

Decision V/9b on compliance by Austria with its obligations under the Aarhus Convention, third progress report on behalf of Austria

By decision V/9b the Meeting of the Parties (MoP) invited Austria to submit to the Aarhus Convention Compliance Committee (ACCC) periodically detailed information on its progress in implementing the Committee's recommendations with regard to communication ACCC/C/2010/48 and ACCC/C/2010/63.

Austria has provided its first progress report on the implementation of decision V/9b on 22 December 2014 and its second progress report on 22 December 2015. As follow up to the 52nd meeting of the ACCC in March this year Austria has provided additional information on questions raised by the Compliance Committee during that meeting. The additional information was submitted on 21 April 2016.

By letter of 25 October 2016 the Compliance Committee submitted its second progress review of implementation of decision V/9b by inviting Austria to take into account the Committee's considerations when finalizing Austria's final progress report by the end of that year.

Against this background Austria would like to take the opportunity to inform the Committee further on the ongoing legislative processes implementing the recommendations set out in decision V/9b.

With regard to para. 26 of the Committee's progress review Austria has already reported in 2015 that an amendment of the Environmental Information Act (*Umweltinformationsgesetz UIG*) at federal level was adopted which has been published in the Federal Law Gazette in August 2015. For the provincial level, the Provinces of Austria (*Bundesländer*) have amended or are in the process of amending their corresponding legislation accordingly.

The Provinces of Carinthia, Salzburg, Burgenland, Upper Austria and Vorarlberg have already completed the legislative processes to amend the respective provisions on environmental Information in 2016: *Änderung des Kärntner Informations- und Statistikgesetzes*, LGBl. Nr. 22/2016; *Änderung des Salzburger Umweltschutz- und Umweltinformationsgesetzes*, LGBl. Nr. 17/2016; *Änderung des Burgenländischen IPPC-Anlagen-, SEVESO III-Betriebe- und Umweltinformationsgesetzes*, LGBl. Nr. 25/2016; *Änderung des oberösterreichischen Umweltschutzgesetzes 1996*, LGBl. Nr. 32/2016; *Änderung des Vorarlberger Landes-Umweltinformationsgesetzes*, LGBl. Nr. 97/2016. For the

Province of Vienna the respective amendment (*Wiener Umweltinformationsgesetz-Novelle 2016*) Tyrol has already started the legislative processes and has passed a draft law to the Provincial Parliament (*Änderung des Tiroler Umweltinformationsgesetzes 2005*). The Government of the Province of Styria will shortly submit a draft law amending its Environmental Information Act (*Steiermärkisches Umweltinformationsgesetz*).

Translations of the respective provisions of the provincial laws are submitted with this report.

With these amendments already enacted or under way, the Provinces are following the implementation at federal level by the Environmental Information Act as amended (Federal Law No. 95/2015).

On para. 27 of the Committee's progress review and the implementation of the so called "third pillar" of the Convention Austria has already reported on the national discussion processes seeking for possibilities to improve access to justice in environmental matters for environmental NGOs. Both, the expert working group of the Environment Ministry (Federal Ministry of Agriculture, Forestry, Environment and Water Management) and the Provinces as well as the separate working group dealing with issues of implementation at provincial level have met regularly since 2014. In November this year, the Environment Ministry held a meeting in a wider circle discussing ways to improve the implementation of the Aarhus Convention in Austria by inviting representatives of the relevant Ministries, the Provinces, social partners (Federal Chamber of Commerce, Chamber of Agriculture, Federal Chamber of Labour) and environmental NGOs as well. It has been agreed that a further meeting early in 2017 would be useful to discuss in depth the legal requirements set out in the Convention.

When it comes to draft laws implementing the "third pillar" of the Convention, Austria is able to report that the Province of Vienna has in summer 2016 sent out for comments a draft law amending its legislation on nature protection, national parks, hunting and fisheries in order to include a right for appeal for those environmental NGOs who are approved for the Province of Vienna. Consultations on the draft laws have been finalized and are publicly available as well as the comments submitted during consultation (<https://www.wien.gv.at/recht/landesrecht-wien/begutachtung/#ende>).

Concerning capacity building activities referred to in para. 28 of the Committee's progress review, please find in the annex an overview of events that have been organised since 2014 and where the implementation of the Aarhus Convention has been discussed involving administration, academia and judiciary.

