GREEN
EUROPEAN
JOURNAL

A Model Climate Bill, Written Outside Parliament

Article by Zöld Hang
August 27, 2026

Hungary has never had such a good climate bill as the one it could have now if, improbably, its parliament were to adopt the draft written by civil society and put out for public consultation. The fate of this draft legislation – which, with minimal changes, could be of outstanding quality even by international standards – depends on the stance of the Tisza government. But how will Péter Magyar and his party proceed?

Last summer, the Hungarian constitutional court ruled that the climate law passed by Viktor Orbán's Fidesz government – which liked to call itself a "champion of the climate" – was inadequate and unconstitutional. The court annulled part of the law, calling on the National Assembly to "remedy the breach of the Fundamental Law resulting from this failure" by June 2026.

Subsequently, the Fidesz government showed no interest whatsoever in the matter. But a regulatory proposal has been drawn up that is virtually ready for implementation and could even have ensured compliance with the deadline. This document was not drafted by any parliamentary group: it is the joint effort of more than 180 civil society and professional organisations, and the proposal currently under public debate is of a particularly high standard.

Built on solid principles…

One of the draft bill's greatest strengths is that it treats mitigation (alleviating environmental harm), adaptation (adjusting to climate change), and resilience (increasing resistance) as objectives of equal importance. Unusually, the system of guiding principles is also sufficiently detailed: alongside traditional environmental law principles (precaution, the polluter pays, prevention), it also includes distinctly modern, progressive principles such as the "principle of sufficiency" (which focuses on well-being rather than maximum consumption, thereby limiting waste and the over-use of resources), a systems approach, data-driven decision-making, and proportionate individual responsibility. The fact that the prohibition on regression and intergenerational justice are linked to existing constitutional court case law indicates that the drafters of the text drew upon the few effective practices that Hungarian environmental protection has painstakingly developed over recent decades.

Particularly positive is the detailed and forward-looking approach to water management. The proposal entails the requirement to review bilateral water-sharing agreements, ensuring the public availability of groundwater monitoring data, and encourages the use of greywater. These are all elements that were previously absent from domestic legislation and would be indispensable to managing the water crisis Hungary now faces – the most tangible consequence of climate change in the Carpathian Basin.

The section on forest management is also very thorough: avoiding clearcutting, accounting for shifts in climate zones, and calling for support for species migration all point to a distinctly modern approach. Another positive aspect is the inclusion of the concepts and requirements relating to mental health and energy poverty in the cooling sector, which are absent from many otherwise modern European climate laws

The detailed description of the carbon budget mechanism (a legally binding, period-based planning and accounting framework that determines how much greenhouse gas we may emit in each period if we are serious about achieving net-zero emissions) is useful: together, the five-year rolling planning cycle, the carry-over option, the institution of infringement proceedings, and the obligation to submit final accounts form an enforceable system similar to the UK model. The requirement to introduce consumption-based emissions tracking is also welcome, as it can counterbalance the limitations of the territorial approach. The sectoral measures (building renovation, transport, industry, food consumption) are sufficiently wide-ranging and specific, whilst the establishment of an ecological hierarchy for biomass utilisation (modelled on the waste hierarchy) is particularly forward-looking.

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… and strong scientific foundations

The scientific and innovation elements of the concept are particularly strong: the Climate Innovation Centre, the National Climate Data Centre, and the introduction of funding mechanisms similar to Carbon Contracts for Difference initiatives to support emissions-reduction investments create promising institutional and financial instruments. Support for grassroots initiatives and recognition of traditional and community knowledge are also forward-looking and in line with the principle of subsidiarity. Moreover, the obligation to promote climate awareness at all levels of the education system, the development of teacher training, and measures to combat disinformation together form a coherent strategy for shaping public attitudes.

It seems useful to introduce ex-ante climate risk assessment as a separate legal institution to ensure that no government decision may be adopted without such an evaluation. Extending scope 1, 2, and 3 emissions (i.e. those related to purchased energy, on-site emissions, and arising from suppliers, respectively) to cover the entire value chain in environmental impact assessments is also a modern, ESG-compatible, and forward-looking rule.

Involving the Ombudsman for Future Generations in the ombudsman procedure in the event of a carbon budget overrun could also serve as a strong enforcement mechanism. A similar institution once existed, but the 2011 amendments to the Fundamental Law rendered it ineffective.

The enshrinement of the status of the Scientific Advisory Board on Climate Policy is clearly positive: it operates solely in accordance with the Hungarian constitution and the law and has its own budget and secretariat, and proposals relating to climate targets cannot be adopted without its opinion. The joint nomination mechanism of the Hungarian Academy of Sciences (MTA) and the Hungarian Research Network (HUN-REN) also provides a safeguard against political influence. The operation of the government Committee on Climate Protection under the prime minister's leadership provides an appropriate framework for inter-ministerial coordination, whilst the mixed (partly non-political) composition of the National Climate Protection Council can strengthen its social legitimacy.

The introduction of the concept of "climate endangerment" into Hungarian law is particularly noteworthy: the public prosecutor could also bring proceedings against major emitters, seeking compensation and a ban on their activities, which represents a significant step forward in climate litigation. The privileged

legal status of civil society organisations as claimants, their right to bring legal proceedings, and an exemption from litigation fees also provide a significant safeguard. The Advocate for Future Generations' powers to intervene and to submit motions to the constitutional court are also commendable.

