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Constitutional Environmental Rights for Future Generations: A Driver for Environmental Policy Making?

Catherine Pearce*

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Case Study Paper

Constitutional Environmental Rights: A Driver for Environmental Policy Making?

Abstract

Ombudspersons for Future Generations have helped to reinforce and implement constitutional environmental rights. Drawing upon the example of the Hungarian office of Parliamentary Commissioner for Future Generations, we intend to explore their role as *prima facie* constitutional Guardians, protecting a complex mix of constitutional rights, including the right to a healthy environment, for now, and for those in the future. The office in Hungary was established in 2008, as part of an overarching statute that created an ombudsperson for civil rights, in order to reinforce advocacy for the natural environment and to safeguard intergenerational justice. The Commissioner's key task is "to ensure the protection of the fundamental right to [a] healthy environment." Through interviews with the first Commissioner, and drawing upon relevant research, we will establish that the office possessed a wide range of powers: serving as a consultative body to the Parliament regarding environmental legislation, able to initiate proceedings at the Constitutional Court or intervene in court litigations in the interest of future generations and the enforcement of the right to a healthy environment. An examination of their interventions will demonstrate their unique value in revealing and clarifying many aspects of environmental conflicts which had been pending for several years or even decades.

We will conclude that the task of the Commissioner in addition to responding to citizen complaints, is to monitor the enforcement of legal provisions of constitutional environmental rights, to influence local and national legislation and participate in domestic enforcement of international and EU conventions and procedures.

* Director Future Justice, World Future Council, +44 (0)20 7321 3810, catherine.pearce@worldfuturecouncil.org, 100 Pall Mall, London, SW1Y 5NQ, UK

*“It should be recognized that a healthy environment is a *sine qua non* condition for life itself and that no right could be exercised in a deeply altered environment.”*[†] Juzgado Primero superior.

“It takes a noble man to plant the seed for a tree that will one day provide shade to people he may never meet.” – Dr. David Trueblood, philosopher and writer

Commentators often stress that the basic point of placing constitutional rights is to secure citizens with the protection and enjoyment of the substance behind those rights, and where necessary provide the judicial means to rectify wrong doing or neglect of those rights. In this case, environmental rights serve not only to enhance the quality of environmental legislation, and its enforcement but also to support and broaden a view of the environment as a public interest within a more complete set of social values, one which is less skewed to narrow economic interests. This helps to enhance citizens’ understanding of rights and responsibilities in relation to the environment and allows for greater democratic input into environmental decision-making. Less so is the objective to encourage a culture of legal redress and court actions. Certainly, citizens’ access to the institutions of justice is an important feature of any constitutional democracy, especially given that their effective ability to influence the legislature may be less than hoped. Many environmental decisions are taken not by the legislature but by the executive. To secure citizen’s participation and accountability as a last resort may require a full challenge to constitutional rights under the scrutiny of media and law reporters rather than earlier in the perceived public but often opaque decision-making process which goes on behind the bureaucratic veil or at ministerial discretion[‡].

The fundamental right to a healthy environment has gained ground as a norm of international law, receiving explicit recognition in authoritative international documents, and has come some way to becoming an enforceable legal right in international treaties. Its progress in this direction is underpinned by the fact, which is also independently significant, that the right is explicitly provided in many national constitutions. As of 2012, this right was recognised in 177 Member States through national constitutions, environmental legislation, court decisions, or ratification of an international agreement reference[§].

In the case of post-communist countries in Eastern Europe, courts have aimed to implement growing recognition to constitutional environmental rights provisions. In 1989, Hungary

[†] Stated in the pioneering case *Fundepublico v. Mayor of Bugalagrande*. 1991. Cited in Dinah Shelton and Alexandre Kiss, 2005. *Judicial Handbook on Environmental Law*, UNEP.

[‡] Eckersley, Robyn. 1996. Greening liberal democracy: The rights discourse revisited. In, *Democracy and Green Political Thought. Sustainability, Rights and Citizenship*, ed Brian Doherty and Marius de Geus pp. 212-236, London: Routledge.

[§] Boyd, David R. 2012. The Constitutional Right to a Healthy Environment. In *Environment: Science and Policy for Sustainable Development*, 54:4, 3-15.

amended its constitution to recognize “*the individual’s right to [a] healthy environment*”^{**}. The Constitutional Court of Hungary seems to have been the first in Central and Eastern Europe to give force to this type of provision.

