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Tóth Ambrusné, Éva

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# The Parliamentary Commissioner for Future Generations of Hungary and his Impact

by Éva Tóth Ambrusné

**A**bstract: *The Parliamentary Commissioner for Future Generations of Hungary is a fairly new and unique institution that was established in 2008. The Commissioner is provided with strong and very specific competences and powers to protect the interests of future generations. The publication of his first annual report<sup>1</sup> to Parliament is a great opportunity to assess the effectiveness of the tools he can apply to facilitate intergenerational equity.*

## Establishment of the Office of the Parliamentary Commissioner for Future Generations<sup>2</sup>

The idea of institutionalizing the representation of future generations in Hungary first emerged more than twenty years ago. The idea became reality in the summer of 2008 when the Office of the Parliamentary Commissioner for Future Generations (hereinafter: the Commissioner) of Hungary started operating. The road to victory was, however, not easy. “Protect the Future”, a Hungarian civic organisation, invested over the years substantial efforts into convincing political parties of the importance that future generations be heard in the present. The first round of negotiations between 2000 and 2002 was not successful. Two Members of Parliament (MPs) submitted a bill to Parliament, two parliamentary committees even discussed the draft, but the major opposition party did not support the bill. Reaching political consensus, a two-thirds majority in Parliament,<sup>3</sup> seemed very distant at this point. Protect the Future intensified its campaign again in 2006 after it started promoting the idea of European level representation for future generations. The organization made an excellent strategic decision when it chose the year of 2006 for its renewed activities. Political parties were more willing to stand behind the proposal in an election year, because lending support to a noble initiative such as representation of future generations was assumed to resonate well with most voters. Two Parliamentary committees again discussed the bill and passed the initiative this time. Unfortunately, the parliamentary term ended without a final vote.

Protect the Future realized in 2007 that an all-party deal was indispensable. The initiative gained important momentum when the organization succeeded in convincing all the five parliamentary parties. One party, the Alliance of Free Democrats, considered inexpensive state administration particularly important, therefore, it did not support the bill as long as it entailed the establishment of an additional state institution. The conflict was resolved by proposing the elimination of the Deputy Civil Rights Commissioner position from Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights<sup>4</sup> (hereinafter: ‘the Ombudsman Act’). The major opposition party was convinced by emphasizing the strong powers of the new ombudsman to investigate state authorities. The governing party supported the bill since its two MPs submitted it to Parliament originally.

Two further circumstances contributed to the success of Protect the Future in striking the all-party deal. First, every actor in Hungarian politics needed some relief from the political tension in the country due to the leaking of the Prime Minister’s speech on withholding national budget information before the election. The initiative of Protect the Future provided a great opportunity to show voters that the parties were still capable of cooperation. Second, sensitivity of politics towards environmental protection issues gained strength due to intensified international activity in the field; both the Fourth IPCC Assessment Report and the Stern Report were released around this time.

All government, indeed every human benefit and enjoyment, every virtue, and every prudent act, is founded on compromise and barter.

/ Edmund Burke /

Protect the Future made another excellent strategic decision when it organized a press conference immediately following a round-table discussion of political parties. Once the all-party deal was released to the press, none of the parties could afford to back down from it. Nor could they afford to fight over

the most important competences of the new ombudsman laid down in the original proposal of Protect the Future. Fortunately, 85 percent of the originally proposed competences remained in the text.

The Hungarian Parliament passed the amendment of the Ombudsman Act<sup>5</sup> with near unanimity in December 2007, thereby establishing the institution of the Parliamentary Commissioner for Future Generations. The new Commissioner was elected only in May 2008, after three failed rounds of voting.<sup>6</sup> The Office of the Parliamentary Commissioner for Future Generations has been operating with a full staff of 35 including 19 lawyers, two economists, one engineer, two biologists, a climate change expert and a medical doctor since the last quarter of 2008. The Office comprises of four units: Legal Department, Strategy and Science Department, Department for International Relations and Coordination Department.