All these activities underline Austria's commitment to improve compliance with the Aarhus Convention and we remain willing to inform the Committee on further steps accordingly.

I. Overview of capacity building activities in Austria in relation to the Aarhus Convention

Expert Hearing with participation of the Federal Environment Minister, Mr. *Andrä Rupprechter*, in the margins of the Environment Committee of the National Assembly (June 2014); https://www.parlament.gv.at/PAKT/VHG/XXV/AD/AD_00002/fname_356253.pdf

Annual Conference for environmental law "*Umweltrechtstage*", organised by the University of Linz (Upper Austria) with a special focus on the 3rd pillar of the Convention and with participation of the judiciary (September 2014); <http://www.iur.jku.at/index.php?id=153>

Seminar "*Abfallrecht in der Praxis*" on waste law in practice where the audience (lawyers, administration) was informed by a representative of the European Commission on access to justice according to the Convention (Vienna, December 2014); http://www.oewav.at/upload/medialibrary/Folder_Abfallrecht_14.pdf

Symposium "*umweltrechtsforum*", organised by the University of Graz (Styria), with a focus on rights of individuals for clean air taking into account implications of the Aarhus Convention as well (June 2015); https://static.uni-graz.at/fileadmin/rewi-institute/Oeffentliches-Recht/Neuigkeiten/ur.g_Einladung.pdf

Seminar "*Öffentlichkeitsbeteiligung im Umbruch*" with a focus on the implications of the judgments by the European Court of Justice in cases C-570/13 „*Karoline Gruber*“ and C-137/14 „*EC against Germany on the legal institute of foreclosure*“ (Vienna, January 2016); <http://www.jarolim.at/de/events/222>

Seminar „*Großverfahren und Präklusion: Konsequenzen des EuGH-Urteils für das österreichische Verfahrensrecht*“ with a focus on access to justice in administrative and judicial proceedings in Austria (Vienna, February 2016); <http://www.nhp.eu/de/home/seminare/oewav-seminar-praeklusion>

Annual Conference for environmental law "*Umweltrechtstage*", organised by the University of Linz (Upper Austria) with a special focus on public participation in environmental procedures and the Aarhus Convention (September 2016); <http://www.iur.jku.at/index.php?id=169>

Seminar “*Verwaltungsgerichtsbarkeit, 3 Jahre Erfahrung, Auswirkungen im Umweltrecht*“ with a focus on the jurisprudence of Administrative Courts in environmental matters since 2014 (Vienna, November 2017); http://www.oewav.at/upload/medialibrary/Folder_Verwaltungsgerichtsbarkeit.pdf

II. Capacity Building Project (“KOMM-Recht”)

This project is implemented by the environmental NGO “Umweltdachverband” as lead organisation in cooperation with the University of Graz, co-funded under the Rural Development Programme 2014-2020 by the Federal Ministry of Agriculture, Forestry, Environment and Water Management and the EU.

Aim of the project (June 2015 – June 2017) is to foster cooperation and exchange of knowledge between civil society, academia and administration with regard to environmental issues with a special focus on the Aarhus Convention.

The Project launch and Enquete on how best to involve the public in environmental procedures in Austria according to the Aarhus Convention took place in February 2016. <http://www.umweltdachverband.at/inhalt/aarhus-fachenuquete>

The following workshops have been organised or will take place on topics related to the implementation of the Aarhus Convention:

- Workshop I “*Selbst aktiv werden im Umweltrecht*“ on environmental information and procedures (Vienna, February 2016); <http://www.umweltdachverband.at/inhalt/aarhus-workshop>
- Workshops II and III “*Naturschutzverfahren und Öffentlichkeitsbeteiligung: Aktuelle Reformbestrebungen und Lösungsansätze*“ in Vienna and Graz discussing the latest draft laws on nature protection involving environmental NGOs (October 2016); <http://www.umweltdachverband.at/inhalt/workshop-naturschutzverfahren-and-oeffentlichkeitsbeteiligung-aktuelle-reformbestrebungen-und-loesungsansaetze>
- In 2017, three more workshops will take place.

Also in June 2017, the “*umweltrechtsforum*”, organised by the University of Graz, will serve as event for the completion of the project dealing with current issues of public participation.

During 2016 as part of the project, the University of Graz launched the so-called “Law Clinic”, where students were analysing public participation case studies representing actual cases. A summary will be prepared accordingly.