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Brussels, 8th May 2008

SUBJECT: Follow up from our meeting on 23rd April

Dear Mr. Ahner,

Thank you very much for your letter of 21st March, and also for the meeting on 23rd April to discuss the map of controversial projects, published by CEE Bankwatch Network and Friends of the Earth Europe earlier this year. We welcome the Commission's initiative for a constructive dialogue with environmental NGOs and hope this collaboration will continue in a systematic way. With this letter we would like to follow up on the discussion we had and on the points that we agreed on for further development.

We would like to reiterate our major concerns with regards to the controversial projects planned to be financed by EU funds in the period 2007-2013 in Central and Eastern Europe:

- 1) We would like to highlight that the European Commission should make it explicit that in its assessment of major infrastructure projects it will check that the projects chosen are based on a proper assessment of alternative options from economic, environmental and social points of view. It should be stated explicitly that projects on the indicative list will be thoroughly scrutinized and are not subject to automatic approval. We are firmly convinced that impact assessments are crucial planning instruments which facilitate the integration of sustainability objectives into regional development so that alternative options are assessed and weighed up against the concrete problem or objective of a given region/city and the best option for development is chosen. Therefore we believe that the newly established instrument for technical assistance, **JASPERS, should include in its mandate an explicit task to conduct assessment of alternatives prior to its role as an assistant in technical design of the alternative chosen.** Moreover, JASPERS should

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provide its services in a transparent and accountable manner by publishing the documents for technical assistance for each project on their website.

- 2) **Transparency and partnerships** – we would like to insist that the European Commission publishes updated documentation of each project from the Operational Programmes' indicative lists which are in the pipeline as planned or potential for financing. Furthermore, the role of environmental NGOs at the national level should be strengthened by including them in the work not only of the Monitoring committees but also the Steering committees, which will be directly involved in the project selection process. Previous experience from the 2004-2006 period, when NGOs participated in the Steering committees, demonstrated a much stronger civic engagement by providing input into greening decisions with regards to concrete projects. We would see the role of the Commission being to encourage the member states for such inclusion.
- 3) **Transport** – the European Commission should insist that in the case of TEN-T transport projects they are subject to an assessment of the entire transport corridor including its cumulative impacts and possible alternative routes.
- 4) **Waste** – the Community strategic guidelines on cohesion (2006/702/EC) encourage waste prevention, recycling and biodegradation of waste to be financed as they are “cost-effective and help to create jobs”¹. The planned 18 incinerator projects in the CEE, with a combined cost of EUR 2bn, would significantly divert financial resources away from waste management solutions which are less expensive, more socially acceptable and environmentally sound. More importantly, by financially supporting prevention, recycling and biodegradation of waste, it is more likely that the new member states will be able to implement the relevant EU *acquis* in the waste sector and, in particular, fulfill the new recycling targets of 50% by 2020, adopted at the first reading by the European Parliament in April 2008.

Taking into account the above points, we welcome the proposals made by DG Regio during our meeting on 23rd April, which we understand as the following:

- 1) DG Regio will investigate possibilities to advocate that an assessment of each project's alternatives is provided as an initial part of JASPERS' mandate and that this is done in a transparent manner where JASPERS serves as a quality control mechanism.
- 2) DG Regio will use as test cases the nine incinerator projects in Poland to establish possibilities for more thorough assessment of waste management needs and for sustainable long term solutions for a waste management system in Poland, taking into consideration existing EU legislation related to waste prevention and resource recovery.
- 3) Also, we would like to propose a meeting with Unit H.1 responsible for Poland where the particularities of Polish projects from the indicative lists can be discussed in more detail. We propose that such a meeting takes place in the first week of June, preferably on 3rd June.

We are convinced that both the European Commission and our organisations share the same goal of pursuing sustainable regional development, where EU funds are the main financial instrument for delivering this. Therefore,

¹ COUNCIL DECISION of 6th October 2006 on Community strategic guidelines on cohesion (2006/702/EC), L 291/11 OJ

we call on the European Commission to convey a stronger message to new member states that environmentally unsound, financially dubious and socially unacceptable projects shall not be approved for European funding during the period 2007-2013.

