



**Raising awareness of CSR instruments and building capacity in CSOs and Trade Unions in selected new member states**

**CSR convergence monitoring**

**Case study report:  
Toyota Peugeot Citroën Automobile Czech**

*Czech Republic, January 2006*

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*The Environmental Law Service - Ekologický právní servis*

## 1. Description of the company

### 1.1. Company name

Toyota Peugeot Citroën Automobile Czech, s.r.o. (limited liability company) - ("TCPA" hereinafter).

### 1.2. Is it a daughter company? If yes, what is the mother company?

TPCA is a joint venture of Toyota Motor Corporation ("Toyota" hereinafter) and Peugeot Citroën Automobiles S.A. ("PSA" hereinafter).

### 1.3. Who owns the company?

According to Czech company register both Toyota and PSA have in TPCA its business share of 50%.

### 1.4. Is this company a contractor, subcontractor, supplier, licensee or distributor of a transnational corporation?

*Please, fill this section in case the company that is object of this questionnaire is not a transnational company itself*

### 1.5. Subject of company's business

Automobiles & Auto-components. <sup>1</sup>

## 2. Positive or negative company behavior

*Please mark one of the two possibilities according to what the case is about. In case of company pro active implementation of CSR and behavior with legal conformity, select "positive". In opposite case, please select negative.*

positive

negative

**2.1. In case you ticked off "positive", please describe, what kind of positive impact the company has.**

**2.2. In case you ticked off "negative", please describe what kind of negative impact the company has.**

The approach to date of both corporations (Toyota and PSA) have, while promoting their investment in the Czech Republic, not only broken with their publicly declared voluntary CSR commitments, but also, and more importantly, are even breaking the law.

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<sup>1</sup> Subject of company's business defined according to UN Global Compact "Business sector"



### **\* Culture**

One of the best-known cultural activities that are supported financially by TPCA is the musical festival Kmochův Kolín. Aside from that, TPCA takes part in a number of other cultural and sporting activities. Its significance, however, does not exceed the Kolín boundaries but it has come to take part in many traditions and the social lives in the municipality of the region.

### **5.1. What does the company state? (for example: Has the company adopted a code of conduct)**

In TPCA, environmental protection forms part of production system management and the everyday life of the plant.<sup>3</sup>

#### **\* IPPC Permit**

The IPPC Permit is the result of detailed analyses of the impact of the future operation of the plant on the surrounding environment. It defines the rules that operation will follow and sets down emission limits operation must comply with.

According to the law, an IPPC Permit must be issued for the paint-shop. Nonetheless, TPCA applied for an IPPC Permit that would cover all operation (exceeding legal scope) and was granted such a Permit in November 2004.

One of the preconditions for issuance of the IPPC Permit is also use of the best accessible technology (BAT). BAT is assessed in accordance with EU methodology. TPCA already meets this condition with a head lead owing to the fact that this condition will apply to other domestic producers starting the year 2007.

#### **\* Trial Operation Permit**

Issuance of the Trial Operation Permit had TPCA submitting proof to respective state administration agencies that all fields assessed are in compliance with generally valid legislation. Considering the environment, inspection mainly concerned the problematic production of emission, wastewater, waste, noise, and energy and raw material consumption.

##### **\* Waste**

TPCA undertakes not to have any waste stored directly on waste dumps. Waste will be carefully sorted and recycled or burnt.

##### **\* Energy and raw materials**

Operation in TPCA is deemed one of the most economical in the EU from the point of view of electrical energy, gas, and water. TPCA continues to further try and decrease operation energy demands.

##### **\* Noise**

TPCA complies with one of the most stringent noise limits applicable to noise from stationary sources in Europe and has also begun to monitor the situation by itself. First measurements were taken at four (4) points on 14 December 2004 (3 points were determined by the respective health station) in order to record possible impact on surrounding civil facilities. The most significant sources of noise in operation were the air-conditioning units and paint-shop machinery. Results showed that TPCA is capable of very easily meeting required limits for day and night time.

##### **\* Emission**

Production of VOC during operation is on the decrease. In TPCA, for example, a thinner recycling system has been installed, and the paint-shop has also been equipped with patent-

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3 Stated at [http://www.tpcz.com/en/production\\_environment.php](http://www.tpcz.com/en/production_environment.php)

protected painting technology and thermal baking equipment into which all combustion products from the baking ovens are driven.

