

Environmental law – the republic of hungary

Law



**ASSIGN
BUSTER**

I began my research with hard copies. I started with recommended books on the relevant topic. First, I read Environmental Law (Bell and McGillivray). Although, I did not find the latest edition at Stratford Public Library but it was very helpful in identifying principles such as; sustainable development, precautionary principle and the 'polluter pays' principle.

I carried on with the research and discovered a book on the Environmental Policy in the European Union (John McCormick), that book assisted me to obtain a wide knowledge of European environmental law.

I started to search journals, European Environmental Law Reviews and the Journal of Environmental Law at London Met Library. Scanning through the headings and further reading, I located articles relating to Hungary and environmental implementation procedures. I took notes from those relevant Reviews between 1992- April 2004.

Following some references from the above journals I was led to ENDS Report but, due to its unavailability at our university, I registered online and searched for some up-to-date news and narrowed the search for Hungary recent environmental issues. The major case I found was that of a cyanide spill spread from a Romanian factory to a Hungarian 'Tisza' river in which thousands of fish were killed, described as the region's worst environmental pollution incident. I have included in my work but the same incident happened on 12 April this year. Also the issue of Hungary's ban on genetically modified (GM) maize. Commission allowed the ban on 18 February this year.

Later on, I went to UCL (University Collage London) Library and found extensive resources, most of the books, articles and journals I studied, I found there, including the ENDS Reports and the book Our Common Future which clearly states how poverty and economy is destroying our planet and I used quotations from the later book to start my introduction and to finish my conclusion.

Although, I had problems finding cases but eventually I came across International Environmental Law in National Court book, however I had still not found any cases on the failure of Hungary to implement its directives.

Therefore, I went on to westlaw, lexis-nexis and also the European Union's website. I discovered very few cases, some of them was not in English. (mainly French)

Online registration of ENDS Europe gave me daily emails on recent articles of European environmental issues, where I found the case, Commission v Hungary where Hungary received the first written warning for failing to implement nature protection law and that the EU Habitats law is incomplete. The action processed under Article 226.

On the 16/04/2009 I called Dr Paul Ashley Director of Environment Management in the UK to ask as to the implications of non implementation of the Habitats Directive, where there was no helpful response.

Due to personal reasons I had to travel to Hungary, where I took the opportunity to do some research in the 'Halis Istvan City Library' (possess an

impressive catalogue) and found out how Hungary developed since 1989 (transition) expressing with diagrams, that I attached to my work.

Also, I came across with journals on the 'green police' how they enforcing the law.

Had answers to questions like what is the priority in Hungary, how Hungary financing the projects on sustainable development, what areas are problematic and so on. All these issues included in the work.

Throughout my research, my strategy was to seek whether Hungary applies correctly the precautionary principle and how Hungary worked its way through to join the EU. Most importantly, how the economic activity and growth can change the environment.

'The environment is everything that isn't me'

(Albert Einstein)

'What is needed now is the new era of economic growth - growth that is forceful and at the same time socially and environmentally sustainable.'¹

There are moral bases on which environmental law rests, but there can be discerned a number of fundamental principles which, while not law themselves, nevertheless serve to underpin and guide the development and application of the rule of law. ² These principles are; sustainable development, precautionary principles, 'polluter pays' principles.

Sustainable development is a concept of raising income coupled with increases in educational standards placing value on the environment.

<https://assignbuster.com/environmental-law-the-republic-of-hungary/>

On precautionary principle there are three formulations that law could require; 1. progress until a project is judged innocent, 2. ordinary progress until findings of guilt are made, 3. no progress until intensive research has been conducted into a proposed process and its innocence has been demonstrated.

In the centrally planned economy, the state was invariably polluter and environmental rule enforcer; it was in its self-interest to perpetuate artificial economic development which did not favour energy sufficiency, conservation of raw materials, or prevention of pollution³.

Consequently, economic mismanagement and pursuit of political interests rendered environmental protection relatively unimportant.

Hungary has signed the Europe Agreement in December 1991, although the official application for membership of the European Union has only been submitted in March 1994.

