



The Greens | European Free Alliance
in the European Parliament

Brussels, 29 October 2010

OPEN LETTER

Dear Commissioner Potočník,

We are writing to you concerning EU action following the recent disaster in Hungary, where the collapse of a waste reservoir released some 700.000m³ of highly alkaline red mud, flooding several settlements, thereby killing 9 persons, injuring around 130 people (some in a critical condition), and polluting more than 1000 hectares of agricultural land, including four NATURA 2000 sites.

Two Members of our group, Satu Hassi and Ulrike Lunacek, visited the site on 26 October 2010, accompanied by Benedek Javor, chairman of the committee on sustainable development of the Hungarian Parliament, and Christiane Brunner, chairman of the committee of environment of the Austrian Parliament. At the site, they met with Zoltán Illés, Hungarian Secretary of State for the Environment, to discuss the situation.

Previous mining disasters (Baia Mare in Roumania in 2000, Aznalcóllar in Spain in 1998) led to the adoption of the mining waste directive, the adoption of the directive on environmental liability, to an amendment of the Seveso II Directive and to Best Available Technology reference documents under the directive on integrated pollution prevention and control (IPPC). While these provisions are highly welcome, the disaster in Hungary highlights that there is not only a serious lack of full implementation and enforcement of relevant laws, but also that important gaps in current EU legislation remain.

The location of the red mud deposit close to a (diverted) creek seems clearly inappropriate with regard to its stability - yet it was continued to be used. Despite the very high water content of the red mud in Ajka, authorities seem to have approved emergency plans that only foresaw the release of a fraction of the red mud from the reservoir - yet more than double the amount broke free. Leakages were allegedly reported repeatedly over the years, but no action was taken. According to the Secretary of State, the permit for the embankment was given by the mayor of the municipality, who however clearly lacks the competence to assess its compliance with the IPPC directive and the mining waste directive. Inspections of the site shortly before the disaster seemingly found no problems - yet they did not include an inspection of the stability of the dams.

This is just a selection of the information Satu Hassi and Ulrike Lunacek could gather during the visit. It shows that implementation and enforcement of relevant EU legislation has been clearly deficient in Hungary. We are concerned that this is not an isolated case and that similar problems are likely to exist in other Member States.

The disaster shows that it is prime time that the Commission steps up its actions as guardian of the Treaty. We therefore call on you to establish an EU task force, similar to the one that was created by Commissioner Margot Wallström in 2000 following the Baia Mare accident, to properly assess the disaster in Hungary and draw lessons from it for what action is needed to avoid such disasters in the future across the EU. In that respect, we would like to underline that Zoltán Illés, Hungarian Secretary of State for the Environment, explicitly welcomed the establishment of such a task force.

Moreover, the current knowledge already points to clear shortcomings of current EU legislation. Firstly, there is still no legal basis for European environmental inspections. European legislation is only as good as its enforcement. National inspectors may well lack the necessary resources, competence and independence to ensure appropriate and comprehensive inspections, let alone provide a harmonized standard thereof. We therefore call on you, in line with Parliament's resolution of 20 November 2008 on environmental inspections, to come forward with a proposal for a directive on environmental inspections. This proposal should grant the EU the power to conduct inspections in Member States of activities that may have transboundary effects.


The Hungarian catastrophe has been subject to a debate in plenary of the European Parliament on 19 October 2010. Commissioner Kristalina Georgieva wondered whether the directive on environmental liability has enough teeth to bite when it comes to the implementation of the 'polluter pays' principle, as it does not make financial securities mandatory. Frankly, a liability directive without any financial consequences for operators is bound to fail. It was thus good to hear that the Commission considers tightening the directive, but Mrs Georgieva did not provide any further details nor a timetable. We would thus like to ask you to provide us with more concrete details and a timetable for the actions the Commission intends to take to strengthen the directive on environmental liability.

Finally, the classification of red mud pursuant to Commission Decision 2000/532/EC as amended ("list of wastes") as hazardous solely based on its content of hazardous substances, without consideration of its high pH value as a crucial parameter, is clearly inadequate. This points to either a failure in the list of wastes, or in the classification of substances pursuant to Regulation (EC) No 1272/2008 on the classification, labelling and packaging of substances and mixtures to which the list of wastes refers.


In summary, we consider it of prime importance to draw lessons from the latest mining disaster and take action accordingly. We call on you to create an EU task force to assess what happened in Hungary and why, to propose a legal framework for EU inspections, mandatory financial guarantees in the context of the directive on environmental liability and a revision of the EU list of hazardous waste.

We would be grateful if you could inform us about the actions you intend to take at your earliest convenience.

Yours sincerely,



(Co-President)



Daniel Cohn-Bendit
(Co-President)