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Environmental Duties and Liability in the Constitution of the Czech Republic – Environmental Constitutionalism in the Anthropocene[1]

Abstract

This article examines how the Czech constitutional order regulates environmental protection and liability in the Anthropocene, with a particular focus on future generations and climate litigation. It shows that the Constitution and the Charter of Fundamental Rights and Freedoms provide only a fragmented, anthropocentric framework. Art. 7 of the former and Art. 35 of the latter recognise environmental interests and the right to a favourable environment but do not establish an explicit, general duty on everyone to protect the environment, nor a clear constitutional mandate to safeguard future generations. Environmental duties and the polluter pays principle are therefore largely operationalised at sub-constitutional level through the Environment Act, sectoral legislation and multi-layered regimes of administrative, civil, criminal and ecological-damage liability, which strongly constrain private actors while leaving state liability comparatively underdeveloped. The analysis traces how courts have gradually expanded standing for individuals, communities and NGOs, and how they invoke intergenerational interests in selected contexts (such as the Soutok case) yet remain cautious when asked to enforce positive climate obligations. The first Czech climate lawsuit is used to illustrate both the potential and limits of climate litigation. Against this backdrop, this article identifies scattered statutory references to future generations and evaluates institutional options ranging from a stronger role for the ombudsman to an expanded mandate for the children's ombudsman. It concludes with de lege ferenda proposals, including an explicit constitutional duty to protect the environment, clearer climate- and biodiversity-related

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objectives, and a clause steering the economic order towards sustainable, ecologically oriented development.
Keywords: Environmental constitutionalism, future generations, climate litigation, Anthropocene, environmental liability

1. Introduction

This article focuses on constitutional protection of the environment and future generations in the Anthropocene era, providing a brief overview of national constitutional law and practice, with a particular emphasis on future generations and climate protection.

Several key issues are highlighted. First, it examines related constitutional obligations and duties. Second, it analyses environmental liability issues identified in constitutional texts and constitutional practice. Third, it addresses the enforceability of constitutional obligations. Fourth, it presents existing good practices relevant to the topic and discusses *de lege ferenda* proposals, developed in detail in relation to sub-constitutional duties, obligations and responsibilities.

The analysis builds on aspects identified in the book Constitutional Protection of the Environment and Future Generations: Legislation and Practice in Certain Central European Countries,[2] with a special focus on developments since mid-2022. The article directly follows the chapter by Radvan, Czech Republic: Limited Constitutional Regulation of Environmental Protection Complemented by the Case Law of the Constitutional Court.[3]

2. Overview of the position of certain constitutional institutions in the Constitution and in the practice of the Constitutional Court

The Czech constitutional order is characterised by a formal dualism: the Constitution of the Czech Republic (Act No. 1/1993 Coll.) (the Constitution) and the Charter of Fundamental Rights and Freedoms (Act No. 2/1993 Coll.) (the Charter), both forming part of the constitutional order yet neither setting out an exhaustive regime for environmental protection.

The preamble to the Constitution expresses citizens' resolve to "guard and develop together the natural and cultural, material and spiritual wealth handed

2 | Szilágyi 2022, 11–16 and 479–526.
3 | Radvan 2022, 161–202.

down to us", thereby framing environmental protection as a foundational social commitment.

Art. 7 of the Constitution further imposes a state obligation: "The state shall concern itself with the prudent use of its natural resources and the protection of its natural wealth."[4]

The Charter is primarily anthropocentrically oriented, and this is particularly evident in the wording of Art. 35:

"(1)Everyone has the right to a favourable environment.
(2) Everyone has the right to timely and complete information about the state of the environment and natural resources.
(3) No one may, in exercising her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent set by a law."[5]

These provisions form the constitutional basis for environmental protection in the Czech Republic.

2.1. Conceptual issues

Art. 7 of the Constitution constitutes the basic substantive foundation for the constitutional protection of the environment in the Czech Republic. It establishes the duty of the state to ensure the sustainable use of natural resources and the protection of natural wealth, with the restrictive wording in the first part of the sentence complemented by a requirement for active state conduct in the second. This duty is fulfilled not only through the state's own direct actions, but above all through the creation of generally binding rules for private and public actors. The Constitution does not compel the state to manage all the activities itself, but rather to construct the normative framework within which legal subjects must operate.[6]

This provision is closely linked to everyone's right to a favourable environment under Art. 35 of the Charter yet operates within the narrower concepts of natural resources and natural wealth. These terms predominantly denote natural, non-human-made values – including biodiversity and ecological relationships – which are difficult to subsume under traditional notions of objects of rights.[7]

The term natural wealth is understood to cover all the components of the natural environment, species of organisms and specific ecosystems, together with their mutual interdependencies, as well as the natural environment as a whole – both within and beyond the territory of the Czech Republic.[8]

4 | Constitution of the Czech Republic.
5 | Charter of Fundamental Rights and Freedoms.
6 | Uhl 2015.
7 | Ibid.
8 | Syllová 2016, 60.

At the same time, these goods confer dispersed, cross-generational benefits that resist individualisation, significantly complicating the construction of procedural enforceability of this constitutional duty.[9]

The practical implementation of Art. 7 has been shaped more by the development of international and EU environmental law and by administrative practice than by systematic case law working directly with the constitutional norm. The current model of constitutional protection rests on two main pillars: the classic interventionist system of administrative authorities (permit and prohibition procedures), and procedural regimes based on the right to information and public participation, especially in environmental impact assessment processes.

The duty to protect natural wealth (that is, the environment) applies, first, to the activities of state authorities themselves, which are required to limit their own conduct so as to respect the general interest in environmental protection, and second, to their regulatory influence on private actors. The state exercises this influence through environmental legislation, systems to monitor the environment, energy policy, and a wide range of other instruments, including economic tools. Legal protection mechanisms operate on the one hand in a cross-cutting manner, applicable to all environmental media, through sector-specific regimes for individual components (such as air and water), as well as through preventive regulation of major sources of environmental risk.[10]

The judicial review in this field focuses primarily on procedural standards, while the substantive assessment of sustainability or protection in the sense of Art. 7 remains largely in the hands of political bodies.[11]

In 2022, the Czech government proposed an amendment to Art. 7 of the Constitution in response to the environmental disaster that struck the River Bečva in 2020.[12] That river was heavily polluted by toxic cyanide compounds, resulting in the death of tens of tonnes of fish and other aquatic organisms, and has been recovering ever since. The ensuing public outcry resonated at the political level and prompted the government to initiate a constitutional amendment.

The proposed amendment would have modified Art. 7 to read: "The state shall concern itself with the prudent use of its natural resources, especially water and soil, and the protection of the environment."[13]

Academic debate quickly arose as to whether explicitly naming these environmental components would have any practical legal effect. The prevailing view was that it would not. Water and soil are already encompassed within the broader notion of natural resources in Art. 7, so their express mention was regarded as a

9 | Ibid.
10 | Ibid.
11 | Ibid.
12 | Vlasatá 2025.
13 | Draft Constitutional Act Amending Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic, as amended by later constitutional acts, 2023.

largely symbolic or cosmetic step, rather than a real strengthening of protection. Moreover, their protection is already anchored in ordinary legislation.

The prudent use of water is regulated by the Water Act (Act No. 254/2001 Coll.), and the prudent use of soil in turn by Act No. 334/1992 Coll., on the Protection of Agricultural Land, both of which contain general provisions on the protection of these components. In addition, Act No. 17/1992 Coll., on the Environment, defines the environment as including, *inter alia*, water and soil. The protection and prudent use of these resources are thus ensured through statutory rules and the action of competent authorities. Overall, the proposed amendment was widely seen as more of a public gesture than a genuine step towards more robust environmental protection.

