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**L'AGRICULTURE ET LES EXIGENCES DU
DÉVELOPPEMENT DURABLE – AGRICULTURE AND THE
REQUIREMENTS OF A SUSTAINABLE DEVELOPMENT – DIE
LANDWIRTSCHAFT UND DIE ANFORDERUNGEN AN DEREN
NACHHALTIGE ENTWICKLUNG**

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Summary of the report see hereafter p. 24**I. Basic of the sustainable development's concept¹**

The strategy, goals, criteria system of sustainable development emerges in the Hungarian legislation. Besides the general definition and founding pillars of sustainable development sustainable models of some sub-branches have been also emerging like sustainable agriculture (use of species promoting quality animal-husbandry; increase of non foodstuff production, promotion of the Hungarian sale of products, special policy and subvention etc.)²

From 1 January 2012 new constitution will come into force in Hungary, which considerably raises the constitutional protection level of nature and environment and contributes to the high level protection of the Hungarian landscape and natural values. The new constitution is one of specially emphasizing the values of the next generation and nature.

Important achievements of the new constitution are the following, it:

- undertakes our responsibility for the next generation,
- sets the issue of sustainable development as a goal of the whole humanity, with regard to this the tasks of Hungary are interpreted within the frame of international cooperation;
- declares the importance of the right for healthy environment as a fundamental right;
- introduces the concept of the nation's common heritage, within the frame of this it emphasizes the importance of protecting the natural values of the Carpathian basin;
- highlights, that the aim of handling and protecting the national property is preservation of the natural resources, and taking into account the needs of the next generation;
- sets as an obligation to protect and maintain the natural resources, mentioning separately the biological diversity, the protection of

¹ This research was carried out as part of the TAMOP-4.2.1.B-10/2/KONV-2010-0001 project with support by the European Union, co-financed by the European Social Fund.”

² OLAJOS, István: A fenntarthat fejlődés In: OLAJOS (ed.): Vidékfejlesztési politika és támogatásának joga. Miskolc 2008. Novotni Kiadó 20-26.p.

naturalized plant and animal species, the maintenance of soil, forest and water and having a GMO free agriculture;

- contains the obligation to take responsibility for damages caused to the nature;
- introduces the prohibition of depositing waste import as a constitutional provision.

Though, the most promising provisions of the new constitution are not enough to ensure a sustainable society, if other provisions of the legal system, decisions made by the economic players, the value preferences of the society's member, life style and consumer choices do not support the realization of applicable constitutional principles.

The concept of sustainable development plays a role in more national legal provisions, ie. in the act on nature protection, on waste management, and in legal provisions of lower level, ie. in government, minister and self-government orders.

According to the act on nature protection sustainable development is a system of social-economic relations and actions, which preserves the nature values for the present and next generation, uses natural resources economically and reasonably, ensures the improvement of life quality and the preservation of diversity in the long run from ecological point of view.³

Principles and directions form basis of the legal regulation laid down in the strategy plan and make an influence through the legal regulation.⁴

Requirements of the Strategy should be integrated in the middle and long run – continuously supervising them – into the national and regional programs, action plans, and in the fields of social policy, economic improvement, of some branches, like health care, environment

³ About the startegy see HORVÁTH Zsuzsa: Fenntartható termelés, fenntartható fogyasztás az Európai Unió környezeti politikájában. In: BOBVOS Pál (ed.): *Reformator iuris cooperandi*. Szeged, 2009, Pólay Elemér Alapítvány, 247-251. p.

⁴ OLAJOS: A rendszerváltás és az agrártámogatások kapcsolata. In: CSÁK (ed.): *Ünnepi tanulmányok Prugberger Tamás professzor 70. születésnapjára*. Miskolc, 2007, Novotni Kiadó, 279-289. p. OLAJOS: The provisions of the Rural Development in connection with the agriculture in Hungary. *Journal of Agricultural and Environmental Law*, 2006, 1. szám, 3-22. p.

protection, education and science-policy. It means that there must be a harmony among the goals, principles of the Strategy, aims and realizing measures of the action plans in the field of different branch-, development programs and policy.⁵

After the transformation of regime (1989-90) in Hungary the central planning ceased for a while as residuum of the socialist planned economy. Recovery of the strategy planning can be discerned after the accession to the EU (2004), like the National Development policy Concept, National Development Plan, National Environment Protection Program, Agrarian-environment Protection Program etc.

The sustainable development strategy was created first in 2007 by the government. At the same time the creation of the National Sustainable Development Committee (hereinafter as NSDC) emerged. The Parliament decided in 2009 to renew the strategy within the frame of NSDC. The Committee divided into three periods the creation of the new

⁵ OLAJOS István: A fenntartható fejlődés In: OLAJOS (ed.): *Vidékfejlesztési politika és támogatásának joga*. Miskolc, 2008, Novotni Kiadó, 26. p.; See also OLAJOS: *A vidékfejlesztési jog kialakulása és története*. Miskolc, 2008, Novotni Kiadó, 12-16. p. About social dimension of the sustainability: VARGA Zoltán: A magyar nyugdíjrendszer vizsgálata fenntarthatósági szempontból. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Miskolc University Press, Miskolc, Tomus: XXV/2. (ann. 2007), 735-754. p.; VARGA Zoltán: A nyugdíjrendszerek fenntarthatósága érdekében tett intézkedések Magyarországon és az Európai Unió más tagállamaiban. *Collega*, 2-3/2007, 189-193. p.; VARGA Zoltán: A magyar nyugdíjrendszer pénzügyi fenntarthatóságának aktuális kérdései. *Doktoranduszok Fóruma 2007. november 13.* (ME – Állam- és Jogtudományi Kar szekciókiadványa), 235-240. p.; JAKAB Nóra: Gondolatok a fenntartható fejlődés és a foglalkoztatás kapcsolatáról. *Studia Iurisprudentiae Doctorandum Miskolciensium, Miskolci Doktoranduszok Jogtudományi Tanulmányai 8.*, Miskolc, Bíbor Kiadó, 2007, 149-168. p.; JAKAB Nóra: *A fogyasztékügy kihívása a XXI. Században*. In: MANKOVITS Tamás, MOLNAR Sándor Tamás, NEMETH Sarolta (ed.): *Tavaszi szél konferenciakiadvány. 2007 Társadalomtudományok*. Budapest, 2007, A Doktoranduszok Országos Szövetségének Kiadványa, 506-511. p.; JAKAB Nóra: New employment policies of disabled people. *Collega*, 2-3/2007, 285-288. p. lásd RAISZ Anikó: Az emberi jogok új kihívások előtt – avagy a globalizáció egyes kérdései, különös tekintettel a WTO-ra. *Collega*, 2-3/2006, 238-241. p., SZILÁGYI János Ede: Környezetvédelem a Világkereskedelmi szervezet jogában. In: SZILÁGYI János Ede (ed.): *Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből*. Novotni Alapítvány Miskolc 2010.25-51.p.

strategy. In the first semester of 2011 the foundation of strategy was due: background studies, evaluations were made, an intergovernmental working group was set up from representatives of ministries and state secretaries holding responsibility for different fields of sustainability. The social dialogue started in 2010 will continue. By the end of 2011 the status report and directions of the strategy will have been created. The draft text of the strategy will have been created by the second half of 2011 with regard to the results of social discussion. By 2012 the whole draft is going to be socially discussed and its strategic environment monitoring will have been also presented. In spring 2012 the discussed strategy will be delivered to the Parliament.

