HUNGARIAN LEGAL AND INSTITUTION SYSTEM FOR CRITICAL INFRASTRUCTURE PROTECTION

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Abstract

As a result of the publication of the New Disaster Management Regulations in the year of 2012, a unified Industrial Safety Authority and Supervision System was set fully operational on national, regional and local levels in Hungary. This paper introduces the experiences and status of the adaption and implementation of national legislation on Critical Infrastructure Protection in Hungary.

Key words
Industrial Safety, Critical Infrastructure Protection, Disaster Management, Hungary.

Introduction

The adoption of EU rules on critical infrastructure protection (hereinafter: CIP) began in the mid-2000s. Hungary has developed its own legal regulations in accordance with EU regulations. With the adoption of the newest disaster management act, the Hungarian disaster management system became a unified organization consisting of three pillars, namely the industrial safety, the civil protection and the fire protection. The critical infrastructure protection is one of the main tasks of the industrial safety pillar. The minister of interior is in charge of the coordination of the disaster management tasks and the tasks of critical infrastructure protection on government level.

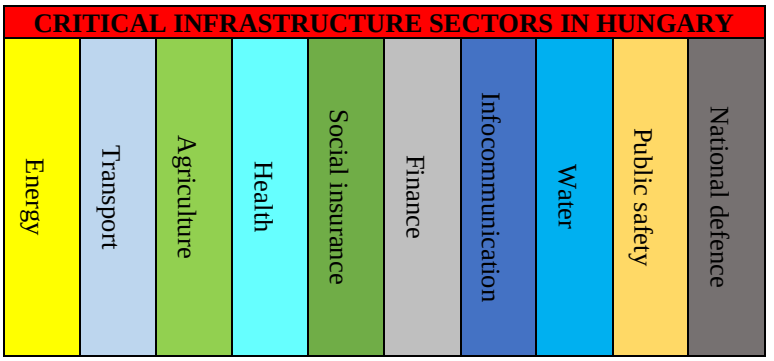
The Hungarian CIP main regulation the *Act CLXVI/2012 on the identification, selection and protection of critical systems and installations*, which came into force in 2013, contains rules for the identification of critical infrastructures. The implementing regulation of the CIP act regulates also the identification of national critical system elements by the operator. For coordinated inspections and for the registration of critical system elements the central organization of the professional disaster management organization was given authorization.

Critical systems are defined in in the explanatory provisions (1. § clause g) as follows: *„a system component of systems, assets, installation belonging to one of the sectors defined in the annexes 1-3, that are essential for the completion of social tasks, thus in particular for healthcare, for the personal safety and security of the public, for economic and social public services, which, in case of their unavailability, due to the lack of the continuous completion of these tasks would result in major consequences,”*.

Critical system elements can be assigned according to the law to 10 main sectors: energy, transportation, agriculture, healthcare, finances, industry, information and communication technologies, water, law and order, government and public safety and defense (see figure 1).

The rules for the identification, selection and protection of critical infrastructures in each sector are set out in separate government decrees. With regard to the social insurance sector the implementing regulation is still in the regulatory phase. The safety liaison person shall have the professional qualification relevant for the sector concerned. Qualification in

industrial safety can be obtained at the Disaster Management Institute of the National University of Public Service.



Source: Act of OKI, prepared by Iván Sibalin

Fig. 1
OKI sectors in Hungary

Enforcement of European legal regulation on critical infrastructure protection

In our days it is especially important and a complex task at the same time to protect the public and environment on high level. Industrial safety embraces four special fields in Hungary: the supervision of dangerous establishments, the control of the transportation of dangerous goods, the protection of critical infrastructure (hereinafter: CIP) and the prevention of nuclear accidents. [1, 2]

The document of the European Council adopted in December 2004, the proposal regarding the preparation of the European Program for Critical Infrastructure Protection (EPOKI) can be regarded as the first significant milestone of the legal background of the EU pertaining to the protection of critical infrastructure.

Then, in November 2005 the European Commission issued the so-called Green Book on the protection of critical infrastructure, where the basic definitions, statements, processes and codes of procedures that can be regarded as the basis of the future legal regulations are specified. Within a short time the legal regulation of the EU on the identification and selection of critical infrastructure in Europe and on the evaluation of the necessity of the improvement of their protection was adopted (the directive 2008/114/EC, hereinafter: Directive).

The Directive, mainly on the basis of the Green Book, in consideration of the specific features of the individual branches and in line with the long-term political objectives of the EU has created the pool of procedures, tools and principles regarding the identification and selection of critical infrastructure. In addition to the Directive also a "non-mandatory guideline" has been issued with the purpose to make implementation easier by the detailed description of the tasks of member states. [3] In order to implement the Directive, the Hungarian government adopted a *resolution No. 1249/2010 (XI. 19.).* which provided for the creation of an inter-ministerial working group.