We are very much looking forward to hearing from you, and will wait to hear whether the proposed meeting date is convenient for you.

Yours sincerely,

Magda Stoczkiewicz, Director, Friends of the Earth Europe

Anelia Stefanova, EU Affairs coordinator, CEE Bankwatch

Keti Medarova-Bergstrom, EU Funds coordinator, CEE Bankwatch / Friends of the Earth Europe

Annex 1

Municipal Solid Waste Incineration Projects in Poland to be co-financed with EU Funds 2007 – 2013

Background

The List of Individual Projects to the Operational Programme Infrastructure and Environment 2007–2013 for Poland includes nine municipal solid waste incineration projects. These projects will cost in total over EUR 1 billion (with the contribution from the Cohesion Fund assumed to be EUR 579 million). This means that **59% of the Cohesion Fund** resources for waste management in Poland and **44% of the Cohesion Fund and European Regional Development Fund** resources for waste management will go into the financing of the **nine waste incineration projects**.

Such a strong focus on incineration **counters the EU waste hierarchy**, where waste incineration, together with landfilling, is considered to be one of the least preferable options. It **favours incineration over recycling** – the latter has been proven to achieve much better results in terms of resource conservation, energy-efficiency, CO₂ emissions and toxic emissions. Manufacturing of products from virgin materials – which becomes a necessity if you burn recyclables – is on average several times more energy intensive than manufacturing from recyclables. Recycling allows saving several times more energy than is produced during incineration of the same quantity of waste. Similarly CO₂ emissions during manufacturing from virgin materials are on average several times higher than in manufacturing from recyclables². While it has been proven that recycling greatly contributes to CO₂ emissions reduction³, incineration actually adds to greenhouse gas emissions levels⁴. Last but not least, recycling saves and reuses the dwindling natural resources that are available on our planet, incineration simply wastes them.

Poland in trouble with its recycling goals

Currently Poland recycles and composts only a very small percent of its municipal waste, with over 90% being directed to landfills. This puts Poland at the very bottom of all the EU-27 countries when it comes to recycling and composting levels (the EU-27 average being 37%). If the majority of money available for waste management goes into incineration, as is currently planned, it will leave **recycling and composting seriously underfinanced** and as a consequence, underdeveloped. Investments into incineration will not only drive the money away from investments into recycling, but they will also compete with the recycling industry for valuable resources such as paper, plastic, etc.

2 Dr. Jeffrey Morris, presentation at the Zero Waste Meeting, Cappanori, Italy, 26-27 April 2008: <http://ambientefuturo.org/wp-content/uploads/2008/04/zero-waste-vs-incineration-1.pdf>

3 The proposed binding minimum EU recycling targets of 50% for municipal waste by 2020, already approved by the Committee of the European Parliament for Environment, Public Health and Food Safety, could save emissions equivalent to more than 89 million tonnes (mt) of CO₂ per year. Source: *Climate Protection Potentials of EU Recycling Targets*, Okopol GmbH, February 2008

4 Incineration is not a clean source of energy. Aside from producing toxic ash, and air and water emissions, incinerators are also damaging to the climate. According to IPCC guidelines on biogenic carbon, they produce double the amount of greenhouse gas than coal-fired power plants. This is because they have very low energy efficiency and can only capture a small proportion of the energy contained in the waste itself. Source: "A Changing Climate for Energy from Waste?", Dominic Hogg, March 6, 2006

Bearing in mind the significant backlog that Poland has in waste management investments, focusing on incineration may also lead to **a failure to comply with the commitments resulting from the Directive on the landfill of waste (1999/31/EC) and the Directive on packaging and packaging waste (1994/62/EC).**

