



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

TRAINING AND SPECIALISATION OF MEMBERS OF THE JUDICIARY IN ENVIRONMENTAL LAW

I. INTRODUCTION

What is the general nature of the system of law in your country (e.g. civil, common law, codified etc.)?

Codified law.

Does it include -

- constitutional protection of the environment
- a general law protecting the environment
- a code or compilation encompassing all or a substantial part of the laws relating to provisions on environmental protection?

It includes constitutional protection of the environment and a general law protecting the environment.

The Hungarian Constitution 2011 includes a number of environmentally important references. First of all, it includes everyone's right to a healthy environment as well as an obligation to restore or pay for the restoration of any damage done to the environment (Article XXI). It also includes an obligation for the State and everyone else to protect, maintain and guard natural resources, especially soil, forests, waters, biological diversity and cultural values, all of which form a common heritage of the nation (Article P). Also sustainable development is mentioned in the Constitution as one of the aims of Hungary (Article Q).

Beside this, there is the Act LIII of 1995 on General Rules of Environmental Protection.

II. TRAINING AND INFORMATION

A - Training

1. *General training arrangements*

(a) Please describe the arrangements which exist in your country for training judges –

- for initial training before taking office?
- for continued training?

After graduation one can apply to become a law clerk (notarie) at district court for three years. After completing this period, one must complete the bar exam. After the bar exam one operates as judge-nominee (in Hungary they are called: court secretaries) for at least one year. The minimum age for becoming a judge in Hungary is 30.

The other way to become a judge in Hungary is to work as a legal advisor for at least one year after taking the bar exam. In this case one can become a judge without any obligatory training.

There are no obligatory continued trainings organised for administrative judges.

(b) How is *initial training* arranged?

Where and by whom is it conducted, for example –

- universities,
- other specialised training establishments
- organised by government or by judicial bodies?

It is organised by the Hungarian Judicial Academy.

Does it include *stages* or similar arrangements (e.g. internships, pupillages, apprenticeships) -

- with courts
- with lawyers
- with government departments
- with other agencies?

It includes apprenticeship with courts.

(c) How is *continuing training* organised? For example –

Where and by whom is it conducted?

It is organised by the Hungarian Judicial Academy.

Is it compulsory (for all or some categories of judges), or voluntary? *Voluntary.*

Is there a regular programme of continuing training? If so, how often? What is the average period in a year? Are there special requirements, for example on a change of office? *No regular programme, appr. once a year.*

Is it supervised? If so, by whom? Who determines the content of the courses (e.g. government, judicial bodies, individual judges)?

No supervision. The content is determined by the Hungarian Judicial Academy.

Are the training fees paid for? Are judges entitled to leave from work for the training?

It is free of charge for judges. Judges are entitled to leave from work.

Is such training given weight in decisions on career choices or appointments to particular responsibilities?

Yes.

2 Training in environmental law

Do the training arrangements for judges include special arrangements for training in environmental law –

- for initial training
- for continuing training?

In the frames of initial trainings there are no special arrangements in environmental law. By continuing trainings there are sometimes special trainings in environmental law.

If so, please describe the arrangements, covering the same points as for general training.

In particular –

- is such training in environmental law given to all judges or only those with specific functions in that field? *You can participate on a voluntary basis.*
- on average, how many judges receive such training in every year? *I have no data on this.*
- what form does it take and for what periods? *Presentations. Max once a year.*

Is there a mechanism for assessing the training needs of judges and periodically reviewing this?

Have you already made use of training material prepared at EU level (e.g. within the framework of DG ENV programme for cooperation with national judges and prosecutors: <http://ec.europa.eu/environment/legal/law/judges.htm>). Do you have any suggestions for improvements? *I participated many times on these trainings and made use of the materials. My proposal would be to disseminate the training materials on opendrive, finishing the printing.*

B – Availability of Information on environmental law

(a) Are there any specialised collections of national or EU case law relating to environmental law -

- in paper form
- on the Internet?

No, there isn't.

(b) Are judges equipped with computers giving them free access to databases (with case law and literature) on environmental law, including

- national databases

- European databases
- international databases?

To national legislation and case law.

C – Proposals for training or improving availability of information

(a) In what areas would it be helpful to develop training materials and organise training sessions, for example -

General principles of law, e.g. –
International environmental law
European environmental law
 Comparative environmental law

Particular aspects of environmental law, e.g –
Environmental Impact Assessment
 Sustainable Development
 Access to Justice and Standing (Aarhus Convention)
Administrative and civil liability in environmental law
 Criminal Liability of Corporations
The role of NGOs

Role of environmental inspectors, police officers and others on evidence collection
 Language training (e.g. judicial terminology)?

Technical issues, e.g. -
Evaluation of ecological damage, including use of forensic methods
 Measures to restore the environment

Specific topics, e.g. -
 Freshwater Pollution,
 Protection of the Seas
Nature Protection
 Landscape and Monuments – Natural Sites
 Air pollution
International trade in protected species
International transfer of waste
 Genetically modified organisms
 Polluting or Dangerous Industries
Environmental procedural requirements, in particular impact assessments relevant for spatial planning, energy and transport

Other topics?