A basic provision of the Directive is that within 2 years after the publication date the member states shall carry out the actions needed for implementation. Member states prepare a report every year on the quantity of the elements of infrastructure in the individual sectors and

send every other year a summarizing report containing general data on their actions performed for the protection of critical infrastructure.

On the basis of the provisions of the directive member states will elaborate their criteria relevant for the individual sectors. The Directive specifies separately the energy and transportation sector, thus their sector-related criteria shall be given priority during implementation. In addition to the aforementioned points it is necessary to examine potentially critical infrastructure located in the member states also on the basis of horizontal criteria. The tier values regarding the criteria of losses, economic and social impact are specified by the member states on ad hoc basis, depending on the nature of the service provided by the infrastructure concerned.

The member states define potentially critical infrastructure that can be on European level. The member state shall inform other member states exposed to such impact on the information related to the identification and shall discuss and coordinate potential effects with them. The infrastructure can be selected only if the member states concerned conclude an agreement on said infrastructure.

The operators elaborate the operator's safety plan within one year following the selection and appoint the safety liaising person who stays in contact with the authority.

Adaption of national legal regulation of the critical infrastructure protection in Hungary

The first step in the establishment of the system for the protection of critical infrastructure in Hungary was the adoption of the *government's resolution No. 2080/2008 (VI. 30.) on the National Program of the Protection of Critical Infrastructure.*[1] The Green Book on the national program is attached to the government resolution. Additional powers to increase the protection of critical infrastructure were provided by the new Constitution of Hungary, adopted in 2011, which allows the government to declare a state of emergency in the event of a natural disaster or industrial accident.

With the entry into force of the *Act No. CXXVIII./2011 on Disaster Management and amending certain related laws* on January 1, 2012, the disaster management regulations were placed on a new basis. The three pillars of the disaster management – namely the fire protection, civil protection and industrial safety – have been established, and the critical infrastructure protection became one of the priority tasks of disaster management. The definition of critical infrastructure is codified in the *Gov. decree No. 234/2011 (XI. 10.) on the implementation of the Act No. CXXVIII./2011 on Disaster Management and amending certain related laws.* According to the decree the critical infrastructure means the tools and systems which are indispensable for the performance of vital social tasks, health, security, economic and social well-being of people. Disruption or destruction of these infrastructures, due to the lack of tasks to be performed by them, would have significant consequences.

The objective of Act No. CLXVI./2012 on the identification of critical systems and installations, their selection and protection (hereinafter: CIP act) following the line of regulations of the Directive is on one hand the identification of critical system elements, on the other hand the protection after the selection. The act took effect on March 1, 2013. In the OKI act fundamental relevant definitions are established: system element of national and European importance, operator, branch-related and horizontal criteria.

There is a separate code of procedure for the selection of system elements of national and European importance. In the act there are common rules in terms of national and European critical system elements, with regard to registration, data protection, inspection, the safety plan of the operator, the safety liaising person and sanctions. *The regulation No. 65/2013 (III.8) on the implementation of Act No. CLXVI./2012 on the identification of critical systems and*

installations, their selection and protection (hereinafter: implementing regulation) took effect on March 11, 2013. [4]

The implementing regulation, in addition to the provisions helping the legal application and not defined in the CIP act (see the definitions of identification, risk assessment) regulates also the identification of national critical system elements by the operator. Within the framework of the identification procedure the operator sends his identification report in line with the requirements stipulated in the legal regulation to the selecting authority responsible for the branch, which will convey it to the proposing authority responsible for the branch, for commenting. The proposing authority responsible for the branch concerned sends its proposals, after checking the report, to the selecting authority.

The selecting authority responsible for the branch, in view of the standpoint of the competent professional disaster management organization, makes a decision in a resolution about the selection of a system element of national or European importance. The precondition of the selection is that the occurrence of at least one of the branch-related and horizontal criteria each is possible. The resolution about the selection, in addition to the approval of the identification report, also determines the selection, the registration of the system element selected, the obligation to prepare the operator's safety plan and the employment of the safety liaising person and can furthermore determine other conditions in order to protect the critical system element.

