

Addendum to the Communication of the Citizens' Group

“mobil ohne Stadttunnel” as of October 29, 2018

48. Further to the communication as of October 29, 2018 (hereinafter: „*Communication*“), Correspondent herewith takes the liberty to inform the ACCC on the fact that on September 27, 2018, the (Austrian) *Verwaltungsgerichtshof* (Supreme Administrative Court) has ruled in proceedings Ro 2015/06/0008-7 that the (Austrian) citizen's group “*stattTunnel*”, within the framework of the *Stadttunnel Feldkirch* EIA procedure, must be granted the *locus standi* as a Party to those proceedings: In section 26 of its ruling that was promulgated on November 5, 2018 and is attached to this Addendum as *Exhibit 6*, the *Verwaltungsgerichtshof* explicitly refers to Articles 6 and 9(2) of the Convention and confirms (i) that a citizen's group must be regarded as belonging to the public concerned within the meaning of Article 1(2)(e) of the EIA Directive 2011/92/EU and (ii) that consequently, such an informally organized group of individuals is entitled to participate in a given EIA procedure as a Party, irrespective of the character of such a procedure in a given case (i.e. whether the proceedings are being conducted as a ‘simplified’ or as a ‘regular’ EIA procedure¹).
49. By that, the *Verwaltungsgerichtshof* – albeit, for procedural reasons, not having been in a position to formally reinstate section I. of the decision (“*Bescheid*”) of the *Amt der Vorarlberger Landesregierung* as of September 12, 2014 (*Exhibit 3* [to which the Communication refers in its Sections 14. and 18. to 20.]) – has granted the “*stattTunnel*” citizen's group the full set of procedural rights that are available under Austrian national law, including, but not limited to, the right to appeal.
50. Since the *Verwaltungsgerichtshof*'s September 27, 2018 ruling is final and binding, it goes without saying that this ruling also has a strong impact on citizen's groups such as Correspondent, should the ACCC conclude that in the present case, the Party concerned has failed to comply with its obligations under the Convention²: In that incidence, it would be hard (if not impossible) to conceive how extra-territorially organized citizen's group (such as Correspondent within the framework of the *Stadttunnel Feldkirch* EIA procedure) could be denied the right of access to justice in EIA procedures, i.e. on which grounds such citizen's groups could not be allowed to participate in a given EIA procedure in the same manner and to the same extent (i.e. with the same set of procedural rights) as citizen's group that are organized domestically (such as the “*stattTunnel*” citizen's group).

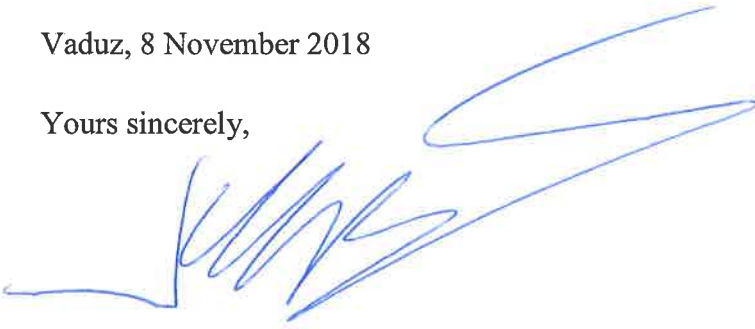
¹ Cf. Sections 7. and 19. of the Communication.

² Cf. Sections 37. to 39. of the Communication.

This addendum is conveyed to you electronically (i.e. via email only).

Vaduz, 8 November 2018

Yours sincerely,

A handwritten signature in blue ink, consisting of several fluid, connected strokes. The signature is positioned below the text "Yours sincerely," and above the printed name "Dr.iur. Stefan Becker LL.M-ULB".

Dr.iur. Stefan Becker LL.M-ULB