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# CIVIL LAW FRAMEWORKS FOR LIABILITY OF COMPANIES FOR ENVIRONMENTAL DAMAGES AND THEIR INFLUENCE ON REGIONAL DEVELOPMENT

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## LEGISLATION:

1. Constitution (Croatian and Hungarian)
2. Civil Code (CC, Hungary)
3. Civil Obligations Act (COA, Croatia)
4. Environmental Protection Act (EPA, Croatia and Hungary)

## RELEVANT TERMS:

1. environmental damages,
2. dangerous activity,
3. strict liability.

## Constitution - Croatia

According to Art. 69:

- a) everybody has a right to a healthy living,
- b) the state is responsible of ensuring the conditions to a healthy environment,
- c) everybody is required to pay special attention to the protection of public health, nature and environment.

## Constitution - Hungary

Hungary recognises and enforces the right of everyone to a healthy environment.

Anyone who causes damage to the environment shall be obliged to restore it or to bear the costs of restoration.

According to the interpretation practice of the Constitutional Court, the right for a healthy environment is an abstract human right.

## Civil Obligations Act - Croatia

For the damages resulting from things or activities representing a major source of danger to the environment, liability shall be imposed regardless of the fault (strict liability)

Prerequisites for liability for environmental damages according to the Civil Obligations Act:

1. a person who caused a damage and a person who is suffering from it ,
2. harmful action,
3. damage,
4. harmful action is the cause of the damage.

A company dealing with a dangerous activity can be released from its liability for environmental damage if one of the below requirements has been met:

- if it can be proven that damage has arisen from an unpredictable and external cause which could not have been prevented, avoided and remedied

or

- if it can be proven that damage has solely resulted from action of the injured party or third person.

## Civil Code - Hungary

The following rules must be applied towards a person who caused damage to the environment:

1. If someone causes damage to other persons through activities that endanger the human environment, he can not be relieved of liability if he is able to prove that he has acted in a manner that can generally be expected in the given situation.
2. The one who caused the damage can be relieved if he proves two cumulative conditions:
  - the damage was caused by a reason which was unavoidable and
  - falls beyond the realm of activities involving considerable hazards.

## Environmental Protection Act - Croatia

- strict liability (regardless of culpability) of companies conducting dangerous activities for environmental damages,
- exemptions from strict liability of companies:
  - a) consequence of a natural phenomenon of an unpredictable and unavoidable character that could have been neither prevented nor avoided,
  - b) action of a third party albeit all the appropriate safety measures were undertaken,
  - c) adherence to an order or instruction given by the authorities.

The basic assumption of liability of companies for environmental damage is:

- precise determination which company has caused environmental damage,
- assessment of the damage relevance and the imminent threat.

After the identification of the company in fault and preparation of damage assessment, measures aimed at environmental damage remediation and/or elimination of the respective imminent threat shall be specified.

## Environmental Protection Act - Hungary

Special provision for companies:

- the members, and executive officers of the company,
- who took such decisions ,
- whereof they knew or should have known with due care that its execution will result in environmental degradation, in event of the termination of the company, shall bear unlimited and joint and several liability for the reparative and restitutive obligations, which was not satisfied by the company.

## The role of particular institutions in the implementation of legal rules for civil environmental protection - Croatia

The Ministry of Environmental and Nature Protection is an administrative body that, within its competences:

- proposes, promotes and monitors measures for advancement of environmental protection and performs environmental protection inspection tasks,
- adopts annual plans for performance of environmental protection inspection tasks.

Ministry of Regional Development and EU Funds - plans and implements entire regional development policy and establishes a comprehensive system of planning, programming, managing and financing regional development as well as coordination of actors and activities of this system

Environmental protection is part of the regional development policy, so the cooperation between the Ministry of Environmental and Nature Protection and the Ministry of Regional Development and EU Funds needs to be maintained concerning these legal issues.

# The role of particular institutions in the implementation of legal rules for civil environmental protection - Hungary

## 1. municipal local government:

- ensures the execution of legal regulations serving the protection of the environment and shall perform the official tasks assigned to it;
- works out a separate municipal environmental program,
- passes municipal bylaws and resolutions to attain objectives related to environmental protection,
- cooperates with other authorities,
- enforces the environmental protection requirements .

## 2) county governments:

- prepare county-level environmental programs,
- take a stand on the draft municipal bylaws of municipal local governments affecting environmental protection,
- give their preliminary opinions on the municipal environmental programs and may initiate the preparation thereof.

Thank you!