

Transboundary Access to Justice for Environmental NGOs

In Hungary



Legal frame of participation

- *Aarhus Convention* – proclaimed by the Act LXXXI of 2001;
- *Espoo Convention* – promulgated by the Gov. Decree No. 148/1999;
 - 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 forementioned 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;
- extremely long administrative and trial period;

- Difficulties as foreign NGO

- verification of legal standing
- SLAPP cases

