

The Veszprém- Szentkirályszabadja Airport in Hungary

EIA

Case Study

Justice and Environment 2011

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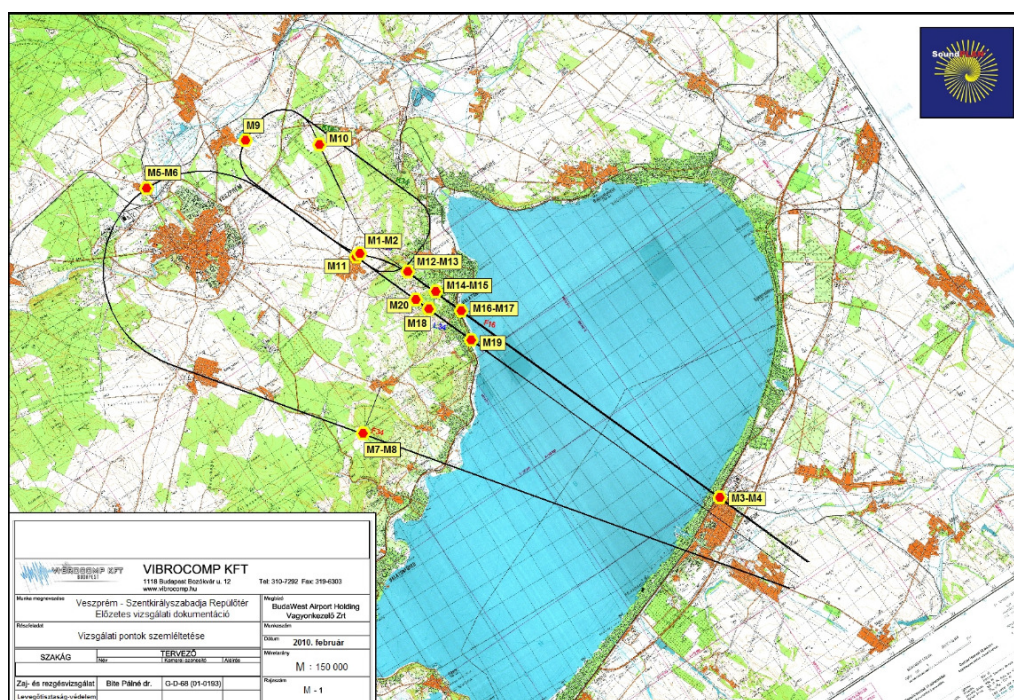
This case study is related to the reconstruction and reassignment of the former military aerodrome Veszprém-Szentkirályszabadja into an international commercial airport. The airport is located at the north-east lakeshore of Lake Balaton (the largest lake in Central Europe) and is currently operating as a non public take-off and landing ground for certain types of smaller aircrafts.

The investor bought the property of 450 hectares (about 1112 acres) from the property owner in 2006 and assumed that the former military airport would operate as an international commercial airport in 2010.

Due to the investment, largest passenger aircrafts and transport planes were to take off and to land such that, due to the position of the flight-strip, most of the aircrafts would cross the inner-city area of Balatonalmádi (a city at the Lake Balaton, about 3 km from the airport) at a height of about 300 meters. Our lawyers are acting on behalf of the municipality of Balatonalmádi.

The developer of the project is relatively unknown in Hungary. The off-shore company was founded a few years, before the licensing procedure was initiated, with the aim to realize a large-scale investment of a low cost airport, as well as a logistics service center, hotels, office buildings, and so forth.

The location of the project is illustrated by the following picture



The location of the project is very sensitive for multiple reasons. The territory of the planned airport is very close to the Lake Balaton, which is the largest lake in Central Europe and is estimated to be 22,000 years old. Lake Balaton is protected by the Ramsar Convention and the Natura 2000 Birds and Habitats Directives. In fact, the entire territory of the planned airport is a Natura 2000 site representing a unique and outstanding environmental beauty, and which is protected for the high population of ground squirrels (*Spermophilus citellus*). Additionally, the area is an important staging site for large numbers of water bird species, and it supports about 2,000 species of algae. In terms of plant life, reed beds fringe the shoreline of Lake Balaton.

The lake is also the most important recreation area in Hungary, and local activities include tourism, fishing and reed harvesting. Such recreation has its own perils, and there are potential threats from increasing motor sports and the construction of sailing ports and fishing stages.¹

In addition to the environmental effects of an airport development, the airplanes themselves would have their own impact. The take offs and landings would take place above the lake at an average height of 500 meters, and all the airplanes would pass over the town of Balatonalmádi at a height of 180-400 meters. Balatonalmádi, like many of the Balaton towns, has a very quiet environment and, along with the surrounding settlements, is a main destination of tourists.

The involvement of the public has been a very important question in the procedure. Many people were against the investment in question and thus wanted to participate, make comments, and voice their opposition.

Based on the Act LIII of 1995 on the General Rules of Environmental Protection,² associations formed by citizens for the representation of their environmental interests have additional rights in environmental licensing procedures. For example, they are entitled to have the legal status of a party to the case in state administration procedures that pertain to environmental protection. Using this process, people living in the affected area established an environmental NGO so they could participate in the licensing procedure more efficiently.

According to the provisions of the Environmental Protection Act and the subsequent laws, different classifications of people are granted various levels of procedural rights. For example, certain rights in Hungary are granted for everyone, such as the right to access to environmental information, right to participate in public hearings, etc. Then there are rights that are granted only for those people who live in the settlements affected by a certain project or activity, such as, in the context of environmental impact assessment procedures, the right to make comments before a decision about a site has been made, or the right to make comments regarding the necessity of an EIA and an environmental impact study. Finally, there are rights that are the due only to parties or people with legal standing in the given procedure, such as the right to consult the documentation of the procedure, right for appeal against the decision, and so forth.

