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ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE
CONVENTION ON ACCESS TO INFORMATION,
PUBLIC PARTICIPATION IN DECISION-MAKING AND
ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Third meeting

Riga, 11 – 13 June 2008

Item 6 (a) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:

Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY AUSTRIA*

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

* The present document was submitted late due to resources constraints.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. This report was prepared on the basis of Decisions I/8 und II/10 on reporting and, where possible, in accordance with the recommendations of the Convention's Compliance Committee dating from February 2007 (ECE/MP.PP/WG.1/2007/L.4).
2. In the framework of public consultation, the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management (BMLFUW), which is responsible for the coordination of matters pertaining to the Convention, has invited all the other relevant Austrian Federal ministries (in particular the Federal Ministry of Economics and Labour, the Federal Ministry for European and International Affairs, the Federal Ministry of Justice and the Federal Ministry of Health, Family and Youth), the nine Federal provinces (contacted via the liaison office in Vienna), the representations of interest (social partners), Umweltbundesamt GmbH (hereinafter: Umweltbundesamt, the Austrian Federal Environment Agency) as well as environmental non-governmental organizations (NGOs) and the interested public to participate.
3. This participation included, in particular, as recommended by the Compliance Committee, a consultation period of approximately nine weeks, already prior to the first draft available via the Internet, e-mail and in a coordination meeting. After completion of the draft and its submission via electronic file and after publication on the Internet, together with an e-mailing submitted to potentially interested parties, the project entered into a second, somewhat shorter, consultation phase.
4. For the national consultation process and the received statements, see the following information available on the website of the BMLFUW :
<http://www.umwelt.net.at/article/articleview/62563/1/7247/>
5. In summary, public consultation has shown that some environmental organizations and one of the five political parties represented in the Austrian Parliament view the implementation of the third pillar in Austria rather critically. Yet there has been broad agreement as regards the first two pillars of the Convention.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

6. Austria ratified the Convention in 2005 and thus became a Party to the Convention (Federal Law Gazette III No. 88/2005 of June 10, 2005). For the purpose of a general understanding of this report, it must be stressed that the implementation and application of the Convention in Austria are generally based on European Union (EU) Directives which have already entered into force, especially concerning the first and second pillars. In this process, respective EU Directives have been transposed into national law at Federal as well as at provincial levels.

7. As in several other EU Member States which are Parties to the Convention, in Austria it is domestic implementation which is the first prerequisite for ratification. In Austria, the provisions of the Convention have been transposed into national law in the relevant laws and regulations. Conclusion of the Convention was unanimously approved by the two chambers of the Austrian Parliament (the National Council and Federal Council).

8. The Republic of Austria is a Federal State. This means that legislation and the execution of laws are distributed among the Federal Government and the nine Federal provinces according to the competencies they have been assigned. The Austrian Federal Constitution provides for a general regulation of legislative and executive competencies assigned to the Federal Government and the Federal provinces. This is why for some areas of the Convention provincial legislation is required in addition to Federal laws. Thus, legislative measures for the implementation of EU law and of the Convention are generally required at Federal and provincial levels and are therefore accordingly complex. With a few exceptions, the application and administration is organised locally, i.e. via the Federal provinces or the district administration and municipal authorities.

9. According to the Federal Constitution, environmental protection is a cross-sectional issue, which is distributed among the Federal Government and the Federal provinces with a view to the competencies assigned by law. On the basis of a constitutional act, Austria commits herself to comprehensive environmental protection for the purpose of the preservation of the natural environment as the basic resource on which human life depends, protecting humans against harmful impact (Federal Law Gazette 1984/491). Protection includes measures to keep air, water and the soil clean and to prevent noise.

10. In Austria, provisions on the protection of the environment are, in particular, to be found in the area of public-administration law, with action taken by the Federal Government/Federal provincial authorities being subject to legal regulations. Besides bans of massive damage to the environment and codes of conduct, permits issued by public authorities are prevailing in environmental administration law, which means that (mostly economic) activities are subject to control exerted or permits granted by administrative authorities.

11. Besides the Federal structure, the social partners also play a very important role in Austria. In Austria, the social partners, e.g. the Federal Chamber of Commerce (WKÖ), the Chamber of Agriculture (LWK), the Federal Chamber of Labour (BAK) and the national trade-union federation (ÖGB) as well as the Federation of Austrian Industry (IV), play a key role in representing the interests of the respective groups in society (stakeholders).

12. In Austria, we can witness not only a high degree of environmental awareness, but also high interest in the principles underlying the Convention. Public administration tries to increasingly take account of this by enhancing new forms of public participation, such as e.g.: e-government, e-participation or citizen-service facilities available online.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Article 3, paragraph 2

13. Based on the political key concept of “good governance”, public participation, i.e. the integration of the public in policymaking, has established itself as a cornerstone of decision-making processes.

14. For Austria, the objective of an innovative, cooperative and high-quality public administration within the meaning of enhanced citizen orientation is the guiding theme. This objective has also been laid down in the current Austrian Government programme dating from early 2007. Efforts made over the last years to modernize administration have brought about many good examples proving how the general public can be successfully made an active partner in policymaking and how this process can be fostered.

15. In order to provide another important impetus for good governance at federal level, standards for public participation have been developed at the instigation of the Federal Chancellery and the BMLFUW in the framework of an interministerial working group, in which stakeholders and NGOs also took part. These standards are also a contribution to the implementation of the Austrian and the EU sustainability strategies (European Council conclusions of June 2006). On this basis, the citizens are to be better integrated into policymaking within the meaning of the political guiding principles, as they are called, for the promotion of sustainable development. The process for the development of public participation standards, which was launched in 2005, aims at developing good practice recommendations in the form of standards, which are to be used as routine measures in administrative public participation procedures (“Code of Conduct”) in the future. The standards are primarily relevant for plans and programmes as well as for policies and legal instruments developed by administrative bodies. The standards are aimed at providing precise content as to the definition of public participation and specific action which is to be taken. The public participation standards are deemed as a service and hands-on support for administrators involved in public participation processes. It is the aim to reach self-commitment on the part of administration when applying the standards in form of a Government decision in due time.

