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“Communication to the Aarhus Convention’s Compliance Committee”

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II. Party concerned

Germany

III. Facts of the communication

Reasons that lead to this communication

The complaint is targeted at the criteria for recognition of environmental organizations in the Federal Republic of Germany (Environmental Appeals Act (EAA)¹, section² 3, para. 1), which are found to be too strict and thus to have a discriminatory effect. The result is that only environmental organizations which are set up in the legal form of an association and formally listed in the registry of associations, can obtain recognition - whereas organizations which have a different legal structure, such as foundations (for example WWF Germany) cannot be

1 Environmental Appeals Act (Umwelt-Rechtsbehelfsgesetz – UmwRG) in the version promulgated on 8 April 2013 (Federal Law Gazette I p. 753), last amended by Art. 1 of the Law of 20 November 2015 (Federal Law Gazette I p. 2069).

2 Referring to German notation of §.

recognized under German law. The fact that a multitude of environmental organizations cannot obtain recognition in the Federal Republic of Germany impedes their access to justice. This is held to be a violation of Art. 2, para. 5 as well as Art. 3, para. 4 and Art. 9, para. 2 of the Aarhus Convention (AC).

Matters of non-compliance with AC Art. 2, para 5, Art. 3, para. 4 and Art. 9, para. 2

1. Background of the structure of environmental organizations in Germany

Environmental organizations in Germany are set up in various different legal forms. The most common form is that of a registered non-profit association with legal capacity. Less common, but still widespread, is the legal form of an association with legal capacity which does not act on a non-profit basis. In addition, more and more environmental organizations are being constituted as non-profit foundations, since the reform of German foundations law at the beginning of this century. Furthermore, there are environmental organizations with the legal structure of non-profit limited companies, cooperative societies, non-profit incorporated companies as well as some in the form of a loose union of citizens (a citizens' initiative), which has no legal structure and therefore no legal capacity. According to a study by the WZB Berlin Social Science Center, in 1998 there were already roughly 9200 environmental protection organizations in Germany.³ Since then this number has increased. The official register of associations shows, in Germany as of 2011, 8497 associations (either non-profit or for-profit) in the field of environmental and nature protection.⁴ In addition, the number of environmental foundations working in Germany is 1800 and increasing.⁵ There are no statistics on the other legal forms in which environmental organizations are constituted. In Germany, the number of citizens' initiatives without legal personality in the field of environmental and nature protection has been very high in recent years and comprises thousands of groups and initiatives.⁶ Here too, exact data is not available. However, according to investigations done as part of a long term study by the Technical University of Ilmenau, carried out on behalf of the Deutsche Forschungsgemeinschaft (DFG, or German Research Foundation), the number of members of citizens' initiatives in Germany is as high as total membership in political parties. The membership of the political parties of the Parliaments of the Bundesländer as well as of the Federal Republic reaches about 1.25 million people.⁷ In Germany, two thirds of citizens' initiatives deal with environmental and nature protection, traffic and noise as well as urban planning.⁸

2. Recognition of environmental organizations in Germany

At present, 282 environmental organizations are officially recognized in Germany.⁹ Only official administrative recognition enables environmental organizations to file suit against certain violations of environmental law or nature conservation law. If an environmental

³ A Germany-wide study of 1998 came to a number of roughly 8400 environmental organizations in West Germany and 800 in East Germany, see Roth & Rucht (eds.), *Die sozialen Bewegungen in Deutschland seit 1945. Ein Handbuch*, Campus-Verlag Frankfurt/New York, 2008 p. 236.

⁴ Cf. statistics about associations 2011, p. 5 at: www.npo-manager.de (15.10.2015). The statistics include and evaluate all organizations that are recorded in the local association's statistics.

⁵ Association of German Foundations (Bundesverband Deutscher Stiftungen), *Umweltstiftungen stellen sich vor*, p. 9 http://www.stiftungen.org/fileadmin/bvds/de/Termine_und_Vernetzung/Arbeitskreise/AK_Umwelt/Umweltstiftungen_stellen_sich_vor.pdf (15.10.2015).

⁶ See the Association of Citizens' Initiatives for Environmental Protection (Bundesverband Bürgerinitiativen Umweltschutz) at: <http://www.bbu-online.de/> (15.10.2015).