1. Implementing Intergenerational Equity

Within less than half a century, international law has moved from dimly mentioning future generations to some recognising their rights^{††}, and the present generation’s obligations to them. The principle of intergenerational equity appears in numerous international instruments, both in treaties and non-binding international agreements, resolutions, declarations, and reports^{‡‡}. These references to intergenerational equity most often take the form of a guiding or preambular concept in international instruments, generally calling for states to ensure a just and fair allocation in the utilization of resources between present and future generations. Intergenerational equity is similarly reflected in the constitutions of numerous states^{§§}.

A number of concerns can be raised in founding the rights of future generations in international law. While many sources place responsibility or even an obligation on the current to consider the interests of those in the future, few explicitly provide for a correlative right of future generations. While some international lawyers consider that the current law does provide for such rights, it remains a controversial issue, and there are many who view it as an irrelevance to the key debate, ie the motivation for us to act now, on behalf of future generations, regardless of their entitlement to rights. Direct representation of rights of future generations in legal proceedings also remains unclear. A few cases have interpreted international, and domestic law differently. In the renowned case of *Minors Oposa v Secretary of the Department of Environmental and Natural Resources (DENR)* in 1993, a judgment at the Supreme Court of the Philippines addressed intergenerational equity in the context of state management of public forest land. Focusing on the ‘right to a balanced and healthful ecology’ provided explicitly in section 16 of Article II of the 1987 Constitution, the Court determined that this right is a fundamental right “solemnly incorporated into fundamental law”. In this particular case, the plaintiffs were children, acting as representatives for themselves and future generations. The lawsuit was filed by leading lawyer Antonio Oposa. The Court considered the issue of intergenerational responsibility and decided that the petitioners were qualified to sue, on behalf of present and future generations in the Philippines. In rendering its decision, the Court accepted petitioners’ statistical evidence regarding the amount of forest cover required to maintain a healthy environment for present and future generations.

^{**} A Magyar Köztársaság Alkotmánya [Constitution] (Hung.) ch. I, art. 18. “*The Republic of Hungary recognizes and shall implement the individual’s right to a healthy environment.*”

^{††} UNECE Aarhus Convention on Access to Information, Public participation in Decision-making and Access to Justice in Environmental Matters, 1998, Article 1

^{‡‡} See World Future Council <http://www.futurejustice.org/resources/global-conventions/>

^{§§} UN Secretary-General. 2013. *Intergenerational solidarity and the needs of future generations*. A/68/322.

2. Establishing a Parliamentary Commissioner for Future Generations in Hungary

“In order to ensure the protection of the fundamental right to healthy environment Parliament shall elect the Parliamentary Commissioner for Future Generations as special ombudsman.” Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights^{***}

The adoption in November 2007 in Hungary, of the bill establishing the institution of the Parliamentary Commissioner for Future Generations (herein after ‘the Commissioner’), formally an amendment to the 1993 Act on the Parliamentary Commissioner for Civil Rights, (‘the Ombudsman Act’), was preceded by a decade of preparatory work. An early draft of the bill leading to the 1995 General Act on the Environment already foresaw an environmental ombudsman in the early 1990s. However, it was the relentless, determined advocacy and lobbying of a Hungarian environmental non-governmental organisation, Védegylet^{†††} (‘Protect the Future’) that paved the way for forging a unique multi-party coalition in Parliament in favour of the 2007 bill. The project enjoyed pivotal political support of the President of the Republic, Mr László Sólyom, a former member of Védegylet and an active promoter of the rights of future generations.

“The rights of those who will be born in the future mean obligations for us today. International law presumes that future generations have rights so our present obligations can be construed since rights go together with obligations.” Mr László Sólyom

The amendment on the Parliamentary Commissioner for Future Generations came into force on 1 December 2007. Dr Sándor Fülöp was elected as Commissioner on 26 May 2008 for a term of six years. His office comprised of four units: Legal Department, Strategy and Science Department, Department for International Relations and Coordination Department.

This was a unique institution, one of the first of its kind to implement and to better understand our obligations to future generations, and to safeguard a healthy planet for them to enjoy, exactly as the original definition of sustainable development in the Brundtland Report^{†††} had intended:

“development which meets the needs of the present without compromising the ability of future generations to meet their own needs.”

