

# **Putting Toyota MC. and PSA Peugeot Citroen Corporate Social Responsibility Promises into Practice in the Czech Republic**

## **Synopsis**

---

This case was chosen to show how an environmental legal advocacy organisation from the Czech Republic, EPS, negotiated on behalf of a local community measures to be put in place by of the biggest corporations in the country — the joint venture between Toyota M.C. and PSA Peugeot Citroen — in order to put into practice the principles of corporate social responsibilities. Following the actions initiated by EPS, the corporation implemented several of the demands of the local community.

## **Background of the conflict**

---

### **Factual situation**

GARDE-ELS's main topic is corporate accountability. Since 2001, GARDE-ELS monitors the legal aspects of the activities of the big corporations in the Czech Republic. No wonder that GARDE-ELS became interested in the development of the biggest foreign direct investment (FDI) – the joint venture between Toyota MC and PSA Peugeot Citroen known as TPCA. As a first step, ELS requested the city of Kolin to give us a copy of the Memorandum of Understanding signed with TPCA. GARDE-ELS has also requested access to the Memorandum of Understanding signed at Government level. Initially, the city of Kolin refused to disclose this information. Nevertheless, following ELS appeal to the mayor, GARDE-ELS received a copy of the Memorandum and the mayor suggested a meeting with TPCA.

A first meeting took place between representatives of GARDE-ELS on one side and representatives of TPCA, the City of Kolin, and the Czech governmental agency CzechInvest on the other. The GARDE-ELS representatives presented the concept of corporate social responsibility (CSR) and called on TPCA to begin negotiating on concrete steps that will lead to meeting the declared standards. GARDE-ELS representatives presented sample proposals for such steps. The TPCA representatives rejected these proposals, stating they were insufficiently concrete, and requested they be expressed in more detail. Simultaneously, they declared that they are willing to further negotiate on any eventual proposals of ELS's GARDE programme.

Meanwhile, the residents of Ovcarecka Street (approx. 80 people), living in the immediate neighbourhood of the plant, contacted GARDE-ELS asking for legal assistance. They expressed their concerns over the direct negative impact caused by transport connected with the operation of the TPCA plant. Also, citizens of the village of Ovcary turned to GARDE-ELS complaining that property owners at the village's west end are those most affected: they have seen a dramatic drop in the water level, and a drying out of their wells. Last but not least, the city of Kbel asked ELS for legal help because of Toyota Central HUB Project Kolin, estimating that the location of the hub in their city will generate problems related to transportation, mainly noise pollution and nuisances caused by pollutants and light pollution. GARDE-ELS was also in contact with other citizens living around the

TPCA plant and facing a rapid increase of transport connected with TPCA operations.

Most of the above mentioned citizens had previously tried to negotiate with TPCA on their own but without any result.

GARDE-ELS offered to prepare a *Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroen Automobile Czech, s. r. o.*, spelling out the demands of affected citizens and municipalities. Special consultations took place with the citizens to collect their demands. In parallel, GARDE-ELS carried out a legal analysis of the permitting process, emphasising the irregularities related to these procedures. The Proposal was sent to the affected citizens, local NGOs and also to civil society community all around the Czech Republic with a suggestion to support and sign the Proposal. In the end, the Proposal was endorsed by more than 30 non-governmental organisations, including local community NGOs and local people supported the demands included in the proposal.

### **Legal issues at stake and legal framework for this special case**

Toyota MC and PSA Peugeot Citroen signed a Memorandum of Understanding with various Czech ministries. Among its obligation is one to build access communications connecting the TPCA plant to the D 11 highway (roads no. II/125 and II/328). The costs for this construction should be borne by the Czech Republic. At the time of signing of the Memorandum, no EIA had been conducted and therefore there was no knowledge of the effects of the planned roads on the inhabitants of the affected villages or on the nature within the Libický luh nature reserve. Furthermore, the planned highway No. II/125 runs along the border of the territory of the Libický luh nature reserve, which benefits from the highest degree of protection pursuant to the Act no. 114/1992 Sb., the Nature and Landscape Protection Act. This nature reserve is a territory planned to be included in the NATURA 2000 network. Yet during the consent procedures related to the reconstruction of II/125, which links the plant with the D 11 highway, the potential impact on nature in Libický luh was not assessed.