## Impact of the Parliamentary Commissioner for Future Generations

Several criteria can be applied to measure the impact of the Commissioner. The following five criteria are only preconditions of the future impact. First, the Commissioner must be free of any political influence. Second, the Commissioner must have the right competences which enable him to affect the lives of future generations in a positive way. Third, the Commissioner must actively use these competences, i.e. concrete efforts must be demonstrated. Fourth, the concrete measures that the Commissioner has the power to initiate must be effective in theory at least. Fifth, the institution must receive proper funding. If these five preconditions are met then there is a chance that the Commissioner can have a positive impact on the lives of future generations. Determination of whether the Commissioner’s actions will or will not have a real impact in the future is rather difficult for several reasons. There are several complex and interacting factors that impact the lives of future generations even in smaller fields of actions. Finally, it is very difficult to determine the right methodology for the measurement of long-term impact.

## Independence and long-term vision

Long-term thinking requires freedom of any political influence. Most political parties have a tendency to plan from one election to another. The Commissioner is responsible only to Parliament. Only a two-third majority of Parliament can terminate his mandate upon certain exceptional reasons. His long-term vision and independence is also ensured by the length of his term of office, which exceeds the election cycle by two years, six years altogether. The Commission

A leader is someone who steps back from the entire system and tries to build a more collaborative, more innovative system that will work over the long term.

/ Robert Reich /

ner reports to Parliament annually, while the formal acceptance of the report is not a condition of his further operation. Furthermore, funding of the institution is also determined only by Parliament. The Office of the Parliamentary Commissioner for Future Generations is provided funding from the state budget annually. It received 266.8 million HUF in 2009 and 259.2 million HUF in 2010, which can be considered as adequate support. It can be stated that the institution meets the first precondition, i.e. independence and long-term thinking, of the potential to impact future generations.

Independence of the institution has encouraged numerous organizations to seek our partnership. For instance, the Association of Administrative Judges and the Commissioner organized a workshop for judges where colleagues of the Commissioner and the European Commission gave presentations on EU environmental law. Civic organizations and even ministries often rely on our team of lawyers to help with legal analyses. The Commissioner has also played the role of a mediator several times between civic organizations and ministries or headed their working group. The working group on access to information held by nuclear power plants or the ad hoc expert group working out Hungary's strategy against the European Union's authorisation of Genetically Modified Organisms (GMOs) must be mentioned as eloquent examples.

The Climate Outlook Project (See Section V.3.2.) and the Project on Sustainable Communities (See Section V.3.4.) are excellent examples of the Commissioner's long-term strategic pro-active work plan. Both projects

develop and promote sustainable future scenarios and models.

## Competences of the Parliamentary Commissioner for Future Generations

The Hungarian Constitution provides for the right to a healthy environment but it does not contain any references to future generations. The Constitutional Court, however, in its decision<sup>7</sup> interpreted the Constitution as obliging the state to preserve the quality of the natural environment for future generations. In another decision,<sup>8</sup> the Constitutional Court also stated that the fundamental right to life and human dignity creates the obligation for the state to provide institutionalized protection for the living conditions of future generations. The Ombudsman Act, therefore, satisfies this obligation by creating a new institution not only for the protection of present but also the future generations' right to a healthy environment.

The Hungarian ombudsman system consists of the 'general ombudsman' responsible for civil rights in general and three special ombudspersons in charge of ethnic and minority rights, privacy and freedom of information and representation of future generations. Establishment of a special ombudsman institution is justified when the identity of those whose constitutional right is violated can not be determined unambiguously or the informational unbalance between those who violate the right and whose right is violated can not be resolved by providing state assistance to representation in court. The Commissioner met both of these criteria.

The reasoning of the amendment of the Ombudsman Act provides a good point of departure for introducing the competences of the Commissioner. The aim of the legislation is to protect the nature-related conditions of the life and health of present and future generations; to preserve the common heritage of mankind and provide solutions to the common concerns of mankind; to preserve freedom of choice, the quality of life and the unobstructed access to natural resources for future generations. Therefore, it must be the Commissioner's duty to represent future generations when long-term decisions are made significantly affecting their living conditions and to facilitate enforcement of laws related to the state of the environment.

