

We Enforce Observance of Laws, and according to us, the End Does Not Justify

As it is with any activity visible in the society, various speculations about our motifs appeared in connection with our work. In our case, a theory appears from time to time that we take our legal steps with the aim of blackmailing big companies or directly the State.

During thirteen years of our existence, we provided free legal counselling in hundreds of cases; only in three we concluded a contract where we undertook not to continue in our planned legal activities. Not in a single case did we have any financial, material or intangible benefits.

The main pretext for the speculations about us is usually cases terminated by reconciliation. The first of them is the famous case of the Rajter's family, to whom we had been providing complex legal aid since 2001. The family defended actively against the project

of aluminium works construction, planned in the area surrounded by agricultural land owned by the Rajters. For many years, we fought against the illegal project, without any success. Everything changed in 2005, after five years of our work, when the Supreme Administrative Court bore us out and started an avalanche of victorious legal cases. The Government, attempting to terminate the dispute, offered a conciliating solution.

It is worth noting that the Rajter's family did not own any land by which they could block the construction; moreover, at that time, a part of the plant was already standing and producing. In other words, we did not stop the construction in any way, but our victories at the court started to show the public an unpleasant truth about the whole project.

The Rajter's family finally asked us to agree that they would accept the State offer

and get a high financial satisfaction connected with the highest price for selected land purchase. We agreed with this reconciliation because despite the victorious legal cases we could not ensure rectification. If we did not accept, we would have risked that the Rajter's family would be sacrificed for higher goals.

Another case that induces speculations is Hyundai investment. In that case, we concluded a contract not only with Hyundai, but also with the Ministry of Industry and Trade, the Moravian-Silesian District and the CzechInvest. Again, we had no benefits from this contract. Furthermore, we only concluded it when the citizens we represented were threatened with killing. Under such circumstances, it was not possible to continue. The third case when we concluded a contract is described in the above article, More Environmental-friendly Car Seats. ✨

We Contribute to the Resulting Project Quality in Permitting Procedure

We often solve cases through active participation in permitting procedures, which may, to an uninformed observer, seem as an obstruction and effort to block the procedure and subsequently the construction. It is usually given by the complexity of the permitting mechanisms and a number of details which cannot be stated in one sentence.

However, we never enter cases without a particular vision of what we want to achieve. Whether we promote reduction of emissions, noise burden or proper assessment of alternatives for highways, we always clearly define what we want from given authority.

The public has a fixed idea that through the possibility of participating in certain

permitting procedures, organizations are virtually omnipotent and can block the proceedings effectively. A legitimate assertion of rights, though, cannot be called blocking, because it is a base of a functioning democracy. Furthermore, active participation in the permitting procedures may only prolong the permitting procedures in a very limited way. In practice, delays are mostly caused by the state bodies proceeding slowly.

As a good example, we may state the planning permission procedure for the location of the D8 highway construction in the České středohoří protected landscape area. The planning permission procedure took almost six years. The civic associations met all deadlines during the proceedings, but the admin-

istrative bodies did not issue their decision in the statutory time-limit even once. Due to an appeal filed by civic associations, the total period of the procedure was extended by one year and three months (i.e. by approx. 1/5 of the period); during that time, some shortcomings of the planning permission could have been removed. Participation of the civic associations in this case helped increase the quality of the final planning permission.

Furthermore, it is to be noted that civic associations could not have influenced the length of the appellate proceedings. The appellate authority exceeded all statutory deadlines. However, accusing civic associations of obstructions is still the easiest way how to find and to show the guilty one to the public. ✨

EPS Lawyers use law to protect citizens and their environment.

” We fight for the rights of those about whose protection the State forgets. We are a group of lawyers who believe that in a democratic society the needs and wishes of ones cannot be at the cost of breaching the rights of others. Equality of citizens before law is a public interest we defend. People's health and favourable living conditions are a prerequisite for a healthy society for which we strive.

➤ Mnohokrát děkujeme všem, kteří nás podpořili a podporují.

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Involving Citizens in Decision-making Processes

{ Editorial
 by Pavel Franc
 EPS Executive Board Member
 and GARDE Programme Manager

I wish you a good day as you read the EPS Newsletter.