The assignment of the Commissioner in Hungary, in 2008, was a mark of the assignment of new tasks under sustainable development: to make human responsibility felt in all the fields of state and civil life, with respect to the conservation of natural values trusted to us, for the sake of protecting future generations.

^{***} http://www.jno.hu/en/?menu=legisl&doc=LIX_of_1993

^{†††} <http://www.vedegylet.hu/index.php?newlang=english>

^{†††} World Commission on Environment and Development. 1987. *Our Common Future*. Oxford: Oxford University Press

It's important to note that prior to establishing the Commissioner's role, some of the four Commissioners considered the right to a healthy environment as an important part of their portfolio. Once in post, the Commissioner found reason for strong collaboration on occasion with his fellow three independent Commissioners (for data protection, national and ethnic minority rights, and civil rights), particularly on minority protection, when environment pollution overlapped with discrimination of social and economic minorities, and data protection, during access to environmental information cases. These instances lent a significant prestige, when for example joint statements between the different offices were issued.

3. The Commissioner's Role and Mandate

The Commissioner's central activity and primary mandate was based on the 1949 Constitution as reformed in 1989, "*to ensure the protection of the fundamental right to healthy environment*"^{§§§}. As laid down in the Constitutional Court's thesis of theoretical significance, this is a fundamental right forming part of the right to life, the quality of life, which allows restriction only to the extent necessary to protect other fundamental rights.

"Concerning the right to live (...) the state's impartial institutional protection obligation does comprise human life in general (...) as well; and this does include the provision of essential conditions for future generations." Resolution 28/1994. (V.20.) of the Constitutional Court

In 1994 the Constitutional Court emphasised the link between the right to a healthy environment and the State duty for establishing an institutional system that provides substantive and procedural legal guarantees in this respect.

Article 1 of the Ombudsman Act: "*In order to ensure the representation of the interests of future generations in long-term decisions fundamentally affecting their life conditions and to give effect to the laws on the right for a healthy environment and the protection of nature and the environment that are acknowledged and ordered to be enforced in Article 18 of the Constitution, the Parliament elects the Parliamentary Commissioner for Future Generations.*"

The institution performed three duties: complaints investigation, parliamentary advocacy and strategic development and research. Investigations were the core of the Commissioner's activities. Under the Ombudsman Act the Commissioner's main obligation was to investigate "improprieties" relating to the constitutional right to a healthy environment. "Improprieties"

^{§§§} The Ombudsman Act stated that the Parliamentary Commissioner for Future Generations shall be "*disposing of outstanding theoretical knowledge or having at least ten years professional practice in the area of environmental protection and/or nature conservation law who has considerable experience in the conduction and supervision of proceedings affecting environmental protection and nature conservation or in the enforcement of the right to healthy environment.*"

related to any act or omission that, actually or potentially, led to an infringement of the right to a healthy environment. This broad term does not only encompass any *legally wrongful act* or *omission* by an authority or a private actor but also questionable administrative practices, attitudes, etc. The Commissioner also investigated *policy "improprieties"*, i.e. government or municipality level decisions that (irrespective of their legality) may have had a significant negative impact on the sustainability of the environment.

4. Investigative Procedures

The Commissioner mainly investigated the decisions of environmental authorities of first and second instance. The Commissioner could also initiate or intervene in the judicial review of administrative decisions. He could not however launch an investigation into the merit of a case finally closed by an administrative court.

The Commissioner pursued some 200 substantial cases a year. The majority were administrative law, either by complaints or *ex officio*, supervising decisions, failure to make decisions, procedures and practices of administrative bodies relevant to environment and intergenerational justice. The plaintiff could either opt for the procedure proposed by the Commissioner or for court revision of the administrative decisions, but not both. If the court had entered into the examination of an administrative case, the Commissioner could not examine it separately. If the plaintiff decided to issue a complaint to the Commissioner, they could not use the court remedy in practice, due to the 30 day deadline from the decision^{****}. In some two to three cases a year, the Commissioner asserted his right to initiate administrative or civil law cases independently, or accompanying cases initiated by others as *amicus curae*.

Action in rem should be regarded as a legal institution promoting the realisation of the right to a healthy environment. According to Hungarian law, actions in rem are adjudicated by the courts so in similar procedures, the Commissioner could not overwrite these decisions.