Accordingly, Section 27/B. (1) of the Ombudsman Act lays down the following com-

petences for the Ombudsman: monitoring, assessment and control of the enforcement of legal provisions ensuring sustainability and improvement of the environment and nature as well as investigation of any improprieties he becomes aware of relating to these. The term '*legal provisions ensuring sustainability*' extends the competences of the Commissioner further than monitoring enforcement of strictly defined environmental protection cases. It is difficult to precisely define and determine the boundaries of the concepts of environmental protection law and sustainability. Therefore, it was crucial to decide on the main functions and competences of the Commissioner within the limits of the Constitution and the Ombudsman Act immediately after commencing operations. Moreover, the Commissioner included in its internal Rules of Investigation<sup>9</sup> mandatory determination of its competence as a very first step of the investigation procedure. However, the Commissioner sometimes still faces resistance with regard to his competence when he investigates cross-cutting issues.

Three factors affected the Commissioner's decision on the details of his competences: environmental protection laws and principles (especially the integration principle and precautionary principle), the scientific and public discourse leading to the establishment of the institution and expectations of the public.<sup>10</sup>

## Competences determined by law

The above mentioned decisions of the Constitutional Court set the broadest framework of the Commissioner's work. Article 4 of Act LIII of 1995 on the General Rules of Environmental Protection provides a more precise definition of an 'environmental case': any activity, omission of activities, decision, measure etc., relating to the elements of the environment (land, air, water, biodiversity and their components), their system or structure. The same Act determines all the following areas that must be regulated with respect to environmental protection, such as energy, land and soil protection, transportation, spatial development, water and waste management, nature and landscape protection and the protection of historical monuments. These cross-cutting issues establish the Commissioner's competence as long as they affect the relationship between man and the environment, the protection of the environment, and the conditions of sustainable development.

In addition to the narrowly defined environmental protection cases, the Commissioner considers certain economic, social and institutional issues relevant to the sustainability of nature and the environment, therefore, he plays an active role in these areas as well. Integrating environmental protection aspects into state budget planning process stands out of the sustainability related economic issues. That is why the Commissioner issued a statement that analyzed the draft state budget with regard to the implications for sustainability. Sustainability of state subsidies provided to the transportation, energy or agricultural sectors are also closely followed.

If the fairest features of the landscape are to be named after men, let them be the noblest and worthiest men alone.

/ Henry David Thoreau /

Awareness raising, environmental education and support for sustainable communities all contribute to the social aspects of sustainable development and represent such additional fields where the Commissioner is also actively involved. The joint commission on environmental education and awareness raising with the National Sustainable Development Council demonstrates the Commissioner's efforts very well in this area. The joint commission has already issued a statement on environmental high school and secondary school education and organised meetings with environmental journalists. The Commissioner addresses the institutional requirements of sustainability as well, such as access to and the quality of environmental information and the framework of public participation.

The Ombudsman Act mandated the Commissioner with rather significant competences<sup>11</sup> in relation to the European Union decision-making process, that is, the participation in the elaboration of the Hungarian positions represented in the institutions of the European Union. Unfortunately, the Commissioner has not been able to fulfil this obligation yet because he has not been provided with the necessary documents by the Government. Monitoring and facilitating proper application of European Union law is also particularly important in the work of the Commissioner since 80-90 percent of the Hungarian environmental legislation is transposed from European Union

law. In the field of international law, the Commissioner monitors and assesses the domestic enforcement of international conventions in the following areas: environmental and nature protection, the common heritage and the common concerns of mankind (such as world heritage).

#### *The scientific and public discourse facilitating the establishment of the Commissioner and public expectations*

As a secondary source for the interpretation of the Commissioner's competences, one cannot overlook the preparatory work of Protect the Future and scientific contribution of President László Sólyom and Prof. Boldizsár Nagy. The first proposal for the establishment of the new institution envisaged broader competences for the Commissioner. From the broader concept of intergenerational equity, only protection of the environment of the present generation remained in the adopted legislation which nevertheless inevitably contributes to the preservation of living conditions of future generations. However, the Commissioner still feels an obligation to pursue his activities in the field of environmental law with the greatest consideration for the interests of future generations in line with expectations of the public.<sup>12</sup>

#### *A case when the Commissioner's competence was debated*

The proposal of the Hungarian State Holding Company regarding reorganization of the management of public water utility and wastewater systems generated numerous complaints. The petitioners were concerned about the necessity of the decision and the reasons provided by the company. They raised more general problems as well, such as safety of the drinking water supply and water management. Operation of water utility companies and strategic decisions relating to them significantly affect the state of water reserves and the safety of healthy drinking water supply. The Commissioner declared his competence in the case because water is a national asset and part of the natural heritage. Its preservation and protection are critical to human health and satisfactory life conditions. The absence of protection jeopardises the health of present generation as well as the existence of future generations.

