Резюме

Задорожний А.А. Демонополізація космічної отрасли в Україні.

В связи с появлением необходимости демонополізації космічної діяльності в Україні космос може превратиться из объекта исключительно государственных научных исследований в обычную дестинацію. Поэтому автор обращается к анализу українського законодавства в этой сфере.

В статье проанализированы положения Закона Украины «О внесении изменений в некоторые законодательные акты Украины относительно государственного регулирования космічної діяльності» и приведен ряд аргументов в пользу демонополізації космічної діяльності в Україні, что, в свою очередь, должно способствовать развитию космічної діяльності и привлечению инвестиций в косміческую отрасль Украины.

Ключевые слова: правовое регулирование, косміческая діяльність в Україні, демонополізація государственного регулирования косміческой діяльності.

Summary

Oleksandr Zadorozhnyi. Demonopolization of the space industry in Ukraine.

The emergence of the need to demonopolize space activities in Ukraine indicates that space may soon turn from an object of exclusively state research into a regular destination. Therefore, we turn to the analysis of Ukrainian legislation in this area.

The article analyzes the provisions of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on State Regulation of Space Activities” and presents arguments in favor of demonopolization of space activities in Ukraine, which in turn should promote space activities and attract investment in Ukraine.

Historically, in Ukraine, the space industry was a state monopoly. Only scientific space research, development, testing and production of non-rocket space objects, their repair and maintenance could be carried out by private enterprises.

The basis for the abolition of the state monopoly in this area was presented by the Law of Ukraine “On Space Activities”, which defined the general legal basis for space activities in Ukraine, by introducing a declaration on space activities, which is essentially a notification mechanism, and abolishing registration in Space agency of concluded agreements between national and foreign private business entities.

The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning State Regulation of Space Activities” was developed to remove restrictions on such activities for private space entities, which in turn should lead to the development of space activities, attracting investment in space activities. industry of Ukraine, as well as create new jobs in this area. This law is aimed at ensuring development, increasing investment attractiveness, as well as creating a competitive environment for the development of the space industry in Ukraine, both in the public and private sectors.

In addition, to date, the Government has not approved a list of space activities that are subject to compulsory insurance. Thus, there is no legal basis for the implementation of this type of compulsory insurance. What leaves us an open field for discussion.

Key words: legal regulation, space activity in Ukraine, demonopolization of state regulation of space activity.

DOI: 10.36695/2219-5521.4.2020.78

UDC 349.6

R. ROMÁN

*Róbert Román, Ph.D. in Law, Associate professor of the Institute of Economic Science Eszterházy Károly University of Hungary**

ORCID: 0000-0002-4257-1464

ENVIRONMENTAL PROTECTION PRINCIPLES UNDER HUNGARIAN LEGISLATION

Problems to solve. The COVID-19 epidemic also raises the question of how effective environmental regulations are in the European Union, including Hungary. The crux of the problem is whether the individual provisions of principle are effective; moreover, whether they actually cover all the elements and are explained in sufficient depth, so that the current regulation seems sufficient for future generations

Analysis and Literature review. Regarding the literature, I reviewed the basic works of environmental law using the literature in Hungarian, English and German. The latest Hungarian journal articles, such as Olajos (2016) Szilágyi (2019) and Jakab-Mélypataki (2019), examine the areas of the latest environmental challenges. The international literature, such as Kiss – Shelton (2007), Bugge – Voigt (2008), Kraemer (2003) Petersen (2001) and Bowman – Bolyle (2002), deal with fundamental issues of environmental law, in particular the management of the protection of natural resources.

Aims of the article. The aim of the article is to present the basic principles of the Hungarian environmental law system, covering the general objectives of the law. The aim of the article is also to describe the role of

providence, prevention and restoration with regard to the Hungarian provisions of principle; moreover, the role of information and publicity besides the rules of cooperation. The aim of the article is to point out the environmental elements and the factors endangering the environmental elements.

Content of the article.

Preamble of the Hungarian Act as natural heritage and environmental values are national assets, their preservation, conservation and improvement are fundamental aspects of the biosphere and the health and quality of life of humans and, furthermore, as there can be no harmony between the activities of man and nature without these, neglecting them would endanger the health of present generations, the existence of future generations and the survival of a number of species; Parliament, in accord with the provisions of the Fundamental Law does hereby enact the following law: Act LIII of 1995 on the General Rules of Environmental Protection.

The objective of this Act is to create a harmonious relationship between man and the environment, to facilitate the coordinated protection of the environment, its components and processes and to provide for the conditions of sustainable development.

