Annex I

Hungary

Improving financial security in the context of the Environmental Liability Directive
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TABLE OF CONTENTS

1. INTRODUCTION .................................................................................................................. 5

2. ENVIRONMENTAL INSURANCE MARKET .......................................................................... 6
   2.1. Commercial insurers ........................................................................................................ 6
   2.2. Re/insurance pools ........................................................................................................ 7
   2.3. Mutuals .......................................................................................................................... 7
   2.4. Other ............................................................................................................................. 7

3. VOLUNTARY INSURANCE POLICIES FOR ELD AND OTHER ENVIRONMENTAL LIABILITIES ................................................................. 7
   3.1. Environmental insurance policies .................................................................................. 7
   3.2. Cover for ELD preventive costs .................................................................................... 8
   3.3. Cover for ELD primary, complementary and compensatory costs ............................... 8
   3.4. Cover for non-ELD liabilities ....................................................................................... 8
   3.5. Nature of policies (liability only or liability and on-site remediation) ............................ 8
   3.6. Description of policies .................................................................................................. 8
   3.7. Model terms and conditions ......................................................................................... 9
   3.8. Date of general availability of environmental insurance policies ............................... 9
   3.9. Environmental assessments and audits ........................................................................ 9
   3.10. Average premium ......................................................................................................... 9
   3.11. Average policy limit ..................................................................................................... 9
   3.12. Average deductible or self-insured retention ............................................................... 9
   3.13. Average policy period .................................................................................................. 9
   3.14. Sizes of typical insured businesses ............................................................................. 9
   3.15. Industrial and commercial sectors that typically purchase policies ............................ 10
   3.16. Industrial and commercial sectors with limited or no accessibility to policies ............ 10
   3.17. Number and amount of claims ................................................................................... 10
   3.18. Coverage litigation ...................................................................................................... 10
   3.19. Cover for ELD liabilities in general liability policies ................................................ 10
   3.20. Cover for ELD liabilities in property policies ............................................................. 10

4. OTHER VOLUNTARY FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS .................................................................................. 10
   4.1. Type(s) ......................................................................................................................... 10
   4.2. Availability ................................................................................................................... 10

5. MANDATORY FINANCIAL SECURITY FOR ELD LIABILITIES (ARTICLE 14(1)) ..................................................................................... 10
   5.1. Competent authority(ies) ............................................................................................. 10
   5.2. Legislative provisions ................................................................................................... 11
   5.3. Environmental licence conditions ............................................................................... 12
   5.4. Date of introduction .................................................................................................... 12
   5.5. Effective date ................................................................................................................ 12
   5.6. Key reasons for introduction ....................................................................................... 12
   5.7. Withdrawal of mandatory financial security .............................................................. 12
   5.8. Guidance .................................................................................................................... 12
   5.9. Operators subject to mandatory financial security ..................................................... 12
   5.10. Amounts and limits of mandatory financial security ................................................ 13
   5.11. Growth of mandatory financial security .................................................................. 13

6. REGULATORY OVERSIGHT OF FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS ............................................................................. 13
   6.1. Review of financial security instruments or mechanisms ........................................... 13
   6.2. Financial security instruments and mechanisms accepted ........................................ 13
   6.3. Financial security instruments and mechanisms not acceptable ................................ 13
   6.4. Time of review ............................................................................................................ 13
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.5.</td>
<td>Regulatory costs of review</td>
<td>13</td>
</tr>
<tr>
<td>6.6.</td>
<td>Requirements for operator to review</td>
<td>13</td>
</tr>
<tr>
<td>7.</td>
<td>ENFORCEMENT OF FINANCIAL SECURITY REQUIREMENTS</td>
<td>13</td>
</tr>
<tr>
<td>8.</td>
<td>EX POST ENVIRONMENTAL DAMAGE MANDATORY FINANCIAL SECURITY (ARTICLE 8(2))</td>
<td>13</td>
</tr>
<tr>
<td>8.1.</td>
<td>Date legislation or policy for mandatory financial security introduced</td>
<td>14</td>
</tr>
<tr>
<td>8.2.</td>
<td>Effective date for ex post mandatory financial security</td>
<td>14</td>
</tr>
<tr>
<td>8.3.</td>
<td>Financial security instruments and mechanisms accepted</td>
<td>14</td>
</tr>
<tr>
<td>8.4.</td>
<td>Financial security instruments and mechanisms not acceptable</td>
<td>15</td>
</tr>
<tr>
<td>9.</td>
<td>PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS</td>
<td>15</td>
</tr>
<tr>
<td>9.1.</td>
<td>Insurers</td>
<td>15</td>
</tr>
<tr>
<td>9.2.</td>
<td>Banks and other financial institutions</td>
<td>15</td>
</tr>
<tr>
<td>9.3.</td>
<td>Sureties</td>
<td>15</td>
</tr>
<tr>
<td>9.4.</td>
<td>Providers outside Member State</td>
<td>15</td>
</tr>
<tr>
<td>10.</td>
<td>MEASURES TAKEN BY MEMBER STATE TO DEVELOP FINANCIAL SECURITY MARKETS</td>
<td>15</td>
</tr>
<tr>
<td>11.</td>
<td>EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS</td>
<td>16</td>
</tr>
<tr>
<td>11.1.</td>
<td>Landfill Directive</td>
<td>16</td>
</tr>
<tr>
<td>11.2.</td>
<td>Extractive Waste Directive</td>
<td>17</td>
</tr>
<tr>
<td>11.3.</td>
<td>Carbon Capture and Storage Directive</td>
<td>18</td>
</tr>
<tr>
<td>12.</td>
<td>EU RECOMMENDATION ON HYDRAULIC FRACTURING</td>
<td>19</td>
</tr>
<tr>
<td>12.1.</td>
<td>Status</td>
<td>19</td>
</tr>
<tr>
<td>12.2.</td>
<td>Competent authority(ies)</td>
<td>19</td>
</tr>
<tr>
<td>12.3.</td>
<td>Financial security provisions</td>
<td>19</td>
</tr>
<tr>
<td>12.4.</td>
<td>Financial security instruments and mechanisms accepted</td>
<td>20</td>
</tr>
<tr>
<td>12.5.</td>
<td>Templates</td>
<td>20</td>
</tr>
<tr>
<td>12.6.</td>
<td>Financial security instruments and mechanisms not acceptable</td>
<td>20</td>
</tr>
<tr>
<td>13.</td>
<td>EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS</td>
<td>20</td>
</tr>
<tr>
<td>13.1.</td>
<td>Industrial Emissions Directive</td>
<td>20</td>
</tr>
<tr>
<td>13.2.</td>
<td>Seveso III Directive</td>
<td>21</td>
</tr>
<tr>
<td>13.3.</td>
<td>Other legislation</td>
<td>21</td>
</tr>
<tr>
<td>14.</td>
<td>MANDATORY FINANCIAL SECURITY FOR OFFSHORE OIL AND GAS OPERATIONS</td>
<td>23</td>
</tr>
<tr>
<td>14.1.</td>
<td>Competent authority(ies)</td>
<td>23</td>
</tr>
<tr>
<td>14.2.</td>
<td>Status of offshore oil and gas operations</td>
<td>23</td>
</tr>
<tr>
<td>14.3.</td>
<td>Requirements for financial security</td>
<td>23</td>
</tr>
<tr>
<td>14.4.</td>
<td>Requirement for financial security for ELD liabilities</td>
<td>23</td>
</tr>
<tr>
<td>15.</td>
<td>FAILURE OF FINANCIAL SECURITY</td>
<td>23</td>
</tr>
<tr>
<td>15.1.</td>
<td>Inadequate level of financial security instrument or mechanism to pay claims</td>
<td>23</td>
</tr>
<tr>
<td>15.2.</td>
<td>Insolvency of operator leading to failure of financial security instrument or mechanism</td>
<td>24</td>
</tr>
<tr>
<td>15.3.</td>
<td>Other</td>
<td>24</td>
</tr>
<tr>
<td>16.</td>
<td>FUNDS</td>
<td>24</td>
</tr>
<tr>
<td>16.1.</td>
<td>Name(s)</td>
<td>24</td>
</tr>
<tr>
<td>16.2.</td>
<td>Extension of existing fund to cover remedial costs under the ELD</td>
<td>25</td>
</tr>
<tr>
<td>16.3.</td>
<td>Purpose</td>
<td>25</td>
</tr>
<tr>
<td>16.4.</td>
<td>Type</td>
<td>25</td>
</tr>
<tr>
<td>16.5.</td>
<td>Source(s) of funding</td>
<td>25</td>
</tr>
<tr>
<td>16.6.</td>
<td>Number and amount of claims</td>
<td>25</td>
</tr>
</tbody>
</table>

