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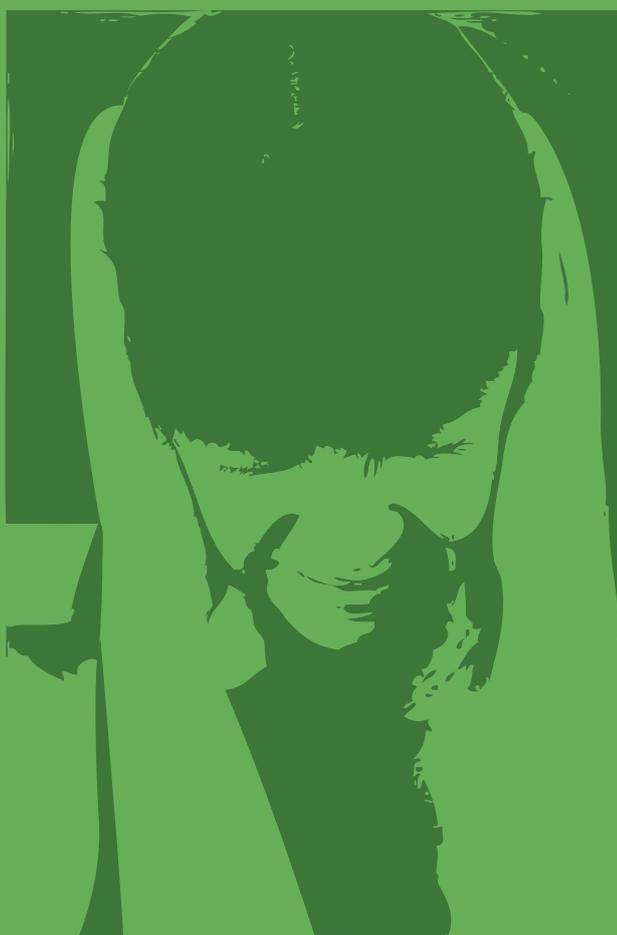


*The report was funded by
the European Commission – LIFE+ programme.*

Make some noise

Shadow report on implementation of the Environmental
Noise Directive

Hungary



Justice & Environment

Justice & Environment (J&E) is a European network of environmental law organisations. J&E is a non-profit association with a mission that *aims for better legislation and implementation of environmental law on the national and European Union (EU) level to protect the environment, people and nature*. J&E fulfils this mission by ensuring the enforcement of EU legislation through the use of European law and exchange of information.

J&E was created in January 2003 and founded as a non-profit association in September 2004. J&E currently comprises six full-member organisations: Environmental Law Service, Czech Republic (EPS); Estonian Environmental Law Centre, Estonia (EELC); Environmental Management and Law Association, Hungary (EMLA); ÖKOBÜRO – Coordination Office of Austrian Environmental Organisations, Austria; Legal-Informational Centre for NGOs, Slovenia (PIC); and the Centre for Public Advocacy, Slovakia (VIA IURIS). J&E also has six associate members: Environmental Justice Association, Spain (AJA); Centre for Legal Resources, Romania (CRJ); Front 21/42 Citizens' Association, Macedonia (Front 21/42); MilieuKontakt International, the Netherlands (MKI); Independent Institute of Environmental Concerns, Germany (UfU); and Green Action – Friends of the Earth Croatia, Croatia (ZA).

All J&E activities are based on the expertise, knowledge and experience of its member organisations. The members contribute their legal know-how and are instrumental in the initiation, design and implementation of the J&E work programme. The strong grassroots contacts of the members enable J&E to concentrate on Europe-wide legal issues and horizontal legislation, notably the: Aarhus Convention, environmental impact assessment, environmental liability, pollution, Natura 2000, transport and the building of legal capacity. Within these fields J&E: carries out analysis, compiles case studies and joint position papers; formulates strategic complaints, encourages discussion and legal education; and conducts outreach activities. Thus J&E provides added value from civil society to legislators and adds tangible benefits by broadening public knowledge of EU law and legislation.

To carry out its programme of work J&E relies on a number of donors and supporters. First and foremost the members themselves financially contribute to the network. However J&E has been supported by: the European Commission through the LIFE+ programme, the International Visegrad Fund (IVF), The Ministry of Housing, Spatial Planning and the Environment of The Netherlands (VROM), the Sigrid Rausing Trust and its own member organisations

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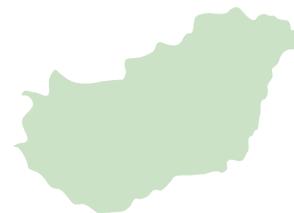
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National report Hungary



Some basic facts about Hungary¹:

Official name	Republic of Hungary
Capital	Budapest
Area	93,030 sq km / 35,919 sq mi (administratively divided into 7 regions and 19 counties)
Population	10,1 million out of which about 2 million inhabitants live in the capital, Budapest
Largest towns	Debrecen, Miskolc, Szeged, Pécs, Győr
Climate	temperate; cold, cloudy, humid winters; warm summers
Geography	landlocked; strategic location astride main land routes between Western Europe and Balkan Peninsula as well as between Ukraine and Mediterranean basin; the north-south flowing Duna (Danube) and Tisza Rivers divide the country into three large regions
Terrain	mostly flat to rolling plains; hills and low mountains on the Slovakian border. Highest point: Kékes (1,014 meters). Lowest point: Tisza River 78 m
Main rivers and lakes	Danube, Tisza, Lake Balaton, Lake Velence
Natural resources	bauxite, coal, natural gas, fertile soils, arable land
Land use	arable land: 49.58%, permanent crops: 2.06%, other: 48.36% (2005)
Irrigated land	2,300 sq km
Environment	large ongoing investments to upgrade Hungary's standards in waste management, energy efficiency, and air, soil, and water pollution to meet EU requirements
Per capita GDP (at purchasing power parity)	EUR 15,700/ USD 20,230 (2008, wiiw*, EIU**) <small>* The Vienna Institute for International Economic Studies. ** The Economist Intelligence Unit.</small>
Currency	Forint (HUF)
Composition of GDP	agriculture: 3.2%; industry: 31.9%; services: 65% (2008 est., Central Intelligence Agency)
Transportation (2008)	railway network: 7,937 km (2,628 km electrified), public road network: 160,680 km, six international airports.