In accordance with the principles of foresight and equitable bearing of burdens, this Act creates an adequate framework for the assertion of constitutional rights for a healthy environment and promotes

a) the reduction of the use, loading and pollution of the environment, the prevention of its impairment, and the repair and restoration of the damaged environment;

b) the protection of human health and the improvement of the environmental conditions of the quality of life;

c) the preservation and conservation of natural resources, and rational and efficient management that ensures the renewal of resources;

d) the harmony of the other objectives of the state with the environmental protection requirements;

e) international cooperation in environmental protection;

f) initiatives taken by the public and public participation in activities aimed at protecting the environment, such as exploring and learning about the state of the environment and carrying out the tasks of government agencies and local governments related to the protection of the environment;

g) the coordination of the functioning of the economy and social and economic development with environmental requirements;

h) the establishment and development of institutions whose purpose is to protect the environment;

i) the establishment and development of a public administration that serves to conserve and protect the environment.

The use of the environment shall be organized and performed in such a manner that it results in the smallest degree of environmental loading and utilization; it prevents environmental pollution; it precludes damage to the environment.

The environment shall be used by observing the principle of precaution, by respecting and efficiently using environmental components, by reducing the generation of wastes and by making every effort to recycle and re-use natural and manufactured materials. For the purpose of prevention, the most efficient response and the best available techniques in respect of activities defined in specific other legislation shall be applied in the course of using the environment.

Users of the environment who are endangering or damaging the environment shall stop the hazardous or damaging activity immediately. Users of the environment shall provide for the elimination of the environmental damage caused by their activities and the restoration of the damaged environment. State agencies, local governments, natural persons and their organizations, business organizations and the organizations that safeguard the interests of all of the above as well as other institutions shall cooperate in protecting the environment. The right and responsibility to cooperate shall extend to all phases of achieving the environmental objectives. The rights and responsibilities arising from cooperation shall be established by the Act or local government bylaw. The enforcement of environmental interests shall also be encouraged by Hungary through bilateral or multilateral international agreements on environmental protection and other agreements on cooperation and on the provision of information and assistance in connection with environmental protection, particularly in its relations with neighboring countries. Even in the absence of international agreements, consideration shall be given to the environmental interests of other countries, the reduction of the cross-border loading of the environment and endangering the environment as well as the prevention of environmental pollution and damage to the environment. With a view to the exercise of civil rights and responsibilities, the bodies vested with public duties shall facilitate everyone in becoming knowledgeable and enlightened regarding the essential connections between the environment and health, activities that damage the environment and the importance thereof. Everyone has the right to have access to environmental information considered data of public interest in accordance with specific other legislation. State agencies and local governments – with the exception of the courts and legislative bodies in that capacity – bodies discharging certain environment-related obligations or providing public services, and bodies and persons vested with public duties (hereinafter referred to as “public authorities holding environmental information”) shall, within the realm of their responsibilities, monitor the status of the environment and its impact on human health, provide access to and make available the environmental information that is available, and shall publish – by way of electronic means or otherwise – the environmental information to the extent governed in specific other legislation, as well as the list of information they control or that is stored on their behalf. The public authorities holding environmental information shall enlighten the general public and those seeking environmental information of their entitlement to have access to environmental information, and shall facilitate the obtaining of access to environmental information. To this end, the public authorities holding environmental

information may appoint an information officer. Access to information on emissions into the environment may not be refused on the grounds that it is personal data, business secret, tax secret, or that it pertains to natural habitat of wild fauna and flora under special protection, the location of depleted natural resources, or to the location of geological conservation of nature preservation areas. Where a public authority does not have the environmental information requested, it shall forward the application to the public authority holding the environmental information in question, and shall notify the applicant accordingly, or shall inform the applicant concerning the public authorities where the environmental information requested is available. If a request is formulated in too general a manner or the desired environmental information cannot be identified from the request, the public authority holding environmental information shall ask the applicant to specify the request within 5 days following receipt of it. Any final resolution, or any resolution declared enforceable irrespective of any appeal, falling within the scope of the Act on the General Rules of Administrative Proceedings, as well as any environmental administrative agreement, the implementation of which are likely to have significant environmental effects, shall be published. Users of the environment shall be obliged to provide information regarding any environmental impairment and environmental hazards and endangerment for which they are responsible. In the event of non-compliance an action may be initiated at the body exercising legal oversight over the user of the environment. Every environmental component shall be protected per se and in unity with the other environmental components and by taking their interrelationships into consideration. The utilization and loading of environmental components shall be regulated accordingly. The protection of environmental components means both the protection of the quality, quantity and stocks thereof as well as the protection of the proportions and processes within the components. The prevention, reduction or termination of the use or loading of any environmental component may not be accomplished by damaging or polluting another environmental component. Land conservation shall cover the surface and subsurface strata of land, the soil, the rock formations and minerals as well as the natural and transitional forms and processes thereof. Land conservation shall include conservation of the productivity, structure, water and air balance, and biota of the soil. Such activities may be pursued on or beneath the land surface, and such materials may be deposited there that do not pollute or damage the quantity, quality and processes of the land and the environmental components.