For instance, in 2014 it is forecasted that Poland will produce 12,290,000 tonnes of municipal waste out of which 5,550,000 tonnes would be biowaste. A simple calculation shows that for EUR 1,053 million put into incineration, it is possible to incinerate 950,000 tonnes of biowaste⁵. In 2014, according to the Directive on the landfill of waste, Poland will be able to landfill 2,190,000 tonnes of biowaste, which means that 3,500,000 tonnes will have to be managed in a different way. Out of this, even if all the incinerators are up and running, 950,000 tonnes will be incinerated. This will leave Poland with over 2,500,000 tonnes of biowaste that is not to be landfilled and will not be incinerated. It will also be difficult to compost it as most of the money will go into incineration and not composting, and there will be **an insufficient composting infrastructure.**

As for the Directive on packaging and packaging waste, Poland has so far not had problems with fulfilling the commitments, as the recycling and recovery levels for packaging waste were achieved thanks to obtaining waste from bulk sources (e.g. commerce). As the recycling and recovery levels are constantly rising, however, these sources are not able to provide enough packaging waste, which makes retrieving packaging waste from municipal waste necessary. In order to do that **Poland needs to make significant improvements in its separate waste collection infrastructure**, which is currently close to nonexistent. This situation is recognised even by the Ministry of Environment, which in its report on implementation of the Treaty waste management commitments by Poland states that “Central Statistical Office data [...] confirms that separate waste collection in municipalities practically does not exist. Full implementation of the 94/62/EC Directive and fulfillment of its objectives in 2014 will require involvement of relevant subjects in separate waste collection of packaging waste from municipal waste”⁶. **This necessary development of separate waste collection systems is jeopardised by focusing the financing on incineration.**

In April 2008 the Committee of the European Parliament for Environment, Public Health and Food Safety voted in favour of changes to the Waste Framework Directive which will commit each member state to recycle 50% of its municipal waste by 2020 and 70% of its industrial, construction and manufacturing waste and to halt waste generation levels (as at 2008) in 2012. Again, **concentrating funds on the construction of incineration facilities clearly counters the proposed direction of changes.**

Poor quality assessment

Yet another problem lies within the **poor quality of option analyses, financial and economic analyses and environmental impact assessments performed in Poland.** These analyses and procedures are often conducted only because of the formal requirement and not to truly verify which option is actually the best from economic, environmental and social points of view. All of the proposed projects from the list assume a waste incineration element although frequently there are no studies to confirm its viability. If such studies exist, other considered options are selected in such a way so as to prove that incineration is the best solution. For example, **none of the available documents for the projects considers ambitious recycling levels as an alternative to incineration.**

5 Assuming that the investment cost for incineration of one tonne of biowaste is EUR 550 and that the biowaste fraction accounts for 50%.

6 *Stopień realizacji zobowiązań traktatowych Polski w zakresie gospodarki odpadami – informacja dla Sejmowej Komisji Ochrony Środowiska, Zasobów Naturalnych i Leśnictwa [Implementation of Polish Treaty commitments in waste management – information for the Parliamentary Environment Protection, Natural Resources and Forestry Committee], Warsaw, January 2008, p.11.*

Krakow: against people and common sense - a case study

Kraków, a city proposing a 250,000 tonnes per annum incinerator, constitutes a good example of such an approach. Although the project failed to obtain Cohesion Fund co-financing in 2005 (it was rejected at the Steering Committee) and despite strong social protests, the city is determined to push the investment forward. The most recent documentation⁷ does not consider any option of high recycling targets, the highest one being 21% (in the case of incineration, a mere 7%). The financial analysis is done incorrectly, with a very short time span (only to 2020), in order to prove that the incineration scenario is the cheapest one, by not including significant costs of landfill construction (in the incineration scenario the landfill will have to be constructed after 2020, in all other options before 2020, so they include landfill construction costs). **The capacity of the proposed incinerator is much too large** as the city produces 268,000 tonnes of municipal waste per year, of which only 181,000 is burnable (assuming zero composting and recycling). Moreover, 40% of the municipal waste stream is in private hands and according to Polish law the municipality cannot force private companies to deliver waste to one chosen facility. **All this puts economic viability of the whole investment in question.**

