

THE UTILIZATION AND CONSERVATION OF NATURAL RESOURCES IN LITHUANIA

Birutė Pranevičienė*

*Mykolas Romeris University, Faculty of Public Security,
Department of Law
Putvinskio str. 70, LT-44221 Kaunas
Phone: (370 37) 303 665;
E-mail: praneviciene@mruni.eu*

Annotation. The article presents a review of Lithuanian system of the utilisation and conservation of natural resources, and consists of three parts. The first part of the article analyses the international and national legal regulation that defines the requirements for the utilisation and conservation of natural resources. The importance of the state role ensuring the proper use and conservation of natural resources is introduced in the light of international legal framework. Types of natural resources are presented in the second part of the article. The ownership forms of natural resource are introduced in the third part of the article. The natural resource ownership can be public, private and general. The underground, internal waters, forests, parks, roads, historical, archaeological and cultural objects of State importance belong by the right of exclusive ownership to the Republic of Lithuania.

Keywords: natural resources, environment, conservation of natural resources

INTRODUCTION

Our age is characterized by globalization processes related to the climate change, the high level of industrial and technological development, the growth of economic and social needs. These processes have a negative impact on the environment - exhaustion of natural resources, increased chemical, technical, biological and domestic pollution of the environment leads to harmful, and sometimes irreversible animate and inanimate nature, landscape, historical and cultural heritage developments, deteriorating the quality of life, causing a hazard to human health and even their lives. “Appropriate and rational use of natural resources became a global issue, which dealt with the legal and regulatory measures”¹ Therefore more than 40 years ago the world representatives gathered in the United Nations conference and acknowledged that „The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must

¹ E. Monkevičius, A. Miškinis, L. Meškys, I. Vėgėlė, A. Murauskaitė, *Aplinkosaugos teisė* [Environmental law], Vilnius: Justitia, 2011, p.93

be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”²

Lithuanian constitutional provisions require the State and each individual to protect the environment from harmful influences. The State also has to take care of the natural environment, wildlife and plants, individual objects of nature, moderate use of natural resources, restoration and augmentation. The State exercising the Constitutional imperative to take care of the environment, determines the creation of the system of public administration institutions engaged in regulation, control, and preservation of environment. Nowadays, states should play a crucial role in the process of natural resource conservation. “In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population”.³

Lithuanian environmental legislation was influenced by international legal framework, and was adopted and amended in accordance with European Union directives. “Union policy on the environment shall contribute to pursuit of the following objectives: ... preserving, protecting and improving the quality of the environment,... prudent and rational utilization of natural resources”.⁴

The objective of the research: To analyze the international and national legal documents, which aim to regulate the utilization and protection of natural resources, and to present the system of classification of natural resources and specific mode of some types of natural resources.

THE LEGAL REGULATION OF THE USE AND PROTECTION OF NATURAL RESOURCES

The worldwide discussions on the issue of rational use and protection of natural resources started 40 years ago. The first United Nations Conference on the Human Environment (UNCHE) was held in Stockholm in 1972. “This was the first United Nations

² Declaration of the United Nations Conference on the Human Environment (Stockholm declaration), [interactive] [accessed 2013-04-02]

<<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>>

³ Declaration of the United Nations Conference on the Human Environment (Stockholm declaration), [interactive] [accessed 2013-04-02]

<<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>>

⁴ Consolidated version of the Treaty on the Functioning of the European Union, Official Journal of the European Union, 2012, Volume 55, C326, Art. 191

conference on the environment as well as the first major international gathering focused on human activities in relationship to the environment, and it laid the foundation for environmental action at an international level⁵.

The Declaration of the United Nations Conference on the Human Environment was adopted on 16 June 1972⁶ in which was stated that „The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.“⁷ 26 principles of the environmental protection were established in the Declaration. Some of them require states to take action: „In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population“⁸. Some principles, according to Nico Schrijver, established „a delicate balance between rights and obligations“⁹ States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction“¹⁰.