BIBLIOGRAPHY 26
1. **Introduction**

Financial security for limited ELD liabilities in the form of stand-alone environmental insurance policies is widely available. Cover provided by the policies is, however, limited.

Environmental extensions to general liability policies that provide cover for remediating sudden and accidental pollution under the ELD and other environmental liabilities are widely available.

Environmental extensions to property policies are not available.

Stand-alone environmental insurance policies that provide more extensive cover for ELD and other environmental liabilities offered by multinational insurers to companies with sites and/or operations in Hungary and other States are widely available by passporting.

Hungary transposed the ELD by amending the following four Acts and Government Decrees (GDs):

- Act LIII of 1995 on general rules for the protection of the environment (1995. évi LIII. Törvény a környezet védelmének általános szabályairól; LIII of 1995);
- Act LIII of 1996 on the protection of nature (1996. évi LIII. Törvény a természet védelméről; Nature Conservation Act);
- Act LVII of 1995 on water management (1995. évi LVII. Törvény a vízgazdálkodásról);
- Act XLIII of 2000 on waste management (now Act CLXXXV of 2012 on waste) (2012. évi CLXXXV. Törvény a hulladékról; Waste Act);

In addition, Hungary enacted the following two new GDs:

- GD 90 of 2007 on the prevention and mitigation of environmental damage (90/2007. (IV. 26.) Korm. Rendelet a környezetkárosodás megelőzésének és elhárításának rendjéről); and

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1. 1995. évi LIII. Törvény a környezet védelmének általános szabályairól; [Link](http://njt.hu/cgi_bin/njt_doc.cgi?docid=23823.362942) (in Hungarian)
2. 1996. évi LIII. Törvény a természet védelméről; [Link](http://njt.hu/cgi_bin/njt_doc.cgi?docid=26858.362721) (in Hungarian)
3. 1995. évi LVII. Törvény a vízgazdálkodásról; [Link](http://njt.hu/cgi_bin/njt_doc.cgi?docid=23855.362458) (in Hungarian)
4. 2012. évi CLXXXV. Törvény a hulladékról; [Link](http://njt.hu/cgi_bin/njt_doc.cgi?docid=156602.366999) (in Hungarian)
7. 90/2007. (IV. 26.) Korm. Rendelet a környezetkárosodás megelőzésének és elhárításának rendjéről; [Link](http://njt.hu/cgi_bin/njt_doc.cgi?docid=110900.349934) (in Hungarian)
• GD 91 of 2007 on determining the extent of damage to nature and the rules for remediation (91/2007. (IV. 26.) Korm. Rendelet a természetben okozott károsodás mértékének megállapításáról, valamint a kármentesítés szabályairól).8

Hungary has not introduced mandatory financial security for ELD liabilities.

Article 6(6) of Act XXIX of 2007 on amendments to different environmental protection acts in respect of environmental liability stated that the Hungarian Government would introduce ‘rules of the environmental protection insurance’ (see section 5.2 below). The GD to provide such rules had not been issued when this report was published.

Hungary has enacted provisions to introduce mandatory financial security in respect of protected sites under the Nature Conservation Act and waste. The GD to introduce mandatory financial security under the Nature Conservation Act had not been issued when this report was published.

Section 88(19) of the Waste Act authorised the Hungarian Government to make a GD covering, among other things, ‘the detailed rules on environmental insurance and the detailed rules for the provision of security by manufacturers’. The GD had not been issued when this report was published.

Section 71 of the Waste Act states that the Hungarian Government would issue a GD concerning mandatory financial security for activities subject to a waste management authorisation or registration. The GD for one of the three categories of financial security was introduced on 1 January 2013.

2. ENVIRONMENTAL INSURANCE MARKET

The environmental insurance market in Hungary is small.

Stand-alone environmental insurance policies that provide cover for remediating pollution under the ELD and other environmental legislation for businesses with sites and/or operations only in Hungary are available from at least four insurers, which are all branches of multinational companies. Some insurers limit cover to pollution from sudden and accidental incidents rather than including gradual pollution and/or environmental damage other than pollution. They do not provide cover for complementary or compensatory remediation. Demand for the policies is low.

