live in a benevolent environment. In accordance with the Constitutional Court's case law, specific requirements must be met if an application is submitted by a non-governmental organisation. Namely, to prove that the contested legal act has infringed on a legal person's right to a benevolent environment, first of all, the aims of this legal person's activities must be examined, which should be the protection of the environment. Moreover, this legal person must have been established in accordance with the normative regulation and it must have been active in the process of adoption of challenged legal regulation (Judgement by the CC in case No. 2007-11-03, para 13.1).

In Latvia, the Constitutional Court may become involved in dealing with issues related to the environment and its sustainability, firstly, by respecting the limits of its jurisdiction. Secondly, the Constitutional Court is open for the so-called non-governmental sector, which aims to protect the right to live in a benevolent environment. It gives the chance for them to participate in solving environmental issues, participation being an essential element of sustainable development, which ensures greater equity and legitimacy (Burgess & Clark, 2009, p. 159). In general, the approach of the Constitutional Court (and also that of administrative courts), relates to the guidelines advanced by the so-called Aarhus Convention (UN, 1998),

⁷ Competence of the Constitutional Court is explained in the Constitutional Court Law, Section16.

which, *inter alia*, imposes upon the State the obligation to establish a system of environmental protection, which includes the task of not only ensuring accessibility of information to society and the right to participate in the process of making environment-related decisions but also to establish a due mechanism for the protection of these rights (Judgement by the CC in case No. 2002-14-04, para. 3).

4. Environment and Sustainability: Interaction in the Case Law of the Constitutional Court

The Constitutional Court has dealt with various issues related to the sustainability and environment. Although the number of cases directly linked to environment and sustainability, being examined over the past 26 years of the Constitutional Court's existence, is not high, several important findings relating to issues important for Latvia can be summarised. At the same time, national boundaries are not of decisive importance in environmental law because the environment is common for the entire global community. This means that the conclusions made by the Constitutional Court can be of significance to other countries.

Sustainability and sustainable development always require a balance of various interests (Judgement by the CC in case No. 2007-11-03, para. 15). It is not secret that decisions and normative acts, which may cause, *inter alia*, infringement on fundamental rights, included in Article 115 of the Satversme, most often are linked to the realisation of economically important interests and touches interests of private owners or property rights which are founded in the Article 105 of the Satversme. Thus, society's interest in living in a benevolent environment, on the one hand, must always be balanced with, on the other hand, facilitation of economic development (Judgement by the CC in case No. 2017-02-03, para. 20). Hence, in deciding on issues related to the environment, a choice always must be made as to which interests – those of environmental protection or economic – should be given preference (Judgement by the CC in case No. 2008-38-03, para. 9).

4.1. Agricultural Land

Land, in particular, agricultural land is one of the important and significant resources for Latvia.

The Constitutional Court, in assessing legal provisions that provided paying additional immovable property tax rate for agricultural land that was not farmed (not cultivated), recognised agricultural land as one of the most important natural resources for the national economy, having a significant influence on

a benevolent living environment, and also as an important natural treasure and valuable economic resource (Judgement by the CC in case No. 2018-04-01, para. 16). Being aware of the importance of this resource, the Constitutional Court has pointed out that in order to maintain such land and preserve it for future generations appropriate requirements with respect to its cultivation must be specified.

Taking into consideration importance of the agricultural land and the principle of sustainability the Constitutional Court has ruled that the aim of using agricultural land is to ensure the protection and improvement of the environment, as well as promoting of sustainable consumption and production, seeking a balance between economic growth and environmental protection. Land management should underscore responsibility for the welfare of future generations and balance various interests (Judgement by the CC in case No. 2018-04-01, para. 16). Respecting the core of sustainability, the Constitutional Court has specified responsibility of every owner and every person for the responsible treatment of this resource. Every person must ensure the use, cultivation and preservation of such land for future generations. Responsible treatment of this natural resource is also in the interests of the entire society as proper cultivation of agricultural land fosters economic growth of the agricultural sector and also improves employment in rural territories (Judgement by the CC in case No. 2018-04-01, para. 20).

The publicly available statistics, provided by the State Land Service, show that the areas of agricultural land are decreasing (State Land Service, 2020).⁸ Although to a small extent, but also from 2019 to 2022 the areas of agricultural land have decreased, which proves that this resource must be protected in the interests of existing and future generations.

4.2. *Spatial Planning*

The Constitutional Court has applied sustainability in reviewing cases related to issues of spatial planning. It is known that sustainability as a criterion or a principle in spatial planning has been recognised in the majority of European countries and has become a common and important principle for the Member States of the European Union (Judgement by the CC in case No. 2008-03-03, para. 17.2). Namely, sustainability not only determines the main guidelines on the future use of territory but also provides the possibility for complex solutions and balancing of different interests, particularly interests of the environment, culture, society and economy (Judgement by the CC in case No. 2003-20-01, para. 8.2).

