**Input for OHCHR report to the Human Right Council**

**“Realizing children’s rights through a healthy environment”**

1. **Please share any information or evidence on the impact of environmental degradation, pollution or childhood exposure to hazardous substances on children’s rights, including the right to health.**

Within the Hungarian NHRI’s special structure, the Ombudsman for Future Generation (hereinafter “OFG”), a Deputy to the Commissioner of the Commissioner for Fundamental Rights (the latter’s mandate including paying special attention to the rights of the child) has been calling attention to the correlation between air pollution, environmental degradation and the right to a healthy environment and right to physical and mental health. Household heating practices including the burning of inadequate material (lignite, waste, wet wood) play a significant role among the causes of air pollution regarding both indoor and ambient air quality. Although there are some awareness-raising programmes aimed at reducing air pollution due to residential combustion, efforts to counter illegal activities are rather inefficient

Industrial air pollution and air pollution related to public transport is also a significant problem. As a recent data: in March 2019 official measurements of the air pollution found that the nitrogen dioxide concentration was two to three times higher in the capital with heavy road transport compared to the values of the other measuring stations in areas with scarce vehicle use. According to the data of the National Korányi Institute of Pulmonology, the number of patients affected by asthmatic diseases related to nitrogen dioxide grew by two and a half times between 2000 and 2016 in Hungary, the ratio of affected children is not known to us.

As regards indoor air quality the determining factors are the conditions of the buildings (e.g. dampness), the quality of materials used for the renovation and operation of buildings) including heating and air conditioning systems). Poor indoor air quality can be present despite appropriate indoor conditions in case of polluted ambient air, as shown by research results regarding indoor air quality of certain schools.[[1]](#footnote-1)

Another evidence is related to an industrial accident of a red sludge reservoir disaster caused by the break of the dam between Ajka and Kolontár on 4 October 2010 killing ten people and leaving more than 150 people injured. Based on the results of an accredited laboratory, in urine samples collected from schoolchildren living in the affected area, cadmium, nickel, arsenic, cobalt, vanadium and chrome concentrations were detected; moreover, there was a significant correlation between the frequency of asthmatic attacks and the PM10 concentration measured.

With a view to the examination of noise and vibration exposure due to air traffic, at the end of 2018 the OFG initiated a consultation entitled “The Health Effects of Air Traffic in Light of the Fundamental Right to a Healthy Environment” in order to identify possible solutions for the noise exposure caused by Budapest Ferenc Liszt International Airport. As the experts pointed out, the human body is unable to get accustomed to noise exposure, and it has been scientifically demonstrated that the harmful effects of noise pollution can lead to physical and psychological illnesses.

1. **Please identify noteworthy and globally significant examples of good practice towards ensuring children’s right through a healthy environment, including good practices to mitigate childhood exposures to harmful levels of air pollution and hazardous substances, such as pesticides or other toxic chemicals.**

An institutional good practice is offered by the existence of the Hungarian Ombudsman for Future Generations, whose constitutional mandate as per the Hungarian Fundamental Law is aimed at (i) safeguarding the rights and interest of future generations by ensuring that natural resources (amongst others) forming the common heritage of the nation shall be protected, maintained and preserved for future generations, while also safeguarding (ii) the fundamental right to a healthy environment and (ii) the right to physical and mental health. In the OFG’s practice future generations relates both to children and generations not yet born.

When it comes to children’s rights through a healthy environment, the field covered by the OFG overlaps with the mandate of the Commissioner for Fundamental Rights, whose priority focus includes the protection of the rights of the child. A joint ex officio investigation (Inquiry no. AJB-677/2013), bearing the working title “Can children drink tap water when thirsty?”, reviewed certain issues of providing access to healthy drinking water, with special emphasis on exposure to the naturally occuring arsenic content. The investigation has confirmed that not every child has access to healthy drinking water and until the drinking water system is renovated and any pollution eliminated, the official service provider should provide adequate information to the public about any potential health related effects and offer laboratory services for confirming the quality of water. The investigation also concuded that it could constitute a violation of the child’s right to protection and care if access to clean water is not ensured.

