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Presentation of the General Industrial Safety Authority Tasks and Powers

Abstract

Over the past decade, general and specific domestic and international legislation establishing of and related to disaster protection has been adopted. The purpose of the regulations is to ensure protection of human life and health and of the environment of facilities. In this article the general industrial safety authority as one of the pillars of the authority's tasks is presented, as well as the relevant legal provisions with regard to the scope constraints.

Keywords: government, disaster management, industrial safety, official activity, prevention

Introduction

Over the past decades, general and specific domestic and international legislation establishing of and related to disaster protection has been adopted. The aim of the legislation is to guarantee the safety of our daily lives, including our privacy, our workplace and its environment, our transport, our vital assets, equipment, facilities and the tangible assets that meet our needs. In order to achieve these tasks and goals, the legislator established the system of professional disaster management organizations in January 2012, including several special fields. The purpose of the regulations is to ensure protection of human life and health and of the environment of facilities. In this article the general industrial safety authority as one of the pillars of the official tasks is presented, as well as the relevant legal provisions with regard to the area limits.

Industrial Safety as a Field of Expertise

The organizational system of public administration has undergone significant development over the past centuries, but the essential elements of its concept have not changed to this day. Public administration can be defined as a special area of executive power of the state. In order to define the concept of public administration, we can define it primarily from the conceptual elements of public administration. The aim of our public administration is to enforce both the 'public' and the 'national' interests, which can be realized through coordinated activities of persons in the possession of public authorities. Zoltán Magyary, the most influential individual of Hungarian public administration, also recognized abroad, defined this activity as follows: *'the administration of the state' i.e., 'the organization of the state, for the effective solution of public tasks in the framework of the legal order in the manner prescribed by their nature.'* (Balázs, 2018).

Within the system of public administration, the organization and concept of public administration understood only to mean public administration bodies which, with regard to the provisions of Article 15 of the Fundamental Law – Pursuant to Article 15 (2) of the Fundamental Law, the Government is the supreme body of public administration, and may establish state administration bodies as defined by law – (Trócsányi, Schanda & Csink, 2014), have been established by the Government and are under its subordinate control or - typically in administrative and official tasks, however - they carry out their professional activities independently of the Government and thus its powers of management are ensuring the constitutional principles. Considering the importance of disaster management *'in 2011, the legal framework for disaster management was reformed.'* (Kátai-Urbán & Vass, 2014).

Regarding the importance of disaster management as a task, the legislator also stated that it is a *'national affair'* which means nothing more than protection of all segments of society including, inter alia, Act CXXVIII of 2011 on Disaster Protection and Amendments to Certain Related Law (hereinafter: as per to the Section 2 § (1) of the Disaster Management Act): citizens, civil defence organizations, the Hungarian Armed Forces, law enforcement agencies, the National Tax and Customs Administration, the National Meteorological Service, the National Ambulance Service, the water administration offices, the national health administration body, voluntary non-governmental organizations and public bodies set up for this purpose, as well as in the case of non-natural disaster, its cause is realized with the involvement or participation of state bodies and local governments. These individuals will be involved in disaster management. Tasks/rights or obligations/liabilities for the above can only be defined by the legislator

in an independent law based on the highest level of legal source i.e., the Fundamental Law. It can also be deduced from the above that the implementation of disaster management tasks is supported by four basic pillars, namely state and municipal bodies, non-governmental organizations, and citizens (Katai-Urbán, Címer, Szakál & Vass, 2019).