In the course of and prior to the implementation of projects (construction, mining), the topsoil shall, in accordance with the provisions of specific other legislation, be adequately removed for use as agricultural soil. Utilization standards shall be defined for the mining and exploitation of rock formations and minerals, if so provided by statute. The extent of exploitation as well as the extent of the impact on the environment arising when the tailings produced in connection with mining and the dressing and processing of mining products are disposed of as well as the impact that arises as a result of other activities linked to mining activities may not exceed the standards established in a legal regulation or an official decision made in accordance with the provisions of a legal regulation. The user of an area shall provide for the scheduled restoration or development of the area or for the conditions for recycling the area once the activities involving the utilization of land have been completed – and even while the environment is being utilized if so stipulated by legal regulation or official decision. Water conservation shall cover surface and subsurface waters, the reserves, the bed and banks or shores of surface waters, water-bearing formations and their superstratum, and to areas designated for protection (reserves) by legal regulation or statutory provision as relating to water. The natural discharge, flow pattern, flow conditions, beds and banks or shores of waters may be altered only by preserving the appropriate proportions of waterside habitats and species and ensuring their ability to function, and without impeding long-term environmental objectives. Any activities that involve the environment must be organized and carried out so as to ensure that the environmental objectives relating to the good status of bodies or waters are achieved, such as: to prevent the deterioration of surface waters and groundwaters, to achieve the good status of surface waters and groundwaters through the fulfillment of environmental requirements set out in specific other legislation. Where more than one similar environmental objective relates to a given body of water, the most stringent ones shall apply. The measures necessary to improve the good status of waters shall be laid down in an integrated program for water management published by the Government by way of individual public resolution.

The conditions of the extraction and use of water – as a vital element and a limited resource – shall be established for each type of water supply in accordance with the local conditions and by taking into consideration the utilization standard.

In the matter of utilizing the environment, particularly interventions into water conditions, the following shall be provided for:

- a) water shall remain as one of the constituent factors of the landscape;
- b) the conditions necessary for the survival of aquatic and riparian habitats and species as well as habitats and species directly depending on surface water and groundwater, and
- c) the quantitative and qualitative conditions ensuring the potential use of water shall not deteriorate.

Increased protection must be given to water sources that provide for the drinking-water supply, provide mineral and medicinal waters, are significant in terms of nature conservation, and are designated for recreational, sports and therapeutic uses. Waters may be utilized and loaded, and used water and sewage may – following appropriate treatment – be discharged into waters in a manner that does not endanger the natural processes or the quantitative and qualitative restoration of waters. The use of extracted water shall be provided for. Used water must be extracted and returned to water sources and water must be transferred in such a manner that the reserves, quality and biota of the supplying and recipient waters are not unfavorably altered and the self-purification of the waters is not endangered. The protection of the air shall cover the entire atmosphere, its processes and composition and the climate. The air

