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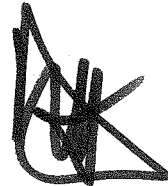
Secretary to the Compliance Committee
Aarhus Convention Secretariat
UN Economic Commission for Europe
Environment Division
S. 348, Palais des Nations
CH -1211 Geneva 10, Switzerland

Wien, am 11. November 2012
VierPf/ACCC11/ u/ 3BSZ

GZ: ACCC/C/2011/63

Communicant: Vier Pfoten - Stiftung für Tierschutz
gemeinnützige Privatstiftung
Linke Wienzeile 236, 1150 Wien

representative: Dr. Josef Unterweger
Rechtsanwalt
Buchfeldgasse 19a
1080 Wien



Party concerned: Republic Austria
p.a Federal Ministry of Agriculture, Forests, Environment and
Water Management
Stubenbastei 5
1010 Wien

ref: Communication to the Aarhus Convention Compliance Committee
concerning compliance by Austria with provisions of the
Convention in connection with access to justice in criminal
proceedings regarding contravention of national environmental law
(ACCC/C/2011/63)

The communicant replies to the response of the party concerned in due time.

1. The Party concerned concedes
 - a. the facts stated by the communicant,
 - b. that there is no access to justice for members of the public
 - c. that there are no remedies to challenge acts or omissions of authorities in the disputed cases concerning wildlife/Endangered Species/CITES.

2. The Party concerned concedes to be in non-compliance of article 9, paragraph 3 and paragraph 4 of the Convention.

3. To the Annex Questions concerning ACCC/C/2010/48
 - a. The alleged measures – if realised - will not be helpful in cases of wildlife/Endangered Species/CITES. The Party concerned concedes that there are no and there will be no criteria for access to justice for the public in these cases.

 - b. The communicant doubts that the party concerned takes sufficient measures to comply to the findings and recommendations stated in ACCC/C/2010/48.
 - i. Draft findings and recommendations were released on 10. November 2011.
Measures could have been implemented since that date.

 - ii. Since 10. November 2011 the party concerned released 1.613 Publications of Federal Laws (Bundesgesetzblätter, abb.; BGBl) which implemented far more than 1.613 Laws and Changes of Law. Since 1. January 2012 until to-date the party concerned released 616 Publications of Federal Laws.

 - iii. Since 10. November 2011 the Environmental Impact Assessment Act [*Umweltverträglichkeitsprüfungsgesetz*] was changed three times. The party concerned did not take the opportunities to comply to the findings and recommendations. The said changes of EIA are:
 - o BGBl. I Nr. 144/2011: proposal in parliament: 28. Nov 2011, adopted: 7. Dec. 2011
 - o BGBl. I Nr. 51/2012: proposal in parliament: 20. Dec. 2011, adopted: 5. May 2012
 - o BGBl. I Nr. 77/2012: proposal in parliament: 9. June 2012, adopted: 5. July 2012

Members of the Public are barred from justice in environmental proceedings concerning wildlife/Endangered Species/CITES. Therefore Austria is in non-compliance both with article 9 paragraph 3 and article 9 paragraph 4 of the Convention.

Vier Pfoten - Stiftung für Tierschutz gemeinnützige Privatstiftung