However, during parliamentary debates, a further modification was put forward, changing the proposed text to: "The state shall concern itself with the protection of the environment, the protection of animals, and prudent use of natural resources, especially water."[14]

This shifted the focus of the amendment to the protection of animals. Unlike the earlier wording, this revision would have introduced a genuinely new constitutional value by elevating animal protection to the constitutional level.[15]

From a constitutional perspective, animals are currently protected only indirectly: either as natural resources subject to prudent use under Art. 7 of the Constitution, or as objects of property rights linked to the right to own property under Art. 11(1) of the Charter. Neither provision is primarily aimed at animal protection or expressly recognises animal protection as a public interest. Act No. 17/1992 Coll., on the Environment, does not explicitly list animals as an environmental component in Section 2, although it does recognise organisms as one such component, and animals are, of course, living organisms. Furthermore, Act No. 114/1992 Coll., on Nature and Landscape Protection, provides general protection for wild animals and protected species, while Act No. 246/1992 Coll., on the Protection of Animals against Cruelty, contains general safeguards against abuse.

Constitutionalising the protection of animals would likely have far-reaching implications for constitutional review and the decision-making of public authorities, especially in situations where public interests or constitutional rights collide. In such cases, animal protection could be recognised as a legitimate ground for restricting other fundamental rights or public interests.[16]

Despite these potential impacts, deliberations on the amendment were halted in November 2024. Members of Parliament failed to adopt the amendment before the end of their term, and the legislative procedure consequently lapsed. The new government appointed in 2025 has not, so far, returned to the idea of proposing

14 | Chamber Print No. 497; Amendment to the Constitutional Act – the Constitution of the Czech Republic, 2023.
15 | Ibid.
16 | Šuráň 2025, 68–73.

a similar amendment. Art. 35 of the Charter, enshrining the right to a favourable environment, has also remained unchanged since its enactment.

Both provisions – Art. 7 of the Constitution and Art. 35 of the Charter – have instead been developed primarily through judicial interpretation, above all by the Constitutional Court.

2.2. Role of state bodies in protecting the environment and future generations

The Constitution does not expressly mention future generations. However, its preamble articulates a foundational societal commitment to protect natural wealth, from which it may be inferred that Czech citizens are obliged to safeguard natural wealth – not only from overuse and degradation affecting its current inhabitants, but also for the benefit of future generations who will wish to use it.

The Charter contains a similar proclamation in its preamble, but here future generations are explicitly mentioned: "(...) recalling our responsibility to future generations for the fate of all life on Earth." As with the Constitution, this is framed as a commitment of the Czech people. Nevertheless, it remains largely at the level of a declaratory statement: the existence of future generations is acknowledged, but this acknowledgment is not accompanied by specific constitutional mechanisms or rights.

Beyond these preambular references, there is no further mention of future generations at the constitutional level. Below that, however, several statutes refer to future generations. As noted in the literature,[17] one example is the Atomic Act,[18] which explicitly requires that nuclear waste and spent nuclear fuel be managed so as not to impose an unreasonable technical, economic or social burden on present or future generations.

The Act on the Support of Gardening Activity also briefly refers to future generations, stating that horticulture in the Czech Republic has a long tradition and that non-indigenous plant species grown in allotments have cultural value and must be protected for future generations.[19]

The Act on Municipal Chronicles links the keeping of chronicles to the idea of their role as a reminder and a repository of lessons for future generations.[20] A similar declaratory reference appears in the Act on Plant and Microorganism Genetic Resources, which underscores that the conservation and use of specified genetic resources must benefit both present and future generations.[21]

17 | Radvan 2022, 187.
18 | Act No. 263/2016 Coll., the Atomic Act, Section 108(2). For more information, see the commentary on the Atomic Act by Tlapák Navrátilová et al. 2023.
19 | Act No. 221/2021 Coll., on the Support of Gardening Activity, Section 4.
20 | Act No. 132/2006 Coll., on Municipal Chronicles, Section 1.
21 | Act No. 148/2003 Coll., on Plant and Microorganism Genetic Resources, Section 1(1).

Two government decrees also mention future generations. The decree declaring the Czech Crown Archives a national cultural monument stresses that the Archives must be preserved for future generations, while another decree on cultural awards ties the title Bearer of Folk Craft Traditions to the duty to transmit traditional knowledge to future generations.[22]

By contrast, references in the Act on Specific Health Services employ the concept in a descriptive rather than protective sense, defining the human genome as genetic information that can be transmitted to future generations[23] and using the term in the context of genetic laboratory testing.[24]

The Building Act is among the few statutes that substantively aim to protect future generations. One of the objectives of spatial planning is sustainable development which, *inter alia*, must not endanger the living conditions of future generations.[25] This concept must be respected in spatial planning and also influences substantive construction rules and building proceedings.[26] Within this context, the protection of future generations is a value that must be reflected in building law.[27]

The Environment Act likewise contains several relevant provisions: its preamble acknowledges Parliament's responsibility to preserve a favourable environment for future generations, though this remains a purely declaratory statement, whereas Section 6 gives a normative definition of sustainable development as meeting present needs while preserving biodiversity and ecosystem functions without compromising the ability of future generations to meet theirs.[28]

Case law on future generations includes a notable Constitutional Court decision upholding the government's designation of the Soutok floodplain forests as a protected landscape area.[29] A group of 35 Members of Parliament had challenged the measure as disproportionately infringing property rights, entrepreneurial freedom and municipal self-government. The Constitutional Court dismissed the challenge and, in the proportionality analysis, emphasised a strong public interest in preserving this valuable natural area for future generations, finding that this interest outweighed the alleged interferences. Subsequent decisions rejected related constitutional complaints by affected landowners on the same basis.[30] By

22 | Government Decree No. 5/2003 Coll., on Cultural Awards Granted by the Ministry of Culture, Section 25(1).
23 | Act No. 373/2011 Coll., on Specific Health Services, Section 28(1).
24 | Ibid., Section 28(10)(a) and (12).
25 | Act No. 283/2021 Coll., the Building Act, Section 38(1). For more information on this issue, see: Stejskal 2024, 55–56.
26 | Ibid., Section 137(2).
27 | Uhl et al. 2025, 302–304.
28 | Section 6 of Act No. 17/1992 Coll., on the Environment.
29 | The Constitutional Court of the Czech Republic 2025a.
30 | The Constitutional Court of the Czech Republic 2026; The Constitutional Court of the Czech Republic 2025b; The Constitutional Court of the Czech Republic 2025c; The Constitutional Court of the Czech Republic 2025d.

contrast, the Constitutional Court did not invoke the concept of future generations in its climate judgment, despite its obvious relevance (see section 3).

Future generations have also been referenced by the Supreme Court. In a criminal case concerning abuse of ownership under Section 229 of the Criminal Code (Act No. 254/2001 Coll.), the Supreme Court linked ownership of a cultural heritage site to a duty to protect it and its cultural values for future generations.[31]

This suggests that, although not expressly stated, certain provisions of the Criminal Code, such as Section 229, and potentially provisions on the spread of contagious diseases (Sections 152, 153 and 155) where risks can affect unborn children, can be interpreted as indirectly protecting future generations. Likewise, many offences in Chapter VIII on crimes against the environment (e.g. general environmental protection, damage to water sources, unlawful handling of ozone-depleting substances, and damage to protected natural areas) protect environmental interests that are, by their nature, intergenerational.

Overall, the Czech legal system contains several references to future generations, but these are predominantly proclamatory rather than normatively operative. In terms of institutional roles, only the courts have meaningfully worked with this concept so far. In the absence of explicit statutory duties to protect future generations, state bodies are under no general legal obligation to do so, and even the Public Defender of Rights (ombudsman) and the children's ombudsman are not expressly mandated to address the interests of future generations under Act No. 349/1999 Coll., on the Public Defender of Rights.

2.3. Fundamental rights: the right to a healthy environment

The Czech legal system does not recognise the right to a healthy environment as such, but does enshrine the right to a favourable environment in Art. 35 of the Charter. Some authors treat these two concepts as equivalent,[32] yet under Czech law they differ in scope and structure.

