

UNECE Aarhus Convention Compliance Committee

Palais des Nations, Room 429-2

1211 Geneva

SWITZERLAND

Comments to the first Austrian progress report regarding Decision V/9b concerning compliance by Austria

Vienna, 23. January 2014

Dear Ms. Marshall,

Thank you for the opportunity to comment on the Austrian progress report.

OEKOBÜERO is the Alliance of the Austrian Environmental Movement. It comprises fifteen Austrian organizations engaged in environmental, nature and animal protection (including FoE Austria, Greenpeace, FOUR PAWS and WWF). OEKOBÜERO works on the political and legal level for the interests of the environmental movement.

OEKOBÜERO acknowledges and confirms there is progress in political discussions regarding Access to Justice in Austria, three years after the ACCC adopted its findings in December 2011. We see some shift from total ignorance towards the view "there is an issue" at most relevant stakeholders and the topic moved to a higher political level.

We welcome the new environmental minister clarified in the Environmental Committee in the Austrian parliament that he aims to implement the ACCC and the MoPs recommendations. We also welcome the opportunity by the party concerned to comment to the draft progress report before it was submitted to the ACCC.

However, as a matter of fact there is no single act of even draft legislation to implement the MoP decision and the 2011 ACCC recommendations respectively. We expect first drafts in the next months, but it is still not assured they come at all and how far they will go. Due the heavy resistance of powerful stakeholders we expect a very long way to go both in term of time and content.

The Austrian report refers to the sectors waste, water and nature protection as well as environmental information with legislative plans, whereas all other areas like air quality, land use planning, noise, road and rail permitting, SEA, industrial permitting or criminal law are not even envisaged to consider.

In practice NGOs are still banned from any environment related procedures outside EIA and IPPC.

A recent example (November 2014) is an environmental criminal procedure in the major environmental liability case of the last years (Kwizda/Korneuburg – severe water contamination by a SEVESO/IPPC pesticide production plant) where the NGO GLOBAL 2000 could not access any files and was excluded from the trial with the result of very mild convictions. Before that the NGO was excluded from the remediation and permit reconsideration procedure because the authority applied the water right act where NGOs have no standing rights at all. The latter applies also for countless hydro power plants in the alpine region where among others the NGO WWF constantly fails to get standing rights both in the water and nature permitting procedures.

We request the Committee to thoroughly monitor whether the announced measures are taken in the next months and strengthen reporting requirements with more specific questions and deadlines, considering the three years since the 2011 findings where nothing happened on the legal ground. We would also recommend the Committee to send a delegation to Austria in order to raise awareness on the obligations under the Convention, in particular with regard to decision makers outside the MoE like for example the Ministry of Economics, Ministry of Justice and representatives of the Provinces as well as other stakeholders, in particular those opposing enhanced access rights.

Best wishes,

Thomas Alge

Director