¹ Hungarian Investment and Trade Development Agency: <http://www.itdh.com>

1. Implementation of the Environmental Noise Directive (END) in Hungary

1.1. General information

The main factors determining the environmental quality of towns are air pollution, noise pollution, the existence or lack of urban green areas, the condition of residential buildings and the rehabilitation of abandoned industrial areas. Noise nuisance is harmful to health in addition to adversely affecting people's general conditions, quality of life. Noise nuisance primarily comes from transport (road, railway, air), but noise caused by industrial and commercial facilities is also considerable.

The number of noise and vibration sources, noise nuisance and vibration is continuously increasing, which is also reflected in the number of household complaints and increasing sensitivity of the population to noise. Noise pollution is becoming a graver factor threatening also health.

Statistical processing of noise measurements near the busiest routes of the country in the peak hours, tested between 1995 and 2000, shows that at 98 per cent of the measuring points the noise level exceeded 65 dBA².

Of environmental noise sources, transport, including road transport is the most important one. The proportion of the impact disturbing the population amounts to 50-55 per cent on average in the country. In large cities this proportion is 60-65 per cent. Noise pollution affects especially those who live by main road sections crossing large towns.

The implementation of the 2002/49/EC directive relating to the assessment and management of environmental noise is a crucial point in noise protection policy of Hungary.

At the initial phase of the implementation process of the directive Phare-project titled "Strategic Noise Mapping in Hungary" has provided experience in the preparation of noise maps, the estimation of costs and time requirements of the complete noise map of the agglomeration of Budapest, and has made recommendations for the organization responsible for the preparation of the noise map of the capital³.

Within the framework of the preparation of the new regulation on environmental noise and vibration protection, a complete review of current regulations determining the authorities' noise protection activities has been carried out.

Within the first phase of the central project of the Transportation and Infrastructure Operational Programme (KIOP), the strategic noise mapping of about 400 kilometres of national highways, 40 kilometres of railways, and 21 settlements in the surroundings of Budapest has been prepared.

For today the harmonisation procedure of END in Hungary is completed, the implementation and enforcement of the requirements of the END and the respective Hungarian regulations is continuous.

² National Environmental Programme of Hungary 2003-2008. Ministry of Environment and Water. Printed and bound by Komáromi Nyomda 2004. Budapest

³ Government of the Hungarian Republic: Member State Report on the Implementation of Renewed EU Sustainable Development Strategy (EU SDS). Budapest, June 2007.

Legal background

END is transposed into Hungarian law with the following legislative measures:

- Amendment of Act LIII of 1995 on the General Rules of Environmental Protection (Env. Prot. Act);
- Government Decree 280/2004. (X. 20.) On Assessment and Management of Environmental Noise (Gov. Decree);
- Decree 25/2004 (XII. 20.) of the Minister of the Environment and Water on the Required Form and Content of Strategic Noise Maps Used for the Evaluation and Management of Environmental Noise, and the Calculation and Testing Methods Used for the Preparation of Strategic Noise Maps.

First of all Env. Prot. Act. defining the basic general rules of environmental protection has been amended. As a result of the amendment it is stipulated in Env. Prot. Act. that 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.

Further goal of this amendment was to render the obligations of preparation of the strategic noise maps and action plans to local municipalities inter alia by stipulating that the municipal environmental program (basic planning document relating to environmental protection of local municipalities) shall contain, in particular, tasks and regulations pertaining to the communities' protection against noise, vibration and air pollution, and the action plan devised around the strategic noise map prepared by the local authorities subject to the obligation of strategic noise mapping by virtue of specific other legislation.

Env. Prot. Act also stipulates the obligation that in the interest of environmental protection, each municipal local government (as well as the Metropolitan Government of Budapest) shall analyze and evaluate the state of the environment in its jurisdiction and shall inform the public thereof as necessary, but at least once a year⁴.

In order to integrate the outcomes of strategic noise maps relating to administrative areas of local municipalities imposed by noise and the related planning documents of environmental protection prepared at local level the amendment stipulates, that the local authorities of communities, specified in specific other legislation, shall prepare the above mentioned evaluation of environmental status relating to environmental noise based on the strategic noise map for the areas and facilities specified and according to the instructions contained in specific other legislation.

The general, detailed implementation of END has been attained by Government Decree 280/2004. (X. 20.) On Assessment and Management of Environmental Noise (Gov. Decree) inter alia by means of the following provisions⁵:

- It determines those territories and transport facilities which fall under the provisions of the relevant regulation;

⁴ Section 46. Para 1, point e) of Env. Prot. Act.

⁵ Detailed presentation and analysis of the relevant regulations of Gov. Decree will be provided in the next section (II.3.).

- Identifies and designates the bodies and authorities responsible for preparation, publication and for the approval of strategic noise maps and action plans as well as bodies responsible for providing information;
- Contains detailed rules on the relevant procedures;
- Specifies the minimum requirements concerning content of strategic noise maps and action plans;
- Determines the deadlines of the obligations;
- Stipulates the rules of participation of the public and the rules of publication of strategic noise maps and action plans.

In the event of communities - within the agglomeration of Budapest and towns with a population exceeding 100 000 residents - the community municipalities (in the event of Budapest, the Metropolitan Municipality) are obligated, while in the event of a major traffic facility, an organization designated by the Minister of Economy and Transport is required to prepare a strategic noise map and action plan.

The detailed, technical rules of preparation of strategic noise maps are regulated in Decree 25/2004 (XII. 20.) of the Minister of the Environment and Water on the Required Form and Content of Strategic Noise Maps. E.g. it contains the methods of calculation to be applied by preparing the strategic noise maps, as well as the relevant emission and transmission models. The methods to be applied by checking the relevant calculations are also determined.

Costs

Regarding the costs of the implementation, the first phase of the planning (strategic noise maps of Budapest and its agglomeration, including the above mentioned 21 settlements surrounding the capital) has been fulfilled in 75% from EU and in 25% from governmental funds. The total cost of the project was 680 million Ft (about 2.4 million Euros⁶).

