Reply to the Communication ACCC/C/2019/169

Hungarian view
concerning the admissibility of the Communication

1. Introduction

In response to the Communication provided by the Österreiches Ökologie-Institut *et al.* regarding non-compliance by Hungary on issues concerning public participation in the case of the Paks II EIA procedure, registered under the number PRE/ACCC/C/2019/169 Hungary, hereinafter referred to as the "Communication", we kindly inform you of the following.

First of all, we find it important to note that on the 7th meeting of the „Economic Commission for Europe Meeting of the Parties to the Convention on Environmental Impact Assessment" in 2017 classified the EIA of the Paks II project a good practice, an example to follow.[1] The full text of this finding is the following (the parts related to the Communication are in bold):

„Public participation, Hungary (as Party of origin)
Paks II Nuclear Power Plant

At the beginning of the EIA procedure for the construction of two new nuclear units of the Paks NPP, in 2015, Hungary notified all those countries that had indicated their interest in participating in the EIA procedure during the preliminary consultation of 2013. In 2015-2016, Hungary carried out a transboundary EIA with nine countries (Austria, Croatia, Czechia, Germany, Serbia, Slovenia, Slovakia, Romania and Ukraine). **The full EIA documentation was made available in the Hungarian and English languages**. Moreover, **its chapter on transboundary effects and the non-technical summary were translated into the Croatian, Czech, Romanian, German, Serbian, Slovak, Slovenian and Ukrainian languages as well**. All translations were arranged by the proponent, **and the full documentation was made available online during the entire procedure**. **Hungary organized public hearings in the territory of all the affected Parties, as required, without limiting them in any sense.** Indeed, if an affected Party so required, Hungary organized up to three public hearings in three different cities (in Romania), or a two-day-long public hearing (in Germany). Public hearings started after the usual working hours in the afternoons to increase the participation. **A dedicated e-mail address was introduced to receive transboundary comments in the procedure in order to offer transparency and equal opportunities to the public of all participating Parties."**

2. View in relation to issues regarding „Access to Justice"

As the Communication refers to the rule relating to access to justice of Article 9 paragraph 2 of the Aarhus Convention (hereinafter referred to as: Convention) in several points (points 12-

[1] http://www.unece.org/fileadmin/DAM/env/documents/2017/EIA/MOP7/28_04_2017_ece_mp.eia_2017_10_e.pdf

20), we find it appropriate to start with our view regarding this topic. The relevant provision of the Convention is the following:

> Article 9 paragraph 2. Each Party shall, ***within the framework of its national legislation***, ensure that members of the public concerned
> (a) Having a sufficient interest or, alternatively,
> (b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.
>
> What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above
>
> The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

2.1. The presentation of the national legislation

In connection to the cited provision of the Convention it is necessary to present the regulations in force during the Hungarian environmental authorization procedure (the part of which is the environmental impact assessment procedure). On page 44 of *The Aarhus Convention – An Implementation Guide (hereinafter: Implementation Guide)* of the UNECE in accordance with the terms "in accordance with national legislation" and the similar „within the framework of its national legislation" of Article 9 paragraph 2 the followings can be found: *„The first possible interpretation is that the terms introduce some flexibility in the means of implementation but not in the extent to which the basic obligation in question must be met. […] On this view, the phrases introduce some flexibility in the means* ***that Parties may use to meet the obligations of the Convention, taking into account different national systems of law****. […] A second possible interpretation is that the terms introduce flexibility not only in the means of implementing obligations, but also as to the scope and/or content of the obligations themselves."* Since in our view the Convention recognizes the differences of the legal systems of the Parties, **the knowledge of the certain national legislations is crucial not only because of the examination of the conformance with the Convention but it is also vital for the „public" and the „public concerned" for the enforcement of their rights**

provided by the Convention. *(In our view this derives from paragraph 21 of the Annex of the I/7 decision as well which states: The Committee should at all relevant stages take into account any available* ***domestic remedy*** *unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress).*