¹ For further information: http://www.ramsar.org/cda/en/ramsar-pubs-annolist-anno-hungary/main/ramsar/1-30168%5E16366_4000_0

² Furthermore abbreviated as Env. Prot. Act.

After the investor initiated the preliminary environmental study phase, about 3000 people and quite a number of NGOs from the affected area indicated to the competent environmental inspectorate individually that they are willing to participate in the EIA procedure as an interested party.

Three main areas were mentioned as problematic points of the project: nature protection issues, noise issues, and air quality issues. As mentioned above, the area surrounding the planned airport is very quiet, and the whole territory of the planned project is a Natura 2000 site. Additionally, settlements around Lake Balaton receive their drinking water supply from the lake, so not only have people been worried that heavy airport traffic will impair the air quality and disturb their everyday life, but also that it will pollute the lake.

On the other hand, the preliminary environmental impact assessment study and its later amendments³ did not identify any significant affect of the project.

In Hungary, a two-phase process is prescribed for the environmental impact assessment.⁴ Phase 1 is a preliminary environmental study phase (screening or scoping phase). This serves as a preliminary impact assessment for estimating the possible effects of the project.

Upon the operator's request, the environmental inspectorate may conduct a preliminary environmental study procedure. There are, however, certain activities specified in Government Decree 314/2005⁵ (hereinafter "Gov. Decree") that, when pursued, require the operator to initiate the preliminary environmental study. Depending on the outcome of the preliminary environmental study, the environment protection authority decides what specific procedure of investigation is applicable to the planned activity or operation.

Based on the results of Phase 1, the authorities determine the exact requirements for Phase 2. Depending on the type of impact the activities concerned have on the environment, Phase 2 may consist of an additional impact analysis procedure, an IPPC (Integrated Pollution Prevention and Control) procedure, or a combination or linkage of both.

Certain projects listed in the annexes of the Gov. Decree are considered to have significant effects on the environment and require an EIA in all circumstances. This includes airports with a basic runway length that is larger than 2100 meters – and thus includes the airport in question.

If the result of an EIA-based environmental permitting process is negative, it practically means a veto of the construction of the project in question.

³ The environmental inspectorate ordered several amendments to be able to make a decision on the next step of the EIA process and to be able to determine and order the necessary content of the environmental impact analysis

⁴ The Hungarian EIA legislation is mostly harmonized with the relevant European EIA legislation. However, there are several gaps and imperfections in the implementation, so the legislation has to be amended from time to time.

⁵ Government Decree No 314/2005. (XII. 25.) - on IPPC permitting and environmental impact assessment.

Similar to the relevant EU directives, one of the main focuses of the Hungarian EIA legislation is “publicity and the access of information.” The regulations ensure the right of the public to access information, as well as the right of all interested parties (concerned individuals, NGO’s, institutions, etc.) to express an opinion. Publication, public hearings and public consultations are the main tools for fulfilling these requirements.

However, there are two main shortcomings with the EIA procedures in regards to the airport in question. The first shortcoming involves the protracted EIA procedure, which currently is stuck in the preliminary environmental study phase. Based on the relevant EU directives and on the Hungarian legislation, the project (airport with a basic runway length of 2300 meters) has been regarded since the beginning of the procedure as having significant effects on the environment such that it clearly required that both phases of the EIA process have to be conducted.

The investor initiated this procedure and applied for the license in May 2008. The first phase of the process has been finished with the decision that the project cannot be realized, because one of the co-authorities (the notary of the municipality of the above mentioned Balatonalmádi) refused to give the consent.⁶ The investor appealed against the decision, and in November 2009, the second instance of the environmental inspectorate ordered that the whole preliminary procedure has to be repeated because of procedural failures.

The repeated procedure started in March 2010, and again the outcome was that the project could not be authorized because the notary of the municipality of the above mentioned Balatonalmádi refused to give the consent, referring to the relevant local order of the municipality on noise. The investor appealed against the decision, and the process is now (since October 2010) at second instance at the National Inspectorate For Environment, Nature and Water.

During these lengthy procedures, the municipalities selling the property to the investor in 2006 addressed the court to claim the property back because the project had not been finished in 2010

The second main shortcoming of the EIA procedures involves the level of consideration given to public comments on the project. According to the EU and national rules of the EIA procedure, the developer may request the competent authority to decide what should be covered by the EIA information that is provided by the developer (scoping stage). Next, the developer must provide information on the environmental impacts (EIA report), and the environmental authorities and the public (and sometimes the affected Member States) must be informed and consulted. Finally, the competent authority makes a decision regarding the development, taking into consideration the results of consultations. The public is informed of the decision afterwards and can challenge the decision before the courts.

⁶ It must be noted that in Hungary there is a so called co-decision procedure between the relevant licensing authority and the different kind of special authorities. If any of the special authorities involved refuse to give the consent the application for the license have to be refused.

In the given procedure, even including in the preliminary procedure, thousands of local residents expressed their concerns and protestation about the project. Probably, the question is merely hypothetical: what shall the obligation of the licensing authority be if the results of public consultations have to be taken into consideration? In reality, the results of public consultations have never had any effect on the final decision, except in the case when the project runs into legislative barriers. There must be accountability of the relevant authorities to take due consideration of the opinion of the affected public in this matter related to their environment

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