

ENVIRONMENTAL PLANNING REGIME: REGIONALITY IN THE FOREGROUND

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This study deals with the regional aspect of the comprehensive environmental plan, which was prepared in the interest of safeguarding and sustainable use of natural resources. The study analyses its content from the aspect of the related laws, it deals with the duties of the local governments and the legal background of the National Environmental Geographical Information System.

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National Environmental Program

The national (National Environmental Program) and the territorial (regional, county, community) environmental programs belong to the comprehensive environmental plans. The effective regulation contains the provisions of the processing of the programs, but the detailing is different related to the content.

Besides the processing of the common community environmental program of the local governments appears the possibility of the processing of the sub regional environmental program as a new element in the law. The processing of the sub regional environmental program depends on the decision of the affected community. Its purpose is –inter alia- to support the duties, which can be available more efficiently in a sub regional level.

According to the Environment Act¹ the basis for environmental planning shall be the National Environmental Program to be renewed every six years and approved by Parliament. When submitting its proposal for the renewal of the Program, the Government shall report to Parliament on the implementation of the Program and the experiences gained in the course of implementation. The contents of the Program shall be enforced while economic policy decisions are being made, during regional and community development and regional planning

¹ § 40 of Act LIII of 1995

as well as when the state's planning and execution activities are being carried out in any sector of the national economy. The Government, where deemed necessary on account of changes in the conditions existing at the time of drafting the Program, and to make adjustments depending on the status of implementation, may recommend to have the Program reviewed. In the course of a review the provisions pertaining to the planning of the Program shall apply.

Environmental Planning Regime in Regionality

Act on the general rules of the environmental and Act on the protection of nature have been amended² significantly regarding to the environmental planning since 2009³. The substance of the amendment and the change: Having regard to the protection of human health, and to the safeguarding and sustainable use of natural resources, a master plan shall be prepared relating to the environment and the protection of the environment, and to the effects which may be harmful to the environment (*comprehensive environmental plan*), as well as a specific plan relating to the various environmental media and to their protection, and to the various effects which may be harmful to such environmental media (*thematic environmental plan*) and a plan addressing unique environmental characteristics or problems (*specific environmental plan*).

In the process of planning: environmental plans of lower territorial level shall be coordinated with environmental plans of higher territorial level, thematic and specific environmental plans shall be coordinated with the comprehensive environmental plan of the territorial level in question. The author of the environmental plan shall submit the plan to public debate before it is completed. The comprehensive environmental plan shall comprise the national and territorial (regional, county and community) environmental program. The law articulates separately the national and the territorial (regional, county and community) environmental programs within the frame of the comprehensive environmental plan. Accordingly the following differences can be revealed considering the plans:

The comprehensive environmental plan shall contain:

- an assessment building on the presentation of the condition of the various environmental media and on the analysis of the related key factors;
- environmental objectives and environmental considerations set out in relation to sustainable development;

² § 48/A- § 48/F of Act LIII of 1995

³ Act XCI of 2008

- the major programs of measures aimed at achieving the objectives and considerations in particular, the functions related to developments in progress and those envisaged, and the timetable for their implementation;
- the regulatory, supervisory and evaluation means for the implementation of the objectives to be pursued;
- the foreseeable costs of carrying out the measures and for the application of the means referred to in the previous point, also indicating the proposed sources of funds.

The goals set out in community environmental programs shall be enforced in the process of drawing up the development concept and policy of the community to which it pertains, including the related plans, as well as in the decision-making and implementation process, and in sectoral planning pertaining to the community in question. Community environmental programs shall be reviewed as deemed necessary, but at least upon the renewal or review of the Program.

The regional development council shall prepare a regional environmental program in respect of the relevant planning and statistical district following consultation with the county governments affected. The regional environmental program shall contain - in accordance with the comprehensive environmental plan - those objectives and measures, which are to be attained and carried out, respectively, at the regional level. The regional development council shall provide for the implementation of the regional environmental program, and shall report to the body designated not less than once every second year. The regional development council, in the process of adopting decisions relating to aids conferred under its competence, shall promote the support of developments comprised in the program.

The county environmental program shall contain – in accordance with the comprehensive environmental plan - those objectives and measures, which are to be attained and carried out, respectively, at the county level. The county assembly shall provide for the implementation of the functions contained in the county environmental program, ensure the conditions for implementation, and shall monitor the completion of those functions. The county assembly shall report to the body designated not less than once every second year. The county government shall give account, at the time of closing its annual budget, on the progress made in the implementation of the county environmental program during the previous year. The county development council, in the process of adopting decisions relating to aids conferred under its competence, shall promote the support of developments comprised in the environmental program.