The OFG has a solid professional relationship with the National Public Health Centre focusing on the relationship between environmental conditions and public health. The National Public Health Centre has launched a complex public health project with the aim to survey which geographical areas of Hungary have tap water with high lead content. Based on the examinations, the primary objective will be to provide more adequate information to the population. Moreover, the project makes it possible to apply to a so-called “open laboratory”, that is, local inhabitants may have their own tap water examined for lead content.

The OFG within its mandate can publish so called General Opinions aimed at sharing important messages and raising awareness. The OFG has issued a General Opinion in 2016 calling attention to the correlation between soil quality, food quality and related illnesses[[2]](#footnote-2). In 2017 the OFG issued a General Opinion on the protection of groundwater quality[[3]](#footnote-3) (i) emphasising that preservation of quality and quantity of water, especially drinking water resources is essential to ensuring appropriate living conditions of future generations and (ii) criticising certain regulatory practices that could endanger groundwater resources, referencing, amongst others, the fundamental right to a healthy environment, and children’s right to healthy drinking water.

The OFG in his mandate is also entitled to submit legislative proposals, two relevant examples include (i) in 2015 the OFG initiated legislative changes at the competent Ministry for regulating indoor air quality and (ii) at the end of 2019 the OFG is going to publish a comprehensive legislative proposal for a more efficient environmental liability regulatory scheme, aimed at preventing further environmental degradation affecting the living conditions of present and future generations.

A positive practice that could be mentioned is that providing healthy and varied menus has become an important criterion in school catering. Healthy diet requirements are enforced both in public catering provided by the state and snack bars operated by external entrepreneurs.

1. **What legal and other measures are in place to ensure that the activities of companies do not damage the environment, either domestically or in other countries?**

The Fundamental Law of Hungary formulates expectations at constitutional level regarding the handling of environmental impacts both within and outside of the national borders, the core principle being that everyone has the right to a healthy environment, and the state is obliged to ensure the enforcement of this right. Accordingly, for business organisations, the rules for the licensing of activities and facilities with adverse effects on the environment, the conditions of operation and the review thereof, as well as the remedying of damages upon the termination of the activity are laid down in laws and regulations in harmony with the EU legislation. The participation of the population affected is guaranteed by procedures conducted in compliance with the Aarhus Convention, whereas in the case of activities with environmental impacts reaching beyond the national borders, procedures specified in the Espoo Convention are to be conducted.

**a) What are the main gaps and challenges experienced in this regard?**

The unique sensitivity of children to exposures is not always taken into account by the limit values determined in legislation. The close relationship between the state of the environment and children’s health is often disregarded by decision-makers. For instance, in the case of children’s institutions, it is not a necessary and essential requisite for refurbishment and maintenance works to be carried out by using materials and technologies that would ensure proper indoor air quality. Another problem related to indoor air quality is that insulation works (the replacement of doors and windows) carried out in the framework of programmes aimed at enhancing energy efficiency often led to the appearance of mould in flats, thus deteriorating the quality of indoor air.

1. **Please provide information on national laws and policies to ensure that companies undertake environmental and human rights due diligence and do not contribute to abuse of children’s rights. What measures are in place to combat hazardous forms of child labour in which children are at particular risk of exposure to hazardous and toxic substances?**

(i) In Hungary the legal framework of environmental management and performance assessment is determined by the Act on Environmental Protection, through the general framework of the regulation of the Echo-Management and Audit Scheme (EMAS). According to that, the user of the environment may participate in the scheme in order to evaluate and improve its own performance with respect to environmental protection, as well as to provide adequate information to the public. The instrument of performance assessment is also well-known, which corresponds to a review carried out on the basis of a voluntary commitment.