The Hungarian Parliament established a committee responsible for environmental issues first in 1985, which was set up in each parliamentary period afterwards. The actions of the committee has been continuously enhanced in the last twenty years regarding issues of the nature and environment protection, but other issues also belonged to the competency of the committee in some periods, like settlement development, region development and region management, water management, building, ancient monument protection, infrastructure, tourism, nuclear safety and meteorology, protection against radioactive pollution, energy effectiveness, and renewable energy resources, chemical safety, environment-health matters, environment security and environment protection issues related to the traffic. NSDC is successor of the earlier Environment Protection Commission. In the future three key areas will be determined within the Commission: climate change – energy policy, water management, biodiversity. Environment justice is going to be a new element in the Commission's work, which serves to handle the issue of dividing the environmental assets and burdens.

First civil organizations focusing on environment and nature protection have dealt with sustainable development. The “traditional” activities related to environment and nature protection have been widened with issues of region development, employment, job creation, eco-tourism, nature farming, eco production, and it meant a broader scope of activities for these organizations.

II. Control of the sustainable development's realization

The control system of following the provisions regarding the execution of sustainable development forms a distinguishing role. Parts of this system are state control institutions, civil organizations, and the inner and

voluntary control system. The state control system contains the accounting office, governmental, authority system at different levels.⁶

The accounting offices have got a great opportunity to control because of the broadened concept of sustainable development, the execution of strategies and directives. While examining sustainable development these requirements can derive from international agreements, program aims, undertakings, operational requirements accepted by the examined organ, generally accepted processes, and from practice of organizations with other and similar actions. The accounting office can examine the connection between the individual programs and the broad government strategy. The control can focus on whether the aims of the program have been realized or whether the government complies with its own acts and its obligations laid down in international agreements.

Task of the NSDC of the Parliament is first of all preparation of law, and secondly control of the execution of acts. This aim is served by the obligatory established Control Sub-commission. To prepare each task the commission has established as a working group sub-commissions (Forestry, Energy), ad hoc working groups (GMO Round Table, Allergy Ragweed Round Table) and system of commission lecturers. Besides the Commission follows the State Accounting Office's reports, opinions and discusses those which belong into its competency. It discusses annually the annual report of the Hungarian Energy Office and the National Atom Energy Office, the Chief Executor and of the Ombudsman. The Commission maintains a broad system of connections with the state and governmental organs, especially with the Rural Development Ministry, the National Environment Protection Committee, civil organizations, interest organizations, and international organizations, like OECD, UNEP, IPU.

The local authorities build up and maintain the economic, social and environmental infrastructure, supervise the production process, establish the environment policy and regulation at local level; help with realizing the environmental policy at national and regional level.

⁶ About sustainability and supported decision making see JAKAB Nóra: Supported Decision Making. In: *Miskolci Egyetem Doktoranduszok Fóruma, Állam és Jogtudományi Kar Szekciókiadvány*, Miskolc, 2007. november 13., 67-72. p.

III. Public participation in the process of sustainable development – the right to information

Legal institutions of the environment democracy became part of the international agreements and play a significant role in the legal system of the EU. This presumes a broadened, detailed regulation of the right to information, access to data and the requirements belonging to them. One best known example for this is the Aarhus Convention in 1998 collecting the already existing elements of the community participation and making a system of it. Three main issues of the Convention are: right for information, participation in decision making and access to justice. If we talk about public participation, our starting point is this Convention, of which elements can be further detailed as the elements presume one another in many ways, though each requires the realization of different conditions:

- right for information,
- participation in the legislation,
- participation in the administrative decision-making relating to single cases, and as a continuation of it participation in the environment protection control and exercise of rights;
- right for remedy including search for solving the prejudicial situations, or right for trial;
- rights of environment protection associations, and related to this the capacity building (these two rights helps to realize the above mentioned ones).

Not less important is Regulation (EC) No 1367/2006 of 6 September 2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies. Aim of the Regulation is to apply such requirements to Community institutions and bodies, which act as legislator or not; the institutions and the information are determined broader compared to the previous Regulation. Regarding the information we cannot forget the “issue of plans and programs related to the environment”.

According to the interpretation of the Constitution breach of the right for healthy environment – and indirectly the realization of public participation – is a constitutional question, not only Articles 18 and 70/D of the Constitution, but also Article 8 Sec. 2. of the Constitution must be taken into consideration. According to Article 61 Sec. 1. in the Hungarian Republic everyone has the right to give opinion free, to have access to data of public interest and to spread it. The right to data of public interest (freedom of information) is a condition of the effective environment protection and of the participation in decision-making related to environment protection. Citizens have access to information about the environment protection state, and characteristics of their narrower or broader surroundings, they can form opinion of the state and self-government's actions, of their effectiveness and lawfulness. The control by citizens has already existed related to the bodies handling data of public interest of environment protection. As the Constitutional Court explains the possibility to ensure access to data of public interest is the following: free access to data of public interest makes it possible to control the chosen representative organs, the executive body, the lawfulness and effectiveness of the administration; and inspires their democratic function. This control and influence of citizens on public decision-making and public affairs can be effective only if the authorized bodies make the needed information known because of the complexity of public affairs. (Decision of the Constitutional Court 32/1992 (29.V.), ABH 1992, 182., 183.)

In order to make the information related to the environment open to the public in the way of obligatory publication or voluntarily it is settled by more Hungarian legal regulations. The acts are the following: Act LXXXI of 2001 on the promulgation of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, signed on 25 June 1998; Act LXIII of 1992 on the protection of personal data and disclosure of data of public interest; Act CXL of 2004 on the general rules of the public administration procedures; Act XC of 2005 on the freedom of electronic information; Act LIII of 1995 on environment protection, Government regulation 2 of 2005 on the examination of plans and programs, and other provisions relating to different branches and special activities like waste- and water management etc.

Information is main condition of the public participation, which can be divided into two big set of rights:

- access to active information, accordingly the public must be informed regularly about the state of the environment, and
- access to passive information, accordingly members or groups of the public can ask for information without any explanation. Refuse of this claim can happen only in specially considered cases, like national safety or service secret.

Fundamental declaration is that results of active and passive access coincide significantly, ie. the organs having environmental information comply with the obligation to make the information open to the public, and at the same time they do the same in the case of individual claims.

In the case of the legal provisions applied to civil sphere effective legal regulation cannot be imagined without any cooperation of the parties in the preparation of law and legal practice. Its measures are at hand and have a limited effect. In the process of law making the opinion of public organizations is required, but the governmental body shall decide on the topic and way of it. It is not regulated in which way the opinion and recommendation of the civil organizations will be known for the legislator. In the branch of environment protection besides the act on law preparation the Act on environment protection ensures right for participation strengthening the status to give opinion in the course of law preparation. In Hungary at national level this task belongs to the big organs and to the National Environment Protection Committee, at regional the level the self governments (sometimes by means of referendum).

