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A potential approach of natural resources law**

The denomination *`natural resources law´* is frequently used both in connection with the Hungarian legal research and legal training. Unfortunately, in both cases we typically face the same situation: the exact definition of the content behind the denomination natural resources law is missing. We have to mention here that we do not know of any uniformly worked out system or definition in connection with the natural resources law in any other country either. Comparing the national solutions of the individual countries, you find a plethora of conceptions when defining natural resources law.

Due to the above mentioned difficulties, in this study we cannot try to review a solution applicable in any ages and places and prefiguring.[1] Instead, much more unpretetiously, just considering the Hungarian legal situation, we try to give a possible national approximation which, following a deeper EU, international and comperative legal analysis, can be shaped and specified.

Therefore, in the first part of this study we specify a determinable study born in the frame of the United Nations (UN) in the age of forming natural resources law. We do it for two reasons: in our opinion both (a) the Hungarian jurisprudential approach of the natural resources law (b) and the present legislation can be better interpreted and may find its place in view of a later international comparison with regard to this study. In the second part of our study, we pick out and analyze a ripe approach from the rather poor Hungarian literature on natural resources law. Finally, in the third part of the study, in view of the existing Hungarian legislation we unfold our own idea on this topic.

Ede János Szilágyi: A potential approach of natural resources law – A természeti erőforrások jogának egy lehetséges megközelítése. *Journal of Agricultural and Environmental Law* ISSN 1788-6171, 2018 Vol. XIII No. 25 pp. 270-293 doi: 10.21029/JAEL.2018.25.270

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** *This study has been written as part of the Ministry of Justice programme aiming to raise the standard of law education.*

[1] Namely, the outcome of the present paper might be applied as a potential first base for the research connected to the natural resources law of the Natural and Human Resources Law Research Institute in the University of Miskolc.

doi: 10.21029/JAEL.2018.25.270

1. An early approach of the natural resources law

The study of *Guillermo J. Cano*[2] was published in the legal series of the Food and Agriculture Organization of the United Nations (FAO) in 1975.[3] Cano in his study devotes a separate chapter to the natural resources law.[4] In the introduction[5] to the chapter, Cano starts with explaining that it is high time to treat the complexity of natural resources 'as a common and integrated whole'. In his opinion, this recognition has been realized by the researchers of several other disciplines, but the jurisprudence is still behind. Cano considers the Declaration on the Human Environment of the UN 1972 Stockholm Conference for the natural resources law as an important starting point especially in connection with the international – or shared – natural resources. Cano attaches great importance to the 1974 Colombian National Code – worked out with the help of the experts of FAO which defines the Renewable Natural Resources and Environmental Protection on a unified and integrated legal and institutional basis.

I. Before going into the details of the fundamental theorems of the new approach on the natural resources law, Cano makes a roundabout to explain what is considered as `natural resources´ devoting a separate part (i.e. the first annex[6] of his study) to this question. In connection with the impoundment of the natural resources, Cano differentiates between the exhaustive enumeration of the various categories of natural resources used by researchers of natural sciences and the impoundment used in political sciences and economy, including legal science in the latter category as well.

I.1. Cano's starting point is that the impounding and grouping used by *natural scientists* is based on physical natural goods as opposed to goods made by men and called `cultural goods´ or `cultural resources´. Proceeding on the same line, natural resources can be divided into the following groups: (a) *space and its components*: air, atmosphere, gases, mineral particles, streams and winds of different kinds; (b) *energy*: from the most different forms such as the sun, nuclear, wind, water, geothermic, tidal, thermal, heat; (c) *land and topography*, including slopes capable of generating energy; land is considered here as a non-agricultural resource distinct from soil; (d) *panoramic or scenic resources*: places, where a particular property of the place makes it suited for recreational uses or tourist spectacle as an `aesthetic enjoyment´; (e) *soil* (for agriculture or livestock use); (f) *mineral deposits*: solid, liquid and gaseous; (g) *biological resources*, which include the following two categories: (g1) *plant wildlife*, both land and aquatic; (g2) *animal wildlife*, land, aquatic, amphibious and aerial (birds), including bacteria, insects and other primary forms of animal life (protist); (h) *non-maritime water resources*: i.e., water in its

[2] Guillermo J. Cano: *A legal and institutional framework for natural resources management*, FAO Legislative Studies No 9, Rome, FAO, 1975.

