

Budapest, 06.10.2007

European Parliament

Rue Wiertz
B-1047 BRUSSELS

Hans-Gert Pöttering

The President of the European Parliament

Subject: Supplementary petition concerning the non-compliance of the EU aid to the Hungarian transport infrastructure with the community legislation

Reference Number: Petition 0621/2004.

Dear Mr. President,

On behalf of the Clean Air Action Group, may I submit the following supplementary petition concerning the non-compliance of the Commission Decision No. B(2007) 3794 dated 01.08.2007 on the Cohesion Fund and European Regional Development Fund (ERDF) aid to the Hungarian Transport Operational Program with the community legislation referring to our petition on the ISPA funding of the Hungarian Road Rehabilitation Programme (Ref. No. 0621/2004, Declared admissible on 7 February 2005).

I would like to request the Petition Committee of the European Parliament to investigate the compliance of the above Commission Decision (B(2007) 3794) with the EU acquis. In addition I would like to request the European Parliament to take a stance on the matter of Cohesion Fund and ERDF funding in such cases. This Cohesion Fund and ERDF funding is the continuation of the ISPA funding, moreover the Transport Operational Program is the sequence of the Hungarian Road Rehabilitation Programme contested by our original petition.

The Transport Operational Program and the Regional Operational Programs in the framework of the National Development Reference Framework of Hungary, aiming at receiving EU aid for the years 2007–2013, demand to a large extent EU funding of road transport projects – mainly motorways and expressways. Besides, according to our information, several projects aim to improve surface accessibility to airports. There are also plans to provide funding for local roads which contribute to urban sprawl.

Here we do not wish to enter into the discussion whether all these projects are necessary at all or not. However, we do assert that **the financing of these projects by the EU taxpayers is contradictory to the EU acquis.**

Road and air transport are already heavily subsidized by the state – partly directly, but largely indirectly. This is recognized also by the White Paper “European Transport Policy for 2010: Time to Decide” which states among others the following: “In its earlier White Paper on a common transport policy the Commission already concluded that *‘one of the important reasons why imbalances and inefficiencies have arisen is because transport users have not been adequately confronted with the full costs of their activities ... As prices do not reflect the full social cost of transport, demand has been artificially high. If appropriate pricing and infrastructure policies were to be pursued, these inefficiencies would largely disappear over time.’*”

According to a study commissioned by the Hungarian Ministry of Environment and Water, and also financed by the European Commission’s PHARE Programme, state subsidies to road transport in Hungary are enormous. Besides, this study and other studies (see Annexes) also show that road transport is strongly related to illegal activities.

The direct and indirect subsidies described in the Annexes can be and should be eliminated. These studies show also the means to eliminate these subsidies, so that the “user pays” and the “polluter pays” principle would be applied in practice. For example, kilometer charging could be introduced for trucks as made possible by the *Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures*. Also, more severe rules for the accounting of car use could eliminate or greatly reduce tax evasion related to car use.

In short, the further subsidizing of road transport – which is already disproportionately highly subsidised – can be considered at least a waste of the EU taxpayers’ money. Even worse, it is very damaging, as this leads to a serious distortion of the market, it is economically and financially unsustainable, and contributes to the further deterioration of the environment.

Therefore further subsidies to road transport from the taxpayers’ money would be a clear violation of the market principles as laid down in the **Treaty establishing the European Community** (consolidated text, *Official Journal C 325 of 24 December 2002*), especially – Article 3: „*1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein: (...) (g) a system ensuring that competition in the internal market is not distorted;*” and

– Article 4: “*1. For the purposes set out in Article 2, the activities of the Member States and the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.*”

– Article 174: “*2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.*”

(Our emphasis.)