With regard to the qualifications required of the safety liaising person in the implementing regulation technical, defense management, disaster management and police management qualifications are preferred. In the act also the requirements of the operator's safety plan, the individual rules of the inspection, and the general rules of procedure to be followed in case of extraordinary events, and the amount of the public administration fine that can be imposed on the operator are specified. The first time when the operator has to submit the identification report is within 180 days as of the effective date of the implementing regulation. [5]

For so-called coordinated inspections and for the registration of European and national critical system elements the central organization of the professional disaster management organization (hereinafter: MI NDGDM) was given authorization, which is appointed, in terms of certain functions (public order, public security, protection of the public, national security, counter-terrorism) also as proposing authority.

MI NDGDM operates an event management center under the name Event Management Center of Critical Systems and Installations in order to carry out activities ensuring the network safety of national critical systems and installations. The minister in charge of disaster prevention supervises the center. Within the scope of the tasks of the National Chief Inspectorate for Industrial Safety operating in the organization of the MI NDGDM since January 1, 2012 the protection of critical infrastructure is a preferential area.

The minister of interior is in charge of the tasks of the national liaising officer and coordinator as EOKI contact point. Furthermore, the minister of interior is in charge of the coordination of the civil crisis management, disaster management tasks and the tasks of critical infrastructure protection on government level and prepares in particular the legal rules related to the critical elements of infrastructure. [6]

With regard to the empowering provisions of the CIP act the particular rules related to the identification, selection and authority inspection branches and the branch-related criteria are specified in separate government regulations for each individual branch. By the end of May 2020 the following branch-related regulations have been adopted by the government of Hungary:

- *Gov. decree No. 360/2013 (X. 11.) on the identification, selection and protection of critical systems and installations in the energy sector;*
- *Gov. decree No. 512/2013 (XII. 29.) on the identification, selection and protection of the critical systems and installations of individual police organizations and on the amendment of the regulation No. 329/2007 (XII. 13.) on the organizations of the police and on the tasks and scope of police organizations;*
- *Gov. decree No. 540/2013. (XII. 30.) on the identification, selection and protection of critical agricultural systems and installations;*
- *Gov. decree No. 541/2013. (XII. 30.) on the identification, selection and protection of critical water management systems and installations and hydraulic structures;*
- *Gov. decree No. 246/2015. (IX. 8.) on the identification, selection and protection of critical systems and installations in the health sector;*
- *Gov. decree No. 330/2015. (XI. 10.) on the identification, selection and protection of critical systems and installations in the financial sector;*
- *Gov. decree No. 359/2015. (XII. 2.) on the identification, selection and protection of critical systems and installations in the national defence sector;*
- *Gov. decree No. 249/2017. (IX. 5.) on the identification, selection and protection of critical systems and installations in the IT sector;*
- *Gov. decree No. 161/2019. (VII. 4.) on the identification, selection and protection of critical systems and installations in the transport sector.*

The aforementioned regulations are already effective. With regard to the social insurance sector the implementing regulation is still in the regulatory phase.

Preparation of the personnel for the implementation of CIP tasks in Hungary

Based on the implementing regulation, the safety liaison person shall have the professional qualification relevant for the sector concerned. The safety liaison person, in addition to the professional qualification relevant for the sector concerned, shall also have a college or university degree obtained at a faculty for emergency management or police administration; a professional qualification as police administration manager specializing fire safety, industrial safety, civil protection or equivalent; a completed course for industrial safety; university or college degree at a course for industrial safety or a practice of at least 5 years in the field of industrial safety, spent at professional disaster management organizations.

The safety liaison person, in addition to the professional qualification relevant for the sector concerned, shall also have a college or university degree specializing in industrial safety and relevant for the sector concerned, or a practice of at least 5 years in the field of industrial safety, spent at professional disaster management organizations.

Qualification in industrial safety can be obtained at the foundation course for industrial safety that was started at the Disaster Management Institute of the National University of Public Service in the year 2013 for the first time. At this course, in addition to general disaster management, fire prevention and emergency management also so-called industrial safety is part of the curriculum. The special knowledge about industrial safety cover also the safety of hazardous plants and dangerous shipments, the response to events occurring in the presence of hazardous substances, response to nuclear accidents and the protection of critical systems and installations. [7]

Conclusions

The Hungarian regulations on the protection of critical systems and installations is a good basis for Hungary to report about taking serious steps in order to protect critical systems and installations, protecting the elements of infrastructure that are indispensable for vital social tasks, for healthcare, for safety, for economic and social welfare and elements of infrastructure that, in case of incidents, would result in serious consequences due to the loss of the continuity of these tasks. By regulating the protection of critical infrastructure basic supply to the public, and the protection of those living in the vicinity of hazardous activities can also be guaranteed in an efficient way. The safety of the life and assets of the public, the continuity of public services of outstanding social significance and the more efficient completion of existing public tasks and public safety can be improved.

NOTES:

[1] The resolution is no longer in force.

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