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Case ACCC/C/2010/48, Austria

Explanatory note by the communicant to the Annexes added to its submission of 8. October 2010

Annex 1: MoE refusal regarding environmental information request

In substance this letter refuses the env. information request. This document has no legal quality and it is not possible to appeal against this refusal.

Annex 2: NGO requests official notification on refusal

After receiving the Annex 1 letter the NGO requests the authority to issue an official notification (“Bescheid” = individual administrative decision) on the refusal in order to come into the position to legally challenge the refusal decision.

Annex 3: NGO factsheet on the case

The NGO (GLOBAL 2000) requesting env. information produced a fact sheet with the procedural timeline of the case and the substance of its env request (NOx reduction programmes in transport sector) and the content of study

Annex 4: OEKOBUERO request for env. information

OEKOBUERO requests env. information regarding traffic figures from ASFINAG in accordance with the Austrian env. information act.

Annex 5: ASFINAG refusal of env. information request

ASFINAG claims it is not obliged to release this env. information and that correct figures are not available yet. This answer has no legal quality and can not be used for appeals.

Annex 6: Request for official notification on ASFINAG refusal

Same issue as Annex 2. In order to appeal against the environmental information refusal an official notification is needed. In case of ASFINAG (private law company owned by Republic of Austria) the supervising public authority has to issue the official notification. This is the Minister of Transport. Therefore the application is addressed to the Minister of Transport.

Annex 7: Mr. Schrefel requests official notification from Minister of Transport

This refers to paragraph 10 b) of our submission from 8. Oct. A private person (Mr. Schrefel) requested traffic figures from Minister of Transport. The request was refused. The Minister of Transport argued that only ASFINAG has the figures. The refusal has no legal quality (same as Annex 1 and Annex 5). Mr. Schrefel asks Ministry of Transport to issue an official notification in order to legally challenge the refusal.

Annex 8 and 9: Court decision and its translation**Annex 10: Study of the European Commission regarding Access to Justice (Milieu 2007)****Annex 11: Article in legal journal regarding access to justice with regard to infrastructure projects and standing of the public concerned (2007)****Annex 12: Study of MoE regarding Article 9 par 3 implementation needs in Austria (2009)**

Summary/translation of most important aspects will be submitted in due time before the public hearing, the latest in the last week of November.

Best wishes