a) The definition of client in the administrative proceedings

One of the most important members of the administrative procedure – like the environmental authorization procedure – is the client. However, not only those could become clients who submit an application to the authority. The act defining the framework of the Hungarian administrative procedures, the Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter referred to as: Ket.) **determines the term 'client' really broadly**. Under Article 15 paragraph 1 of the Ket. **client** shall mean a natural or legal person and any association lacking the legal status of a legal person **whose rights or lawful interests are affected by a case**, who is subjected to regulatory inspection, or who is the subject of any data contained in official records and registers. Under Article 15 paragraph 5 of the Ket. in certain specific cases the rights of clients may be vested upon, or client status may be granted to, non-governmental organizations whose registered activities are oriented for the protection of some basic rights or the enforcement of some public interest. Such rules which are simplifying for the affected parties are included in the Act LIII of 1995 on the general rules of environmental protection as well. According to this Act[2] associations formed by the citizens for the representation of their environmental interests and other social organizations not qualifying as political parties or interest representations - and active in the impact area - (hereinafter: organizations) shall be entitled in their area to the legal status of being a client to the case in environmental protection state administration procedures. It has to be underlined that the rule in Article 15 paragraph 5 of the Ket. is not to limit but to complement the general rule in paragraph 1.

In the case of the general definition of client set out in Article 15 paragraph 1 of the Ket., thus it is necessary to examine the existence of the right or lawful interest. This by itself is not contrary to the Implementation Guide which in this regard states: *„Several Parties to the Convention apply some kind of test to establish standing, often in terms of a direct, sufficient, personal or legal interest, or of a legally protected individual right."*[3] As the Ket. does not provide a restricting requirement in connection to the terms *right or lawful interest*, the *„giving the public concerned wide access to justice within the scope of this Convention"* as stated in Article 9 paragraph 2 of the Convention applies.

The clients' rights are defined widely by the Ket. In relation to the Communication the right of the client to have resolutions and rulings delivered to them[4]; also the right to appeal the first instance decision; and **the right to appeal is not bound to specific titles, an appeal**

[2] Article 98 para. 1
[3] Page 196 of the Implementation Guide
[4] Art. 78 para. 1 and 2. of the Ket.

may be made for any reason that the person affected deems unjust[5], furthermore a petition for the judicial review of the decision may be lodged: if either of the persons entitled to appeal has exhausted the right of appeal in the proceedings of the authorities shall be highlighted.[6]

b) Possibilities for remedy in order to guarantee client status

The importance of guaranteeing the client status is recognized by the legislator which is underlined by the fact that **the authority has to issue an official, reasoned order about the acceptance or the refusal of the client status**. Moreover, a ruling on the **refusal to grant client status** to a client other than the one having submitted a request[7] for the opening of proceedings **may be appealed**, furthermore, according to Article 109 paragraph 1 point b) of the Ket., **a petition for the judicial review of this second instance decision may be lodged** if either of the persons entitled to appeal has exhausted the right of appeal in the proceedings of the authorities. At the end this means that an **independent and impartial body decides about the client status**. According to Article 109 paragraph 4 of the Ket. the decision of the court is binding for the authority: **the authority shall be bound by the operative part and by the justification of the decision adopted by the court of jurisdiction** for administrative actions, and shall proceed accordingly in the new proceedings and when adopting a decision.

Strictly it is not a remedy but the application of excuse (in other words: application for continuation) facilitates the client's assertion of interest through which the Ket. provides further guarantees. According to Article 66 paragraph 1 of the Ket. any person who was unable to keep a deadline or time limit in the proceedings for reasons beyond his control may lodge an application for excuse. The second sentence of Article 66 paragraph 2 of the Ket. contains rules for the submission of request for remedy: *An application for excuse for failure to observe the deadline for filing an appeal or for filing for legal action shall be adjudged, respectively, by the authority of the first instance, or by the court of jurisdiction for administrative actions.* Article 66 paragraph 4 provides a significant deadline for the submission of the application of excuse because it **shall be submitted within eight days from the time of becoming aware of the default or from the time the obstruction is eliminated, where applicable, but not later than within six months from the last day of the time limit or deadline in question**.