**\* ISO 14001**

ISO 14001 is a standard governing the environmental protection management system. The Environmental Management System (EMS) will be implemented and maintained in TPCA in accordance with the above standard. EMS helps to manage all company actions that have an influence on the environment.

**ENVIRONMENTAL POLICY**<sup>4</sup>

Toyota Peugeot Citroen Automobile Czech s.r.o. aims to develop its car manufacturing activities respecting the environment by applying the following principles.

**Continual improvement (KAIZEN)**

TPCA Czech s.r.o. commits to continual improvement on a long-term basis.

This improvement process aims at progressive increase of company performance related to the environment.

**Prevention of pollution**

TPCA Czech s.r.o. commits to the principle of pollution prevention, placing priority on developing preventive and corrective action plans related to the sources of pollution and their impacts on the environment.

**Compliance with legal and other requirements**

TPCA Czech s.r.o. commits to comply with all environmental legislation, regulations and other requirements related to activities interacting with the environment.

**TPCA Czech s.r.o.**

aims to educate and train their members to implement the following principles into their work activities:

- Using energy and water efficiently.
- Reducing and recycling wastes.

**5.2. What does the mother company state?**

**PSA Peugeot Citroën** has identified three key ideas that underpin its contribution to sustainable development:<sup>5</sup>

- pursue useful technological innovations, whose design and implementation reflect the skills of the workforce,
- meet all economic, social and environmental responsibilities,
- maintain relations, based on ethical values and trust-based dialogue, with all partners.

**Toyota states:**<sup>6</sup> “We, TOYOTA MOTOR CORPORATION and our subsidiaries, take initiative to contribute to harmonious and sustainable development of society and the earth, based on our Guiding Principles.

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4 Stated in Environmental Policy: <http://www.tpcz.com/pdf/TPCA-policy-EN.pdf>

5 Stated at <http://www.sustainability.psa-peugeot-citroen.com/en/>

6 Stated at <http://www.toyota.co.jp/en/sustainability/>

We comply with local, national and international laws and regulations as well as the spirit thereof and we conduct our business operations with honesty and integrity.

In order to contribute to sustainable development, we believe that management interacting with its stakeholders as described below is of considerable importance, and we will endeavor to build and maintain sound relationships with our stakeholders through open and fair communication.”

Further Toyota describes in detail its policy towards its stakeholders: Customers, Employees, Business Partners, Shareholders, Global Society/Local Communities (Environment, Community, Philanthropy).

## **6. Breach of CSR policy**

*In case you ticked off “positive” at question number 2. of this form, please jump to the question number 11. of this form*

### **6.1. Does company breach its own CSR policy?**

*Please, be specific. Make a list and describe the reason why the company is breaching the CSR policy.*

GARDE-ELS' analysis shows that a large number of legal and CSR discrepancies occurred while implementing TPCA's investment plan. In the below points, we name several of these:

#### **6.1.1. Insufficient evaluation of the Kolín Production Plant's environmental impact**

According to GARDE-ELS's findings to date, 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. Therefore, no proper environmental impact assessment for the Kolín 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 that were drafted for some cases cannot be based on a reliably determined current state of affairs. 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.

The mentioned facts point towards:

- a conflict with domestic legislation—both existing legislation <sup>7</sup> and the legislation effective at the time the plan was evaluated <sup>8</sup>
- a conflict with European legislation <sup>9</sup>
- a conflict with article V, paragraph 3 of the OECD Guidelines for Multinational Enterprises (the “OECD Guidelines” hereinafter)
- a conflict with principles 7, 8, and 9 of the UN Global Compact
- 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.” <sup>10</sup> and a conflict with Toyota's voluntary commitment that, “when installing new facilities .... Toyota assesses the environmental impact.”<sup>11</sup>

<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> Council guideline 85/337/EEC, on assessing the environmental impact of certain public and private projects, as amended by Council guideline 97/11/EEC

<sup>10</sup> Stated at <http://www.sustainability.psa-peugeot-citroen.com/en/index.php?niv1=4&niv2=47&id=2>

<sup>11</sup> Page 28 of the Environmental Social Report

### **6.1.2. The Memorandum of Understanding<sup>12</sup> contains obligations whose quick fulfillment draws suspicion as to the independence and the legality of the approach of bodies of public administration**