Some time ago, we read a sad thing about us. Allegedly, we select the cases with the aim of extorting money from corporation managers. Such and alike statements appeared in the media, be that marginal ones. Actually, this is not surprising. For many people, it is difficult to imagine that someone could do their work without utilitarian interests, with a certain idealism – which seems almost a vulgar word in our country. We also observe this during meetings with politicians and corporate managers; one can note certain confusion in them. They simply do not understand why we do this. They think we must do it for our own or somebody's benefit. I have heard many such theories from them: “You are a professional lobbying group,” told me the Vice-governor.” You only do it to make yourselves noticed,” I heard from the General Manager of the CzechInvest. And the best for last. The theory of a former Government Commissioner for Northern Bohemia: “EPS is paid by a businessman of Hungarian origin intending to lure an investor away to Hungary.” Thus, we came to the conclusion that we will have to explain more. Therefore, you will find a few words about the myths surrounding the EPS on the last page. There are also articles on our success, both in the sphere of law and in involving the public into the decision-making process. ✨

We monitored preparations of the Spatial Development Policy. In the last issue of EPS Newsletter, we criticised the Ministry for Regional Development for preparing such a fundamental document behind closed doors. We scrutinized the draft of the Policy and discovered plans which, in the event of their approval, would harm many people as well as some important points of our landscape and which also were directly contrary to how the Policy should look like from legal point of view.

We offered our arguments to the citizens in the form of comments on particular points. They could easily send a selected comment directly from our website to the Ministry of- ficers. Apart from this, we also used and tested the system of so-called participative SMS in practice. This functions on a similar principle as donation SMS, with the only difference being that after sending the text, the Ministry did not receive money, but a comment on a certain point of the Policy.

Using the SMS technology to involve citizens in the decision-making on public issues is, according to our information, unparalleled in Europe. For the time being, it means the most comfortable and most accessible way how virtually anybody and from anywhere can communicate (not only) with an official or a politician. The system may be used in nu-

merous other cases where others decide about us without us. Besides the fact that the SMS sender directly participates in the solution of a public issue, he or she may also be regularly informed of partial results.

The Ministry finally received over four thousand and a half SMS comments, with more thousands of comments coming by e-mail or in the form of sign-up sheets. Thus, the Spatial Development Policy is probably the most commented governmental concept in the history of the CR.

At present, we negotiate with the Ministry about the settlement of all comments. The Ministry of the Environment had its own reservations, to a great extent identical with ours. Minister Bursík ensured us on a recent meeting that his office would also insist that the comments should be taken into account.

✨ Watch news on www.pur.eps.cz.

We Successfully Contest ČEZ's Irresponsible Plans

Since 2008, we monitor activities of big Czech corporations and their impact on the climate. Owing to this, we discovered this year that a planned modernization of ČEZ's brown-coal power stations will not be accompanied with a necessary decrease of greenhouse gas emission.

At present, it concerns the biggest brown-coal power station in the Czech Republic – Prunéřov II, emitting more CO₂ emissions to the atmosphere than all personal cars together in our country. After its “complex renewal”, it should have only a 38-percent energy efficiency. According to the Czech laws and EU stan-

dards, the efficiency of a power station transforming coal to energy should reach at least 42%. Each per cent achieved of efficiency in these volumes means a significant saving of coal as well as of the carbon dioxide which the Czech Republic produces.

When we started to deal with this problem, we found out that in 2006 a reconstruction of the power station in Tušimice was approved under similar circumstances. Even though the problem was known at that time and it also was presented in the media, according to our findings, nobody tried to prevent ČEZ from this by the rule of law. In the event of Prunéřov, we interfered with the permitting procedure. We brought attention to the irresponsible ČEZ's plans within the environmental impact assessment of the power station. Based on our comments, the Ministry of the Environment also requested that ČEZ should use the best technologies available and reach the efficiency of 42%.

* More info on www.responsibility.cz.



What Is the Actual Price of Highways?

Planned road constructions in many cases unnecessarily expose citizens to excess noise and emissions, they are contrary to the interests of nature protection and actual transport and economic interests. This is strengthened by the ways of planning, approving and, last but not least, funding of the infrastructure development in our country.

The Ministry of Transport has not prepared a concept yet to specify clearly what, why and in which order is necessary to be built. Despite of that, this year the Government again agreed on a list of transport constructions, the price of which exceeds 800 milli-

ard crowns (for comparison: the State Budget for this year was 1107 milliards). Without any concept, it is impossible to monitor the efficiency of public funds spent, the result of which is that the development of the transport network is chaotic and that Czech highways are overcharged, even when compared with the neighbouring countries.

The costs are dictated by the Road and Motorway Directorate and the prices of individual structures during the construction grow uncontrollably. For example, the price of one D11 highway segment increased from the originally approved amount by almost 22%; the price of Lovosice – Řehlovice segment

of the D8 highway grew by 133%.

The Road and Motorway Directorate continuously ignores all independent analyses, which confirm the Czech highways are overcharged. Instead, it wastes the taxpayers' money on biased studies, in an attempt at disconfirming this fact in the eyes of the public and politicians.

In the Highway Prices project, which is the only initiative of this kind in our country, we uncover facts on non-transparent funding of transport constructions, submit them to the public and invite politicians to stop standing idly, watching how our joint money is wasted.