#### *Conclusion*

Competences of the Commissioner are not

as comprehensive as the list of fields in the UNESCO Declaration on the Responsibilities of the Present Generations Towards Future Generations but a reasonable number of areas are covered. They are also capable of moving forward all the Planetary Obligations<sup>13</sup> of present generations towards future generations as determined in the doctrine of Intergenerational Equity developed by Professor Edith Brown Weiss. Therefore, the second precondition of possible impact<sup>14</sup> on future generations is also met.

#### **Activities and the impact of the Commissioner**

The third precondition of future impact besides long-term vision and the right competences is the Commissioner's actual activity. Activities of the Commissioner in the above mentioned fields can be broken down into three categories: investigation, parliamentary advocacy, scientific and strategic research.

#### *Investigation*

Investigation of constitutional improprieties constitutes the primary duty of the Commissioner. The framework of the procedure is laid down in the Ombudsman Act and the details are elaborated by the internal Rules of Investigation.

The basis of the Commissioner's investigation is the same as the General Ombudsman's procedure<sup>15</sup> but his powers are stronger. The official reasoning of the Ombudsman Act explains this difference with the special nature of environmental and nature protection cases: the delayed or illegal actions of the administrative authorities often result in extremely high or immeasurable costs and irreversible damage to the environment.

Anyone can submit a petition to the Commissioner's Office and investigations may even be launched *ex officio*. Only two restrictions apply: cases where the final administrative decision was made more than one year ago, and where a court procedure has been launched for the review of the resolution or a final court decision was taken. The investigation starts with drafting an investigation plan and organizing an investigation team, consisting of lawyers, including an international lawyer if necessary, and an expert scientist of the investigated environmental field (e.g. biologist, environmental engineer). The method of cooperation between the different fields and departments reflects the principle of integration. The Commissioner and his colleagues must be allowed to

enter any premises and to have access to any documents during their fact finding without the court's permission. The investigation concludes in the statement of the Commissioner. The final version of the statement is drafted in an iterative process; every interested party is invited to comment the drafts of the statement.

The Commissioner has received 422 complaints in the second half of 2008 and in 2009. Investigations have been launched in 271 cases and completed in 97 cases. In 37 cases the Commissioner issued a statement and found improprieties in 26 cases. Unfortunately, there is a substantial backlog. It can be explained by the fact that we are a very new institution, the structure and methodologies of the office had to be established simultaneously with the training of staff.

The Ombudsman Act provides the Commissioner with very specific measures<sup>16</sup> he can take in order to protect the environment and facilitate sustainable development. Measures at his disposal are included in the statements concluding the investigations. The investigated authorities, organizations and private persons must respond to the Commissioner's statement within a certain period of time. This is the first point in the procedure where the Commissioner receives feedback on his work and can measure the direct effect of his statements.

The different measures available to the Commissioner can have very different impacts, therefore, it is reasonable to analyse them separately:

#### 1. Recommendations

The Commissioner issues recommendations, when constitutional improprieties are discovered, to the authority having brought about the impropriety or to the supervisory authority thereof as well as to private persons and organizations. In addition to specific recommendations for remedy, the Commissioner may also issue general recommendations. Recommendations do not have *direct* legal effect, i.e. they are not binding, which reduces the probability of their impact. The Commissioner must convince addressees of his recommendations that statements are correct and recommended measures are necessary and reasonable. Careful fact finding and sound legal analyses are therefore crucial to the acceptance of recommendations. In order to increase the probability of compliance with recommendations, the

Commissioner often takes advantage of media publicity, which has proved to be an effective tool of applying pressure on authorities and organization addressed in the statements.