ii) The environmental certification scheme of substances, products and technologies is set forth in the Act on Environmental Protection. Pursuant thereto, products and technologies that present a danger to the environment and would pollute it without proper treatment or installation shall be environmentally certified, and the conditions of quality guarantee shall be ensured. Based on their environmental impact in the event of their potential release into the environment, substances presenting an environmental hazard shall be classified – in a separate piece of legislation – according to the level of threat they present.

iii) The certification of the “environmentally friendly” character of products and services is performed in accordance with the Act on Environmental Protection: for clean or eco-friendly products and technologies that have been shown to present a smaller burden or impact on the environment than traditional products and technologies with identical or similar functions, a distinguishing mark of “eco- friendly product or technology” may be used. The positive certification of products – a(n originally) self-regulatory economic instrument – is a legal institution akin to the auditing of companies and factories. The unauthorised use of the distinguishing mark entails an environmental fine defined in a separate piece of legislation.

**a) What measures are there to ensure that children are not forced to work close to hazardous and poisonous substances?**

Children under 16 years of age may undertake only seasonal jobs, during school breaks; child labour is forbidden. Children above 16 years of age may work/be employed in accordance with the rules pertaining to minors and vulnerable groups. In that respect, young workers are protected by the general rules regarding working hours, the length and granting of paid leave, and the prohibition of extraordinary work of the Labour Code (Act I of 2012). Moreover, Appendix no. 8 of the Ministerial Decree no. 33/1998 NM (Ministry of Public Welfare) prescribes restrictions and prohibitions in jobs characterised by physical exertion, radiation, vibration, noise, hazardous substances as environmental impacts, which would pose a danger to young workers.

1. **What measures are in place to fulfil children’s right to participate and be heard in decisions affecting their rights and environment, including their right to remedy in the case of violations of their rights linked to pollution or exposures to hazardous substances?**

In 2018 the Commissioner for Fundamental Rights has called attention in a public statement to the need for Hungary to join the optional protocol to the Convention on the Rights of the Child setting up a mechanism of complaint procedures[[4]](#footnote-4). The Minister of State for Family and Youth Affairs at the Ministry of Human Capacities agreed with the need and the competent ministry has begun the preparation of the government decision to join the optional protocol.

1. **How are environmental risks to children being monitored and measured in your country?**

The Act on the Commissioner for Fundamental Rights stipulates that the protection of children’s rights is a priority task of the Commissioner for Fundamental Rights. Two comprehensive reports carried out regarding the enforcement of the rights of the child are the following: Report no. AJB-676/2013 on environmental education, and Report no. AJB-677/2013 as referenced in point 2 above on certain issues related to providing access to healthy drinking water, in connection with the EU’s CEHAPE (Children’s Environment and Health Action Plan for Europe) programme. The Commissioner for Fundamental Rights also launches inquiries on the basis of specific complaints, with the help of which he/she can inquire into systemic problems through individual cases in this field.

1. National Centre for Community Health project” InAirQ – Virtual Health” at <https://www.nnk.gov.hu/c-h-r/vhr-hungary> [↑](#footnote-ref-1)
2. General Opinion of the OFG regarding the protection of soil: <https://www.ajbh.hu/documents/10180/2584047/talaj_allasfoglalas_vegleges_melleklet_nelkul.pdf/c6453bbe-e20b-4f3b-b042-5879ca7b068b> [↑](#footnote-ref-2)
3. General Opinion of the OFG regarding the protection of groundwater: <http://www.ajbh.hu/documents/10180/2762244/Elvi+%C3%A1ll%C3%A1sfoglal%C3%A1s+a+felsz%C3%ADn+alatti+vizek+v%C3%A9delm%C3%A9ben.pdf/ff6d9fac-8b2e-b8e6-a05f-923cac46bfc7> [↑](#footnote-ref-3)
4. <http://www.ajbh.hu/kozlemenyek/-/content/qzyKPkTyQAvM/az-ombudsman-kezdemenyezese-nyoman-megkezdodott-a-gyermekjogi-egyezmeny-panaszteteli-kiegeszito-jegyzokonyvehez-valo-csatlakozas-kormanyzati-dontesene> [↑](#footnote-ref-4)