The Memorandum of Understanding that was signed on February 12<sup>th</sup>, 2002 between Toyota and PSA on the one hand and various Czech ministries on the other contains obligations to implement, at the Czech Republic's cost, and within specifically agreed deadlines, the construction of access communications connecting the plant to the D 11 highway (roads no. II/125 and II/328) despite there being no knowledge of the effects of the planned roads on the inhabitants of the affected villages and on nature within the Libický luh nature reserve. Furthermore, highway no. II/125 runs directly through the territory of the mentioned nationally declared reserve, which benefits from the highest degree of protection grantable via Act no. 114/1992 Sb., the Nature and Landscape Protection Act. 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 II/125, which serves as the industrial zone's access road for the D 11 highway, the potential impact of its functioning on nature in Libický luh was not assessed.

We must also point out here that the Memorandum itself was signed in the time when Act no. 72/2000 Coll. on Investment Incentives was in effect, and thus when agreements with contents of the type contained in the Memorandum were no longer closed, and that the Memorandum is thus an exceptional solution in the favor of both corporations.

The mentioned facts point towards:

- above all, a conflict of interest among the bodies of public administration that had the decision-making authority in the case.<sup>13</sup> Further, the obligations arising from the mentioned Memorandum mean a possible breach of other public law norms.<sup>14</sup>
- potential conflict with European legislation<sup>15</sup>
- a conflict with Article II paragraph 2 and Article V paragraph 3 of the OECD Guidelines
- a conflict with principles 7, 8, and 9 of the UN Global Compact
- a conflict with PSA's voluntary commitment to "*protect the natural environment and to safeguard quality of life in the areas around its industrial sites, in all countries*"<sup>16</sup> 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 non-compliance and complaints.*"

### **6.1.3. The Memorandum of Understanding signed at the cabinet level, together with the one signed with the City of Kolín<sup>17</sup>, contains provisions suggesting evident illegality of the plant's structures, primarily of their building permit and land-use decision**

The mentioned provisions contain a list of persons participating in the coordination and implementation of the TPCA investment plan. The Project Realization Team includes among the persons "responsible for the smooth implementation of the project, approval proceedings, construction and commencement of the production" the head of the project EIA team at the Ministry of Environment—the person responsible for issuing the final EIA statement on the matter in question.

<sup>12</sup> The Memorandum of Understanding (Ujednání o porozumění) between Toyota Motor Corporation and Peugeot Citroën Automobiles, S.A. and individual Czech ministries, dated February 2<sup>nd</sup>, 2002

<sup>13</sup> Per the definition given in § 14 and following of Act no. 500/2004 Sb., the Czech Administrative Code

<sup>14</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>15</sup> Primarily the already-mentioned EIA guidelines, but also the IPPC guidelines as well

<sup>16</sup> Stated at <http://www.sustainability.psa-peugeot-citroen.com/en/index.php?niv1=4&niv2=42&niv3=3>

<sup>17</sup> The Memorandum of Understanding (Ujednání o porozumění) between Toyota Motor Corporation and Peugeot Citroën Automobiles, S.A. and the City of Kolín, dated February 2<sup>nd</sup>, 2002

Likewise the head of Kolín's Building Office, responsible for issuing the land-use decision and the building permit, is also a member of the Project Realization Team.

The mentioned facts point towards:

- the conflict of interest among the public administration bodies that were responsible for decision-making in the matter <sup>18</sup>, and the illegality of the decisions issued—especially the EIA statement, construction permit, and land-use permit—that this implies
- a conflict with Article II paragraph 2 and with Article VI of the OECD Guidelines
- By closing the mentioned agreements, Toyota in no way proceeded in accord with its voluntary commitment to ensure “*zero existence of illegalities*” as described in the Third Toyota Environmental Action Plan, and PSA did not contribute to increasing risk control and environmental protection, as described in its action plan.

