

2018-12-03	
<i>Case Summary posted by the Task Force on Access to Justice</i>	
Hungary: Waste Management Site at Kaposmérő Village	
<i>1. Key issue</i>	Residents who are not informed of the construction of a planned project in their neighborhood cannot be denied access to courts because they missed the deadline to challenge that project.
<i>2. Country/Region</i>	Hungary/Somogy County
<i>3. Court/body</i>	Pécs City Administrative and Labour Court (Pécsi Közigazgatási és Munkaügyi Bíróság)
<i>4. Date of judgment /decision</i>	2018-06-21
<i>5. Internal reference</i>	<i>I.K.27.284/2018/8.</i>
<i>6. Articles of the Aarhus Convention</i>	art. 6 and art. 9, para. 2
<i>7. Key words</i>	Deadline for Appeal, Expiry of deadline, Waste Management Site, Public participation in decision-making, Informing the public of the decision, Access to court, Access to justice
<i>8. Case summary</i>	
<p>Substantive administrative decisions e.g. permits could be appealed by those having legal standing according to the Administrative Procedure Act before 2017-12-31 in Hungary. Such appeals had to be submitted to the competent authority that made the first instance decision, within 15 days counted from the delivery of the decision to the party of the case. In case the deadline for the submission of the appeal expired, the party could ask for an extraordinary leave to appeal within an additional 8 days from the expiry of the regular 15 days.</p> <p>The residents of Kaposmérő, a small village in South Western Hungary, noticed one day that heavy earthwork machinery was arriving at the edge of their village. Soon they discovered that a new waste management site was being set up on the outskirts of the village. The site would manage demolition waste, grinding bricks and concrete.</p> <p>The residents also discovered that the facility possessed the necessary permits issued by the competent authority, although they had not been informed about anything to do with the site.</p> <p>As soon as they recognised the gravity of the situation, the residents requested a copy of the site's permit. As soon as they received that permit, they filed an appeal within 15 days, the statutory time limit for any administrative legal remedy in Hungary.</p> <p>The response of the National Environmental Agency, the appellate forum in such a case, was that the residents' appeal was allegedly submitted too late. The Agency argued that the time limit available for an appeal should be counted from the original release of the permit, despite the fact that it was neither posted to any citizen, nor published online, or in any other way made publicly available.</p>	

The Agency claimed the appealing parties should have asked for an extraordinary leave to appeal for which there was an 8-day-deadline available. Since they did not, their appeal was time-barred and therefore rejected as inadmissible without any substantive investigation of the details.

The residents filed a lawsuit against this decision. In its judgment, the Pécs City Administrative and Labour Court confirmed the validity of the citizens' arguments and ordered the Agency to decide on the merits of the case, now taking the substantive complaints of the citizens into account.

The court confirmed that the time available for an appeal cannot start before one is informed in an appropriate manner about the very decision one wants to appeal. No one can be deprived of their right to a legal remedy if they had no reasonable way to know about an administrative act. If a competent authority's decision was never made public, in particular to those with a legal interest in the case, and therefore with a right to access the courts, then the right of legal remedy becomes ineffective.

9. *Link to judgement/decision*

http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/HUNGARY/Hu_2018_Kaposm%C3%A9r%C5%91_Judgment.pdf