According to Article 67 paragraph 1 of the Ket. **if the authority accepts the application for excuse, the person who filed the application for excuse shall be treated from a procedural perspective as being in compliance**. To this end **the authority shall revise or withdraw its decision, and shall continue the proceedings in the event of withdrawal of its decision for terminating the proceedings, or shall repeat certain procedural steps**.

[5] Ket. Art. 98. para. 1
[6] Ket. Art. 109 para. 1 point b), see in the next part.
[7] In the environmental authorisation procedure this was the MVM Paks II. Atomerőmű Fejlesztő Zrt.

Furthermore, in relation to these provisions an **independent appeal may be lodged against a ruling of the first instance for the refusal of an application for continuation for failure to observe the deadline for filing an appeal** [Ket. Art. 98 para. 3 point h), the already cited Ket. Art. 109. para. 1 point b)].

c) The conformity of the Hungarian regulation with the Convention

In our opinion the regulation presented above is in line with the term „within the framework of national legislation" of Article 9 paragraph 2 of the Aarhus Convention, described on page 46 of the Implementation Guide which requires an active participation from the Parties in order to fulfill the above mentioned provision: *„First, the phrase may be interpreted as a direct instruction to the Parties that they must take legislative measures in order to meet the obligation, i.e., to take measures "within the framework of national legislation". Customary national practice that is generally in accordance with the particular obligation of the Convention at issue would not be enough — legislative measures that ensure compliance are required."*

We find it fundamental to further note that the Hungarian legislation mentioned above is conform with Article 3 paragraph 9 of the Convention since the „without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities." refers to everyone who participates in the Hungarian administrative procedure.

The Hungarian regulation, including the Ket., was and still is available to anyone from the beginning of the EIA procedure (although currently not in force), in Hungarian among others on the njt.hu. Moreover, the English language version of the Ket. is still available on the internet, among others on the website of the ***Hungarian Atomic Energy Agency.***[8]

We would like to mention that the official language of the Hungarian administrative procedures and the Hungarian legal system is the Hungarian. In connection to the case ACCC/C/2010/46. *„the Committee found that while the principle of non-discrimination on the basis of citizenship, nationality or domicile was explicit in article 3, paragraph 9, of the Convention, the provision was silent on matters of discrimination on the basis of language."*, so following from this we are on the opinion that the rules on use of language are not contrary to the provisions of the Convention. Although we would like to note that according to Article 10 paragraph 2 of the Ket. any client who cannot speak the Hungarian language may request the administrative authorities to use his native language or another intermediary language, in which his request is worded, provided that the applicant agrees to cover the costs of translation and interpretation.

[8] By searcing for „administrative procedure law Hungary": https://www.oah.hu/web/v3/HAEAportal.nsf/3F0D11115ECE3BDFC1257EB4003DF714/$FILE/KET_EN.pdf; further: https://ogyei.gov.hu/laws_and_regulations

2.2. The relevant statements of the Communication and its relation to the national legislation

a) General remarks

Based on the presentation of the regulations in force at the time of the national environmental protection procedure we believe that it is clear that the client status is available for practically everyone and sufficient remedies are available in case of refusal of the client status. In relation to this based on paragraph 21 of the annex to decision I/7 we would like to highlight that **some of the Communicants did not request to be considered a client in an official submission, other Communicants – like the Österreisches Ökologie-Institut, Calla and Terra Mileniul III – did not use its possibilities to get remedy for finding the client status in the following way:**

According to **point IV. of the Communication every Communicant *made submissions or viewpoints during the EIA procedure in 2015* which means that they were aware that the procedure was in progress, however none of them requested that they want to participate in the procedure as a client, while the Hungarian law would have provided that for them as it was pointed out above.** This is evident from point 5 of the first-instance environmental permit, according to which only Hungarian organizations requested the client status during the procedure.[9] Moreover, the first-instance environmental permit described how to request the „general" client status and how to examine it in the following way: *Non-governmental organisations (other than the organisations specified in the Administrative Proceedings Act) can also be recognised as clients in this procedure, provided they indicate their eligibility or vested interest as described in Section 15 (1) of the Administrative Proceedings act.*[10] (This possibility was obviously available to natural persons as well like it was stated above.) We consider it fundamental to mention that it can be concluded from point IV of the Communication that **Communicants knew the website where information related to the procedure were uploaded and the Communicants also admitted in their Communication that the decision was uploaded to this website**.