The introduction of the National Climate Protection Fund is a useful initiative, as it creates a dedicated and predictable funding framework (in contrast to current practice, namely ad hoc budgetary allocations and the routine deductions affecting them). The requirement for green corporate governance obligations and transition plans – particularly in light of the fact that these obligations have been substantially relaxed following the narrowing of the scope of the EU's CSDDD Directive – is a forward-looking and courageous step. Meanwhile, excluding activities relating to fossil fuels from development bank financing is a clear and correct direction. Furthermore, enshrining participation principles in international climate finance would be fair (although, unfortunately, it seems unrealistic in this form).

Areas for improvement

As noted, Hungarian policymakers have never faced such a well-thought-out and complex climate regulation. That said, there are some minor shortcomings and contradictions, which the current public debate could identify and iron out.

Perhaps the most striking omission is the absence of any explicit reference to the institutional framework of climate justice, including climate litigation and state liability. This would be particularly important, as the "no backsliding" and "polluter pays" principles can only be effectively implemented if backed by a strong enforcement mechanism. It would also be worth incorporating a principle of climate equity, which specifies enhanced protection for socially vulnerable groups (the poor, the elderly, and those with a higher health risk), as they bear a disproportionately greater burden from the impacts of climate change.

It is difficult to understand the complete absence of any mention of the transport sector's resilience in the proposal. For instance, the text could at least allude to infrastructure risks from heatwaves and extreme rainfall (roads, railways, bridges) and to preparing the vehicle fleet. In the transport section, there is also no discussion of aviation and inland waterway transport, even though their emissions are by no means negligible (although, for the time being, European climate legislation also often treats these as separate categories).

The objective of "phasing out harmful state subsidies by 2030" is correct in itself, but its feasibility is doubtful unless it is accompanied by a mandatory review schedule and a public list of the subsidies concerned. Regarding the management of the National Climate Protection Fund, it would be advisable to ensure its independence from political influence and to give civil society organisations a meaningful role in decision-making (rather than merely representing beneficiaries).

The current wording of the green public procurement requirement – "preference must be given" – is far too weak. To ensure effectiveness, a specific quota requirement or a time-bound obligation should be introduced. What is more, the text includes no provision regarding the responsibility of media actors and social media platforms in combating climate disinformation. In the case of the National Climate Protection Council, limiting membership to nine and granting a minister the role of co-chair pose a risk: despite the principles of proportional representation, government influence could become dominant, particularly if the minister's department also covers the council's operating costs. It would be advisable to limit the minister's role to that of an observer or a non-voting chairperson, and to place the funding under the supervision of the National Assembly.

In the case of local authorities, the phrase “The state shall provide adequate budgetary support” is too general and leaves room for abuse. At the very least, the law should set a minimum funding guarantee or a clear allocation method; otherwise, authorities in smaller parts of the country will be unable to fulfil their statutory obligations due to a lack of resources. Rules on conflicts of interest and disclosure obligations for members are lacking as well, which could allow industry lobbyists to influence the decision-making process.

In addition, it would be advisable to establish a mandatory cooperation mechanism between the Scientific Council and the Ombudsman for Future Generations. Both bodies assess compliance with the carbon budget in parallel, and without coordination, overlapping or contradictory recommendations may arise.

The scope of the climate-threatening offence also appears to be narrow, as it applies only to major emitters subject to the EU Emissions Trading System (ETS), whilst medium-sized emitters – whose emissions are significant in aggregate – are excluded. To remedy this, the text should introduce a mechanism for gradual extension.

The possibility of bringing an action for failure to act in the event of a carbon budget shortfall is appropriate, but the provision includes no specific sanction if the government fails to comply even after losing the case, which substantially weakens its enforceability. Furthermore, legality oversight is a useful tool for local authority decisions, but the possibility of withholding funding could disproportionately affect smaller local authorities, which are already under-resourced. So, it would be advisable to establish a graduated system of sanctions and an appeal mechanism.

That said, these are minor details, and there is still time to refine the bill. The more important question is whether, after its historic win, Péter Magyar’s government will have the will to do so – not just to perfect the legislation, but to put an end to the current unconstitutional situation in the first place.

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How will Tisza proceed?

“Experts are analysing the text of the civil society draft bill to assess what elements can be incorporated into the draft bill to be tabled by the government,” the press office of the Ministry of the Living Environment announced at the end of July. According to the ministry, the civil society document is “extremely thorough and wide-ranging, comparable to the most comprehensive legislation at European level”. Meanwhile, legislators are also examining which elements should be regulated at statutory level, and which issues are better addressed in strategies or lower-level legislation.

According to the ministry’s position, bolder emission-reduction targets alone are not enough. “A framework must also be established setting out how these targets will be achieved, and what the roles of economic and social actors are in the transition towards sustainability.” The legislation must also address how the country can replace fossil fuels with renewables as well as how it can reduce energy consumption.

Notably, the ministry's response suggests that Hungary's new climate law will place much greater emphasis on adaptation than the current legislation. "Hungary is one of Europe's most vulnerable countries to climate change," the ministry pointed out. According to a previous ruling by the constitutional court, a legal framework must be established to ensure the preservation of the unique landscapes, wildlife, and natural assets of the Carpathian Basin. Accordingly, "The law must address in great detail adaptation to the inevitable effects of climate change and the development of flexible resilience to climate change."

Zöld Hang is a Hungarian magazine covering green politics and environmental issues.

Published August 27, 2026
Article in English
Published in the *Green European Journal*
Downloaded from https://www.greeneuropeanjournal.eu/a-model-climate-bill-written-outside-parliament/

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