* More info on www.cenadalnic.cz.

How Does the State Protect the Citizens from Noise?

Are you disturbed by excessive noise from a road? You are not alone – approximately half a million people in the Czech Republic suffer from noise.

This is the reason why we pay long-term attention to the noise burden and publish legal advice for the citizens affected on our website www.hluk.eps.cz. You will also find an overview of noise exceptions that are issued but not published by district health authorities.

In summer, we analysed noise excep-

tions and found out that the system of citizen protection from noise fails. Originally, an exception was meant as a temporary extension of a deadline by which the road administrator was supposed to establish appropriate anti-noise measures. But actually, the district health authorities issue exceptions which are not based on sound reasons. In more than a half of the cases, there is no gradual establishment of anti-noise measures. Roads, for which exceptions were issued, become

places where law does not apply from a long-term perspective.

Furthermore, citizens affected by noise are not invited to participate in the permitting procedure for exceptions, which we consider unconstitutional. Therefore, we filed a suit with the Constitutional Court and required that a law should enable citizens to participate in the decision-making that impacts their environment and health.

* More info on www.hluk.eps.cz.

Green Car Seats

The Dymos company acquired a building permission for assembly works of Hyundai car seats in Nošovice. Additionally, it presented its intention to add a polyurethane foam production line for car seats, which is environmentally problematic by its nature. We came to believe that the Dymos wants, by means of the so-called salami slicing practice, to circumvent the permitting procedure; therefore, we filed a suit against the building permission.

Afterwards, the Dymos initiated a joint meeting, guaranteeing that it did not intend to circumvent legislation during the new line construction; furthermore, it showed its will to discuss further limitation of its production impact on the environment with us. Thus, we assessed the planned production procedures



in detail and found a potential, in particular, in the sphere of energy savings.

The Dymos accepted our suggestions and will have prepared energy audit and, subsequently, it will invest into energy-

saving measures. However, after the previous experience with the Hyundai car making company (the Dymos is a Hyundai's affiliate), we insisted on signing a contract which also includes a contractual penalty. *

How to Help Employees?

In October 2008, a public defender of rights organized a round-table discussion on the topic of Control over Observance of Employee Rights. An impulse for this meeting was a June study by the EPS lawyer, Jana Koukalová, who pointed out discrimination of employees by multinational companies and chain stores. The problems were discussed by the representatives of those institutions that can help affected employees – the State Labour Inspection Office, the Ministry of Labour and Social Affairs and NGOs. *

Another Suit for Nové Mlýny Won

There is a dispute concerning the level of the Nové Mlýny water works. It may look like a trifle, but lowering of the water level would actually allow for 50 ha of wood to be grown

and islands would appear to strengthen the local fauna and flora. This would help incorporate the Nové Mlýny to the landscape. The Ministry of Agriculture, which we sued for illegal procedure, lost for the second time. Unfortunately, the water level will probably not be lowered for the time being. *

Reform of European Laws

Together with the ECCJ (European Coalition for Corporate Justice), we prepared proposals for a reform of European laws and presented it in May to the European Parliament. The aim of our proposals is that corporations should pay more attention to respecting human rights. The Vice-President of the European Commission, Commissioner for the Enterprise and Industry, Günter Verheugen and the Commissioner for Employment and

Social Affairs, Vladimír Špidla assured us for the first time during a personal meeting that they would discuss our proposals. The first step should be establishment of an extra commission to find out methods how to incorporate our proposals to the EU laws. *

Messages for ArcelorMittal

In case of one of the biggest polluters in our country, ArcelorMittal Ostrava, we made use of the system of participative SMSs. Not only people, whose health the metallurgical company harms by its activities, but virtually anybody has a chance to participate in solving the problem. By sending an SMS, one asks the Board Chairman, Sanyaj Samaddar that the company should take immediate and efficient measures. See how-to on www.nebenadostravou.cz. *

EPS Counselling Centre

A steady pillar of our activities is the EPS Counselling Centre. More than a thousand people a year turns to us, being endangered by planned or already progressing building, industrial or agricultural activities. We provide legal counselling, analyses, and/or procedural conduct free of charge.

This year, we were helped by almost thirty students of law, who thus got valuable practical experience. The law studies at the universities lack a practical element and the subject of the environmental law is not very attractive by itself. In the Counselling Centre, students solve particular “live” cases, getting acquainted with nature protection as a public interest. We believe

that this experience will prove positive when they become advocates, judges, prosecuting attorneys, corporate lawyers or officers. Students are interested in the practice in the EPS Counselling Centre; almost every week new students ask us about it and more than a half of them stay with us for more than a year. We would like to thank them in this way for their thorough work.

You can contact EPS Counselling Centre on the phone number 545 575 229, or by e-mail poradna@eps.cz