Accordingly, in the case of the mentioned Communicants in our view it can be found that they did not use all available possibilities for remedy for granting them the client status and they did not take any further steps for this aim.

b) Remarks on points 12, 13 and 17 of the Communication

Based on the documents of Annex VIII it can be concluded that in case of those who were interested in them – contrarily to what the point 12 of the Communication states – *there was no finding or refusing of the client status*. According to the order in point 2 of Annex VIII the

[9] See Annex I page 84 point 5.
[10] See Annex I page 100.

authority that Communicants mentioned did not have neither jurisdiction (power) nor competence in the case, and because of this transferred the case to the competent authority based on Article 22 paragraph 2 of the Ket.: *If lacking powers and competencies the authority shall transfer the petition and other documents of the case without delay, not to exceed eight days from the date of receipt of the petition, or the date when the lack of powers and competencies is declared in a case pending, to the authority vested with powers and competencies, and shall notify the client accordingly.*

The document of Annex VIII point 3 was also not about the refusal of the client status but – as the order states – the **authority shall ascertain the relevant facts of the case** according to Article 50 paragraph 1 of the Ket. Because of this provision the authority requested the relevant Communicant to **take actions in order to supply missing information** so that the authority could find its client status which, based on the available documents, **it did not take**. Here we should also underline, as we already stated above, that there is the possibility for application of excuse in case the deadline was not missed because of the applicant's own fault. Consequently it can be concluded that Communicants of point 12 did not use all possible remedies for granting them client status and they did not supply the missing information either.

Regarding the use of language we further would like to mention it here too that Communicants did not attach any document or acknowledgement which proves the amount of their costs as it was stated in point 17 of the Communication.

Similarly, the conclusion of point 13 of the Communication is also false which states that *„the Hungarian authorities were not ready to grant environmental organisations with a scope of activity in neighboring countries nor individuals living in a distance of more than 30 km from the Paks site the status of a legal „client" or a remedy against the permitting decision"*, since **from such organizations or persons did not arrive request for granting them the client status based on the documents attached to the Communication or they did not comply with the authority's request to supply information, in consequence they did not use all available remedies**. We would like to highlight once again that at the end **it is the court to decide about the client status which is independent from the authorities**.

c) Remarks in relation to points 14-16 of the Communication

Regarding point 14 of the Communication we would like to note that in our opinion it is quite dubious that the *commercial company* which is practically in the same market as the facility of the EIA (which is a nuclear power plant providing electricity) could be considered as an NGO, whose statutory goals include promoting environmental protection. On the other hand despite of this, none of the Communicants provided an application for the client status.

We do not find valid the reasoning in point 15. This point says: „*The criteria to be a legal "client" within the EIA procedure mentioned in the decisions from the Hungarian authorities*

involved, inter alia, that environmental protection is mentioned as activity area in the NGO's statutes and that the impact area of the subject of the ease (in this case Paks II) falls within the operation area of the environmental organization. Considering the extensive effects of nuclear power plants, and the Conventions approach that access to justice should be "the presumption, not the exception", these restrictions for access to a review procedure under art. 9(3) justice appear to be inadequate in the present case."