III. ORGANISATION OF COURTS AND ENFORCEMENT AGENCIES

In Hungary from 2020 there will be a new system of administrative adjudication. The law on this new system is not yet known.

A – Courts or tribunals responsible for environmental law

(a) Please describe the arrangements in your country for determining environmental law disputes, criminal, administrative and civil. In particular -

Are there separate courts or tribunals for civil and criminal matters? *Yes, there are.*

Are there special constitutional or administrative courts or tribunals (for litigation involving government agencies or public bodies)? *Yes, there are public administrative courts.*

Are there specialised courts or tribunals for environmental law (or particular aspects of environmental law, including town and country planning, energy, or transportation)? *No specialised courts for environmental law.*

What powers are available to the different types of court, for example -

- criminal penalties: *For criminal courts: fines, imprisonment*
- orders or injunctions to remedy environmental damage: *No power.*
- awards of financial compensation or compensation in kind? *Civil courts can order compensation.*

Others?

(b) Please give examples of typical environmental law cases handled –

(i) By civil courts or tribunals: *access to environmental information cases, lawsuits against users of the environment, started by ENGOs*

(ii) By criminal courts or tribunals: *criminal offences against the environment and nature.*

(iii) By administrative courts or tribunals: *all decision taken by the environmental authorities can be challenged before administrative courts.*

(iv) By the constitutional court: *one can initiate a procedure at the Constitutional Court against the judgment of the court, stating that their constitutional rights was infringed*

(v) By specialist environmental tribunals.

(c) Are there available statistics on environmental cases handled by the different categories of court and tribunal? If so, please summarise the figures for the most recent year available. *No available statistics.*

B – Specialised jurisdictions

(a) If your system has specialised courts relevant to environmental law, please describe the nature of their jurisdiction (so far as not covered under A above), for example –

- how is the extent of the jurisdiction defined?
- is it exclusive, or concurrent with that of the ordinary courts?

- how, and by whom, are conflicts of jurisdiction resolved?
- are they independent of the executive?

(b) How, and by whom, are members of such courts recruited? Is knowledge or experience in environmental law a specific requirement?

(c) What powers do the specialised courts have, for example -

- annulment of regulations or individual acts
- orders to enforce environmental laws
- power to substitute a decision for that of the government agency
- orders for financial compensation or compensation in kind
- other (e.g. granting environmental licences or consents)

(d) How and by whom are conflicts of jurisdiction with other courts resolved?

C - Criminal violations

(a) In your country which agency or agencies have responsibilities for investigating and prosecuting criminal violations of environmental law –

- the police, or a particular branch of the police (national or local)
- customs authorities
- local authorities
- one or more specialised environmental agencies
- other bodies (public or private)

(b) What special arrangements do the police or customs have for ensuring that those involved have expertise in environmental law? Do they have specialised units, organised locally or nationally?

No information on that.

(c) If a specialised environmental agency is responsible for prosecutions –

- how is it organised, and under what authority
- is it independent of government
- how are its officers recruited and trained
- does it have similar powers to those of the police for investigating and prosecuting?

(d) Which courts have power to impose criminal sanctions in environmental cases?

Criminal courts.

(e) Are there available reports or statistics of criminal sanctions imposed in environmental cases? If so, please give examples from recent cases.

No data on this.

(f) The role of the public prosecutor's office

Does the public prosecutor's office have services specialising in environmental area? *No.*

Is this specialisation created by law or by internal organisational rules?
Is its jurisdiction national or local?
Does it relate to all environmental law violations or particular violations only?
Is it exclusive or concurrent with the office's general jurisdiction?

How are conflicts over jurisdiction resolved?

Do members of the public prosecutor's office who specialise in environmental law have assistance from civil servants or experts appointed on a permanent basis to provide them with technical assistance?

How are these assistants recruited?

D. Administrative violations/cases

See the questions in the previous section. Who and how decides on the choice of administrative vs criminal enforcement?

The legislator made the distinction.

E. Civil cases

In what circumstances are civil courts involved in environmental law cases?

Environmental compensation cases are handled by civil courts as well as access to environmental information cases.

Environmental NGOs can start a lawsuit against polluters and ask the court to order the ceasing of the activity or the introduction of preventive measures by the polluter.

Can they award remedies other than orders for damages? *No.*

Are there civil courts specialised in environmental law? *No.*

F. Standing

Do environmental NGOs have standing in the different courts?

- What requirements apply for the grant of standing?
- Must they have obtained formal recognition or accreditation by the authorities, or is the right to standing assessed on a case by case basis ?

In procedures initiated against administrative decisions, those environmental NGOs have legal standing that operate in the impact area of an activity or facility. The right to legal standing is assessed on a case by case basis.