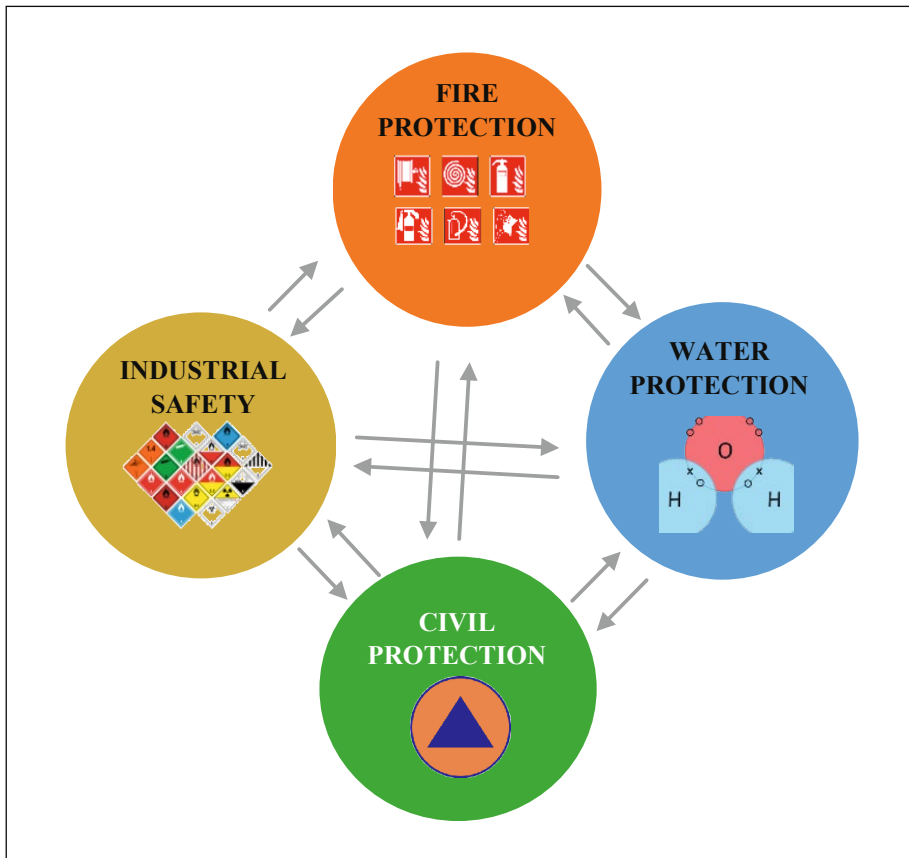
The task system of the Disaster Management Act has been developed in the light of the newer legal environment mentioned earlier. Strong authority powers and sanctions have been set on this scale to achieve prevention goals. The central body of the professional disaster management body with national competence, as well as the county and capital bodies, and the local bodies of the disaster management offices and their related professional fire department are involved in the implementation of disaster management and in related complex official tasks (Teknős, 2018). *'The structure of the national management system, the task of ministers and state bodies involved in disaster protection related to prevention, preparedness and defence, as well as the task of the governmental coordination body for disaster protection are regulated by the Disaster Management Act and in the Government Implementation Decree 234/2011 (XI. 10).'*' (Bognár et al., 2013).

The Disaster Management Act defines the concept of disaster, disaster management, while its implementing regulation describes the dangerous effects, including the types of industrial accidents. As a result of previous changes, the complex disaster management system in today's sense is characterized by the performance of a triple task system, these are prevention, protection and recovery, which also appear as goals (Lakatos & Teknős, 2019; Teknős, 2020). Along these goals, we have to describe the field of expertise, the merging of which enabled the development of a complex system of security, as the pillars of disaster management: fire protection, civil protection and industrial safety and in my opinion, water protection is a fourth area.

It can be seen from the concepts and the triple task system that industrial safety performs significant tasks in order to create full safety. The complex relationship between the different fields is shown in Figure 1, which shows that each field has an impact on the other and neither of their independent operations can be imagined effectively. The complexity of tasks and the triple period system differentiate the system of tasks to be performed by them. Based on the detailed interpretation of Figure 1 we can also consider the system as a Rubik's cube of security, since let's just think through that the four vertices of a three-dimensional cube have specialities and the complex relationship between them is shown by the 3x3 sides of the cube. By laying out the sides of the Rubik's Cube, we achieve the full state of security, and to achieve this, the appropriate steps are

required, that is, in our case, the mutual communication between the four vertices as a speciality. The number of steps can be reduced, as communication between disciplines is essential for efficient work, therefore no sharp line can be drawn between tasks in the field, as one decision can influence the decision or safety of another one, so a complex way of thinking and approach is essential for disaster management. The goal is to strive for the most efficient contact and communication possible when building a bridge between disciplines in order to achieve a state of complete security.

