



**GARDE**  
Global Alliance for Responsibility, Democracy and Equity



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

**CSR convergence monitoring**

**Case study report:**

**MEC Magna Entertainment Corp.**

*Elaborated in co-operation with Ökobüro, Austria*

*March 2006*

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*The Environmental Law Service - Ekologický právní servis*

<b>1. Description of the company</b>
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**1.1. Company name**

MEC Magna Entertainment Corp.

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

MEC's original parent company, Magna International Inc. completed a reorganization of its corporate structure, under which its non-automotive businesses and certain real estate assets were transferred to MEC.

**1.3. Who owns the company?*****Mr. Frank Stronach***

Frank Stronach is the founder and Chairman of Magna International Inc., one of the world's largest and most diversified suppliers of automotive components, systems and modules. Magna designs and engineers a complete range of exterior and interior vehicle systems for its customers, the world's major car makers. The Company also provides complete vehicle assembly and engineering.

Mr. Stronach was born in Weiz, Austria and immigrated to Canada in 1954 with a working background in tool and machine engineering. In 1957 he formed a tool and die company, Multimatic Investments Limited, which subsequently expanded into the production of automotive components. In 1969, Multimatic Investments Limited merged with the Magna Electronics Corporation Limited, with Mr. Stronach as one of the controlling shareholders. In 1973, Magna Electronics Corporation Limited was transformed into Magna International Inc. In 1971 Mr. Stronach introduced to Magna his management philosophy, which is known as Fair Enterprise. It is based on a Corporate Constitution which predetermines the annual percentage of profits shared between employees, management and investors, and makes every employee a shareholder in the company. These rights are enshrined in Magna's governing Corporate Constitution.

As Chairman of the Board of Magna, Mr. Stronach co-ordinates global strategies for Magna in regard to technology, marketing, product development and key management. Mr. Stronach has served on numerous corporate, government and university boards and has provided assistance to a wide range of charitable and community service organizations. He is the recipient of a Doctor of Philosophy, Honoris Causa from Haifa University in Israel, a Doctor of Laws, Honoris Causa LL.D. from the University College of Cape Breton, and a Doctor of Commerce, Honoris Causa from St. Mary's University in Halifax. In 1996, Mr. Stronach was inducted into the Canadian Business Hall of Fame. He won the 1997 "Business Leader of the Year Award" from the Richard Ivey School of Business and the 1998 "Entrepreneur of the Year Award" from the University of Michigan. In 1999 he was named a recipient of the Order of Canada and in 2000 he won the Ernst & Young "Entrepreneur of the Year Lifetime Achievement Award." In 2002, the Canadian Council for International Business named Mr. Stronach as the 2001 "Canadian International Executive of the Year."

**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

**Magna Entertainment Corp.** ("MEC" hereinafter) is North America's number one owner and operator of horse racetracks, based on revenues, and one of the world's leading suppliers, via simulcasting, of live racing content to the growing inter-track, off-track and account wagering markets. MEC currently operates or manages eleven thoroughbred racetracks, one standardbred (harness racing) racetrack, two racetracks which run both thoroughbred and standardbred meets, as well as the simulcast wagering venues at these tracks.

At December 31, 2003, MEC employed approximately 5.300 employees. Due to the seasonal nature of the live horse racing industry, the size of the Company's seasonal and part-time workforce varies considerably throughout the year.

### 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.**

- Construction of a horse racetrack, including an entertainment centre, called "Magna Racino", at a NATURA 2000 site.
- Putting pressure on (local) politicians and authorities to change regulations according to the company's wishes.
- Direct breaking of regulations that were set up to protect the site from construction activities.

### 3. Geographic dimension

**local**                                       regional                                       state-wide  
 international                                       EU-wide

### 4. Short description of the case

*Briefly describe what the core issue of the case. The text should not have more than 1200 characters including spaces.*

Magna Real Estate Ltd. (registered in Austria) purchased land of 250 ha in the municipality of Ebreichsdorf in 1996 to develop the project of a so called thematic park. This leisure park should comprise a horse racetrack plus a 200 m high building on the shape of a globe. Magna sold its project as a future main leisure destination for the whole Vienna region and a landmark that you will be able to see from far away.

