

**Hungary's reply to the Aarhus Convention Compliance Committee
regarding the questions of the letter dated 11 March, 2021**

ACCC/C/2014/105 Hungary

INTRODUCTION

Hereby we would like to answer the Committee's questions of the letter dated March 11, 2021.

1. Regarding Question No. 1., our answers are provided below:

„1. With respect to Parliament Resolution No. 40/2008 (IV. 17.) OGY on the Energy Policy of Hungary in the Period 2008-2020, in paragraph 50 of your reply of 9 March 2016 you state:

“The draft Resolution containing an environmental assessment was sent to the National Environment Protection Council for comment in accordance with the rules of the special procedure established by art. 44 para. 2 of act 1995:LIII (on Environment Protection)” (Committee's emphasis)

Please provide the text of the environmental assessment (in Hungarian if not available in English) that was sent to the National Environmental Protection Council regarding the draft 2008 Resolution.”

Please kindly find attached the document that was sent to the National Environmental Protection Council (translated as Országos Környezetvédelmi Tanács; hereinafter: NEPC) as *Appendix 1* of my letter. In line with our previous communication of 29 November 2016 and with the answer No. 5 of the current letter, this document also underlines on pages 5-6 that the energy policy as a policy document did not qualify as a plan or program that requires environmental assessment under the scope of application of the SEA directive¹, or the *Government Decree No. 2/2005. (I. 11.) on the environmental assessment of certain plans and programs* transposing provisions of the SEA directive and providing legislative framework of the SEA procedures in Hungary; therefore, there was no obligation to conduct an SEA procedure. For your information, please see *Appendix 2* for courtesy translation of the referred paragraphs in English.

As the Compliance Committee is informed in our answer No. 5 below, NEPC was involved in the procedure on the basis of the provisions of *subparagraph a) of section 44. paragraph (2) of the Act 1995:LIII on Environmental Protection* (hereinafter referred to as Law). This provision requests the NEPC to provide its opinion on the environmental issues of the proposed legislation, or concepts of national and regional importance *not covered by the SEA legislation*.

¹ 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

Thus, Ministry of Economy and Transport (GKM) ordered a document to assess environment-related issues concerning the energy policy in its own discretion in order to fulfil its obligation requested by the Law, and consequently the NEPC. Since there are no further requirements specified in the Law on the content and methodology of this *(environmental) assessment analysis* required by subparagraph a) of section 44. paragraph (2) of the Law, the developer used subject items relevant from annex of the SEA directive and the Government Decree on SEA, taking also into account the needs of the GKM. Unfortunately, the developer used a wrong terminology as a title of the document, they called it “stratégiai környezeti vizsgálat” (in paraphrased translation strictly following the literal meaning of the original text – i.e. mirror translation - as “strategic environmental assessment”), which term should have been reserved *only for those* assessments undertaken within the SEA procedure by the requirements of the SEA legislation.

In all our previous communication with the Compliance Committee document “environmental assessment” was referred to the document provided in *Appendix 1*, there have not been any other documents elaborated and submitted to the NEPC within the framework of the procedure of subparagraph a) of section 44. paragraph (2) of the Law.

2. Regarding Question No. 2., our answers are provided below:

„2. Was this environmental assessment made available on the parliamentary or ministry website together with the draft resolution? If so, please provide the weblink at which the environmental assessment was made available.”

When submitted the energy policy package to the Parliament in 2007, the draft Resolution was supported by a background document, which served purely a preparatory purpose, and was never adopted and considered as part of the adopted Parliamentary Resolution.

It can be concluded from the comments received that there have been offered lots of possibilities for the public to comment on the background documents as well as the draft Resolution during the preparatory works of the energy policy.

Appendix 3 of this letter shows that a background paper serving as a basis for the energy policy was open for the public to comment, and it basically was attached as the preparatory document to the draft proposal of the resolution having been discussed within the *Parliamentary Committee on Economy and IT* with active participation of the public (see answer No. 4 for more details). We hereby attach the translation of the email regarding the comments received from non-governmental organisation of *Magyar Természetvédők Szövetsége* (translated as National Society of Conservationists).

We also attach the translation of an email where a person asked the Ministry (GKM) why working documents were published on its website (as these preparatory documents were labelled as “not reflect the position of the Government”) (see *Appendix 4*).

3. Regarding Question No. 3., our answers are provided below:

„3. Did the parliamentary or ministry website inform the public of their opportunity to comment on the draft resolution? If so, please provide an English translation of the text of the webpage of the website which informed the public of how they could submit comments.”

In addition to the answer No. 2, there were also several opportunities for the public to provide their comments on various *preparatory* documents connected to the above mentioned background paper; please see the archive website for this matter on the following link:

<https://web.archive.org/web/20070520062143/http://www.gkm.gov.hu/feladataink/energetika/energiapolitika>

Appendix 5 includes this website and the translation of the introductory text. (It is important to mention here that originally the energy policy supposed to cover a time period up to 2030 based on the information of this website, however, this period was amended to 2020, most probably due to – the civil and governmental – comments received.)

4. Regarding Question No. 4., our answers are provided below:

“4. On page 6 of your reply of 29 November 2016, you refer to the minutes of three parliamentary committees in which you state that members of the public participated. Was there also a possibility for the public to send written comments on the draft 2008 parliamentary resolution? If so, please provide:

(a) The text of the document summarizing the comments received; and

(b) Any document that accompanied the adopted resolution explaining how the comments received from the public were taken into account in the decision-making.”