⁷ This includes the SPD, CDU, CSU, The Left, The Greens, the FDP and the AfD; see also <http://de.statista.com/statistik/daten/studie/1339/umfrage/mitgliederzahlen-der-politischen-parteien-deutschlands/> (15.10.2015).

⁸ See Wolling/Bräuer, *Bürgerinitiativen: Ihre Funktion aus Sicht der Bevölkerung und ihre kommunikativen Aktivitäten*, p. 5 at: <http://www.db-thueringen.de/servlets/DerivateServlet/Derivate-23329/ilm1-2011200354.pdf> (15.10.2015).

⁹ List of recognized environmental organizations, see Annex 2.

organization has not been officially recognized, then it lacks standing to institute legal proceedings for the violation of environmental or nature conservation law.

As Germany is a federal state, recognition can be granted by the Bundesländer (i.e. by the environmental ministries of the Bundesländer) as well as by the Bund, or federal government (through the Federal Environmental Agency (Umweltbundesamt)).

Environmental organizations that are only active in a single Bundesland apply for recognition at the responsible ministry of the respective Bundesland (EEA section 3, para. 3). Environmental organizations which are active in more than two Bundesländer apply for recognition at the Umweltbundesamt (Federal Environment Agency) in Dessau (EEA section 3, para. 2, sentence 1).¹⁰ If an environmental organization whose activities are basically limited to nature conservation applies for official recognition, the Bundesamt für Naturschutz (BfN, or Federal Agency for Nature Conservation) will be additionally involved (EEA section 3, para. 2, sentence 2). All environmental organizations that have been recognized so far - the number amounts to 282 organizations - are structured in the legal form of a non-profit association with legal personality.¹¹ So far, in Germany, no environmental organization set up as a non-profit trust, a cooperative society, a non-profit limited liability company or a non-profit incorporated company has obtained official recognition. Among the 282 officially recognized organizations one will find numerous associations including their respective subdivisions. These include, amongst others, the branches in the various Bundesländer of BUND (Friends of the Earth Germany), NABU (Nature and Biodiversity Conservation Union), the German Hunting Association (Deutscher Jagdverband) as well as the German Anglers' Association (Deutscher Angelfischerverband).¹² Amongst the 282 officially recognized organizations, practically speaking only BUND and NABU make use of their legal standing. Other officially recognized organizations, such as "user organizations" like the Hunting Association or the Anglers' Association almost never bring legal cases. Most of the environmental organizations which were recognized under the 2006 revisions to the EEA also do not institute proceedings. The only exception is the Deutsche Umwelthilfe (German Environmental Aid, DUH). After being officially recognized, it brought several cases against violations of environmental and nature protection law.¹³

3. Recognition criteria according to section 3 of the Environmental Appeals Act (EAA) in Germany

Section 3 of the EAA sets out five criteria leading to recognition.¹⁴ These are: The environmental organization must, "according to its bylaws", "predominantly, and not just temporarily, [encourage] the objectives of environmental protection". The organization must have been legally constituted for a period of at least three years at the time when it is applying for official recognition. The organization must have an organizational structure which enables it to ensure the proper performance of its statutory duties. The type and scope of its previous activities, its membership as well as its overall effectiveness have to be taken into account in this regard. The organization must pursue non-profit objectives as understood in Section 52 of the Fiscal Code of Germany (Abgabenordnung). Furthermore, it must have an organizational structure that allows any person who supports the objectives of the organization to become a member of it and to have full voting right in the general meeting of the organization (i.e. what

¹⁰See <http://www.umweltbundesamt.de/themen/nachhaltigkeit-strategien-internationales/anerkennung-von-umwelt-naturschutzvereinigungen> (15.10.2015).

¹¹http://www.umweltbundesamt.de/sites/default/files/medien/375/dokumente/122013anerkannte_umwelt-_und_naturschutzvereinigungen.pdf (15.10.2015).

¹² See list in Annex 2.

¹³ In a 2009 survey of newly registered environmental organizations, three years after the adoption of the EAA, only two of the registered associations stated that they had brought legal proceedings. See Keupp, Stefan, Umfangreiche wie effektive Beteiligungs- und Klagemöglichkeiten für Umweltschutzvereinigungen? Zu den Auswirkungen der Aarhus-Konvention auf die Arbeit anerkannter Umweltschutzvereinigungen und Naturschutzverbände, p. 89 f.

