Transboundary Access to Justice for Environmental NGOs

In Hungary
Legal frame of participation

- *Aarhus Convention* – proclaimed by the Act LXXXI of 2001;

  – Art. 2. sub. 6.
Environmental NGOs as parties

- **Administrative procedures**
  - Act CXL of 2004 on the General Rules of Administrative Proceedings and Services;
  - Act LIII of 1995 on the General Rules of Environmental Protection;
  - Gov. Decree No. 314/2005 on the environmental impact assessment and the unified environmental permit;

- **Civil procedures**
  - Act III of 1952 on the Code of Civil Procedure, judicial review of administrative decisions
Administrative Procedure Act (2004)
- Those natural or legal persons or organizations not having a legal personality have standing whose *right or legitimate interest is affected by the case* [...].
- An Act of Parliament or a Government Decree may define in certain types of procedures those categories of persons who have legal standing without examining the fulfillment of the aforementioned conditions.
- **Environmental Protection Act 1995** - Associations formed by citizens for the protection of their environmental interests and other social organizations have legal standing in the *territory of their operation* in environmental administrative procedures.
- Act II. of 1989 on Right to Associate – conditions of establishment of associations.

Environmental impact assessment – Gov. Decree No. 314/2005;
- Verification of legal standing: constitution of the organization, decision of registration;
- Transboundary assessment: proceeding as „party of origin“ or „affected party“ - Espoo Convention
Judicial review of administrative decisions
- „party, or any other party to the proceeding concerning provisions expressly pertaining to him’

Civil Procedure Act (1952)
- Special rules of administrative lawsuit
- Party
  - gen.: having legal capacity;
  - spec.: participation in the former admin. process
    - or the decision of the first level in the former admin. process was appealed by anyone entitled to appeal and the plaintiff would have been party
Waste incinerator in Heiligenkreuz

The Hungarian environmental NGO participating: Pro Natura St. Gotthard (PRONAS)

- General barriers
  - applying the rules of participation ambiguously;
  - expenses of representation;
  - official language of proceedings;
  - burden of proof – high expenses;
  - difficulties of delivery of documents;
  - extremly long administrative and trial period;

- Difficulties as foreign NGO
  - verification of legal standing
  - SLAPP cases