[3] It is worth noticing that the jurisprudence also determinates a period of natural resources law existed before the establishment of the separate environmental protection law; Robert L. Fischman: What is Natural Resources Law?, *University of Colorado Law Review*, 2007/78, 720-721. From this period, see Clyde O. Martz: *Cases and Materials of the Law of Natural Resources*, 1951.

[4] Cano 1975, 3-8.

[5] Cano 1975, 1-2.

[6] Cano 1975, 30-33.

doi: 10.21029/JAEL.2018.25.270

different forms – liquid, solid (ice, snow), or gaseous (steam, clouds) – wherever found: on the surface (rivers, lakes, etc.), underground, in the atmosphere; (i) *sea and seabed*: including sea water and its content (both biological and mineral), the seabed and its subsoil with its mineral content; (j) *geothermal resources*: endogenous steam and hot water produced naturally inside the earth as a result of the passage thereof through natural thermal sources.[7]

I.2. The *political, economical and legal science (henceforward `social science´)* approach of the definition of natural resources is based on a narrower concept, compared with that of natural sciences.[8] Cano points back to the activity[9] of *Erich Zimmermann* as an important starting point of the social science approach. According to Zimmermann's approach, the category of natural resources is not constant, it rather depends on the age and what the people utilizing the natural resources of that age considered as natural resource. This means that in his opinion the 'neutral goods' of the Earth turn to be natural resources just when the man acknowledges them as natural resources. The natural resources of the present are not necessarily natural resources tomorrow. Therefore, in Zimmermann's opinion, the word `resource´ refers to a function and not to a thing. Cano in his study borrowed this narrowing functionality concept as a starting point of natural resources law. Based on this concept, natural resources are changing with time and mean a category in need of a permanent revaluation. One has to keep in mind that natural goods may have unwholesome effects for humans even if they belong to the category of natural resources, based on the social science approach (i.e. not all of their faces are positive).[10]

Earlier we mentioned that Cano in connection with resources differentiates natural resources from cultural resources. What's more, we have to differentiate human resources (the human himself) from induced resources, the latter coming as the result of human activity, e.g. agricultural, fishing and forestry products, products of livestock raised by man (i.e. 'resources, which result from the artificial cultivation of natural resources').[11]

II. In connection with the notion of natural resources law, Cano calls the attention that the word `law´ should be taken in the widest possible sense, including national, local and international law.[12] The most important theorems of Cano concerning natural resources law can be summarized in the following way:

II.1. *Early development of the areas covered by natural resource law: Non-systemtization and variant development level.*

[7] Cano 1975, 30.
[8] Cano 1975, 31.
[9] The scientific work cited by Cano: Erich Zimmermann: *Recursos e industrias del Mundo*, Mexico, Ponde de Cultura Economica, 1957; in English: Erich Zimmermann: *World Resources and Industries: A Functional Appraisal of the Availability of Agricultural and Industrial Resources*, New York, Harper & Brothers, 1933.
[10] Cano 1975, 31-32.
[11] Cano 1975, 31.
[12] Cano 1975, 3.

doi: 10.21029/JAEL.2018.25.270

In Cano's opinion, the `human-human´ connection was determining in the earlier development of law, and the law worked rather effectively. But in the second half of the XX[th] century the appearing environmental challenges made the reregulation of the `human-(natural) goods´ relationship necessary. It is not a simple problem, mostly because it is not merely a simple legal problem, rather than an interdisciplinary one.[13] When regulating the human-goods connection, then in Cano's opinion more precise and more detailed regulations are needed in order to show how the humans can use natural goods.[14] The earlier legal regulations – focusing basically on the human-human connections – were meant to regulate the situations arising from the conflicts of interests of humans.[15]

Cano establishes that the legal regulations on the ownership and use of certain natural resources accompany the development of human civilization from an early stage on. However, these regulations concentrated on particular elements of natural resources, that is the development of particular areas was *separated*. From the beginnings, the *regulation of land* was considered as of the highest importance. Following the legal regulation of land, the legal regulation of the other natural resources was coming up. Thus came the legal regulations in connection with water, mining, forestry, fishing and energy. Later appears the legal protection of wild animals, national parks and legal regulations fight against the artificial alteration of weather or against the pollution of the air.[16]