Ebreichsdorf lies 25 km south of Vienna in flat surroundings. A high percentage of the territory of the Municipality consists of wetlands, several small rivers and lakes. Magna purchased the land at a very good price, as at the time of buying it was agricultural land and not dedicated for construction purposes. At this time some proposals for declaring at least part of the land as protected area existed, but legally binding protection status was declared only after purchase.

In the years after the purchase part of the land were nominated as Natura 2000 sites to the European Commission by the Government of Lower Austria.

The Municipality reacted positive to Magna's project concept as they expected the creation of new jobs and high tax revenues for the Municipality. In 1999 the Municipality changed the legal status of the land and declared it as construction land.

At this time the EC Commission had already been informed about the case by several NGOs and citizen's groups. In November 2000 the Commission sent a formal letter of inquiry to the Austrian Government. In this letter the Commission stated that the definition of the boundaries of the respective Natura 2000 site had not been performed in accordance with scientific criteria. Parts of the land, which should have been added to the Natura 2000 zone, were excluded from it to allow the construction of the project possible.

Although necessary permits were still missing, Magna started construction of the horse race track. (The globe project had been dropped at this stage already.) Responsible authorities did not react, although WWF Austria and the "Austrian Forum Science and Environment" sent several letters of complaint to them. Only four months after start of the construction works Magna forwarded the applications for the necessary permits to the authorities.

In 2001 necessary permits were issued, ignoring the ongoing investigations of the EU Commission on the case. An expert commission put together by the Austrian Government convinced the EU Commission to stop investigations and to close the case. The so called MAGNA RACIO horse race tracks opened on 4<sup>th</sup> September 2004.

## 5. Company CSR policy

*Please write all CSR policy that the company officially claims to fulfill.*

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

The following overview looks at the CSR policy <sup>1</sup> of the Austrian branch of MAGNA (Magna Steyr) which consists of:

- Magna Steyr Corporate Identity

Under "Society" it is stated that MAGNA STEYR bears a social responsibility. They commit themselves that in all their divisions they would treat the environment with due care and strive to use the limited natural resources sparingly by preventing wastefulness and avoiding waste products. Right from the development stage they would meet the demands of recyclable product engineering and take it into account during the entire product development process.

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<sup>1</sup> Above mentioned CSR policies can be found on the Internet:  
[http://www.magnasteyr.com/cps/rde/xchg/magna\\_steyr\\_internet/hs.xsl/12\\_1816.php?rdeLocaleAttr=en](http://www.magnasteyr.com/cps/rde/xchg/magna_steyr_internet/hs.xsl/12_1816.php?rdeLocaleAttr=en)

They state that they naturally would pledge to comply with legal requirements, the relevant standards and regulations. Sometimes they would even voluntarily exceed the specified minimum standards in the positive sense.

Building constructive relationships with social and political institutions on a partnership basis in the regions where they operate is considered to be very important. “We firmly believe that only successful and profitable companies can embrace their social responsibility by creating and safeguarding jobs, increasing their employees' and families' well-being and supporting charitable causes - as we do out of principle and identification with the Magna Corporate Constitution,” they state at the end of their Corporate Identity Declaration.

- Magna’s Corporate Constitution

Under the motto “MAGNA – A Fair Enterprise Corporation” the following is stated:

#### EMPLOYEE EQUITY AND PROFIT PARTICIPATION

Ten percent of Magna’s profit before tax will be allocated to employees. These funds will be used for the purchase of Magna shares in trust for employees and for cash distributions to employees, recognizing length of service.

#### SHAREHOLDER PROFIT PARTICIPATION

Magna will distribute, on average, not less than 20 percent of its annual net profit after tax to shareholders.