⁸ On 1 January 2022, the area of agricultural land was 2271653 ha; on 1 January 2021 - 2285477 ha; on 1 January 2020 - 2299858 ha, but on 1 January 2019 it was 2311030 ha. See: Division of land according to the type of use.

Basically, resolving of issues related to spatial planning has been placed in local governments' competence (Decision by the CC on initiating case No.111/2022).⁹ They are mainly responsible for ensuring that inhabitants of the respective local government could live in an economically developed environment, but also lead a healthy and productive life in tune with nature (Judgement by the CC in case No. 2010-48-03, para. 6.1.1). This also means that the development solutions, adopted by a local government, should be carefully considered and well-grounded (Judgement by the CC in case No. 2008-38-03, para. 9.2).

The Constitutional Court recognised already in 2003 that, in reviewing a local government's discretion in the area of spatial planning, the compliance of the procedure of spatial planning with its main objectives – complex alignment of the interests of individuals with possibilities of sustainable development of the said territory – should be examined. If only the economic growth of the territory were taken into account, without considering the values of nature and culture, the achieved outcome would be unlawful (Judgement by the CC in case No. 2003-16-05, para. 5). The Court also has underscored that development of the spatial plan is not solely formal procedure. It is because the spatial plan is one of the most important instruments not only for use but also for protecting a particular territory. This, *inter alia*, means assessing whether, in the process of planning, in compliance with the interests of the entire society, legal provisions, which protect the values of nature and culture, located within the particular territory, have been complied with (Judgement by the CC in case No. 2003-16-05, para. 5.1).

The Constitutional Court has also highlighted that Article 115 of the Constitution *a priori* does not provide preservation of the existing environment and does not prohibit from implementing projects that are related to economic interests; however, Article 115 of the Constitution prohibits from realising economic interests if the impact of economic changes upon environment and, thus, upon each member of society has not been carefully examined, as well as if society has not been convinced of the need for these changes (Judgement by the CC in case No. 2007-11-03, para. 13.2). The sustainability does not require placing, in spatial planning, the environmental interests above economic and social interests; however, it requires taking these interests into account as equally important (Judgement by the CC in case No. 2008-03-03, para. 17.2). Namely, such development

⁹ The Constitutional Court may state its opinions regarding the legal aspects of spatial planning by reviewing binding regulations of local governments, which approve spatial and local plans. Previously, the Constitutional Court Law provided for a person's possibility to turn to the Constitutional Court with regard to the detail plan of a local government; however, following amendments to regulatory enactments, according to which henceforth a detailed plan is approved in the form of an administrative act, this issue is outside the Constitutional Court's jurisdiction.

policy, which balances the need to facilitate economic growth and improve the quality of life for every member of society, as well as the need to safeguard natural environment for future generations, complies with the contemporary model of sustainable development (Judgement by the CC in case No. 2008-38-03, para. 9.1).

It follows from the case law of the Constitutional Court that within the process of spatial planning, alignment of various and different interests is one of the most important tasks (Judgement by the CC in case No. 2010-54-03, para.12.1.1). In this situation, a local government has the task to assess and balance various interests and to adopt a decision that would be most suitable for society (Judgement by the CC in case No. 2013-19-03, para. 15.1). This assessment should be made by involving all stakeholders in the process of developing the plan, as well as by considering all the expressed opinions and providing arguments for the chosen solution. Likewise, environmental requirements must be respected. Thus, only such a development solution, which has been comprehensively assessed and substantiated, can be deemed to be sustainable (Judgement by the CC in case No. 2010-54-03, para. 12.1.1).

4.3. *Renewable Resources*

Sustainable development is not possible without sustainable energy. Our society is highly energy-intensive. Therefore, the Constitutional Court has recognised that Latvia has to fulfil two equally important and very complex tasks: facilitate economic growth and, thus, social welfare, but, at the same time, must decrease the emissions of hothouse gases, by introducing measures of energy efficiency, as well as environment-friendly technologies, replacing fossil fuel with renewable energy resources (Judgement by the CC in case No. 2010-48-03, para. 6.1.2).

Presently, facilitating the use of renewable resources is an issue on the agenda of all governments. This is determined both by geopolitical considerations and aspects of environmental protection. The use of renewable resources is inseparably linked to the ideal of sustainability (Judgement by the CC in case No. 2010-54-03, para. 9.1).

With respect to electricity production, the Constitutional Court has recognised that legal regulation, which would facilitate sustainable and secure production of electricity, complies with the requirements of sustainable development. And if the State provides aid to those producers of electricity who produce it, by using renewable resources, then it should comply with the purpose of the state aid and also should be reasonable and proportional to the purpose of this aid (Judgement by the CC in case No. 2018-16-03, para. 15.3).