#### 2. Measures of direct legal effect

In addition to 'soft' recommendations the Commissioner may also undertake measures of direct legal effect. First, the Commissioner may seek the suspension of the execution of administrative decisions if *prima facie* it appears illegal and its implementation may result in irreversible damage to the environment. Second, the Commissioner may call on any person or organisation to stop any activity that harms the environment. The person addressed has to respond within a deadline set by the Commissioner. In the case of an unsatisfactory response, the Commissioner may seek the suspension of the activity in court. Third, the Commissioner may initiate or participate in all applicable administrative and judicial review procedures. He may appeal against any environmental administrative decision and/or seek the judicial review thereof. He may intervene in court procedures on behalf of any party seeking the review of administrative decisions relating to the environment.

The above measures demonstrate that the Ombudsman Act has provided the Commissioner with strong powers. In fact, the Commissioner stands out from the other three ombudsmen (the Commissioners for data protection, national and ethnic minority rights, and civil rights) with respect to his powers. It can be concluded that these tools are capable of having a profound impact on the environment and the lives of present and future generations as well.

Provisions of the internal Rules of Investigation ensure mandatory monitoring of the enforcement of statements. This enables the Commissioner to take the necessary further steps in case of non-compliance despite positive first responses to the statement. A follow-up investigation has been launched in the case of the Green Investment Scheme administered by the Ministry of Environment and Water. The Commissioner will review if the Ministry remedied improprieties related to the allocation of Kyoto units sale revenues.

Examples of cases where the Commissioner's investigation and statement generated direct positive impact:

1. The municipality of District XV. in Budapest planned to amend its spatial plan in order to allow higher building density. The area of the intended development is located near a crowded motorway and experiencing substantial environmental pressure already with noise and air pollution levels exceeding the limit values. The Commissioner came to the conclusion that further increasing the number of residential units and decreasing the exceptionally high ratio of green areas in this location would be the source of further environmental problems. The Commissioner stated that the development would not be compatible with the principle of sustainable development. The statement emphasized the importance of considering environmental aspects in spatial planning procedure. The municipality did not pass the spatial plan and decided to have an impact assessment prepared in line with the Commissioner's conclusions.

2. The preliminary spatial plan of the municipality of Piliscsaba foresaw the construction of an underground water reservoir on a karst site for drinking water and bottling water for commercial purposes. Since the water balance of the area is already negative, the planned exploitation of water was therefore deemed unacceptable. The municipality assembly ordered the review of the planning measure.

3. The Commissioner reviewed the draft smog alert plan of the city of Miskolc. A smog alert plan is a local ordinance laying down emergency measures to decrease air pollution. The draft plan did not include clear definitions of crucial terms, such as 'smog situation'. The Commissioner stated that unclear terms prevent effective implementation and might result in delayed action. The assembly of the municipality accepted the Commissioner's recommendations and revised its draft.

4. Two petitioners complained about the excessive noise level generated by a neighbouring fibre-board factory in the city of Mohács. The investigation established that operation of the factory caused excessive noise pollution, therefore, the environmental inspectorate should have ordered the operator to submit an action plan for noise reduction. The Commissioner also found that the inspectorate omitted to impose any fines. As a result of the Commissioner's statement the authorities carried out a noise

level measurement and decided to take the necessary measures.

Examples of cases of no direct impact:

1. A civic organisation submitted a complaint against a planned and authorised power plant in the buffer zone of a world heritage site in the city of Szerencs. The Commissioner's investigation determined that the power plant would have a negative effect on the site. Traditional wine growing and the cultural landscape that had earned the title of World Heritage would be endangered by energy grass production. Energy efficiency and impacts on traffic were also among the numerous problems the Commissioner found. Nevertheless, no authority assessed the impacts of the project on the world heritage site in the authorisation procedure. The supervisory authority rejected the Commissioner's recommendations and the court also decided in favour of the authority. One aspect of the case was successful however. The investigation found that the World Heritage Convention was not implemented properly in Hungary, therefore, the Commissioner made recommendations on the preparation of a World Heritage Act. The Ministry of Culture and Education accepted the recommendation and even involved the Commissioner in the drafting procedure.

2. The assembly of the municipality of Páty passed an ordinance allowing development of a large golf course, a hotel, and 1,400-1,600 residential units. The Commissioner concluded in his statement that the development does not comply with the Budapest Agglomeration Act<sup>17</sup> since the construction intrudes into the protected zone between settlements. Furthermore, it was viewed with concern that solely the interests of the developer governed the spatial planning procedure and were treated as superior over public interest. Cumulative impacts were not properly assessed either. Finally, the development would worsen environmental problems in the agglomeration of the capital city of Budapest. The assembly refused the Commissioner's statement, therefore, the Commissioner will turn to the Constitutional Court for review.