The core of the right to a favourable environment lies in the entitlement of every individual to seek, through legally provided means, protection of the natural environmental conditions necessary for their existence and sustainable development. This corresponds to the state's positive obligation to protect inherited natural wealth,[33] ensure the prudent use of natural resources and safeguard the environment against damage that would prevent the fulfilment of basic human needs.[34] Yet Art. 35 is not directly applicable, with Art. 41(1) of the Charter stipulating that the rights in Art. 35 may be claimed only within the confines of implementing

31 | The Supreme Court 2021.
32 | For example, Radvan 2022, 162.
33 | The Constitutional Court of the Czech Republic 2019.
34 | Ibidem and the Constitutional Court of the Czech Republic 2021.

legislation, such as the Air Protection Act (Act No. 201/2012 Coll.)[35] and the Water Act (Act No. 254/2001 Coll.).

It follows from the above that a favourable environment is one that does not obstruct the fulfilment of basic human needs. Section 12 of Act No. 17/1992 Coll., on the Environment, further refines this by defining a permissible level of pollution as one "determined by limit values established by specific regulations; these values are set in accordance with the current state of scientific knowledge so as not to endanger human health or other living organisms and components of the environment." In practice, the Constitutional Court conceives a favourable environment as one that is not detrimental to human health and basic needs, whereas the Environment Act focuses on an environment that does not endanger human health.

The right to a favourable environment is a compound right, comprising both positive and negative obligations of the state, with substantive and procedural dimensions whose content can be specified in relation to particular environmental components.[36]

Over the past 30 years, the Constitutional Court and the Supreme Administrative Court have gradually evolved their approach, especially regarding procedural aspects such as the legal standing of legal entities, while the substantive understanding of the right has remained relatively stable.

By contrast, the international concept of the right to a healthy environment[37] also has both substantive and procedural elements, but with a differently structured catalogue: substantive elements include a safe climate, clean air, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food, and a non-toxic environment, while procedural elements comprise access to information, public participation and access to justice. Some of these procedural aspects (for example, access to environmental information) in the Czech Republic are anchored outside Art. 35(1), even though they are often bundled within the international understanding of a healthy environment.[38]

Although the Czech Republic does not recognise the right to a healthy environment in the United Nations sense, it does recognise a right to a favourable environment that is more precisely framed in terms of its legal conditions and mechanisms of enforceability within the existing constitutional and statutory framework.

2.4. Other fundamental rights related to environmental protection

From a broader perspective, almost every right in the Charter can be linked to either protection of the environment or its restriction. It is therefore useful to

35 | For a comprehensive commentary on the Air Protection Act, see Morávek et al. 2013.
36 | Tomoszek, Tomoszková & Vomáčka 2021, 994.
37 | OHCHR, UNEP & UNDP 2023.
38 | For the interplay between EU law and international law see Orlando 2024.

distinguish between rights in *stricto sensu* and *largo sensu* relationships towards environmental protection.

Stricto sensu fundamental rights related to environmental protection include the right to environmental information under Art. 35(2) of the Charter, operationalised through Act No. 123/1998 Coll., on Access to Information on the Environment, and the right to an impartial and independent court under Art. 36 of the Charter. Together, they partially mirror the three pillars of the Aarhus Convention: access to information, public participation in decision-making and access to justice in environmental matters, although the Convention itself is not directly applicable in Czech law. However, the Constitutional Court has held that: "If it is possible to interpret national norms in several possible ways, the interpretation that meets the requirements of the Aarhus Convention takes precedence."[39] Moreover, it has recognised environmental protection as a public interest that can operate in synergy with Art. 35.[40]

Largo sensu rights in the Charter connected to environmental protection include, *inter alia*, the right to own property (Art. 11), the right to life (Art. 6) and the right to the protection of health (Art. 31). These are frequently invoked alongside environmental protection claims: for example, certain natural resources are reserved to state ownership, which presupposes their prudent use, while the right to life is often read in conjunction with the right to a favourable environment, since life cannot be fully enjoyed in an unfavourable environment.

One structural difficulty lies in the differing justiciability of these rights. Social and economic rights, such as those linked to environmental quality and health, are generally not self-executing and must be implemented via specific legislation and provisions, whereas many first-generation rights, like the right to own property, are directly applicable and can be invoked without implementing acts. This asymmetry can pose challenges when balancing environmental interests against directly enforceable individual rights.

2.5. Restriction of fundamental rights on the grounds of environmental protection

Environmental protection is frequently weighed against specific fundamental rights, most notably the right to own property and the right to conduct a business. It is important, however, to note that Art. 35 of the Charter itself contains an explicit limitation clause. Art. 35(3) provides that: "No one may, in exercising her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent set by a law."

39 | The Constitutional Court of the Czech Republic 2014; Chaloupková 2024, 7 and 11.
40 | The Constitutional Court of the Czech Republic 1997.

The scope of this provision is broad, as it applies to the exercise of all rights whose exercise may endanger or harm the environment in a broad sense, and implicitly requires a proportionality assessment between restrictions on individual rights and the interest in protecting environmental components.[41]

At the same time, Art. 35(3) presupposes the existence of specific legislation that delineates the legally permissible level of environmental harm, with conduct exceeding that level being prohibited and possibly triggering environmental liability. In this respect, it complements Art. 11(3) of the Charter, which states that: "Ownership entails obligations. It may not be misused to the detriment of the rights of others or in conflict with legally protected public interests. It may not be exercised to harm human health, nature, or the environment beyond the limits established by law."

Nevertheless, authorities and courts regularly face situations in which they must balance conflicting legitimate interests, such as environmental protection versus property rights.[42] This was scrutinised by the Constitutional Court in the *Soutok* case (Pl. ÚS 17/25),[43] which concerned the designation of a new protected landscape area. The Constitutional Court held that the anticipated restrictions on property resulting from the designation did not amount to deprivation of property under Art. 11(4) of the Charter, but rather to the regulation of use consistent with the social function of property under Art. 11(3) of the Charter. Applying proportionality, it concluded that any interference with property rights, entrepreneurial freedom and municipal self-government was significantly outweighed by the public interest in protecting a unique complex of floodplain forests of exceptional biodiversity and international importance. The same reasoning was applied to the collision with the right to conduct a business under Art. 26(1) of the Charter.

Collisions between environmental and other public interests also arise in different contexts. For example, in a case concerning heritage protection and solar panel installation on protected buildings, heritage authorities had systematically refused installations by invoking the precautionary principle.[44] The Constitutional Court issued a reprimand, holding that each case must be assessed individually as blanket refusals based solely on precaution but without concrete analysis were impermissible.

Environmental protection (as a public interest) can also collide with the right to a favourable environment under Art. 35(1) of the Charter. This often occurs in relation to large infrastructure projects, such as the construction of bypasses. There may be a right to a more favourable environment for residents suffering from air pollution, noise and vibration near existing routes, yet simultaneously a public interest in nature conservation (for example, protecting endangered species along

41 | Tomoszek, Tomoszková &Vomáčka 2021, 1026.
42 | Cf. Vícha 2023, 92.
43 | Para. 28.
44 | The Constitutional Court of the Czech Republic 2020.

the proposed new route). In such situations, the competent authority must weigh these competing interests, assess alternatives and determine whether and how the impasse can be resolved within constitutional and statutory bounds.

2.6. Protecting national assets in relation to the environment and future generations

According to Art.11(2) of the Charter: "The law shall designate the property necessary for securing the needs of the entire society, the development of the national economy, and the public welfare, which may be owned exclusively by the state, a municipality, or by designated legal entities; the law may also provide that certain items of property may be owned exclusively by citizens or legal entities with their headquarters in the Czech and Slovak Federal Republic."

Act No. 44/1988 Coll., the Mining Act,[45] designates reserved deposits as the exclusive property of the Czech Republic. These deposits are treated as strategic minerals, so their ownership and use are closely tied to the state's mineral and material security. This approach also aligns with Art. 7 of the Constitution, which requires the prudent use of natural resources. By restricting exploitation and keeping control at state level, resources can be conserved for future use and over-extraction limited, reducing dependence on imports.