Twenty years later at the United Nations Conference on Environment and Development, which was held in Rio de Janeiro, world representatives agreed that the protection of the environment and social and economic development are fundamental to the sustainable development.¹¹ “As a package, the Rio Declaration is more specific than the Stockholm

⁵ United Nations Conference on the Human Environment (UNCHE), Stockholm, Sweden, [interactive] [accessed 2013-04-02]

<http://www.eoearth.org/article/United_Nations_Conference_on_the_Human_Environment_%28UNCHE%29,_Stockholm,_Sweden>

⁶ Declaration of the United Nations Conference on the Human Environment is so-called „Stockholm declaration“, because the Conference was held in Stockholm.

⁷ Declaration of the United Nations Conference on the Human Environment (Stockholm declaration), [interactive] [accessed 2013-04-02]

<<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>>

⁸ Declaration of the United Nations Conference on the Human Environment (Stockholm declaration), [interactive] [accessed 2013-04-02]

<<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>>

⁹ N.Schrijver, *Sovereignty over Natural Resources– Balancing Rights and Duties*, the USA, N.Y., Cambridge University Press, 1997 p.125

¹⁰ Declaration of the United Nations Conference on the Human Environment (Stockholm declaration), [interactive] [accessed 2013-04-02]

<<http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=97&ArticleID=1503>>

¹¹ Rio Declaration on Environment and Development, adopted 14 June 1992 [interactive] [accessed 2013-04-02]<<http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>>.

declaration. It provides a framework for development of environmental law at national and international level, which has served as an important point of reference to guide decision-making.”¹²

In 2002 during the 17th plenary meeting of the World Summit for Sustainable Development in Johannesburg the Johannesburg Declaration on Sustainable Development was adopted, which reworded some provisions, stated in Stockholm and Rio declarations: “The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life. Globalization has added a new dimension to these challenges. The rapid integration of markets, mobility of capital and significant increases in investment flows around the world has opened new challenges and opportunities for the pursuit of sustainable development. But the benefits and costs of globalization are unevenly distributed, with developing countries facing special difficulties in meeting this challenge¹³ Thus, natural resources, the utilization and conservation of natural resources became an object of international legal regulation. “The twentieth century has brought the tremendous development of multilateral or global agreements regarding global environmental challenges.”¹⁴

Natural resources are the subject of regulation and protection by national legislation as well: “The State and each person must protect the environment from harmful influences.”¹⁵ Article 54 determines the duties of the State: „The State shall take care of the protection of the natural environment, wildlife and plants, individual objects of nature and areas of particular value and shall supervise a sustainable use of natural resources, their restoration and increase. The destruction of land and the underground, the pollution of water and air, radioactive impact on the environment as well as depletion of wildlife and plants shall be prohibited by law.”¹⁶ There are number of laws that concretize the imperatives of the Constitution to protect

¹² P. Sands, J. Peel, *Principles of International Environmental Law*, the USA, N.Y, Cambridge university press., third edition, 2012, p.44

¹³ Johannesburg declaration on Sustainable Development, [], [interactive] [accessed 2013-04-02] <<http://www.unescap.org/esd/environment/rio20/pages/Download/johannesburgdeclaration.pdf>>

¹⁴ A. Pūraitė, „Impact of Activity of International Organizations on Environmental Law”, *Visuomenės saugumas ir viešoji tvarka* [Public security and public order], MRU, 2012 (8), p. 192

¹⁵ Constitution of Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014; (<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>), Art. 53

¹⁶ Constitution of Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014; (<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>), Art. 54

environment from harmful influences and to supervise a sustainable use of natural resources, for example, the Law on Environmental Protection of the Republic of Lithuania¹⁷, the Law on State Environmental control of the Republic of Lithuania¹⁸, the Underground Law of the Republic of Lithuania¹⁹, the Law on Protection of the Marine Environment of the Republic of Lithuania²⁰, the Law on Renewable Energy of Republic of Lithuania²¹, Forestry Law of the Republic of Lithuania²², the Program of natural resources conservation and protection²³, etc. Many of above mentioned legal acts are harmonized with EU legislation or implement the provisions of corresponding EU directives. For example, Provisions of the law on the State environmental control of the Republic of Lithuania are consistent with following European Union law acts: Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage²⁴, Directive 2005/35/EC of the European Parliament and of the Council on ship-source pollution and on the introduction of penalties for infringements²⁵ Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC²⁶, Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit

¹⁷ The Law on environmental protection of the Republic of Lithuania, *Official Gazette*, 1992, No.: 5 - 75

¹⁸ The Law on the State environmental control of the Republic of Lithuania, *Official Gazette*, 2002, No. 72- 3017

¹⁹ The Underground Law of the Republic of Lithuania, *Official Gazette*, 1995, No. 63 – 1582, *Official Gazette*, 2001, No. 35 - 1164

²⁰ The Law on Protection of the Marine Environment of the Republic of Lithuania *Official Gazette*, 1997, No. 108 - 2731; *Official Gazette*, 2010, No. 153 - 7780

²¹ The Law on Renewable Energy of Republic of Lithuania, *Official Gazette*, 2011, No. 62 - 2936

²² The Forestry Law of the Republic of Lithuania, *Official Gazette*, 1994, No. 96 - 1872; *Official Gazette*, 2001, No. 35 - 1161

²³ Resolution of the Seimas of the Republic of Lithuania on the approval of natural resources conservation and protection program, *Official Gazette*, 2007, No. 69 - 2728

²⁴ Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, [interactive] [accessed 2013-04-02] <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004L0035:20060501:LT:PDF>>

²⁵ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, [interactive] [accessed 2013-04-02] <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:255:0011:0021:LT:PDF>>

²⁶ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC [interactive] [accessed 2013-04-02] <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=oj:l:2006:396:0001:0849:en:pdf>>

scheme (EMAS), repealing Regulation(EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC²⁷, and Regulation (EC) No 66/2010 of the European Parliament and of the Council on the EU Ecolabel²⁸.

Thus, different aspects of the use and protection of natural resources are regulated by international, regional, and national legal acts.

THE CLASSIFICATION OF NATURAL RESOURCES

According to predominant thinking, natural resources originate naturally within environment without interference of human being. „Natural resources are made by Nature and the energy to make them comes from geochemical, geophysical and solar energy.“²⁹ Natural resources are derived from the environment. “Environment shall mean the system functioning in nature and comprising its interconnected components (the earth's surface and entrails, air, water, soil, flora and fauna, organic and inorganic matter), as well as natural and anthropogenic ecological systems.“³⁰ Some of natural resources are essential for survival of human beings, while some of them are used for satisfying human’s demands.

The Law on Environmental Protection of the Republic of Lithuania gives such definition: „Natural resources shall mean the elements of organic and inorganic nature which are used or may be used by man in order to satisfy his needs“³¹. In laws and legal literature, sometimes alongside the concept of "natural resources" and used the term "objects of nature". For example, the Constitution of the Republic of Lithuania claims: “The State shall take care of the protection of the natural environment, wildlife and plants, individual *objects of nature* and areas of particular value and shall supervise a sustainable use of natural resources, their restoration and increase“³². The terms „natural resources“ and „objects of nature“ can be reasonably treated as synonyms. Natural resources are considered to be the useful features of objects of nature.

²⁷ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation(EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC [interactive] [accessed 2013-04-02] <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:342:0001:0045:en:PDF>>

²⁸ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel [interactive] [accessed 2013-04-02] <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:027:0001:0019:EN:PDF>>

²⁹ What are natural resources? [interactive] [accessed 2013-04-02] <<http://www.sbs.utexas.edu/resource/onlinetext/definitions/resources.htm>>

³⁰ The Law on Environmental Protection of the Republic of Lithuania, *Official Gazette*, 1992, No.: 5 - 75

³¹ The Law on Environmental Protection of the Republic of Lithuania, *Official Gazette*, 1992, No.: 5 - 75

³² Constitution of Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014; (<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>), Art. 54

Natural resources may be classified in different ways. According to the characteristics and the conditions of the renewal, natural resources can be divided into the following types:

1) Relatively stable – earth, water, air, climate, Solar energy, and other, which are the ground of the existence of life on the Planet.

2) Self-regenerative – soil, forests, vegetation, fauna, and other biodiversity, which is updated by itself or with the help of humans if there is no breach of the requirements of environmental protection and nature in equilibrium,

3) Exhaustible – oil, gas, some minerals, the quantity of which the earth is limited and that, properly used, recovers very rarely or does not recover at all.