Article 3, paragraph 3

16. The environmental education activities coordinated by the BMLFUW include numerous education projects dealing with sustainable development as well as different subject areas. The target groups are, among others, the general public, schools, children and young people, research and multipliers. Summaries of these activities are available in brochures on the United Nations Decade of Education for Sustainable Development (2005-2014), including various and highly specific examples at the regional and local levels.

17. Since 2002, the Austrian Eco-Label for Schools has been awarded by the BMLFUW jointly with the Federal Ministry of Education, Arts and Culture. It is to honour schools for their special commitment in the fields of environmental education, environmentally sound action and the promotion of a socially viable school environment. It is the aim of the initiative to prompt all

school stakeholders to strive towards the sustainable development of the environment in which they live today and tomorrow.

18. On 1 April, 2007, the Austrian Eco-Label Guideline for Extracurricular Educational Institutions entered into force. It is awarded to educational institutions living up to the principles of sustainable development. This new guideline is to put forward a dynamic process of further development aiming at enhanced sustainability. With both these instruments, childrens' as well as adults' awareness of environmental protection and the responsible use of natural resources is to be heightened.

19. Numerous other public and private institutions as well as NGOs round out these activities.

Article 3, paragraph 4

20. According to the Federal Ministries Act, coordination at all levels of environmental protection falls within the purview of the BMLFUW. This also includes the coordination of the Austrian position voiced in the EU Council of Environment Ministers. As soon as a Commission proposal for a legal instrument in the field of the environment is available, such proposal is submitted to the relevant other ministries, the social partners, the liaison office of the Federal provinces and (where applicable, depending on the subject) the Austrian Association of Municipalities, together with a request for submission of a statement. The process is coordinated by the relevant divisions of the BMLFUW and/or the Division EU Affairs Environment (for horizontal subjects) by way of written procedure or in the framework of coordination meetings. If NGO's (as a rule, these will be NGOs active in the field of environment) are directly concerned by a project, or if they should have a particular level of expertise in the respective field, they will be invited as well (e.g. as for the EU Environmental Liability Directive).

21. The BMLFUW also invites the concerned portfolios, social partners and the Federal provinces on a regular basis to take part in the coordination meetings held in the run-up to the formal Councils of EU Ministers (*jour fixe* on Environment). In addition to these official coordination meetings, there is a separate NGO round organized in the Federal Ministry held on a regular basis approximately at the time of the Council of EU Ministers in the framework in which environmental subjects are discussed, which usually are also on the Council agenda.

22. Moreover, the BMLFUW actively integrates NGOs active in the field of the environment into the political dialogue held on current legislative projects, especially at EU level: there are, for example, regular round tables involving the Federal Minister for the Environment and representatives of NGOs on current subjects, with the NGOs also setting the agenda. The BMLFUW also grants, on a regular basis, funds to national NGOs and to an EU environment office managed by NGOs, which provides excellent information on EU legislation on a regular basis, and to the biggest EU-NGO network in Brussels.

23. In recent years, many stakeholder dialogues - starting at the administrative level have been held in Austria at the Federal level for the development of programmes and policies in the environmental sector. Special mention should be made of the following initiatives: Forest Dialogue, Austrian Climate Protection Strategy, Rural Development Programme and the Round

Table on Water. Also, in the field of torrent and avalanche control, ever-more intense efforts have been made to include the general public. Austria also promotes the Local Agenda 21 (LA 21) as a model approach for participatory and proactive democracy aimed at implementing sustainable development. It is the aim to implement such processes in some 600 municipalities and 30 regions/districts all over Austria. In the future, LA 21 will constitute an explicit focus in the framework of the National Rural Development Programme.

24. Over the last five years, the activities aiming at the promotion of public participation have been stepped up (e.g. creation of an interdisciplinary expert group “Strategy Group Participation”; creation of a working group on “e-democracy” and “e-participation”; preparation of worksheets on participation containing specific recommendations; strategy talks held with representatives of the business world and with stakeholders of representative democracy; organization of events and issuing of publications on public participation and the relationship between the state and civil society.). Moreover, Austria is an active partner in the Organisation for Economic Co-operation and Development (OECD) working group on “Open and Inclusive Policymaking”.

Article 3, paragraph 7

25. The coordination of Austrian positions in international matters is also part of the consultation mechanism stated under article 3, paragraph 4. As regards several meetings of international bodies, environmental organizations are also part of the Austrian delegation (e.g. the Sixth Ministerial Conference “Environment for Europe” as well as in the framework of the recent United Nations Climate Conference held in Bali). Especially in the framework of the Convention and the Convention on Biological Diversity, environmental organizations are involved very deeply.

Article 3, paragraph 8

26. Austrian constitutional law contains the following non-discrimination provisions: according to Article 2 of the Basic Law on the General Rights of Nationals and Article 7 of the Federal Constitution, all nationals (Austrian citizens) are equal before the law. In addition, paragraph 14 of the European Convention on Human Rights, which was ratified by Austria in 1958, provides for a general discrimination ban. A certain level of protection against discrimination irrespective of nationality is granted by the Implementation of the International Convention on the Abolishment of all Forms of Racial Discrimination (Federal Law Gazette 1973/390).