Cano finally underlines that in addition even in case of a certain natural resource we cannot speak of a comprehensive regulation, but the legal regulations on a particular natural resource were concentrating *on a particular use* of that natural resource, and later this circle of particular forms of use gradually widened as the time passed and with the appearance of a new public demand. Cano mentions as an example the regulation of water, where the first area was irrigation, and then domestic use and navigation were regulated.[17]

In Cano's opinion, the regulations on different natural resources are even in the XX[th] century of different level. In his opinion, land-regulation is the most comprehensive one.[18]

II.2. *The integration of the legislation of each category of natural resources.*

Cano cites the theory[19] of *Gifford Pinchot* to support the interdependence of the particular natural resources and their different utilization. Essentially, Cano deduces the necessity of integration of legal provisions from this *interdependence theory* of natural

[13] Cano 1975, 3.

[14] „[T]he laws and the agencies dealing with the control and administration of natural resources are, in nearly all countries we care to mention, `use-oriented´, or concern one or more harmful effects of the resources themselves. What are needed, however, are `resource-oriented´ laws and institutions"; Dante A. Caponera: Towards a new methodological approach in environmental law, *Natural Resources Journal*, 1972/2, 136.

[15] Cano 1975, 4.

[16] Cano 1975, 3.

[17] Cano 1975, 3.

[18] Cano 1975, 4.

[19] Gifford Pinchot: *Breaking new grounds*, New York, Harcourt Brace, 1947.

doi: 10.21029/JAEL.2018.25.270

sciences origin and from the permanent technological development as well as from the altered social situation changed by the increasing human demand.[20]

One of the first steps of the integration of legal regulations based on natural scientific bases is to increase *the comprehensiveness of legal regulation on different natural resources* and their utilization. Cano agreed with this process and treated it as the condition for the optimal utilization of the given natural resource.[21]

Another important element in the above mentioned process is to increase the active involvement of the state in the utilization of natural resources. Cano supports his statement by the following reasons: (a) The conservation of the natural resources can be better assured by the state. (b) In order to enforce the public interest in the use of certain resources or among different uses of a particular resource, priorities have to be set. The formation of priorities as to the utilization of a natural resource is basically a political question, and when determining the priorites, sufficient legal guarantees are required to ensure the consideration of all interests and the real priority of the greatest public interest. All these can be ensured in the best way through the state. (c) The optimum use of natural resources is of immediate interest to the state and the state may act in reaching the noble aim as a social trustee. Thus in case of emergency – thanks to its position – the state can more effectively restrict the use of a resource against the individual interest. (d) The size or type of the proper use of a particular natural resource sometimes exceeds the economic potential of the private sector, which supports the direct state utilization.[22]

This means that natural resources law, in addition to the regulation of the relationship among persons, has to codify the following relationships as well: (a) the relationship between the state and the users of the natural resource; (b) the relationship between the natural resources and their users, in other words how the latter has to use the natural resources; (c) the internal relationships of the state.[23]

II.3. *Shift towards the systematic codification of natural resources legislation*.

According to Cano (1975), the *planning of the integrated and coordinated utilization*, in view of the above mentioned reasons, made the codification of the legal regulations necessary, to *equalize the development differences of the legal materials for the different natural resources.*[24]

In this respect Cano speaks of not about `compilation´ only – i.e. to collect the relevant legal regulation to a single place – but `codification´, a harmonized unification of the relevant legal regulations using a unified method. At the same time Cano recognises that due to the different utilization-technologies of different resources there is a need for specific legal regulations for each natural resource as well. In Cano's plan, during the codification process, unified general regulations and principles for all natural resources should be worked out, making the proper legal arrangement of the

[20] Cano 1975, 4.
[21] Cano 1975, 5.
[22] Cano 1975, 5.
[23] Cano 1975, 5.
[24] Cano 1975, 6. Cf. Caponera 1972, 133-152.

doi: 10.21029/JAEL.2018.25.270

interferences between different natural resources and the different uses of the same resource possible.[25]