Environmental extensions to general liability policies are available. They do not provide cover for ELD liabilities. Some extensions provide cover for measures to remediate off-site pollution from a sudden and accidental incident on an insured’s site. Other extensions are limited to cover for third-party claims for bodily injury and property damage from sudden and accidental pollution that migrates from an insured’s site. Most have a sub-limit of liability. Demand for the extensions is greater than demand for stand-alone environmental insurance policies but is still low.

Environmental extensions to property policies are not available.

2.1. Commercial insurers

Most large insurance companies in Hungary including at least four of the largest in the market, offer stand-alone environmental insurance policies that include some liabilities under the ELD.

8 91/2007. (IV. 26.) Korm. Rendelet a természetben okozott károsodás mértékének megállapításáról, valamint a kármentesítés szabályairól; http://njt.hu/cgi_bin/njt_doc.cgi?docid=110916.350218 (in Hungarian)
Most of the insurers that offer general liability policies include an optional extension for remediating off-site sudden and accidental pollution in them.

2.1.1. **Number of insurers**
At least four insurers offer stand-alone environmental insurance policies in Hungary.

2.1.2. **New insurers entering the market since 2009**
Most insurers offering stand-alone environmental insurance policies for businesses with sites and/or operations only in Hungary were doing so prior to 2009. No information was available whether any entered the market since 2009.

2.1.3. **Existing insurers that introduced environmental insurance policies since 2009**
See section 2.1.2 above.

2.2. **Re/insurance pools**
There are no re/insurance pools that provide policies for ELD or other environmental liabilities in Hungary.

2.2.1. **Date of establishment**
Not applicable

2.2.2. **Descriptions of policies issued**
Not applicable

2.3. **Mutuals**
No mutuals in Hungary offer environmental insurance policies.

2.3.1. **Date of establishment**
Not applicable

2.3.2. **Descriptions of policies issued**
Not applicable

2.4. **Other**
There are no captives, underwriting agencies, or other types of providers of environmental insurance policies in Hungary.

3. **Voluntary insurance policies for ELD and other environmental liabilities**

3.1. **Environmental insurance policies**
Stand-alone environmental insurance policies are available to operators with sites and/or operations only in Hungary, including small and medium businesses.

Stand-alone environmental insurance policies offered by multinational insurers provide cover to large operators with sites and/or operations in Hungary and other States. Policies provided by them, which are typically issued by way of passporting, include cover for all liabilities under the ELD (see section 3.6.3 below).
3.2. **Cover for ELD preventive costs**

Stand-alone environmental insurance policies offered by insurers to businesses with sites and/or operations only in Hungary may include 'mitigation costs' which may reimburse any expenses that were necessarily incurred in the event of a claim to prevent or mitigate environmental damage. Depending on the insurer, these costs may provide cover for preventive measures under the ELD.

3.3. **Cover for ELD primary, complementary and compensatory costs**

Stand-alone environmental insurance policies offered by insurers to businesses with sites and/or operations in Hungary provide cover for primary, complementary and compensatory remediation costs provided that the incident causing the pollution is sudden and accidental.

3.4. **Cover for non-ELD liabilities**

Stand-alone environmental insurance policies offered to businesses that have sites and/or operations only in Hungary usually provide cover for related claims for bodily injury and property damage.

3.5. **Nature of policies (liability only or liability and on-site remediation)**

Stand-alone environmental insurance policies offered for risks in Hungary provide cover for remediating on-site as well as off-site pollution.

3.6. **Description of policies**

3.6.1. **Format**

Stand-alone environmental insurance policies generally have a menu format so that an insured may select the insuring agreement(s) it requires.

3.6.2. **Claims made or occurrence based**

Stand-alone environmental liability policies are underwritten on a claims made basis. That is, a claim must be made against the insured during the policy period and reported to insurers during the policy period or, if available, the extended reporting period.

Environmental extensions to general liability policies are underwritten on an occurrence basis.

3.6.3. **Policies for operators**

Stand-alone environmental insurance policies that provide cover for pollution incidents under the ELD and other liabilities for operators with sites and/or operations in Hungary may provide cover for the following:

- environmental damage to third parties caused by the incident, including transportation of pollution outside the insured’s site;
- costs of remediation measures under the ELD (including primary, complementary and compensation remediation) and other environmental legislation to remediate environmental damage resulting from a sudden and accidental incident at an insured’s site and pollution that migrates from the site; and
- claims for bodily injury or property damage resulting from a pollution incident, including transportation.
3.6.4. **Policies for contractors and others**
Stand-alone environmental insurance policies that provide cover to contractors similar to that provided for operators are available in Hungary.

3.7. **Model terms and conditions**
There are no model terms and conditions for insurance policies for ELD or other environmental liabilities in Hungary.

3.7.1. **Organisation issuing model terms and conditions**
Not applicable

3.7.2. **Description of model terms and conditions**
Not applicable

3.7.3. **Relationship between policies with model terms and conditions and environmental insurance policies**
Not applicable

3.8. **Date of general availability of environmental insurance policies**
Stand-alone environmental insurance policies for businesses with sites and/or operations in Hungary began to be generally available in the 1990s.

3.9. **Environmental assessments and audits**
Insurers that offer stand-alone environmental liability policies to operators in Hungary tend not to require prior environmental assessments and audits for their operations. However, as with other Member States, applicants must provide detailed information about their operations and activities because material omissions can invalidate cover.

3.10. **Average premium**
There is too much variation in the size of the companies and their operations for an average premium to be meaningful.

3.11. **Average policy limit**
There is too much variation in the size of the companies and their operations for an average policy limit to be meaningful.

3.12. **Average deductible or self-insured retention**
The average deductible or self-insured retention varies depending on the size of the company and other factors. One ELD stakeholder in the insurance industry stated that the minimum deductible is 10,000,000 forints (approximately EUR 30,000) for a small company.

3.13. **Average policy period**
The usual term for stand-alone environmental insurance policies is one year.

3.14. **Sizes of typical insured businesses**
Both large companies and small and medium sized enterprises have access to insurance in Hungary.
3.15. **Industrial and commercial sectors that typically purchase policies**

The sectors that typically purchase insurance include those engaged in extractive industries and energy, as well as the industries for which mandatory financial security is required under waste legislation (see section 13.3 below).