shall be protected from all of the artificial impacts that endanger it or, through it, other environmental components or load it or, through it, other environmental components with radiating, liquid, gaseous or solid substances. When planning, implementing or pursuing activities and facilities and when manufacturing and using products, every effort shall be made to keep the emission level of air pollutants as low as possible. The conservation of the biosphere shall cover all living organisms and their communities and habitats and shall do so by observing the natural processes and the proportions of the ecosystem and by ensuring the ecosystem's ability to function. The biosphere may only be utilized in a manner that does not damage the natural processes and conditions of communities, injure biodiversity or endanger their functions. A legal regulation or an official decision may establish utilization standards for regulating the extent and location of the utilization of the biosphere. The conservation of the built environment shall cover communities, individual structures and technical facilities. Zones shall be determined within the area of communities on the basis of the loadability of the environment and the zoning ordinance for the various parts of the communities. The activities that may be pursued in individual zones may be authorized in specific other legislation where a protective distance or area has been specified on the basis on the nature of the environmental loading and where protective regulations are observed. In the area or within the distance designated, no activity that is incompatible with the zoning ordinance for the given zone may be pursued without special measures taken for conservation. Protection against the adverse impact of hazardous substances shall cover all of the natural and artificial substances that are used, produced or distributed by users of the environment in the course of their activities as well as the quality and quantity of such substances that are explosive, inflammable, radioactive, toxic, highly corrosive, infectious, ecotoxic, mutagenic, carcinogenic or irritating or that may bring about such impact by interacting with other substances. Protective and safety measures that reduce, to a level specified in legal regulation, or eliminate the risk of endangering the environment shall be taken when hazardous substances are handled or used (including the exploitation or extraction, storage, transport, production or manufacture and application thereof) and when hazardous technologies are applied. Protection against the impacts of wastes on the environment shall cover all of the substances and products (including the packaging and wrapping materials thereof) that their owners cannot or do not wish to use in accordance with their original designated purpose or that are generated during the use thereof. The user of the environment shall provide for the treatment (disposal, utilization) of wastes. The rules on the treatment (disposal, utilization) of wastes shall also be applied in regard to substances separated during various cleaning or demolition operations, polluted soil that has become waste and products that have been disassembled or are to be disassembled. The protection against noise and vibration in the environment shall cover all artificially generated energy emissions that cause unpleasant, disturbing, hazardous or impairing noise or vibration load. Within the framework of protection against noise and vibration, the following shall be resolved using technical and organizational methods: the reduction of the degree to which sources of noise and vibration emit noise and generate vibrations; the reduction or prevention of an increase in the noise or vibration load; the subsequent protection of environments that are permanently loaded above standard levels. The reduction of environmental noise in highly exposed areas and the preservation of quiet areas from noise damage shall be implemented by way of an action plan built on strategic noise mapping pursuant to specific other legislation.

Conclusions:

After reviewing and detailing the topic, it can be stated that the Hungarian environmental protection regulations fully comply with the environmental protection provisions of the European Union in principle. The goals are clearly composed when it is about the reduction of the use, loading and pollution of the environment, the prevention of its impairment, and the repair and restoration of the damaged environment; the protection of human health and the improvement of the environmental conditions of the quality of life; the preservation and conservation of natural resources, and rational and efficient management that ensures the renewal of resources; the harmony of the other objectives of the state with the environmental protection requirements; international cooperation in environmental protection;

initiatives taken by the public and public participation in activities aimed at protecting the environment, such as exploring and learning about the state of the environment and carrying out the tasks of government agencies and local governments related to the protection of the environment; the coordination of the functioning of the economy and social and economic development with environmental requirements; the establishment and development of institutions whose purpose is to protect the environment; the establishment and development of a public administration that serves to conserve and protect the environment. The question now is whether the protection of human health should be better elaborated/drawn up by the legislator in the basic regulation.

Bibliography:

- Article 6 of Act LIII of 1995 on the General Rules of Environmental Protection
- Article 9 of Act LIII of 1995 on the General Rules of Environmental Protection
- Article 12 of Act LIII of 1995 on the General Rules of Environmental Protection
- Article of Act LIII of 1995 on the General Rules of Environmental Protection
- The argument of Act LIII of 1995 on the General Rules of Environmental Protection
- 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)
- Council Directive 85/337/EEC of 27 June 1985 – amended by Council Directive 97/11/EC and Directive 2003/35/EC of the European Parliament and of the Council – on the assessment of the effects of certain public and private projects on the environment [in

conjunction with the government decree adopted for the implementation of this Act by authorization conferred under Paragraphs c) and r) of Subsection (7) of Section 110];

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment;c) Article 6 (3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;

Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption;

Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment;

Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise;

Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC.

Directive 2004/35/EC 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.

Bowman, Michael – Boyle, Alan (eds.): Environmental Damage in International and Comparative Law: Problems of Definition and Valuation. Oxford University Press, Oxford, 2002.

Bugge, Hans Christian – Voigt, Christina: Sustainable Development in International and National Law, Europa Law Publishing, Groningen, 2008.

Jakab, Nóra, Mélypataki, Gábor : The right to water as a social fundamental right Journal of Agricultural and Environmental Law 26. 2019. 7–63.pp.

Kiss, Alexandre – Shelton, Dinah: Guide to International Environmental Law, Martinus Nijhoff Publishers, Leiden, 2007.

Kraemer, Ludwig, EC Environmental Law, London: Sweet & Maxwell, 2003.