Although neither the Mining Act nor Art. 7 explicitly refer to future generations, such protection can be inferred from the prudent use requirement. There are further mechanisms that structurally support this idea. Under Section 61 of Act No. 114/1992 Coll., on Nature and Landscape Protection, the state has a pre-emptive right to acquire undeveloped land outside built-up areas within national parks, national nature reserves, national natural monuments and land associated with caves. In addition, certain environmental components have a special legal status: water and water sources,[46] caves[47] and wild animals[48] are initially without an owner in the private-law sense and are not subject to ownership until lawfully appropriated or extracted.

2.7. The relationship of values not yet mentioned (in parts 2.1.–2.6. and parts 3.1.–3.2.)

As described above, environmental protection is embedded in Art. 7 of the Constitution. Under this provision, the state must protect the environment through the prudent use of natural resources and the protection of natural wealth, in both

45 | For a comprehensive commentary on the Mining Act, see Vícha 2017.
46 | Act No. 254/2001 Coll., on Water, Section 3(1).
47 | Act No. 114/1992 Coll., on Nature and Landscape Protection, Section 61(4).
48 | Act No. 89/2012 Coll., the Civil Code, Section 1046(1).

its vertical (towards individuals) and its horizontal (in shaping relations between private actors) actions.[49]

This elevates environmental protection to a constitutional value that should be integrated into all state policies. In practice, this is typically reflected through Strategic Environmental Assessment (SEA) under Act No. 100/2001 Coll., on Environmental Impact Assessment, though only selected policy documents and strategies are subject to SEA. Legislative proposals are assessed through Regulatory Impact Assessment (RIA), which explicitly includes an evaluation of environmental impacts and environmental protection.[50]

At the institutional level, the Chamber of Deputies has a Committee on the Environment, while the Senate has a Committee on Public Administration, Regional Development and the Environment. Both committees provide expert input and opinions on legislative proposals concerning environmental protection, thereby helping to translate the constitutional value of environmental protection into ordinary legislation.

3. Protection of the environment and future generations as a duty and obligation, in addition to the related liability issues

3.1. Protection of the environment and future generations as a duty and obligation

Unlike that of the Slovak Republic, the Czech constitutional order does not contain an explicit, general constitutional duty on everyone to protect and enhance the environment.[51] Instead, environmental duties are regulated in a more fragmented and indirect manner. The Constitution (*sensu stricto*) provides in Art. 7 that "the state shall concern itself with the prudent use of its natural resources and the protection of its natural wealth," but does not formulate a corresponding individual constitutional duty. The individual dimension appears primarily in the Charter, in particular in Art. 35(3), which provides that "no one may, in exercising their rights, endanger or damage the environment, natural resources, the wealth of natural species or cultural monuments beyond the extent set by law." However, this is subject to Art. 41(1) of the Charter, which limits justiciability to the framework of implementing legislation. As a result, environmental duties are constitutionally recognised but their actual content and enforceability depend heavily on ordinary legislation and judicial interpretation.

49 | Syllová 2016, 61.
50 | Government of the Czech Republic 2025, 11–12.
51 | Michalovič 2025, 63.

This creates a two-level system of duties. At the first level, there is a general state duty to protect natural wealth in Art. 7 of the Constitution, complemented by the positive obligations derived by the Constitutional Court from the right to a favourable environment under Art. 35(1) of the Charter. At the second level, there is an individual duty not to damage the environment beyond statutory limits under Art. 35(3) of the Charter, concretised through a network of sub-constitutional norms ranging from the Environment Act (Act No. 17/1992 Coll.) to sectoral legislation on environmental components. The idea of shared responsibility between state and individuals is reconstructed from these dispersed provisions and from the case law of the Constitutional Court and administrative courts.

The Environment Act translates these abstract obligations into explicit, legally binding duties. It defines the environment as everything that creates the natural conditions for the existence of organisms, including humans, and identifies its components (air, water, rock, soil, organisms, ecosystems and energy).[52] It also codifies key principles, prevention,[53] the polluter pays principle[54] and sustainable development,[55] which operationalise both the state's positive obligations and the individual duty not to cause environmental damage. The Environment Act and its related legislation disaggregate the general duty of care into specific obligations for distinct categories of actors: land and resource users, developers, operators of industrial installations, and those placing products or technologies on the market must comply with *ex ante* assessment, permitting and monitoring duties, including environmental impact assessment, integrated prevention and control, and continuous monitoring of emissions and impacts. In this way, the legal order breaks down the general duty of responsible conduct towards the environment into sector-specific duties, even though this architecture exists mainly at the legislative rather than constitutional level.

Section 19 of the Environment Act further imposes a general duty on any person who becomes aware of an imminent threat of environmental damage, or of damage already caused, to take necessary measures, to the best of their ability, to avert the threat or mitigate its consequences, and to report the facts immediately to the competent authority.[56]

Administrative law adds a general framework for administrative offences through Act No. 250/2016 Coll., on Liability for Administrative Offenses and Proceedings in Respect Thereof, with specific environmental offences and sanctions spread across sectoral statutes, while criminal law complements this with a group of environmental and environment-related offences in the Criminal Code (Act

52 | Act No. 17/1992 Coll., on the Environment, Section 2.
53 | Ibid., Section 17.
54 | Ibid., Section 31. For a better understanding of this principle in the Czech Republic, see Vícha 2014.
55 | Ibid., Section 6.
56 | Ibid., Section 19.

No. 40/2009 Coll.), applicable to both natural persons and legal entities.[57] Taken together, these regimes show that, despite the absence of a broad, explicit catalogue of constitutional duties, Czech law imposes extensive obligations on individuals and enterprises to act responsibly, to assess and monitor environmental impacts, and to bear the consequences of pollution and damage.

What remains largely absent is an explicit constitutional articulation of intergenerational responsibility and an ecologically orientated economic order. Although the preambles of the Constitution and the Charter refer to responsibility for "the natural and cultural, material and spiritual wealth handed down to us and the fate of all life on Earth," the Czech constitutional text does not explicitly link environmental duties to future generations or to an ecologically framed market economy. As a result, the doctrine of sustainable development enters the Czech constitutional order only indirectly and through the principles codified in the Environment Act and via the influence of EU law and international instruments.

3.2. Liability issues related to environmental protection

The Czech regulation of environmental rights, duties and liability operates on multiple levels and relies more heavily on ordinary legislation than on explicit constitutional clauses. Environmental protection is constitutionally recognised through the state obligation in Art. 7 of the Constitution and the right to a favourable environment in Art. 35 of the Charter, complemented by Art. 35(3), which prohibits anyone from endangering or damaging the environment, natural resources, the wealth of natural species, or cultural monuments beyond the limits set by a law.[58] In practice, however, the link between environmental responsibility and breaches of environmental duties is primarily realised through civil, administrative, criminal and specialised environmental-damage regimes that make these constitutional principles operative via detailed rules.