27. Based on EU membership, EU citizens (nationals of European Union Member States) are equally guaranteed the fundamental rights enshrined in the European Convention on Human Rights and in the EU Charter on Fundamental Rights or are provided with protection against discrimination on grounds of nationality, sex, race, or ethnic origin, religion or philosophy, disability, age or sexual orientation.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

28. Concerning Article 3 (7) Austria has already used the second meeting of the Parties to the Convention to point to the complex challenges constituted by the guidelines, as they include manifold international details. Also, in a basically highly-networked State featuring a high environmental profile, the implementation of the guidelines represents a major task which demands the cooperation of several ministries and sectors.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

29. In the area of e-government used in public administration, Austria has been a European pioneer for several years and has received several awards for her activities in the field. In addition to a broad range of information offered, the main focus is on the electronic handling of procedures (from the application all the way to settlement or delivery, one-stop-shop approach) which lives up to the needs of the users.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

<http://www.partizipation.at>
<http://www.umweltnet.at/article/archive/7412/>
<http://www.help.gv.at>
<http://www.umweltbildung.at>
<http://www.umweltberatung.at>
<http://www.generationblue.at>
<http://www.wien.gv.at/umweltschutz>
<http://www.nachhaltigkeit.at>
<http://www.help.gv.at/Content.No.de/281/Seite.2811000.html>
<http://www.umweltzeichen.at>

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

30. The amendment registered under Federal Law Gazette I No. 6/2005, the Austrian Environmental Information Act, Federal Law Gazette No. 495/1993, which had been in force already prior to Austria's accession to the EU in 1995, brought Austria in line with the provisions of the EU Environmental Information Directive (2003/4/EC) and the Convention. The Federal provinces also have adapted their pertinent legislation accordingly. In the following, there will be only references to the Austrian Environmental Information Act in answering the individual questions, as provincial provisions are generally based on this piece of legislation.

Relevant definitions

31. The definitions are transposed into national law in paragraphs 2 and 3, of the Austrian Environmental Information Act, with the term of “environmental information” being broadly phrased, so that any kind of information on the state of the environment, factors, measures or activities (possibly) having an impact on the environment or conducive to the protection of the environment can be collected. This also refers to environmental information supplied to bodies obliged to provide information by other institutions. Another focus of the Austrian Environmental Information Act is making information accessible to the general public in an effective and easy way as well as providing environmental information in a citizen-friendly way. Every person (e.g. also minors, foreign nationals, legal persons such as companies, non-profit legal persons (*Vereine*) and corporate bodies) are entitled to apply for environmental information without having to provide any evidence.

Article 4, paragraph 1

Article 4, paragraph 1 (a)

32. Free access to environmental information is ensured in paragraph 4 of the Austrian Environmental Information Act and constitutes its key provision. Thereby everyone is granted a subjective public right to environmental data without such right to access being subject to being individually affected, to a de facto or legal interest, to a position as a party in legal proceedings or any other involvement in proceedings. The claim to environmental information is deemed as *actio popularis*.

Article 4, paragraph 1 (b)

33. The duty of information to be fulfilled by the bodies obliged to provide information is regulated under paragraph 5 of the Austrian Environmental Information Act. The requested information is to be provided in the form requested individually by the information-seeker or, where appropriate, in another form, with electronic data transfer to be preferred wherever possible.

Article 4, paragraph 2

34. In accordance with paragraph 5 of the Austrian Environmental Information Act, the deadline for making environmental information accessible is one month, with the possibility of extending this deadline to at maximum two months whenever comprehensive and complex information is involved.

Article 4, paragraphs 3 and 4

35. Paragraph 6 of the Austrian Environmental Information Act regulates the constraints to information and the reasons for denying information, according to which it is admissible to hold back environmental information, provided that:

- (a) The request for information refers to the transfer of internal information;

- (b) The information is requested in a way that is obviously abusive;
- (c) The request for information is too general;
- (d) The request for information refers to material which is in the process of being completed or involves written documents which have not yet been finalized or data which have not yet been edited.

36. Paragraph 6, subparagraph 2, of the Austrian Environmental Information Act states the reasons for denying information, according to which it shall not be permitted to give information, if the disclosure of environmental information would have a negative impact on certain objects of legal protection (e.g.: maintenance of public safety or comprehensive national defence, but also the protection of environmental areas, such as the habitation of rare animal species, which would be disclosed when providing the information, to the extent that perturbation of such species' habitats is feared). In addition, the confidentiality of personal data constitutes a reason for denying information to the extent that there is a protectable interest in non-disclosure within the meaning of the 2000 Austrian Data Protection Act. Moreover, the protection of business and company secrets constitute a reason for denying information.

37. Paragraph 6, subparagraph 4, of the Austrian Environmental Information Act stipulates that both the constraints to information and the reasons for denying information are to be interpreted narrowly and that, in the individual case, the public interest in disclosing the relevant environmental information must be considered. This is to ensure that the constraints to information and the reasons for denying information do not result in a limited obligation to information incumbent on the body obliged to provide information.

Article 4, paragraph 5

38. As in many cases it is not easy for citizens to find the body obliged to provide information which disposes of the environmental information requested by him/her, paragraph 5, subparagraph 2, of the Austrian Environmental Information Act provides for a respective duty to forward/refer to information on the part of the authorities so that a lack of knowledge of the structure of public authorities will not lead to any legal disadvantage for the applicant.

Article 4, paragraph 6

39. In accordance with paragraph 6, subparagraph 4, of the Austrian Environmental Information Act, the disclosure of environmental information can be denied if the request for information refers to material which is in the process of being completed or involves written documents which have not yet been finalized or data which have not yet been edited.

Article 4, paragraph 7

40. The deadlines for notification, the extension of deadlines and the negative response are regulated in paragraph 5, subparagraphs 6 and 7, of the Austrian Environmental Information Act. If the request for information is denied, such denial shall be justified in the respective communication and the information seeker shall be informed of legal remedies (para. 8).

Article 4, paragraph 8

41. In accordance with paragraph 5, subparagraph 5, of the Austrian Environmental Information Act, access to public registers or lists and the on-site access to the requested information shall be free of charge, while it shall be permissible to charge purchase prices or protective charges for publications.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

42. No information was provided under this heading.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

43. Many inquiries and requests for information concerning the environment are constantly submitted to the BMLFUW per telephone, e-mail or in writing. Yet only very few inquiries are expressly based on the Austrian Environmental Information Act. As the BMLFUW tries to handle all inquiries as fast and as unbureaucratically as possible and the documentary handling procedures of inquiries concerning various subject matters are not separately collected under the heading of environmental information, it is not possible to supply detailed information on figures, contents and possible reasons for not providing the requested information.

44. The inquiries concern many different areas: waste legislation, legislation on the remediation of contaminated sites, soil protection legislation, nature conservation legislation, water legislation, water-supply companies, hydraulic engineering legislation, water management and institutions responsible for water bodies, power plants, transport, clean air legislation, urban development and urban planning, Mineral Resources Act, Emission Allowances Act, radiation protection law and industrial law.

