

Access to justice in cases on the right to environmental information in Austria

In Austria, laws on access to environmental information exist at the federal and the provincial ("Länder") levels. The following describes the Environmental Information Act¹ at federal level, the 9 provincial laws are designed in the same way.

The duty of information of the bodies in charge of providing information is regulated in Article 5 of the Austrian Environmental Information Act. The information requested shall be provided in the form individually requested by the information seeker or, where appropriate, in another form, with electronic data transfer being preferred wherever possible.

The time limit for making environmental information available is one month, with the possibility of extending this period to a maximum of two months in the case of comprehensive and complex information.

The Environmental Information Act provides for such cases that the applicant be informed of such an extension and the reasons for it at the latest before the expiry of the one-month period.

As it is in many cases not easy for citizens to find the body in charge of providing the information which holds the environmental information as requested, the Environmental Information Act provides for a corresponding obligation to forward the application for information to the competent authorities which hold the information, so that a lack of knowledge of the structure of the authorities does not lead to a legal disadvantage for the applicant.

The Environmental Information Act expressly provides that if the requested environmental information is not made available or not made available to the extent requested, the public authority must issue an administrative decision on the matter without delay and in any event no later than two months after receipt of the request for information (Article 8 paragraph 1 of the Act). Information seekers do not have to submit a specific request for a decision.

With this amendment to the Austrian Environmental Information Act², Austria followed the Aarhus Convention Compliance Committee's recommendation set out in paragraph 3(a) (i) of Decision V/9b as far as the federal level was concerned. At the provincial level, the nine Austrian provinces amended their respective laws accordingly.

On remedies according to the Act, the applicant is informed about the possibilities of appealing against the decision by the information on legal remedies contained in the decision. In the decision on total or partial non-disclosure of environmental information, the

¹ Federal Law Gazette No. 495/199 last amended by Federal Law No. 74/2018.

² Federal Law No. 95/2015, published in the Federal Law Gazette on 3 August 2015.

authority required to provide information shall state the reasons why no or only partial disclosure has been made.

The appeal against this decision can be lodged with the administrative courts of the provinces or be brought before the Federal Administrative Court. If someone (e.g. owner of an installation) holds the view that e.g. protected business secrets are affected by the authority's decision to make environmental information available, he may also apply for a decision from the body responsible for providing information. This decision is also subject to the right of appeal to the administrative courts of the provinces or to the Federal Administrative Court.

According to Article 16 of the Environmental Information Act requests for environmental information are free of charge. When it comes to appeals before the courts, the general provisions for administrative court proceedings do apply. For submissions to the Administrative courts of the provinces and to the Federal Administrative Court, a flat fee is charged to the Federal Administrative Court and to the Administrative Courts of the provinces in accordance with the Ordinance of the Federal Minister of Finance on the Fee for Submissions (*BuLVwG-Eingabengebührverordnung*). A fee of EUR 30 is charged for appeals, applications for reinstatement or reopening (in each case including enclosures). A fee of EUR 15 is charged for the submission of applications (including enclosures). Requests (including annexes) for exclusion or granting suspensive effect of an appeal filed separately from an appeal are also subject to a fee of EUR 15.