Petersen, Volkert, Staatsziel Umweltschutz – Chance oder Leerformel? In: Jahrbuch des Umwelt- und Technikrecht 2001, (eds.) Hendler, Reinhard, Erich Schmidt Verlag, Berlin, 2001.

Olajos, István: The legal problems related to re-use of metallic wastes Journal of Agricultural and Environmental Law 20. 2016. 91–102 pp.

Szilágyi, János Ede: Water and Law – a summary of the results of a natural resource law research Journal of Agricultural and Environmental Law 27. 2019. 182–214 pp.

Table of Cases:

BH.2020.92. Court Decisions (Curia of Hungary)

BH.2011.38. Court Decisions (Curia of Hungary)

BH.2012.12. Court Decisions (Curia of Hungary)

Резюме

Роман Р. Принципи охорони навколишнього середовища відповідно до законодавства Угорщини.

За результатами аналізу нормативних документів, можна констатувати що угорські норми охорони навколишнього природного середовища повністю відповідають основним положенням Європейського Союзу щодо екологічної політики. Цілі є чітко сформульованими, і вони передбачають як зниження інтенсивності використання, навантаження та забруднення навколишнього середовища, так і запобігання нанесенню шкоди, відновлення трансформованого довкілля, а також захист здоров'я людини, поліпшення якості життя тощо. Основні положення, спрямовані на захист базових та найважливіших елементів довкілля (земля, вода, повітря, дика природа, навколишнє середовище), розглядаються цілісно. Положення щодо поводження з небезпечними речовинами й технологіями, шумом, вібраціями та випромінюванням, а також з відходами є узгодженими. Угорські нормативні акти надають великого значення дотриманню принципу застереження, а також, у разі виникнення загроз навколишнього середовища, ролі громадськості. Проте, на нашу думку, захист здоров'я людини на рівні основних законодавчих актів вимагає більшої уваги, оскільки людина є також частиною навколишнього середовища, і тому в цьому відношенні виключно регламентів законодавства щодо охорони здоров'я вже недостатньо.

Ключові слова: охорона навколишнього середовища, охорона здоров'я, екологічні цілі, елементи охорони навколишнього середовища, ефективність.

Резюме

Роман Р. Принципы охраны окружающей среды в соответствии с законодательством Венгрии.

По результатам анализа нормативных документов можно констатировать, что венгерские нормы охраны окружающей среды полностью соответствуют основным положениям Европейского Союза в экологической политике. Цели четко сформулированы, и они предусматривают как снижение интенсивности использования, нагрузки и загрязнения окружающей среды, так и предотвращения нанесения ущерба, восстановление трансформированной окружающей среды, а также защиту здоровья человека, улучшения качества жизни и т.д. Основные положения, направленные на защиту базовых и важнейших элементов окружающей среды (земля, вода, воздух, дикая природа, окружающая среда), рассматриваются целостно. Положения по обращению с опасными веществами и технологиями, шумом, вибрациями и излучением, а также с отходами являются согласованными. Венгерские нормативные акты придают большое значение соблюдению принципа предостережения, а также, в случае возникновения угроз окружающей среды, роли общественности. Однако, по нашему мнению, защита здоровья человека на уровне основных законодательных актов требует большего внимания, поскольку человек является также частью окружающей среды, и поэтому в этом отношении исключительно регламентов законодательства по охране здоровья уже недостаточно.

Ключевые слова: защита окружающей среды, защита здоровья, экологические цели, элементы защиты окружающей среды, эффективность.

Summary

Róbert Román. Environmental protection principles under Hungarian legislation.

After reviewing and detailing the topic, it can be stated that the Hungarian environmental protection regulations fully comply with the environmental protection provisions of the European Union in principle. The goals are clearly composed when marks the reduction of the use, loading and pollution of the environment, the prevention of its impairment, and the repair and restoration of the damaged environment; the protection of human health and the improvement of the environmental conditions of the quality of life; and other main objectives. The basic provisions cover the protection of the main and most basic environmental components (land, water, air, biosphere, built environment) and handle them as a unit. In the field of hazardous substances and technologies, noise, vibrations and radiation, as well as waste, the provisions in principle are uniform and show internal coherence. According to the Hungarian regulations the observance of the precautionary principle has a great importance, as well as the role of the public in case of environmental damage. In my view, the protection of human health would also require more detailed regulation in principle, as humans are part of the environment, so in this regard, health statutory provisions alone are no longer sufficient.

Key words: environmental protection, protection of health, environmental protection goals, environmental components, efficiency.