45. The Federal Environment Agency (UBA) is also home to a liaison office aiming at providing everyone with smooth access to environmental information. The task of the office is to support the exchange of information between the bodies obliged to provide information and to propose measures which are suitable for facilitating access to environmental information and to ensure the high level of quality of environmental information.

46. In its capacity as a body obliged to provide information, UBA handles just under 7,000 inquiries per calendar year, approximately 60% of which are submitted and answered in writing (via e-mail). In 2006, seven requests for information were submitted which referred to the Austrian Environmental Information Act. Two were submitted orally. In 2005, the number of inquiries was about the same.

47. In 2006, information seekers accessed the environmental information actively made available on the Internet by UBA just under 2 million times. Websites dealing with the subjects of waste, air, water and contaminated sites were accessed most the frequently. Of the publications made available at www.umweltbundesamt.at, the number of downloads of publication details was approximately 810,000.

**X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 4**

<http://www.help.gv.at/Content.No.de/166/Seite.1660000.html>
<http://www.umweltbundesamt.at/umweltinformation/koordinierungsstelle/>
http://reference.e-government.gv.at/UW-UI_Umweltinformation.1024.0.html

**XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING
THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF
ENVIRONMENTAL INFORMATION IN ARTICLE 5**

Article 5, paragraph 1

Article 5, paragraph 1 (a)

48. In accordance with paragraph 9, subparagraph 3, of the Austrian Environmental Information Act, the bodies obliged to provide information shall update the environmental information at suitable intervals.

Article 5, paragraph 1 (b)

49. The provision on the publication of environmental information (para. 9 of the Austrian Environmental Information Act) emphasizes the duty to actively supply environmental information on the part of administrative bodies. The bodies obliged to provide information shall edit the environmental information which is relevant for fulfilling their tasks and which they have at their disposal or which is being supplied to them in order to disseminate it to the public actively and systematically. This includes e.g. environment-related legal provisions; policies; plans and programmes; reports on the state of the environment and, in particular, reports on environmental control; permits having an impact on the environment; and risk assessments;

Article 5, paragraph 1 (c)

50. Paragraph 9, subparagraph 5, of the Austrian Environmental Information Act stipulates that, in the event of imminent danger to human health or the environment, the bodies obliged to provide information shall disseminate all information directly and without any delay. In addition, the owners of plants affected by failure shall, from the outset and without being instructed to do so, disclose the following information (para. 14 of the Austrian Environmental Information Act) to the affected population: general information on the plant (location, plant description), possible hazards and consequences in the event of failure, existing safety precautions and appropriate action to be taken in the event of failure.

51. Also this information shall be provided appropriately and in a way that it is understandable by the general public. It is the responsibility of the individual companies to determine the appropriate form of information.

Article 5, paragraph 2

52. In order to fulfil their duty of information in accordance with paragraph 9, subparagraph 2, of the Austrian Environmental Information Act, the bodies obliged to provide information shall take practical precautions facilitating access to information by, in particular by:

- (a) Publishing charts concerning organisation and the distribution of functions to the extent that such charts are available;
- (b) Naming contact persons or information centres;
- (c) Managing lists or registers concerning the environmental information they have at their disposal.

Article 5, paragraph 3

53. Electronic dissemination of environmental information is regarded as a priority instrument for active environmental information management, which is firmed up in the paragraphs 9, 10, 13 and 14 of the Austrian Environmental Information Act.

Article 5, paragraph 4

54. In accordance with paragraph 3 of the Austrian Environmental Control Act, the Federal Minister for the Environment shall submit a written report on the state of implementation of environmental control to the Austrian National Council every three years. On the basis of paragraph 6 of the Austrian Environmental Control Act and in its capacity as the environmental expert body of the Austrian Federal government, UBA shall be responsible for drawing up this environmental control report. The chapters of the current Eighth Report on the State of the Environment in Austria (2007) are available for download at: www.umweltbundesamt.at.

Article 5, paragraph 5

55. The obligations incumbent on the bodies obliged to provide information to actively and systematically disseminate information are set forth in paragraph 9, subparagraphs 1 and 2, of the Austrian Environmental Information Act. In particular, the following information shall be made available and disseminated:

- (a) The wording of contracts, conventions and agreements under international law, as well as Community and other legal provisions on the environment or that touch upon environmental issues;
- (b) Policies, plans and programmes referring to the environment.

Article 5, paragraph 6

56. In accordance with paragraph 13 of the Austrian Environmental Information Act, the owners of companies, obliged to measure and record emission data shall actively (i.e. without being asked to do so) disclose such environmental information. This means that the respective company shall publish the emission data he/she is obliged to measure for the period of the

respectively last month (or the last year) in a way that is easily understood by the general public and in a place which is easily accessible.

Article 5, paragraph 7

57. The information stated in paragraph 7 is made available to the general public in the framework of the review procedures used and by way of settlement in parliament (laws and regulations) on the respective websites (see answer concerning Art. 8).

Article 5, paragraph 8

58. The website of the environmental consultancy body, *Umweltberatung* (www.umweltberatung.at), provides information on precautionary environmental protection in various fields (e.g. chemicals, building and living, climate protection, energy etc.). In addition, citizens can turn to dedicated information centres in the federal provinces. The municipality of Vienna, for instance, has published the *Gut-gekauft-Bezirkspläne*, i.e. city district guides including a register of companies selling environmentally friendly products as well as advice on sustainable shopping.

59. In the framework of the *Nachhaltige Wochen* (Sustainability Weeks), sustainable products bearing the campaign brand *Das bringt's. Nachhaltig.* (That's what cuts it. Sustainably.) are advertised by merchants (www.nachhaltigewochen.at), enabling consumers to make informed choices when shopping. Food stuff, electric equipment, and, hardware retailers, butchers and furniture traders are taking part in the campaign. Moreover, a growing number of self-employed merchants are supporting the campaign, which has been launched by the BMLFUW, its partners and the Austrian retail industry.