#### **6.1.4. The contracts between TPCA and the City of Kolín contain numerous commitments that in their end result bind the City of Kolín to proceed in conflict with the law**

The contract on the future purchase contract and the contract on cooperation in preparing the construction grounds, closed between TPCA and the City of Kolín, contains a number of obligations in the multinational's favor, which could be qualified as provisions in conflict with business ethics, as they bind the city to not fulfill 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, because:

- under Article 5.1.5, 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 siting and transportation to the TPCA plant, and meanwhile under article 8.2.2, these proceedings must, under threat of contractual fines, be complete by February 28<sup>th</sup>, 2003, and this even if a third party (and thus a landowner whose land is being expropriated) submits an appeal against the expropriation.
- it is clear from Articles 5.1.1. and 5.2.1. and other contractual obligations that the City of Kolín will be submitting the request for the issuing of a land-use decision for the construction of the TPCA plant rather than TPCA itself. At the same time, the city of Kolín is, in light of the structure of the Municipalities Act (details can be found in the legal analysis), the very body of the state administration responsible for issuing for a decision. Furthermore, the head of the construction office (an employee of the City of Kolín) is responsible for the issuing of this decision and is at the same time in the Project Realization Team for the building of the TPCA plant. At the same time, the City of Kolín took on the obligation to ensure that the decision it issues does not contain any conditions unacceptable for TPCA thinking in good faith.
- 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 of Kolín 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.

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18 As defined in § 14 and following of Act no. 500/2004 Sb., the Czech Administrative Code



### **6.1.5. TPCA's request for an exception to the restriction on freight-transport traffic on Sundays and holidays would, if granted, mean bypassing of the law**

TPCA is requesting a permit for an exception to the ban on freight traffic on Sundays and holidays as defined in § 43 paragraph 5 of Act no. 361/2000 Sb., the Road Transport Act. But under the provisions of that law, such a permit can only be granted for a defined period of time, and cannot be issued for a period of longer than one year. The directive defining how this act will be implemented<sup>19</sup> goes on to also restrict the contents of a request for such an exception. Among other things, it contains an obligation to list license plate numbers, types, makes, and brands of vehicles for which the exception is requested. From this it is clear that granting such a request is crafted to accommodate occasional special cases. It cannot be expected that the TPCA plant would be in operation for no more than one calendar year or that supplying of the plant would involve only a small number of freight vehicles. The true length of the exception (from a formalistic standpoint it can, of course, be extended each year) and the number of freight vehicles that will receive the exception go against the sense of the restriction on freight-transport traffic on Sundays and holidays as defined in § 43 paragraph 1 of the Act, and it is logical that even the legal framework for granting such exceptions is not crafted for this exception. Thus in the case where TPCA is granted this exception, there can be no doubt that it will have been granted due to the exceptional economic potential of TPCA and the power that this potential brings for this corporation.

If the exception had been granted, the following would have occurred:

- an infraction of § 43 of Act no. 361/2000 Sb., the Road Transport Act, gaining unjustified advantages in economic competition;
- a possible conflict with European legislation;
- a direct infraction of Article II, paragraph 5 of the OECD guidelines

### **6.2. Have you asked the company to fulfill its CSR provisions?**

GARDE-ELS started investigation of illegalities connected to the biggest foreign direct investment in the Czech Republic - the joint venture plant of Toyota and PSA at the beginning of the year 2004. GARDE-ELS prepared "Proposal for Putting Corporate Social Responsibility into Practice for Toyota Peugeot Citroën Automobile Czech, s.r.o." containing also incoming legal analyse of illegalities connected to the investment of Toyota and Peugeot Citroën.

#### **6.2.1. The general goals of the Proposal 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 fulfill 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.

#### **6.2.2. 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.

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<sup>19</sup> Directive no. 30/2001 Coll., which defines in detail the rules for road traffic and defines how road traffic will be structured and governed

- 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 Ovčárecká.
- Undertake reparations and protective measures for the citizens of Ovčáry.
- Implement anti-noise measures and structure stability measures for affected citizens in Velký Osek.
- Change the location of the Toyota-Central Hub Project Kolín — Logistics Center for New Automobiles—Ratboř.
- Provide conservation support for the Libický luh Wetland.

