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Ref: Follow-up on ACCC/C/2010/48

15 July 2013

Lieselotte Feldmann
Civil servant
Federal Ministry of Agriculture, Forests, Environment and Water Management
General Environmental Policy Dept./EU affairs environment
Stubenbastei 5
A-1010 Vienna, Austria

Dear Ms. Feldmann,

Re: Follow-up on communication ACCC/C/2010/48

We refer to the findings and recommendations of the Aarhus Convention Compliance Committee with regard to communication ACCC/C/2010/48. The Committee, pursuant to paragraph 36 (b) of the annex to decision I/7 and noting the agreement of Austria that the Committee take the measure referred in paragraph 37 (b) of the annex to decision I/7, had made a number of recommendations with regard to its findings on the communication.

You are now invited to submit information on progress by Austria in implementing the recommendations of the Committee on the above referenced communication no later than **16 September 2013**. On the basis of this information, the Committee at its forty-second meeting (24 – 27 September 2013) will prepare its draft report, including the draft recommendations, to be considered by the Meeting of the Parties at its fifth session (Maastricht, the Netherlands, 30 June – 2 July 2014). The draft report will subsequently be shared with the Party concerned and the communicant(s) for comment, and then finalized and adopted by the Committee at its forty-third meeting (17 – 20 December 2013).

For your convenience, the findings and recommendations of the Committee are also annexed to this letter.

Please do not hesitate to contact the secretariat if you require further information.

Yours sincerely,

Apollodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Austria to the United Nations Office and specialized institutions in Geneva
Markus Piringer, Managing director, OEKOBUERO, Austria
Thomas Alge, Head Environmental Law, OEKOBUERO, Austria

Annex**Findings and recommendations with regard to communication ACCC/C/2010/48
concerning compliance by Austria (ECE/MP.PP/C.1/2012/4)**
(paras. 77 – 81)**IV. Conclusions and recommendations**

77. Having considered the above, the Committee adopts the findings and recommendations set out in the following paragraphs.

A. Main findings with regard to non-compliance

78. The Committee finds that the requirement for a separate “official notification” as a precondition for an appeal of a denial of an information request is not in compliance with article 4, paragraph 7, of the Convention (see para. 56).

79. The Committee finds that the Party concerned, by not ensuring access to a timely review procedure for access to requests for information, is not in compliance with article 9, paragraph 4, of the Convention (see para. 59).

80. The Committee finds that the Party concerned, in not ensuring standing of environmental NGOs to challenge acts or omissions of a public authority or private person in many of its sectoral laws, is not in compliance with article 9, paragraph 3, of the Convention (see para. 75).

B. Recommendations

81. The Committee, pursuant to paragraph 36 (b) of the annex to decision I/7 of the Meeting of the Parties to the Convention, and noting the agreement of the Party concerned that the Committee take the measures requested in paragraph 37 (b) of the annex to decision I/7, recommends that the Party concerned:

(a) Take the necessary legislative, regulatory, and administrative measures and practical arrangements to ensure that:

(i) The procedure for having a refusal of a request for information reviewed is simplified for the requester. This could preferably be done by requiring any written refusal of a request for information to have the legal status of an “official notification” and that any such refusal is to be made as soon as possible, and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request;

(ii) The available review procedures for persons who consider that their request for information under article 4 has been ignored, wrongfully refused or inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, are timely and expeditious;

(iii) Criteria for NGO standing to challenge acts or omissions by private persons or public authorities which contravene national law relating to the environment under article 9, paragraph 3, of the Convention be revised and specifically laid down in sectoral environmental laws, in addition to any existing criteria for NGO standing in the EIA, IPPC, waste management or environmental liability laws.

(b) Develop a capacity-building programme and provide training on the implementation of the Aarhus Convention for federal and provincial authorities responsible for Aarhus-related issues, and for judges, prosecutors and lawyers.