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Criminal offenses against the environment and nature in Hungary

The Hungarian criminal procedure is divided into three stages:

1. The first stage is the investigation, which can be divided into two phases. The first is the tracking down of the unknown subject of the investigation (a.k.a. unsub), hence identifying the unsub. The second is the inquisition when the investigating authorities endeavours to collect sufficient evidence and may even apply coercive measures therefore.
2. The second stage of the criminal procedure is the so called intermediate proceeding, including the indictment (when the prosecutors' office decides whether there is sufficient evidence to charge a person) and preparation of a trial (when the trial court decides whether a trial should be held against the defendant, arraignment).
3. The third stage is the procedure of the court. Inevitable part of this stage is the procedure of first instance and depending on whether an appeal is lodged procedure of second or third instance may be initiated

The criminal offenses against the environment and nature in Hungary are in the Chapter 23rd of the Act 100 of 2012 on the Criminal Code. There are 11

criminal offenses in this chapter which may be committed by the following persons:

1. Environmental offenses (section 241): any person responsible for the pollution by any means of the earth, the air, the water, the biota (flora and fauna) and their constituents, resulting

- a) in their endangerment;
- b) in damage to such an extent that its natural or previous state can be restored by way of intervention only;
- c) in damage to such an extent that its natural or previous state cannot be restored at all.

2. Damaging the natural environment (section 242): this crime could be committed by two different person:

2.1. Any person who unlawfully obtains, possesses, distributes, imports, exports, transports through the territory of Hungary, engages in the trafficking of or damages or destroys:

- a) any species of a living organism under special protection;
- b) any species of protected living organisms or species of flora and fauna which are deemed important for conservation objectives in the European Union, provided that the aggregate value of these species expressed in monetary terms

reaches the threshold amount determined by specific other legislation for the species of a living organism under special protection;

c) any species listed in Annexes A and B to the European Council Regulation on the protection of species of wild fauna and flora by regulating trade therein.

2.2. Any person who unlawfully and significantly alters Natura 2000 areas, protected caves, protected sites and the population or natural habitat of protected living organisms.

3. Cruelty to animals (section 244): Any person:

a) who is engaged in the unjustified abuse or unjustified mistreatment of vertebrate animals resulting in permanent damage to the animal's health or in the animal's destruction;

b) who abandons, dispossess or expels a domesticated vertebrate animal or a dangerous animal.

4. Poaching game (section 245): Any person who:

a) is engaged in activities for the killing or capturing of wild game on a hunting ground without hunting right, or as a hunter on the hunting ground of others without authorization,

b) kills or captures during the close season for game - provided for in specific other legislation covering all species of game - any wild game of that species,

c) is engaged in activities for the killing or capturing of wild game, or any vertebrate animal under special protection or any protected animal using unauthorized hunting equipment and methods provided for in specific other legislation, or on restricted hunting grounds.

5. Poaching fish (section 246): Any person who:

a) is engaged in activities for catching fish without authorization, using fishing nets or other fishing equipment, excluding recreational fishing,

b) is engaged in activities for catching fish using unauthorized fishing equipment and/or methods provided for in specific other legislation, or in restricted fishing areas.

6. Organization of illegal animal fights (section 247): this crime could be committed by two different person as well:

a) Any person involved in the organization of fights using vertebrate animals, or in making arrangements for betting or placing bets on such animal fight.

b) Any person involved in acquiring, keeping, breeding, training, domesticating or trafficking of vertebrate animals for the purpose of fights.

7. Violation of waste management regulations (section 248): Any person who:

a) engages in the disposal of waste at a site that has not been authorized by the competent authority for this purpose,

b) engages in waste management activities without authorization, or by exceeding the scope of the authorization, or engages in any other unlawful activity involving waste.

8. Criminal offenses with ozone-depleting substances (section 249): Any person who manufactures or uses, imports into or exports from the territory of the country or places on the market any substance that depletes the ozone layer, or any product that contains such substances.

9. Misappropriation of radioactive materials (section 250): Any person who, without notification or by exceeding the scope of the authorization:

a) produces, stores, disposes or transports hazardous radioactive substances,

b) acquires, possesses, manages, distributes, processes or otherwise uses hazardous radioactive substances, or transfers such to an unauthorized person, treats, imports or exports such materials or transports them in transit through the territory of the country.

10. Illegal operation of nuclear installations (section 251): Any person who without the authorization, or by exceeding the scope of the authorization operates a nuclear installation.

11. Crimes in connection with nuclear energy (section 252): this crime could be committed by two different person as well:

a) any person who in order to obtain authorization for the use of nuclear energy misleads the body or person vested with decision-making powers;

b) any person who fails to perform his obligation of notification in connection with the use of nuclear energy.

The following table summarizes the punishments of the crimes listed above:

Act of crime	The penalties of the basic case	The penalties of the qualified case	The penalties of the privileged case
Environmental Offenses Section 241	3 years (Section 241 para 1. a) 1-5 years (Section 241 para 1.b) 2-8 years (Section 241 para 1.c)		1/2/3 years (misdemeanor, Section 241 para 2)
Damaging the Natural Environment Sections 242-243	3 years (Section 242 para 1; Section 243 para 1)	1-5 years (Section 242 para 2; Section 243 para 2)	2 years (misdemeanor, Section 242 para 3; Section 243 para 3)

Cruelty to Animals Section 244	2 years (Section 244 para 1)	3 years (Section 244 para 2)	
Poaching Game Section 245	3 years (Section 245)		
Poaching Fish Section 246	2 years (Section 246)		
Organization of Illegal Animal Fights Section 247	3 years (Section 247 para 1) 2 years (Section 247 para 2)		
Violation of Waste Management Regulations Section 248	3 years (Section 248 para 1)	1-5 years (Section 248 para 2)	1/2 years (misdemeanor, Section 248 para 3)
Criminal Offenses with Ozone-Depleting Substances Section 249	3 years (Section 249 para 1)		1 years (Section 249 para 2)
Misappropriation of Radioactive Materials Section 250	1-5 years (Section 250 para 1)	2-8 years (Section 250 para 2)	3 years (preparation, Section 250 para 3) 2 years (misdemeanor, Section 250 para 4)
Illegal Operation of Nuclear Installations Section 251	1-5 years (Section 251 para 1)	2-8 years (Section 251 para 2)	3 years (preparation, Section 251 para 3)
Crimes in Connection with Nuclear Energy Section 252	1-5 years (Section 252 para 1) 3 years (Section 252 para 2)		

The penalties of the crimes may have significance in criminal procedure, e.g. the defence counsel is obligatory if the offence sentenced by imprisonment

of 5 years or longer in accordance with the law; it passes sentence in a council consisting of one professional judge and two associate judges (so called “small council”), if the crime is punishable by 8 or more years of imprisonment etc.

In the final decisions the court usually decides on the merits about legal classification of the crime and the criminal liability of the defendant, and legal consequences to be applied. Final decisions have two main forms: judgment or final order. The judgments can be passed on acquittal or conviction. In a judgment on conviction the court may declare the accused guilty if it is established that he committed a crime and he is punishable. In such case the court may impose a punishment, order probation, impose reprimand and may omit imposing punishment. The final orders are the order terminating the procedure and order passed as a result of omission of trial. The reasons for termination must always precede the reasons for acquittal (meaning that if the accused may be acquitted and there is a reason for termination as well, the procedure must be terminated).