Article 5, paragraph 9

60. At the European level, Regulation (EC) No. 166/2006 created a European Pollutant Release and Transfer Register (E-PRTR). For the implementation of this EC regulation in Austria, a national corollary PRTR regulation is required as an accompanying measure. A draft of such a national regulation has been subject to general review, and the regulation is supposed to enter into force in early 2008.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

61. No information was provided under this heading.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

62. In the framework of the Austrian e-government strategy, a working group on environmental information was set up, dealing with the approach to joint implementation of the requirements placed by the Austrian Environmental Information Act in the framework of the cooperation between the Federal Government, the Federal provinces and the municipalities. With

a view to the requirements pertaining to access to and dissemination of environmental information arising from the Austrian Environmental Information Act, the Federal provinces and the municipalities in Austria are required to find a new and comprehensive position. This is to make an important contribution to more transparency and more attention to the citizen in the field of environmental administration.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

<http://www.help.gv.at/Content.No.de/166/Seite.1660000.html>

<http://www.umweltbundesamt.at/koordinierungsstelle>

http://reference.e-government.gv.at/UW-UI_Umweltinformation.1024.0.html

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

63. In order to comply with the citizen-participation provisions of the Convention, the Environmental Impact Assessment (EIA) and Integrated Pollution Prevention and Control (IPPC) Directives were adapted at the European level by Directive 2003/35/EC, which provides for public participation vis-à-vis of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC. The same Directive was also used to implement the Convention for the plans and programmes (listed in Annex I to Directive 2003/35/EC) not yet covered by Directive 2001/42/EC on Strategic Environmental Assessment (SEA Directive), adopted only two years earlier. The SEA Directive had already implemented the Convention with regard to the plans and programmes covered by it.

A need for implementation evolved in particular from the interaction of Article 2, paragraph 5, Article 6 and Article 9, paragraph 2 of the Convention, requiring the involvement of certain environmental non-governmental organizations in approval procedures.

64. Austria transposed the EIA Directive 85/337/EEC (amended by Directive 97/11/EC), the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Aarhus Convention at the project level into national law in the Federal Act on Environmental Impact Assessment (Federal Law Gazette No. 697/1993, last amended by Federal Law Gazette No. 149/2006).

65. Annex I to the Aarhus Convention, to which the provisions set forth under Article 6 refer, includes projects which are covered by the EIA and IPPC Directives. Further adaptations to the Convention were made at a Federal level in the area of commercial equipment law by way of the 2005 Amendment to Industrial Law (Federal Law Gazette I No. 85/2005) with regard to the 1994 Trade Act, the Air Pollution Act for Boiler Facilities and the Mineral Resources Act, the Amendment to the EIA Act (Federal Law Gazette I No. 153/2004), the Amendment to the Waste Management Act (Federal Law Gazette I No. 155/2004), the Agricultural Amendment Act concerning the Federal Act on Forest and Pastures Usage Rights (Federal Law Gazette I No.

87/2005) and the Immission Control Act in the framework of the 2005 Act adapting the Laws on Environmental Protection (Federal Law Gazette I No. 34/2006).

Article 6, paragraph 1

Article 6, paragraph 1 (a) and (b)

66. The projects subject to EIA are listed in Annex I to the 2000 EIA Act, which covers not only the projects of Annex I but also those of Annex II to the EIA Directive 85/337/EEC as amended by Directive 2003/35/EC (and thus also those of Annex I to the Convention).

Article 6, paragraphs 2, 3, 4 and 5

67. The Austrian EIA procedure provides for the repeated information and involvement of the general public. In EIA procedures, the first step towards public participation is taken very early, by publicly announcing the project for at least six weeks in accordance with paragraph 9 of the 2000 EIA Act, with every interested citizen or organization having the opportunity to submit a statement. A circular published on the website of the BMLFUW points to the fact that project applicants are supposed to do respective public relations work already in the preparations for application. In addition, there is the option of oral proceedings in accordance with paragraph 16 of the EIA Act, which is to be announced accordingly (also via the Internet).

Article 6, paragraphs 6 and 7

68. The information given in Article 6, paragraph 6, of the Convention is subject to the Environmental Impact Declaration in accordance with paragraph 6 of the 2000 EIA Act, which is to be published for at least six weeks in accordance with paragraph 9. Within this period, anyone is entitled to submit a statement to the responsible authority with regard to the project or to the Environmental Impact Declaration.

Article 6, paragraphs 8 and 9

69. In accordance with paragraph 17, subparagraph 4, of the 2000 EIA Act, the statements received shall be taken into account. The decision, including the measures and the review of the received statements, shall be published without any delay, in accordance with paragraph 17, subparagraph 7, of the 2000 EIA Act.

Article 6, paragraph 10

70. In accordance with paragraph 3(a) of the EIA Act, any changes shall be subject to an EIA procedure.

Article 6, paragraph 11

71. The Genetic Engineering Act (Federal Law Gazette I No. 510/1994, last amended by Federal Law Gazette I No. 13/2006) transposes into national law, inter alia, the EU Deliberate

Release Directive 2001/18/EC and aims at the prevention of harmful impact of genetically modified organisms (GMO) on the environment.

72. According to Decision II/1 of 2005 reached by the Parties to the Aarhus Convention, the Genetic Engineering Act includes provisions on the announcement to and hearing of the general public in the case of GMO release (paras. 43 and 44) and on the information of the general public on permits granted for bringing the respective substances into circulation (para. 58(a)).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

73. No information was provided under this heading.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

74. On its website, the BMLFUW has published a list of all environmental organizations approved in Austria according to the 2000 EIA Act and also gives information on the application procedure required for obtaining approval (<http://www.umweltnet.at/article/articleview/27824/1/7237>).