In the forthcoming phases of the planning process all the municipalities obligated to prepare strategic noise maps and action plans are getting technical assistance from the Ministry of Environment and Water and do have the possibility to make a tender for financial funds (with a moratorium percentage of 15%) to the Environment and Energy Operative Programme 2007-2013 (KEOP) which is funded by the EU.

As regards the strategic noise maps of public roads, railways and the main airport, they were prepared by the Institute designated by the Minister of Economy and Transport and financed from governmental funds as well. Based on the information note of Ministry of Transport, Telecommunication and Energy (former Ministry of Economy and Transport) published in 2008, for preparation of the action plan on the main airport the Ferihegy Airport Zrt. became responsible, while preparation of the action plans of other major traffic facilities remained at KTI Institute for Transport Sciences Non-profit Limited Company.

It is important to note that the relevant legislation harmonizing the END does not contain any reference on funding of future measures and investments necessary to realize the content of the action plans.

⁶ Counting with exchange rate 1Eur=279 Ft.

In the case of Ferihegy Airport the situation is rather simple, because other legal instruments dealing with airport noise [like Gov. Decree 176/1995, (XI. 11.) on the rules of the designation, benefit and termination of noise protection areas established in the vicinity of airports, or joint KHVM-KTM Decree 18/1997. (X. 11.) On Detailed Technical Rules of Designation, Management and Termination of Noise-Protective Zones in the Vicinity of Airports] obligating primarily the operator of the airport do anyway require noise abatement programs and measures.

The situation is different in the case of local governments; they have to finance the implementation of the action plans and all of the noise abatement measures from their own budget or they have to make attempts to get EU or governmental funds in the future. Considering, that generally speaking local governments do already have many important decentralized social-sector functions without sufficient resources, the implementation of the action plans is to say the least doubtful.

Liability of action plans

The main legal requirements with regard to the process of construction activities are described inter alia in Act LXXVII of 1997 (Construction Act) and its executive decree (37/2007 OTM decree) and in Governmental Decree 253/1997 (20 Dec) on the National Requirements of City-Planning and Construction. Under Governmental Decree no. 253/1997, noise-protection of newly-built residential and industrial buildings is the responsibility of the developers.

All of the requirements harmonizing the END have been materialized in a form of a governmental decree, consequently in a form of a legal regulation, which is binding in general for all legal entities. However after analyzing the provisions of Gov. Decree in details it is apparent, that there is no legally coercible regulation nor for the preparation of the strategic noise maps nor for the action plans. There aren't any legal consequences if they won't be prepared in time, further there is no legal obligation to consider or implement the findings of the action plans e.g. into land use planning, permitting etc.

This statement is especially true in the case of local governments. In the event of communities within the agglomeration of Budapest and towns with population exceeding 100.000 residents the community municipality (and in the event of Budapest the Metropolitan Municipality) is required to prepare a strategic noise map and action plan.

The main problem is arising from the constitutional and administrative system of Hungary. The country is partitioned into counties, cities, communities (villages) and the capital, which is divided into districts. Administratively, local governments are constituted in each of these units. Independence of local governments is very strong as their decisions can be overridden only by the decision of the Constitutional Court. The Constitutional Court protects the rights of local governments, oversees the legality of local authority activities and exercises constitutional control over local government decrees. The Constitutional Court has the right to abolish decrees that do not comply with the constitution.

Generally speaking apart from the Constitutional Court there isn't any body or state organ today in Hungary which is entitled to hold the municipalities responsible (with real legal consequences) if they fail to fulfill any obligations stipulated in the prevailing laws.

In the present form of the respective legal regulations there aren't any legal consequences in the case of late or no implementation as well as there aren't any obligations to integrate or consider the action plan measures at land use planning or at licencing of construction activities etc.

Nor the strategic noise maps nor the action plans appear in a form of a legal regulation: the strategic noise maps and action plans of the obligant municipalities shall be accepted by the councils of representatives and/or general assemblies of obligant municipalities, while the strategic noise maps and action plans for the major traffic facilities shall be approved by the environmental inspectorate (both in a form of a decision).

Possible benefits

Apart from the doubts drafted above implementing in a proper and consistent way strategic noise maps and action plans can be serve as an appropriate tool in noise abatement and protection of the environment from noise in the long run.

- They present the significant and dominant sources of noise, including their impact area;
- The extent of noise levels from the different sources can be compared with each other expressed with measurement units and in graphical way as well;
- It is and will be possible to localize the most critical locations from the point of view of annoyance;
- There will be possible in the long term to estimate and evaluate strategic decisions affecting larger areas from the aspect of protection against noise;
- Besides presenting information on annoyance there is/will be possible to get information to what extent residents and so called sensitive areas (residential areas, schools, hospitals etc.) are affected;
- Hereby it will be also possible to consider the aspects of environmental noise in the relevant decision making procedures;
- Critical noise situations can be communicated and presented to the public in an easily intelligible way;
- They are the first step towards a long-term process to decrease the annoyance of the affected areas.

1.2. Overview in details⁷

Deadlines

The following table gives a short overview on the different deadlines and actors of the preparation process of strategic noise maps and action plans.

Task	Affected areas	Who is responsible for	Deadline	Realization
Preparation of strategic noise maps for towns exceeding 250.000 residents	Capital of Hungary, Budapest and its agglomeration (21 towns)	The Metropolitan Municipality of Budapest and the community municipalities of its agglomeration		The strategic noise map of Budapest has been approved by the General Assembly of the City of Budapest on June 28. 2007
Preparation of strategic noise maps for <ul style="list-style-type: none"> all public roads with heavy traffic exceeding 6 million vehicles per year, all railways with heavy traffic exceeding 60 000 trains per year and major airports 	All the affected public roads, railways and the airport has been announced by a communication of the Minister of Economy and Transport. There are altogether 539,4 km of roads countrywide (136 road-sections) and 21 km of railway lines (2 main railway lines) affected. There is only one airport, the Ferihegy Airport which can be regarded as a major airport.	KTI Institute for Transport Sciences Non-profit Ltd*.	June 30. 2007	The strategic noise maps of the main public roads were prepared and approved continuously from August 14. 2007 to December 13. 2007. Strategic noise maps of the main railways and the Ferihegy Airport were approved on July 1. 2007.
Preparation of action plans for towns exceeding 250.000 residents		The Metropolitan Municipality of Budapest and the community municipalities of its agglomeration		The strategic noise map of Budapest has been approved by the General Assembly of the City of Budapest on November 27. 2008.
Preparation of action plans for <ul style="list-style-type: none"> all public roads with heavy traffic exceeding 6 million vehicles per year, all railways with heavy traffic exceeding 60 000 trains per year and major airports 		KTI Institute for Transport Sciences Non-profit Ltd.	July 18. 2008	Action plans of the main public roads and railways are still under preparation, are not approved yet. The action plan of Ferihagy Airport is already prepared but isn't approved yet.

