

Decision VI/8b on compliance by Austria with its obligations under the Aarhus Convention, progress report on behalf of Austria

By decision VI/8b the Meeting of the Parties (MoP) reaffirmed its decision V/9b on compliance by Austria with its obligations under the Convention and requested Austria to provide the Committee no later than 1 October 2018 with a detailed plan of action on how to implement the Committee's findings with regard to communication ACCC/C/2010/48 and ACCC/C/2010/63.

With regard to para. 3 (a) and (b) of decision VI/8b Austria has previously – during the last intersessional period up to MOP-6 – already reported on the national discussion processes on implementation of the so called “third pillar” of the Aarhus Convention. In this respect, Austria is willing to provide the Committee with an update on national processes.

By 19 September 2018 the Federal Government has adopted a legislative proposal, “Aarhus-Beteiligungsgesetz 2018”, for a law to improve access to justice in environmental matters for environmental NGOs and individuals in the areas of waste, water and air quality. In this regard, the legislative proposal seeks to amend the corresponding environmental laws at federal level, the Waste Management Act (Abfallwirtschaftsgesetz 2000), the Water Right Act (Wasserrechtsgesetz 1959) and the Air Pollution Control Act (Immissionsschutzgesetz-Luft). On air quality, provisions on access to justice are also part of the corresponding legislative proposal for a recast of the National Air Emissions Act (Emissionsgesetz-Luft 2018).

With the aim to ensure effective protection of environmental law, the draft laws have the objective to provide environmental organizations and, where relevant directly affected individuals, with the possibility of a legal review before the national administrative courts in the event of a breach of environmental law.

For the legislative procedure, both the draft laws for the “Aarhus-Beteiligungsgesetz 2018” and the “Emissionsgesetz-Luft 2018” have been submitted to the Austrian Parliament and will then be debated in the Environment Committee of the National Council. The deliberation by the Environment Committee is envisaged at its meeting on 4 October and the adoption in the plenary session of the National Council and the Federal Council are scheduled for November 2018.

Therefore, it is envisaged that the laws at federal level to further implement the Aarhus Convention will be adopted by the end of this year. The draft laws as well as further details on

the parliamentary procedure are available on the website of the Austrian Parliament https://www.parlament.gv.at/PAKT/VHG/XXVI/II/_00270/index.shtml, https://www.parlament.gv.at/PAKT/VHG/XXVI/II/_00271/index.shtml.

With regard to legislative processes at the level of the Provinces (*Bundesländer*), several Provinces have already started the preparations for draft laws amending their corresponding legislation concerning nature protection but also the laws on hunting and fishing (Styria, Tyrol, Vorarlberg, Upper Austria, Lower Austria and Vienna).

Concerning capacity building activities for the jurisdiction as referred to in para. 3 (d) of decision VI/8b Austria is able to inform the Committee on a respective programme by the Austrian Academy for Administrative Courts (*Österreichische Akademie der Verwaltungsvergerichtsbarkeit*) of the Johannes Kepler University of Linz. The Academy organizes trainings and capacity building activities for judges in relation to administrative law. A special seminar will be held in December this year on the Aarhus Convention and its three pillars. A seminar description is attached to this report (in German only). The guidance documents and studies prepared within the framework of the capacity building projects *KOMM-Recht* and *KOMM-Recht Reloaded* will be used as training material.

Furthermore, a follow-up to the capacity building project *KOMM-Recht* (2015-2017) by the environmental NGO Umweltdachverband as lead organisation has been launched. The project *KOMM-Recht Reloaded* (2017-2018) is focussed on legal questions in relation to the requirements on access to justice with regard to the Aarhus Convention and EU and environmental law, including the jurisprudence of the European Court of Justice. A core element of the legal study which will be finalized by end of October is an analysis of the findings of the ACCC on Art. 9 (3) of the Convention with a focus on legal standing for environmental NGOs. In order to gain a better understanding of the Convention's Compliance Mechanism the study will also provide for a translation of the relevant findings of the ACCC in German.

All these activities underline Austria's commitment to improve compliance with the Aarhus Convention and we will inform the Committee on the outcome of the legislative procedure as described above. If requested by the Committee, a translation of the then adopted laws into English will be submitted to the attention of the Committee accordingly.