Figure 1: *The relationship between the disciplines that make up the organizational system of disaster management*



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'Authorities and enterprises of the former COMECON countries are now pursuing the same objectives. Especially for Central and East European countries,

which are making steps towards a unified Europe, it is imperative to move towards standards for accident prevention and mitigation compared to those adopted in other European Union countries. These countries have altogether a significant economic potential in the production and handling of chemicals.' (Kaiser & Schindler, 1999).

Industrial safety does not yet have a significant history in the system of tasks and specializations of disaster management, as the unified system of authorities was established on 1 January 2012. But what does industrial safety mean? In the case of the term industrial safety, which was formed from the composition of the two words, the meaning of industry, according to the Hungarian Explanatory Dictionary, is usually *'the activity by which a person makes the extracted or cultivated raw materials suitable for his needs or for the purposes of the future production'* (Bárcki & Ország, 1962). In the case of industrial installations, there are several ones in which hazardous substances are present during operation. In relation to hazardous substances, these facilities and economic operators can be manufacturers, storemen, suppliers and users alike. The meaning of the word security, according to the Hungarian Explanatory Dictionary is *'an order of things and living conditions, a state in which there is no or little possibility of an unpleasant surprise, disturbance, danger, in which there is no need to be afraid of such.'*

From the interpretation of the two words as *interpretatio grammatica*, we can get the essence of industrial safety as a legal institution, as *'from the point of view of industrial safety, the types of civilization disaster, major accidents and other incidents endangering human life and health, the environment and material good, as well as vital systems and their components, which are dangerous to the protection and transport of dangerous goods, or 'critical systems' and facilities' regulation.'* (Kátai-Urbán, 2015).

The field of industrial safety includes the transport of dangerous plants and dangerous goods, as well as the protection of critical infrastructures, the latter also includes the official system of water management and water quality tasks.

The System of Industrial Security, Duties and Responsibilities

The entire organizational system of disaster management, including the tasks and powers, competences and operating rules of the field of industrial safety, as well as the order of management and governance are determined by legislation and public regulatory instruments (Barta, 2014). There are nearly 200 pieces of laws which, in some depth, contain regulations in the field of industrial safety.

The difficulty of the work of professionals working in the field of industrial safety is shown by the fact that, in addition to this large body of legislation, they must have up-to-date knowledge of these regulations in order to fulfil the demand for safety and to represent the interests of customers.

Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, i.e. the rules of the SEVESO II Directive and then on the management of major-accident hazards involving dangerous substances, and amending Council Directive 96/82/EC at the legislative level, the Disaster Management Act and related regulations have a key role in the implementation of Directive 2012/18/EU (SEVESO III) of the European Parliament and of the Council and the subsequent repeal of Council Directive 96/82/EC. Article 20 (1) of the SEVESO III Directive requires Member States to ensure that a system of official controls is established.

Accordingly, disaster management, as an organization working to prevent disasters, performs significant official tasks in accordance with the provisions of the Disaster Management Act and its implementing regulation, such as their establishment, operational licensing, control and, where appropriate, sanctioning tasks.

Preventive authority activities include the verification of the identification of hazardous activities, the assessment of safety documentation, and the operation of official registration and information systems. *'The transport of dangerous goods is also a serious source of danger, and thus the industrial safety authority is entitled to control the transport and to sanction deviations from the regulation.'* (Kátai-Urbán & Vass, 2014).

Dangerous goods may be transported by road according to ADR, by water according to AND, by rail according to RID and by air according to IATA DGR. The protection of human life and health, as well as the prevention of environmental damage, are also our basic tasks in hazardous plants, therefore the level of sanctions and their applicability are directly proportional to the degree of danger. A person carrying out official work in the field of industrial safety may take the official measures contained in Section 35 § (1)-(3) of the Disaster Management Act Hungarian Act CXXVIII of 2011, such as prohibiting the pursuit of hazardous activities, imposing fines and reducing the amount of stored, used hazardous substances.