The White Paper “European Transport Policy for 2010: Time to Decide” states that “A modern transport system must be sustainable from an economic and social as well as an environmental viewpoint.” It is well known – among others from the reports of the European Environmental Agency – that the present system of road and air transport is environmentally unsustainable. The Strategic Environmental Assessment of the Transport Operational Program of Hungary also came to the conclusion that this Operational Program, if implemented, will promote environmentally unsustainable activities. Therefore further EU financial aid to these modes of transport would violate the following elements of the EU acquis:

– The **Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94** states the following:

“Article 1

Establishment and purpose of the Cohesion Fund

1. A Cohesion Fund (hereinafter referred to as "the Fund") is hereby established for the purpose of strengthening the economic and social cohesion of the Community in the interests of promoting sustainable development.”

– The **Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999** states the following:

Article 3

Objectives

1. The action taken by the Community under Article 158 of the Treaty shall be designed to strengthen the economic and social cohesion of the enlarged European Union in order to promote the harmonious, balanced and sustainable development of the Community. This action shall be taken with the aid of the Funds, the European Investment Bank (EIB) and other existing financial instruments. It shall be aimed at reducing the economic, social and territorial disparities which have arisen particularly in countries and regions whose development is lagging behind and in connection with economic and social restructuring and the ageing of the population.

The action taken under the Funds shall incorporate, at national and regional level, the Community's priorities in favour of sustainable development by strengthening growth, competitiveness, employment and social inclusion and by protecting and improving the quality of the environment.”

(...)

Article 17

Sustainable development

The objectives of the Funds shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment as set out in Article 6 of the Treaty.

– The **Cohesion Policy in Support of Growth and Jobs: Community Strategic Guidelines, 2007-2013** [COM(2005) 0299, Brussels, 05.07.2005] states the following:

„the principle of environmental sustainability should be respected to the greatest possible extent, in accordance with the White Paper¹³. Balancing the dominance of road transport in Europe by promoting alternative modes and combined transport should be a key concern.”

As it can be seen from the Annexes, at present road transport in Hungary is widely used as means of tax evasion and other illegal activities. Therefore we are seriously concerned that by providing EU aid to road transport in Hungary the following article of the **Treaty** will be violated, too:

Article 280 “1. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community through measures to be taken in accordance with this article, which shall act as a deterrent and be such as to afford effective protection in the Member States.”

Strategic Environmental Assessment has been completed on the Transport Operational Programme of Hungary. From this SEA it is clear that the Transport Operational Programme does not meet the sustainability criteria (see especially chapters 2.3.3. and 4.11.-4.13.). Therefore on the basis of the present Transport Operational Programme no EU aid can be provided to Hungary, as this would contradict the EU legislation (especially Council Regulations EC 1083/2006 and EC 1084/2006).

There are substantial needs on many other fields in Hungary – education, energy efficiency, rail transport, public transport, urban rehabilitation and others. Therefore a regrouping of the EU financial means to be provided to Hungary should cause no problem. Such a regrouping is all the more expedient because EU aid to these fields would contribute much more to competitiveness, social cohesion and environmental protection than EU financing of road building. (If necessary, we can provide also examples for concrete alternative projects.) It would also help the European Union fulfil its commitments of reducing greenhouse gas emissions.

We have exchanged a number of letters with the European Commission and had several personal meetings concerning the above mentioned issues. However, the European Commission made its Decision B(2007) 3794 without truly investigating the problem and without answering our concerns. A copy of the correspondence can be found in the Annexes.

Yours sincerely,

András Lukács

President

Clean Air Action Group (CAAG)

Hungary

Annexes:

1. Letter from DG TREN to CAAG, 20/12/2006
2. Complaint from CAAG to the European Commission, 03/01/2007
3. Letter from CAAG to DG TREN and DG REGIO, 02/02/2007
4. Letter from CAAG to DG TREN and DG REGIO, 19/02/2007
5. Letter from DG TREN to CAAG, 04/05/2007
6. Letter from CAAG to DG TREN, 05/06/2007
7. Letter from DG TREN to CAAG, 06/07/2007
8. Letter from CAAG to DG ENV, 27/09/2007
9. The European Commission's Decision B(2007) 3794 of 01.08.2007