The Memorandum itself was when Act no. 72/2000 Coll. on Investment Incentives was in effect, and the two memoranda are an exceptional solution in the favour of both corporations.

These facts reveal a series of irregularities:

- a conflict of interest among the decision-making authorities.<sup>1</sup> Furthermore, the obligations arising from the Memorandum might represent a breach of certain public law norms;<sup>2</sup>
- potential conflict with European legislation;<sup>3</sup>
- conflict with Article II paragraph 2 and Article V paragraph 3 of the *OECD Guidelines for Multinational Enterprises*.<sup>4</sup>

---

<sup>1</sup> Per the definition given in § 9 and following of Act no. 71/1967 Sb., the Czech Administrative Code

<sup>2</sup> Domestic legal norms contained primarily in the following legal regulations: Act no. 100/2001 Coll., the Environmental Impact Assessment Act, Act no. 50/1976 Coll., the Construction Act, 71/1976 Sb., Act no. 76/2002 Coll., the Integrated Pollution Prevention Act, Act no. 114/1992, the Nature and Landscape Preservation Act, and others

<sup>3</sup> Primarily the EIA and the IPPC Directives

<sup>4</sup> Art II para 2 provides: “Enterprises should [...] Respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments.” Art V para 3 provides: “In particular enterprises should [...] Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant

The Memorandum of Understanding signed at the cabinet level, together with the one signed with the city of Kolin, contain provisions suggesting evident illegality in the building permit and land-use decision regarding the plant. These memoranda list the people involved in the coordination and implementation of the TPCA investment plan. Within the project team are individuals “responsible for the smooth implementation of the project, approval proceedings, construction and commencement of the production,” including the head of the project EIA team at the Ministry of Environment, who is responsible for issuing the final EIA statement on the matter in question. Likewise the head of Kolin’s Building Office, responsible for issuing the land-use decision and the building permit, is also a member of the team.

These facts indicate:

- a conflict of interest among the decision making authorities,<sup>5</sup> which could result in illegality of the decisions issued — especially the EIA statement, construction permit, and land-use permit; and
- conflict with Article II paragraph 2 and with Article VI of the OECD Guidelines.<sup>6</sup>

The different agreements concluded between TPCA and the City of Kolin include numerous provisions that impose obligations for the city of Kolin to proceed in conflict with the law. Agreement on the future purchase contract and the contract on cooperation in preparing the construction grounds, concluded between TPCA and the city of Kolin, contains a number of obligations in the multinational’s favour, which could be qualified as provisions in conflict with business ethics, as they bind the city to not fulfil the obligations assigned to it by law and represent a threat to the public rights of all entities that should have the right to take part in administrative processes. The contractual provisions entirely put into doubt the independence of the relevant public administration bodies in the course of their decision making regarding the TPCA plant, and render the issued decisions illegal. They are also entirely against the letter and spirit of corporate social responsibility for multinational corporations, and under certain circumstances, the actions of both the state employees and corporate employees could be considered as qualifying for the filing of a criminal suit.

According to GARDE-ELS’s findings to date, the documentation assessing environmental impact was not prepared specifically for the TPCA plant, but for a general plan for an automobile production plant, without the concrete production technology being known. Therefore, no proper environmental impact assessment for the Kolin Production Plant has been performed.

The cumulative environmental impacts of the extra freight and passenger transport made necessary by the plant’s operation in the zone have not been evaluated. The noise and dust studies prepared for the different other operators situated in the industrial zone where the TPCA plant is located were done individually, without analysing the overall impact of all activities. Thus it is not in any case believable that their conclusions on whether or not legal noise and emissions limits will be exceeded are credible.