### *Policy Advocacy*

The Commissioner must be consulted on every draft legislation and governmental initiative effecting the environment and sustainable development.<sup>18</sup> Moreover, he may express his opinion on long-term municipal development and spatial plans or

other plans and concepts of municipalities directly affecting the lives of future generations.<sup>19</sup> He may even present his position to the parliamentary committees and he is one of those few who may take the floor during plenary sessions of Parliament.<sup>20</sup>

The Commissioner might find in the course of an investigation that a legislative provision violates the right to a healthy environment or his comments in the legislative consultation procedure were neglected. In these cases the Commissioner may initiate constitutional review of the legal norm with the Constitutional Court.<sup>21</sup> He may also suggest the national or municipal legislator to amend existing or adopt new legislation.<sup>22</sup>

The Commissioner received 119 government initiatives and participated in 81 consultation procedures concerning legislative proposals in 2008 and 2009. He initiated the adoption or amendment of 17 legislative proposals in these two years. He initiated one constitutional review with the Constitutional Court and is planning on filing four further petitions in the near future. The Commissioner presented most of his substantial proposals to the relevant parliamentary committees (Committee on Environmental Protection, Committee on Budget, Finance and Audit Office, Committee on Agriculture) but has not taken the floor in the plenary session of Parliament. Members of the Commissioner's team actively participated in 130 conferences in 2008 and 2009. The Commissioner organised three conferences to address greening the budget, indicators of sustainability and the Climate Summit in Copenhagen and beyond.

The Commissioner appeared in 353 press articles on 473 pages. The online and printed media appearances are estimated to reach 84 million readers. 258 radio and television programs discussed the work of the Commissioner.

The Ombudsman Act provided the Commissioner with a very powerful tool when it allowed his participation in the legislative consultation procedure. He has the chance to shape long-term decisions and prevent complaints at the root. This is especially true for the spatial plans of fast growing settlements that set the road for environmental complaints if drafted without careful attention to environmental and sustainability aspects.

Unfortunately, the Commissioner cannot

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

Cases where the Commissioner's advocacy activity generated direct positive impact:

1. The Commissioner was successful in advocating for state financing of agricultural gene banks. In his letters, he called the attention of the Agricultural Minister and Parliament to the risks that lack of financing and privatisation of gene banks carried. Hungary has the third richest agricultural gene pool in the European Union. The importance of gene banks is evident when considering new ecological and economical challenges as a result of climate change. Decreasing diversity of agricultural plants irreversibly increases vulnerability of the food supply.

2. The Commissioner identified several provisions in the draft Forestry Act laying down less stringent rules on forest management. He pointed out that reducing the power of nature protection authorities and supervision in forestry matters endangers the protection of forests. The Commissioner presented his statements to the Committee on Environmental Protection of Parliament

If you cut down a forest, it doesn't matter how many sawmills you have if there are no more trees.

/ Susan George /

as well. This case can be regarded as a success story because several MPs submitted proposals for amendments to the bill identical to the Commissioner's comments as a result of his statement.

Examples of cases of no direct impact:

The Commissioner came to the conclusion that the 2010 State Budget Bill did not support an economic model that would guarantee positive opportunities for future generations. By missing the opportunity to transform the financial regulation system along environmental protection objectives, Hungary has not been among those countries that consider support to green investment as one of the possible solutions to the economic crisis that pays back in the mid- and long- term. The Commissioner also highlighted some of the most problematic points of the draft state budget in his

statement, such as ineffective application of environmental taxes, reduction of funding for public transportation, reduction of the subsidies to sustainable agricultural and regional development policy. His statement, letter to the Prime Minister and a conference organised by the Commissioner did not have any impact on the adoption of the 2010 State Budget Act.

### *Strategy and research*

As previously mentioned, the Commissioner interprets his competences as comprehensively as possible in order to facilitate intergenerational equity. He acts not only as a complaints investigator but as a proactive guardian of the rights of future generations as well. In order to provide the legislator and society with sustainable models of development, the Commissioner carries out research and promotes long-term thinking.