¹⁴ See Annex 1 for the legal text.

is known as a “democratic internal structure”). In some of the Bundesländer (Bavaria and Saxony), there exist further, stricter criteria for recognition. Thus in Bavaria and Saxony, organizations must have been legally constituted for five years when applying for recognition.¹⁵ In Saxony they additionally have to declare that they are structured state-wide. To show this the organization must have worked actively for environmental protection all over Saxony.¹⁶

4. Preconditions for fulfilment of the recognition criteria under section 3 of the EAA

A formal application leads to the procedure of official recognition. Contact data and information about the person representing the organization are to be displayed within this application form. The organization’s statutes must also be submitted. This information verifies the date of the organization’s founding (EEA section 3, para. 1, sentence 2, no. 2), the objective of the organization (EEA section 3, para. 1, sentence 2, no. 1) as well as the rights of members of the organization. Moreover, the statutes, as well as the other documents that have to be submitted, are evaluated with regard to the overall effectiveness of the organization (EEA section 3, para. 1, sentence 2, no. 3). In order to establish its non-profit nature, a valid tax exemption notice has to be handed in (EEA section 3, para. 1, sentence 2, no. 4). In addition, further documents that show the practical performance of the organization are required - such as annual reports, membership reviews or press articles (also EEA section 3, para. 1, sentence 2, no. 3). For this reason, the Federal Environment Agency seated in Dessau (Umweltbundesamt) has established a special consulting service.

5. Practical approach of the Federal Environment Agency

The practical approach of the Federal Environment Agency, when issuing recognitions, is to avoid too-rigorous scrutiny of the already strict legal criteria. This is shown by granting recognition to smaller and even the smallest environmental organizations.¹⁷ However, in practice these organizations have not used the legal standing and participatory rights that result from their recognition. In an empirical investigation by the Independent Institute for Environmental Issues (Unabhängiges Institut für Umweltfragen e.V.) in 1999 concerning the activities of environmental organizations, the majority of the organizations stated that they do not have the resources at their disposal to provide substantial comments or to file lawsuits.¹⁸

6. Consequences of the recognition criteria under section 3 of the EAA

Although Section 3 of the EAA Act speaks generally of the recognition of “associations“, in practice, because of the German law of associations, it only allows the recognition of environmental organizations which have the legal form of an officially registered non-profit association and, in unlikely cases, also for the recognition of a non-profit cooperative society. The criterion of the “democratic internal structure” that allows any person who supports the objectives of the organization to become a member of it (section 3, para. 5 EAA) is not fulfilled by other associations founded under the German law of association. Therefore in practice, after nine years of recognition under the most recent EAA (revised in 2006), the 282 environmental organizations that have been recognized are all organized with the legal form of an officially registered non-profit association. Only environmental organizations with the

15 Art. 42 Abs. 2 Nr. 2 BayNatSchG (Bavarian Nature Conservation Act, Art. 42, paragraph 2, sentence 2); § 56 Abs. 1 S. 1 Nr. 3 SächsNatSchG (Nature Conservation Act of Saxony, section 56, paragraph 1, sentence 1, Nr. 3).

16 See also, for the particularities of recognition in the Bundesländer, Aarhus-Handbuch, p. 322.

17 See Annex 2.

18 Keupp, Stefan, Umfangreiche wie effektive Beteiligungs- und Klagemöglichkeiten für Umweltschutzvereinigungen? Zu den Auswirkungen der Aarhus-Konvention auf die Arbeit anerkannter Umweltschutzvereinigungen und Naturschutzverbände, p. 89 f.

legal form of a cooperative society would fulfil the criterion of a “democratic internal structure” as well: According to section 15 of the Cooperative Societies Act (Genossenschaftsgesetz), cooperative societies allow anybody to participate in the society if he shares the objectives of the society. But in Germany cooperative societies mostly exist in the fields of consumer protection, the building sector, the banking sector, or as sales cooperatives as well as producers’ cooperatives. Therefore, very few cooperatives have a non-profit basis. It is thus unsurprising that no environmental organization with the legal form of a cooperative society (of which, in comparison e.g. to environmental foundations, only few exist) has sought recognition under Section 3 of the EAA so far.