75. The Federal Environment Agency consolidates the key information on ongoing and completed EIA procedures in an EIA database and makes it accessible online. Accordingly, a description of the respective project, information on the legal foundations as well on the project status, the opinion of the BMLFUW and information on the documents available in the EIA documentation are accessible to the general public.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

<http://www.umweltnet.at/article/articleview/43742/1/7240/>

<http://www.umweltbundesamt.at/umweltschutz/uvpsupemas/uvpoesterreich1/uvpdatenbank/>

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

76. As regards the EIA, including public participation, also Article 2, paragraph 7, of the Espoo Convention includes a provision encouraging the application of EIA principles also in policies, plans and programmes. The SEA Directive 2001/42/EC implements advanced relevant public participation provisions of the Aarhus Convention for a wide range of plans and programmes. As mentioned under Article 6, the relevant provisions of the Aarhus Convention have been implemented by way of Directive 2003/35/EC for several other plans and programmes (excluding policies) which are not covered by the SEA Directive.

77. Based on the distribution of competences in accordance with the Federal Constitution, in Austria not only the Federal Government, but also the Federal provinces, which have transposed both directives in several relevant Federal and provincial acts, are responsible for the transposition of the SEA Directive 2001/42/EC and the Public Participation Directive 2005/35/EC (and thus also of the relevant provisions of the Convention). Some Federal provinces (e.g. Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Vorarlberg) have, as an additional measure, published SEA Guidelines to support the authorities and the general public in applying SEA principles in a way that is in line with the EU and with the Convention.

78. Moreover, several federal acts have been amended with regard to adaptation to the provisions of the Aarhus Convention for the following areas: waste (at the federal level, in particular paragraph 8 and 8(a) of the 2002 Austrian Waste Management Act as amended by Federal Law Gazette I No. 3/2007), noise (Federal Act on the Assessment and Management of Environmental Noise, Federal Law Gazette I No. 60/2005), air (Immission Control Act, as amended by Federal Law Gazette I 2006/34), transport (Federal Act on the Strategic Assessment of Transport, Federal Law Gazette I No. 96/2005), water (Federal Water Act, Federal Law Gazette 1959/215 as amended by Federal Law Gazette I 2005/87). At the provincial level, laws pertaining to the same and other environmental areas are covered as well as the pertinent regional planning legislation.

79. The definition of the term “general public” in Austria is rather generous. Basically, the general public which is to be consulted covers “everyone”. Some laws specify this general public by defining it, e.g. as “...natural and legal persons as well as their associations, organizations or groups, and, in particular, organizations promoting environmental protection ...” (e.g. Regional Planning Act of the Federal province of Vorarlberg, Provincial Legal Gazette No. 29/1996, para. 10(c), subpara. 2).

80. In addition, Austria has provided for SEAs involving voluntary public participation with regard to plans and programmes not covered by the SEA Directive, e.g. for the 2002 Vienna Waste Management Plan, for the SEA development area “Vienna North-East”, or the National Strategic Framework Plan in the framework of EU structural funds 2007-2013 (STRAT.AT) and at the level of Local Agenda 21. Moreover, some laws provide for public participation platforms, such as provincial regional planning laws (irrespective of whether SEA is required or not).

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

81. It can be assumed that the existing Austrian practice and, in particular, the review procedure and the information available on the Internet comply with the relatively general requirements of the Convention as regards the preparation of “policies”. As already mentioned, the promotion of excellent cooperation and decision-making processes involving the State and civil society in matters of public interest accordingly play a key role in Austria. As a relevant example, we could cite the development of the Austrian sustainability strategy which has been drawn up with the cooperation of the interested public and all concerned bodies.

82. To include the general public in decisions which are affecting them is an integral part of a modern concept of politics and administration. In this process, Austria has set the following three priorities: (a) strengthening policy making which is open and close to the citizen in order to improve the quality of democracy, (b) stimulating stakeholders' responsibility vis-à-vis society, and (b) promoting local/regional sustainable processes.

83. Central activities are:

(a) "Public-participation standards" should also be regarded as a contribution to the implementation of the Austrian and EU sustainability strategies. To promote sustainable development, citizen participation in policy making should be improved, and administrative bodies should be provided with hands-on support to be able to include the general public efficiently and effectively. The standards could be particularly useful in the preparation of policies, plans, programmes or legal instruments;

(b) In 2002, ÖGUT, the Austrian Society for Environment and technology, set up a "Participation" strategy group at the instigation of the BMLFUW, made up of members from ministries and authorities as well as NGOs and the scientific community. The aim of the "Participation" strategy group are to firm up the concept of "participation", to develop it further and make it known widely, to heighten the awareness of decision makers from the areas of politics, public administration and business for public participation; to prepare participation strategies for policies relevant for the environment and sustainable development; and to make specific guidelines for action available to practitioners;

(c) The "Public Participation Manual", which was drawn up by the Federal Ministry of Agriculture, Forestry, Environment and Water Management and ÖGUT, provides for advice for successful public participation, the required framework, the expected costs and successful Austrian case histories;

(d) Over the last years, a website on the subject of participation (www.partizipation.at) has become an information hub ("one-stop shop") for public participation;

(e) In the future, more attention shall be paid to e-participation/e-democracy instruments. As mentioned earlier, it is the aim of the Austrian e-government strategy to enable citizens and businesses to handle all public administration procedures electronically, smoothly and swiftly without being required to have specialist knowledge about public responsibilities and technical details. Similarly, there should be enhanced involvement of the population (Internet chats with political decision makers, citizen participation procedures, participation in consultation procedures for draft laws; also electronic participation in elections is to be expected for the future).

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

84. No information was provided under this heading.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

85. In early December 2007, Austria organized an international UNECE-Aarhus workshop in Sofia on issues relating to Articles 7 and 8 involving experts from the Aarhus and Espoo Conventions. In the workshop, case studies and contexts with regard to both the Espoo Convention and the SEA Protocol, as well as individual experiences, were presented, making a small but specific contribution to better implementation in the UNECE area.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

<http://www.nachhaltigkeit.at>
<http://www.partizipation.at>
<http://www.digitales.oesterreich.gv.at/>
<http://www.unece.org/env/pp/ppsd.htm>
http://www.oerok.gv.at/EU_Regionalpolitik_in_Oesterreich/EU_Strukturfonds_2007_2013.htm
http://www.nachhaltigkeit.at/LA_21.php3

Examples of SEA guidelines used by some Federal provinces:

<http://www.landesplanung.ktn.gv.at>
<http://www.raumordnung-No.e.at/dynamisch/showinfostand.php?id=87>
<http://www.raumvision.at>
http://www.salzburg.gv.at/themen/bw/raumplanung/rp1_publicationen.htm
<http://www.raumplanung.steiermark.at/cms/ziel/6860163/DE>
<http://www.tirol.gv.at/raumordnung/publikationen/>
http://www.vorarlberg.at/pdf/kurzinfo-120_umsetzungder.pdf

XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

86. In Austria, the social partners—i.e. the above mentioned organizations of business and industry, agriculture, employees as well as the national trade union federation, which are partly established by law—play an important role in the representation of interests of the respective groups of society with regard to generally binding legal regulations which have a significant impact on the environment.