Except for a few instances, the office could deal only with the complaints in which the client had exhausted the opportunities of any other administrative legal remedy, without the case being taken to court. If any constitutional improprieties were encountered, depending on the weight and character of the case, the Commissioner was entitled to carry out a wide range of measures, from calling the authority or other body to take necessary remedial steps, suspending the execution of administrative resolutions, through initiating or intervening in administrative or civil legal action, up to taking the floor in the House of Parliament.

^{****} Once the plaintiff received the final administrative decision, they had 30 days to issue a complaint to the administrative court. If they pursued an investigation via the Commissioner instead, these 30 days ended immediately.

The Commissioner turned to the legislator on numerous occasions when, as a result of his inquiries, he found that the reason of a violation of the right to a healthy environment was the inadequacy, incompleteness or lack of legal regulation^{††††}.

“Even if a decision can be interpreted to be true to the letter of the law, the Parliamentary Commissioner can challenge the constitutional ‘spirit’ of the law in question and suggest that it violates, say, the rights of future generations to a healthy environment.” Dr Sándor Fülöp

The responsibility of the Commissioner as an advocate or guardian safeguarding the interests of future generations in any decisions affecting or influencing their wellbeing, but also protecting the right of succeeding generations to a healthy environment meant ensuring that environmental laws and rules were observed. A large part of the role proved to be enforcing the rule of law for current generations. In this way the Commissioner possessed effective legal means with which to not only influence the conscience and goodwill of society and decision makers, but also to establish the potential for enforcing legal remedy in the case of decisions concerning the environment. In this sphere the Commissioner was able to conduct official investigations and probes into the received notices. In the case of the environment being endangered, actively, or by default, the Commissioner could order termination of all damaging practices. If the practices did not stop, the Commissioner could initiate authorial measures, take legal proceedings and could establish a summary offence or criminal information. The Commissioner could call upon authorities to carry out environmental measures, and where necessary, turn to the senior echelons of that authority. In order to complete his tasks, the Commissioner could request information and data on any questions related to the environment and its protection.

5. Issues Under Inquiry

Since the most pressing threat to future generations originates largely from damage to the Earth system, the Commissioner acted primarily in environmental cases, hence he was frequently referred to as the ‘Green’ Ombudsman. Yet in reality, the Commissioner’s competence reached beyond environmental protection, to cover broader issues concerning sustainability and heritage. The underlying principle was not environmental care, but the rights of future generations to life, a healthy environment and freedom of choice. The Commissioner investigated issues of cultural heritage, the operation of large social systems, long term development concepts, infrastructural investments and certain aspects of the rate of state indebtedness. Specific environmental inquiries related to: water protection, urban planning proceedings, nature protection, protection against noise and vibration, transport and energy policy. The Commissioner gave considerable time and attention to the matter of procedural rights, such as public access to and the quality of environmental information and the framework of and opportunities for genuine public participation. In this regard, he was a leading defender and enforcer of the 1998 Aarhus Convention on Access to Information,

^{††††} 2011 Annual Report of the Parliamentary Commissioner for Future Generations.

Public Participation in Decision-Making and Access to Justice in Environmental Matters, a key legislative link between human rights and the environment.

In many ways the Commissioner was the executor of a basic democratic principle, as well as acting as a representative for sustainability and upholding its true meaning. Yet for this impressive mandate and role, which reaches into many different disciplines and approaches, some would argue that it required greater capacity and resourcing^{****}.

6. Responding To and Enforcing EU Environmental Law

At the international level, according to the Ombudsman Act, the Commissioner “*expresses its opinion on propositions about the subjects of the environment and nature conservation, as well as ones concerning the acknowledgment of the binding effect of international conventions affecting the common heritage and common concerns of mankind; it is involved in the preparation of national reports based on these international contracts; furthermore it monitors and evaluates the enforcement of these conventions within the Hungarian jurisdiction*”. “*It takes part in the formulation of the Hungarian position represented in the institutions of the European Union operating with governmental participation.*” Hungarian environmental law is determined, largely by the European Union, and therefore the Commissioner regarded enforcing EU law to be one of his most prominent tasks. For instance, an investigation was initiated at the request of an environmental NGO in 2009 on use of sale revenues from selling of excess AAU or ‘Kyoto credits’. According to EU law, the revenues could be distributed only for projects aimed at the reduction of greenhouse gas emissions. The Commissioner found that the 14.5 billion HUF generated from the 2008 AAU revenues went into the general budget.