The Act lays down: in the course of the social consultation it must be ensured, that the points of views – with special regard to the opinions of disadvantaged social and economic groups – prevail as much as possible. From next year the following must be consulted: act, government order, ministry order and their explanation. Drafts can be also consulted by the public according to the decision of the responsible minister. The following shall not be consulted by the public: pay obligation, state subventions, budget, execution of the budget, subventions from the EU and international sources, acts on the establishment of organs and institutions, draft, concept, if the consultation endangered the protection

of the interest of national defense, finance, foreign matters, environment protection, nature protection, and monuments protection in Hungary. The draft of the act shall not be discussed if its urgent acceptance is required by public interest. For making matters public, working up of the opinions, preparing of the laws the minister is responsible. Consultation has more forms: general consultation ensured by means of homepage, and direct consultation ensured by persons, institutions, and organs involved by the responsible minister. The act describes, the responsible minister shall weight the opinions, and prepares a summary about the reasons of refuse, which is going to be made public on the homepage followed by the list of those giving opinion. The responsible minister creates strategic partner agreements with those organizations, which are ready for mutual cooperation, and represents wide public interest, or carry out scientific work on that area. The act list among these the civil organizations, churches, professional and scientific organs, national minority organs, interest groups, public bodies, and representatives of higher education.

Summarizing and examining the legal background it can be stated, there are advantages and disadvantages, mainly the lack of ensuring the consequences and conditions of practical realization. Regarding the regulation, the system and its elements are going to be strengthened, especially the practice and organizational measures backing it.

If we examine the institutions of environment protection from the point of view of the civil organizations, the issues of administrative nature shall be taken into account, because public participation is realized on a broader scale including the right to be client and to file a case. The measures of civil law are bound to person – which is supported by the expression of “private law”. In criminal law the crimes against the environment result in filing a case by the authority (it means an obligation for filing a case, if the authorities discern unlawfulness). The processes are not initiated by private charge (ie. not the plaintiff initiates the case; civil participation can be taken into account only in the course of investigation by the authorities or is limited to auxiliary private charge.)

The legal background of public participation was established after the transformation of regime. (This can be accounted to the activity of civil organizations.) The involvement of civil organizations into decision-making is not appropriate in the following areas: energy policy, emission

examination, environment policy decisions, programs, working out plans, gen technology, health care.

The situation of the right for information is the best, after that there is the practice of public participation, and realization of rights for remedy is the weakest. The situation in Hungary is a bit better than the average with regard to the environmental democracy, ie. access to environmental information, public participation in the environmental decision, remedies and participation capacity making. In some areas there are outstanding results, for example involvement of public organs dealing with environment protection into the work of some governmental commissions. In other respects their achievements comply with the trend in the world and with the general development of the region (like regulation of the environmental effect examination), in some areas it remains less developed like secrecy and inaccessibility of concession processes).

National problems:

- General problem is lack of integrating different environmental data, their treatment in an unified and clear system.
- General is the lack of capacity of authorities, institutions having data to receive the requests coming from people. There are not any or only a few professionals, whose job is to keep contact with the public and to help with spreading the information.
- In the course of public participation it is often unclear how the opinion and objections of the public are taken into account into the final decision.
- The environmental considerations – and the participation process in the environmental process – are not realized in other branches (like road construction, mining, forestry). In these decisions having a significant impact on the environment the role of public is not notable.

Judicial practice of the courts has not been unified for a long time, for example regarding the bear of costs, and the explanation of the client's

situation.⁷ After a while the practice has been formed by law amendments and the decisions of the Supreme Court. There has been a two-faced nature of giving the rights to the client since the coming into force of the act on environment protection. Before the Administration Unifying Decision of the Supreme Court of 1/2004 the courts along with the administrative organs supported a narrow interpretation, and after that the courts supported the client rights of civil organizations.

The judicial practice of the ECJ cannot be disregarded, of which environmental significance is proved by the quantity of the cases (quarter). Judicial practice is part of community law, and it dealt with cases, which has not emerged in the Hungarian law yet. In law vindication the Court supports civil interests and interprets widely the rights for participation and environment protection if there is doubt about it.

One can ask the court or the data protection officer if the publicity of the information is limited without any reason or the secrecy of the data was ordered after having asked for it. If the office dealing with data regularly and obviously refuses the access to public data, it holds responsibility according to the Criminal Code.

The practice shows that breach of public participation has no material legal consequences. In the case of breach of public participation generally the legal documents are annulled and a new process is started. In other cases there is possibility to apply administrative sanctions (like imposing fines).

⁷ Judicial practice interprets § 98 of the Environment protection act widely according to the order of 1/2004 of the Supreme Court. Environment protection offices can be client in every case where they are authorities. Participation of organs became possible in this way in building, water, road processes.

IV. The principle of environmental liability and polluter pays⁸

The European Community established the polluter pays principle laid down in Article 174 Sec. 2. of the Founding Treaty in Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage. This principle is basically an economic principle and it is getting to be remarkable regarding the environment protection policy.⁹ Each definition of this principle ensures that the polluter bears the costs of preventing pollution and the control, some other definition counts with other costs as well, or refers generally to the “costs of pollution”. These other costs are essentially fees, taxes, costs of stopping pollution, clearing the areas, and compensations.

The governments implement the polluter pays principle by applying the traditional and market based provisions, including imposing fines and taxes. For example fees and taxes imposed on the polluters as a result of nature use, emissions, damages caused to the public. Polluters are motivated to protect the environment, though income deriving from taxes is not always used for environment protection (this is the situation in the case of taxes imposed on oil). These are measures helping the implementation of the polluter pays principle and serve to pressurize the polluters so that they use the environmental resources more considerably.

In Hungary other states enforce compensation according to their national rules. States have worked it out in their national environment protection

⁸ See also CSÁK: A közös felelősség a környezeti fenntarthatóságban. In: TÓTHNÉ SZITA Klára: *A fenntarthatóság aktuális kérdései*. Miskolc, 2005, Miskolci Egyetem Világ- és Regionális Gazdaságtani Intézet, 67-76. p. BÁNDI Gyula: *Környezetjog*. Budapest, 2011, Osiris Kiadó

⁹ See also CSÁK Csilla: *Környezetjog*. I. kötet. Miskolc, 2008, Novotni Kiadó, ; FODOR László: *Környezetjog*. Debrecen, 2006, Debreceni Egyetem Állam- és Jogtudományi Kar valamint Lícium Art, HORVÁTH Szilvia: Környezetvédelmi alapelvek, szerepük, funkciójuk. In: MIKLÓS László (ed.): *Környezetjog*. Szeged, 2008, Szegedi Egyetemi Kiadó

plan and implemented it into practice, when they imposed fines for nature use and imposed taxes on coal and energy use.¹⁰

Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage became part of the Hungarian legislation on 30 April, 2007. It was implemented by law amendments, new acts, though the Hungarian law has already contained provisions on liability because of environment damages. The most important principle of the directive is accordingly to the polluter pays principle, if somebody causes damage to the environment, this person must bear its costs of preventing damage and remedying, including costs of measuring damages and imminent threat of damage.

The Hungarian law knew the definition of environment damage, and civil, criminal and administrative law liability for endangering, contaminating the environment before the implementation of the directive. Act LIII of 1995 on the general rules of environment protection (hereinafter Kvt. according to the Hungarian abbreviation) in its § 101 it lays down, if anybody endangers, contaminates or damages the environment by action or failure, shall be responsible for it. Therefore, the national law prescribes the definition of the damager wider, and applies a stricter, objective liability system independently from fault or negligence.

Definition of environmental damage in the directive is a great wider compared to the one in the Kvt., as it is applied to damages caused to nature, water, soil. In the course of harmonization the definitions of Kvt. have changed, ie. environmental damage, and new definitions have been initiated like preventing measures of environmental damages, remedying provisions, service given by environmental factor. Definitions in the nature protection, water regulation have been also amended. Therefore new definitions were the following serving the implementation of directive: damage caused to the nature, inland surface water, and to the groundwater, surface.