The group of those legal institutions, which could serve the clarity and effectivenes of the legal regulations and have a unifying effect, Cano defined in the following way (a) those procedures which help to get the right of the utilization of a natural resource, (b) the unified system of restriction of using natural resources (c) the procedure for determination of priority order of natural resources and the priority of their use; (d) the legal regulations for preserving the natural recourses; (e) the legal regulations enabling the integrated unified management of the natural resources.[26]

In connection with the previous codification plan, Cano mentions several authors thinking in a similar way, and recalls an early national realization of this, namely the Nicaraguan Law on Exploitation of Natural Goods (Decree 316, 17 April 1936). At international level, Cano considers the 1971 session of the UN Natural Resources Committee to be very important, where the Secretary General was requested to make a study on the legal and institution problems relating to natural resources as a whole including of the modernization of the legal framework system.[27]

II.4. *The natural recourses are parts of the environment*.

Considering that natural resources are at the same time environmental elements, therefore, they are interdependent. Hence, natural resources law should be integrated into environmental law. Accordingly, the general legal principles used in environmental law should apply to the natural resources as well. Therefore, it is advantageous to unify natural resources law and environmental law in a single law. An example for it is the previously mentioned 1974 Colombian National Codex.[28]

II.5. *Permanent sovereignty over the natural resources*.

In this context, Cano cites several General Assembly resolutions and related reports.[29] In compliance with General Assembly Resolution 2386 (XXIII), the Secretary-General published a (repeated[30]) report[31] on 14 September 1970 in which it is declared: "Sovereignty over natural resources is inherent in the quality of statehood and is part and parcel of territorial sovereignty – that is, the power of a State to exercise supreme authority over all persons and things within its territory."[32] The sovereignty over the natural resources, which is inevitable to the economical independence, is at the same time functionally connected to the political independence, therefore, consolidation of the former inevitably strengthens the latter. The sovereignty over the

[25] Cano 1975, 6.
[26] Cano 1975, 6.
[27] Cano 1975, 6.
[28] Cano 1975, 7.
[29] Cano 1975, 7-8.
[30] The original report was published under General Assembly Resolution 1729 (XVI): United Nations: I. *The status of permanent sovereignty over natural wealth and resources*; study by the Secretariat. II. *Report of the Commission on permanent sovereignty over natural resources*, New York, 1962.
[31] United Nations: *Permanent sovereignty over natural resources – The exercise of permanent sovereignty over natural resources and the use of foreign capital and technology for their exploitation*, Report of the Secretary General, doc. A/8058 (14 September 1970).
[32] Cited by Cano 1975, 7.

doi: 10.21029/JAEL.2018.25.270

natural resources provides complete freedom for the state to decide the utilization of natural resources. In unison with the spirit and the basic principles of the Charter of the UN, this freedom has been several times definitely expressed and reinforced in several General Assembly resolutions.[33]

Cano deems it important to emphasize[34] that the General Assembly was not satisfied to accept the sovereignty over natural resources merely as an abstract legal concept. The principle has always been placed in economic and social connections, thus in paragraph 1 of General Assembly Resolution 1803 (XVII), it declared that the „right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned."[35] In this context, the concept of sovereignty over the natural resources involves not only such formal rights as tenure of the natural resources and the freedom of deciding when and what way utilize the resources, but the concept extends to that the utilization should happen really for the good of the people of the state. This remark could be analyzed especially in connection with foreign investments.[36]

III. Cano devoted a deciding part in his work to the international dimensions of the natural resources,[37] which is very important also in our opinion. Nevertheless, dealing with it would exceed the frame of the present article.

2. A Hungarian jurisprudential approach of natural resources law

In the Hungarian jurisprudence, professor *Tamás Prugberger* was one of the firsts[38] who investigated the law of natural resources in this context.[39] Prugberger denominates the area as the *`protection and utilization law of natural recourses´*. Prugberger describes the area as a *`traverse lying, mixed branch of special law´*. Prugberger means by `traverse lying´ a special discipline and legal field arching through some basic legal branches and especially applying several dogmatical institutions in a special way.[40]

[33] See the following resolutions of the UN General Assembly: General Assembly Resolutions 523 (VI) of 12 January 1952, 626 (VII) of 21 December 1952, 1314 (XIII) of 12 December 1958, 1515 (XV) of 15 December 1960, 1803 (XVII) of 14 December 1962 and 2158 (XXI) of 25 November 1966.