This statement, however, is false because as we already stated before the first-instance environmental permit says: *„Non-governmental organisations (other than the organisations specified in the Administrative Proceedings Act) can also be recognised as clients in this procedure, provided they indicate their eligibility or vested interest as described in Section 15 (1) of the Administrative Proceedings act."* In contrast to this **none of the Communicants submitted** – according to the documents attached to the Communication or any other documents, like the first- and second-instance permits – **an application not even during the administrative proceeding, not after the first-instance decision in which they could have referred to their right or lawful interest for requesting the client status**. In addition to this, at forums other than the present Communication, the Communicants did not submit to the authorities or to the court that „*the Conventions approach that access to justice should be "the presumption, not the exception", these restrictions for access to a review procedure under art. 9(3) justice appear to be inadequate in the present case".*

Based on the above we do not agree with the statement of point 16 that says *„[t]his restriction to the possibility to challenge the decision runs counter to the principle of non-discrimination" laid down in art. 3 (9) of the Convention."* There are no such restrictions, as we already presented this above, mainly because of subsection *a)* of point 2.1. of the present application.

d) Remarks regarding points 18-20 and point VII of the Communication

Finally, we do not agree with points 18-20 and point VII of the Communication either. As we already clarified before, all of the Communicants were aware of the ongoing environmental proceeding as there were submissions and viewpoints. Although, with particular attention to the term "within the framework of its national legislation" in Article 9 point 2 of the Convention, none of them requested to participate in the procedure as a client, and not even that Communicant did it which was requested to do so by the authorities [see the ruling in Annex VIII point 3].

In this regard we find it important the following statement of the Communicants which states that *„The communicants **had waited** for this procedure [namely which would have been started by the appeal of Energiaklub and Greenpeace Hungary] in order to intervene there".* This statement implies that they relied on other civil organizations instead of taking care of their own interests.

We also refuse the statement of the Communicants according to which ***„they were not considered official „clients" in the procedure",*** **as in this regard they did not even try to attain the client status or they did not use all available remedies which are guaranteed by the Hungarian law to have the client status.**

2.3. Summary and the view of the Party

Based on our reasoning above we request the Committee to find the Communication „Not Admissible", *having regard to paragraph 21 of the annex to decision I/7, because* ***it was submitted without the Communicants having made sufficient use of available domestic remedies***.

The summary of our reasons above:

- **The Convention recognizes that some of its provisions could be fulfilled *„within the framework of its national legislation",* or *"in accordance with national legislation".***
- The Hungarian regulation both in general and in its special dispositions too is compatible with the rules and requirements of the Convention. Communicants did not name any Hungarian legal provisions that could be contrary to the Convention. Furthermore, they did not argue either that the decisions of the Hungarian authorities are compatible with the Hungarian regulations which were in force at the time of the decision making. **Accordingly it can be concluded that both the Hungarian regulation and the decisions of the authorities which are based on that are compatible with the Convention.**
- The Hungarian legal provisions contain rules for „having a sufficient interest" provided by Article 9 paragraph 2 point a) and b) of the Convention and also for the case when it is stated that some rights were violated, both in case of the client status (right or legal interest is involved) and both in the case to appeal the final decision (court supervision). **Contrarily to this some of the Communicants did not request the client status, others did not do what they were requested by the authority in order to be able to appeal.**

3. The Hungarian view in connection to point 1-11 of the Communication

Article 9 paragraph 2 of the Convention states that the Parties shall guarantee that any decision, action or omission – which is contrary to Article 6 and in case the national law stipulates so, contrary to other relevant provisions – to be able to be appealed. Since the Hungarian Party provided this in its legal system, the Communicants did not use this possibility, in our view there is no field to examine point 1-11 as the national remedies were not used.

Attachments:

- The relevant laws in English and Hungarian language.