¹⁰ SZILAGYI Szilvia: A szennyező fizet elve a környezetvédelemben. Jog és felelősség-szimpoziuma a PPKE JÁK Jog- és Államtudományi Doktori Iskolájában (2006. november) www.jak.ppke.hu/hir/ias/20073sz/15.pdf. downloaded: 20 August 2011

Rules regarding the administrative legal liability have been changed the most notably, and have been worked out in details. These include first of all provisions regarding preventing and remedying measures. Obligations of the nature user are according to the Kvt. prevention, discontinuation and giving information, minimizing damage, hindering damage cause, furthermore as first remedying measure *in integrum restitutio*, as substitute measure the damaged natural element shall be restored by appropriate natural element and the same shall happen in the case of service provided by environmental element. As compensational restorative measure the nature user shall take all necessary actions till the end of the restorative measures, which are necessary to compensate the services provided by the nature element temporarily. Finally nature user is also obliged to bear the costs.

The environmental office obliges to take preventive and remedying measures by itself or by other means, and decides on the sequence of restoration. The office can oblige the user to give information. If environment damage is decided bindingly, the environment protection office may order prohibition of alienation and encumbrance on real estates of the person obliged to restore, which serve as cover for the costs of restoration. If these costs were financed by the central budget, the environment protection office may register mortgage on the real estates of the user in favour of the Hungarian State, and for ensuring it also orders the registration of prohibition of alienation and encumbrance.

Harmonization of the directive has not changed anything regarding regulations of public participation, and provisions of Kvt. and the act on the nature protection shall apply. Accordingly, natural persons, civil organizations are entitled to take the necessary measures in the case of environment endanger, damage and contamination (client status and possibility to file a case). In the western countries it is already feasible, that farmers are obliged to spare. Those who carry out dangerous activity can give assurance in more ways, which may be obligatory or voluntarily. Aim of this environmental assurance is to give guarantee for stopping the consequences of a possible environment endangering and at the same time it means a sort of economic influence on the decrease of environment contamination. Initiation of the obligatory liability insurance would be a solution so that the companies causing

contamination could not avoid taking responsibility because of insolvency.

§ 101 Sec. 4 of the Act on environmental protection the nature user, in order to be able to start its activity, may be obliged to give environmental protection assurance, to spare or conclude a liability contract. This law establishes the legal background of environmental liability assurance in Hungary. Because of the lack of regulation nowadays environmental liability protection does not exist, but the polluter holds an objective responsibility for damaging the environment in Hungary. Other regulations prescribes to spare assurance, like Act LIII of 1996 on nature protection, Act XLIII of 2000 on waste management. Detailed regulation is prescribed in government order, which has not been created yet, though its draft has already been worked out and is currently under discussion.

Usually insurance in Hungary is concluded for cover of having accident nature, but as far as oil eruption is accidental, leak counts as a continuous damage. Most of the insurance contracts only cover the costs of compensation, ie. removal of the contaminating material, restoration of the damages caused to the nature is not involved. Cover can play a role if third party files a case having claim for damage. In Hungary insurance acknowledges the definition of own damage and damage caused to third person, and nature and natural office does not fall within their scope.

Task of the state in the regulation of environment contamination is complex. Besides the preventive measures it must deal with restoration of the damages on contaminated areas. As preventive measure its tasks are establishment of the legal background, making stricter the sanction system of environment contaminations, official control, and development of the environmental and health care culture. In the course of preventive measure it is important to influence the polluters, so that they favor environment friendly solutions while acting.¹¹

The state promoted prevention by means of economic and legal measures as follows:

¹¹ NAGY, Zoltán: A társasági adó agrárjogot érintő speciális szabályai. In: CSÁK Csilla (ed.): Agrárjog. Miskolc, 2008, Novotni Kiadó, 311-316. p.

-direct measures (administrative): legal rules, norms, permission of actions, imposing fines, etc.

-indirect measures (economic)¹²: taxes putting burden on the environment, imposing fines, strain contributions, subventions, price regulation, sale of rights of the polluter, liability insurance, mark of environment friendly products etc,

-voluntarily solutions: there is a contract between the state and the company on the environment protection requirements of the company, in return the state assures it would not impose stricter requirements on the company.

The state is also obliged to search for the responsible persons and compensate in fields not belonging to the state's responsibility.

V. Renewable energy¹³

The fossil energy sources, coal, crude oil, natural gas has had a significant role in the last century and nowadays in the field of energy supply, though their role has been mitigated. In Hungary, in 2008 4/5 of energy use was fossil energy sources, 39% natural gas, 30% crude oil,

¹² NAGY, Zoltán: Támogatáspolitikai kérdések a környezetvédelem területén. In. SZILÁGYI, János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.73-87.p. , NAGY Zoltán: Környezetvédelmi adók a környezetvédelmi szabályozás rendszerében. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.87-105.p.

¹³ SZILÁGYI János Ede: Bevezetés az energijogba. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.143-153.p. SZILÁGYI János Ede: Az energiaszektor egyes területeinek magyar szabályozása. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.IX: fejezet 1. és 3. pont. OLAJOS István: Az energiaszektor egyes területeinek magyar szabályozása. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.163-181.p. A terület áttekintő szabályozására lásd: BŐHM Judit: Energiajog. In: SZILÁGYI János Ede (szerk): *Környezetjog*. II. kötet. Miskolc, 2008, Novotni Kiadó, Miskolc, 2008, 128-131. p.

12% coal. Use of fossil energy sources was the same in EU 27 as in Hungary, difference was in the distribution.¹⁴

Renewable sources have been favored to fossil energy sources because of price increase, store decrease, and maintenance of nuclear energy. Besides this in Europe renewable energy sources has been increasing little by little, in 2007 it was 5,4%, 10 years later 7,8%. Use of renewable was 5,3% in 2007, which was 2/3 of the EU average.

In Hungary biomass and geothermic energy has more significant role, and other renewable energy sources have far less importance. Biomass derives from products, wastes of agriculture, forestry, and activities belonging to these industrial branches, and also means biological usable industrial and regional waste. There is an estimated 350-360 million tons biomass stock in Hungary, of which 10% is used for energy, which forms 92% of our renewable energy sources. One product of biomass is bio gas, which can be utilized in many ways: heating, electricity, geothermic energy, and fuel as bio-diesel.¹⁵

¹⁴ OLAJOS István: Az megújuló energiaforrások és a kapcsolt energiatermelés. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.190-207.p.

¹⁵ According to KSH in: Gazdaság és társadalom 5/2009. Budapest 22-25.p. Central Statistics Office, 2009 ISSN 1219–6754

VI. Sustainable agriculture¹⁶

There is a great number of “green consumers” in Hungary, and in the developed countries as well. They are “environment friendly” citizens, who prefer environment friendly products, services and investments while spending. Precondition of having an environment centered industry is motivation, serve and win environment friendly investors. In order to have appropriate priority of the environment in the society this awareness must be reached.