7. Role as Mediator

A number of cases were presented where the State was unable to solve or provide remedy, particularly over environmental conflict. This was largely due to structural reasons, such as single issue administrative arrangements, lack of problem oriented, system approach, professional biases or corruption. Often the local communities involved were unable to reach effective solutions. The following two examples highlight the unique value of the Commissioner’s interventions:

i) Spatial Planning. Hungary is losing 130ha of green land a day (compare this to 90ha in Germany), mostly due to short sighted spatial planning decisions made at Council level, prioritising economic interests over investing in the short and long term benefit of the community. Affected communities, well organised NGOs and others were too often beaten by complicated and long spatial planning procedures where a well resourced set of interests defended their positions systematically. Examinations led by the Commissioner could reveal

^{****} Jávör, B and Rácz, J, eds. 2006. *Do We Owe Them a Future? The Opportunities of a Representation for Future Generations in Europe*. Budapest: Védegylet—Protect the Future.

all legal, geographical, economic, environmental consequences of such cases and make this known to all organisations, affected communities and their representatives. Careful, consequential clarification of the unreasonable and irresponsible proposals could change the voting rate at the councils in the majority of cases. The very threat of these interventions helped to reduce similar proposals in the future, as prospectors became more cautious, and as communities and NGOs become more confident.

ii) The Danube River. To many, the Danube is nothing more than a lucrative source of energy or a cheap method of transportation. Conflicts within the country on the proper use of the river spanned decades. Yet only the Commissioner was in the position, and was willing to meet with representatives of as many as 17 relevant professions (nature protection, soil protection, agriculture, water management, tourism, traditional small industry etc) to discuss several aspects of the use and protection of large rivers in Hungary. Following lively exchange, an agreement was reached, that any proposed activity must be consulted with and agreed by all of the 17 professions. Prior to this agreement, no Government had successfully managed to consider all the demands of the Danube and other large rivers of the country as an interconnected system^{§§§§}.

8. Administrative Structure

This particular model, given its unique characteristics: focused but with a broad mandate, supported by a firm quasi-judicial role, was selected by the World Future Council's Future Justice Commission, as an example to be considered to inspire the creation of similar bodies elsewhere that are appropriate to diverse national and regional structures.

In particular, a number of defining principles, exercised throughout the Commissioner's work, have been identified by the World Future Council^{*****} which can help ensure optimal impact. These are: Independent, Transparent, Legitimate, Proficient, with Access to Information and Accessible.

In particular, the Commissioner had to be independent of state administration since a part of his investigations had to be conducted precisely within state institutions, and therefore had to be seen to be acting entirely impartially. Some would argue that for an independent office, self-reliant in its functions, it could have posed too weak an institution when considering the tasks and the needs the Commissioner and his staff were faced with^{†††††}. Yet others have argued that the independent nature of the office was appealing and allowed partnerships to flourish. Legal information and analysis from the Commissioner's office was relied upon, and highly regarded by all sides for its impartiality, accuracy and meticulousness.

^{§§§§} Source of information: interview with Dr Sándor Fülöp, 29 July 2014

^{*****} World Future Council. 2014. *Guarding our Future*.

^{†††††} Jávör, B and Rác, J, eds. 2006. *Do We Owe Them a Future? The Opportunities of a Representation for Future Generations in Europe*. Budapest: Védegylet—Protect the Future.

The Commissioner's office with less than 40 members of staff could only deal with a very small number of cases, while covering a broad range of issues. While the state administrative bodies were overly specialised, their resources presented no significant constraints to the number of cases that were taken on. The Commissioner's comparative advantage was however, the deep, interdisciplinary research, the interactive, deliberative examination of the complaints and cases, and the long dialogue with the relevant administrative bodies and interested parties. Working amongst slow moving dinosaurs, such a nimble and accessible office could often outwit them.

9. Challenges

The Commissioner was able to issue recommendations, specifically to the relevant authority or supervisory authority as well as to individuals and organizations. In addition to specific recommendations for remedy, the Commissioner could also issue general recommendations. These recommendations however did not have direct legal effect, they were not binding. Extra efforts were required by the Commissioner to convince addressees of his recommendations that statements were correct and that recommended measures were necessary and reasonable. All the more reason that accurate information and sound legal analyses were delivered to gain credibility and to win the acceptance of his recommendations.

Unfortunately, the Commissioner could not exercise power to its fullest potential. Sometimes he was not provided with the draft legislation soon enough to be able to make a substantial contribution. Furthermore, he was completely excluded from the adoption of negotiating positions in the national EU decision-making process.