3.16. **Industrial and commercial sectors with limited or no accessibility to policies**

Stand-alone environmental insurance policies may generally be obtained by all types of operators with the caveat that some insurers do not offer the policies to specific sectors.

3.17. **Number and amount of claims**

There are fewer than 100 claims against stand-alone environmental insurance policies and environmental extensions to general liability policies per year, usually not for very high amounts.

3.18. **Coverage litigation**

No information was available on any coverage litigation involving environmental insurance.

3.19. **Cover for ELD liabilities in general liability policies**

Environmental extensions to general liability policies provide cover for remediating off-site pollution from a sudden and accidental incident on an insured’s site. They do not provide cover for ELD liabilities.

3.20. **Cover for ELD liabilities in property policies**

Environmental extensions to property policies that provide cover for ELD liabilities are not available.

4. **OTHER VOLUNTARY FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS**

4.1. **Type(s)**

Voluntary financial security instruments such as bank guarantees, bonds, etc. are not generally available for liabilities under the ELD or other environmental legislation. There is no demand for them because they are geared towards mandatory financial security requirements for known responsibilities such as closure and post-closure of a landfill, not voluntary financial security for accidental ELD.

4.2. **Availability**

Not applicable

5. **MANDATORY FINANCIAL SECURITY FOR ELD LIABILITIES (ARTICLE 14(1))**

5.1. **Competent authority(ies)**

Not applicable
5.2. Legislative provisions

5.2.1. Name(s) of legislation

The legal basis in Hungarian law for financial security instruments under article 14 of the ELD, including measures to promote and implement insurance, is article 101 of Act LIII of 1995 on the general rules of environmental protection.

Paragraph 5 of article 101 provides as follows:

In respect of their activities specified in a specific other Government Decree, users of the environment\(^9\) shall provide an environmental protection security and, in order to ensure the financing of the remediation of any unforeseen damage to the environment caused by their activities, they may – under the conditions specified in specific other legislation – be obliged to sign an environmental protection insurance contract. In accordance with the provisions included in a specific other Government Decree, users of the environment may establish a special environmental protection reserve for any environmental protection liabilities that could or will arise.\(^10\)

Paragraph 6 provides as follows:

The Government shall define the activities referred to in paragraph (5), and shall decree the form and measure of the security and the conditions for its appropriation, the rules for accounting and keeping records of such security, as well as the regulations for environmental liability insurance coverage.

The Hungarian Government had not introduced a mandatory financial security system for liabilities under the ELD when this report was published.

5.2.2. Stand-alone requirement or hybrid

Not applicable

5.2.3. Consideration of mandatory financial security legislation (if not enacted)

Not applicable

5.2.4. Reasons for decision not to enact mandatory financial security legislation

See section 10 below.

5.2.5. Revisions to legislation

Not applicable

5.2.6. ELD liabilities covered by mandatory financial security

Not applicable


\(^10\) See Report by Hungary to the European Commission pursuant to then article 18(1) of the ELD, 8; https://ec.europa.eu/environment/legal/liability/pdf/eld_ms_reports/HU%20report.pdf
5.2.7. Description of mandatory financial security provisions
Not applicable

5.2.8. Exception for ISO 14001 certification or EMAS registration
Not applicable

5.2.9. Other exceptions
Not applicable

5.3. Environmental licence conditions
Hungary has not established any financial security requirements in the absence of specific legislation that require financial security in environmental licences.

5.3.1. Stand-alone requirement or hybrid
Not applicable

5.3.2. Revisions to licensing requirements
Not applicable

5.3.3. ELD liabilities covered by mandatory financial security
Not applicable

5.3.4. Exception for low risk sites
Not applicable

5.3.5. Description of mandatory financial security conditions
Not applicable

5.4. Date of introduction
Not applicable

5.5. Effective date
Not applicable

5.6. Key reasons for introduction
Not applicable

5.7. Withdrawal of mandatory financial security
Hungary has not withdrawn any requirements for mandatory financial security for ELD liabilities or liabilities or responsibilities under other environmental legislation.

5.8. Guidance
Not applicable

5.9. Operators subject to mandatory financial security
Not applicable
5.10. Amounts and limits of mandatory financial security
Not applicable

5.11. Growth of mandatory financial security
Not applicable

6. REGULATORY OVERSIGHT OF FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS

6.1. Review of financial security instruments or mechanisms
Not applicable

6.2. Financial security instruments and mechanisms accepted
Not applicable

6.2.1. Templates
Not applicable

6.2.2. Requirements for environmental insurance policies
Not applicable

6.2.3. Form of mandatory environmental insurance policy
Not applicable

6.3. Financial security instruments and mechanisms not acceptable
Not applicable

6.4. Time of review
Not applicable

6.5. Regulatory costs of review
Not applicable

6.6. Requirements for operator to review
Not applicable

7. ENFORCEMENT OF FINANCIAL SECURITY REQUIREMENTS
Not applicable

8. EX POST ENVIRONMENTAL DAMAGE MANDATORY FINANCIAL SECURITY (ARTICLE 8(2))

Article 102/B of Act LIII of 1995 sets out detailed provisions for ex post mandatory financial security as follows:

(1) Where damage to the environment has been established by final decision, the environmental authority shall adopt a resolution ordering remedial measures with a prohibition of transfer and encumbrance concerning those properties of the person
required to undertake the said remedial measures, which are deemed sufficient to cover the estimated costs of the remedial measures.

(2) Based on the resolution referred to in paragraph (1), the environmental authority shall contact the real estate supervisory authority to register the prohibition of transfer and encumbrance in the real estate register, and to remove it from the register when the person in question had in fact carried out the remedial measures required.

(3) If any part of the costs of preventive and/or remedial measures in connection with environmental damage had been financed from the central budget in the stead of the polluter of the environment, the environmental authority shall file a lien on the real estate properties owned by the polluter of the environment to the benefit of the Hungarian State up to the amount financed, and – with a view to provide security – shall order prohibition of transfer and encumbrance registered on the properties in question, with the exception of the properties on which prohibition of transfer and encumbrance had already been registered under paragraph (1). If the properties owned by the polluter in question fail to cover the sum financed from the central budget, the environmental authority shall file a lien on the movable assets of the polluter affected.