¹⁶ RÉTI Mária: Az agrárpiac szabályozásának jogi eszközei Magyarországon. In: VASS János (ed.): *Agrárjog*. Budapest, 1999, ELTE ÁJK Szövetkezeti Jogi és Földjogi Tanszék, 226-234. p.; RÉTI: A Közös Agrárpolitika – Szerződéses alapok, célok. In: DOMÉ (ed.): *Op. cit.* 456-474. p.; VASS: A magyar agrárpiaci rendtartás. In: DOMÉ (ed.): *Op. cit.* 539-553. p.; WOPERA Zsuzsa: Certain Procedural Questions of Remedy Against Agricultural Supports Decisions. *Journal of Agricultural and Environmental Law*. 6/2008, 90-96. p.; ZSOHÁR András: A mezőgazdaság állami támogatási rendszerének főbb jellemzői és egyes problémái. *Gazdaság és Jog*. 4/1999, 20-23. p.; MIKÓ: Agrártámogatások EU-konform kifizetése és a hazai jogharmonizáció. *Gazdaság és Jog*. 6/2002, 20-25. p. Az agrárfinanszírozás – lásd CSÁK Csilla: Az agrárfinanszírozás intézményrendszerének nemzetközi modelljei. *Szövetkezés*, 2001, 2. szám, 38-54. p.; CSÁK: A vidék finanszírozásának lehetőségei vidéki bankhálózat keretében. *Magyar Közigazgatás*, 10/2001, 632-636. p.; ERDŐS Éva: A pénzügyi jog fejlődési tendenciái a XXI. században. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Miskolc University Press, Miskolc, Tomus: XXII. (ann. 2004), 213-231. p.; NAGY Zoltán: *A factoring*. Budapest, 2009, HVG-ORAC, 163-217. p.; – további elemének tekinthető az agráriumra kedvezményeket megállapító adózási rendszer – lásd NAGY: Az agrárszektor adójogi szabályozása. In: CSÁK (ed.): *Agrárjog*. Miskolc, 2006, Novotni Kiadó, 309-326. p.; NAGY: Az agrárszektor különleges adójogi szabályozásának alapkérdései. In: CSÁK (ed.): *Agrárjog*. Miskolc, 2008, Novotni Kiadó, 306-322. p. – és a hitelezési szisztéma – lásd CSÁK: Agrárhitelezés. In: CSÁK (ed.): *Agrárjog*. Miskolc, 2008, Novotni Kiadó, 323-337. p.; CSÁK: Az agrárhitelezés intézményrendszerének nemzetközi modelljei. In: Csák (ed.): *Ünnepi tanulmányok Prugberger Tamás professzor 70. születésnapjára*. Miskolc, 2007, Novotni Kiadó, 83-90. p.; CSÁK: A takarékszövetkezetek jelene és jövője az integrációs kapcsolatok tükrében. *Gazdaság és Jog*, 1/2000, 11-14. p. SZILÁGYI János Ede: magyar agrárszabályozás helye az európai mezőgazdasági üzemekre vonatkozó jogalkotási tendenciák tükrében (XIX. századtól napjainkig). *Studia Iurisprudentiae Doctorandorum Miskolciensium*, Miskolc, Bíbor Kiadó, Tomus: 7/2. (ann. 2006), 231-233. p.; és SZILÁGYI János Ede: The Position of the Hungarian Agricultural Legislation in the Tendencies of the Legislation Concerning the European Agricultural Holdings. *European Integration Studies*, Miskolc, Volume 7. Number 2. (ann. 2009), 17-19. p.

In the first part of the 1990's parallel with the GDP industrial production and agriculture had been also decreasing. The importance of agriculture, industrial production and building industry decreased, and the services increased. The production decrease and service sector increase have contributed to the decrease of resource use, air and water pollution, and of the agricultural chemicals. Some part of the earlier environment "threatens" ended because of the end of the environment damaging source (for example heavy industry) or their environment damaging effect was mitigated greatly (cleaner technology, detours, noise protection). On those areas, where mining and metallurgy ended or did not develop, the pollution decreased, but social deficit emerged as well.¹⁷

At the end of the 1990's economic development also started, but was not followed by the increase of traditional pollution similar to the earlier degree. The partition was result of the economic and technological modernization, and of the application of new kind of environment protection rules. Application of ISO 14001 became significant part of the company management. Till the accession to the EU environmental protection management and authentication of EMAS was taken over, its system was built up. Voluntary measures of environment protection can be legal regulation and practical application of environment friendly labeling (eco-label) in Hungary. Though institutional conditions of spreading environment friendly products and services were also created, but because of lack of significant resources great results could not be reported (this is true in the case of more European countries).¹⁸

¹⁷ SZILÁGYI János Ede: A Közös Agrárpolitika 2003-as reformja – útban a teljes szétválasztás felé. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Miskolc University Press, Miskolc, Tomus: XXIII/2. (ann. 2005), 561-576. p.; SZILÁGYI János Ede: A KAP piacsabályozási pillére. In: CSÁK Csilla (ed.): *Agrárjog*. Miskolc, 2006, Novotni Kiadó, 368-386. p. SZILÁGYI János Ede: Környezetvédelem az Európai Unió jogban. In. SZILÁGYI János Ede (ed.): *Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből*. Novotni Alapítvány Miskolc 2010.51-73.p. RAISZ Anikó: Környezetvédelem a Nemzetközi jogban. In. SZILÁGYI János Ede (ed.): *Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből*. Novotni Alapítvány Miskolc 2010.9-25.p.

¹⁸ OLAJOS István: *A vidékfejlesztési jog kialakulása és története*. Miskolc, 2008, Novotni Kiadó, 208-224. p.; OLAJOS István – RAISZ Anikó: The Hungarian National Report on Scientific and Practical Development of Rural Law in the EU, in States and Regions and in the WTO. *Journal of Agricultural and Environmental Law*, 8/2010, 39-42., 44-45. p. A magyar agrárium európai integrációjáról see also SZILÁGYI János Ede: Common Agricultural Policy, new rules of WTO and regional equilibrium. *Journal of Agricultural and Environmental Law*, 5/2008, 3-18. p.; and SZILÁGYI János Ede:

Effective interference of the environment policy was made possible by the EU environment regulation. As a result of this there were changes on the side of producers, but implementation of the rules slightly changed the consumer behavior. After the transformation of regime in the middle of the 1990's production and consumption of products and services complying with the sustainable development's concept started, but great change has not happened, though bio-farming has great stocks regarding our good agricultural conditions and native species. Because of low environment public awareness, their bad financial situation (because of this their sensitive consumer behavior) and cheap mass production environment friendly products can not be popular and generally accepted.¹⁹

Since 2002 Hungary has been supporting more environment friendly farming form in the field of Agrarian- Environment Husbandry (AEH)²⁰ There are horizontal and zonal programs regarding agricultural land use with environment and nature protection considerations. This kind of husbandry is ecological land use, maintenance and preservation of water habitats, extensive lawn framing. Within AEH one can undertake regional programs, which serve the realization of soil and water protection at the designated areas. Natura 2000 network, and the land use belonging to this also contribute to the preservation of natural resources

Common Agricultural Policy. In: ANGYAL Zoltán et al.: *Public Policies of the European Union*. Târgu – Mureş, 2008, Editura Universităţii „Petru Maior”, 88-104. p.

¹⁹ See also see also CSÁK Csilla: *Környezetjog*. I. kötet. Miskolc, 2008, Novotni Kiadó, 15-16. p.; PUTH: *Der Umweltschutz im Recht der WTO*. Baden-Baden, 2005, Nomos Verlag, 12-14. p.; SZILÁGYI János Ede: WTO-jog és környezetvédelem. In: BOBVOS Pál (ed.): *Reformator iuris cooperandi*. Szeged, 2009, Pólay Elemér Alapítvány, 486-491. p.