* The KTI Institute for Transport Sciences Non-profit Limited Company is a priority public benefit company. Together with its predecessors KTI goes back more than 70 years into the past. The state-owned KTI is one of the research bases of the Ministry of Transport, Telecommunication and Energy. KTI's partners come from both the public and private sector and are under the professional guidance of the State. KTI - with its total research activity - plays a significant role among transport research institutes in Hungary and within Europe as well. Its highly-qualified experts enjoy national and international acclaim, which is reflected by the successful projects of recent years and the extensive partnerships of the Institute. (<http://www.kti.hu/index.php/about-us/briefly-about-kti/tradition-and-partnership> downloaded at: 08.06.2009)

⁷ Hereby we would like to give thanks to Viola Parászka, councillor of the Hungarian Ministry of the Environment and Water for the generous help and information.

Task	Affected areas	Who is responsible for	Deadline	Realization
Preparation of strategic noise maps for towns exceeding 100.000 residents		The Metropolitan Municipality of Budapest and the community municipalities of its agglomeration and the municipalities of the 7 largest towns of Hungary		In progress
Preparation of strategic noise maps for <ul style="list-style-type: none"> all public roads with heavy traffic exceeding 3 million vehicles per year, all railways with heavy traffic exceeding 30 000 trains per year and major airports 	All the affected public roads, railways and the airport has been announced by a communication of the Minister of Transport, Telecommunication and Energy. There are altogether 2902,871 km of roads countrywide (658 road-sections) and 914,1 km of railway lines (9 main railway lines) affected. There is only one airport, the Ferihegy Airport which can be regarded as major airport.	KTI Institute for Transport Sciences Non-profit Ltd.	June 30. 2012	In progress
Preparation of action plans for towns exceeding 100.000 residents	There are 8 settlements in Hungary with a population exceeding 100.000 residents.	The Metropolitan Municipality of Budapest and the community municipalities of its agglomeration and the municipalities of the 8 largest towns of Hungary		In progress
Preparation of action plans for <ul style="list-style-type: none"> all public roads with heavy traffic exceeding 3 million vehicles per year, all railways with heavy traffic exceeding 30 000 trains per year and major airports 		KTI Institute for Transport Sciences Non-profit Ltd. In the case of Ferihegy Airport as the only major airport in Hungary: Budapest Airport Zrt.*	July 18. 2013	In progress

* Budapest Airport Zrt. is in charge of managing, operating and developing Hungary's main international airport.

As it is apparent from the information above, preparation of the relevant strategic noise maps has been fulfilled more or less in time.

Action plan of the Metropolitan Municipality of Budapest and the community municipalities of its agglomeration were approved with some months of delay compared to the deadline stipulated in the END, while action plans of the main public roads and railways are still under preparation, are not approved yet.

Public participation

Based on the regulations of Gov. Decree insuring participation of the public by the preparation of action plans is primarily the task of local governments.

The municipality required to prepare the action plan shall inform the relevant public in a locally accepted manner about the following:

- the opportunities to view the approved strategic noise maps serving as basis for the action plan concerning the given area (location, date and time);
- contents of the action plan proposal and the objectives expressed therein.

Locally accepted manner can be e.g. posting the relevant notice on the notice board of the municipality, publication in the local paper or on the municipality's website.

In our opinion information of the relevant public in a locally accepted manner do not always provide an effective possibility for public participation to say nothing of requirements of the END which stipulates that member states shall ensure that the public is consulted and not only informed about proposals for action plans.

A period of 30 days starting from the date and time of publication shall be provided for the comments regarding the action plan proposal, which can be enough in the case of smaller settlements, while in the case of e.g. of the capital is too short period of time.

In order to assure the appropriate information for the public, the obligant of the major traffic facility shall inform the municipality, which shall inform the public within 8 days. The information published with regard to the action plan proposal must be well understandable. The obligant municipality as well as the obligant of the major traffic facility shall prepare the summary of the most important topics. The obligant municipality as well as the obligant of the major traffic facility shall finalize the action plan, while taking the opinions into consideration.

The rules regarding the preparation of the strategic noise map shall be applied for the review and modification of the map as well.

Gov. Decree stipulates that strategic noise maps shall be published on the website of the Ministry of the Environment and Water. There is no reference in Gov. Decree on the publication of the action plans, however based on the regulations of Act LXIII of 1992 on the Protection of Personal Data and the Disclosure of Information of Public Interest all the action plans shall be regarded as "public information" and all the state or local public authorities and agencies and other bodies shall allow free access to it for any person.

Availability⁸

As regards to the availability in practice of strategic noise maps and action plans already prepared, all these strategic noise maps and action plans are available via the Internet in a user-friendly way and in a comprehensible form.

⁸ All of the following webpages and links are accessed on the 23rd of June 2009.

The website http://terkep.budapest.hu/website/zajterkep_html/zaj_index.htm with the title “Simplified interactive strategic noise map of Budapest and its agglomeration geospatial information system” contains general information on the planning process and describes the main information on strategic noise maps and action plans.

The full text as well as the assessment of the action plan can be downloaded from the site and there is a link to the site of the geospatial information system as well where the strategic noise map can be explored in details. The detailed content of noise maps and action plans will be presented in the followings.

Concerning the main traffic facilities, strategic noise maps of the major roads can be accessed via the Internet on the site of KTI: <http://www.kti.hu/kozut/> . As all of the major railway lines are within the administrative territory of Budapest and its agglomeration, strategic noise maps on these railways are incorporated in the strategic noise map of the capital.

The website of KTI gives a general overview on regulations of END, introduces the main requirements of the national legislation concerned and makes it possible to download the strategic noise maps and the related documentation. The documentation is grouped by the competent environmental inspectorates.