---

environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.”

<sup>5</sup> As defined in § 9 and following of Act no. 71/1967 Sb., the Czech Administrative Code

<sup>6</sup> Art. VI sets measures for combating bribery.

The facts point towards:

- a conflict over domestic legislation — both existing legislation<sup>7</sup> and the legislation effective when the EIA procedure was completed;<sup>8</sup>
- a conflict with European legislation;<sup>9</sup> and
- a conflict with Article V, paragraph 3 of the *OECD Guidelines for Multinational Enterprises*.

If GARDE-ELS had access to all decisions of the state agencies related to this investment more illegalities would be revealed. Unfortunately state agencies were not willing to disclose the information once the Proposal was made public. GARDE-ELS initiated the necessary legal steps to enforce the right to access to information.

## Procedural history

The alternative dispute resolution process started after all important administrative procedures concerning the permitting of the plant were finished. The local community did not take part effectively in the different procedures, either because it was not properly informed or because it was not aware of the implications of these procedures. Later on, when the plant was built and began to function, they were subject to different impacts and decided to take actions to defend themselves.

Before GARDE-ELS' involvement in the case, the citizens tried to negotiate on their own with the vice-president of TPCA without any results. TPCA refused to address any problems connected to their facility, arguing that city of Kolin is responsible for the negative impacts resulting from the plant's operations.

During the negotiation process, land use and building permitting procedures were initiated for the increase of the throughput of road no. II/328 and its planned connection to highway D 11. The residents of Ovcarecka Street were concerned that they would be directly and negatively affected by transport connected with the operation of the TPCA plant. GARDE-ELS negotiated on behalf of the residents and included their demands into the Proposal.

The Memorandum of Understanding signed between Toyota and PSA on the one hand, and the city of Kolin on the other hand contains, among others, the obligation to rebuild road no. II/328 by October 2005. The residents of Ovcarecka live and own properties along this road and therefore must be included in decision-making procedures — land use procedures and building permit procedures. TPCA unofficially helped to finance part of the residents' demands under the condition that they would not use their rights to slow down both procedures needed to start rebuilding the road. The residents pledged not to appeal against land use decisions and building permits provided that their demands were accepted. The process has not been completed.

GARDE-ELS provided the residents with free legal help in both procedures, preparing an appeal against the land use decision that was withdrawn after the agreement was closed.

---

<sup>7</sup> Act no. 100/2001, the Environmental Impact Assessment Act

<sup>8</sup> Act no. 244/1992, the Environmental Impact Assessment Act

<sup>9</sup> EIA Directive

## Parties and stakeholders to the process

---

Party/stakeholder	Nature	Interest
Toyota MC, PSA Peugeot Citroen and their joint venture company – Toyota Peugeot Citroen Automobile Czech, s. r. o.	Business	Avoid negative publicity, avoid being held liable for the environmental problems related to its functioning
City of Kolin	Municipal organisation	Avoid negative publicity, fulfil obligations derived from the MoU, maintain good relations with TPCA
City of Kabel	Municipality	Stop the Toyota Central HUB Project Kolin in their administration district
CzechInvest – Investment and Business Development Agency	State agency	Protect TPCA against any legal actions initiated by the civil society organisations, control the decisions of the Kolin authorities
Sdruzeni Obyvatele Ovcarecka	Local NGO	Representing the residents of Ovcarecka Street in their demands to get compensation for damages resulting from the increased noise pollution and to implement anti-noise measures
Sdruzeni Staralka	Local NGO	Review the decision about road system in Kolin
Sdruzeni Stitary	Local NGO	Review the decision about road system in Kolin
Sdruzeni obyvatel Ovcary	Local NGO	Representing the residents of the Ovcary in their request to obtain compensation for the drop of the water level and drying out of wells and to reduce noise pollution
Czech NGOs (approx. 33)	NGOs from all over Czech Republic	Raising accountability of multinational corporations and setting up good practices
GARDE-ELS	Environmental legal advocacy organisation acting as main negotiator	Helping affected citizens, creating a positive example of corporate social responsible by requiring corporations to fulfil their own voluntary obligations, reveal to the general public the negative effects of interconnection between private sector and public sector