²⁰ Lásd OLAJOS István: Cohesion Policy. In: ANGYAL Zoltán et al.: *Public Policies of the European Union*. Marosvásárhely, 2008, Editura Universitatii 'Petru Maior', 132-133. p.; HORVÁTH Szilvia: Az Európai Unió környezeti pénzforsásai. In: MIKLÓS László (ed.): *Környezetjog*. Szeged, 2008, Szegedi Egyetemi Kiadó, 68-71. p.; realisation of environment protection in the case of subventions see: OLAJOS István: Környezetvédelmi szempontok érvényesülése az agrár-támogatásokban. In: SZILÁGYI János Ede (ed.): *Környezetjog*. II. kötet. Miskolc, 2008, Novotni Kiadó, 89-96. p. A vidékfejlesztési támogatások eljárási kérdéseiről lásd OLAJOS: A vidékfejlesztéshez kapcsolódó támogatási eljárás. In: OLAJOS (ed.): Vidékfejlesztési politika és támogatásának joga. Miskolc, 2008, Novotni Kiadó, 94-119. p.

About subventions see: CSÁK Csilla: A vidékfejlesztés foglalkoztatási és szociális kérdései. In: OLAJOS István (ed.): Vidékfejlesztési politika és támogatásának joga. Miskolc, 2008, Novotni Kiadó, 122. p.

in 2 million ha of the country. The areas supported by agrarian environment farming and rural development subventions have been decreasing since 2002.²¹ Natura 2000 areas having significance at the EU level counts 1,96 million ha, 21% of the whole country. 38,5% of the Natura 2000 areas enjoy protection at national level according to several legal regulations. Half of our national protected areas forest, this equals one fifth of our forestry. Though, forest rate increased to 36% because of the appointment of Natura 2000 areas. The special bird and nature preservation areas of the Natura 2000 counts about 1,95 million ha, one fifth of the country. This area appointment surpasses the union average because of our unique natural resources, and their good condition. Directives of Natura 2000 brought a sort of openness into the Hungarian nature protection, as far as some forms of farming can be continued. Farmers are bound to strict farming plans, and some activities can be carried if permitted and controlled, like reed and water plants cut, use of pesticide, hunt, fishing and tourism. These can motivate to live with the possibilities in the country, to realize sustainable development, of which areas are: eco tourism and bio production.

Advantages of bio production are several from the individual and communal point of view. Values of their excellent content, their good quality improve their value. But their production without pesticide excluding GMOs protects our health as well.²² Free animal husbandry

²¹ ERDOS Éva: Az állami támogatások jogi szabályozásának anomáliái. In: ERDOS Éva (ed.): *Pénzügyi jogot oktatók konferenciái (2006-2009)*. Miskolc, 2010, Novotni Kiadó, 132-133. p. V.ö. ERDOS Éva: Gondolatok a pénzügyi jog jogági fejlődéséről. In: JAKAB András – TAKACS Péter (ed.): *A magyar jogrendszer átalakulása (1985/1990-2005)*. II. kötet. Budapest, 2007, Gondolat – ELTE ÁJK, 818-823. p. MIKLOS László (ed.): *Környezetjog*. Szeged, 2008, SZTE ÁJK JATE Press, 64. p. Most frequent aims of the self-government expenditures: (a) taking care of local environment protection tasks and public services, (b) improvement of the local environment protection infrastructure, (c) maintenance of the institutions of the self-government, (d) expenses of maintenance of local natural and cultural values.

²² OLAJOS István: A géntechnológiai tevékenység szabályozása Magyarországon. In: SZILÁGYI János Ede (ed.): *Környezetjog*. II. kötet. Miskolc, 2008, Novotni Kiadó, 73. p. BÉZI-FARKAS Barbara – JASINKA Anita: A géntechnológiai tevékenység szabályozása. In: CSÁK Csilla: *Agrárjog*. Miskolc, 2006, Novotni Kiadó, 490-491., 494. p. About coexistence: TANKA Endre: Adalékok a génmódosított növények hazai köztermeszethez. *Gazdaság és Jog*, 3/2007, 20-26. p.; a géntechnológia szabályozásának egyéb kérdéseiről a szerzőtől lásd TANKA: Génügy, élelmiszerbiztonság, alkotmányos jogvédelem. *Gazdaság és Jog*, 9/2005, 20-26. p.; TANKA: Alkotmányos bástya a génhadjárat ellen. *A falu*, 1/2005, 37-49. p. SZILÁGYI

results better meat, but dissolves the contradiction between sustainable development and animal husbandry in big plants. However, social advantages are improved by environment and nature friendly farming, job creations and export. There was not a great breakthrough in the field of bio production and bio products despite the fact that the areas used for planting are greater (47%) that in the EU (24%).

Hungarian bio products have an unlimited market in the EU, which was not effected by the recession, neither was the Hungarian market. Customers consume them because of health reasons, and they are fond of healthy life and therefore price is not taken into consideration. Regulation of farming was very complicated and unclear till 2009, which in 2011 was simplified. It is third year in the 5-year-subvention period.

Summary of the Hungarian report

I. Basic of the sustainable development's concept²³

The strategy, goals, criteria system of sustainable development emerges in the Hungarian legislation. Besides the general definition and founding pillars of sustainable development sustainable models of some sub-branches have been also emerging like sustainable agriculture (use of species promoting quality animal-husbandry; increase of non foodstuff production, promotion of the Hungarian sale of products, special policy and subvention etc.)²⁴

The sustainable development strategy was created first in 2007 by the government. At the same time the creation of the National Sustainable Development Committee (hereinafter as NSDC) emerged. The Parliament decided in 2009 to renew the strategy within the frame of NSDC. The Committee divided into three periods the creation of the new strategy. In the first semester of 2011 the foundation of strategy was due: background studies, evaluations were made, an intergovernmental working group was set up from representatives of ministries and state secretaries holding responsibility for different fields of sustainability. The social dialogue started in 2010 will continue. By the end of 2011 the status report and directions of the strategy will have been created. The draft text of the strategy will have been created by the second half of 2011 with regard to the results of social discussion. By 2012 the whole draft is going to be socially discussed and its strategic environment monitoring will have been also presented. In spring 2012 the discussed strategy will be delivered to the Parliament.

Principles and directions form basis of the legal regulation laid down in the strategy plan and make an influence through the legal regulation.²⁵

²³ This research was carried out as part of the TAMOP-4.2.1.B-10/2/KONV-2010-0001 project with support by the European Union, co-financed by the European Social Fund.

²⁴ Olajos István: A fenntarthat fejlődés In: Olajos (ed.): Vidékfejlesztési politika és támogatásának joga. Miskolc 2008. Novotni Kiadó 20-26.o.

²⁵ OLAJOS: A rendszerváltás és az agrártámogatások kapcsolata. In: CSÁK (ed.): *Ünnepi tanulmányok Prugberger Tamás professzor 70. születésnapjára*. Miskolc, 2007, Novotni Kiadó, 279-289. p. OLAJOS: The provisions of the Rural Development

The concept of sustainable development plays a role in more national legal provisions, ie. in the act on nature protection, on waste management, and in legal provision of lower level, ie. in government, minister and self-government orders.²⁶

The legal institutions of the environment democracy became part of the international agreements and play a significant role in the legal system of the EU. This presumes a broadened, detailed regulation of the right to information, access to data and the requirements belonging to them. One best known example for this is the Aarhus Convention in 1998 collecting the already existing elements of the community participation and making a system of it. Three main issues of the Convention are: right for information, participation in decision making and access to justice. If

in connection with the agriculture in Hungary. *Journal of Agricultural and Environmental Law*, 1/2006, 3-22. p.