As regards to the strategic noise map of the single major airport, the Ferihegy Airport, it can be also accessed on the homepage of KTI via the following link: <http://www.kti.hu/noise/ferihegy/> . The structure of the homepage is similar to the foregoing; it contains a general overview of the planning process and of the related legal requirements and there are pictures to illustrate the noise levels in accordance with the regulations presented in the followings.

In our opinion all the information are clear, comprehensible and easy to access.

Content of strategic noise maps

Based on the regulations of Gov. Decree⁹ the following strategic noise map types shall be prepared:

- noise immission map and
- conflict map

collectively referred to as strategic noise map in the regulation.

Strategic noise maps shall be prepared separately for each of the facilities within the administrative area of the obligant municipality detailed below:

- public roads except for those with heavy traffic and service roads subject to a separate piece of legislation and roads without through traffic;
- railways except for those with heavy traffic;
- all airports except for major airports;
- industrial facilities.

⁹ Section 4.

The noise indicators of the strategic noise maps shall be displayed in topographic base maps subject to a separate piece of legislation¹⁰. The minimum requirements regarding the content of the strategic noise maps are detailed in Annex 1 of the Gov. Decree.

Display of strategic noise maps shall contain:

- presentation of noise indicators on a noise immission map using multicolored, 5 dB noise level contours;
- specification of the extent of exceedance of strategic threshold values by specified multicolored noise level contours of 5 dB or greater resolution on the noise level contours;
- specification of the number of the population and that of the residential buildings, schools and hospitals concerned on the conflict map in tabular form.

Noise maps shall be prepared separately for individual noise source groups, for an evaluation height of 4 m, noise level bands of 5 dB, as well as the noise indicators L_{den} and L_{night} .

The dose – effect relations should be used to assess the effect of noise on the population. The dose – effect relations refer to the followings in special:

- the relation between the noise immission, the L_{den} value concerning the noise from public road, railway and air traffic, as well as from industrial facilities, and the harmful effect;
- the relation between the L_{night} value concerning sleep disturbance and the noise from public road, railway and air traffic, as well as from industrial facilities, and the harmful effect.

The results of the strategic noise map are summarized in a written evaluation.

Strategic noise maps shall be published on the website of the Ministry of the Environment and Water. The relevant informations (links to the strategic noise map of the capital and its agglomeration, strategic noise maps of the main public roads and strategic noise map of Ferihegy Airport) can be accessed on the homepage of the Ministry of Environment and Water via the following link: <http://www.kvvm.hu/index.php?pid=9&sid=47&hid=1520> .

In practice all of these legal requirements prevail in the prepared strategic noise maps. For example in the case of Budapest and its agglomeration the interactive strategic noise map contains the extract of the following main data groups:

- 14 thematic noise map grouped by sources of noise (roads, railways, industrial facilities, flight noise), types of noise and by time periods (day, night);
- buildings;
- street names;
- administrative borders (borders of the settlements and of the districts);
- axis of road traffic;
- axis of fixed-track road traffic;
- axis of the railways;

¹⁰ KvVM Decree 25/2004 (XII. 20.) On the Required Form and Content of Strategic Noise Maps Used for the Evaluation and Management of Environmental Noise, and the Calculation and Testing Methods Used for the Preparation of Strategic Noise Maps.

- axis of the airports (except of Ferihegy Airport).

Tables containing detailed information on the number of residents affected by noise in Budapest and in its agglomeration can also be downloaded from the relevant website. There are separate statements on the number of people affected by noise in residential buildings and number of schools and hospitals differentiating between noise levels of L_{den} and L_{night} .

Content of action plans

Based on the regulations of Gov. Decree¹¹ action plans shall contain the specifications for the noise reduction or other, technical, organizational, urban planning solutions and other measures aiming at noise protection (e. g initiation of administrative proceedings) which can be applied to prevent the increase of noise in quiet areas designated by the municipality or in areas to be protected from noise (or where such protection is intended) where the noise characteristics satisfy or do not exceed the following strategic threshold values:

- for an industrial facility $L_{den} = 46$ dB, $L_{night} = 40$ dB;
- for a traffic-related noise source $L_{den} = 63$ dB, $L_{night} = 55$ dB.

The action plan shall contain the specifications for the noise reduction or other, technical, organizational, urban planning solutions and other measures with a time limit not exceeding 10 years in a preferential order, where the noise characteristics exceed the following strategic threshold values in areas to be protected from noise (or where such protection is intended):

- for an industrial facility $L_{den} = 46$ dB, $L_{night} = 40$ dB,
- for a traffic-related noise source $L_{den} = 63$ dB, $L_{night} = 55$ dB.

The action plan shall contain the specifications for the noise reduction or other, technical, organizational, urban planning solutions and other measures with a time limit not exceeding 5 years in a preferential order, where the noise characteristics exceed the following strategic threshold values in areas to be protected from noise (or where such protection is intended):

- for an industrial facility $L_{den} = 56$ dB, $L_{night} = 50$ dB,
- for a traffic-related noise source $L_{den} = 73$ dB, $L_{night} = 65$ dB.

Minimum requirements for the content of the action plans are detailed in Annex 5 of Gov. Decree. Based on these regulations action plans must at least include the following datas:

- description of noise sources taken into account in Budapest and its agglomeration, in towns with a population exceeding 100 000 residents and in areas intended for construction pursuant to the separate piece of legislation¹² as well as in areas subject to increased noise protection;
- name of the obligant required to prepare the action plan;
- related pieces of legislation;
- strategic threshold values;

¹¹ Section 9.

¹² Act No. LXXVIII of 1997 On Creation and Protection of Constructed Environment.

- summary of the results of noise mapping;
- evaluation of the estimated number of persons exposed to noise, identification of problems and situations that need to be improved;
- report on informing the public;
- noise reduction measures previously performed, in progress and in preparation.
- measures within the following five years required from the obligant to decrease the noise, including measures to preserve the quiet zones in Budapest and its agglomeration, in towns with a population exceeding 100 000 residents and in areas intended for construction pursuant to the separate piece of legislation¹³ as well as in areas subject to increased noise protection;
- long-term strategy;
- financial strategy: budgets, cost effectiveness assessments, cost-benefit assessments;
- method for evaluation of the implementation and the results of the action plan.