Strategic planning and research are essential to determine the areas where society needs to improve in order to secure the interest of future generations. Decision-makers must be reminded to think further than their terms of office. Long-term effect, however, is difficult to be measured. The more specific the models that research provides are and the deeper they affect our current materialistic values, the more impact they will have on future generations' lives.

The Climate Change Project carried out by the Strategy and Science Department aims to examine necessary restrictions and possibilities deriving from the desired 80 percent greenhouse gas reduction target until the year of 2050. The project intends to raise questions and call attention to the need for long-term scenarios and timely response to the challenges of climate change. The Commissioner has asked parliamentary parties in a letter to include a 'green minimum' in their election campaigns which must target an 80 percent greenhouse gas reduction by 2050. As a result of the project the greenhouse gas emissions budget of Hungary has already been determined. It will also set clear targets with regard to greenhouse gas emissions and provide several possible scenarios for development. Explicitness is a great advantage of the project, which improves the likelihood of positive impact.

In order to promote sustainable values and ways of life, the Sustainability Project investigates and introduces to society com-

munities committed to the implementation of all aspects – environmental, economic, and social – of sustainable development in their settlements. The project involves more than 30 local communities with innovative solutions in the field of sustainable agriculture, waste management, energy and heat production, food security and even education. The Commissioner provides professional and coordinative support to these initiatives. The impact of the project cannot be determined yet at this stage.

### **Obstacles**

The most important challenge the Commissioner must face is the competing interest of economic development. When the Commissioner starts an investigation of a project involving substantial financial investment, his competence is usually questioned and numerous formal legal problems are demonstrated by the developer or municipality. In these cases the Commissioner places even more emphasis on cooperation with the developer and every stakeholder in the case. He tries to make the developer understand the importance of sustainability and why he must investigate the case.

Interaction with ministries has also been problematic; they do not always consult the Commissioner on legislative proposals. The Commissioner politely but firmly reminds the ministries of their obligation in these cases. There are also cases when he is not provided with access to documents related to an investigation, in these cases his most effective tool is reference to the court.

The Commissioner tries to change the approach of environmental protection authorities as well. He promotes systems thinking and the obligation to comply with EU law even when it is not transposed properly. In order to achieve these goals he collects several cases demonstrating the same problems and issues comprehensive statements e.g. on compliance with EU law.

### **Conclusions**

The Commissioner has been provided with adequate and effective competences to protect the interests of future generations. Competences and measures of the Commissioner are determined with an adequate level of explicitness, which enables authorities and organizations to comply with his statements and the Commissioner to measure his direct impact. The Commissioner has demonstrated in his first cycle of reporting that he uses these competences actively in the in-

terests of future generations. Reception and impact of the Commissioner's activities shows a promising picture.

The model is successful, especially in those areas where environmental protection must compete with several other interests and the decision-makers are not environmental authorities or required to follow the opinion of environmental authorities (such as spatial planning by municipalities). The other field where we can feel that our existence is essential is budgetary planning. Decision-makers need a constant reminder that the right of future generations to a healthy environment must be respected even in times of global financial crisis. The Commissioner is also successful in the role of mediator between different branches of the government or decision makers and NGOs. Sometimes it is enough that the Commissioner announces the launch of his investigation to trigger the recognition of environmental protection interests. These conflict areas exist in every country; therefore, the model would move forward the interests of future generations anywhere. Furthermore, the institution of ombudsman is common to many countries, thereby providing the framework necessary for the widespread establishment of an office similar to that found in Hungary.

### **Notes**

1. Annual Report of the Parliamentary Commissioner for Future Generations, 2008-2009 (available only in Hungarian). <http://beszamolo.jno.hu/>
2. Source of information: interview with Benedek Jávör, former member of the NGO 'Protect the Future' on 26 March, 2010.
3. Section 2. (2) of Act LIX on the Parliamentary Commissioner for Civil Rights (hereinafter: 'the Ombudsman Act').
4. [http://jno.hu/en/?menu=legisl\\_t&doc=LIX\\_of\\_1993](http://jno.hu/en/?menu=legisl_t&doc=LIX_of_1993)
5. Act CXLV of 2007 on the Amendment of Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights.
6. The Commissioner is elected by a majority of two-thirds of the votes of the Members of Parliament, upon the nomination of the President of the Republic. The President did not consult the parliamentary parties on his candidates. The parties referred to this fact when they did not support the first three nominees.
7. Decision 28/1994.
8. Decision 64/1991.
9. Rules of Investigation of the Office of the Parliamentary Commissioner for Future Ge-

nerations (available only in Hungarian).