[34] Cano 1975, 8.

[35] Cited by Cano 1975, 8.

[36] Cited by Cano 1975, 8. About this, see Szilágyi János Ede: The international investment treaties and the Hungarian land transfer law, *Journal of Agricultural and Environmental Law*, 2018/24, 194-222, doi: 10.21029/JAEL.2018.24.194.

[37] Cano 1975, 23-29.

[38] Cf. Fodor László: A környezetvédelem szempontjainak érvényesülése az energiajogban, *Magyar Közigazgatás*, 2002/5, 257-270; Szilágyi János Ede: Az agrárjog dogmatikájának új alapjai – útban a természeti erőforrások joga felé?, *Jogtudományi Közlöny*, 2007/3, 112-121.

[39] Prugberger Tamás: A természeti erőforrások védelmi és felhasználási jogának szakjogági megjelenése, *Collectio Iuridica Universitatis Debreceniensis*, 2004/4, 201-221.

[40] Prugberger 2004, 203.

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Although not using Cano's activity in the natural resources law, Prugberger arrives at a similar system as that of Cano's. In the Hungarian jurisprudence, (a) Prugberger puts the beginning of the formation of the new legal field to the 1960s;[41] (b) Prugberger interpreted the category 'natural resource', which forms the basis of the natural resource law, in Zimmerman's narrower sense, that is in a social science approach;[42] (c) Prugberger finds connections among the natural resources law and the following legal fields: agricultural law – including forestry (management) law, game (wildlife management) law, fisheries (management) law – rural development law, energy law, mining law, water law, environmental law (!), nature conservation law (!);[43] (d) Prugberger essentially imagines the context of environmental law and natural resources law as follows: „*besides the above mentioned legal fields, all the natural subjects mentioned here are clinched by environmental (protection) law*";[44] at another place he writes on natural resources law: „*it is reasonable to start the system with the general part of environmental protection law and theoretically to adjust to its norms the environmental legal aspects of the legal provisions of particular natural resources. This is why it is reasonable to start the system with environmental law. This way, environmental law can be handled as the general part of this field and the special provisions of the above mentioned legal fields as the particular (special) parts of the natural resources law.*"[45] (To tell the truth, Prugberger is not always consequent in his article, there are cases when he writes that environmental law is part of natural resources law).[46]

Tamás Prugberger gives a definition of the legal field: „*natural resource protection and utilization law includes legal regulations such as civil law, economic law, administrative law, constitutional law, and not the least criminal law regulations connected to the exploitation and utilization of the mineral wealth, ways of their utilization principally on the territory of the country, the utilization of the surface of the Earth with architectural, industrial location, agricultural, forest-, wildlife management, furthermore with protection of the state of waters and air with the ways of their utilization, with the utilization of the nature's open and hidden energies, with the overall protection of the nature and human environment.*"[47] Here we remark that the list of the nominated natural resources is not exhaustive, not even in Zimmermann's sense, rather accidental. In this context we think a solution similar to Cano's would be better, i.e. starting from an exhaustive natural science systemization and narrowing the group of natural resources according to Zimmermann's theory. Among the basic legal branches mentioned above in Prugberger' notion, constitutional and criminal regulations should in our opinion not be part of natural resources law. It does not mean that constitutional law (more precisely the constitution, in the case of Hungary, the Fundamental Law) and criminal law would not protect the appropriate utilization of the resources. But just because without doubt they have some regulations of natural resource relevance it is not necessary to treat them as part of the natural resources law. By the way, following this

[41] Prugberger 2004, 202.
[42] Prugberger 2004, 203.
[43] Prugberger 2004, 201-202., 204., 206.
[44] Prugberger 2004, 204.
[45] Prugberger 2004, 209.
[46] See e.g. Prugberger 2004, 202.
[47] Prugberger 2004, 202.

doi: 10.21029/JAEL.2018.25.270

logic, also other branches – not mentioned by Prugberger – could be considered, e.g. financial law.