²⁶ OLAJOS István: A fenntartható fejlődés In: OLAJOS (ed.): *Vidékfejlesztési politika és támogatásának joga*. Miskolc, 2008, Novotni Kiadó, 26. p.; Lásd ugyanerről OLAJOS: *A vidékfejlesztési jog kialakulása és története*. Miskolc, 2008, Novotni Kiadó, 12-16. p. About social dimension of the sustainability: VARGA Zoltán: A magyar nyugdíjrendszer vizsgálata fenntarthatósági szempontból. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Miskolc University Press, Miskolc, Tomus: XXV/2. (ann. 2007), 735-754. p.; VARGA Zoltán: A nyugdíjrendszerek fenntarthatósága érdekében tett intézkedések Magyarországon és az Európai Unió más tagállamaiban. *Collega*, 2-3/2007, 189-193. p.; VARGA Zoltán: A magyar nyugdíjrendszer pénzügyi fenntarthatóságának aktuális kérdései. *Doktoranduszok Fóruma 2007. november 13.* (ME – Állam- és Jogtudományi Kar szekciókiadványa), 235-240. p.; JAKAB Nóra: Gondolatok a fenntartható fejlődés és a foglalkoztatás kapcsolatáról. *Studia Iurisprudentiae Doctorandum Miskolciensium, Miskolci Doktoranduszok Jogtudományi Tanulmányai 8.*, Miskolc, Bíbor Kiadó, 2007, 149-168. p.; JAKAB Nóra: *A fogyasztóügy kihívása a XXI. Században*. In: MANKOVITS Tamás, MOLNAR Sándor Tamás, NEMETH Sarolta (ed.): *Tavaszi szél konferenciakiadvány. 2007 Társadalomtudományok*. Budapest, 2007, A Doktoranduszok Országos Szövetségének Kiadványa, 506-511. p.; JAKAB Nóra: New employment policies of disabled people. *Collega*, 2-3/2007, 285-288. p. lásd RAISZ Anikó: Az emberi jogok új kihívások előtt – avagy a globalizáció egyes kérdései, különös tekintettel a WTO-ra. *Collega*, 2-3/2006, 238-241. p., SZILÁGYI János Ede: Környezetvédelem a Világkereskedelmi szervezet jogában. In: SZILÁGYI János Ede (ed.): *Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből*. Novotni Alapítvány Miskolc 2010.25-51.p. A fenntarthatóság és támogatott döntéshozatalról JAKAB Nóra: Supported Decision Making. In: *Miskolci Egyetem Doktoranduszok Fóruma, Állam és Jogtudományi Kar Szekciókiadvány*, Miskolc, 2007. november 13., 67-72. p. A fenntarthatóság és támogatott döntéshozatalról JAKAB Nóra: Supported Decision Making. In: *Miskolci Egyetem Doktoranduszok Fóruma, Állam és Jogtudományi Kar Szekciókiadvány*, Miskolc, 2007. november 13., 67-72. p.

we talk about public participation, our starting point is this Convention, of which elements can be further detailed as the elements presume one another in many ways, though each requires the realization of different conditions:

- right for information,
- participation in the legislation,
- participation in the administrative decision-making relating to single cases, and as a continuation of it participation in the environment protection control and exercise of rights;
- right for remedy including search for solve the prejudicial situations, or right for trial;
- rights of environment protection associations, and related to this the capacity building (these two rights helps to realize the above mentioned ones).

Not less important is Regulation (EC) No 1367/2006 of 6 September 2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies. Aim of the Regulation is to apply such requirements to Community institutions and bodies, which act as legislator or not; the institutions and the information are determined broader compared to the previous Regulation. Regarding the information we cannot forget the “issue of plans and programs related to the environment”.

The judicial practice of the courts has not been unified for a long time, for example regarding the bear of costs, and the explanation of the client’s situation.²⁷ After a while the practice has been formed by law amendments and the decisions of the Supreme Court. There has been a two-faced nature of giving the rights to the client since the coming into force of the Ac on environment protection. Before 1/2004 Administration

²⁷ Judicial practice interprets § 98 of the Environemnt protection act widely according to the order of 1/2004 of the Supreme Court. Environment protection offices can be client in every case where they are authorities. Participation of organs became possible in this way in building, water, road processes.

Unifying Decision of the Supreme Court the courts along with the administrative organs supported a narrow interpretation, and after that the courts supported the client rights of civil organizations.

The judicial practice of the ECJ cannot be disregarded, of which environmental significance is proved by the quantity of the cases (quarter). Judicial practice is part of community law, and it dealt with cases, which has not emerged in the Hungarian law yet. In law vindication the Court supports civil interests and interprets widely the rights for participation and environment protection if there is doubt about it.

One can ask the court or the data protection officer if the publicity of the information is limited without any reason or the secrecy of the data was ordered after having asked for it. If the office dealing with data regularly and obviously refuses the access to public data, it is responsible according to the Criminal Code.

The practice shows that the breach of public participation has no material legal consequences. In the case of breach of public participation generally the legal documents are annulled and a new process is started. In other cases there is possibility to apply administrative sanctions (like imposing fines).

Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage became part of the Hungarian legislation on 30 April, 2007. It was implemented by law amendments, new acts, though the Hungarian law has already contained provisions on liability because of environment damages. The most important principle of the directive is accordingly to the polluter pays principle, if somebody causes damage to the environment, his person must bear its costs of preventing damage and remedying, including costs of measuring damages and imminent threat of damage.

The Hungarian law knew the definition of environment damage, and civil, criminal and administrative law liability for endangering, contaminating the environment before the implementation of the directive. Act LIII of 1995 on the general rules of environment protection (hereinafter Kvt. according to the Hungarian abbreviation) in its § 101 it

lays down, if anybody endangers, contaminates or damages the environment by action or failure, is responsible for it. Therefore, the national law prescribes the definition of the damager wider, and applies a stricter, objective liability system independently from he is at fault or negligent.

Harmonization of the directive has not changed anything regarding regulations of public participation, and provisions of Kvt. and act on the nature protection shall apply. Accordingly, natural persons, civil organizations are entitled to take the necessary measures in the case of environment endanger, damage and contamination (client status and possibility to file a case). In the western countries it is already feasible, that farmers are obliged to spare. Those who carry out dangerous activity can give assurance in more ways, which may be obligatory or voluntarily. Aim of this environmental assurance is to give guarantee for stopping the consequences of a possible environment endangering and at the same time it means a sort of economic influence on the decrease of environment contamination. Initiation of the obligatory liability insurance would be a solution so that the companies causing contamination could not avoid taking responsibility because of insolvency.

The fossil energy sources, coal, crude oil, natural gas has had a significant role in the last century and nowadays in the field of energy supply, though their role has been mitigated. In Hungary, in 2008 4/5 of energy use was fossil energy sources, 39 % natural gas, 30 % crude oil, 12% coal. Use of fossil energy sources was the same in EU 27 as on Hungary, difference was in the distribution.²⁸

Renewable sources have been favored to fossil energy sources because of price increase, store decrease, and maintenance of nuclear energy. Besides this in Europe renewable energy sources has been increasing little by little, in 2007 it was 5,4%, 10 years later 7,8%. Use of renewable was 5,3% in 2007, which was 2/3 of the EU average.