7. Infringement of AC Article 2, para. 5 as well as AC Article 3, para. 4

The Aarhus Convention (AC) aims to include as many environmental organizations as possible within its remit as bearers of rights.¹⁹ Only thus can it be ensured and guaranteed that the objectives of the AC will be adequately implemented. Environmental organizations in particular – as well as third parties – will ensure the enforcement of the objectives of the AC. It is therefore necessary to allow as many environmental groups as possible (including recognized environmental organizations and groups as well as third parties) to play an active role. The legal criteria for recognition in the German legislation directly infringe AC Art. 2, para. 5 and Art. 3, para. 4.

a) Section 3 para. 1 sentence 2, no. 5 EAA

AC Art. 3 para. 4 refers to “associations, organisations or groups“ that can obtain the status of recognition. AC Art. 2 para. 5 only requires that these organizations promote environmental protection. The reference to the requirements under national law therein should not be misused: The term should only introduce some flexibility in the means of implementation but not in the extent to which the obligation must be met.²⁰

By referring to “associations, organizations or groups” AC Art. 2 para. 4 clearly conveys that the objective of the AC is to ensure that the widest range of environmental organizations obtain access to participation and standing rights. In Germany, according to section 3, para. 1, sentence 2 EAA recognition is practically only possible for organizations with legal personality. Otherwise it is not possible to obtain the status of a non-profit organization. Being a non-profit organization, however, is a mandatory precondition for recognition according to section 3, para. 1, sentence 4 EAA. Thus, citizen initiatives without legal status cannot obtain recognition in the Federal Republic of Germany. Moreover in Germany, foundations²¹, limited companies²² as well as incorporated companies,²³ even if not profit-orientated, are excluded from recognition according to section 3 para. 1 sentence 2, no. 5 EAA. These organizations do not offer their members a full membership with voting rights, but only a membership for promoting the interests of the organization. The exclusion of these legal forms is basically due to the criterion of the above mentioned ‘internal democratic structure’ according to section 3 para. 1, sentence 2, no. 5 EAA. Hence important

19 Ebbesson/Gaugitsch/Jendro’ska/stec/Marshall, *The Aarhus Convention: An Implementation Guide*, second edition, 2014, p. 58.

20 Ebbesson/Gaugitsch/Jendro’ska/stec/Marshall, *The Aarhus Convention: An Implementation Guide*, second edition, 2014, p. 44/45.

21 Cf. sections 80 ff. of the German Civil Code (Bürgerliches Gesetzbuch) in the version promulgated on 2 January 2002 (Federal Law Gazette I p. 42, 2909; 2003 I p. 738) last amended by Art. 1 of the Act of 20 November 2015 (Law Gazette I p. 2018), in conjunction with the 18 foundations laws of the Länder – see <http://www.stiftungsgesetze.de/> (01.02.2016).

22 Cf. Law on Limited Liability Companies (GmbH-Gesetz) in the cleaned version promulgated in the Federal Law Gazette III, class. no. 4123-1, last amended by Art. 5 of the Act of 22 December 2015 (Federal Law Gazette I p. 2565) as well as the German Commercial Code (Handelsgesetzbuch) in the cleaned version promulgated in the Federal Law Gazette III, class. no. 4100-1, last amended by Art. 3 of the Law of 22 December 2015 (Federal Law Gazette I p. 2565).

23 Cf. Stock Corporations Act (Aktiengesetz) as of 6 September 1965 (Federal Law Gazette I p. 1089), last amended by Article 1 of the Act of 22 December 2015 (Federal Law Gazette I p. 2565).

