

ÖKOBÜRO

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1070 Wien

Aarhus Convention Secretariat

c/o Fiona Marshall
Palais des Nations
8-14 avenue de la Paix
1211 Geneva 10, Switzerland

Wien, 20.01.2016

Regarding: Austria's second progress report on the implementation of decision V/9b of the Meeting of the Parties to the Aarhus Convention

Dear Ms Marshall,

We would like to thank you for the opportunity to give our remarks on the second progress report of Austria regarding the implementation of decision V/9b of the Meeting of the Parties to the Aarhus Convention.

First, although ÖKOBÜRO commends the good implementation of the MoP decision as regards to the Federal Environmental Information Act, which was introduced and put into law in the summer of 2015, implementation is still to be seen within the laws of the nine federal states. We do know that some of them are working on a proposal and, given that the full implementation on this level is just as critical as at the federal level, we will keep an eye on developments.

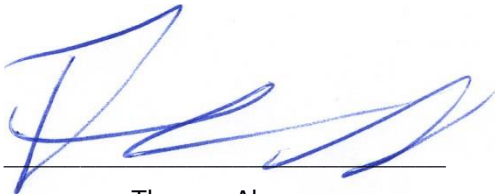
Aside from the environmental information context, ÖKOBÜRO is not at all impressed with the advancement of the Aarhus transposition in Austria. Despite assurances from the Minister of Environmental Affairs in the Parliamentary Committee on the Environment as far back as June

2014¹ that a timely and comprehensive implementation in the matter of access to justice ²would occur, there is to date no practical proposal for doing so. Nor is there even a detailed timetable which would contain the exact next steps and goals, including target-dates.

ÖKOBÜRO sees the task force between the federal states and the Ministry on the Aarhus access to justice implementation as a good measure. However, considering that four years have passed since the Aarhus Convention Compliance Committee's findings in this matter, it can hardly be seen as meaningful and timely progress or a substitute for practical proposals. There have, in fact, been several opportunities to achieve real progress. In 2014/2015, for example, the Aarhus Convention could have been implemented into national law during the course of the amendment processes to the Trade Law ("Gewerbeordnung"), the Waste Management Act ("Abfallwirtschaftsgesetz") and several Nature Protection Acts ("Naturschutzgesetz") of federal states. These clear opportunities were ignored, however.

One of the main drivers of Aarhus implementation in Austria still is the legal activity by environmental NGOs bringing cases to national and international courts. They do so in the face of considerable legal uncertainty and with the knowledge that their efforts will only rarely succeed. Courts continue to refuse the Convention's direct application and, even where they have exceptionally shown a willingness to grant increased access rights, this simply cannot replace legislative action, as is demanded of the Austrian government.

With best regards,



Thomas Alge
ÖKOBÜRO

¹ https://www.parlament.gv.at/PAKT/PR/JAHR_2014/PK0627/

² https://www.parlament.gv.at/PAKT/PR/JAHR_2014/PK0627/