The municipal environmental program shall, in tune with the community's characteristics, circumstances and economic possibilities, contain the following in addition to what is contained the comprehensive environmental plan:

- an air pollution control action plan, and the tasks and provisions relating to air pollution;
- protection against noise and vibration, and the action plan devised around the strategic noise map prepared by the local authorities subject to the obligation of strategic noise mapping by virtue of specific other legislation;
- management of green areas;
- hygiene of the community environment and public areas;
- drinking water supply;
- rainwater drainage systems of the community;
- urban waste-water treatment;
- treatment of municipal wastes;
- energy management;
- municipal transportation systems;
- prevention of potential risks to the environment and the mitigation of environmental damage.

In addition, the municipal environmental program may, in tune with the community's characteristics, circumstances and economic possibilities, contain the following tasks and provisions relating - with a view to improving the quality of the community environment, environmental safety and environmental health status, and to the safeguarding and sustainable use of natural resources - to:

- the use of land,
- the protection of geological strata,
- the protection of soil and agricultural land,
- the protection of surface and underground waters and water resources,
- recultivation and rehabilitation,
- nature and landscape protection,
- the protection of the man-made environment,
- flood and inland water control,
- the reduction of greenhouse gas emission, by meeting climate change commitments,
- environmental education and training programs, and public participation.

The municipal local government shall provide for the implementation of the functions contained in the municipal environmental program, ensure the conditions for implementation, and shall monitor the completion of those functions. The City Council of Budapest shall report to the body designated not less than once every second year concerning the implementation of its environmental program. According to one of the last amendments of the

Environmental Act municipal local governments⁴ – in addition to or instead of drawing up separate municipal environmental programs - shall have the option to work out a municipal environmental program collectively.

Its reason is that the sub regional environmental program is also dissolved - which was able to be processed by them before- with the amendment of the environmental protection law. It related to the dissolving multipurpose sub regional association and the sub regional development council. At the same time, there is possibility the municipal governments - in addition to or instead of drawing up separate municipal environmental programs - shall have the option to work out a municipal environmental program collectively⁵.

The author of the community environmental program shall send a copy of the draft version to the competent: environmental protection authority, soil protection authority, real estate supervisory authority, and government body in charge of the healthcare system, for assessment.

The environmental protection authority shall also consult the competent administrative bodies for environmental protection, the body in charge of the management and protection of nature preservation areas, and the agencies functioning as the nature preservation and water control authorities, and they shall submit their opinions to the authority within thirty days. The drafts of municipal and micro-region environmental programs shall be sent - in addition to the above mentioned bodies - to the competent county government, and the draft of the county environmental program shall be sent to the competent regional development council as well for assessment. The opining bodies shall present their expert assessments to the author of the environmental program within sixty days. A copy of the approved community environmental program shall be sent to the aforementioned assessment bodies. A copy of the approved regional and county environmental program shall be sent to the body designated as well for information purposes. The general public shall be informed of the progress made in the implementation of the community environmental program at regular intervals.

Municipal Environmental Protection Funds

In order to promote the fulfillment of their responsibilities in environmental protection, the local governments may establish municipal environmental funds through municipal bylaws. It has to make the funds maintainable, so it has to

⁴ § 48/E (5) of Act LIII of 1995

⁵ Act CXL of 2004 on the General Rules of Public Administrative Procedures and Services, and laws on the operation of the capital and county government agencies, and the argument of Act CCX of 2012 on the amendment of certain laws related to it.

depose of its revenues. The revenues of the municipal environmental protection funds shall be the following:

- the full amount of environmental fines definitively imposed by the local government,
- 30 per cent of the amount of the environmental fines imposed by final decision of the competent environmental protection authority in the area of the municipal government, with the exception of environmental fines imposed by final decision in connection with an incident based on which the emergency is declared,
- part of the environmental load charges and utilization contributions specified in specific other legislation,
- the amount of local government revenues earmarked for environmental protection purposes, and
- other revenues.