87. The Acts on the Incorporation of the Federal Chamber of Commerce of Austria (para. 10), of the Chambers of Labour (para. 93, subpara. 2) as well as of the Chambers of Agriculture (see, for example, para. 8 of the 1991 Carinthian Agricultural Chambers Act) provide that draft laws (as well as implementation rules) shall be submitted to the chambers by the public bodies for the purpose of review before being brought before the legislative body.

88. Where applicable, these representations of interest conduct respective internal consultation procedures for the purpose of opinion-making and submit statements (expert opinions) to the public bodies. It is then the task of these public bodies to recognize the statements and consider them accordingly. In addition, pertinent working committees made up of members of the responsible public bodies and of the social partners do exist in many cases already prior to official review procedures, for example for the purpose of expert discussion of the predrafts of legal instruments.

89. The definitions set forth under Article 2 of the Convention have been implemented to the following extent: for example, the terms of “public” and “public concerned” regarding the interests represented by the respective corporate body with a view to environmental policy are also included in the provisions on review rights. The “public authorities” are partly mentioned in the review rules (see, for example, para. 93 of the Austrian Chamber of Labour Act).

90. Within the individual stakeholder groups provided with review rights, there is no discrimination. According to the legal foundations, membership in the representations of interest/chambers is based on certain circumstances.

91. Moreover, mention has to be made of the fact that a series of plans and programmes covered by the SEA Directive (e.g. in the area of regional planning) are also enacted as ordinances in Austria, i.e. there is public participation in the preparation of executive regulations or there are general and legally binding provisions.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

92. No information was provided under this heading.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

93. The responsible Federal and provincial bodies publish draft laws on their websites (see below). This information also includes a general e-mail address as well as other partners which can be contacted for the submission of statements. Moreover, adequate time limits are provided for. In this process, every received statement is considered.

94. Also some of the representations of interest maintain separate consultation websites, such as the Federal Chamber of Commerce.

95. In its capacity as coordinating body of Austrian environmental NGO organizations, Ökobüro publishes the statements submitted in the framework of national review procedures on its website.

XXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Examples of websites providing the opportunity to comment on environmental draft laws are:

<http://recht.lebensministerium.at/article/archive/12317>

<http://www.bmwa.gv.at/BMWA/Rechtsvorschriften/Entwuerfe/default.htm>

http://www.parlament.gv.at/portal/page?_pageid=908,97306&_dad=portal&_schema=PORTAL&P_NR=XXIII

http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=320836

www.arbeiterkammer.at

<http://www.oekobuero.at/start.asp?b=443>

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

Article 9, paragraph 1

96. Austria has transposed the provisions concerning Article 9, paragraph 1, of the Convention by the legal protection provisions set forth in the Federal Environment Information Act (para. 8) and by way of respective provincial legislation.

According to the Federal Environment Information Act, it is possible to apply for a decree with the public authority obliged to provide information against information which has not been provided in time, which has not been provided at all, or which is incomplete. In this decree, the body obliged to provide information shall substantiate why no or only incomplete information has been provided. This decree can be appealed at the Independent Administrative Tribunal (*Unabhängiger Verwaltungssenat*). In each federal province, there is an Independent Administrative Panel, constituting a court-like authority which is not bound by instructions.

97. Bodies obliged to provide information, which are not authorised to enact decrees, shall forward applications for the enactment of decrees to the body responsible for expert supervision/to the district administration authority or to refer the applicant to such bodies. Moreover, the Independent Administrative Tribunal can be called in by persons affected by the provision of environmental information (e.g. company owners) provided that such persons feel that their rights have been violated on grounds of the respective information. Basically, the Act Governing General Administrative Procedures shall apply for the decree enactment procedure.

Article 9, paragraph 2

98. The wide range of affected parties covered by paragraph 19 of the 2000 EIA Act ensures that all persons, groups of persons (citizen initiatives) and environmental organisations possibly affected are entitled to make use of legal remedies – provided that they comply with the legal

requirements – and thus have the possibility to have the decision reviewed by the Independent Environmental Senate or the Administrative Court/Constitutional Court with a view to contents as well as to procedures. In Austrian legislation, the following criteria are laid down for the recognition of environmental organisations: they must be organised in the form of a non-profit legal person (*Verein*) or foundation which has environmental protection as its main objective, and they must have been legally incorporated as working for environmental protection for at least three years.

Article 9, paragraph 3

99. Austria thinks that the set-up and interpretation of this provision gives a certain leeway to the Parties to the Convention with regard to implementation, reaching from systems dominated by civil law via administrative law approaches stressing subjective rights all the way to the complaint procedure involving an ombudsperson. The Austrian legal system provides for the following instruments for enforcing environmental matters in the implementation of this provision:

(a) Concerning environmental private law, paragraph 364 et sqq. of ABGB, the Austrian Civil Code, provide for a basis for a claim for the defence against inadmissible immissions coming from adjacent properties. Neighbours hold the subjective right to prohibit immissions exceeding a certain level. In this context, direct or indirect immissions having an effect from one property to another (e.g. waste water, smell, noise, light and radiation) are deemed as impairments. A special environmental context is established by the provisions on immission control

(para. 364, subparas. 2 and 3 of the Austrian Civil Code) and the special provisions on approved plants (para. 364(a) of the Austrian Civil Code). In addition, there are also facts subject to special laws constituting claims for damages representing an explicit relation to the environment: paragraph 26 of the Austrian Water Act, paragraph 53 of the Austrian Forestry Act, paragraph 79(a) et sqq. of the Austrian Genetic Engineering Act, and paragraph 11 of the Austrian Nuclear Liability Act;