(4) The lien filed on behalf of the Hungarian State shall be cancelled by order of the Treasury if the polluter of the environment reimburses the amount financed by the central budget to the appropriate chapter set aside for environmental clean-up operations.

(5) The environmental authority shall demand polluters of the environment to repay the costs of measures within five years from the date of conclusion of these measures or from the identification of the polluter of the environment, whichever occurs first.

In essence, the requirements prohibit a responsible operator from disposing of any property on which it has caused environmental damage or agreeing to the placement of any mortgage or other encumbrance on it until the environmental damage has been remediated.

If public funds have been used to pay for remediation measures, the environmental authority shall file a lien on the property and prohibit its disposal or any encumbrance on it. If the properties owned by the responsible operator are insufficient to cover the amount spent by the government, the environmental authority shall file a lien on the responsible operator’s movable assets. There is a time limit of five years for the responsible operator to repay any public monies from the date of the end of the remediation or identification of the responsible operator, whichever occurs first.

8.1. Date legislation or policy for mandatory financial security introduced

Article 102/B of Act LIII of 1995 was introduced at the same time that the ELD was transposed into Hungarian law, namely 30 April 2007.

8.2. Effective date for ex post mandatory financial security

The effective date for ex post mandatory financial security is 30 April 2007, the date on which it was introduced.

8.3. Financial security instruments and mechanisms accepted

Rather than the responsible operator submitting a financial security instrument or mechanism, the competent authority imposes a mechanism on the operator in the form of a prohibition against disposing of, or encumbering, the damaged property and, if the government has paid for remediation measures, a lien against the property and if insufficient, a lien on movables.
8.4. Financial security instruments and mechanisms not acceptable

See section 8.3 above.

9. PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS

9.1. Insurers
Not applicable

9.2. Banks and other financial institutions
Not applicable

9.3. Sureties
Not applicable

9.4. Providers outside Member State
Not applicable

10. MEASURES TAKEN BY MEMBER STATE TO DEVELOP FINANCIAL SECURITY MARKETS

In 2013, the Hungarian Government reported to the European Commission under then article 18(1) of the ELD that it had held negotiations and was preparing legislation to comply with paragraph 5 of article 101 of Act LIII of 1995 on the general rules of environmental protection. The aim was to encourage ‘users of the environment’ to have financial security for their activities in order to ensure that they could remediate accidental environmental damage caused by them.

The negotiations also included whether users of the environment should be obliged to have environmental insurance to provide cover for remediation measures.11 In this respect, the Hungarian Government reported that a ‘source of major difficulty is that, for risk-taking and profit calculation reasons, the financial (banking and insurance) sector refrains from introducing such new types of solution’, and also that ‘[a]nother problem is that due to the EU rules on neutrality in market competition in force the possibilities for establishing financial (banking and insurance) methods and institutional instruments are very limited’.12

Also in its report to the European Commission, the Hungarian Government referred to measures that had been taken pursuant to the Waste Act, which entered into force on 1 January 2013. The measures relate to reserves that serve as security for waste treatment facilities and environmental insurance for the generation of waste; the transportation, storage and treatment of waste; and responsibilities under the Waste Shipment Regulation (EC) No 1013/2006 (see section 13.3 below).

No further measures by the Hungarian Government were reported.

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11 See Report by Hungary to the European Commission pursuant to then article 18(1) of the ELD, 8; https://ec.europa.eu/environment/legal/liability/pdf/eld_ms_reports/HU%20report.pdf

12 Ibid
11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS

11.1. Landfill Directive

11.1.1. Competent authority(ies)

The competent authorities for the Landfill Directive (1999/31/EC), which is implemented in Hungary by the Waste Act, are as follows.

The National Waste Management Co-ordination and Asset Management Association (Nemzeti Hulladékgazdákdói Koordináló és Vagyonkezelő Zrt.; NHKV) while not an authority per se in reality grants waste management permits.

Within each regional government office (regionális kormányhivatal) at the county level, the Department of Environmental Protection and Nature Conservation (Regionális Kormányhivatal Környezetvédelmi és Természetvédelmi Fősztály) grants environmental permits and is referred to in the relevant laws as the ‘environmental authority’ (‘környezetvédelmi hatóság’). The environmental authority forwards permit applications together with its evaluation to the Hungarian Energy and Utility Regulatory Authority (Magyar Energetikai és Közmű-szabályozási Hivatal; MEKH) for final approval.

In addition, GD 439 of 2012 on the registration and licensing of waste management activities (Korm. Rendellet a hulladékgazdálkodási tevékenységek nyilvántartásba vételéről, valamint hatósági engedélyezéséről) sets out detailed financial security requirements for waste management facilities including landfills.

11.1.2. Financial security provisions

Section 70 of the Waste Act requires applicants for permits for a waste management facility to establish financial security in proportion to the waste to be disposed of or treated in the facility. The amount must take into account foreseeable risks and losses arising from the restoration, post-closure (aftercare) following the closure of the facility or the cessation of activity.

Section 2(26) of the Waste Act defines ‘waste management’ as the collection, transport and treatment of waste; the supervision of such activities; activities of a waste dealer, broker or intermediary; the operation of waste management facilities and equipment; and the aftercare of waste facilities.

The applicant must estimate the costs of such restoration, aftercare and waste treatment at the end of the financial year and submit the financial security for this amount to the environmental authority by 31 May of the following year. The estimate and accompanying documentation must show that the estimated amount set aside in the financial reserve is proportional to the costs of restoration, aftercare and waste treatment. In turn, the environmental authority submits the estimated amount together with its assessment to MEKH by 15 July of that year.

Section 72(1) of the Waste Act provides that an operator that is subject to establishing the financial reserve/provision (and/or is subject to taking out an environmental liability insurance policy; see section 13.3 below) must provide proof to the environmental authority of the financial security by 31 May of the year following the end of the financial year that the financial reserve is available and/or the environmental liability insurance policy has been taken out.

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13439/2012. (XII. 29.) Korm. Rendellet a hulladékgazdálkodási tevékenységek nyilvántartásba vételéről, valamint hatósági engedélyezéséről; http://njt.hu/cgi_bin/njt_doc.cgi?docid=158019.356940 (in Hungarian)
Section 72(2) of the Waste Act provides that detailed rules of environmental liability insurance and the financial reserve will be set out in a GD or ministerial decree. That decree had not been issued when this report was published.