The municipal environmental protection fund shall be used for environmental protection purposes. The local government does not establish a municipal environmental protection fund, the revenue shall not be due to it. The representative body shall annually provide for the use of the municipal environmental protection fund simultaneously with the adoption of the bylaw on the budget and the closing of accounts. Local governments affected by the utilization, loading and pollution of the environment may initiate - with the local government authorized to dispose of the revenues - the proportionate division of revenues among the local governments in the impact area. They shall provide data to substantiate the extent of their needs. If no agreement is reached among the affected local governments on this issue and extent of the division, the local government initiating it may submit a statement of claim to the town court operating in the seat of the general court and, in Budapest, to the Pest Central District Court. The procedure shall be free of duty. The court has already decided in these types of cases, the local governments in the impact area have to prove for the proportionate division of the imposed fine by the environmental authority that the pollution exceeds the limit - prescribed in law - in their area, or the pollution will be able to occur exceeding the limit⁶. The court has also stated the condition of the division of the environmental fine the pollution occurred or can occur in the area of the applicant local government. The extent of the pollution has to be reached the limit prescribed in the law⁷.

⁶ BH.2010.218.

⁷ EBH.2009.1964.

The National Environmental Geographical Information System

According to the regulation of the Environmental Act⁸, with a view to setting out the environmental objectives and to promoting the implementation of environmental functions, the Minister - jointly with the sectoral ministers supervising the geographic information management bodies - shall establish and maintain an integrated electronic network, the National Environmental Geographical Information System accessible through the Government website. This completion and amendment of the Environmental Act are based on the guidelines of INSPIRE⁹.

Therefore, The National Environmental Geographical Information System consists of the Information System and the information systems of the geographic information management bodies, with view to achieving interoperability. The National Environmental Geographical Information System shall provide a direct link to the Community website for geographical information systems. Where a natural or legal person, other than a geographic information management body, has any spatial data and is able to meet the technical requirements laid down in the legislation on the creation and operation of the National Environmental Geographical Information System, such person shall be provided - upon request - access to link up with the National Environmental Geographical Information System. The network website of the National Environmental Geographical Information System shall offer the following spatial data services to the general public:

- discovery services making it possible to search for spatial data sets and services on the basis of the content of the corresponding metadata and to display the content of the metadata;
- view services making it possible, as a minimum, to display metadata, spatial data sets and legend information, to navigate, zoom in and out, pan or overlay viewable metadata, spatial data sets and legend information, and to display legend information and any relevant content of metadata;
- download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable by way of electronic means, accessed directly;
- transformation services, enabling spatial data sets to be transformed - in accordance with the user's requirements - with a view to achieving interoperability;
- services allowing spatial data services to be invoked.

⁸ § 48/G and § 48/H of Act LIII of 1995

⁹ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 on establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)

The geographic information management body shall have the right to charge a fee for the spatial data services described in the law. To this end, the geographic information management body shall enter into an agreement with the user, specifying the fees chargeable as “data service agreement”. Users shall be permitted to conclude the data service agreement via the internet. By way of derogation, spatial data sets and spatial data services shall be provided free of charge to the institutions and bodies of the European Community as required for the fulfillment of reporting obligations under Community legislation relating to the environment. The fees and the conditions of access shall be established without any discrimination, such as in particular, where data is requested by a public administration body or natural or legal persons performing public administrative functions, when acting outside their official capacity in discharging their respective public functions, in respect of data supplied for the purposes of such activities, the same fees and conditions shall be applied as to any other user. The charges applied should not exceed the cost of collection, production, updating, reproduction, transformation and dissemination of data. The level charges shall be kept to the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment, while respecting the self-financing requirements of public authorities supplying spatial data sets and services, where applicable.

Thus it can be stated, the spatial data services have to be collected once, the distribution of the spatial data services – originated from the different geographic information management bodies - have to be available among the different geographic information management authorities. The spatial data services have to be handled easily. The spatial data services are certified for example the data – available in electronic form – related to some places or geographical area in connection with the condition of the environmental components, the cadastral registration, the land tenure or the traffic infrastructure. The directive defines the technical rules of procedure and the provisions, which are necessary to establish and operate the mentioned system¹⁰.

Conclusion

As a result of the statutory amendments, the limits of the national and the territorial (regional, county and community) environmental program have been appointed exactly. The limitation of the planning levels can be followed up well in the regulation of Environmental Act, from general to specific. The local legislation of the local governments is placed within authentic frames by the statutory regulation. This regulation can suit well the regulation which rests on EU directive related to the National Environmental Geographical Information System.

¹⁰ The argument of Act LIII of 1995

References

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