Constitutional liability thus has a structurally important, but not dominant, role. The Constitutional Court has repeatedly stressed that Art. 7 of the Constitution does not, in itself, create a subjective right, but instead imposes on the state an obligation to ensure due care in managing natural resources and preserving natural wealth.[59] If the legislature or executive fails to articulate or implement this positive obligation in law or practice, such failure may indirectly infringe fundamental rights such as the right to a favourable environment, the right to health or the right to life. However, constitutional liability for environmental failures has in fact been applied cautiously. The Constitutional Court tends to defer to the legislature

57 | Legal entities are criminally liable under Act No. 418/2011 Coll., on the Criminal Liability of Legal Entities and Proceedings Against Them. Offences listed in Chapter VIII of the Criminal Code are also applicable to legal entities.
58 | Radvan 2022, 161–162.
59 | The Constitutional Court of the Czech Republic 2025e.

to define acceptable levels of environmental harm, relies on a rationality review rather than strict proportionality, and refrains from deriving concrete legislative duties directly from constitutional text.[60] This restrained approach was confirmed and intensified in recent climate litigation, where the Constitutional Court largely avoided engaging with the substance of climate obligations, treating criticisms of climate plans as issues falling within the political responsibility of lawmakers rather than justiciable constitutional liability.[61]

Accordingly, the main instruments of environmental liability lie in administrative, civil and criminal law, as well as in the special regime of liability for environmental damage. Act No. 250/2016 Coll. defines an administrative offence as an unlawful act of social harmfulness defined by law, unless it constitutes a crime,[62] while environmental misdemeanours by natural persons and the strict (objective) liability of legal entities and entrepreneurs are then specified in sectoral legislation.[63] Supervisory and sanctioning powers are concentrated primarily in the Czech Environmental Inspectorate (CEI), established by Act No. 282/1991 Coll., which can impose corrective measures, fines, and even bans and suspensions for harmful activities, with regional and municipal authorities exercising additional supervisory powers under specific environmental statutes.

A common denominator across these regimes is the progressive implementation of the polluter pays principle.[64] Although not explicitly embedded in the Constitution or the Charter, it is codified in the Environment Act and numerous implementing statutes, in line with Art. 191(2) TFEU. Under this principle, the costs of prevention, monitoring, remediation and other corrective measures are borne by those whose activities cause pollution or environmental harm, rather than by the public. For offenders, this typically entails not only financial penalties but also obligations to undertake remedial measures at their own expense, such as habitat restoration, soil and water decontamination, and compensatory measures. In practice, therefore, administrative liability, backed by the polluter pays principle, constitutes the central mechanism through which environmental obligations are enforced in the Czech legal system.

Civil liability complements the Czech system of environmental protection by providing compensation for both pecuniary and non-pecuniary harm. Under Section 2900 of the Civil Code (Act No. 89/2012 Coll.), the general preventive duty obliges everyone to "act so as to prevent unreasonable harm to freedom, harm to life, bodily harm or harm to the property of another." Although the environment

60 | The Constitutional Court of the Czech Republic 1995.
61 | The Constitutional Court of the Czech Republic 2025e.
62 | Act No. 250/2016 Coll., on Liability for Administrative Offenses and Proceedings in Respect Thereof, Section 5.
63 | Act No. 201/2012 Coll., on Air Protection, Act No. 254/2001 Coll., the Water Act, Act No. 114/1992 Coll., on Nature and Landscape Protection, and Act No. 541/2021 Coll., the Waste Act.
64 | For more information about environmental principles, see Krämer & Badger 2024.

is not mentioned explicitly, Czech law recognises that environmental damage can trigger liability where harm to health or property occurs – for example, air pollution causing illnesses or emissions damaging forest stands – so affected persons may bring claims under the general rules on liability for damage or unjust enrichment. In practice, such environmental cases show how technically and financially demanding it can be to establish causation between particular emissions and identifiable impacts on health, especially where multiple polluters and diffuse impacts are involved.[65]

Alongside civil liability, a specific public-law framework governs environmental damage under the Environment Act and the Act on the Prevention and Remedy of Environmental Damage (Act No. 167/2008 Coll.[66]), which transposes Directive 2004/35/EC.[67] This regime defines ecological damage as loss or impairment of the natural functions of ecosystems, is based on objective liability and requires operators who cause such damage to restore the normal functions of the damaged ecosystem wherever possible, or otherwise to provide equivalent remedial measures; while administrative authorities may order corrective action and impose monetary obligations. These forms of compensation may also be combined. The regime thus implements the polluter pays principle in a direct way yet focuses on damage to the environment as such, rather than on individual health claims, and does not provide a clear avenue for personal compensation where public authorities have failed preventively (for instance, in relation to air quality or climate mitigation).

Criminal liability functions as the *ultima ratio* in Czech environmental protection. The Criminal Code (Act No. 40/2009 Coll.) includes a group of crimes against the environment and crimes related to environmental protection in Chapter VIII, which can be committed by both natural persons and legal entities. Sanctions, ranging from fines and bans on activity to confiscation of property and imprisonment, are reserved for the most serious and socially harmful conduct, signalling the state's strong interest in safeguarding constitutionally relevant environmental values, even if, in practice, criminal law is used less frequently than administrative sanctions.

A notable feature of the Czech system is the dual and often overlapping nature of administrative and criminal liability: the same unlawful behaviour (e.g. illegal emissions or unlawful interference with protected areas) may qualify either as an administrative or criminal offence, depending on its social harmfulness, the extent of the damage and the interests at stake. This raises fundamental questions about how to delineate the two regimes, avoid double punishment, and ensure sanction coherence across legal branches.

65 | The Constitutional Court of the Czech Republic 2023 and The Supreme Court 2023.
66 | For a comprehensive commentary on Act No. 167/2008 Coll., see Stejskal & Vícha 2009.
67 | For more information about the Environmental Liability Directive, see Bergkamp & Goldsmith 2013.

From a constitutional perspective, the liability framework is asymmetric. While there is a dense and expanding system for imposing liability for environmental harm on private actors, mechanisms for holding the state accountable for failures to fulfil its positive environmental obligations, especially in the climate context, remain relatively weak. The Constitutional Court has acknowledged the state's constitutional duty to protect the environment but has been reluctant to clarify the consequences of legislative or executive inaction in areas such as long-term air pollution and inadequate climate mitigation. As a result, individuals suffering through systemic environmental degradation face substantial barriers when seeking redress from the state, even though the Constitutional Court has upheld claims in some specific contexts, such as noise pollution.[68] This asymmetry underscores the need for further doctrinal and jurisprudential development on state liability for breaches of environmental obligations in Czech law, including a clearer articulation of the relationship between constitutional environmental provisions, EU requirements, and the remedies available to impacted individuals.

4. Judicial enforcement

The judicial enforcement of environmental obligations has undergone a fundamental transformation at the European level, providing an essential backdrop for the Czech experience. The European Court of Human Rights (ECHR) has progressively recognised that Art. 8 of the European Convention on Human Rights (the Convention) imposes positive obligations on states to protect individuals from serious environmental harm. In *López Ostra v. Spain*,[69] the ECHR held that the right to respect for the home extends beyond physical intrusion to encompass disturbances caused by noise, emissions and smells. This was reinforced in *Moreno Gómez v. Spain*[70] with a finding that tolerating systematic infringements of domestic environmental regulation renders the protection from the Convention illusory. In *Kapa and Others v. Poland*,[71] the ECHR confirmed that the state has a positive duty to take adequately effective measures, including compensation, to prevent individuals from being deprived of the enjoyment of their home due to excessive environmental interference. The Grand Chamber judgment in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*[72] extended this line of case law to the climate context, holding that Art. 8 of the Convention requires states to establish a binding regulatory framework with targets and pathways for achieving carbon neutrality.

68 | The Constitutional Court of the Czech Republic 2025f.
69 | European Court of Human Rights 1994.
70 | European Court of Human Rights 2005.
71 | European Court of Human Rights 2022.
72 | European Court of Human Rights 2024.

In its judgment I. ÚS 818/24,[73] the Czech Constitutional Court drew directly on this body of ECHR case law, holding that a regional hygiene authority's unlawful noise exemption breached the state's positive obligations under Art. 8 of the Convention, with effective remedies, including compensation, forming an integral part of those obligations. Whether such obligations can be effectively enforced primarily depends, however, on the threshold question of who is entitled to bring a claim before Czech courts.