## Conflict resolution process

---

### Why was this tool used?

Since 2001, GARDE-ELS has monitored how large corporations in the Czech Republic put into practice the principles of corporate social responsibility. The activities of the TPCA suggested that all the tools for administrative and judicial actions could no longer be used, given the fact that the terms for introducing such actions have expired. Therefore, GARDE-ELS decided that the only way to

reach a result was to negotiate with TPCA directly and point out to them the different failures in the permitting and land use procedure.

### **Conflict resolution procedure**

As a first step GARDE-ELS arranged a meeting with TPCA, the city of Kolin, and the Czech governmental agency CzechInvest. The representatives of EPS gave a presentation on the principles of corporate social responsibility and called TPCA to comply with them. GARDE-ELS presented as an example several proposals for activities to be undertaken by TPCA which would ensure compliance with CSR principles. The TPCA representatives rejected these proposals, stating they were insufficiently concrete, and requested that they be rewritten more concretely. Simultaneously, they declared that they were willing to negotiate further on any proposals of ELS's GARDE programme.

For the second round of negotiation, GARDE-ELS consulted with the affected citizens and municipalities and collected their demands towards TPCA. The citizens specified their needs and empowered GARDE-ELS to negotiate on their behalf. GARDE-ELS did a legal analysis of TPCA's activities in the Czech Republic as well as of the CSR obligations of Toyota MC and PSA Peugeot Citroen. GARDE-ELS gathered all relevant information and created the *Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroen Automobile Czech, s. r. o.* The Proposal was sent to the affected citizens, local NGOs and to the civil society community throughout the Czech Republic with the suggestion to support and sign the Proposal.

The general goals of the negotiation process were:

- to help affected citizens;
- to create a positive example of corporate social responsible approach from big corporations;
- to open discussion about CSR and corporate accountability among the general public in the Czech Republic;
- to force corporations to fulfil their own voluntary obligations;
- to show the general public the negative effects of interconnection between the private and public sectors; and
- strengthen the Civic Sector and Local Communities.

Based on the feedback of affected citizens and local communities, GARDE-ELS formulated specific demands towards the TPCA:

- Put into practice the CSR principles and the Global Reporting Initiative.
- Meet EMAS standards.
- Prepare a new independent study of external impacts of the plant used by TPCA and its subcontractors, with emphasis on the traffic burden.
- Ensure active reduction of the traffic burden.
- Withdraw the request for an exception to the "restriction on the travel of certain vehicles" defined in § 43 paragraph 5 of Act no. 361/2000 Sb., the Road Transport Act.
- Meet the legal obligation to cover the costs connected with necessary road improvements.
- Provide compensation measures for the residents of Ovcarecka.
- Undertake reparations and protective measures for the citizens of Ovcary.
- Implement anti-noise measures and structure stability measures for affected citizens in Velky Osek.
- Change the location of the Toyota-Central Hub Project Kolin — Logistics Center for New

Automobiles—Ratibor.

- Provide conservation support for the Libický luh Wetland.