environmental organizations such as WWF Germany²⁴ (a foundation) and Greenpeace Germany²⁵ (non-profit association with a closed circle of executive members) as well as all foundations which actively carry out their own projects and operations, such as EuroNatur²⁶ or the Sielmann Stiftung²⁷ could not be recognized under the EEA. As stated above, in Germany only 282 environmental organizations have been officially recognized, out of about 10.300 environmental organizations which are structured in the legal form of a registered association or a foundation.²⁸ Although not all of the 10.300 environmental organizations in Germany that are set up as registered associations or foundations seek recognition, the ratio of potential recognitions to issued recognitions shows the considerable imbalance regarding the potential of environmental organizations which could be bearers of participatory rights and individual rights of action under the AC. Moreover the history of the WWF shows that there is no objective justification for the non-recognition of environmental foundations: Founded in 1963 as an registered non-profit association under the Name „Verein zur Förderung des World Wildlife Fund“ its members decided in 1972 to change the legal form of their association into an incorporated foundation to follow the structure of the WWF International.²⁹ This foundation was named „WWF-Deutschland (Stiftung für die Gestaltung und den Schutz der natürlichen Umwelt)“ in 1973. Since then the WWF has been pursuing non-profit objectives as understood in Section 52 of the Fiscal Code of Germany (Abgabenordnung) and was following the same environmental objectives as under the legal form of a registered non-profit organization. Only the legal form of the organization has changed. Still it cannot be recognized under section 3 EAA.

b) The principle of equivalence

Another occasion for the infringement of AC Art. 2, para. 5 as well as AC Art. 3, para. 4 is the violation of the principle of equivalence by the German Federal Government. In Germany, representative actions do not only exist in the field of environmental protection. In the field of consumer protection, as well as in the federal Equality for the Disabled Act (EDA),³⁰ organizations have standing, in certain factual situations, to bring cases against violations of public law, even when they cannot demonstrate the violation of a specific subjective right. Here too the organizations have to be recognized in advance. However, none of the above mentioned fields of law have requirements for recognition that are as restrictive as in the field of environmental protection. In the EDA, the recognition criteria are similar to the ones in environmental law, with only one exception; The EDA does not contain a criterion like that of section 3, para. 1, sentence 2, no. 5 EAA according to which only non-profit organizations which can demonstrate that their members have voting rights can obtain recognition. In the field of consumer protection,³¹ the requirements which apply are much lower than in environmental or social legislation too: There are no legislatively mandated standards as regards the legal form of the organizations as is the case in environmental law.

c) The tightened requirements for recognition

24 See www.wwf.de (15.10.2015).

25 See www.greenpeace.de (15.10.2015).

26 See www.euronatur.org (01.02.2016).

27 See www.sielmann-stiftung.de/ (01.02.2016).

28 In Germany, exact data only exists for these two legal forms (registered associations and trusts), see above p. 3.

Regarding cooperative societies, limited non-profit companies, incorporated non-profit companies and citizens' initiatives in the environmental field, there are only estimates. However, it can be assumed that there are several thousand more environmental organizations that can be added to the 10,300 environmental organizations already mentioned.

²⁹ Klaus-Henning Groth (Hrsg.): Das große Buch des WWF. 40 Jahre Naturschutz für und mit den Menschen. Edition Rasch und Röhring, Steinfurt 2003.

³⁰ Cf. Equality for the Disabled Act (Behindertengleichstellungsgesetz – BGG) as of 27 April 2002 (Federal Law Gazette I p. 1467, 1468), last amended by Art. 12 of the Law of 19 December 2007 (Federal Law Gazette I p. 3024), See Annex 3 for the legal text (in German).

³¹ Cf. Annex 4 for the legal text (in German).

Moreover, in 2002³² the German legislature even tightened the requirements for recognition of nature conservation organizations. In 2006³³ the German legislature then did the same for all other environmental organizations. Until 2002 the legal phrasing of the recognition criteria was much broader, because the organization only had to guarantee that “entry is open to anyone who supports the society's objectives.”³⁴ According to this legal phrasing, a simple membership for supporting the organization, without formal voting rights, would have been sufficient which would enlarge the scope of organizations that could claim recognition. In the explanatory memorandum for the legislation from 2002 and 2006 and the amendment of 2009,³⁵ the legislator argued that “the characteristic of being a member of an organization is linked to a voting right and not to the indications in its statutes“. This is held to be a violation of AC Art. 2, para 5 as well as Art. 3, para 4 and additionally a violation of Art. 3 para 6, because the further tightening of the recognition criteria enacted by the German legislature was not in the interest of the Aarhus Convention. The fact that the German requirements for recognition are too strict and not in line with the Aarhus Convention has already led to two legal initiatives aiming to include non-profit foundations in the set of organizations that can apply for recognition.³⁶