With regard to the performance of official tasks in the case of hazardous plants in the field of industrial safety, the legislator defines the individual powers of action for the *'industrial safety authority'* in Chapter IV of the Disaster Management Act, entitled Prevention of Major Accidents with Dangerous Substances. In accordance with the provisions of Chapter IV, a system of official tasks related to the licensing of hazardous plants has been defined for those performing

official activities. In accordance with the rules of procedure, those performing industrial tasks shall carry out regular official inspections of the establishment concerned. Following inspections, they may impose appropriate sanctions on the operators of the installation in order to remedy any deficiencies which may arise, so that the safety of the installation can be guaranteed as soon as possible. With regard to sanctions, industry safety officials can even ban the activity. The measures of the authority include several ones, in the case of which the costs incurred (guarding, transport, destruction, etc.) are to be borne by the operator.

In the organizational system of the National Directorate General for Disaster Management of the Ministry of Interior, the official tasks are performed by the Deputy Director for Authoritative Affairs, under whose direct control are the head of the prevention and licensing service and the national chief inspector of industrial safety. Our national disaster management body is the National Directorate General for Disaster Management of the Ministry of Interior Deputy Director General for Authoritative Affairs, General Inspectorate for Industrial Safety – which consists of the Department for Dangerous Plants, the Department for Dangerous Transports and the Department for Critical Infrastructure Coordination.

The Government Decree on the Implementation of Disaster Management regulates that the professional disaster management body has territorial bodies, which designate the disaster management directorates for each county and for the capital, which means a total of 20 directorates. The territorial bodies are the chief industrial safety supervisors in each directorate, which, among other things, perform and ensure the management and implementation of industrial tasks at the county level. Within the industrial safety tasks and inspections, additional tasks are assigned to the employees of the mobile disaster management laboratory and the department of disaster protection for authoritative affairs. At the regional level, the National Directorate General for Disaster Management of the Ministry of Interior's Deputy Director General for Authoritative Affairs has set up seven Disaster Management Radiation Detection Units at seven border disaster management directorates. Below the regional levels are the branch offices, the area of operation of which is determined by Decree 43/2011 (XI. 30.) of the Ministry of Interior on the area of competence of the disaster management branch offices. There are industrial safety inspectors in the disaster management offices in the country, one person per branch office, who perform and coordinate the tasks in the field of industrial safety, and perform the necessary measures, gives information and reports for the chief industrial safety inspectors. Employees of the official department are actively involved in the further performance of industrial safety tasks. At these levels, we can differentiate in terms of two types of cases of competence and jurisdiction.

The most important legal sources for our organizational system is the Disaster Protection Act XXXI. of 1996 on Fire Protection, Technical Rescue and Fire Brigade, which regulates fire protection tasks, including fire prevention tasks, official activities and fire inspection.

In the interest of a unified system of fire protection, it can be seen that the goals and tasks to be implemented are determined by the legislation and other administrative organizational instruments (for instance instructions and measures by the National Directorate General for Disaster Management of the Ministry of Interior’s Deputy Director General for Authoritative Affairs), such as the directors of the Ministry of Interior and the National Directorate General for Disaster Management of the Ministry of Interior’s Deputy Director General for Authoritative Affairs.

We can define legal, technical and organizational tasks for the three areas of expertise. In such cases, *‘there are more technical and legal regulations in the field of industrial safety, all three tasks have almost equal weight in fire protection, while technical and organizational tasks predominate in the system of civil protection tasks.’* (Rácz, 2020).

The basic legislation in the field of industrial safety, without reflecting their relationship to each other and the hierarchy of sources of law, is presented in the table below, included but not limited to:

Table 1: *The basic legislation in the field of industrial safety*

INDUSTRIAL SAFETY			
The Fundamental Law of Hungary			
Act CXXVIII of 2011 on Disaster Protection and Amendments to Certain Related Acts			
Act CL of 2016 on General Administrative Procedure			
Act CLXXIX of 2017 on Transitional Rules for Sanctions of Administrative Infringements and on the Amendment and Repeal of Certain Acts in the Context of the Reform of Administrative Procedure Law			
Act I of 2017 on the Code of Administrative Procedure			
Government Decree 234/2011 (XI. 10.) on the implementation of Act CXXVIII of 2011 on disaster protection and amending certain related laws			
TRANSPORT OF DANGEROUS GOODS <i>(ADR, RID, ICAO, LATA, ADN)</i>	DANGEROUS PLANTS	CRITICAL INFRASTRUCTURE PROTECTION	WATER, WATER PROTECTION
Act LXXXIX of 2015 on the promulgation of Annexes ‘A’ and ‘B’ to the European Agreement concerning the International Carriage of Dangerous Goods by Road and on Certain Issues of Its Domestic Application	Act CXVI of 1996 on Atomic Energy	Act CLXVI of 2012 on the Identification, Designation and Protection of Critical Systems and Facilities	Act LIII of 1995 on general rules for the protection of the environment
	Act XXV of 2000 on Chemical Safety		Act LVII of 1995 on Water Management

<p>Act CV of 2016 on the promulgation of the Agreement on the International Carriage of Goods by Rails and its Annexes in 2015 and 2016 in a unified structure</p>	<p>Government Decree 208/2011 (X. 12.) on the detailed rules of the disaster protection fine, on the payment and refund of the disaster protection contribution</p>	<p>Act L of 2013 on electronic information security of state and local government bodies</p>	<p>Act LXXXII of 1995 promulgating the United Nations Framework Convention on Climate Change</p>
			<p>Act LIII of 1996 on the Protection of Nature</p>
<p>Act XLVI of 2007 on the publication of the Appendices to the Convention on International Civil Aviation, signed in Chicago on the 7th of December in 1944 (document containing the detailed rules of Annex 18, Technical Instructions for the Safe Transport of Dangerous Goods by Air ([Doc. 9284-AN/905])</p>	<p>Government Decree 112/2011 (VII. 4.) on the responsibilities of the National Atomic Energy Agency related to the European Union and international obligations related to nuclear energy, the designation of specialized authorities participating in the official procedures of the National Atomic Energy Agency, the amounts of fines and the scientific advice to assist the National Atomic Energy Agency</p>	<p>Government Decree 280/2016 (IX. 21.) on measures necessary in the event of a significant disruption of the electricity system and a crisis in the supply of electricity</p>	<p>Act CCIX of 2011 on Water Utility Services</p>
		<p>Government Decree 360/2013 (X. 11.) on energy-critical systems and the identification, designation and protection of facilities</p>	<p>Government Decree 106/1995 (IX. 8.) on the environmental and nature protection requirements for liquidation proceedings and liquidation</p>
		<p>Decree 44/2000 (XII. 27.) of the Ministry of Health on the detailed rules of certain procedures and activities related to dangerous substances and dangerous preparations</p>	<p>Government Decree 65/2013 (III. 8.) on the implementation of Act CLXVI of 2012 on the identification, designation and protection of vital systems and facilities</p>
<p>Act XXXIV of 2015 on the Promulgation and Domestic Application of the Regulations to European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), signed in Geneva on the 26th May in 2000.</p>			<p>Government Decree 90/2007 (IV. 26.) on the procedure for the prevention and remedying of environmental damage</p>
			<p>Government Decree 219/2004 (VII. 21.) on the protection of groundwater</p>
<p>Government Decree 156/2009 (VII. 29.) on the amounts of fines that may be imposed in case of violation of certain provisions related to road haulage, passenger transport, as well as on the official tasks related to fines</p>	<p>Government Decree 219/2011 (X. 20.) on the prevention of major accidents involving dangerous substances</p>	<p>Government Decree 541/2013 (XII. 30.) on the vital components of water management systems and the identification, designation and protection of water and water facilities</p>	<p>Government Decree 72/1996 (V. 22.) on the exercise of the authority of water management authorities</p>
	<p>Government Decree 190/2011 (IX. 19.) on physical protection and the related licensing, reporting and control system in the field of nuclear energy</p>	<p>The vital components of the agricultural economy and Government Decree 540/2013 (XII. 30.) on the identification, designation and protection of facilities</p>	<p>Joint Decree 18/2003 (XII. 9.) by the Ministry of Environment and Water and the Home Office on the classification of settlements on the basis of flood and inland water risk</p>

Note: Created by the author.