GD 439/12 sets out further detailed provisions, including procedures, for financial security for the costs of closure, restoration and aftercare of landfills and other waste management facilities. The financial security requirements include environmental insurance for unforeseen environmental damage (see section 13.3 below).

11.1.3. Financial security instruments and mechanisms accepted

Acceptable financial security for restoration, closure and aftercare measures is a reserve to serve as security for them.

11.1.4. Templates

There are no templates for financial security instruments or mechanisms.

11.1.5. Financial security instruments and mechanisms not acceptable

There is no list of financial security instruments and mechanisms that are not acceptable.

11.2. Extractive Waste Directive

11.2.1. Competent authority(ies)

The competent authorities for the Extractive Waste Directive (2006/21/EC), which is implemented in Hungary by Decree 14/2008 (IV. 3) of the Ministry for Economic Affairs and Transport on the management of mining waste (14/2008. (IV. 3.) GKM rendelet a bányászati hulladékok kezeléséről), are the Mining Departments of the County Government Offices (Pest Megyei Kormányhivatal Bányafelügyeleti Főosztálya/ illetékes Kormányhivatal Hatósági Főosztály Bányaállományi Osztálya), and the Mining and Geological Survey of Hungary (Magyar Bányászati és Földtani Szolgálat).

11.2.2. Financial security provisions

Section 13 of Decree 14/2008 requires the operator of an extractive waste (also called mining waste) facility to submit a financial security instrument to the mining authority for its approval before it begins operations at the facility.

The mining authority (bányafelügyelet) approves the financial guarantee provided that it provides sufficient security to meet all obligations set out by the mining authority including aftercare requirements and restoration of the land affected by the waste facility.

The calculation of the financial guarantee must be substantiated with cost estimates based on the operator meeting the aftercare and restoration requirements by an independent contractor. The cost estimate must take various specified factors into account including the likely environmental and human health impacts of the waste facility especially in respect of the category of the facility, the characteristics of the waste, the planned use of the restored land, the future use of the facility, applicable nature conservation standards and objectives, and technological measures to meet applicable environmental, nature protection and landscape requirements and to limit environmental damage.

14 14/2008. (IV. 3.) GKM rendelet a bányászati hulladékok kezeléséről; https://net.jogtar.hu/jogszabaly?docid=a0800014.gkm (in Hungarian)
The amount of financial security is revised periodically in accordance with the restoration work to be carried out. The operator must obtain the mining authority’s approval for any revision of the amount of the financial security.

Following closure of the facility, the mining authority provides the operator with a written statement to release the operator from the obligations in the guarantee with the exception of aftercare obligations.

11.2.3. Financial security instruments and mechanisms accepted

Acceptable financial security instruments are bank guarantees, insurance guarantees, liens and/or collateral agreements.

11.2.4. Templates

There are no templates for acceptable financial security instruments.

11.2.5. Financial security instruments not acceptable

There is no list of financial security instruments that are not acceptable.

11.3. Carbon Capture and Storage Directive

11.3.1. Status of implementation

There were no storage sites for carbon dioxide in Hungary when this report was published. The state-owned energy company MOL has developed the Matra carbon capture and storage project as a possible demonstration project for carbon capture and storage, but it had not been implemented when this report was published.

11.3.2. Competent authority(ies)

The competent authority for the Directive on the geological storage of carbon dioxide (2009/31/EC), which is implemented in Hungary by Act XLVIII of 1993 on Mining (1993. évi XLVIII. Törvény a bányászatról; Mining Act),15 and GD 145/2012 on geological storage of carbon dioxide (145/2012 (VII. 3.) Korm. Rendelet a szén-dioxid geológiai tárolásáról),16 is the mining authority.

11.3.3. Financial security provisions

Article 42/C(3) of the Mining Act provides that collateral damage to the environment caused by geological exploration related to the geological storage of carbon dioxide shall be offset against a ‘research security deposit’ of HUF 200,000,000 (approximately EUR 600,000) per unit. Article 42/F(1) imposes the same financial security requirement in the event of permitted storage operations, extending to closure and post-closure.

GD 145/2012 specifies distinct financial security provisions for exploration permits and storage permits.

Section 3 states that an applicant for a storage facility for carbon dioxide must, among other things, provide a description of the exploration guarantee to cover expected environmental damage related to the exploration and obligations arising in the context of environmental and

15 1993. évi XLVIII. Törvény a bányászatról; http://njt.hu/cgi_bin/njt_doc.cgi?docid=19243.370097 (in Hungarian)

16 145/2012 (VII. 3.) Korm. Rendelet a szén-dioxid geológiai tárolásáról; (in Hungarian)
nature conservation, landscaping and mining damage. The applicant must submit the certificate of availability of the exploration guarantee to the mining authority within the time limit specified by the inspectorate.

Acceptable research collateral for an exploration guarantee includes a bank guarantee from a credit institution established in a Member State of the European Economic Area (EEA) and a bank guarantee from a credit institution that is not from the EEA but only if the guarantee is reinsured by a credit institution that is registered in a Member State of the EEA.

Section 9 provides that the applicant for a permit for a storage facility of carbon dioxide must provide a costing for the amount of financial security and its proposed form.

Section 12 provides that the permit for the storage facility must include, among other things, a provision concerning the amount, form and type of financial security.

11.3.4. Financial security instruments and mechanisms accepted
See section 11.3.3 above.

11.3.5. Templates
There are no templates for acceptable financial security instruments.

11.3.6. Financial security instruments and mechanisms not acceptable
There is no list of financial security instruments that are not acceptable.

12. EU RECOMMENDATION ON HYDRAULIC FRACTURING

12.1. Status
Hydraulic fracturing (fracking) is permitted in Hungary, but no permits were being issued when this report was published due to a new regulation being prepared.\(^17\)

12.2. Competent authority(ies)
The competent authority for (conventional and unconventional) oil and gas exploration and production, which is controlled in Hungary by the Mining Act, and GD 203/1998 on its implementation (203/1998. (XII. 19.) Korm. Rendelet a bányászatról szóló 1993. évi XLVIII. törvény végrehajtásáról),\(^18\) is the Mining and Geological Survey of Hungary.