The estimated decrease in the number of persons affected by the noise shall be specified also in the action plan.

To prepare a good foundation for the action plan, the obligant of said plan may establish a noise committee due to the rules of Gov. Decree. The noise committee is a body, the purpose of which is consultation, counseling and the harmonization of interests, which has a right to express its opinion regarding the noise-related aspects of action plan.

In the event of preparing action plans for public roads and railways the noise committee shall involve:

- one representative each of the obligant of the major traffic facility,
- one person each representing the relevant municipalities.

The noise committee, and/or noise protection committee pursuant to a separate piece of legislation¹⁴ shall involve the following persons:

- representatives of civil organizations, at least 3 persons;
- one representative of the environmental inspectorate;
- one representative of the relevant county (Budapest metropolitan) department of the National Public Health and Medical Officer Service (hereinafter referred to as: ANTSZ county department);
- at least one expert (natural person or the business organization or other artificial person) holding a permit for expert activity in the field of environmental noise and vibration protection pursuant to a separate piece of legislation¹⁵ or employing such expert.

The noise committee shall determine its procedural rules and by-laws.

¹³ Act No. LXXVIII of 1997 On Creation and Protection of Constructed Environment.

¹⁴ Joint KHVM-KTM Decree 18/1997. (X. 11.) On Detailed Technical Rules of Designation, Management and Termination of Noise-Protective Zones in the Vicinity of Airports.

¹⁵ OKTH Decree 6/1985 (XII. 28.) On the Authorization of Expert Activity in Individual Areas of Environmental and Nature Protection.

The preparation of action plans concerning major airports shall involve a noise protection committee pursuant to a separate piece of legislation¹⁶.

The action plan shall be reviewed and modified if necessary in the event of significant changes affecting the existing noise situation as well as every five years following its date and time of approval. The change can be regarded as significant if the noise load value increases by 10 dB compared to the previously determined value.

Upon the review, the factors modifying the existing noise load shall be presented separately in the event of industrial and traffic noise sources, and the action plan shall be revised or complemented while taking into consideration the modified noise load and observing the provisions concerning preparation of action plans.

As it is obvious from the table presenting the deadlines of preparation of strategic noise maps and action plans in Hungary under section II.3., until now only the action plan of Budapest and its agglomeration has been prepared and approved.

The action plan and its assessment can be downloaded from the following link: http://terkep.budapest.hu/website/zajterkep_html/zaj_index.htm. The content of the action plan basically fulfills the requirements of Gov. Decree based on the following structure:

- short description of preparation of strategic noise maps and action plans;
- legal background, requirements;
- introduction and description of sources of noise in Budapest differentiating between noise deriving from road traffic, rail transport, air navigation and from industrial facilities;
- name of the obligant required to prepare the action plan;
- strategic threshold values;
- summary of the results of noise mapping (differentiating between L_{den} and L_{night} values and between sources of noise specified by districts);
- a summary evaluation based on the datas of strategic noise maps;
- evaluation of the estimated number of persons exposed to noise;
- identification of problems and situations that need to be improved;
- report on informing the public;
- noise reduction measures previously performed, in progress and in preparation;
- measures within the following five years required from the obligant to decrease the noise (like noise walls, restriction on roads in critical time periods, continuous reconstruction of roads and fixed-track lines etc.)
- long-term strategy;
- method for evaluation of the implementation and the results of the action plan.

¹⁶ Joint KHVM-KTM Decree 18/1997. (X. 11.) On Detailed Technical Rules of Designation, Management and Termination of Noise-Protective Zones in the Vicinity of Airports.

There is a subsection on the financial strategy (budgets, cost effectiveness assessments, cost-benefit assessments) as well but this section describes only the reasons and explanation why this financial strategy could not be prepared at all. As this section describes even the END does not contain any real method on the assessment of dose-effect relations, so the financial strategy can be prepared only in the future after having real assessment methods for harmful effects.

2. Description of national legal frame of protection against noise

Structure of environmental administration in Hungary

The governmental structure is divided according to different environmental components and the supervision of the individual environmental fields in Hungary. Within the government - the **Ministry for Environment and Water** is in charge of the overall strategy of environmental policy and legislation. It is responsible for environmental issues and executes the governmental environmental policy through the activities of various offices and regional organs.

The 10 regional inspectorates for environment, nature and water and 2 sub-offices are the 'green authorities' at first instance, while their supervisory National Inspectorate works mainly as an authority at second instance.

Based on appeals or as a supervisory body, the first instance decisions related to environmental issues are reviewed by the National Inspectorate. The authority work performed by regional inspectorates is coordinated and controlled by the National Inspectorate.

As first instance authority - set by legislation for environment, nature and water - the National Inspectorate issues permits for certain activities, gives expert authority opinions, imposes fines and penalties.

The environmental inspectorates are organised according to water catchment areas. The inspectorates in their scope practice first instance jurisdiction in specific environmental state administrative issues. The inspectorates are responsible inter alia for noise and vibration protection.

The specific tasks of local governments in environmental protection are regulated by Act XX of 1991 on local governments, and the Act relating to General Rules of Environmental Protection (Env.Prot.Act).

As regards the Act on local governments the board of representatives of local governments are entitled to

- designate special protection areas for the purposes of protection against noise;
- to designate silent areas around facilities requiring an increased degree of noise protection;
- to determine the local rules of protection against noise and vibration.

Notaries of local governments also act as environmental authorities and do have important tasks in the protection against noise and vibration¹⁷.

Based on the rules of Env.Prot.Act in the interest of environmental protection, **each municipal local government**

¹⁷ Please see below.

- shall ensure the execution of the legal regulations serving the protection of the environment and shall perform the official tasks assigned to it;
- shall work out a separate municipal environmental program for its jurisdiction, to be approved by the representative body thereof;
- shall issue municipal bylaws and shall pass resolutions to attain objectives related to environmental protection;
- shall cooperate with other authorities in charge of environmental protection and with other local governments and social organizations;
- shall analyze and evaluate the state of the environment in its jurisdiction and shall inform the public thereof as necessary, but at least once a year;
- shall enforce the environmental protection requirements in the course of carrying out development tasks and shall promote the improvement of the state of the environment.