#### MANAGEMENT PROFIT PARTICIPATION

To obtain long-term contractual commitment from senior management, Magna provides a compensation arrangement which, in addition to a base salary below industry standards, allows for the distribution of up to six percent of its profit before tax.

#### RESEARCH AND DEVELOPMENT

Magna will allocate a minimum of seven percent of its profit before tax for research and development to ensure its long-term viability.

#### SOCIAL RESPONSIBILITY

Magna will allocate a maximum of two percent of its profit before tax for charitable, cultural, educational and political purposes to support the basic fabric of society.

#### MINIMUM PROFIT PERFORMANCE

Management has an obligation to produce a profit. If Magna does not generate a minimum after-tax return of four percent on share capital for two consecutive years, Magna’s Class A shareholders, voting as a class, will have the right to elect additional directors.

#### UNRELATED INVESTMENTS

Magna Class A and Class B shareholders, with each class voting separately, will have the right to approve any investment in an unrelated business in the event such investment together with all other investments in unrelated businesses exceeds 20 percent of Magna’s equity.

#### BOARD OF DIRECTORS

Magna believes that outside directors provide independent counsel and discipline. A majority of the members of Magna’s Board of Directors will be outsiders.

#### CONSTITUTIONAL AMENDMENTS

Any change to Magna's Corporate Constitution will require the approval of its Class A and Class B shareholders, with each class voting separately.

- Magna Employee's Charter

The following points are stated in this Charta:

- **Job Security**

Being competitive by making a better product for a better price is the best way to enhance job security. Magna is committed to working together with you to help protect your job security. To assist you, Magna will provide Job Counselling, Training and Employee Assistance Programs

- **A Safe and Healthful Workplace**

Magna strives to provide you with a working environment, which is safe and healthful.

- **Fair Treatment**

Magna offers equal opportunities based on an individual's qualifications and performance, free from discrimination or favouritism.

- **Competitive Wages and Benefits**

Magna will provide you with information, which will enable you to compare your total compensation, including total wages and total benefits with those earned by employees of your competitors, as well as with other plants in your community. If your total compensation is found not to be competitive, then your wages will be adjusted.

- **Employee Equity and Profit Participation**

Magna believes that every employee should share in the financial success of the company.

- **Communication and Information**

Through regular monthly meetings between management and employees and through publications, Magna will provide you with information so that you will know what is going on in your company and within the industry.

- **The Hotline**

Should you have a problem, or feel the above principles are not being met, we encourage you to call the Hotline or use the self-addressed Hotline Envelopes to register your complaints. You do not have to give your name, but if you do, it will be held in strict confidence. Hotline Investigators will answer your call. The Hotline is committed to investigate and resolve all concerns or complaints and must report the outcome to Magna's Global Human Resources Department. Hotline Number: 00800 26 31 69 10

- **Employee Relations Advisory Board**

The Employee Relations Advisory Board is a group of people who have proven recognition and credibility relating to humanitarian and social issues. This Board will monitor, advise and ensure that Magna operates within the spirit of the Magna Employee's Charter and the principles of Magna's Corporate Constitution.

## 5.2. What does the mother company state?

Similar statements (as above mentioned) can be found at the mother companies' website.<sup>2</sup>

### 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.*

The company breached its Corporate Identity Statement: In contradiction to their statement that they would comply with all legal requirements they started construction without holding the necessary permits and destroyed a legally protected "Natural Monument".

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

In several public debates, which were held in the beginning (when the company presented its project), NGOs and citizens' groups asked MAGNA to respect that the area was in the process of getting a protection status and that they should change or cancel the project.

Later on the communication went on with politicians and authorities, as the company itself did not show any reactions and was not willing to change their plans.

### 7. Breach of OECD Guidelines

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

Yes.

#### 7.2. What article was breached?

Chapter V – Environment, introductory paragraph (obligation to comply with national and international legislation and standards)

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

No.

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

Only some of them.