Under Czech law, any person (natural or legal) whose rights may be affected has legal standing to bring an action, including actions against administrative decisions, where legal standing typically (but not necessarily)[74] follows from participation in the underlying administrative proceedings. As the right to a favourable environment is not conceived as a strictly individual right, individuals organised in communities can also have legal standing.[75]

The legal standing of environmental NGOs (more commonly known in the Czech Republic as environmental associations) has evolved significantly since the 1990s. The Constitutional Court's landmark judgment I. ÚS 59/14 recognised that associations for environmental protection can, if they meet specific criteria, enjoy both procedural and substantive standing, provided they have a direct and unmediated link to the affected territory and can claim a reduction of their rights by an unlawful administrative decision.[76] The Constitutional Court has also accepted that municipalities, as representatives of their inhabitants, may have legal standing,[77] while the Supreme Administrative Court has extended this logic further to city districts.[78]

Recent case law has refined the territorial-connection requirement for NGOs. Courts have held that an NGO based in another municipality may still obtain judicial protection if it conducts activities (even informal or educational) in or near the affected area,[79] whereas NGOs with a broadly national scope of activity are scrutinised more strictly.[80] At the same time, natural persons enjoy a wide range of substantive and procedural environmental rights, and the Supreme Administrative Court has allowed them to invoke infringements of public interests where the infringement of their rights stems from provisions primarily aimed at protecting public interests.[81]

Several recent decisions address specific issues at the intersection of environmental protection and fundamental rights. In a high-profile case on freedom of

73 | The Constitutional Court of the Czech Republic 2025f.
74 | The Supreme Administrative Court 2014a.
75 | Tomoszek, Tomoszková & Vomáčka 2021, 1003.
76 | The Constitutional Court of the Czech Republic 2014.
77 | The Constitutional Court of the Czech Republic 2015.
78 | The Supreme Administrative Court 2014b.
79 | The Supreme Administrative Court 2024a and Chaloupková 2024, 44.
80 | The Supreme Administrative Court 2024b.
81 | The Supreme Administrative Court 2024c and Chaloupková 2024, 44.

expression, the Constitutional Court upheld Greenpeace's satirical video criticising the greenwashing of a national energy company,[82] emphasising the protection of parody and satire as valuable contributions to public debate on environmental issues.[83] In the field of access to environmental information, the Constitutional Court has accepted that fees[84] (for instance for extensive searches or access to spatial data) may be charged, but requires that their amount be assessed for proportionality[85] in light of the Aarhus Convention's standards.[86]

Finally, the Supreme Administrative Court has addressed conflicts between the fundamental right to conduct a business and the public interest in environmental protection in the context of integrated permits under the IPPC regime. In a case concerning the extension of landfill operations,[87] it asked the Court of Justice of the EU for a preliminary ruling on whether an amendment represented a substantial change.[88] The Court of Justice of the European Union concluded that, in the specific circumstances, it did not.[89]

Civil courts in the Czech Republic have traditionally taken a very cautious and restrictive approach to remedies for harm arising from environmental damage, and the Constitutional Court long aligned itself with this practice.[90] In a recent shift, however, the Constitutional Court held that noise pollution exceeding statutory limit values infringes fundamental rights and triggers positive obligations on the state, thereby requiring civil courts to hear such claims and to be open to granting compensation for immaterial harm.[91]

One landmark environmental case is the *Soutok* decision (as described above),[92] while another is the first Czech climate action,[93] which directly engaged Art. 7 of the Constitution, Art. 35 of the Charter, questions of legal standing, and the scope of possible remedies.[94]

The first Czech climate action began in 2021 before the Municipal Court in Prague. The case was brought by seven different plaintiffs – four affected individuals, two environmental NGOs [Klimatická žaloba (Czech Climate Litigation) and Czech Society for Ornithology)], and a municipality (Obec Svatý Jan pod Skalou) – against the Czech Government, the Ministry of the Environment, the

82 | The Constitutional Court of the Czech Republic 2024a.
83 | Chaloupková 2024, 12.
84 | For example, for an exceptionally extensive search of information under Section 10(3), or access to spatial data under Section 11c(3) of Act No. 123/1998 Coll.
85 | The Constitutional Court of the Czech Republic 2024b.
86 | Chaloupková 2024, 14.
87 | The Supreme Administrative Court 2024d.
88 | Chaloupková 2024, 32.
89 | The Court of Justice of the European Union 2022.
90 | The Constitutional Court of the Czech Republic 2024c.
91 | The Constitutional Court of the Czech Republic 2025f.
92 | See 2.5.
93 | For a comprehensive overview of the case, see Müllerová and Ač, 2022.
94 | The Constitutional Court of the Czech Republic 2025e.

Ministry of Industry and Trade, the Ministry of Agriculture, and the Ministry of Transport. To protect their rights, plaintiffs chose to take action against unlawful interference under the Code of Administrative Justice (Act No. 150/2002 Coll.). The Prague Municipal Court initially granted the action in part, but after a cassation intervention by the Supreme Administrative Court, it dismissed the claim in the second judicial review round. Both judgments were challenged by a cassation complaint. On the first occasion, the Supreme Administrative Court partially quashed the Municipal Court's judgment; on the second, it dismissed the cassation complaint. In the first phase of the proceedings before the administrative courts, the case also concerned adaptation measures (responding to actual or expected climate change, including increasing the resilience of society and the landscape). The second phase of the proceedings concerned only mitigation measures (aimed at reducing climate change).

Before the Constitutional Court, the plaintiffs [association Klimatická žaloba (Czech Climate Litigation), municipality (Obec Svatý Jan pod Skalou), Czech Society for Ornithology and 2 individuals] challenged both the decisions of the Supreme Administrative Court and the second judgment of the Municipal Court of Prague, insofar as it related to the ministries and the mitigation measures. They argued that the administrative courts had failed to examine the autonomous normative content of the state's positive obligations in the field of climate protection arising from the Charter and the Convention. In their view, the obligation of the ministries to take the specific steps set out in the action follows directly from the constitutional order, in particular from the fundamental right to a favourable environment. The Constitutional Court delivered its judgment in November 2025. In view of the seriousness of the question raised, the case was referred to the plenary by order dated 5 March 2025.

The Constitutional Court regards climate change as a serious issue for society as a whole. However, the preparation and implementation of appropriate measures in this field is primarily the task of the legislative and executive branches. The judiciary is not excluded from the topic, but its role is limited by its constitutional function. Climate change has appeared before many foreign courts, yet because they have dealt with it in different types of proceedings and procedural contexts, their conclusions cannot simply be transplanted, nor can it be inferred that proceedings in the Czech Republic must end in the same way as those in a different state.

In view of the type of proceedings and the procedural steps taken by the complainants, the Constitutional Court did not address in this judgment whether the Czech Republic is taking sufficient measures to combat climate change and its consequences. It focused only on (1) whether the defendant ministries infringed the fundamental rights in the manner defined in the action against unlawful interference, and (2) whether the administrative courts infringed the complainants' fundamental rights when ruling on that action.

Before the administrative courts, the complainants sought a declaration that the interference by the ministries was unlawful, arguing that, in the absence of specific legislation, the ministries had failed to establish specific mitigation measures that would lead to a reduction in greenhouse gas emissions. The individual claims differed only in the manner and degree to which the desired reduction in emissions was specified. At the same time, the complainants asked the court to prohibit the ministries from continuing to infringe their right to a favourable environment. The key question was whether, in fact, it is the defendant ministries that bear the obligations arising from the fundamental right to a favourable environment.

According to the Constitutional Court, the ministries could not be the authors of the unlawful interference as defined by the complainants. Since they did not cause the alleged interference, they could not cease it or grant the relief sought by means of an action against unlawful interference under the Code of Administrative Justice. Therefore, the administrative courts had not erred in refusing the complainants' requests.