12.3. Financial security provisions
Article 22/A(8) of the Mining Act requires a business that carries out hydrocarbon exploration to provide financial security of HUF 200,000,000 (approximately EUR 600,000) per research

\(^17\) See N.H. Schovsbo, H. Doornenbal, S. Nelskamp, C.B. Pedersen, L. Tougaard, M. Zijp and K.L. Anthonsen, ‘Review of results and recommendations’ (Delivery T8 of the EUOGA study (EU Unconventional Oil and Gas Assessment) commissioned by JRC-IET, March 2017), 50;

http://njt.hu/cgi_bin/njt_doc.cgi?docid=35923.367153 (in Hungarian)
unit, up to a maximum of HUF 1 billion per business. Article 22/A(8) further states that ‘The amount of the financial guarantee may be divided in the budget to cover tasks relating to the implementation of the research work programme, as well as foreseeable mining damage, landscaping and environmental protection obligations’.

Article 6/B of GD 203/1998 governs the contents of permit applications and includes a requirement that the specific requirements related to financial security under Article 22/A of the Mining Act should be included in the application.

12.4. **Financial security instruments and mechanisms accepted**

Article 22/A(8) and (9) of the Mining Act distinguishes between financial guarantee and financial security. The financial guarantee may take the form of a guarantee agreement with a credit institution established in a Member State of the European Economic Area. A guarantee agreement with a credit institution not domiciled in a Member State of the European Economic Area may be accepted only if it is over-guaranteed by a credit institution established in a Member State of the European Economic Area. For financial security, an irrevocable guarantee agreement or a contract of mining supervisory approval is acceptable. Under article 25/A of GD 203/1998, an original guarantee contract or guarantee statement may be accepted as financial security.

12.5. **Templates**

There are no templates for financial security instruments or mechanisms under the legislation concerning fracking.

12.6. **Financial security instruments and mechanisms not acceptable**

Article 25/A of GD 203/1998 states that the guarantee contract or guarantee statement is not acceptable if the guarantor or the credit institution over-guaranteeing the foreign guarantor is subject to the provisions of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (2013. évi CCXXXVII. törvény a hitelintézetekről és a pénzügyi vállalkozásokról), and exceptional measures pursuant to article 189 of the Act.

13. **EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS**

13.1. **Industrial Emissions Directive**

13.1.1. **Competent authority(ies)**

The competent authorities for the Industrial Emissions Directive (2010/7/EU), which is implemented in Hungary by GD 314/2005 on environmental impact assessment and the integrated environmental permitting procedure (314/2005. (XII. 25.) Korm. rendelet a környezeti hatásvizsgálati és az egységes környezethasználati engedélyezési eljárásról), are environmental authorities.

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19 2013. évi CCXXXVII. törvény a hitelintézetekről és a pénzügyi vállalkozásokról; http://njt.hu/cgi_bin/njt_doc.cgi?docid=165854.377317 (in Hungarian)

20 Korm. rendelet a környezeti hatásvizsgálati és az egységes környezethasználati engedélyezési eljárásról; http://njt.hu/cgi_bin/njt_doc.cgi?docid=96394.362962 (in Hungarian)
13.1.2. Financial security provisions

There are no specific financial security provisions in the legislation that implements the Industrial Emissions Directive in Hungary.

13.1.3. Financial security instruments and mechanisms accepted

Not applicable

13.1.4. Templates

Not applicable

13.1.5. Financial security instruments and mechanisms not acceptable

Not applicable

13.2. Seveso III Directive

13.2.1. Competent authority(ies)

The competent authorities for the Seveso III Directive (2012/18/EU), which is implemented in Hungary by Act CXXVIII/2011 on disaster management (2011. évi CXXVIII. Törvény a katasztrófavédelemről és a hozzá kapcsolódó egyes törvények módosításáról)\textsuperscript{21} and GD 219/2011 on protection against major accidents involving dangerous substances (219/2011. (X. 20.) Korm. rendelet a veszélyes anyagokkal kapcsolatos súlyos balesetek elleni védekezésről),\textsuperscript{22} are the regional disaster management directorates (county offices of the Országos Katastrófavédelmi Főigazgatóság).

13.2.2. Financial security provisions

The legislation that implements the Seveso III Directive in Hungary does not contain any financial security provisions.

13.2.3. Financial security instruments and mechanisms accepted

Not applicable

13.2.4. Templates

Not applicable

13.2.5. Financial security instruments and mechanisms not acceptable

Not applicable

13.3. Other legislation

There are legislative provisions that require financial security for environmental liabilities in the Nature Conservation Act and the Waste Act.

\textsuperscript{21} 2011. évi CXXVIII. Törvény a katasztrófavédelemről és a hozzá kapcsolódó egyes törvények módosításáról; http://njt.hu/cgi_bin/njt_doc.cgi?docid=139408.367079 (in Hungarian)

\textsuperscript{22} 219/2011. (X. 20.) Korm. rendelet a veszélyes anyagokkal kapcsolatos súlyos balesetek elleni védekezésről; http://njt.hu/cgi_bin/njt_doc.cgi?docid=139993.370797 (in Hungarian)
Nature Conservation Act

Section 73 of the Nature Conservation Act provides as follows:

Anyone who engages in activities that pose a threat to the state of the natural value or a protected natural area, or uses hazardous material in a site of European Community importance, is obliged to provide a security specified in a separate government decree, and in order to ensure the financing of unforeseen natural damage caused by its activities, it may be obliged to provide environmental insurance, subject to the conditions specified in separate legislation.

The requirement for financial security in section 73 was added by an amendment in 2005, set out in Act CXXXI of 2005, Section 50(2).

In 2008, section 73 was revised further by Act XCI of 2008, Section 27(2) to state that rules on, among other things, the form and extent of the financial security, conditions for its use, and insurance-related requirements shall be determined by government decree. No such GD had been issued when this report was published.

Waste Act

Section 88(19) of the Waste Act authorised the Hungarian Government to make a GD covering, among other things, ‘the detailed rules on environmental insurance and the detailed rules for the provision of security by manufacturers’. The GD had not been issued when this report was published.

When this report was published, the only detailed rules on financial security for environmental liability had been issued pursuant to sections 71 to 73 of the Waste Act.

Section 71 of the Waste Act provides that three categories of businesses must take out an environmental liability insurance policy to provide cover for remediating accidental environmental damage. The businesses are as follows:

a) those whose activities produce specified amounts of waste as defined in regulations;
b) those that carry out activities subject to a waste management permit or registration pursuant to the Act; and
c) those that import, export or transport waste to Hungary under Regulation (EC) No 1013/2006 on shipments of waste.

