

EU Forum for Judges for the Environment 2017
Climate Change and Adjudication Questionnaire
Merton College, Oxford, 22 and 23 September 2017

Report on HUNGARY

Climate Change in Legislation

1. How (if at all) has climate change and issues related to it been incorporated into legislation in your jurisdiction?

- Do they feature in the constitution; legislation; delegated acts?

The Hungarian Basic Law (Article P and Article XXI) includes a general clause on the protection of environment. According to these articles natural resources, particularly arable land, forests and water resources, as well as biological diversity, in particular native plant and animal species and cultural values shall comprise the nation's common heritage; responsibility to protect and preserve them for future generations lies with the State and every individual. Hungary shall recognize and implement the right of all to a healthy environment.

The Climate Change Act 2007 (Act LX) based on the implementation framework of the UN Framework Convention on Climate Change and its Kyoto Protocol created a framework for building Hungary's ability to adapt to climate change. It prescribed the preparation of a national climate change strategy for Hungary.

In 2010 the Hungarian Parliament amended the Climate Change Act 2007 (Act LX) on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof to promote the participation in

the international climate protection efforts proportionate to the liability of the country, and in order to better prepare the country for the expected negative effects.

The EU Emissions Trading Directive has been implemented through the Emissions Trading Act (Act 217 2012). Many ministerial and governmental decrees were elaborated both on climate change and emission trading issues.

- Which levels of government have been involved in these legislative processes?

The Parliament makes the most important decisions on climate policy, which also approves Hungary's international commitments.

The Hungarian Working Group of Climate Change is an inter-ministerial body, the role of which is to provide advice, analysis, information and other assistance in the implementation of the Climate Change Act 2007 (Act LX). The Working Group meets 2-4 times a year.

In 2013 the new National Climate Change Strategy (NCCS-2) was elaborated according to the amended Act LX of 2007 by the Ministry of National Development. The NCCS-2 assesses the driving forces of climate change and the results of national researches on the potential effects of climate change in the country. The document sets the tasks for Hungary in the fields of mitigation of greenhouse gas emissions and in adaptation to climate change impacts. The strategy provides guidance in order to achieve different goals: short, mid- and long-term action lines were elaborated.

Evaluation of expected climate change impacts in Hungary, natural and socio-economic consequences, furthermore the vulnerability assessment of ecosystems and economic sectors are parts of the NCCS-2. The Hungarian Adaptation Strategy (NAS), the second pillar of the NCCS-2 is based on these

results. The framework of adaptation and preparation was outlined on risks and climate safety, possible directions of preparation were identified for water management, rural development, health care, energy policy, tourism and other sectors. Another pillar of the NCCS-2 is the National Decarbonisation Roadmap, that charts the possible tracks of GHG-reduction of the country; mainly focusing on emission reduction possibilities and goals. The third pillar of the Strategy are the Horizontal Tools which include the Climate Awareness Plan.

- What have been the catalysts for these legislative developments (i.e. EU law, international law, political agitation etc.)?

The catalysts for the legislative developments have been mainly the UN Framework Convention on Climate Change and the Kyoto Protocol and the EU climate change legislation. Beside these, Hungary has adopted climate change legislation.

2. How do the structures of government affect legislation related to climate change?

- Is one or several institutions assigned to act on climate change within your legal system? To what extent do these overlap and diverge?

It is the Climate Policy Department of the Ministry of National Development which is responsible for climate change issues within the current public administration structure. Beside this authority local municipalities and county administrative authorities also act on climate change issues.

- Is the separation of legislative, executive and judicial powers in initiating and implementing climate policy clear in your jurisdiction?

The general principle on the separation of powers apply to climate change policy.

Climate Change Litigation

3. Can climate change laws in your jurisdiction serve as basis for judicial action?

- Is this basis, or the lack of such basis, seen as legally novel or not?
- What role does European Union law play in this regard?

There isn't any special climate change legislation which serve as basis for judicial action.

4. Has climate change, and related issues, given rise to court cases in your jurisdictions?

- If so, what type of cases (i.e. are they related to specific pieces of legislation or to something else)?
- How frequently do climate change claims come to court by comparison with other environmental law cases in your court?
- What types of legal issues are raised in these cases (i.e. matters of private law, constitutional law, administrative law, international law etc.)?
- Does the type of legal issue affect, if at all, which court hears the case?
- Do rights-based claims feature in these cases?
- How central is the issue of climate change when it is raised in these cases?

In Hungary there isn't any finished court case on climate change or reducing greenhouse gas emission, according to the database of the Hungarian Curia

(Supreme Court). In my opinion climate change issues (except emission trading cases) will be treated within the scope of other environmental court cases.

Climate Change Adjudication

5. How easily resolvable are the legal questions raised in these different cases?

- Do these cases involve the application of conventional legal concepts? If so, how straightforward is the application of these concepts to climate change?
- Do these cases involve the application of new legal doctrines? If so, from where have these doctrines been derived?
- How do concepts of causation affect climate change actions in your jurisdiction?
- Has your court issued any preliminary ruling concerning climate change laws, or to relates issues to the EU court? If not, why not?

No cases have been raised on climate change before a Hungarian Court.

6. How straightforward is the resolution of factual issues in cases on climate change?

- Is there disagreement among the parties over the factual issues? If so, what types of disagreements are there?
- Do the factual issues require reference to specialist evidence? If so, how is that evidence submitted to the court?
- How do the rules evidence affect climate change actions in your jurisdictions?

- How do the factual issues affect the resolution of legal questions in these cases?

No cases have been raised on climate change before a Hungarian Court.

Climate Change and Access to Justice

7. Who are the parties bringing climate change actions?

- What role do individuals play in bringing actions relating to climate change?
- What role do NGOs play in bringing climate actions?
- What role does industry play in bringing actions relating to climate change laws?
- Does industry make claims under different or the same set of laws as NGOs?

As there isn't any closed court case on climate change, these questions can not be answered. In an environmental case the plaintiff has to show a direct and legal effect to have standing. ENGOs who are active on the field of the affected area have standing in environmental cases.

8. How do legal rules in relation to the bringing of an action affect the ability to bring these cases?

- How do domestic rules on standing affect climate change litigation?
- How do costs rules affect climate change actions?
- Are there any other impediments to parties bringing climate change claims?

See answer above.

Climate Change and Remedies

9. What is the range of remedies available to national courts in climate change cases?

- What is the breadth of the court's discretion in choosing a suitable remedy?
- What is the availability and level of financial penalties?
- What types of injunctive relief are available?

As in Hungary no court case on climate change issue has been finished, these questions can not be answered.

10. What types of issues are raised about remedies in climate change cases?

- How straightforward is the application of remedies in these cases?
- Does the relationship between private law and public law affect remedies in climate change-related claims?

As in Hungary no court case on climate change issue has been finished, these questions can not be answered.