### **The main stages of the negotiations process**

- request for information about the Memorandum of Agreement to City of Kolin (April 2004);
- proposal of the mayor of the city of Kolin to meet TPCA (June 2004);
- gathering preliminary information about the TPCA case and preparing a presentation on the application of CSR principles by TPCA (July - August 2004);
- meeting between representatives of the GARDE-ELS and representatives of TPCA, the City of Kolin, and the Czech governmental agency CzechInvest (August 11, 2004);
- consultations with affected and active citizens in city of Kolin, (August 11, 2004 and several times during September and October 2004);
- submitting a project proposal for financing of GARDE-ELS' work on the case to a grant programme of the Czech Environmental Partnership Foundation (proposal submitted on September 2004, accepted on November 2004);
- research on Toyota MC and PSA Peugeot Citroen voluntary obligations and preparing a legal assessment of the permitting process of the TPCA plant, revealing several irregularities (October, November 2004);
- cooperation with affected citizens: asking for their demands and receiving confirmation to negotiate on behalf of them (October, November 2004);
- drafting of the Proposal (October, November 2004);
- gathering support letters from civil society organisations (November 2004);
- sending the Proposal to top management of both corporations and to the management of the TPCA plant (December 2004);
- press release about the Proposal and short description of the case (issued in the Czech Republic and also abroad, December 2004);
- accepting the offer of the meeting by TPCA (January 2005);
- press release about the planned meeting with TPCA (January 2005);
- meeting TPCA representatives (February 2005);
- providing residents of Sendražice with legal help (continuous).

### **Methodology**

A combination of tools was used to put pressure on the corporation. GARDE-ELS' lawyers used their special know-how and prepared a legal analysis emphasising the failures in the observance of the permitting procedures. They revealed that both corporations did not act lawfully. The findings became inconvenient for both corporations, because the automotive care industry is sensitive to any negative publicity. Although no intention to start legal proceedings against the TPCA was expressed, GARDE-ELS' reputation for strong legal organisation was relatively deterrent.

In parallel, GARDE-ELS represented the residents of Sendražice in administrative procedures related to land use and building permitting procedures.

To put as much pressure as possible, GARDE-ELS also asked the support of NGOs throughout the Czech Republic and made the Proposal public. Concerned about ensuring a transparent process and correct representation of the interests of the people directly affected, GARDE-ELS tried to involve local communities and civil society organisations as much as possible.

A key element of the strategy was the fact that GARDE-ELS did not want to negotiate with the city of Kolin or with the CzechInvest agency, but with the company itself, considering that it is their responsibility to behave in a socially responsible manner and obey the principles they claim they put into practice. Therefore, GARDE-ELS set up meetings with the company and sent the Proposal to all key managers of both corporations.

### **Outputs of the process**

No formal agreement was reached in any phase of the process. This is the most serious aspect of this case. Even though TPCA accepted some of the demands, they never officially admitted that it was done because of GARDE-ELS' activities. GARDE-ELS strongly believes that TPCA did not want to accept them as equal partners.

As a result of the negotiations, TPCA undertook several activities. They ordered the preparation of a strategy proposal for a grant-making procedure from an institution specialising in this, and one with the appropriate level of experience and credit. Based on the results of this strategy, TPCA established a special grant-making procedure for the Civic Sector and Local Communities

They also retracted the request for an exception to the "restriction on the travel of certain vehicles" defined in § 43 paragraph 5 of Act no. 361/2000 Sb., the Road Transport Act. If approved this request would have allowed TPCA lorries to supply the plant during weekends and national holidays. Instead of making use of this exception, TPCA decided to build a special warehouse for these purposes.

During the land use procedure for road No. II/328, the city of Kolin signed contracts with residents of Ovcarecka providing the obligation for the city to finance special anti-noise measures. Unofficially it was confirmed that these special expenses are covered by TPCA. Finally, they started using special silencers to reduce the plant's noise pollution as protective measures for the inhabitants of Ovcary.

During the land use procedure for the road No. II/328, the city of Kolin signed contracts with residents of Ovcarecka providing the obligation for the city to finance special anti-noise measures. Unofficially it was confirmed that these special expenses are covered by TPCA. Finally, they started using special silencers to reduce the plant's noise pollution as protective measures for the inhabitants of Ovcary. This special protective measures include exchanging of 251 windows for new ones with the highest possible noise insulation and microventilation, and of their parapets. Special anti-noise walls will be built in several cases, where needed. 21 houses will be provided with special form of insulation for their facades as anti-noise measures.