Section 72 of the Waste Act states that the details of financial security for environmental liability shall be set out in a GD. The only GD that covers financial security under sections 70 and 71 that had been issued when this report was published concerned the second category, that is, businesses that carry out activities subject to a waste management permit or registration pursuant to the Waste Act.

This requirement is in addition to the requirement for a financial reserve under the legislation implementing the Landfill Directive. It is also additional to the requirement in article 6 of Regulation (EC) No 1013/2006 on shipments of waste which requires a person that ships waste to have ‘a financial guarantee or equivalent insurance’ to cover the costs of transport, recovery or disposal including any necessary interim operations, and the costs of storing the waste for 90 days if a shipment or the recovery or disposal of the waste cannot be completed as intended or is illegal.

Section 3 of GD 439 states that the applicant for an authorisation or registration must submit to the environmental authority, among other things, a certificate of the existence of a financial instrument or guarantee. The authority reviews the certificate and supplemental
Improving financial security in the context of the Environmental Liability Directive
documentation and provides an evaluation of it to MEKH pursuant to sections 70(3) and 70(4) of the Waste Act (see section 11.1.2 above).

In contrast to specific requirements for calculating the financial reserves for waste management activities (see section 11.1.2 above), there are no general guidelines for calculating the financial reserves for waste management activities and closure under section 70 of the Waste Act, there are no specific requirements about the required amount of environmental insurance under GD 439/12. The environmental authorities check that environmental insurance is in place for the duration of the permit. The permit does not, however, require its maintenance as a condition of operation. Whilst the environmental authority is required to evaluate the submitted financial documents, including evidence of insurance, and forward its evaluation to the MEKH, it appears that neither authority evaluates the sufficiency of the amounts and limits of insurance but merely determines that insurance is in place for the duration of the permit.

The requirements for mandatory financial security under sections 71 to 73 of the Waste Act and GD 439 became effective on 1 January 2013.

14. **Mandatory financial security for offshore oil and gas operations**

14.1. **Competent authority(ies)**

Hungary is a landlocked country.

14.2. **Status of offshore oil and gas operations**

Not applicable

14.3. **Requirements for financial security**

Not applicable

14.4. **Requirement for financial security for ELD liabilities**

Not applicable

15. **Failure of financial security**

15.1. **Inadequate level of financial security instrument or mechanism to pay claims**

Hungary has had cases of environmental damage in which the environmental insurance policy or other financial security instrument was inadequate – most notably the Kolontár ‘Red Mud’ disaster in 2010 involving the company MAL which operated an aluminium mine.

On 4 October 2010 a dike retaining a sludge reservoir at an alumina processing facility near Ajka broke, releasing between 600,000 and 700,000 cubic meters of liquid mining waste (red mud). A wave 2.5 meters high of the highly alkaline red mud flooded Torna Creek and inundated the villages of Kolontár and Devecser before reaching Somlóvásárhely and flowing eventually into the Danube. Ten people were killed, and hundreds injured. Of more than 1000
Improving financial security in the context of the Environmental Liability Directive

hectares affected by the disaster, 47 fell within the Natura 2000 network and 44 were designated as nature protection areas.\textsuperscript{23} See section 7.6.1 for an account of the disaster.

15.2. Insolvency of operator leading to failure of financial security instrument or mechanism

See section 7.6.1 for an account of the industrial disaster at Kolontár.

15.3. Other

There are no public reports of other failures of voluntary or mandatory financial security.

16. FUNDS

The 1995 Law LIII on Environment provides for the possibility that the State could seize control and manage specific contaminated sites to remediate environmental harm. These sites generally are historical sites that are abandoned or for which no responsible party can be identified.

16.1. Name(s)

A National Environmental Remediation Programme (\textit{Országos Környezeti Kármentesítési Program} (OKKP)) was established by Governmental Decision No 2205/1996. (VII. 24.)\textsuperscript{24} ‘on the remediation of those abandoned sites that belong to Governmental responsibility under the law to manage and remediate these sites’ with a focus on groundwater. It was later the subject of GD 107/2014 declaring administrative matters relating to investments in the framework of the National Environmental Remediation Programme to be high priority (107/2014. (III. 31.) Korm. rendelet az Országos Környezeti Kármentesítési Program keretében megvalósuló beruházásokkal összefüggő közigazgatási hatósági ügyek kiemelt jelentőségű ügyé nyilvánításáról).\textsuperscript{25}

The purpose of the Fund is to manage and remediate ‘an unwanted heritage’, that is, contaminated sites that are abandoned or for which no responsible party can be identified, with a focus on groundwater.\textsuperscript{26}

The purpose of the fund is not to manage and remediate sites that are operational and, thus, subject to the ELD.

GD 252/2010. (X.21.) \textit{Korm. rendelet a Magyar Kármentő Alapról}\textsuperscript{27} established a relief fund for the Kolontár disaster. The purpose of the fund, which still exists, is to provide housing for


\textsuperscript{24} The Government Decision (not Decree) is not contained in legislative databases. See Magyarország Kormánya; \url{https://www.kormany.hu/hu/foldmuvelesugyi-miniszterium/koranyezetuagyt-agarfejlesztesert-es-hungarikumokert-felelos-allamtitkarsag/hirek/ket-evtized-2-ka2-4-karmentesites-jegyebe} (in Hungarian)

\textsuperscript{25} 107/2014. (III. 31.) Korm. Rendelet az Országos Környezeti Kármentesítési Program keretében megvalósuló beruházásokkal összefüggő közigazgatási hatósági ügyek kiemelt jelentőségű ügyé nyilvánításáról; \url{http://njt.hu/cgi_bin/njt_doc.cgi?docid=168438.350018} (in Hungarian)


\textsuperscript{27} GD 252/2010. (X.21.) Korm. rendelet a Magyar Kármentő Alapról; \url{http://njt.hu/cgi_bin/njt_doc.cgi?docid=133570.230069} (in Hungarian)
Improving financial security in the context of the Environmental Liability Directive

victims of the disaster and funds to restore the area damaged by it. The fund is used to channel private donations as well as government funding.

16.2. **Extension of existing fund to cover remedial costs under the ELD**
Not applicable

16.3. **Purpose**
Not applicable

16.4. **Type**
Not applicable

16.5. **Source(s) of funding**
Not applicable

16.6. **Number and amount of claims**
Not applicable
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