

Statement on behalf of OEKOBÜERO; ACCC meeting March 2019

14 March 2019

Decision VI/8b (Austria)

ÖKOBÜRO welcome the steps taken by Austria within the Aarhus Participation Act to implement the Convention, strengthening the right of the public participation and access to justice in certain environmental procedures as well as fostering legal certainty for project applicants.

Once again, we would like to stress the fact that steps to grant NGOs standing to challenge acts relating to the environment have only been taken in selected legal areas regulated by EU provisions. This is not only the case regarding implementing measures on Federal level, but as well regarding the draft amendments of nature protection legislation published so far to implement article 9 (3) on Provincial level in Lower Austria, Styria and Upper Austria.

Examples for areas of environmental law where steps to implement decision VI/8b would still be required are the chemicals act, mining and forestry legislation or regular procedures according to the industrial code on Federal level as well as fishery or hunting law on Provincial level.

The discussed recent amendment of section 19 of the Environmental Impact Assessment Act is insofar not in line with the provisions of Aarhus as it determines the minimum requirement of 100 members to be an *absolute* prerequisite, not allowing for any other prove of „the support from the public“ as for example in the Swedish case of 2013 or of their professional expertise.

Austrian environmental NGOs are currently all trying to meet this newly imposed criterion which requires high costs and resources. Additionally, the newly introduced necessity to provide evidence for the recognition criteria every 3 years will lead to significant administrative burdens for NGOs. Considering the fact that environmental NGOs currently challenge decisions in only 2 EIA procedures per year, this further restriction of access to justice in environmental matters is not justified.

Regarding waste and water procedures, we would like to stress that especially in procedures relating to the environment, the suspensive effect of appeals has great relevance, as environmental harm is difficult to reverse, if once produced. We do not see, why in procedures according to the Waste Management or Water Rights Act, such a special provision would be appropriate.

ÖKOBÜRO therefore await further steps in the areas affected by the Aarhus Participation Act, but also in all other concerned areas relating to the environment – on Federal as well as Provincial level. Furthermore, we strongly call upon Austria to revoke the newly introduced



requirement of 100 NGO members as well as the special regulation regarding the suspensive effect of NGO appeals in waste and water procedures.