Ultimately, the final obstacle was the Government itself. The new Hungarian constitution of 2011, vastly reduced the powers and mandate of the Commissioner.

"We bear responsibility for our descendants; therefore we shall protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources." "Hungary shall recognise and give effect to the right of everyone to a healthy environment."

Hungarian Constitution, 2011

While the new constitution remained committed to environmental rights, the dramatic budget cuts which affected the work, and very existence of many NGOs in Hungary also hit the Commissioner's office. From 1 January 2012 his tasks were overtaken by its legal successor, the Office of the Commissioner for Fundamental Rights. The three independent Commissioners were made Deputies, changing the way in which the specific fundamental rights could be represented. Dr Sándor Fülöp resigned in 2012.

Despite the institutional changes, the Deputy Commissioner for Fundamental Rights, or Ombudsman for Future Generations is still elected by the Parliament with a majority vote of

two-thirds. In October 2012, Dr Marcel Szabó was elected by the Parliament as the Deputy Commissioner for Future Generations for a six year period.

Under the new institutional structure, Dr Szabó may initiate and/or participate in investigations upon complaints and *ex officio* conducted by the general Ombudsman; propose to turn to the Constitutional Court or the Curia of Hungary in cases where there is a strong belief that a national or local piece of legislation is in violation of the Fundamental Law. Also, he may initiate intervention in public administrative court cases regarding environmental protection. In the course of these procedures he has access to all relevant documents. His mandate includes the right to examine national and local legislative actions; to monitor policy developments and legislative proposals to ensure that they do not pose a severe or irreversible threat to the environment or harm the interests of future generations. He is involved in the elaboration of non-binding statements and proposals to any public authority including the Government, and ensures that the direct link between the nation's common heritage and the fundamental rights of all generations (including future generation) are respected and not forgotten.

10. Conclusion

While the growing authority and consensus looks to apply constitutionally entrenched environmental rights, the manner in which they are effectively implemented can prove challenging. Enshrining such rights in Constitutional law is the first step of progress, however they stand little chance of being recognized without dedicated institutions and systems in place to ensure they are understood, respected and with all violations investigated and acted upon.

The Hungarian example is particularly useful for discussion since it adds another dimension to the argument: recognising the provision of essential conditions for future generations, while also enshrining the right to a healthy environment. The role of the Commissioner helped to dispel the misinterpretations and myths that tensions lie between recognizing the needs of present and future generations. The Parliament mandated itself to establish a unique, pioneering and dedicated mechanism, and in doing so, not only demonstrated their commitment to enforcing a right to a healthy environment, but bought to life the fact that safeguarding the needs of people living in the future starts now. This model helped to inform and inspire others of the importance of active implementation of intergenerational equity. Many other similar institutions have since emerged, with growing attention to long term approaches to policy making, and proposals for a dedicated representative for future generations at the UN level^{****}.

Hungary during this time, was in many ways a microcosm for the larger debate regarding the content and extent of the right to a healthy environment, now and for the future, and the ways in which to protect them.

^{****} UN Secretary-General. 2013. *Intergenerational solidarity and the needs of future generations*. A/68/322.

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The daily work and different cases of the Commissioner and his team, in sum, completed a picture of, not only a systematic and effective environmental protection policy for present generations, but also a more just, fair policy towards future generations.

In its four years of service, the Hungarian model proved to be successful, particularly where environmental protection must compete with several other interests and where the opinions of traditional environmental authorities are marginalised by decision-makers. The Commissioner was not 'pigeon holed' within the environmental discipline, at risk of facing obscurity and regarded as irrelevant by leading decision makers. It was its independence that made it possible to develop the most effective portfolio and the most fitting methodology. The battleground of vested interests, specialised agencies, poorly resourced environmental protection groups and the lack of full participation in drawing up legislation – familiar to many - brought enormous challenges to asserting environmental rights. The Commissioner and his staff were able to strategically manoeuvre around these obstacles and by working across different disciplines, brought a helpful perspective and longevity to the debate. The Ombudsman Act provided the Commissioner with a very powerful tool when it allowed his participation in the legislative consultation procedure. He had the chance to shape long-term decisions and prevent complaints at the root.

The Commissioner's role proved to be, in summary, a leading visible executor to some key elements of the Hungarian constitution, capturing and bringing to life, with all its tensions, the true meaning and understanding of sustainability.

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