Hivatkozott jogszabályok (a környezetvédelmi engedélyezési eljárás megindításakor hatályos normaszövegek):	Laws referred to (legal texts in force at the time of the beginning of the environmental authorization procedure)
2004. évi CXL. törvény a közigazgatási hatósági eljárás és szolgáltatás általános szabályairól (továbbiakban: Ket.)[11] 10. § (2) bek.: *„A 9. § (3) bekezdésében meghatározott ügyfél kivételével a magyar nyelvet nem ismerő ügyfél – a fordítási és tolmácsolási költség viselése mellett – az (1) bekezdés hatálya alá nem tartozó esetekben is kérheti, hogy a közigazgatási hatóság bírálja el az anyanyelvén vagy valamely közvetítő nyelven megfogalmazott kérelmét.”*	Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter Ket.) Article 10. paragraph 2: *„With the exception of the client specified in Subsection (3) of Section 9, any client who cannot speak the Hungarian language may request the administrative authorities to use his native language or another intermediary language, in which his request is worded, in cases not mentioned in Subsection (1), provided that the applicant agrees to cover the costs of translation and interpretation.”*[12]
Ket. 15. § (1) bekezdés: *„Ügyfél az a természetes vagy jogi személy, továbbá jogi személyiséggel nem rendelkező szervezet, akinek jogát vagy jogos érdekét az ügy érinti, akit hatósági ellenőrzés alá vontak, illetve akire nézve a hatósági nyilvántartás adatot tartalmaz.”*	Ket. Article 15 paragraph 1: *„Client shall mean a natural or legal person and any association lacking the legal status of a legal person whose rights or lawful interests are affected by a case, who is subjected to regulatory inspection, or who is the subject of any data contained in official records and registers.”*
Ket. 15. § (5) bek.: *„Meghatározott ügyekben jogszabály ügyféli jogosultságokat, illetve ügyféli jogállást biztosíthat azoknak a civil szervezeteknek, amelyeknek a nyilvántartásba vett tevékenysége valamely alapvető jog védelmére vagy valamilyen közérdek érvényre juttatására irányul.”*	Ket. Article 15 paragraph 5: *„In certain specific cases the rights of clients may be vested upon, or client status may be granted to, non-governmental organizations whose registered activities are oriented for the protection of some basic rights or the enforcement of some public interest.”*
Ket. 15. § (8) bek.: *„Az eljárás megindítására irányuló kérelmet benyújtó ügyfélen kívüli ügyféli jogállást megtagadó végzés ellen önálló fellebbezésnek van helye.”*	Ket. Article 15 paragraph 8: *„A ruling on the refusal to grant client status to a client other than the one having submitted a request for the opening of proceedings may be appealed.”*
Ket. 22. § (2) bek.: *„Hatáskör vagy illetékesség hiányában a hatóság a kérelmet és az ügyben keletkezett iratokat – az ügyfél egyidejű értesítése mellett*	Ket. Article 22 paragraph 2: *„If lacking powers and competencies the authority shall transfer the petition and other documents of the case without delay, not to*

[11] Source: http://njt.hu/cgi_bin/njt_doc.cgi?docid=85989.266673

[12] Art. 9. paragraph (3) is about languages of nationalities (ethnic languages): *Persons acting on behalf of nationality organizations and the natural persons falling within the scope of the Nationalities Act may use the language of their respective nationality in proceedings with the administrative authorities. Any decision adopted in the Hungarian language in connection with an application submitted in the language of a nationality shall be translated into the language of the application at the client's request.*