In reviewing a matter related to wind energy (development of so-called wind energy parks), the Constitutional Court noted that the development of wind energy production was aimed at ensuring that the State performed its positive obligation to improve the environmental conditions; namely, was aimed at public welfare (Judgement by the CC in case No. 2010-54-03, para. 9.2). Although the applicants had pointed out to some negative aspects of wind-powered generators, for example, noise, shadows, vibrations and flicker effect, the Court recognised that the contested acts facilitated the development of energy sector in Latvia and Latvia's energy independence (Judgement by the CC in case No. 2010-54-03, para. 16.2.4). The Constitutional Court took into account that the area, where the construction of the power plants was planned, was located in a territory with one of the highest average wind power in the entire territory of Latvia. Hence, the high economic efficiency of wind energy, produced in this territory, was possible. Likewise, reviewing the proportionality in a narrower understanding, the Court held that the established restriction on persons' right to property was not large and did not outweigh the benefit that society gained from developing the production of wind energy in the framework of the particular project (Judgement by the CC in case No. 2010-54-03, para. 16.2.4).

Whereas, in assessing an issue related to another renewable resource – the constitutionality of the obligation of small hydroelectric power plants to pay the natural resources tax, in connection with sustainability, the Constitutional Court underscored the importance of water as a resource in ensuring sustainable development, which makes states urge the users of water resource to make useful use of it. The Court found that the aim to pay the natural resources tax, is to ensure more effective and responsible use of natural resources, and to ensure revenue into the state budget, which can be used, *inter alia*, for financing measures to improve the environment (Judgement by the CC in case No. 2014-11-0103, para. 19). The Court also stressed that small hydroelectric power plants contribute to the national energy supply and strengthen the energy independence. Moreover, they produce electricity from renewable resources, which can be considered as being environmentally friendly energy resources. Thus, the State, by introducing this tax, has attempted to make the functioning of small hydroelectric power plants even more effective and environmentally friendly, as well as, to the extent possible, has tried to facilitate the introduction of more modern technologies in their operation and identify the environmental impact of small hydroelectric power plants. In other words – these measures are aimed at the sustainable use of environmental resources.

5. Conclusion: Future Challenges

One can fully agree with Mr. Vaughan Lowe (doctrinist) that sustainable development is potentially a tool of great power in the hands of decision-makers. It is not necessary for them to wait for a judgement or ruling. They can take the initiative and put the content in this principle (Lowe, 2001, p. 37). At the same time, also courts, within the limits of their jurisdiction, must ensure the application of sustainability.

However, irrespective of the function that each institution fulfils, it is necessary to work and think about harmonious co-existence between humankind and the environment. We have to consider collective values, such as morality, respect for life, equity, solidarity, and co-existence (Derani, 2016, p. 312). The greatest challenge for everyone always will be finding the right balance between satisfying the interests of the present generation and protection of the future generations, and the values that surround us in our daily life.

Sir David Attenborough has said that climate change is a threat to global security (McGrath, 2019). In addition to this, we all – not only the State but also each person of Latvia and also those of other countries – live in very challenging times, which can lead to problems in accessing natural resources. However, survival is impossible without these resources. Energy is indispensable for providing for basic needs. This means that already now institutions have to look urgently for solutions in order to meet daily needs. But the satisfaction of daily needs cannot influence the environment in a negative way. We are responsible for future generations.

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INTERAKCIJA ODRŽIVOSTI I ŽIVOTNE SREDINE U PRAKSI USTAVNOG SUDA LETONIJE

Sažetak

Članak daje analizu interakcije principa održivosti i zaštite životne sredine u praksi Ustavnog suda Letonije. Princip održivosti u letonskom ustavnom pravu je sasvim nov. Ipak, primenjuje ga Ustavni sud razmatrajući različite slučajeve. To je takođe uključeno u pisani tekst Ustava i sam razvoj države je usmeren na održivost. Kako je zaštita životne sredine srž ovog principa, Ustavni sud ga je primenio rešavajući različita pitanja u pogledu životne sredine.

U članku se ukazuje i na sadržaj ekološkog konstitucionalizma. Naime, u Letoniji se ono sprovodi i kao specifično osnovno pravo na život. Takođe, analiziraju se pravni lekovi poput onih pred upravnim i Ustavnim sudom koji se mogu koristiti za zaštitu povređenih osnovnih prava.

Da bi se stekao uvid u praksu Ustavnog suda Letonije, objašnjena su tri različita pitanja. Prvo, dat je značaj poljoprivrednog zemljišta i njegove obrade i zaštite ostvarivanjem ideje održivosti. Zatim autorka objašnjava glavne argumente primene ovog principa u prostornom planiranju. Na kraju, slučajevi održive energije u kojima se održivost primenjuje dovode do zaključaka o budućnosti i značaju obnovljivih izvora.

Gljučne reči: održivost, ekološki konstitucionalizam, životna sredina, poljoprivredno zemljište, prostorno planiranje, obnovljivi resursi.

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