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Compliance Committee Aarhus Convention
Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland

Subject: Violations against the Aarhus Convention - Hungary

Dear Secretary to the Aarhus Convention!

Ferenc Tibor Zsák, conservationist-ecologist, Chairman of the Society of Conservationists of Eastern Hungary (tiszántúli Természetvédők Társulata), apply for an investigation by the Compliance Committee of the Aarhus Convention based on the 15. Article of the Aarhus Convention in the following abuse.

The relevant violations of law:

1.As the Chairman of the Society of Conservationists of Eastern Hungary delivered my opinion during a public hearing on 18th January 2011 in Győr town hall, against the implementation of a seriously naturedestructive construction. Subsequently, the National Bureau of Investigation – presumably acting on the initiative of the company interested in the project – tapped my mobile phone, so they could knew my planned legal actions ahead in this case. The intelligence tools were used without any criminal suspicion, reason or accusation.

2.From 25th May 2011, apparently because of my activities in the natureconservation described below, the National Bureau of Investigation prosecuted me as the chairman of the Society of Conservationists of Eastern Hungary without crime, real suspicion and charge. I was arrested; documents, data carrier and other objects were confiscated from my organization's office. I was held, with a few single-day interruptions, until 6th October 2011 in jail, locked up even with dangerous killers in a cell. I have spent a total of 4 months in prison, where I was allowed to receive neither letter nor packages, and only once a week was a five-minute warm-water bath provided .

The European Court of Human Rights in Strassburg found my imprisonment illegal, but the Hungarian authorities still continue against me "their prosecution" without a committed crime (see below), as a consequence hindering my activity falling under the Aarhus Convention. The Stassbourg Court of Human Rights has awarded 6,000 euros in damages for unlawful detention, which had to be paid by the Hungarian state.

3. Seizure all of the data medium of NGO made it impossible the active functioning of the organization from 30th of May 2011 (date of the seizure). A single computer in the organization was returned in the middle of February 2012 by the investigating authorities. But most of the data medium are not returned in spite of requests and lawyer's motion. As a result, the organisation has a number of ongoing environmental proceedings could not effectively participate in. In addition, members of the organization have become inactive as a result of the constant bullying.

4. In this case of conservation, falling under the Aarhus Convention the accessibility of legal remedies were made more difficult by charging for unreasonable costs and - unlike the previous practice - a (expensive) legal representative was also required. (Knowing well, that under the threatening circumstances I could not find and afford a legal representative.)

The publicity was damaged in the following case too :

On the public hearing held on 11th November 2011 in Győr, related to the case were present: the mayor of Győr, the chief architect of Győr; representatives of the Ministry of National Economy and the Ministry of Rural Development, the representatives of Nationalpark Fertő-Hanság, Audi Motor Hungary Ltd. and representatives of the following civil organizations: Reflex Environmental Association (Győr), Protect the Future Association (Védegylet), the Hungarian Society of Conservationists (Magyar Természetvédők Szövetsége) and Society of Conservationists of Eastern Hungary (Tiszántúli Természetvédők Társulata). NGO representatives unanimously rejected the implementation of the project. There was no soundrecording, or written report made of the public hearing! The representatives of the NGOs present asked for a public protocol of the consultations, what the mayor promised, however, the protocol was until this day not made.

Case description

In September 2010 the Audi Motor Hungary Ltd. initiated the establishing a 195 ha "logistics park" for industrial purposes in the western Hungarian city of Győr, in a so-called Natura 2000 area , a priority conservation area, which implies annihilating the special, rare, highly protected habitat thus endangering even the worldstock of some rare species.

The responsible North Transdanubian Environmental Inspectorate in its 464-63/2010 no. expert opinion, in accordance with the Hungarian legislation, opposed the selection of the site, and did not want to give permission, however, stated (in not the most lawful way), that if the European Commission supports the naturedamaging project they would bow before the power of the word.

Later the Hungarian government by misleading the European Commission achieved, that the Commission issued an approving opinion. As a result, the Environmental Inspectorate violated the law by issuing its permission in his decision No. 370-27/2011 (dated 25th February 2011) transferring "responsibility" to the European Commission. Interesting, that for the same area in 2009 the Commission awarded € 1,279,755.00 grant for the Republic of Hungary to restore endangered habitats in the high-priority nature conservation area which also includes the area of the planned investment-project.