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<sup>2</sup> CSR policies of the mother company can be found on the Internet:  
<http://www.magnaint.com/magnaWeb.nsf/webpages/Company+Info+-+Social+Responsibility?OpenDocument>

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

No, only limited information available on the webpage of the Austrian Ministry for Economy and Labour.

Information on the NCP's webpage<sup>3</sup> is available in German language only and contains an introduction to the OECD Guidelines plus brief information about the National Contact point. It is stated that the National Contact point is willing to give further information on the OECD guidelines and that complaints could be sent any time.

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

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

No.

**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?*

MAGNA is not on the list of supporting companies at the Global Compact website.

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

Yes, breach of Principle 7 (precautionary approach to environmental challenges).

**9. Legal aspects of the case**

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

The company started construction before having obtained the necessary permits, namely before the issuing of the building permit (competence of the Municipality), the water consent (to be issued under the Federal Water Act) and the necessary exemption under the Nature Protection Act of the Province of Lower Austria. On top of that the operation permit (Betriebsanlagengenehmigung) was missing.

The company was ignoring the ongoing nomination process as a Nature 2000 – site (it should become part of the Natura 2000 site “Feuchte Ebene – Leithaauen”).

The most severe breach of law by the company was the destroying of a legally protected “natural monument”.

Pressure was put by the company both on provincial and municipal politicians and officials to interpret applicable laws in a way that would facilitate the company's project and help to

<sup>3</sup> Please see: <http://www.bmwa.gv.at/BMWA/Themen/Aussenwirtschaft/Exportpolitik/occdleitsaetze.htm>



avoid changes to the original plan. Such changes of the plan would have been necessary to reduce impact on the environment.

By starting construction even before sending of the permit application to the authorities, authorities had no chances any more to suggest changes, because it was too late already.

**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?**

No formal legal steps have been taken directly against the company. But statements were made in several administrative procedures:

- Objections against the change of the land use plan (which was necessary to make the project possible) were brought forward by WWF Austria, Birdlife Austria, Austrian Forum for Science and Environment, several citizen's groups, neighbouring cities and municipalities and a large number of individual persons.
- The Nature Protection Association for Lower Austria sent a formal request to the authorities, asking for formal protection for the territory, where the planned project should be built.
- A formal letter of complaint was sent to DG Environment of the EC Commission by WWF Austria, Forum Science and Environment and by the association "Naturschutzverein Schöffel".
- Affected neighbours, whose wells would suffer from the planned drainage of the wetlands, made use of their legal standing in the water consent procedure.

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

Legal objections were partly successful.

- The EC Commission started a formal procedure against Austria related to non compliance with the Natura 2000 requirements, but later dropped it.
- The Administrative Court of Austria withdrew the granted water consent. Reason for withdrawal: Legal standing of affected neighbours was not granted and therefore the procedural requirements of the Water Act were found to be violated.

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

None, they went on with carrying out construction activities.

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

Not that we know of.

**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.?**

- General public does know the Company very well.

- Many people in the Vienna region do know about the case. The media reported again and again about this case.

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

There is no opposition against the company as such, but against the project. The company's main business is car manufacturing (as mentioned in the beginning) and the horse racing track business is a very specific branch of the company's activities, which is not associated with the company as a whole.

Main opposition came from WWF Austria, Birdlife Austria, Austrian Forum for Science and Environment, several citizen's groups, neighbouring cities, neighbouring Municipalities and a large number of individual persons.

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

In the end the horse race track was constructed as planned, but the globe project was dropped.

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

Public authorities were not at all properly performing their obligations. As outlined above they were interpreting applicable laws in a way that would allow the carrying out of the project. They were ignoring EC Law (NATURA 2000 legislation and nomination).

### **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?**

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

### **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?

It was clear from the beginning that the provincial government of Lower Austria politically and informally supported the company and wanted to assist in carrying out the project. So did the major of the Municipality of Ebreichsdorf.

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

##### a) formal

*for example a contract*

We don't know of any formal connection.

##### b) informal

Yes, but we don't know any details.

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