According to Tamás Prugberger, environment law and – mentioned as its part – nature conservation law form the general part of natural resources law. Furthermore, Prugberger finds similarities in case of the following legal instituitions in connection with the legal regulations on natural resources, thus in this line we could start developing a unified natural resources law:[48] (a) licensing, (b) institutions serving the conservation of natural resources, (c) recultivation, (d) rural development, (e) tender, competitive bidding and conciliation process, (f) sanction-system: several kinds of the sanction-systems may be important in this context, such as administrative law, civil law, criminal law, international law.

3. A possible interpretation of the present situation of natural resources in the Hungarian law in force

Natural resources appear *expressis verbis* even in the corner stone of the effective Hungarian legal regulation, i.e. the Fundamental Law.[49] In a similar way they appear in Paragraph 7[50] of the National Avowal of the Fundamental Law, in Article P)[51] and in Article 38[52] as well. These regulations in the Fundamental Law without doubt pay attention to the natural resources and in several context are of great importance but they do not give too much handhold from the point of view of the Hungarian interpretation of the natural resources law. At the same time it is worth underlining that the definition of the category of natural resources in Article P) of the Fundamental Law only mentions examples (agricultural land, forest, supply of water), that is the Fundamental Law does not give a full scale impoundment with regard to the category of natural resources. Furthermore, it is not clear whether the category „biodiversity, in particular native plant and animal species" in Article P) of the Fundamental Law belongs to the natural resources, or they constitute a special, independent category. We ourselves, starting from the *`biological resource´* subcategory mentioned at the concept of

[48] Prugberger 2004, 212-221.

[49] Note: Till 1989, the natural resources appeared in the text of the previous constitution (i.e. Act XX of 1949); namely: they were mentioned as the „asset of the nation constituting the property of the state…"; (first: § 6 of Act XX of 1949; later: § 8 (2) of Act XX of 1949).

[50] „We bear responsibility for our descendants; therefore we shall protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources." Fundamental Law, National Avowal.

[51] „All natural resources, especially agricultural land, forests and drinking water supplies, biodiversity – in particular native plant and animal species – and cultural assets shall form part of the nation's common heritage, and the State and every person shall be obliged to protect, sustain and preserve them for future generations." Fundamental Law, Article P (1).

[52] „The properties of the State and local governments shall be national assets. The management and protection of national assets shall aim to serve the public interest, to satisfy common needs and to safeguard natural resources in consideration of the needs of future generations. The requirements for the preservation, protection and responsible management of national assets shall be defined by a cardinal Act." Fundamental Law, Article 38 (1).

doi: 10.21029/JAEL.2018.25.270

natural resources – similarly to Cano –, consider the category of `biodiversity, in particular native plant and animal species´ in the Fundamental Law as part of the natural resources category.

From the point of view of the assessment and interpretation of the Hungarian legal approach to the natural resources law, Act LIII of 1995 on the General Rules of Environmental Protection (hereinafter referred to as GREP) and Act LIII of 1996 on Nature Conservation (hereinafter referred to as ANC) are of basic importance. The relationship of the two legal fields – environmental law and nature conservation law – is discussed in the Hungarian jurisprudence mainly as the relationship `part-whole´.[53] Nature conservation law constitutes part of environmental law. Therefore, we discuss the GREP in this study. In connection with ANC, we mention that it expressis verbis deals with natural resources and the category 'natural resource' is a very important element of one of the categories to be protected of the ANC, namely of the natural value.

The GREP – essentially in harmony with what Cano and Prugberger wrote in connection with the relationship between environment law and natural resource law – can be extended unequivocally to the natural resources. Thus the act – among other things – promotes „the preservation and conservation of natural resources, and rational and efficient management that ensures the renewal of resources".[54]

The GREP contains a category (GREP, § 4, point 3) which is wider and more detailed than that in the Fundamental Law; according to this, „`natural resource´ means the environmental components or certain constituents thereof (with the exception of the artificial environment) that may be used for satisfying the needs of society". The GREP classifies the environmental components as well, namely „`environmental component´ means land, air, water, the biosphere as well as the built (artificial) environment created by humans as well as the constituents thereof" (GREP, § 4, point 1). The GREP defines the differentia specifica between an environmental element and natural resource, namely: natural resource may fulfil social needs. In a `Zimmermann's sense´, the category 'natural resource' of the GREP narrows the group of the environmental components to a circle where the possibility of the social need fulfilment may occur.

