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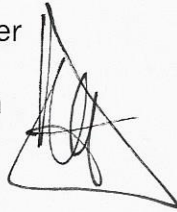
Secretary to the Compliance Committee
Aarhus Convention Secretariat
UN Economic Commission for Europe
S. 348, Palais des Nations
CH-1211 GENEVA 10
SWITZERLAND

Vienna, 30 October 2019
VierPf/ACCC17 / u / 3A

Decision VI/8b
GZ: ACCC/C/2011/63

Communicant: Vier Pfoten - Stiftung für Tierschutz
gemeinnützige Privatstiftung
Linke Wienzeile 236, 1150 Vienna

Representative: Dr. Josef Unterweger
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Party concerned: Republic Austria
p.a Federal Ministry of Agriculture, Forests, Environment and
Water Management
Stubenbastei 5
1010 Vienna

Ref: Communication to the Aarhus Convention Compliance Committee
concerning compliance by Austria with provisions of the
Convention in connection with access to justice in criminal
proceedings regarding contravention of national environmental law
(ACCC/C/2010/48, ACCC/C/2011/63)
here: Decision VI/8b

The Communicant states

- That there is still no sufficient access to justice for members of the public.
- That there are still no sufficient remedies to challenge acts or omissions of authorities in the disputed cases concerning environment, wildlife, endangered Species or CITES.

The Party concerned is still in non-compliance of article 9, paragraph 3 and paragraph 4 of the Convention - and it is deliberately in non-compliance.

In Detail:

1. The Communicant fully endorses the statement submitted by the Communicant "Ökobüro" on October 28th 2019.
2. The party concerned states that measures have been taken and results achieved to implement the recommendations.
As a matter of fact measures have been taken by the party concerned to bar the public and environmental organisations from access to justice in environmental matters.

The "Aarhus Participation Act 2018" ("Aarhus-Beteiligungsgesetz 2018") does not grant access to justice in environmental matters. It grants e.g. the possibility to challenge omissions on plans and programmes only in air protection matters.

Legislation on provincial level is also obviously insufficient. There is e.g. no possibility to challenge omissions on plans and programmes relating to the environment

3. The party concerned implements laws to bar members of the public and environmental NGOs from access to justice.
 - a. The "Federal Law on the Development and Advancement of the Economic Location Austria" ("Standortentwicklungsgesetz" - StEnG) was adopted in 2018.
This law grants automatically permission to projects in EIA proceedings twelve months after the date of application if a board, which is nominated by the government, says so. The law states that the authority is obliged to grant permission.

- b. The party concerned adopted amendments to the Environmental Impact Assessment Act (Novelle zum Umweltverträglichkeitsprüfungsgesetz 2000). Access to justice for the public concerned has been drawn even to a smaller scale.

The status "Environmental Organisation" under Austrian law ends for all environmental NGOs with the end of 2019.

If an Environmental Organisation proves to meet the new implemented criteria until 1st. December 2019, the Federal Minister grants the status "Environmental Organisation" for the next three years.

The access to justice is limited to NGOs with at least 100 members. Environmental organisations with less than 100 members do not have access to justice.

§ 19 Environmental Impact Assessment Act grants access to justice only for two kinds of environmental organisations:
"Verein" (organization) or "Verband" (federation – a collective of organisations or associations).

Environmental NGOs organized as "Verein" must prove that they have over 100 members. Organisations in smaller, esp. rural communities, are small. Many environmental organizations in rural areas will cease to exist.

Environmental NGOs organized as "Verband" must prove to have five member organizations.

But there are environmental organizations based on different forms of organization than the two mentioned in § 19 EIA.

Most prominent are foundations.

Foundations do not have member organisations.

After January 1st 2020 the communicant "Vier Pfoten" most probably will no longer be an "environmental organisation" under Austrian law.

The Communicant states

- that there is still no sufficient access to justice for members of the public
 - that there are still no sufficient remedies to challenge acts or omissions of authorities in the disputed cases concerning environment, wildlife, endangered Species or CITES.
- The party concerned is still in non-compliance both with article 9 paragraph 3 and article 9 paragraph 4 of the Convention - and the party concerned is deliberately in non-compliance.

Vier Pfoten - Stiftung für Tierschutz gemeinnützige Privatstiftung