The local authorities of communities, specified in specific other legislation, shall prepare the evaluation of environmental status relating to environmental noise based on a strategic noise map for the areas and facilities specified and according to the instructions contained in specific other legislation.

Basic rules of protection against noise and vibration in Hungary

Protection against noise and vibration endangering the human health and the environment forms an integral part of environmental protection. Respective rules are found in the European Union law and in Hungarian law as well.

The Constitution

Rights and obligations concerning the environment - together with the obligations of the state - are regulated in Hungary at constitutional level. The basis of environmental protection is Article 18 and clause D of Article 70 of the Constitution.

Article 18 declares the basic right of citizens to a healthy environment and allows for a broad interpretation. The Hungarian Republic admits and enforces the rights of all to a healthy environment. The state is responsible for enforcement of rights concerning the environment.

Article 70D guarantees environmental protection as an instrument of enforcement for rights on health. People who live in the territory of the Republic of Hungary have the right to the highest level of physical and mental health. The state implements these rights by safeguarding the interests of workers, organising public health institutions and medical services, and guaranteeing regular physical culture and the protection of both the man-made and the natural environment.

Act on the General Rules of Environmental Protection

The basic principles of environmental protection are embodied in Env. Prot. Act.

Based on Art. 31. of Env. Prot. Act 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.

The Hungarian legal provisions concerning noise protection have been amended on the basis of the EU-directives and for today they fulfill the legal requirements of these directives.

Detailed rules of protection against noise

Based on the authorization of the Env.Prot. Act main noise protection regulations dealing with environmental effects of noise are the followings:

- Government Decree 280/2004. (X. 20.) On Assessment and Management of Environmental Noise;
- Decree 25/2004 (XII. 20.) of the Minister of the Environment and Water on the Required Form and Content of Strategic Noise Maps Used for the Evaluation and Management of Environmental Noise, and the Calculation and Testing Methods Used for the Preparation of Strategic Noise Maps;
- Government Decree 284/2007. (X.29.) on certain rules of protection from environmental noise and vibration;
- Joint Decree of the Minister of the Environment and Water and of the Minister of Health 27/2008. (XII. 3.) on the Establishment of Noise and Vibration Limits.

Government Decree No. 284/2007. regulates the noise and frequency stemming from human activities, with the exception of noise related to public events, workplaces, domestic activities, public transport, activities connected to healthcare, criminal investigation, fire-fighting or religious events.

On the one hand it regulates the obligations of people and firms doing economic activities and operating transport facilities; on the other hand it regulates the rules of designating the areas calling for an increased degree of noise protection, finally, it aims to prevent the expansion of protected areas towards the sources of noise.

The decree includes detailed rules to establish special protection areas for the purpose of noise protection and to establish silent areas around facilities requiring an increased degree of noise protection¹⁸.

¹⁸ Based on the definition of Gov. Decree quiet area is an area designated by the council of the community municipality which is subject to an increased degree of noise protection, as well as a quiet zone designated around facilities requiring an increased degree of noise protection.

An area, where the effective degree of noise satisfies or does not exceed the value limits specified in separate piece of legislation, may be designated as special protection area or silent area by the council of the community municipality.

In order to prepare the procedure of designation the municipality shall commission an expert in the field of environmental noise and vibration protection.

Following the designation of special protection area or silent area the notary shall acquaint the inspectorate with the decision of the municipality. Based on the rules of the decree new plants with noise emission that might effect the designated areas shall not be permitted to set up.

The decree defines all the territories, buildings and places which must be protected from noise in a different extent regulated by law. These definitions are based on the definitions of the different legal instruments relating to building activities¹⁹.

In case of a plant installation emitting noise the owner must request the environmental authority to define a noise emission limit, while in case of a construction work this obligation is the burden of the builder.

Based on the generally defined limits in separate piece of legislation the environmental authority stipulates an individual noise emission limit considering also the characteristics of the given area and the intended project.

The owner/builder must observe the value limits, unless the noise protection limit defined by the respective standard is not exceeded and this is declared by the planner/builder or if the construction work is necessary for the prevention of a natural disaster or for other public urgency. In the latter case the value limits may be exceeded, however, it must be endeavoured also in such cases that the caused noise disturb the inhabitants in the lowest possible measure.

For the fulfilment of the noise protection requirements the environmental authority may prescribe the application of noise reducing equipment in case of the construction or significant reconstruction of a road, railway or civil airport.

A possible sanction of the excession of the value limits is the noise or vibration fine, which may be imposed upon the owner or builder breaching the respective provisions or value limits on noise protection.

The environmental authority applying sanctions against facilities exceeding the noise emission values defined by law also does have the possibility to force the user of the environment to prepare an action plan containing noise abatement measures for the given facility.

The environmental authority may order the restriction or the suspension of the activity as well if the obligant does not meet the above requirements.

Not all types of exceed of noise emission limits will be sanctioned. With regard to the rules of the decree the environmental authority may designate noisy areas around the buildings of public utilities where the degree of noise emission could not be reduced to the value limits defined in separate piece of regulation.

¹⁹ In Hungary, the basic requirements, means, rights and obligations as well as the tasks, competences and spheres of authority related to the shaping and protection of the built environment are regulated by the 78/1997 Act on the shaping and protection of the built environment and by Government Decree 253/1997 (20 December) on National Requirements of Spatial Planning and Building.

As from the side of environmental administration the environmental inspectorates are responsible for protection against noise and vibration, almost all of the inspectorates do have a team specialized in that territory. Regional environmental inspectorates are responsible for:

- The enforcement of rules and regulations concerning protection against noise and vibration in environmental impact assessment and IPPC procedures;
- The assessment of planned establishments in terms of noise protection in building permit procedures, the evaluation of the expected noise emission levels, defining the requirements for noise abatement;
- Inspection and control of activities, plants and establishments as well as transport facilities with use of the environment from the point of view of noise protection;
- Instituting noise protection inquiries relating to petitions, notices and complaints of public interest, doing the necessary measures and provisions during the procedure, address other competent administrative authorities if necessary.

In cases regarding protection against noise and vibration administrative powers are divided between environmental inspectorates working at regional levels and between notaries of local municipalities. Competences are regulated by law.