– haladéktalanul, de legkésőbb a kérelem megérkezésétől, folyamatban levő ügyben a hatáskör és illetékesség hiányának megállapításától számított nyolc napon belül átteszi a hatáskörrel és illetékességgel rendelkező hatósághoz.”	*exceed eight days from the date of receipt of the petition, or the date when the lack of powers and competencies is declared in a case pending, to the authority vested with powers and competencies, and shall notify the client accordingly.”*
Ket. 50. § (1) bek.: *„A hatóság köteles a döntéshozatalhoz szükséges tényállást tisztázni. Ha ehhez nem elegendőek a rendelkezésre álló adatok, bizonyítási eljárást folytat le.”*	Ket. Article 50 paragraph 1: *„The authority shall ascertain the relevant facts of the case in the decision-making process. If the information available is insufficient, the authority shall initiate an evidence procedure”*
Ket. 66. § (1) bek.: *„Aki az eljárás során valamely határnapot, határidőt önhibáján kívül elmulasztott, igazolási kérelmet terjeszthet elő.”*	Ket. Article 66 paragraph 1: *„Any person who was unable to keep a deadline or time limit in the proceedings for reasons beyond his control may lodge an application for excuse.”*
Ket. 66. § (2) bek.: *„Az igazolási kérelemről az a hatóság dönt, amelynek eljárása során a mulasztás történt. A fellebbezésre megállapított határidő elmulasztásával kapcsolatos igazolási kérelmet az első fokú döntést hozó hatóság, a keresetindításra megállapított határidő elmulasztásával kapcsolatos igazolási kérelmet a közigazgatási ügyekben eljáró bíróság bírálja el.”*	Ket. Article 66 paragraph 2: *„The application for excuse shall be adjudged by the authority proceeding at the time of the omission. An application for excuse for failure to observe the deadline for filing an appeal or for filing for legal action shall be adjudged, respectively, by the authority of the firs instance, or by the court of jurisdiction for administrative actions.”*
Ket. 66. § (4) bek.: *„Az igazolási kérelmet a mulasztásról való tudomásszerzést vagy az akadály megszűnését követő nyolc napon belül, de legkésőbb az elmulasztott határnaptól vagy az elmulasztott határidő utolsó napjától számított hat hónapon belül lehet előterjeszteni.”*	Ket. Article 66 paragraph 4: *„The application for excuse shall be submitted within eight days from the time of becoming aware of the default or from the time the obstruction is eliminated, where applicable, but not later than within six months from the last day of the time limit or deadline in question.”*
Ket. 67. § (1) bek.: *„Ha a hatóság az igazolási kérelemnek helyt ad, az igazolási kérelmet benyújtó személyt eljárásjogi szempontból olyan helyzetbe kell hozni, mintha nem mulasztott volna. Ennek érdekében a hatóság a döntését módosítja vagy visszavonja, az eljárást megszüntető döntésének visszavonása esetén az eljárást folytatja, illetve egyes eljárási cselekményeket megismétel. A döntésnek az igazolási kérelem alapján történő módosítására vagy visszavonására nem irányadók a 114. §-ban meghatározott korlátozások.”*	Ket. Article 67 paragraph 1: *„If the authority accepts the application for excuse, the person who filed the application for excuse shall be treated from a procedural perspective as being in compliance. To this end the authority shall revise or withdraw its decision, and shall continue the proceedings in the event of withdrawal of its decision for terminating the proceedings, or shall repeat certain procedural steps. The restrictions set out in Section 114 shall not apply to the revision or withdrawal of a decision under an application for excuse.”*

