

Auto-companies run over rules and law

About TPCA

The two corporations forming TPCA is the European joint company **Peugeot Citroën Automobiles S.A. (PSA)**, Paris, France and **Toyota Motor Corporation**, Toyota City, Japan. PSA had on their own a net profit of 1 497 millions of euro in 2003¹, and Toyota shows a profit of 4 190 millions of euro for the same year². The cooperation between the two has resulted in developments of new cars and the industry plant Toyota Peugeot Citroen Automobile S. A. (TPCA) in Kolín, Czech Republic. The plant has a capacity of 300,000 automobiles a year.

WHAT TPCA HAS SIGNED UP TO

In 1999, Toyota received - as the first automotive company ever - the United Nations Environment Programme's "Global 500 Award." Meanwhile, the results of the Dow Jones Sustainability Indexes note Toyota as the "leader" for socially responsible behavior within the automotive industry worldwide³. Peugeot, a member of Peugeot Citroën Automobiles S.A. (PSA) was rated among the ten most socially responsible companies out of the world's 100 largest multinationals⁴. The joint company PSA has also signed the UN Global compact in March 2003⁵.

From the above it should be clear that both of the companies that form Toyota Peugeot Citroen Automobile Czech, s.r.o. (TPCA) benefit from a very good reputation in the area of corporate social responsibility. Both companies have well-developed CSR systems and codexes, and thus it is understandable that the Czech public, too, might justifiably expect these be fulfilled, and that TPCA take a sensitive approach in handling any negative social impacts connected with project implementation and operation of the TPCA plant by Kolín.

AN INDUSTRIAL PLANT AS NEIGHBOUR

The TPCA plant in Kolín, Czech Republic, was taken into operation at the end of the year 2004 and since the construction of the plant began in 2003, the quality of life of the citizens of Ovčáry, situated in the immediate area of the industrial zone, is dropping rapidly. The extensive earthworks connected with preparing for the Kolín-Ovčáry Industrial Zone are resulting in many geodetic changes in the zone's immediate surroundings. The property owners at the village's west end are those most affected: they have seen a dramatic drop in the water table, and the drying out of their

¹ http://www.psa-peugeot-citroen.com/document/publication/Comptes_20031076490434.pdf, 2004-12-17

² Unconsolidated accounts, April 2003 – March 2004, http://www.toyota.co.jp/en/about_toyota/overview/index.html, 2004-12-17.

³ More information see at <http://www.sustainability-indexes.com/>.

⁴ The Accountability Rating, published June 23rd, 2004, <http://www.csrnwork.com/news/story.asp?id=2>

⁵ <http://www.unglobalcompact.org>, 2004-12-17.

wells. Lawyers of GARDE were very soon contacted by citizens directly affected by the new plant.

According to their findings, the documentation assessing environmental impact was not composed for the TPCA plant in particular, but only for a general plan for an automobile production plant, without the concrete production technology being known. The cumulative environmental impacts of the extra freight and passenger transport made necessary by the plant's operation in the zone have therefore not been evaluated. The mentioned facts points towards:

- ◆ a conflict with domestic legislation - both existing legislation and the legislation effective at the time the plan was evaluated
- ◆ a conflict with European legislation
- ◆ a conflict with the OECD Guidelines for Multinational Enterprises⁶ (the OECD Guidelines)
- ◆ a conflict with the UN Global Compact⁷
- ◆ a conflict with PSA's voluntary commitment stating that it "conducts studies to assess the potential environmental impact of each new plant. These studies are repeated at each main phase in the development of the site." and a conflict with Toyota's voluntary commitment that states: "when installing new facilities ... Toyota assesses the environmental impact."