The GREP defines important rules[55] for the interest of harmony of the utilization of environmental components; thus for example for the environmental component, the GREP prescribes: „every environmental component shall be protected per se and in unity with the other environmental components and by taking their interrelationships into consideration. The utilization and loading of environmental components shall be regulated accordingly. The protection of environmental components means both the protection of the quality, quantity and stocks thereof as well as the protection of the proportions and processes within the components. The

[53] This interpretation appears e.g. at: Bándi Gyula: *Környezetjog*, Budapest, Szent István Társulat, 2011, 438-449; Csák Csilla: *Környezetjog*, I. kötet, Miskolc, Novotni Kiadó, 2008, 156-171; Fodor László: *Környezetjog*, Debrecen, Debreceni Egyetemi Kiadó, 2014, 37., 279; etc.
[54] GREP, § 1 (2), point c).
[55] See e.g. § 13-23 of GREP.

doi: 10.21029/JAEL.2018.25.270

prevention, reduction or termination of the use or loading of any environmental component may not be accomplished by damaging or polluting another environmental component."[56] The rules of the GREP – i.e. of environmental law – like these and similar to these make it suitable to provide a frame, basically general rules for the natural resources law. In this respect we fully agree with the above cited statement of Tamás Prugberger, namely that: „environmental law may this way, to a certain extent, be treated as the general part of [natural resources law] where the particular part is provided by the special regulations of the discussed legal fields".[57]

In addition, the GREP plays an important role in the systematization of natural resources law. Paragraph 3 of the GREP gives a rather detailed list of the sub-areas of natural resources law.[58] Here we have to make two remarks. First, the list is rather detailed, but not exhaustive. Genetic engineering technology[59] is not mentioned in Paragraph 3 of the GREP, although it is a relevant sub-area of the natural resources law. Second, in connection with the list of sub-areas, GREP – correctly – does not denominate them as `sub-areas of natural resources law´; there are some fields on the list which are relevant, but only indirectly and far off connected to the natural resource law. For example, the conservation of historic buildings.

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[56] GREP, § 13.

[57] Prugberger 2004, 209.

[58] „(1) In harmony with the provisions of this Act, specific other legislation shall contain provisions, in particular, on:

a) nuclear energy and the use of radioactivity,
b) mining,
c) energy,
d) forests,
e) the development and conservation of the built environment,
f) agricultural and forestry land,
g) fishing,
h) transport (broken down by sector),
i) the prevention of disasters and overcoming their consequences,
j) regional development,
k) wildlife management,
l) water management,
m) waste,
n) hazardous substances.

(2) In order to preserve biodiversity and the habitats of plants and animals as well as to preserve and restore areas, formations and facilities with scientific, cultural or aesthetic value; these separate statutory acts contain, in accord with this Act, provisions pertaining to:

a) nature and landscape conservation,
b) animal protection and animal health,
c) pesticides and plant health,
d) the conservation of historic buildings." GREP § 3.

[59] In connection with this, see ror example Act XXVII of 1998 on genetic engineering technology.

doi: 10.21029/JAEL.2018.25.270

Conclusions

In our view, the approach of the natural resources law in Gullermo J. Cano's 1975 study may even today be treated as a good starting point and it can be applied with good efficiency in the Hungarian jurisprudence for the Hungarian legal system. Similarly, an acceptable conceptual approach was given by Tamás Prugberger – even against our above detailed remarks.

About the Hungarian legislation and law in force – in the mirror of the natural resources law – we can state the following: (a) The Hungarian national law material reflects the `from time to time changing´, social science (Zimmermannian) – i.e. narrow – approach. (b) Today's environmental law provides an existing legal framework for the unified application of the sub-fields of natural resources law. (c) The sub-fields of natural resources law cannot be determined exactly, with an exhaustive nature; we can talk about a circle to be reviewed from time to time at most (although without doubt there are important sub-fields existing for longer time). (d) There are significant differences in the characteristics of the particular sub-fields, which may raise the question whether we may or shall seek a more unified regulation.

doi: 10.21029/JAEL.2018.25.270