The classification of resources has legal significance, because the legal regime of the use and protection of certain kinds of resources is different. „Limitation of natural resources shall mean the establishment of norms of utilization of natural resources, taking into consideration the information related to the amount of natural resources, their renewal, and preservation for the future“³³. In 2007 Seimas of the Republic of Lithuania issued a resolution on the approval of natural resources conservation and protection program, which aims at creating favorable conditions for the rational use of natural resources, their protection, restoration, restocking, and sustainable economic development. The conservation of natural resources is understood as a use of resource on environmental, economic and social objectives of society, making it possible for current and future generations to achieve the common good within the permissible limits of environmental impact. Natural Resource Protection are actions and measures that aim at protecting the valuable features of natural objects from the physical, chemical, biological or other adverse effects caused by natural processes and human activities, and full or partial recovery of those valuable features.

As it is stated in natural resources conservation and protection program, “There are the legal and economic conditions promoting the sustainable use of resources and protection, reducing environmental impact, energy efficiency and renewable energy sources increase in Lithuania, but the quality of the environment do not meet the requirements of sustainable development.”³⁴

The main natural resources in Lithuania are: water resources, subsoil resources, forest resources, fish stocks, energy resources, biodiversity and natural landscape, Baltic Sea coast. Therefore, Program aims: (1) to optimize the use of natural resources, reduce negative

³³ The Law on Environmental Protection of the Republic of Lithuania, *Official Gazette*, 1992, No.: 5 - 75

³⁴ Resolution of the Seimas of the Republic of Lithuania on the approval of natural resources conservation and protection program, *Official Gazette*, 2007, No. 69 - 2728

environmental impacts; (2) to preserve the natural environmental resources - biodiversity, landscape and natural heritage, (3) to increase energy and energy efficiency, renewable energy resources, (4) to ensure subsoil use and protection in accordance with the principles of sustainable development, to protect geological environmental quality, to predict the changes in the deployment of geo-information-based measures; (5) to ensure sustainable development of forestry; (6) to create favorable conditions for fishing, fish processing and aquaculture businesses, equip the Lithuanian population with good quality fish products, while ensuring strict control over fishing, sustainable use of fish resources, their preservation and restoration; (7) to make all bodies of water in good condition, (8) to stop the change of natural hydrographic network structure; (9) to reduce the surface water pollution by sewage of towns and villages; (10) to reduce water pollution by industrial and agricultural waste water production facilities; (11) to reduce groundwater pollution; (12) to reduce diffuse water pollution; (13) reduce pollution by surface (rain) wastewater; (14) to reduce the pollution of sea water; (15) to reduce the pollution of water from other states; (16) to strengthen the synergies between environmental protection and economic growth, investment in environmental protection; (17) to create preconditions for active public involvement in natural resource conservation and sustainable use issues, etc.

In order to implement above mentioned tasks, the system of State institutions shall work efficiently. The implementation of the program coordinates the Ministry of Environment. Lithuanian state and municipal authorities have a duty to implement the measures of the natural resources conservation and protection program.

The natural resource ownership can be public, private, and general. Article 47 of the Constitution embeds, that “The underground, internal waters, forests, parks, roads, historical, archaeological and cultural objects of State importance shall belong by the right of exclusive ownership to the Republic of Lithuania. The Republic of Lithuania shall have exclusive rights to the airspace over its territory, its continental shelf, and the economic zone in the Baltic Sea. In the Republic of Lithuania, the foreign entities may acquire ownership of land, internal waters and forests according to a constitutional law. Plots of land may belong to a foreign state by the right of the ownership for the establishment of its diplomatic missions and consular posts according to the procedure and conditions established by law.”³⁵ The exclusive state ownership of natural resources has the specific meaning because of the special use and

³⁵ Constitution of Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014; (<http://www3.lrs.lt/home/Konstitucija/Constitution.htm>), Art. 47

protection mode. Such natural resources may be owned by the state; they cannot be privatized or acquired private ownership in any other ways, and their use is restricted or prohibited altogether. For example the economic activity is prohibited in state reservation and other extremely protected areas.