However, it should be emphasized that safety cannot be interpreted specific only to one area, as compliance with the rules of all disciplines is justified in order to fully ensure safety, so it is important to seek supervisory controls for such multidisciplinary facilities (Bognár et al., 2013). The violation of the rules of specialties can trigger a chain reaction, which generates a more serious damage event along the principle of domino effect, or hazardous can even exceed it, generating a catastrophic danger or emergency situation.

The number of establishments dealing with hazardous substances is constantly increasing in the 21st century as a result of meeting the growing needs of consumer society. During the transport of hazardous substances, essential for the operation of facilities, to the place of use, the persons performing official work in the field of industrial safety in the disaster management organization shall ensure the official control of safe transport. On-site inspections of dangerous goods are being carried out in increasing numbers from year to year. During the damage incidents, the work of the dangerous goods transport inspectors and the intervention staff was assisted more than a thousand times by the national disaster management mobile laboratories nationwide. These disaster management mobile laboratories carry out their work under the professional guidance of the National Directorate General for Disaster Management of the Interior's Deputy Director General for Authoritative Affairs, as well as of the county and capital inspectors. There is also a correlation between the number of decisions made by industrial safety officials and the sanctions imposed, as their number has shown an increasing trend. It can be stated that the number of detected irregularities shows a decrease, which is also due to the preparedness of those performing official work and the increasing number of inspections. In order to keep the knowledge of those working in disaster management up to date, it is essential to organize continuous training and participation in local and national exercises, as a result of which the standards and effectiveness of official procedures are constantly improving. Successful implementation of the objectives of industrial safety is one of the tasks of the authorities, while ensuring the creation of conditions and circumstances is also the task and duty of the facilities and companies in accordance with the legal regulations. It is in the interest of the facilities' operators to create the conditions for safe operation, to act with the care of a good farmer in the field of fire protection and industrial safety, as in the absence of this, the burden of liability in the event of a damage. In the case of damage, they cannot rely on ignorance of the law, that is to say, *ignorantia iuris*.

Summary

As stated above, the task of industrial safety includes the supervision of dangerous plants, the control of the transport of dangerous goods, the protection of critical infrastructures and the field of nuclear accident prevention. As the authority performing industrial safety tasks at the territorial level of disaster management is divided into counties, it performs official licensing, supervision and inspection tasks related to hazardous plants. The purpose of the tasks of the authority and the procedural actions taken are to increase safety, as a result of which major accidents can be avoided, and to reduce their harmful effects, if they occur. Therefore, they also have an important and responsible role to play in correctly assessing the veracity of the information provided by operators and taking the appropriate level of action accordingly. The tasks of the industrial safety authority are tripartite, include analysis, planning and preparation, which are related to the establishment of internal security organizations for vulnerabilities, emergencies and facilities. The tasks of the authorities also include checking if the operators have the necessary tools and resources to deal with major accidents and to eliminate and reduce damage. In the case of defence planning, the county directorates of professional disaster management bodies also have an important role to play in the supervision of external protection plans. It is also the task of the authority to investigate the notifications received in connection with the technical-safety review of gas connection pipelines and user equipment, as well as to keep the official register of experts who may be involved in the proceedings. In order to investigate the gas pipeline cuts, the Disaster Management will carry out the necessary on-site inspection and then take the necessary official measures. Integrated authority action and a complex mindset should fundamentally define the work of disaster management authority professionals in the broadest sense, including those working in the field of industrial safety. In addition to thinking, the legislative provisions described above and the applied legal institutions must be adapted by the legislator to the achievements of our rapidly developing society, and the technical and IT systems to be used must be designed to reflect this. In addition to the developed technical tools and systems, it can be stated that in order to ensure the well-functioning maintenance of industrial safety, qualified human resources are of significant importance from both the state and the private sector. After all, let us not forget the Latin proverb *sutor ne ultra crepidam*, which means that everyone can be the best professional in his field according to his experience, knowledge and education gained during his studies.

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