In its *Verein KlimaSeniorinnen* judgment, the European Court of Human Rights held that climate measures must be part of the domestic regulatory framework.[95] In Czech law, the positive and negative obligations for public authorities flowing from the (broadly understood) fundamental right to a favourable environment are shaped by Art. 35(1) of the Charter in conjunction with Art. 7 of the Constitution and Art. 8 of the Convention. At present, however, there is no legislation in the Czech Republic that implements the right to a favourable environment in such a way as to impose on the ministries a duty to adopt specific mitigation measures to reduce emissions. The ministries themselves lack the power to enact legislation, as that competence lies solely with the legislature. None of the relevant legal sources, whether the constitutional order, EU law, the case law of the ECHR, or the advisory opinion of the International Court of Justice impose on the ministries the duty to adopt the measures demanded in the action. Had the administrative court upheld the claim, it would effectively have created that duty itself, which is incompatible with the nature of an action against unlawful interference, a remedy intended to protect against the breach of an existing obligation.

The Constitutional Court therefore did not find that the ministries had infringed the fundamental right to a favourable environment through interference as defined in the claim. The human-rights obligation invoked by the complainants can be discharged only by the state imposing new duties on natural persons and legal entities by way of legislation. The complainants were thus directing their demands at the wrong bodies, since the defendant ministries have no competence to meet them. No administrative courts infringe fundamental rights. The Constitutional Court therefore dismissed the constitutional complaint.

None of the judges issued a dissenting opinion.

95 | European Court of Human Rights 2024.

5. Good practices and *de lege ferenda* proposals concerning *part 2* of the Article

Existing literature[96] indicates that the Czech ombudsman is a highly respected institution in the Czech Republic. However, it does not have any executive powers. It performs two roles in environmental protection. First, it provides legal support to complainants (especially in dealings with administrative bodies and authorities) and may issue public statements or recommendations. Second, it can initiate judicial review of an administrative decision, provided it demonstrates that there is a serious public interest that needs to be protected.[97]

The requirement that the ombudsman must prove the existence of a serious public interest is, however, restrictive. This contrasts with the position of the prosecutor general, who can initiate the same type of proceedings solely based on their conviction that a serious public interest requires protection.[98]

The emphasis on establishing a serious public interest makes it difficult for the ombudsman to rely on this power. One *de lege ferenda* proposal would therefore be to align Section 66(3) with Section 66(2) of Act No. 150/2002 Coll. In other words, to introduce an irrebuttable presumption that a serious public interest exists whenever the ombudsman deems it necessary to initiate judicial review of an administrative decision.

Furthermore, Act No. 150/2002 Coll. unduly limits the ombudsman's active legal standing solely to the review of administrative decisions. Another *de lege ferenda* proposal could extend this power to actions connected to other types of encroachments (such as unlawful interference, inaction by an administrative authority, and measures of a general nature).[99]

One of the key issues discussed in this article is the protection of future generations. The analysis has shown that the legal system contains several provisions referring to future generations but that these references are scattered and lack a comprehensive legal framework. It has also been demonstrated that the protection of future generations can be inferred from specific provisions (for example in criminal law).

Another approach to protecting future generations would be to establish an NGO dedicated to this purpose.[100] This could take the form of a specific NGO founded to protect future generations, or an environmental NGO primarily dedicated to environmental protection, with a secondary focus on protecting future generations. However, this approach raises several issues. First, the Constitutional

96 | Radvan, 194–196.
97 | Act No. 150/2002 Coll., the Administrative Procedure Code, Section 66(3).
98 | Ibid., Section 66(2).
99 | Chamrátová 2016, 702.
100 | Tomoszková & Tomoszek 2024, 84–85.

Court currently understands associations (or NGOs) as entities primarily protecting the individual rights of the people grouped within them.[101] Their role would therefore need to be reconceptualised so that substantive rights extend to future generations. Second, questions arise in relation to the concept of the public concerned under the Aarhus Convention: could such NGOs legitimately claim to protect future generations through environmental protection? This may prove difficult because the existing legal framework focuses predominantly on protecting current generations and individuals. Practical problems may arise, for instance, in environmental impact assessment procedures, with authorities having to determine how far into the future a project's effects must be evaluated.

One possible way forward would be to introduce the principle of protecting future generations either in a (future) climate law or by amending Act No. 17/1992 Coll.

As regards the protection of future generations, the Czech Republic does not have an explicit constitutional mechanism comparable to that in Hungary.[102] In the Czech context, this deficit could be addressed by extending the mandate of the children's ombudsman to cover the interests of future generations. This would allow the children's ombudsman to initiate administrative and judicial proceedings and to issue opinions on this topic. In addition, it would be useful to grant the children's ombudsman active legal standing in specific cases involving inaction by the state or administrative authorities, thereby enabling them to press the state to adopt policies that protect future generations and, by extension, the environment closely tied to their well-being.

Such an extension would, however, need to be accompanied by stricter eligibility requirements for the children's ombudsman. In particular, a high degree of moral integrity and impartiality would be essential to prevent undue political and non-political influence. One likely area of contention would be abortion: some fundamentalist religious groups might interpret the protection of future generations as a mandate to restrict abortions and could pressure the ombudsman to adopt a position on this issue.

Finally, three *de lege ferenda* proposals concern amendments to the Charter and the Constitution. First, the absence of an explicit, general constitutional duty on everyone to protect and enhance the environment makes the individual duty in Art. 35(3) of the Charter heavily dependent on legislative concretisation and judicial interpretation. Second, although positive obligations are recognised in law, they are not clearly linked to specific constitutional objectives in areas such as climate protection, biodiversity conservation or the sustainable use of key natural resources such as agricultural land and forests. Third, there is no constitutional clause steering economic policy towards an ecologically orientated market economy or explicitly embedding sustainable development as a guiding principle of the economic order.

101 | Cf. the Constitutional Court of the Czech Republic 2014.
102 | For more information, see Szilágyi 2021a or Szilágyi 2021b.

Reference list

Literature

1. Bergkamp L & Goldsmith B (2013) *The EU Environmental Liability Directive: A Commentary*, Oxford University Press.
2. Constitution of the Czech Republic of 16 December 1992, No. 1/1993 Coll.
3. Constitutional Act No. 2/1993 Coll., the Charter of Fundamental Rights and Freedoms.
4. Chaloupková A (2024) National Report on the Implementation of the Aarhus Convention in the Czech Republic in the Period 2021–2024, *Ministry of the Environment*, https://mzp.gov.cz/system/files/2025-06/733-Implementacni_zprava_ENG-20250620.pdf [27.03.2026].
5. Chamrátová A (2016) Zvláštní žalobní legitimace k ochraně veřejného zájmu, *Právník* 8/2016, pp. 689–703.
6. Krämer L & Badger C (2024) *Krämer's EU Environmental Law*, 9th edn., Hart Publishing, London.
7. Michalovič M (2025) Kapitola 3. Pramene environmentálného práva, in: Vrabko M et al. (eds.) *Environmentálné právo. Všeobecná časť*, 1st edn., C. H. Beck, Bratislava, pp. 36–71.
8. Morávek J, Tomášková V, Bernard M & Vícha O (2013) *Zákon o ochraně ovzduší: Komentář*, C. H. Beck, Prague.
9. Müllerová H & Ač A (2022) The First Czech Climate Judgment: A Novel Perspective on the State's Duty to Mitigate and on the Right to a Favourable Environment, *Climate Law* 12(3–4), pp. 273–284, DOI: https://doi.org/10.1163/18786561-12030004.
10. Draft Constitutional Act Amending Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic, as amended by later constitutional acts (2023).
11. Orlando, E. (2024) *Environmental Liability and the Interplay between EU Law and International Law*, 1st edn., Routledge, Abingdon.
12. Radvan, M. (2022) Czech Republic: Limited Constitutional Regulation of Environmental Protection Complemented by the Case Law of the Constitutional Court, in: Szilágyi J E (ed.) *Constitutional Protection of the Environment and Future Generations: Legislation and Practice in Certain Central European Countries*, pp. 161–202, DOI: https://doi.org/10.54237/profnet.2022.jeszcpefg_5.

13. Stejskal V & Vícha O (2009) *Zákon o předcházení ekologické újmě a o její nápravě s komentářem, souvisícími předpisy a s úvodem do problematiky ekologicko-právní odpovědnosti*, Leges, Prague.