Please note that the Parliamentary decision making process (including sessions of the Parliamentary Committees) are open for the public and the reports on what has been said there are permanently available on the internet. Similarly, the whole documentation is still accessible even today which has been associated with the negotiation process of this certain case at the Parliament, including 1.) the background document mentioned at answer No. 2, 2.) the Minutes of the Parliamentary Committee meetings as well as 3.) the adopted Parliamentary Resolution. The documents that were created during the Parliamentary negotiations of the energy policy are available on the following link:

https://www.parlament.hu/web/guest/iromanyok-elozo-ciklusbeli-adatai?p_p_id=hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&p_auth=iTLCDWat&_hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcpqlsql%2Fogy_irom.irom_adat%3Fp_ckl%3D38%26p_izon%3D4858

During the negotiations of the energy policy in 2008, the representatives of the civil organizations participated in person on the sessions of the *Parliamentary Committee on Economy and IT*, however, apart from a press communication, they did not provide any

written comments during the procedure. *Appendix 6* includes (in Hungarian) the full Minutes of the Meeting of the *Committee on Economy and IT* negotiating the energy policy; *Appendix 7* includes the translation of the oral comments of the NGOs participating in the debate, where they underlined that the energy policy should cover several sectors and also stressed the effect of energy supply on the competitiveness.

We would like to highlight here that the adopted text of the Parliamentary Resolution on the energy policy was significantly amended by comments of the NGOs compared to the original draft proposal. **Points 1-11 of the adopted “Resolution” were not parts of the original draft proposal, these were included into the text during the Parliamentary negotiations as MP’s proposal for amendment forwarding suggestions for modification.** This adopted Resolution has already been sent to the ACCC in English. **The MP’s proposal² takes into account comments of both NGOs that were communicated during the committee sessions. Moreover, it states in its reasoning:**

„In this context the strategic scope of the energy policy shall be defined and the common application of the aims such as security of supply, *competitiveness* and sustainability shall be optimised considering the long-term aspects as well.” [...]

„The new points 5-7 that were suggested to be included set out basic principles for the relation of the energy policy with other policies. Therefore, it is particularly necessary to guarantee the coherence with climate policy, foreign affairs and transport policy.”

As corroboration, we provide the Compliance Committee with the full text of the adopted Parliamentary Resolution on energy policy once again. All newly included parts based on the oral comments of the NGOs are indicated in the text. Paragraphs originated from Levegő Munkacsoport (translated as Clean Air Action Group) are highlighted in **blue**, while those from Ipari Energiafogyasztók Fóruma (translated as Forum of Industrial Energy Consumers) are clearly indicated by **yellow** (see *Appendix 8*).

In our opinion the above proves that the active participation of the civil organizations could result in the acceptance of their reasonings and suggestions, moreover, including them in the governmental decision even in the final, Parliamentary stage of the decision making within the framework of the Hungarian legal system.

For the sake of completeness, please find here our answers already sent to the ACCC on 7 April, 2021:

5. Regarding Question No. 5., our answers are provided below:

„5. At paragraph 50 of your reply of 9 March 2016 you state that Parliamentary Resolution no. 40/2008 on the 2008-2020 energy policy was prepared in accordance with section 44(2)

² <https://www.parlament.hu/irom38/04858/04858-0024.pdf>; the reasonings are available on page 5.

of act 1995:LIII on Environment Protection. Please clarify if the draft Resolution was prepared under subparagraph (a) or (b) of section 44(2).”

The draft Resolution was prepared under subparagraph a) of section 44. paragraph (2) of act 1995:LIII on Environmental Protection. [Subparagraph (b) of section 44(2) applies to providing opinion regarding strategic environmental examinations and their related plans and programs.]

6. Regarding Question No. 6., our answers are provided below:

„6. Please provide an English translation of article 7(2) of act 1996:CXVI on Atomic Energy which requires that in order to launch preparatory works related to any nuclear facility, the Hungarian Parliament must give its decision in principle.”

Below you can see the English translation of the provision in parallel with the Hungarian text:

Atomenergiáról szóló 1996. évi CXVI. törvény	Act CXVI of 1996 on Atomic Energy
7. § (2) bekezdés (2) Új nukleáris létesítmény és radioaktív hulladéktároló létesítését előkészítő tevékenység megkezdéséhez, illetőleg meglévő atomerőmű további atomreaktort tartalmazó egységgel való bővítéséhez az Országgyűlés előzetes, elvi hozzájárulása szükséges.	Article 7, paragraph (2) (2) Preliminary consent in principle of the Parliament shall be required for the commencement of preparatory actions for the construction of a new nuclear facility or radioactive waste repository, or for the expansion of an existing nuclear power plant with an additional unit containing nuclear reactors.

The list of Appendices attached to our letter:

1. Environmental assessment prepared for the Ministry of Economy and Transport and discussed by the National Environmental Protection Council.
2. Courtesy translation of the relevant paragraphs of the document mentioned in point 1.
3. The background paper supporting the Parliamentary Resolution on energy policy including comments of the non-governmental organization *Magyar Természetvédők Szövetsége* (National Society of Conservationists).
4. Request from a private person regarding the publicly available background paper establishing the Parliamentary Resolution on energy policy.
5. The translation of the introductory part of the website that made possible to provide public comments on the preparatory documents for the background paper establishing the Parliamentary Resolution on energy policy.
6. The minutes of the *Parliamentary Committee on Economy and IT* as of 13 February 2008 where the representatives of the civil organizations could express their views on the energy policy.
7. The translation of the speeches mentioned in point 6.
8. The text of the adopted energy policy where we highlighted the newly included parts during the Parliamentary negotiations based on the comments of the representatives of the civil organizations.

Budapest, 7 May 2021