Similar problems occur in other cities. Most of the proposed incineration projects are unprepared, do not have a location agreed and some of them are not envisaged in local waste management plans. Consequently, it may be impossible to implement them before 2015 and including them in the List of Individual Projects may lead to **freezing the funds and making them unavailable for other, non-incineration projects.**

Facing 'deaf ear' of Polish officials

These concerns have been raised with the Ministry of Regional Development and the Ministry of Environment many times during the programming process, most recently in January 2008 during the revision of the list by the new government. They have been, however, ignored. A letter spelling out the above problems and signed by 14 environmental NGOs has been left unanswered by the two ministries, as well as a request for a meeting to discuss the matters further. Abolishing the Steering committees, which were functioning during the 2004-2006 period, in the current programming period **deprives social partners (including environmental NGOs) of practical tools for intervention at the project selection level.** The current system of Monitoring committees do not deal with project appraisal and selection, and these are the only bodies allowing for participation of social partners. The lack of civic supervision over project selection is particularly worrying in the context of the projects from the List of Individual Projects, as these projects will not have to go through any competition procedure nor prove that they are more cost-effective or more environmentally-beneficial than other waste management options (recycling and composting, mechanical-biological treatment, etc.). In order to be submitted to the EC approval, project promoters will only need to prepare the necessary documentation in time. Moreover, the grounds on which projects have been selected to the List are unclear, as **information based on which the selection was conducted is very limited**⁸.

It is important that the European Commission takes a stance in securing that EU funds are spent in line with the objectives of the EU waste legislation, including the waste hierarchy. The voices of the Polish environmental NGOs are frequently ignored by the Polish government when it comes to waste management issues,

7 *Ocena Strategiczna Systemu Gospodarki Odpadami Miasta Krakowa wraz z wyborem wariantów lokalizacji zakładu termicznego przekształcania odpadów [Strategic assessment of the waste management system for Kraków together with selection of variants for location of a thermal treatment plant]*, Kraków, October 2007

8 The list was compiled on the basis of project fiches, which frequently do not contain even such basic information as the installation's capacity or components of the waste management system proposed.

but claims made by the Commission are treated with respect. An example of this can be illustrated by the meeting of the Monitoring Committee for the Operational Programme Infrastructure and Environment 2007–2013, which took place on 6th March 2008. When the representative of environmental NGOs voiced suggested amendments to the selection criteria for waste management projects so that they are in line with the EU waste hierarchy and give less preference to incineration, the proposal was outvoted, as governmental administration and its proponents hold a majority in the Committee. A moment later representatives of the European Commission voiced suggested amendments that went in a similar direction to that of the environmental NGOs and these were accepted, albeit reluctantly.

Therefore, it is crucial that the European Commission:

- *requests that the Polish government uses EU funding in accordance with the EU waste strategy and legislation: priority should be given to the development of separate waste collection, recycling and composting;*
- *ensures that the JASPERS instrument is used in order to ensure that various options are assessed during the preparation of every major waste management project, including at least one option with a minimum 50% recycling target;*
- *asks the Polish Ministry of Regional Development to include experts and non-governmental organisations in the half-yearly reviews of the List of Individual Projects in order to fulfill the requirements of Article 17 of the Council Regulation (EC) No 1083/2006. The reviews should reassess the projects against economic efficiency and environmental impact criteria. This could be done through:*
 - *an advisory committee at the Ministry of Regional Development for projects from the list, comprising of experts and representatives of non-governmental organisations,*
 - *a website which would provide access to information on projects from the list and their documentation and where interested parties could voice their opinions on respective projects;*
- *asks the Polish Ministry of Regional Development to include non-governmental organisations in bodies responsible for project selection in the current programming period.*