



**NATIONS UNIES**  
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**ОБЪЕДИНЕННЫЕ НАЦИИ**  
**ЭКОНОМИЧЕСКАЯ КОМИССИЯ**  
**ДЛЯ ЕВРОПЫ**

**UNITED NATIONS**  
**ECONOMIC COMMISSION**  
**FOR EUROPE**

Environment, Housing and Land Management Division  
Bureau 332  
Palais des Nations  
CH-1211 Geneva 10  
Switzerland

Phone: +41-22-917 2384  
Fax: +41-22-917 0634  
E-mail: [jeremy.wates@unece.org](mailto:jeremy.wates@unece.org)  
Website: [www.unece.org/env/pp](http://www.unece.org/env/pp)

29 October 2009

Ms. Lieselotte FELDMANN  
National Focal Point for the Aarhus Convention  
Federal Ministry of Agriculture, Forests, Environment and Water Management  
General Environmental Policy Dept./EU Affairs Environment  
Stubenbastei 5  
A-1010 Vienna  
Austria  
Fax: +43 1 515 22 73 01

Dear Ms. Feldmann,

**Re: Communication to the Aarhus Convention Compliance Committee concerning  
compliance by Austria with provisions of the Convention in connection with the  
construction of a waste incinerator in the province of Burgenland  
(Ref. ACCC/C/2009/39)**

On 3 June 2009, 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 by Dr. Géza Simonfay and Mag. Ulrich Salburg of Simonfay & Salburg representing the municipality of Szentgotthard (Szentgotthard varos), and addressed to the Convention's Compliance Committee 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 to the Convention.

Please find enclosed a copy of the communication, which is being forwarded to you at the request of the Committee in accordance with the provisions of paragraph 22 of the annex to decision I/7. The communication has been registered under the symbol ACCC/C/2009/39, which you are invited to cite in future correspondence on the matter.

At its twenty-fifth meeting (22-25 September 2009), the Committee determined on a preliminary basis that the communication was 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.

Having regard to paragraph 23 of the annex to decision I/7, you are kindly invited to submit to the Committee, as soon as possible but at the latest within five months of the date of this letter, any written explanations or statements clarifying the matter referred to in the communication and describing any response that may have been made in the mean time.

Additionally, in order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address a number of questions that are annexed to this letter. Please provide any supplementary documentation which is necessary to substantiate your response to the above questions. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegation of non-compliance.

In a letter to the communicant, a copy of which is attached for your information, the Committee has invited the communicant to address other questions. You are welcome to respond to those questions if you so wish.

In providing your response pursuant to paragraph 23 of the annex to decision I/7, please note that you should explicitly comment on the communication itself and the allegations contained therein, as well as addressing the questions raised by the Committee to you (and to the communicant, if you so wish).

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Jeremy Wates  
Secretary

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

Cc: Mr. Tibor Viniczay, Mayor of the Municipality of Szentgotthard (Szentgotthard varos), Hungary

Representatives: Dr. Géza Simonfay, H-1061 Budapest

Mag. Ulrich Salburg, Vienna/Austria

Encs. Communication ACCC/C/2009/39  
Preliminary determination on admissibility  
Datasheet on the communication  
Letter to the communicant dated 29 October 2009



#### **Annex – Questions posed by the Committee to the Party concerned**

1. What measures were taken by the Government of the Federal Land of Burgenland to duly inform the public of the Municipality of Szentgotthard about the intended construction of the incinerator, and to ensure early public participation?
2. Does the legislation of Austria provide for the right to participation in decision-making processes related to the environment for the representatives of the public (as per article 2, paragraph 4, of the Aarhus Convention) who are not residents of Austria? Are there any restrictions?
3. Please inform the Committee about the level of involvement of representatives of the public (including individuals who are residents of Hungary, and legal entities governed by Hungarian law, apart from non-governmental organizations) in the decision-making process related to the intended construction of the incinerator.
4. Was the involvement of the Austrian municipalities in the decision-making process concerning the construction of the incinerator determined by their status (or responsibilities) as public authorities or by their status as representatives of the public, within the meaning of article 2, paragraphs 2 and 4 respectively, of the Convention?
5. What are the domestic remedies available in Austria for the Municipality of Szentgotthard (and/or for any representative of the public concerned who is resident of the Municipality of Szentgotthard) to challenge the decision of the Government of the Federal Land of Burgenland that gave the permit for the construction of the incinerator?
6. Were Hungarian governmental representatives and/or other Hungarian stakeholders involved in the decision-making process?