Other natural resources can be the objects of public and private property rights. For example, land can be owned by the private person or by the State. However, the object of the natural resources ownership is the upper layer of the land, plantations, water, forest and widespread minerals (such as sand, gravel, clay). The owner of the land shall have the right without the special authorization to use for the economic affairs the mineral soil properties - surface and underground water, which are located in his land plot. There is an exception for this right: the owner cannot exploit amber, oil, gas and quartz sand without the permission of public authorities. According to the Lithuanian Statistics Department, “The largest portion of mineral resources extracted in Lithuania is comprised of gravel, sand, dolomite, and limestone.”³⁶ The subsoil resources of the earth are the mineral that people can use for their own needs and the quantity or quality of the minerals exchange. Therefore, only with the specific permissions, issued according to the Government regulation, legal subjects have the right to use subsoil resources. The subsoil resources can only be used in accordance with the research and evaluation of the environmental impact assessment.

CONCLUSIONS

The use and protection of natural resources in Lithuania are regulated by legal acts, which are harmonized with the EU legislation or implement the provisions of corresponding EU directives, and correspond to the International legal framework. The number of laws that concretize the imperatives of the Constitution to protect environment from harmful influences and to supervise a sustainable use of natural resources, are adopted in Lithuania. Various aspects of the use and protection of natural resources are regulated by the international, regional and national legal acts.

Natural resources are derived from the environment naturally, without human interference, and they are essential for the survival of human beings, or are used for satisfying human’s demands. Natural resources or, in other words, objects of nature are the useful features of objects of nature.

³⁶ Natural resources and environmental protection, The Lithuanian department of Statistics, Vilnius, 2012, p.18

Natural resources with respect to the characteristics and the conditions of renewal can be divided into three types: 1) Relatively stable, 2) Self-regenerative and 3) Exhaustible. The legal regime of use and protection of certain kinds of resources is different. The main natural resources in Lithuania are: water resources, subsoil resources, mineral resources, forest resources, fish stocks, energy resources, biodiversity and natural landscape, Baltic Sea coast. The conservation of natural resources means the use of resource making it possible for current and future generations to achieve the common good, but within the permissible limits of environmental impact. Natural Resource Protection are actions and measures that aim to protect the valuable features of natural objects from the physical, chemical, biological or other adverse effects caused by natural processes and human activities, and full or partial recovery of those valuable features.

The natural resource ownership can be public, private and general. The Republic of Lithuania has an exclusive ownership of the underground, internal waters, forests, parks, roads, historical, archaeological and cultural objects of State importance, to the airspace over its territory, its continental shelf and the economic zone in the Baltic Sea. The exclusive state ownership of natural resources is related to the special use and protection mode, because the use of a such kind of natural resource is restricted or prohibited altogether.

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GAMTOS IŠTEKLIŲ NAUDOJIMAS IR SAUGOJIMAS LIETUVOJE

Birutė Pranevičienė*
Mykolo Romerio universitetas

Anotacija

Straipsnyje pristatoma Lietuvos gamtos išteklių naudojimo ir apsaugos sistema. Ir susideda iš trijų dalių. Pirmoje straipsnio dalyje analizuojami tarptautiniai ir nacionaliniai teisės aktai, kurie įtvirtina reikalavimus gamtos išteklių naudojimui ir saugojimui. Tarptautiniuose dokumentuose įtvirtintos normos nulemia valstybės vaidmens reikšmingumą, užtikrinant tinkamą gamtos išteklių naudojimą ir apsaugą. Antroje straipsnio dalyje pristatomos gamtos išteklių rūšys. Gamtos išteklių nuosavybės teisė Lietuvoje yra valstybinė, privatinė ir bendroji. Žemės gelmės, valstybinės reikšmės vidaus vandenys, miškai, parkai, keliai, istorijos, archeologijos ir kultūros objektai išimtinės nuosavybės teise priklauso Lietuvos Respublikai.

Pagrindinės sąvokos: gamtos ištekliai, aplinka, gamtos išteklių saugojimas

Birutė Pranevičienė*, Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedros profesorė. Mokslinių tyrimų kryptys: administracinė teisė, konstitucinė teisė, žmogaus teisės, aplinkos teisė.

Birutė Pranevičienė*, Mykolas Romeris University, Faculty of Public security, Department of Law, professor. Research interests: administrative law, constitutional law, human rights, environmental law
