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ДЛЯ ЕВРОПЫ

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26 September 2008

Mr. Johannes Pfeifer
Rathausplatz 3
8940 Liezen
Austria
Tel: + 43 1 3612 22 309
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Dear Mr. Pfeifer,

**Re: Communication to the Aarhus Convention Compliance Committee
concerning decision-making on road-planning and tonnage restrictions
for lorries in the Enns Valley, Austria (Ref. ACCC/C/2008/26)**

On 15 July 2008, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication submitted by you on behalf of Nein Ennstal Transit-Trassel Verein für menschen- und umweltgerechte Verkehrspolitik (NETT), Austria, and addressed to the Compliance Committee of the Convention regarding compliance by Austria with certain provisions of the Convention. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2008/26, which you are invited to cite in future correspondence on the matter.

The Compliance Committee, having considered the preliminary admissibility of the communication at its twenty-first meeting (17-19 September 2008), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address the following questions:

1. When did NETT apply for participation in the regional planning committee regarding the 4-lane route option? What form of participation was requested by NETT? When was the request for participation rejected?

2. In addition to participation in the regional planning committee, were there other ways in which NETT might have participated in the decision-making process regarding the four-lane route option? If so, did it make use of these options?

3. Did NETT appeal the decision regarding its non-admission to the regional planning committee regarding the four-lane route option? Alternatively, is NETT of the view that the available procedure was too lengthy or otherwise deficient?

4. What is the legal relevance of the fact that the refusal to allow NETT to participate in the regional planning commission was communicated by letter instead of by official notification?

5. How, in your view, does a decision on the 7.5-ton ban for lorries fall under article 6, paragraph 1, or articles 7 or 8 of the Convention?


6. How does the allegation related to violations of article 9, paragraph 3, of the Convention (as set out on pages 19 and 20 of the English text of the communication) relate to the facts of the present case? Does it relate to the fact that a ban was not issued and if so, is there a well-established practice that the authorities were under an obligation to issue such a ban?

7. Taking into account applicability of the European Union law, has NETT or any other relevant party undertaken any steps to complain to the European Commission, e.g. with a view to commencing infringement procedures against Austria? If so, with what results?

A number of additional questions have been raised in a letter to the Party concerned, a copy of which is attached for your information. Should you wish to address any of those questions, you are welcome to do so.

We look forward to hearing from you.

Yours sincerely,



Jeremy Wates

Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Mr. Gerhard Stimmeder-Kienesberger, Federal Ministry of Agriculture, Forests, Environment and Water Management of Austria

Encs. Preliminary determination on admissibility

Datasheet of the communication

Copy of letter to Mr. Gerhard Stimmeder-Kienesberger, Federal Ministry of Agriculture, Forests, Environment and Water Management of Austria