These outcomes alone do not qualify the programme as a success. Even though GARDE-ELS did not expect all of the demands to be met, TPCA agreed to implement very few of the requirements. This is hardly the attitude of a social responsible enterprise. The real disadvantage of the process is the fact that TPCA did not want to accept civil society representatives as equal partners in negotiations. TPCA representatives tried to cast doubt upon GARDE-ELS' legitimacy for negotiations by claiming that the demands relate to the local community and they want to have direct negotiations with them. Nevertheless, GARDE-ELS emphasised that they were given power of attorney by the local community to negotiate on their behalf. It has to be said that Toyota, MC and PSA Peugeot Citroen do not take their own CSR voluntary obligations seriously and therefore it is legitimate to say that their CSR provisions are nothing more than greenwash. This is also an important result of the case.

## **Related actions and campaigns**

---

GARDE-ELS solicited a large number of civil society organisations in the Czech Republic for support for its Proposal to TPCA. As indicated before, GARDE-ELS earned wide support and this strengthened its negotiating position. It also tried to stimulate synergistic efforts of local NGOs with a view to encouraging them act together rather than independent from each other. The main tool used to reach the public at large was press releases in several important newspapers.

In parallel with the negotiations, GARDE-ELS provided legal assistance to the residents of Ovcarecka Civic Association in administrative procedure for rebuilding road No. II/328 (see 1.3.3).

## **Final outcome of the case**

---

During the land use procedure for road II/328, the city of Kolin signed contracts with residents of Ovcarecka containing obligations for the city to finance special anti-noise measures. Unofficially it was confirmed that this special expense would be covered by TPCA.

## **Conclusions**

---

The alternative dispute resolution method was used when the administrative procedures were over. Therefore, it is hard to estimate if the method was more effective than the administrative or judicial review tools. Nevertheless, it is unclear what would have happen if GARDE-ELS had initiated administrative procedures for the construction of the plant and industrial zone when the opportunity arose. TPCA was so interested in proceeding with the construction of the plant that it is unclear what would have happened if GARDE-ELS had mustered support from local citizens and drawn on all procedural rights available to slow down the whole process. The situation was so unique that it is difficult to say definitively whether the alternative process was more effective or not. The process was the most effective in the situation when the time for all important administrative procedures had passed.

Considering TPCA's absolute unwillingness to take any responsibility for the negative impacts of its operation that without uncovering the illegalities, TPCA would probably not have accepted any of the demands.

Toyota M. C. and PSA Peugeot Citroen CSR provisions are used primarily for improving their brand and therefore have to be taken with certain distance. General conclusion from this case: corporations take seriously a problem of negative impact of their business activities only in case of negative publicity or being threaten by legal law suits.

Recommendations:

- Citizens should be active as soon as possible when any investment occurs in their vicinity. They should participate actively in administrative procedures whenever possible and monitor state agencies' work.
- After all administrative procedures have been exhausted, the only way to create any pressure is to uncover all illegalities and make them public. However, this technique is only effective if the perpetrator (investor etc.) is sensitive to negative PR.
- Always address the organisation (or individual) directly responsible for the negative impact and try to prove causality.

### **Comments of participants in process**

---

*GARDE-ELS' activities helped to force TPCA to start behaving more responsibly. Without these efforts, no progress would have been made in the case.*

Ing. Vera Cmejrkova  
Ovcarecka 490  
280 02 Kolin

### ***Contact information of person/s providing information***

#### **Pavel Franc**

GARDE – Global Alliance for Responsibility Democracy and Equity (programme of the Environmental Law Service)  
Bratislavská 31, 602 00 Brno, Czech Republic  
E-mail: [brno@eps.cz](mailto:brno@eps.cz)  
Tel: (420-545) 575-229  
Mobile: (420-608) 362-596