14. Stejskal V (2024) Principy práva životního prostředí v novém stavebním zákoně, *Právník* 1/2024, pp. 48–61.

15. Chamber of Deputies Document No. 497; Amendment to the Constitutional Act – Constitution of the Czech Republic (2023), https://www.psp.cz/sqw/historie.sqw?o=9&t=497 [26.03.2026].

16. Syllová J (2016) Art. 7 [Ochrana životního prostředí], in: Sládeček V et al. (eds.), *Ústava České republiky*, 2nd edn., C. H. Beck, Prague, pp. 59–63.

17. Szilágyi J E (2021a) Some Values and Guarantees in the Ten-Year-Old Hungarian Constitution, with a Look at the Constitutional Arrangements of the Countries Founding the European Integration, *Central European Journal of Comparative Law* 2(2), pp. 197–219, DOI: https://doi.org/10.47078/2021.2.197-219.

18. Szilágyi J E (2021b) The Protection of the Interests of Future Generations in the 10-Year-Old Hungarian Constitution, with Special Reference to the Right to a Healthy Environment and Other Environmental Issues, *JAEL* 16(31), pp. 130–144, DOI: https://doi.org/10.21029/JAEL.2021.31.130.

19. Szilágyi J E (2022) Constitutional Protection of the Environment and the Future Generations in Certain Central European Countries, in: Szilágyi J E (ed.) *Constitutional Protection of the Environment and Future Generations*, CEA Publishing, Miskolc – Budapest, pp. 479–526, DOI: https://doi.org/10.54237/profnet.2022.jeszcpefg_12.

20. Šuráň P (2025) Právní dopady navrhovaného ukotvení ochrany zvířat v Ústavě ČR, především ve vztahu k základnímu právu na náboženské projevy, *České právo životního prostředí* 1/2025, pp. 68–73.

21. Tlapák Navrátilová et al. (2023) *Atomový zákon (č. 263/2016 Sb.) – Komentář*, 1st edn., Wolters Kluwer, Prague.

22. Tomoszek M, Tomoszková V & Vomáčka V (2021) Čl. 35 [Životní prostředí], in: Husseini F et al. (eds) *Listina základních práv a svobod*, 1st (1st rev.) edn., C. H. Beck, Prague, pp. 974–1031.

23. Tomoszková V & Tomoszek M (2024) Dnešní i budoucí děti – ochrana jejich práv v souvislosti s klimatickou změnou, *Právník* 1/2024, pp. 62–86.

24. Uhl P (2015) Article 7, in: Rychetský P et al. (eds) *Ústava České republiky: Komentář*, Wolters Kluwer, Prague.

25. Uhl P, Černý P, Korbel F, Roztočil A & Bursíková L (2025) § 38 [Cíle územního plánování], in: Bursíková L et al. (eds.) *Stavební zákon*, 1st edn., C. H. Beck, Prague, pp. 302–304.

26. Vícha O (2014) *Princip "ZNEČIŠŤOVATEL PLATÍ" z právního pohledu*, 1st edn., Linde, Prague.

27. Vícha O (2017) *Horní zákon. Zákon o hornické činnosti, výbušninách a o státní báňské správě. Komentář*, Wolters Kluwer, Prague.

28. Vícha O (2023) Ústavní soud (nejen) k odpovědnosti státu za pochybení orgánů ochrany ovzduší či autorizovaného inspektora, *České právo životního prostředí* 1/2023, pp. 74–94.

29. Government of the Czech Republic (2025) General Principles for Regulatory Impact Assessment (RIA), https://ria.vlada.cz/wp-content/uploads/2025_01_01_OZ_RIA.pdf [26.03.2026].

30. Vlasatá Z (2025) Anatomy of an Ecocide: The Mysterious Poisoning of the Czech Republic's Becva River, https://gijn.org/stories/anatomy-ecocide-becva-river-moravia/ [26.03.2026].

31. OHCHR, UNEP & UNDP (2023) What is the Right to a Healthy Environment?, https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf [27.03.2026].

Case law

1. European Court of Human Rights (1994) López Ostra v. Spain, App no 16798/90.

2. European Court of Human Rights (2005) Moreno Gómez v. Spain, App no 4143/02.

3. European Court of Human Rights (2022) Kapa and Others v. Poland, App no 75031/13.

4. European Court of Human Rights (2024) Verein Klimaseniorinnen Schweiz and Others v Switzerland, App no 53600/20.

5. The Constitutional Court of the Czech Republic (1995). Judgment of 25. 10. 1995, Case No. Pl.ÚS 17/95.

6. The Constitutional Court of the Czech Republic (1997). Judgment of 10. 7. 1997, Case No. III.ÚS 70/97.

7. The Constitutional Court of the Czech Republic (2014). Judgment of 30. 5. 2014, Case No. I. ÚS 59/14.

8. The Constitutional Court of the Czech Republic (2015). Judgment of 13. 10. 2015, Case No. IV. ÚS 3572/14.
9. The Constitutional Court of the Czech Republic (2019). Judgement of 17. 7. 2019, Case No. Pl.ÚS 44/18.
10. The Constitutional Court of the Czech Republic (2020). Judgement of 12. 5. 2020, Case No. III.ÚS 709/19.
11. The Constitutional Court of the Czech Republic (2021). Judgement of 26. 1. 2021, Case No. Pl. ÚS 22/17.
12. The Constitutional Court of the Czech Republic (2023). Judgement of 16. 5. 2023, Case No. I. ÚS 233/23.
13. The Constitutional Court of the Czech Republic (2024a). Judgement of 10 January 2024, Case No. I.ÚS 2956/23.
14. The Constitutional Court of the Czech Republic (2024b). Judgement of 26. 6. 2024, Case No. I.ÚS 3254/22.
15. The Constitutional Court of the Czech Republic (2024c). Resolution of 18. 6. 2024, Case No. III.ÚS 2860/23.
16. The Constitutional Court of the Czech Republic (2025a). Judgement of 22. 10. 2025, Case No. Pl. ÚS 17/25.
17. The Constitutional Court of the Czech Republic (2025b). Resolution of 11. 12. 2025, Case No. III. ÚS 2986/25
18. The Constitutional Court of the Czech Republic (2025c). Resolution of 27. 11. 2025, Case No. III. ÚS 3094/25.
19. The Constitutional Court of the Czech Republic (2025d). Resolution of 27. 11. 2025. Case No. IV. ÚS 2254/25.
20. The Constitutional Court of the Czech Republic (2025e). Judgement of 22. 10. 2025, Case No. Pl. ÚS 6/25.
21. The Constitutional Court of the Czech Republic (2025f). Judgement of 23. 1. 2025, Case No. I. ÚS 818/24.
22. The Constitutional Court of the Czech Republic (2026). Resolution of 28. 1. 2026, Case No. II. ÚS 3706/25.
23. The Court of Justice of the EU (2022). Judgment of 2. 6. 2022, C-43/21, FCC Czech Republic.
24. The Supreme Administrative Court (2014a). Judgment of 18. 4. 2014, Case No. 4 As 157 / 2013-33.

25. The Supreme Administrative Court (2014b). Judgment of 24. 4. 2015, Case No. 4 Aos 1/2013-125.
26. The Supreme Administrative Court (2024a). Judgment of 18. 7. 2024, Case No. 6 As 150/2023-81.
27. The Supreme Administrative Court (2024b). Judgment of 13. 9. 2024, Case No. 7 As 99/2024-71.
28. The Supreme Administrative Court (2024c). Judgment of 9. 5. 2024, Case No. 6 As 366/2023-46.
29. The Supreme Administrative Court (2024d). Judgment of 6. 2. 2024, Case No. 1 As 225/2023.
30. The Supreme Court (2021). Resolution of 31. 8. 2021, Case No. 4 Tdo 855/2021.
31. The Supreme Court (2023). Resolution of 15. 8. 2023, Case No. 30 Cdo 1678/2023.