Illegal contracts

The Czech Republic has on the costs of the state, committed itself to constructions of access roads from the plant to a highway, despite knowledge of the effects of the planned roads on the inhabitants of the affected villages and on nature within the Libický luh nature reserve, which lies in the immediate surroundings of the roads⁸. The highway runs directly through the territory of the mentioned nationally declared reserve, which benefits from the highest degree of protection grantable in Czech Republic. This, meanwhile, is territory that is planned to belong to the NATURA 2000 pan-European nature protection system. Yet during the permit processes surrounding the reconstruction of the highway the potential impact of its functioning on nature in Libický luh was not assessed. These facts points towards:

- ◆ a conflict of interest among the bodies of public administration that had the decision-making authority in the case. Further, the obligations arising from the mentioned Memorandum mean a possible breach of other public law norms.
- ◆ potential conflict with European legislation
- ◆ a conflict with the OECD Guidelines⁹
- ◆ a conflict with the UN Global Compact¹⁰

⁶ Article V, paragraph 3

⁷ Principles 7, 8, and 9

⁸ The commitment was made according to a Memorandum of Understanding (12-02-2002) that was signed between Toyota and PSA on the one hand and various Czech ministries on the other.

⁹ Article II paragraph 2

¹⁰ Principles 7, 8, and 9

- ◆ a conflict with PSA's voluntary to "protect the natural environment and to safeguard quality of life in the areas around its industrial sites, in all countries" and Toyota's commitment stated in the Third Toyota Environmental Action Plan, for "further promotion of proactive prevention measures" and "further enhance measures to prevent legal noncompliance and complaints."

Furthermore there are different contracts between the TPCA and the City of Kolin contains obligations in the multinational's favour, which bind the city to not fulfil the obligations assigned to it by law and mean a threat to the public rights of all entities that should have the right to take part in administrative processes. First the City of Kolín will commence the proceedings and will try to expropriate certain territory defined in the agreement to aid siting of a railway and transportation to the TPCA plant. Second the contracts contain an obligation for the City of Kolín to prevent any appeals put forth by third parties and, if any such appeal is put forth, the City is obligated to take all steps possible under Czech law to ensure that it is solved in such a way so as not to prevent the plant's construction, implementation, or operation, and not to delay construction or operation of the TPCA plant or a rise in the construction or operation costs.

The mentioned 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 simultaneously are 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.

CONCLUSION

The ultimate meaning of the above is that the approach to date of both corporations have, while promoting their investment in the Czech Republic, not only broken with their publicly declared voluntary CSR commitments, but also, and more importantly, have broken with CSR altogether, and what is more, are even breaking the law.

The CSR concept is based on voluntary assumed commitments that go beyond the framework of mere legal obligations. Respecting and upholding the laws of the countries where a corporation runs its activities is in fact a matter of course, and the basic starting point for every company that wishes to be seen as responsible. EPS's legal analysis shows that a large number of legal discrepancies occurred while implementing TPCA's investment plan.

More information

- ◆ Read the full report "*Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroen Automobile Czech, s.r.o.*". <http://www.sedlakjan.cz/index-sedlak-en.php?cat=03.dalsi-en&art=03.04>

- ◆ Friends of the Earth Europe, Corporate Accountability Campaign, <http://www.foeeurope.org/corporates/Index.htm>
- ◆ Environmental Law Service, <http://www.eps.cz/php/index-en.php>

This is a shortened article of "Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroen Automobile Czech, s.r.o." by GARDE (see below). Additional information (footnote 1, 2 and 5) are researched by Linda Nilsson, Friends of the Earth Europe.

About the author

GARDE - Global Alliance for Responsibility Democracy and Equity is a program of the Environmental Law Service - (an organization of lawyers working to protect the environment and human rights using the law-"EPS" per its Czech acronym hereinafter). GARDE focuses on corporate accountability and corporate social responsibility and work closely together with Friends of the Earth Czech Republic. GARDE started investigation of illegalities connected to the biggest foreign direct investment in the Czech Republic - the joint venture plant of Toyota Motor Corporation and Peugeot Citroën Automobiles S.A. at the beginning of the year 2004. They prepared "Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroen Automobile Czech, s.r.o." containing also incoming legal analyse of illegalities connected to the investment of Toyota and Peugeot Citroën.