²⁸ OLAJOS István: Az megújuló energiaforrások és a kapcsolt energiatermelés. In. SZILÁGYI János Ede (ed.): Környezetjog II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.190-207.p.

In Hungary biomass and geothermic energy has more significant role, and other renewable energy sources have far less importance. Biomass derives from products, wastes of agriculture, forestry, and activities belonging to these industrial branches, and also means biological usable industrial and regional waste. There is an estimated 350-360 million tons biomass stock in Hungary, of which 10% is used for energy, which forms 92% of our renewable energy sources. One product of biomass is bio gas, which can be utilized in many ways: heating, electricity, geothermic energy, and fuel as bio-diesel.²⁹

After the transformation of regime in the middle of the 1990's production and consumption of products and services complying with the sustainable development's concept started, but great change has not happened, though bio-farming has great stocks regarding our good agricultural conditions and native species. Because of low environment public awareness, their bad financial situation (because of this their sensitive consumer behavior) and cheap mass production do not make environment friendly products popular and generally accepted.³⁰

Since 2002 Hungary has been supporting more environment friendly farming form in the field of Agrarian- Environment Husbandry (AEH)³¹

²⁹ According to KSH in: *Gazdaság és társadalom 5/2009*. Budapest 22-25.p. Central Statistics Office, 2009 ISSN 1219-6754

³⁰ See more CSÁK Csilla: *Környezetjog*. I. kötet. Miskolc, 2008, Novotni Kiadó, 15-16. p.; PUTH: *Der Umweltschutz im Recht der WTO*. Baden-Baden, 2005, Nomos Verlag, 12-14. p.; SZILÁGYI János Ede: WTO-jog és környezetvédelem. In: BOBVOS Pál (ed.): *Reformator iuris cooperandi*. Szeged, 2009, Pólay Elemér Alapítvány, 486-491.

³¹ See OLAJOS István: Cohesion Policy. In: ANGYAL Zoltán et al.: *Public Policies of the European Union*. Marosvásárhely, 2008, Editura Universitatii 'Petru Maior', 132-133. p.; HORVÁTH Szilvia: Az Európai Unió környezeti pénzforsásai. In: MIKLÓS László (ed.): *Környezetjog*. Szeged, 2008, Szegedi Egyetemi Kiadó, 68-71. p.; a környezetvédelem érvényesüléséről más (pl. mezőgazdasági) támogatások esetén lásd OLAJOS István: Környezetvédelmi szempontok érvényesülése az agrár-támogatásokban. In: SZILÁGYI János Ede (ed.): *Környezetjog*. II. kötet. Miskolc, 2008, Novotni Kiadó, 89-96. p. A vidékfejlesztési támogatások eljárási kérdéseiről lásd OLAJOS: A vidékfejlesztéshez kapcsolódó támogatási eljárás. In: OLAJOS (ed.): *Vidékfejlesztési politika és támogatásának joga*. Miskolc, 2008, Novotni Kiadó, 94-119. p.

About subventions see: CSÁK Csilla: A vidékfejlesztés foglalkoztatási és szociális kérdései. In: OLAJOS István (ed.): *Vidékfejlesztési politika és támogatásának joga*. Miskolc, 2008, Novotni Kiadó, 122. p.

There are horizontal and zonal programs regarding agricultural land use with environment and nature protection considerations. This kind of husbandry is ecological land use, maintenance and preservation of water habitats, extensive lawn framing. Within AEH one can undertake regional programs, which serve the realization of soil and water protection at the designated areas. Natura 2000 network, and the land use belonging to this also contribute to the preservation of natural resources in 2 million ha of the country. The areas supported by agrarian environment farming and rural development subventions have been decreasing since 2002.³² Natura 2000 areas having significance at the EU level counts 1,96 million ha, 21% of the whole country. 38,5% of the Natura 200 areas enjoy protection at national level according to several legal regulations. Half of our national protected areas forest, this equals one fifth of our forestry. Though, forest rate increased to 36% because of the appointment of Natura 2000 areas. The special bird and nature preservation areas of the Natura 2000 counts about 1,95 million ha, one fifth of the country. This area appointment surpasses the union average because of our unique natural resources, and their good condition. Directives of Natura 2000 brought a sort of openness into the Hungarian nature protection, as far as some forms of farming can be continued. Farmers are bound to strict farming plans, and some activities can be carried if permitted and controlled, like reed and water plants cut, use of pesticide, hunt, fishing and tourism. These can motivate to live with the possibilities in the country, to realize sustainable development, of which areas are: eco tourism and bio production.

Advantages of bio production are several from the individual and communal point of view. Values of their excellent content, their good quality improve their value. But their production without pesticide

³² ERDOS Éva: Az állami támogatások jogi szabályozásának anomáliái. In: ERDOS Éva (ed.): *Pénzügyi jogot oktatók konferenciái (2006-2009)*. Miskolc, 2010, Novotni Kiadó, 132-133. p. V.ö. ERDOS Éva: Gondolatok a pénzügyi jog jogági fejlődéséről. In: JAKAB András – TAKACS Péter (ed.): *A magyar jogrendszer átalakulása (1985/1990-2005)*. II. kötet. Budapest, 2007, Gondolat – ELTE ÁJK, 818-823. p. MIKLOS László (ed.): *Környezetjog*. Szeged, 2008, SZTE ÁJK JATE Press, 64. p. Most frequent aims of the self-government expenditures: (a) taking care of local environment protection tasks and public services, (b) improvement of the local environment protection infrastructure, (c) maintenance of the institutions of the self-government, (d) expenses of maintenance of local natural and cultural values.

excluding GMOs protects our health as well.³³ Free animal husbandry results better meat, but dissolves the contradiction between sustainable development and animal husbandry in big plants. However, social advantages are improved by environment and nature friendly farming, job creations and export. There was not a great breakthrough in the field of bio production and bio products despite the fact that the areas used for planting are greater (47%) that in the EU (24%).

Hungarian bio products have an unlimited market in the EU, which was not effected by the recession, neither was the Hungarian market. Customers consume them because of health reasons, and they are fond of healthy life and therefore price is not taken into consideration. Regulation of farming was very complicated and unclear till 2009, which in 2011 was simplified. It is third year in the 5-year-subvention period.

³³ OLAJOS István: A géntechnológiai tevékenység szabályozása Magyarországon. In: SZILÁGYI János Ede (ed.): *Környezetjog*. II. kötet. Miskolc, 2008, Novotni Kiadó, 73. p. BÉZI-FARKAS Barbara – JASINKA Anita: A géntechnológiai tevékenység szabályozása. In: CSÁK Csilla: *Agrárjog*. Miskolc, 2006, Novotni Kiadó, 490-491., 494. p. About coexistence: TANKA Endre: Adalékok a génmódosított növények hazai köztermeszthetőségéhez. *Gazdaság és Jog*, 3/2007, 20-26. p.; about gentechology see: TANKA: Génügy, élelmiszerbiztonság, alkotmányos jogvédelem. *Gazdaság és Jog*, 2005, 9. szám, 20-26. p.; TANKA: Alkotmányos bástya a génhadjárat ellen. *A falu*, 1/2005, 37-49. p. SZILÁGYI János Ede: A géntechnológia jogi szabályozása. In: SZILÁGYI János Ede (ed.): *Környezetjog* II. kötet Tanulmányok a környezetjogi gondolkodás köréből. Novotni Alapítvány Miskolc 2010.105-129.p.