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ECONOMIC COMMISSION
FOR EUROPE

Environment, Housing and Land Management Division
Bureau 429
Palais des Nations
CH-1211 Geneva 10
Switzerland

Phone: +41-22-917 3294
Fax: +41-22-917 0634
E-mail: public.participation@unece.org
Website: www.unece.org/env/pp

8 April 2010

Mr. Thomas Piringer, Managing Director
Mr. Thomas Alge, Head Environmental Law
OEKOBUERO - Coordination office of Austrian Environmental Organisations
Volksgartenstrasse 1
A-1010 Vienna
Austria
Fax: +43 1 524-93-77/20

Dear Mr. Piringer,
Dear Mr. Alge,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Austria with provisions of the Convention in connection with access to justice in environmental matters in general (Ref. ACCC/C/2010/48)

On 13 March 2010, the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) received the above communication submitted by your organization and addressed to the Compliance Committee of the Convention. The communication concerns compliance by Austria with several provisions of the Convention in connection with access to justice in environmental matters in general. The communication was submitted in accordance with the provisions of chapter VI of the annex to decision I/7 of the Meeting of the Parties.

The communication has been registered under the symbol ACCC/C/2010/48, which you are invited to cite in future correspondence on the matter.

The Committee, having considered the admissibility of the communication at its twenty-seventh meeting (16-19 March 2010), has on a preliminary basis determined it to be admissible in accordance with paragraph 20 of the annex to decision I/7. A copy of the preliminary determination on admissibility is attached. Please note, however, that the Committee has not reached any conclusions with respect to the compliance issues referred to in the communication.

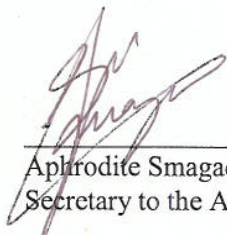
In order to facilitate further consideration of the communication, the Committee has requested the secretariat to invite you to address a number of questions that are annexed to this letter. The Committee would also appreciate if you could reorganize the content of the communication in sections, where all facts and allegations relating to a specific provision of article 9 of the Convention, are under the same section. The questions that are annexed to this letter may be helpful to take up this exercise of reorganizing the text of the communication. Please provide any

supplementary documentation which is necessary to substantiate your responses to the questions. At the same time, you are encouraged to avoid submitting to the Committee excessive documentation which is not strictly relevant to the allegation of non-compliance.

The main documentation relating to the processing of the communication will be accessible at the following link: <http://www.unece.org/env/pp/compliance/Compliance%20Committee/48TableAustria.htm>.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

CC.

Ms. Lieselotte Feldmann, Federal Ministry of Agriculture, Forests, Environment and Water Management,
Vienna, Austria
Permanent Mission of Austria in Geneva

Encs. Preliminary determination on admissibility
Datasheet on the communication

Annex – Questions to the communicant

1. In the section on “individual vs. public interest” (paras. 7 et seq. of the communication), you refer to article 9, paragraphs 2 and 3; whereas the court case example you submit in support of your allegations (enforcing air quality standards in Graz, box with paras. 11-13 of the communication), you allege non-compliance with article 9, paragraph 4, of the Convention.

Hence, with regard to the allegation of individual vs. public interest, do you allege that the Austrian system currently fails to comply with article 9, paragraph 2, paragraph 3, paragraph 4, or all provisions? Please clarify and substantiate your response for each allegation with tangible examples.

2. With regard to para. 16 of the communication on “environmental organizations excluded”: what are the exact provisions of the Convention that are not complied with by the Austrian legal system? Is there a reason why the content of this paragraph constitutes a separate section from the section on the impairment of rights doctrine at paras. 5-6 of the communication?
3. How do paras. 33-37 relate to the sections of the communication on public vs individual interest and the standing of NGOs?
4. Could you be more precise on the alleged non-compliance exemplified by court example Mellau/Damüls (paras. 17-20 of the communication / box)?
5. What are the exact allegations of non-compliance in paras. 21-23 of the communication? What are the relevant provisions of the Convention?
6. Similarly, in paragraphs 24-32 of the communication: please specify the provisions of the Convention which you allege that Austria fails to comply with and illustrate your allegations with facts.
7. Please specify your allegation in para. 48 of the communication and what is the last “chapter” you refer to.
8. Please specify the exact allegations of non-compliance in the section of the communication on the “scope of judicial review” (paras. 49-74).