

Alcoa and the Icelandic Government

Taken to Court

(News release)

This morning a case was filed in the Reykjavík District Court, brought by natural scientist Hjörleifur Guttormsson, resident of the district Fjarðabyggð in East Iceland, against the multinational aluminium conglomerate Alcoa and the Icelandic Ministers of the Environment and Finance, concerning the proposed aluminium smelter in Reyðarfjörður, East Iceland. Supreme Court Attorney Atli Gíslason will prosecute the case on behalf of the plaintiff.

The plaintiff advances the following claims:

- that a Ruling, issued by the Minister of the Environment on 14 March 2002, upholding a Ruling by the Planning Agency of 31 August 2001, on the Environmental Impact Assessment of Phases 1 and 2 of a 420-thousand-tonne aluminium smelter in Reyðarfjörður, be nullified;
- that a Ruling, issued by the Minister of the Environment on 15 April 2003, that a Decision by the Planning Agency of 20 December 2002, concerning the requirement of an Environmental Impact Assessment for an aluminium smelter in Reyðarfjörður, producing up to 322 thousand tonnes annually, shall stand unaltered, be nullified;
- that a Decision by the Environment Agency, of 14 March 2003, concerning the issuance of an operating permit for the Reyðarál ehf. aluminium smelter in the industrial zone by Hraun in Reyðarfjörður, be nullified;
- that a Decision by the Minister of the Environment, dated 14 July 2003, to dismiss an appeal from the plaintiff, dated 28 March 2003, against the Decision by the Environment Agency, of 14 March 2003, concerning the issuance of an operating permit for the Reyðarál ehf. aluminium smelter in Reyðarfjörður, be nullified.

In addition, the plaintiff demands payment of court costs.

Principal Arguments and Circumstances of the Case:

1. The plaintiff maintains that the Planning Agency's assessment of the environmental impact of Norsk Hydro's 420-thousand-tonne aluminium smelter and anode plant in 2001 was contrary to law, for instance, that it was inadmissible to assess these undertakings jointly without a specific decision thereto by the Minister of the Environment in advance, as provided for in the Environmental Impact Assessment Act. In addition, the developer and the Planning Agency justify the construction of the anode plant by making reference to its economic benefits, which is not included in an assessment of environmental impact.

2. The Planning Agency should have assessed the environmental impact of Alcoa's 322-thousand-tonne aluminium smelter instead of using the previous assessment of the Norsk Hydro smelter as its basis. The Alcoa smelter is a different project, involving the use of different and inferior technology and pollution prevention measures. As a consequence, emissions of pollutants will be greater than would have resulted from the Norsk Hydro projects. Measured per tonne of aluminium produced, Alcoa's atmospheric pollution will be considerably greater than that from the Norsk Hydro smelter in most respects, e.g. 26 times greater in the case of sulphur compounds. Since Alcoa does not use wet scrubbers, this results in greatly increased emissions of pollutants. The solutions proposed are not in accordance with the existing environmental impact assessment, since it assumed that wet scrubbers would be employed.

3. There are numerous defects in the Alcoa operating permit; the permit application was flawed and its advertisement not in accordance with law. One week prior to the issuance of the operating permit, the permit holder changed its plans for the project and demanded the authorisation of a 50% increase in the mean concentration of hydrogen fluoride, from that prescribed in the environmental impact assessment and in the advertised operating licence proposal. This the Environment Agency agreed to, without the plaintiff or other parties being given an opportunity to comment on the changes, in severe violation of the right to information and to express opposition. The environment authorities also failed in their obligation to establish integrated pollution

prevention equipment, employing best-practice technology, which will result, for instance, in a fourfold increase in emissions of sulphur dioxide from the amount anticipated from both of the Norsk Hydro plants.

4. The plaintiff appealed the issuance of the operating permit to the Minister of the Environment, who dismissed his appeal, deeming him not to be a party to the case, despite the fact that his involvement had been recognised by the Environment Agency. In so doing, the Minister has violated the intention of the legislator with the Act on Health and Hygiene Procedures and Pollution Prevention, good administrative practice, and legal developments, both in Iceland and the European Economic Area. The Ministry took 15 weeks, seven weeks more than provided for by law, to reach this conclusion. The dismissal by the Minister of the Environment would appear to have been an act of desperation when faced by the detailed and well-grounded arguments presented by the plaintiff and the major defects in procedure by the Environment Agency.

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The following table, based on the Planning Agency's assessment, shows a comparison of emissions from the Alcoa and Norsk Hydro aluminium smelters, in the latter case, both with and without the anode plant.

Comparison of emissions from the Norsk Hydro aluminium smelter (420 thousand tonnes annually), with and without an anode plant, and the Alcoa aluminium smelter (322 thousand tonnes annually)								
Emissions annually (tonnes)								
	HF	Particulate fluoride	SO₂	PAH	Particulate s	CO₂-x1000	PFC as CO₂ equivalents x 1000	NO_x
Norsk Hydro smelter	54.6	50.4	190	0.022	25.6	626.1	58	13
N. Hydro electrode plant	0.4	0.43	638	1.95	3.7	84	-	120
Total Norsk Hydro	55	50.83	828	1.972	29.3	710.1	58	133
Alcoa smelter	78.8	27.5	3864	0.167	38.4	530.5	34.42	27
Smelter Emissions per tonne of aluminium produced								
	HF g	Particulate fluoride g	SO₂ kg	PAH g	Particulate s g	CO₂ tonnes	PFC - CO₂ equivalents kg	NO_x g
Norsk Hydro smelter	130	120	0.45	0.05	61	1.49	138	31
Alcoa smelter	245	85	12	0.52	119	1.65	107	84

Notes:

HF = hydrogen fluoride, SO₂ = sulphur dioxide, PAH = polycyclic aromatic hydrocarbons, CO₂ = carbon dioxide, PFC = perfluorocarbons, NO_x = Nitrogen oxides

[Enclosures: (Legal Case and Comparison of Alcoa and Norsk Hydro smelters, only available in Icelandic)]

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