



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Calin Georgescu**

Addendum

**Mission to the Republic of Hungary (4 -11 October 2012): comments by  
the State on the report of the Special Rapporteur\***

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## **I. General remarks**

1. Hungary would like to thank the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes for his report, and would like to contribute to the document with several remarks. As a general matter, we would like to draw attention to substantial changes in the relevant Hungarian legislation since the occurrence of the red sludge disaster. We also emphasize that Hungary has fully complied with the requirement of transposition of the relevant EU directives.

2. It is important to mention, that criminal and administrative procedures related to the responsibility for the Ajka accident are currently under way. The outcome of the process will provide a complete picture on the liabilities for, and consequences of the disaster. We would appreciate if the comments by Hungary were circulated as received as an Addendum to the report to the twenty-fourth session of the Human Rights Council, which will be held from 9 to 27 September 2013.

## **II. Position of the Hungarian Government:**

### **Regarding paragraph 16**

3. If the report sustains, that by EEA, air quality is deteriorating in Hungary, it should make concrete reference to the source of that statement.

### **Regarding paragraph 20**

4. As a reflection on para 20 (page 7) and recommendation 59 B (page 20) it should be stated that Hungary fulfills its obligations on air quality monitoring (directive 2008/50/EC). The number of automatic monitoring stations is more than double of the EU minimum requirement. Regular assessments of the air quality of Zala and Vas counties showed relatively low air pollution, below the health related limit values. Due to this fact there was no need for automatic measurement.

5. Nevertheless, new development of the air quality monitoring network resulted in new automatic stations in the western part of the country this year (2013). Three towns have now continuous measurements (Mosonmagyaróvár, Szentgotthárd and Szombathely) owing to the Austria-Hungary Cross-Border Co-operation Program (AT-HU-O3/053 (RLM) project, 3 million €). Two further projects aim the development of the Hungarian Air Quality Network (total 2.5 billion HUF). KEOP-6.3.0/2F/11-2012-0001 project will contribute to modernize the measuring devices of the automatic network, while as the result of project SH/3/9 under the Swiss Contribution manual sampling and laboratories will become more up-to-date.

### **Regarding paragraph 24**

6. The sentence „People, who reside near hazardous establishments deserve to know the dangers...” suggests that in Hungary such information is not made available to public. In fact, all industrial sites which handle hazardous materials in Hungary are obliged by the law to inform the public, the local government and NDGDM about their activity, and must have internal and outer contingency plan, which has to be practiced regularly. The Special Rapporteur received information that State funding of NGOs has drastically decreased. It should be inserted that “as a consequence of the economic crisis”. Reasoning: this economic shortage should be mentioned to indicate the reality of the unwanted negative.

**Regarding paragraph 28**

7. It is not quite correct to say that finding is about inconsistent message of the dangers of the red sludge, because of the clear and consequent statement of the State based on the expert opinion of the Hungarian Academy of Science. The gypsum was used as a damaged water treatment material, that is not correct to say as a general antidote or remedial material for alkalinity. In case of the soil treatment there were use microbial fertilizer (phylazonit), huminit, dudarit and peat soil to reduce the strong alkaline effect and develop the soil processes and soil fertility, too. The main goal to use gypsum - and also acetic acid - for treating water was to protect the transboundary Danube River. In order to reach a tolerable level of pH, an intensive neutralisation process was going on at the end-section of Marcal River (upper of its confluence). It was achieved by neutralization effect of bio-acetic-acid. The water reached the Danube after further dilution process in the Raba and the Mosoni-Danube Rivers only, where neither water quality problems nor harmful to health effects were detected. Consequently, Hungary could successfully avoid severe alkaline and heavy metal pollution of the Raba and Danube rivers.

8. Hungary would like to emphasize that there was no delay in the emergency response activity. Gypsum was started to be dispersed into the Marcal from early morning on the 5th of October 2010, at three points: Mórchida bridge, Rábaszentmiklós bridge and at the Marcal reservoir. The railway also contributed in the transportation, not only the heavy machinery.