(b) In the Federal provinces, Environmental Advocacy Offices were set up as regional bodies representing the cause of environmental protection in administrative procedures (para. 2, subpara. 4 of the 2000 EIA Act). It is the task of the Environmental Ombudsperson to ensure the protection of the environment in certain administrative procedures. In order to enforce such claims, the Environmental Ombudsperson has the position of a party/is authorized to lodge complaints with the supreme courts with regard to compliance with legal provisions which are relevant for the environment;

(c) In the framework of the implementation of the EU Environmental Liability Directive 2004/35/EC, the government draft for a Federal Environmental Liability Act provides for an environmental complaint, if the public authority fails to take action in the event of environmental damage (to water bodies and soils, provided that human health is affected). If they are affected, natural or legal persons as well as environmental ombudspersons and acknowledged environmental organizations are entitled to lodge a written complaint with the district administration authority. The authority shall then inform the claimant of the due course of action (also if and which prevention and rehabilitation measures have been instructed). It is possible to lodge a complaint with the Independent Administrative Tribunal against unlawful information or

information which has not been provided;

(d) The Ombudsman Board investigates claimed or assumed severe administrative deficiencies and thus exerts public control for the benefit of the rule of law and democracy in a way that attracts media attention. Yet the Ombudsman Board only executes supervising investigation (after the procedure has been completed) and does not represent any party in the procedure per se.

Article 9, paragraph 4

100. Regarding civil (and criminal) matters at the lowest level about 140 district courts (*Bezirksgerichte*) have been established. Regional Courts (*Landesgerichte*) are functioning as courts of first instance and also as appeals courts for the district courts. Four courts of appeals (*Oberlandesgerichte*) are competent for appeals from cases decided by the regional courts. At the highest level is the Supreme Court for civil and criminal affairs (*Oberster Gerichtshof*).

101. With regard to administrative matters they are firstly addressed within the hierarchy of the administrative bodies. In some cases, Independent Administrative Tribunals (*Unabhängige Verwaltungssenate*) are installed as second instance. Illegal administrative actions, breaches of procedural or material provisions may be appealed to the Administration Court of last instance (*Verwaltungsgerichtshof*), which exercises a cassational function. Judicial review of the legality of administrative decisions and regulations as well as the constitutionality of laws is reserved to the Constitutional Court (*Verfassungsgerichtshof*). The Constitutional Court has competence to review the legality of administrative regulations and decisions violating fundamental rights. Administrative decisions or regulations can only be contested by those persons affected by the decision or regulation in question.

102. For matters of EIA, a special body, the Environmental Senate, was established at the Federal Ministry of Agriculture, Forestry, Environment and Water Management as the authority of appeal against decisions made by the provincial government with regard to EIAs. The Environmental Senate is the relevant superior authority with substantive jurisdiction. The members of the Environmental Senate perform their activities on an avocational basis and are not bound by instructions. Against decisions of the Environmental Senate, parties may appeal to the Constitutional and Administrative Court.

Article 9, paragraph 5

102. The Legal Information System of the Republic of Austria (RIS) is a computer-assisted information system on Austrian law, which is coordinated and operated by the Federal Chancellery. The content of RIS covers all legislation on the federal level as well as of the provinces. The case-law was made the third key component of RIS. The databases contain both the legal maxims and the full text of the rulings, inter alia, of the following tribunals: Constitutional Court, Administrative Court, Supreme Court (decisions of civil and criminal law), Independent Administrative Tribunals and the Environmental Senate.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

103. Certain members of the general public as well as a political party represented in the Austrian Parliament have criticized the existing implementation of Article 9, Paragraph 3, for being not comprehensive enough, in particular with regard to the law enforcement possibilities existing outside the approval procedure and the costs for expert opinions incurred in EIA procedures.

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

104. Also the instrument of environmental mediation provides a reference to Article 9, Paragraph 3, of the Convention with regard to the inclusion of the concerned public. Environmental mediation is a voluntary and structured procedure in the framework of which all those affected by a project which is relevant for the environment are striving for a joint and durable solution. This process covers mediation procedures with regard to projects laying the emphasis not only on economic and social interests, but also on aspects of environmental protection, quality of life and the development of areas (of unspoiled nature). It is especially about projects subject to environmental law provisions or possibly having an impact on the environment (emissions, consumption of resources, use of areas of unspoiled nature, etc.). The 2000 Austrian EIA Act provides that the public authority shall be entitled to interrupt the approval procedures upon the request of the project applicant in order to enable a mediation procedure. The results of the mediation procedure are submitted to the authority responsible for EIA and can be considered by such authority in the further stages of the approval procedure as well as in the decision.

105. In the framework of a specific promotion scheme, the BMLFUW supports Ökobüro, which has its primary focus on environmental law and on the Convention. In the framework of the Environmental Legal Service, Ökobüro provides easy-to-understand information on the contents of key environmental legislation and consulting with regard to inquiries coming from citizen initiatives and NGOs. The Justice and Environment project supports activities of the Justice and Environment Network of European NGOs. This cooperation aims at improving the state of the environment by way of better application of European and national environmental legislation.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

<http://www.umweltschutz.gv.at/>

<http://www.partizipation.at/umweltmediation.html>

www.volksanw.gv.at

<http://www.umwelt.net.at/article/archive/7239>

<http://www.oekobuero.at/start.asp?b=439>

<http://www.lebensministerium.at/article/articleview/27820/1/7237/>

<http://ris.bka.intra.gv.at/>

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION
TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF PRESENT AND
FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT ADEQUATE TO HIS OR
HER HEALTH AND WELL-BEING**

106. The experience of several years made by the current National Focal Point has shown that primarily specialized circles in Austria are familiar with the term and the process of the Aarhus Convention per se.

107. What is apparently more important for implementation is the fact that the Austrian population acts in a very confident way with regard to administration at all levels, claims its rights, wherever necessary, and is obviously very familiar with the key contents of the Convention.