Ket. 78. § (1) és (2) bek.: (1) A határozatot közölni kell az ügyféllel és azzal, akire nézve az jogot vagy kötelezettséget állapít meg, az ügyben eljárt szakhatósággal és a jogszabályban meghatározott más hatósággal vagy állami szervvel. (2) A végzést azzal kell közölni, akire nézve az rendelkezést tartalmaz, valamint azzal, akinek az jogát vagy jogos érdekét érinti, továbbá jogszabályban meghatározott személlyel vagy szervvel. A hatóság az ügyfél kérelmére egy alkalommal külön illeték vagy díj felszámítása nélkül ad ki másolatot a vele nem közölt végzésről.	Ket. Article 78 paragraph 1 and 2 (1) Resolutions shall be delivered to the client and to all persons upon whom it confers any rights or obligations, also to the special authorities involved in the case and to other authorities or government bodies specified by the relevant legislation. (2) Rulings shall be delivered to the client and to the other parties upon whom it confers any rights or obligations, and also to the persons and bodies defined by the relevant legislation. The authority shall provide a copy of any ruling that was not communicated to the client free of any duties or charges upon request.
Ket. 98. § (1) bek.: *„Az ügyfél az elsőfokú határozat ellen fellebbezhet. A fellebbezési jog nincs meghatározott jogcímhez kötve, fellebbezni bármely okból lehet, amelyre tekintettel az érintett a döntést sérelmesnek tartja.”*	Ket. Article 98 paragraph 1: *„The client may appeal any resolution in the first instance. The right to appeal is not bound to specific titles, an appeal may be made for any reason that the person affected deems unjust.”*
Ket. 98. § (3) bek.: *„Önálló fellebbezésnek van helye* *a) az ideiglenes biztosítási intézkedésről szóló,* *b) a kérelmet érdemi vizsgálat nélkül elutasító,* *c) az eljárást megszüntető,* *d) az eljárás felfüggesztését kimondó vagy a felfüggesztésre irányuló kérelmet elutasító* *e) a 33/A. §-ban meghatározott fizetési kötelezettséggel kapcsolatos,* *f)* *g) az eljárási bírságot kiszabó,* *h) a fellebbezési határidő elmulasztása miatt benyújtott igazolási kérelmet elutasító,* *i) az iratbetekintési jog korlátozására irányuló kérelem tárgyában hozott és* *j) a fizetési kedvezménnyel kapcsolatos, az eljárási költség megállapításával és viselésével kapcsolatos, a költségmentesség iránti kérelmet elutasító, a költségmentesség módosításáról vagy visszavonásáról szóló első fokú végzés ellen.”*	Ket. Article 98. paragraph 3: *An independent appeal may be lodged against a ruling of the first instance:* *a) for provisional protective measures;* *b) for rejecting a petition without substantive examination;* *c) for the termination of proceedings;* *d) for the suspension of proceedings or against a request for suspension;* *e) for the payment obligation referred to in Section 33/A;* *f)* *g) for imposing an administrative penalty;* *h) for the refusal of an application for excuse for failure to observe the deadline for filing an appeal;* *i) for limiting the right of access to documents for review; and* *j) relating to payment facilities, for determining and for the bearing of procedural costs, for the refusal of applications for exemption from costs, and the ruling for the amendment or withdrawal exemption from costs.*
Ket. 109. § (1) bek.: *„Az önállóan nem fellebbezhető végzések kivételével a döntés bírósági felülvizsgálata kezdeményezhető* *a) a 100. § (2) bekezdésében meghatározott*	Ket. Article 109 paragraph 1: *„With the exception of rulings which cannot be appealed separately, a petition for the judicial review of the decision may be lodged:*

esetekben, vagy *b) ha a hatósági eljárásban a fellebbezésre jogosultak valamelyike a fellebbezési jogát kimerítette."*	*a) in the cases defined in Subsection (2) of Section 100; or* *b) if either of the persons entitled to appeal has exhausted the right of appeal in the proceedings of the authorities."*
Ket. 109. § (4) bek.: *„A hatóságot a közigazgatási ügyekben eljáró bíróság határozatának rendelkező része és indokolása köti, a megismételt eljárás és a döntéshozatal során annak megfelelően jár el."*	Ket. Article 109 paragraph 4: *„The decision of the court is binding for the authority: the authority shall be bound by the operative part and by the justification of the decision adopted by the court of jurisdiction for administrative actions, and shall proceed accordingly in the new proceedings and when adopting a decision."*

A környezet védelmének általános szabályairól szóló 1995. évi. LIII. törvény[13] 98. § (1) bek.: *„A környezetvédelmi érdekek képviseletére létrehozott politikai pártnak és érdekképviseletnek nem minősülő, a hatásterületen működő egyesületeket (a továbbiakban: szervezet) a környezetvédelmi államigazgatási eljárásokban a működési területükön az ügyfél jogállása illeti meg."*	Act LIII of 1995 on the general rules of environmental protection, Article 98 paragraph 1: *„Associations formed by the citizens for the representation of their environmental interests and other social organizations not qualifying as political parties or interest representations - and active in the impact area - (hereinafter: organizations) shall be entitled in their area to the legal status of being a client to the case in environmental protection state administration procedures."*

[13] Source: http://njt.hu/cgi_bin/njt_doc.cgi?docid=23823.285801