<http://jno.hu/hu/?&menu=vizsgrend>

10. These three factors were identified and elaborated on in the Annual Report of the Parliamentary Commissioner for Future Generations, 2008-2009, 33.

11. Article 27/B. (3) g)-h).

12. See Section IV.1.2.

13. Brown Weiss, Edith (1989): In Fairness to Future Generations. International Law, Common Patrimony, and Intergenerational Equity. New York: United Nations University.

14. A more detailed discussion of preconditions of impact can be found in section dedicated to the Impact of the Parliamentary Commissioner for Future Generations.

15. Article 18 of Act LIX of 1993.

16. Articles 27/B-F of Act LIX of 1993.

17. Act LXIV of 2005 on the Spatial Plan of

the Budapest Agglomeration.

18. Article 27/B. e) of Act LIX of 1993.

19. Article 27/B. f) of Act LIX of 1993.

20. Resolution 46/1994 (IX.30.) OGY on the Standing Orders of the Parliament of the Republic of Hungary, Standing Order No. 45 (1) *The President of the Republic, a member of the Government, the President of the Constitutional Court, the President of the Supreme Court, the Chief Public Prosecutor, the Ombudsman, the President of the State Audit Office, persons obliged to give an account for Parliament during the discussion of the report submitted by them and, when matters related to European integration are discussed by Parliament, Hungarian Members of the European Parliament, may attend and take the floor during plenary sessions of Parliament.*

21. Article 22. of Act LIX of 1993.

22. Article 25. of Act LIX of 1993.

*This article did not undergo peer-review.*



Éva Tóth Ambrusné is a legal advisor at the Department of International Relations, Office of the Parliamentary Commissioner for Future Generations. She is specialised in international environmental law and European environmental law.

Contact details:

Éva Tóth Ambrusné, Office of the Parliamentary Commissioner for Future Generations, PO Box 40, Budapest H-1387, Hungary

Email: [future@obh.hu](mailto:future@obh.hu)

Web: <http://jno.hu/en/>

## Documentation – International Conference “Ways to Legally Implement Intergenerational Justice”

*Lisbon, 27th and 28th of May, 2010*

Intergenerational justice is becoming one of the central issues of our time. Questions of what justice requires between older, younger, and future generations are increasingly recognised alongside more traditional considerations of social justice. Present generations ought to take responsibility for the far-reaching consequences of their actions. Consequently, it is urgently required to legally recognise intergenerational principles and, above all, to create an architecture with enforceability through which the rights of future generations can be made effective. In the course of this project, important partnerships were forged with the World Future Council, the Portuguese Society of International Law, the Portuguese Association for the United Nations and the Jacques Delors European Information Centre. During the conference, speakers approached several ways of implementing principles of intergenerational justice principles via inter-



*Marisa dos Reis is a research fellow and editor at the Foundation for the Rights of Future Generations since September 2009. She conceived of organising an international conference in Lisbon on the topic intergenerational justice and law. Beginning in December 2009, she was in charge of managing the conference and preparing for the publication of conference materials.*

national law, European law and at the national level. In the course of debate and conversation between our speakers and participants, obstacles were described with unprecedented clarity and longstanding intuitions were challenged.

Furthermore, innovative solutions were formulated and a path was set for ongoing consideration of intergenerational justice and the law.

Below, you will find the full programme of the Lisbon conference, followed by the conference papers. Some speakers, namely Dr. Maja Göpel and Sébastien Jodoin have made their presentations based on the articles published in the first part of this issue. For that reason we did not add a summary of their speeches to this section. Sándor Fülöp's presentation was based on the Annual Report of the Parliamentary Commissioner of Future Generations of Hungary discussed in Éva Tóth Ambrusné's article earlier in the journal.