### **6.2.3. The main stages of the negotiations process were:**

1. request for information about the Memorandum of Understanding to City of Kolín (April 2004);
2. proposal of the mayor of the city of Kolín to meet TPCA (June 2004);
3. gathering preliminary information about the TPCA case and preparing a presentation on the application of CSR principles by TPCA (July - August 2004);
4. official meeting between representatives of the GARDE-ELS and representatives of TPCA, the City of Kolín, and the Czech governmental agency CzechInvest (August 11, 2004);
5. consultations with affected and active citizens in city of Kolín, (August 11, 2004 and several times during September and October 2004);
6. 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);
7. research on Toyota MC and PSA Peugeot Citroën voluntary obligations and preparing a legal assessment of the permitting process of the TPCA plant, revealing several irregularities (October, November 2004);
8. cooperation with affected citizens: asking for their demands and receiving confirmation to negotiate on behalf of them (October, November 2004);
9. drafting of the Proposal (October, November 2004);
10. gathering support letters from civil society organisations (November 2004);
11. sending the Proposal to top management of both corporations and to the management of the TPCA plant (December 2004);
12. press release about the Proposal and short description of the case (issued in the Czech Republic and also abroad, December 2004);
13. further requests for information connected with TPCA (continuous);
14. accepting the offer of the meeting by TPCA (January 2005);
15. press release about the planned meeting with TPCA (January 2005);
16. official meeting with TPCA representatives in TPCA's plant (February 2005);
17. official meeting with TPCA representatives in TPCA's plant (December 2005);
18. providing residents of Kolín and surrounding villages (as Sendražice, Velký Osek, Ovčáry) with legal help (continuous).

## **7. Breach of OECD Guidelines**

### **7.1. Does the company breach OECD Guidelines for Multinational Enterprises?**

Yes, it does.

### **7.2. What article was breached?**

- Article V, paragraph 3 (Environment)
- Article II paragraph 2 (General Policies)
- Article VI (Combating Bribery)
- *attempt to break* Article II, paragraph 5 (General Policies) (see art. 6.1.5.)

### **7.3. Did you file a complaint to the National Contact Point?**

No, GARDE-ELS didn't file a complaint to the Czech NCP.

### **7.4. Do CSOs in your country know about existence of National Contact Point?**

Yes, they know, but just a little bit. This Project strives to promote the common knowledge of the Guidelines among the wider public, CSOs included.

### **7.5. Does the National Contact Point have a web site?**

The Czech NCP doesn't have its particular website but it publishes information on the Czech Ministry of Finance's website, because the Czech NCP is a part of the ministerial structure.<sup>20</sup>

### **7.6. In case of positive answer to previous question, please make list the information published on the National Contact Point web site.**

- OECD Guidelines' text
- Reports on the work of the Czech National Contact Point (2002-2004)
- Reports on the work of other OECD countries' NCPs
- Contacts and Links to other OECD related topics

### **7.7. Have you asked the company to respect OECD Guidelines?**

Our Proposal contained specific and concrete goals we think TPCA should fulfill.

## **8. UN Global Compact**

*Please, be specific. Make a list and how the company is breaching the UN Global Compact.*

### **8.1. Does the company or it's mother company support the UN Global Compact? means: is listed as a company supporting the UN Global Compact?**

TPCA in itself doesn't support the UN Global Compact. PSA joined UN Global Compact 2003/3/19, Toyota isn't UN Global Compact participant.

### **8.2. Does company breach the UN Global Compact?**

Yes, there is a conflict with principles 7, 8, and 9 of the UN Global Compact. (for further information see above art. 6.1.)

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<sup>20</sup> Please see: [http://www.mfcr.cz/cps/rde/xchg/mfcr/hs.xsl/meo\\_oecd.html#NKM](http://www.mfcr.cz/cps/rde/xchg/mfcr/hs.xsl/meo_oecd.html#NKM) (only in Czech)

## 9. Legal aspects of the case

### 9.1. Is there any breach of national law?

- Insufficient evaluation of the Kolín Production Plant's environmental impact (see above art. 6.1.1.)
- The Memorandum of Understanding<sup>1</sup> contains obligations whose quick fulfillment draws suspicion as to the independence and the legality of the approach of bodies of public administration (see above art. 6.1.2.)
- The Memorandum of Understanding signed at the cabinet level, together with the one signed with the City of Kolín, contains provisions suggesting evident illegality of the plant's structures, primarily of their building permit and land-use decision (see above art. 6.1.3.)

### 9.2. Are there any legal steps that your organization or any other organization or individual person have done to oppose the unlawful behaviour of the company?