Central Fund of Hungary for Environmental Protection Act LXXXIII of 1992 came into force in 1 January 1993, established among other special funds⁴. The purpose of the Act was to support the establishment of an economic structure protecting the environment, avoiding environmental damage and to maintain protected natural values and areas⁵. Furthermore, Hungary raised money on fuel tax, income tax and other incomes. 'There is no art which one government sooner learns of another than that of draining money from the pockets of the people'⁶.

The new statute had languished in various drafts since 1990 (after the transition) and was much heralded as an important step in Hungary's compliance with its Europe Agreement in harmonizing its domestic environmental law to EU standards⁷.

On 30 May 1995 Parliament adopted Act No LIII of 1995 on the General Rules of Environmental legislation, including Act No II of 1976⁸.

Generally speaking, customary international law had little impact in Hungary before the amendments of 1989/90. Hungary has accepted the dualist model of international treaties by requiring that, in order to acquire domestic legal force, the treaties have to be incorporated through a statute or executive decree or some other national legal norm⁹. According to s16 of this Law Decree international treaties containing general mandatory norms have to be promulgated in a Hungarian legal norm corresponding to the level of that treaty. Although, certain provisions have been superseded by the Act XI/1987 on legislation¹⁰ they still remain in force in Hungary.

In the last decades of the 20th century an increasing attention was paid to the environmental questions and to the impacts of human activities on the environment. It became obvious that the only way to maintain economic and social development is to balance them with the environment, in order to protect and to avoid permanent environmental damages, using natural resources carefully and improving the quality of life.

Hungary, since the 1980's, has promulgated as statutes or other domestic norms, a variety of international treaties in environmental matters¹¹.

Having considered the environmental aspects among others the sustainable development has become the philosophy of our era. 12 Sustainable development as political objective has implicitly created more requirements against environmental information system. It needs developing and operating of such statistics and analyzing tools that can reliably and objectively describe the state of the environment and can disclose interactions between the economy and the environment. Thus, these tools would effectively be able to contribute to the enhancement of environmental consciousness of society and to the well-founded decisions concerning the environment and to monitoring the implementation of decisions.

Furthermore, provisions, articles like 79 and 80 provide for co-operation between the EU and Hungary in respect of the environment and water management¹³.

Act LIII/1995 on the general rules concerning Environmental Protection mentioned above contains provisions found in both the EC Treaty and secondary legislations. The purpose of this Act, laid down in s1, amount to an extensive elaboration of the EC Art. 174. Moreover, developing the basic principles for protecting the environment, ss6-9 on precaution, prevention, restoration and responsibility follow EC Art. 174¹⁴.

In the past 20 years it became evident that the constant economic growth and the rapid expansion of population draw on and pollute natural resources¹⁵. With this measure of use and pollution, natural resources may drain or suffer irreversible quality loss in long term, compromising the sustainability of human life on Earth.

The survey of World Resources Institute showed that in the last fifty years of the 20th century the population of Earth grew more than hundred percent, the number of cities with more than 8 million inhabitants increased, motor vehicles grew, the water use of mankind tripled, the measure of fishery increased, the coverage of Earth with rainforests decreased by 30%. 16

The general aim to use the natural resources in a human and economical way, combine the use of these resources from the economic growth and the expansion of population. Mankind has an especially great responsibility in the sustainable use of land, forests, seas and water resources. 17

Inland primary energy needs are mostly based on fossil energy sources; the consumption of renewable and partly renewable sources is still low. During the accession negotiations Hungary was obliged by the EU to reach a 3.6% share of renewable electricity for 2010. Regarding the gross inland consumption from renewable the EU have not set any targets so far, nevertheless Hungary aims at reaching a contribution of 6-7% to total gross inland consumption.

The role of nuclear energy continues to be controversial, nevertheless the total production of electricity is steadily growing and thus, the consumption of fossil fuels is still increasing. Because of the decreasing industrial output in the beginning of the 90s in Hungary the electricity production from fossil fuels has dropped by almost 6%, although from 1993 until now it shows a slight increase. In 2004 the electricity production from fossil fuels represents 70% of the total electricity demand that is expected to remain stable. On 10

April 2003 there was a breakdown in the Nuclear Power Station in 'Paks', hence the share of fossil fuels of 2003 is considered an outlier value.