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26 August 2009

Mr. Tibor Viniczay
Mayor of the Municipality of Szentgotthard (Szentgotthard varos)
Szell K.ter 11
9971 Szentgotthard
Hungary

Dear Mr. Tibor Viniczay,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Austria with provisions of the Convention in connection with the construction of a waste incinerator in the province of Burgenland (Ref. ACCC/C/2009/39)

On 3 June 2009, 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 Dr. Géza Simonfay and Mag. Ulrich Salburg of Simonfay & Salburg representing the municipality of Szentgotthard (Szentgotthard varos), and addressed to the Convention's Compliance Committee regarding compliance by Austria with certain provisions of the Convention.

The communication has been registered under the symbol ACCC/C/2009/39, which you are invited to cite in future correspondence on the matter.

At its twenty-fourth meeting (30 June - 3 July 2009), the Compliance Committee discussed your communication with a view to determining on a preliminary basis whether it was admissible. However, the Committee decided to defer any such preliminary determination pending further discussion on the interpretation of article 2, paragraph 4, of the Convention as it relates to this communication. Specifically, the Committee intends to examine the following issues:

1. Whether according to Hungarian law or practice the municipality of Szentgotthard (Szentgotthard varos) falls within the definition of 'the public' set out in article 2, paragraph 4, of the Convention, and thus is entitled to submit a communication according to article 18 of the annex to decision I/7;

2. Whether a determination that certain municipalities do not fall within the definition of 'the public' set out in article 2, paragraph 4, of the Convention, would entail that such municipalities do not have any rights under articles 4 and 6 of the Convention;

3. In this connection, whether the fact that a municipality, generally speaking, is a "public authority" within the meaning of article 2, paragraph 2 (a), of the Convention, and the possibility that the municipality has participated in the relevant decision making, might have any bearing on the extent to which it falls within the definition of "the public";

4. The procedure used in order for the mayor to be able to submit a communication on behalf of the municipality.

In order to facilitate further consideration of your communication by the Compliance Committee at its twenty-fifth meeting (22 – 25 September 2009), you are invited to submit any views and/or information you may have on these issues by 15 September 2009.

We are addressing this message to you, rather than to your legal representatives, because the Committee has requested us to do so. However, you are welcome to instruct Messrs. Simonfay & Salburg to reply to this letter on your behalf. In that case, please note that the Committee at its twenty-fourth meeting agreed that henceforth, wherever a communicant has authorized another person (e.g. a legal representative) to act on his/her behalf, the communicant will be required to provide written evidence that he/she has provided such authorization, and we would therefore expect such evidence to accompany the reply.

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

Yours sincerely,



Jeremy Wates
Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

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