Based on the rules of the decree (Annex I.) protection against noise and vibration falls within the competence of notaries working at the headquarters of the small regions relating to the following activities:

- Construction of buildings;
- Civil engineering;
- Specialised construction activities;
- Wholesale and retail trade and repair of motor vehicles and motorcycles;
- Wholesale trade, except of motor vehicles and motorcycles;
- Retail trade, except of motor vehicles and motorcycles;
- Accomodation;
- Food and beverage service activities;
- Advertising and market research;
- Services to buildings and landscape activities;
- Creative, arts and entertainment activities;
- Sports activities and amusement and recreation activities.

As regards the **Joint Decree of the Minister of the Environment and Water and of the Minister of Health 27/2008. (XII. 3.) on the Establishment of Noise and Vibration Limits** it regulates the emission limits relating to different sources of noise and vibration and contains detailed provisions on the methods of measuring these emissions. There exist provisions on noise and vibration from industrial and leisure activities, on construction and building works and on noise and vibration deriving from transport.

There exist different emission limits regarding resort areas, towns and cities, green and industrial areas etc. distinguishing between parts of the day as well, setting different emission limits on activities by daytime and by night.

Regulations on noise and vibration deriving from transport differentiate between certain means of transport and their emissions e.g. between roads (whether it is a motorway, a national or a secondary road), airports (depending on the size of the airplanes using the airport) and railway lines (differentiating between main railway lines, local railways etc.).

Considering the different areas and the value limits defined in the Joint Decree, there exist higher degrees for traffic noise load than in the event of industrial and/or leisure activities.

Finally, Annex 4. of the Decree determines the relevant noise exposure limits relating to rooms of buildings (e.g. hospital-wards, classrooms in educational institutions, living-rooms in residential buildings and in hotels, restaurants etc.) to be protected from noise.

The Joint Decree defines the noise limits with regard to the types of noise, time periods (day, night) and the concerned areas, however there are some special rules existing as exceptions of the generally binding noise limits e.g. in the event of festivals organized between the 1. June and 15. September the noise emission limits are higher.

In practice rather frequently occur complaints because of noise²⁰. On the one hand noise of different facilities of catering trade and disco clubs can be mentioned, but other services especially those operating a ventilating equipment, e.g. hairdresser, beauty shops can also cause noise in case of careless operation. The number of noise and vibration sources, noise nuisance and vibration is continuously increasing, which is also reflected in the number of household complaints and increasing sensitivity of the population to noise.

With regard to the practical enforcement of the noise protection rules we can refer to the unsolved difficulties connected to the measuring of noise and to the unsolved protection against noises that do not reach the limit, are of lower intensity, but last long and are varied by louder episodes from time to time.

In case of a car repair workshop the neighbours complained of increased noise and airpollution arising from the plant's work. At first the plaintiff's filed their petition to the administrative authorities for withdrawal of the workshop's concession or impose restrictions on its activities. As the result of the administrative procedure the authority did not declare the infringement of administrative rules and discontinued the process. When public administration rules are not efficient enough, the legal institution of neighborhood law, disturbance and damage compensation offer themselves as solution.

Based on the rules of the Civil Code of Hungary²¹ an owner is obliged, while using a thing, to refrain from any conduct that would needlessly disturb others, especially his neighbors, or that would jeopardize the exercise of their rights.

In the event of increased and disturbing noise emission the rights arising from neighbour law and also the rights of protection of possession may be exercised.

²⁰ EMLA Environmental Management and Law Association: Ten years of the Environmental Management and Law Association. November, 2003. p. 17-18.

²¹ Act IV of 1959 on the Civil Code of the Republic of Hungary

If a possessor is deprived of his possession without legal grounds or is restrained in maintaining such possession (illicit power), he shall be entitled to protection of his possession.

A person who is deprived of his possession or is restrained in its enjoyment shall, within one year, be entitled to file a request with the town clerk for the restoration of the original state of possession or for the discontinuance of restraint.

The party who finds the decision of the town clerk prejudicial may appeal to the court within fifteen days of receipt of the decision to have the decision overturned. After one year, a possessor shall be entitled to request the restoration of the original state of possession or the discontinuance of restraint directly from the court.

That's all very well, but the more flexible and applicable to the wider range of the facts of the case the civil law is, the more tolerant are its rules and applicants against the economic activities that are environment pollutant, but otherwise "useful".

In the above mentioned case the neighbours commenced an action based on neighbourhood law and rights of possessors against the owner of the workshop and requested the court to restrain the owner from further disturbance.

The plaintiff's had to prove that the noise arising from the activity of the workshop reaches the amount of the needlessly disturbance.

The court of first instance dismissed the complaint and the appeal court affirmed this decision on the base of the fact that increased noise and needlessly disturbance were not perceptible within the visit of scene of the nuisance²².

3. Conclusion

Preparation of strategic noise maps and action plans and the regulation concerned gives a new approach on the territory of noise protection.

Hungary does have the appropriate legal framework to turn the rules of END into practice. The enforcement of these regulations mainly depends on the practical barriers: on financial background and on the ability of law enforcement agencies, administrative and municipal bodies to foresee the potentials hidden in these legal obligations.

Preparation of strategic noise maps and action plans offers a great possibility for municipalities and for the regulator in general, to get information about the state of the environment and about number of people effected by nuisance. Noise maps and action plans are strategic tools for further action and can fulfill their original role only if they are prepared carefully, are concrete enough and when decision makers are determined for real action. Strategic noise maps and action plans must be part of a general, strategic approach; results of the noise maps and statements of the action plans have to build into all of administrative and strategic decisions, into all actions which have effect on the state of the environment from the point of view of annoyance.

²² Metropolitan Court; 44.Pf. 633.466/2006

Neither the strategic noise maps nor the action plans appear in a form of a legal regulation so there aren't any obligations to consider the action plan measures at land use planning or at licencing of construction activities etc.

At the moment we miss this strategic attitude from the hungarian regulation. Similarly, it is doubtful if e.g. the municipalities (partially responsible for the implementation of noise abatement measures) will have any infrastructural and financial resources to turn action plans into practice.

The regulation and its hungarian implementation is rather new; the concerns mentioned above will be answered in the perspective of the forthcoming years.

4. Contact information

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