**9.2.1.** GARDE-ELS submitted 35 legal filings in the TPCA case to date. These legal steps have been undertaken with connection with this case, especially in order to find out more information about implementation and promotion of TPCA's project, i.e. not directly against TPCA and its unlawful behaviour. We have created a list of legal steps and public authorities' decisions on our website.<sup>21</sup>

**9.2.2.** The above mentioned list doesn't contain information that GARDE-ELS participated in a land use procedure for the road No. II/328 leading to the industrial zone Kolín-Ovčáry and TPCA's plant, in order to support a participation of the local NGO Obyvatelé Ovčárecká and its members – owners of the houses located directly close to this road. GARDE-ELS provided these residents with free legal help.

**9.2.3.** GARDE-ELS provided another local NGO called Štítary with free legal help in connection with transportation problems in Kolín and its surroundings caused by transport connected with the operation of the TPCA plant.

**9.2.4.** Furthermore GARDE-ELS provided local citizens of the village Ovčáry with free legal help. These people have problems with noise from TPCA's plant and with drying out of their water wells.

**9.2.5.** GARDE-ELS prepared and submitted legal objections in land use procedure for the road No. II/328. GARDE-ELS negotiated on behalf of the residents and included their demands into the Proposal. These objections have been withdrawn immediately after the negotiations have been terminated and the contracts on co-operation (providing the obligation for the city to finance special anti-noise measures) among individual residents of Ovčárecká street and representatives of city of Kolín has been signed.

### 9.3. Have you been already successful with your legal objections?

Our legal objections (and negotiations), as above mentioned in art. 9.2.5., contributed to the contract on co-operation.

We won one of our informational cases connected with TPCA with very useful judgement that stated the city (Kolín) and public authorities should serve for citizens and not to find reasons why to reject their requests for information and not to respond them.

<sup>21</sup> Please see: <http://www.sedlakjan.cz/index-sedlak.php?cat=03.dalsi&art=03.07> - in Czech only

#### **9.4. What was the company's reaction to the legal steps that have been done?**

As a first step GARDE-ELS arranged a meeting with TPCA, the city of Kolín, and the Czech governmental agency CzechInvest. GARDE-ELS gave a presentation on the principles of CSR 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 GARDE-ELS.

GARDE-ELS prepared a legal analysis emphasizing the failures in the observance of the permitting procedures. They revealed that TPCA did not act lawfully. The findings became inconvenient for TPCA, 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 organization was relatively deterrent.

As a result of the negotiations, TPCA undertook several activities. (see below art. 10.3.)

#### **9.5. Are there any other occurrence of violations of the legal framework besides of the description of this case?**

As it was mentioned above TPCA still doesn't fulfill some of its obligations as it was requested in EIA statement, land-use permit or construction permit. On the basis of the negotiations with GARDE-ELS TPCA agreed to start solving these problems (e.g. not building of the anti-noise barrier and not planting of trees around the TPCA's plant) with using consultancy of GARDE-ELS or GARDE-ELS' recommended specialist.

#### **9.6. In case of positive answer to your question, please specify if there had been any judicial or administrative proceedings against the company? (in case you are not sure about the answer, don't answer this question)**

### **10. Public awareness to negative impacts**

#### **10.1. Is general public informed about the case, about the company etc?**

Thanks to GARDE-ELS' activities general public is relatively very well informed about the case. (see also above art. 6.2.3.)

GARDE-ELS created the website about TPCA case.<sup>22</sup>

There were a lot of articles published about the TPCA case but only one of the most serious newspapers "Hospodářské noviny" (Business Daily) brought balanced information linked to the CSR issue in this case and then published (23.9.2005) a very critical 6-pages article: "Můj soused Toyota" (My neighbor Toyota).

<sup>22</sup> Please see: <http://www.sedlakjan.cz/index-sedlak.php?cat=03.dalsi&art=03.03> - in Czech and <http://www.sedlakjan.cz/index-sedlak-en.php?cat=03.dalsi-en&art=03.04> - in English

Thanks to the close co-operation with the Kolín's weekly paper "Kolínský Pres" journalist GARDE-ELS was able to publish a lot of its critical standpoints towards TPCA and connected with this case.

Thanks to GARDE-ELS data regarding the TPCA case Friends of the Earth Europe within the framework of its Corporate Accountability campaign prepared a case study „Autocompanies run over rules and law. Case-study: Toyota, Peugeot, Citroën“<sup>23</sup>

## **10.2. Who oppose the company activities (local community, NGOs, TUs?)**

GARDE-ELS, local NGOs, local community, affected citizens.