**Regarding paragraph 31**

9. We would like to mention that there are special rules to the rescue of children, pregnant women, elderly people, or disabled persons, to fulfill their special needs in case of emergency, technical rescue or fire is part of NDGDM basic training.

**Regarding paragraph 40**

10. NDGDM would like to stress again, that it has asked independent judicial expert architects (working for Judicial Courts) to evaluate the damaged houses, that it could not influence the real estate market prices of the affected settlements nor the region and that it had consulted at length with multiple rounds with the victims through its lawyers about the best way of victims compensation (stepping in the place of the wrongdoing MAL and executing payments instead of the company) and showed utmost flexibility in the planning, construction and furnishing of the newly built houses in Kolontar and Devecser. We also wish to emphasize, that instead of banks showing “corporate responsibility and solidarity” it was the Ministry of Interior which played a decisive role to convince these mostly global multinational financial institutes to show the minimum of the universal humanitarian values as described in the Report.

11. Also in this point we would like to underline that Hungarian Law contains the rules of transparency, rules of control and penal rules to exclude any kind of fraud or bias when special funds or charity NGOs distribute donations after a disaster in addition to their internal rules and regulations.

**Regarding paragraph 44**

12. The arable land in the affected area is suitable for agricultural use. The control soil measures proved the earlier model on the effective soil treatment and the earlier prohibition was withdrawn in a year. In fact, we find the claim unfounded claiming that the right to food was impacted by the toxification of crops and vegetables.

**Regarding paragraph 47**

13. With regards to dry technology, in Hungary number of measures have been undertaken aiming at the reduction of the rise of dust particles, and as it proved by monitoring measures the transmission of the red mud particles ended as a result of the measures of overlaying the reservoirs. Also we would like to stress, that there is no connection between the so called “dry technology” which produces red mud bricks, and the red mud dusty wind effect which is the consequence of non-recultivation of the dried surface of the reservoir, that being the sole and exclusive responsibility of the wrongdoer MAL alumina plant, in violation of its legal obligations.

14. We could not find reference to “Lorenputzel valley” in the entire dossier of the red sludge disaster, which in dry weather, receives dust from the Ajka reservoir.

**Regarding paragraph 48**

15. We could not find a reference point to “marine” environment as described in the report.

**Regarding paragraph 51**

16. It was the aim of the Hungarian Government to present during the State supervision of MAL, that it is possible to run this company, maintain workplaces in the region and at the same time respect Hungarian environmental laws and regulations and human rights.

**Regarding paragraph 52**

17. We would like to remind the Rapporteur to the fact, that indeed, all the CEOs of MAL are charged by the State Prosecutor with committing the crime of involuntary causing of public danger with the result of multiple deaths, committing the crime of involuntary causing public danger with the result of damages of extremely high value, committing the crime of causing environmental damage of high value and lastly by transgression of the rules of waste management before the Veszprém County Court, including the Director, Chief engineer and other executives of the company (in total 15 persons).

**Regarding paragraph 53, 54, 55**

18. We suggest leaving out these from the text, as they show overlap with recommendations contained in section V.

**Regarding paragraph 57**

19. In general we have to underline the fact that Hungary – similarly to other EU Member States – has transposed (with certain delay) the EU’s Waste Framework Directive (2008/98/EC on waste) or Directive (2004/35/EC) on environmental liability with regard to the prevention and remedying of environmental damage so there was no legislative omission made by Hungary. Most of the recommended issues are duly noted.

**Regarding paragraph 60(a)**

20. It should be noted that many efforts have been undertaken by the Government aiming at awareness-raising. There are several governmental websites of all kind to increase the public knowledge and raise awareness: (i.e.: <http://vegyianyag.kormany.hu/> ; <http://kornyezettechnologia.kormany.hu> ).

**Regarding paragraph 61 (c)**

21. With regards to environmentally sound disposal of red mud the Rapporteur recommends to consider leading international discussions. We should note that in Hungary dry technology has been applied – which is considered to be one of the most environmentally sound technology on global scale.

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