The Society of Conservationists of Eastern Hungary logged in as a client after the public hearing in the environmental licensing process. It initiated on 22nd November 2010 at the environmental-conservation inspectorate the integrated environmental authorization process regarding Audi Hungaria Motor Ltd.. The Society of Conservationists of Eastern Hungary

took an active part in the 1st level environmental official authority process, and on 20th December 2011 it submitted a 42-page comment on the documents of the Audi Hungaria Motor Ltd., listing legal and environmental cons that cast doubt on the feasibility of the proposed project.

The Inspectorate has neither given any written response prior, nor any verbal response during the public hearing of 18th January 2011 to their comments.

On 18th January 2011 in the City hall of Győr a public hearing was held within the framework of the environmental licensing process, where the Chairman of the Society of Conservationists of Eastern Hungary took a position against the investment. Subsequently, the mobile phone of the Chairman of the Society of Conservationists of Eastern Hungary was tapped by the National Bureau of Investigation thus gaining information of the planned actions against the environmental permission issued by the Hungarian environmental inspectorate.

On 1st March 2011 the Society of Conservationists of Eastern Hungary appealed against the No 370-27/2011 decision from 25th February 2011 of the responsible nature inspectorate (compulsory levy HUF 52,000). Following the dismissal of the appeal the Society of Conservationists of Eastern Hungary submitted a court action in the county court on 28th April 2011. 2011th filed in the county court on April 28 court action.

The Audi Hungaria Motor Ltd. placed the Society of Conservationists of Eastern Hungary and its chairman with continuous, harassment like telephone calls, intercepted by the National Bureau of Investigation, under pressure.

Meanwhile, the county court on 6th of May 2011 ordered the introduction of a compulsory legal representative within 5 days for the court action regarding the Society of Conservationists of Eastern Hungary what until then had been unprecedented.

Meanwhile the other NGOs logged in previously in the environmental permitting process mysteriously withdrew without giving a reason.

The members and the Chairman of the Society of Conservationists of Eastern Hungary received a number of threatening, abusive e-mails after 28th April 2011 (the date of the submitting the court action) because of obstructing the investment of Audi.

Taking into account all these reasons for the Society of Conservationists of Eastern Hungary remained no other option, just as a last resort of nature conservation, accepting the support of a compensating conservation program from the representatives of AUDI AG, and following several consultation a cooperation agreement prepared by a law office in Debrecen and by the legal representatives of Audi Motor Hungaria Ltd. was signed on 24th May 2011. According to the agreement the natural reconstruction of the Euro-Siberian woodland-steppe oaklands situated in East-Hungary belonging to the Natura 2000 network and owned by the state would have been realized between 2011 and 2016.

The program could have been only implemented by the Hungarian state forestry and conservation organizations, involving only state areas. The members and the Chairman of the Society of Conservationists of Eastern Hungary would have only taken part in the organization of the program as volunteers! It is not disputed by anybody, not even the accusers.

About this in all respects impeccable out of court agreement, which was countersigned by lawyer and shows the selflessness of the Society of Conservationists of Eastern Hungary reported the Hungarian law enforcement agencies, bizarrely, that "crime". Audi has delated itself the contracting party for the contract which was proposed by itself. Obviously this trumped pretext of wanting to punish conservationist who wants to live up to his rights given by the Aarhus Convention to nature protection.

This was followed by the unlawful imprisonment, among killers mentioned above. The illegal criminal proceedings goes further as an endless story against me. Without any crime and without any shadow of suspicion, referring to the impeccable contract..

The Republic of Hungary violated the Aarhus Convention in the following points:

Article 3.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Article 8

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

(c) The public should be given the opportunity to comment, directly or through representative consultative bodies.

The result of the public participation shall be taken into account as far as possible.

Article 9

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law. In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law. Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

(a) Having a sufficient interest or, alternatively,

(b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and,

where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

5. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Based on the facts described above, respectfully request the Commission to investigate my case unscheduled.

Done in Debrecen, 09 December 2014



Ferenc Tibor Zsák
conservationist, ecologist