## **10.3. What are the results of NGOs, TUs, or local community advocacy?**

No formal agreement was reached in any phase of the negotiation process. 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 specializing in this (Czech Environmental Partnership Foundation), 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.

TPCA 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 the road No. II/328, the city of Kolin signed contracts with residents of Ovčárecká 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 Ovčáry. 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.

## **10.4. What was the attitude of public authorities?**

State authorities (e.g. CzechInvest) and above all public authorities (city of Kolín) totally failed to understand the GARDE-ELS', local NGOs' and citizens' of Kolín activities and requests in this case. Thus they restricted or make impossible access to information which led to the amount of "forced" GARDE-ELS' legal filings. Majority of the requested information GARDE-ELS haven't obtain so far.

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23 Please see: <http://www.foeeurope.org/corporates/study4.htm>

## **11. Socially or environmentally responsible behavior**

*In case you ticked off “negative” at question number 2. of this form, please go to the question number 13. of this form*

### **11.1. Is the positive activity done according to what the company officially proclaims as general CSR policy valid for or its activities, or does the company do it only in your case?**

It is necessary to mention some positive aspects of TPCA's behaviour after our Proposal was submitted even though we haven't tick of positive in question no. 2.

- Thanks to grant-making procedure from the Czech Environmental Partnership Foundation “Partnership for Kolín” TPCA provided 4 million crowns in 2005 for the Civic Sector and Local Communities projects.
- The company accepted to implement some of the demands contained in the Proposal.
- The special anti-noise measures were unofficially covered by TPCA.
- TPCA started using special silencers to reduce the plant’s noise pollution as protective measures for the inhabitants of Ovčáry.

Considering TPCA’s initial absolute unwillingness to take any responsibility for the negative impacts of its operation that without uncovering the above mentioned illegalities, TPCA would probably not have accepted any of the Proposal's demands to fulfill its CSR policy. Toyota M. C. and PSA Peugeot Citroën 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.

### **11.2. Was there any external pressure (NGOs campaign, community resistance, governmental initiative?) to develop a CSR strategy in this case?**

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. GARDE-ELS suppose it was precisely its external pressure (together with NGOs and affected citizens) that forced TPCA to start developing its CSR strategy.

## **12. Benefits for the company**

*If it is possible directly ask the company’s representatives to help you to answer this questions, please do so. If not, and you have insufficient information, please try to estimate and add to your answer: “estimation”.*

### **12.1. Is there any direct benefit for company from having higher standards?**

### **12.2. Is there any indirect benefit for company from having higher standards?**

### **12.3. Is there any positive reaction from the site of general public, state representatives, communities, individuals?**

## 13. Relation to public authorities

### 13.1. Does local, regional, national government or EU Commission support the company in activities happening in your country?

As it was mentioned in art. 4 TPCA is the biggest foreign direct investment in the Czech Republic so far. A special Memorandum of Understanding was signed between Toyota and PSA with various ministries of the Czech government. A similar memorandum was also signed with the city of Kolín. These contracts contained a various list of obligations for the Czech government and city of Kolín as well. TPCA obtained investment incentives to the extent of 3,525 milliard crowns from the Czech republic. Thus, TPCA was politically supported on the national, regional and local level.

### 13.2. Is there any connection between the company and local, regional or national government?

#### a) formal

As it was mentioned above (see art. 6.1.) there is a special contract (Memorandum of Understanding) signed between Toyota and PSA and the Czech government. A similar memorandum was also signed with the city of Kolín. Thus, there's direct formal connection between the TPCA and local and national government.

#### b) informal

As it was mentioned above (see art. 6.1.3) the Memorandum's provisions contain a list of persons participating in the coordination and implementation of the TPCA investment plan. The Project Realization Team includes among the persons “responsible for the smooth implementation of the project, approval proceedings, construction and commencement of the production” the head of the project EIA team at the Ministry of Environment—the person responsible for issuing the final EIA statement on the matter in question. Likewise the head of Kolín’s Building Office, responsible for issuing the land-use decision and the building permit, is also a member of the Project Realization Team. Thus, there was a conflict of interest among the public administration bodies that were responsible for decision-making in the matter.

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