d) The special role of environmental organizations in Germany

The fact that the recognition criteria are so narrow in Germany weighs still stronger when one takes into account the fact that in Germany environmental organizations are virtually the only part of the public which has the right to bring proceedings against infringements of environmental law. Indeed, the constitution of the Federal Republic of Germany guarantees (by Basic Law (Grundgesetz) Article 19 para. 4) to any third party the right to judicial review of an unlawful interference of the state with his/her subjective rights, but not judicial review of violations of public (objective) law by the executive branch. Subjective rights under section 42 of the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung, VwGO) function to limit access to administrative proceedings.³⁷ As a result, compliance with environmental law can only be litigated by environmental organizations through representative actions.³⁸ Results of related studies by the European Union on access to justice in environmental matters in Germany have clearly pointed out this connection.³⁹

e) The discrimination against foreign environmental organizations

Discrimination against foreign environmental organizations under the German EAA, with its restrictive recognition criteria, is held to be a further infringement. According to the EAA, foreign environmental organizations are subject to the same requirements as German organizations. Thus, they have to fulfil all the recognition criteria under the EAA.⁴⁰ The result is that official recognition in one of the nine states adjacent to Germany might have no legal effect in Germany. For example in Austria the animal welfare foundation VIER PFOTEN

32 Cf. Federal Nature Conservation Act in the version of 29 July 2009 (Federal Law Gazette I p. 2542)), last amended by Art. 421 of the Law of 31 August 2015 (Federal Law Gazette I p. 1474).

33 Cf. Environmental Appeals Act in the version of 8 April 2013 (Federal Law Gazette I p753)), last amended by Art. 1 of the Law of 20 November 2015 (Federal Law Gazette I p. 2069).

34 See Federal Nature Conservation Act in the version of 29 July 2009 (Federal Law Gazette I p. 2542)), last amended by Art. 421 of the Law of 31 August 2015 (Federal Law Gazette I p. 1474).

35 Explanatory memorandum to the Federal Nature Conservation Act, BT-Drs. 16/12274, p. 79

36 Cf. BT-Drs. 16/13430 p. 38ff. and BT-Drs. 17/7888.

37 Schlacke, Sabine, *Überindividueller Rechtsschutz*, 2008, p. 70f.

38 Darpö, Jan, *Effective Justice? Synthesis report of the study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in Seventeen of the Member States of the European Union*, p. 11 at: <http://ec.europa.eu/environment/aarhus/pdf/synthesis%20report%20on%20access%20to%20justice.pdf> (01.02.2016).

39 Cf. Milieu, *Summary report on the inventory of EU Member States' measures on access to justice in environmental matters*, Brussels, 2007. According to this report the Federal Republic of Germany is considered the EU member state with the most restrictive access to justice in environmental matters. See also Darpö, Jan, *Effective Justice?*, p. 11.

40 See also Bunge, Thomas, *UmwRG-Kommentar*, 2013, § 3 Rn.62.

(FOUR PAWS)⁴¹ has been recognized, whereas in Germany it could not.⁴² The fact that environmental organizations which are recognized in a neighbouring state will not be recognized in Germany is therefore considered to be a violation of AC Art. 2 para. 5 or Art. 3 para. 4.

8. Infringement of the objectives of the Aarhus Convention

AC Art. 3 para. 4 allows any party to the Convention to establish appropriate regimes for recognition under its national legal system. In addition, this wording of the Aarhus Convention is connected with the obligation of the contracting Parties to support "associations, organizations or groups promoting environmental protection". Based on this one can infer that the idea of the Aarhus Convention is that the contracting Parties support a variety of types of organizations and not only – as is currently done in the Federal Republic of Germany – those with a special legal constitution, namely a registered association (German: e.V.). Otherwise the Convention text would not speak of associations, organizations and groups notwithstanding their legal form and organizational structure. In addition, AC Art. 3 para. 4 stipulates that the contracting parties shall provide for appropriate recognition. The Federal Republic of Germany supports environmental organizations by giving them guidance and advice regarding the recognition procedure. On one hand, this is exemplary. On the other hand, the current legal access to official recognition in Germany is so restrictive that, the support provided is inadequate. At the moment, in Germany, numerous environmental organizations can obtain recognition, due to rather liberal implementation practices, as long as they are organized in the right legal form. However, environmental organizations such as WWF Germany or Greenpeace Germany which are - from their number of members, their business and turnover as well as their staff - the largest environmental organizations in Germany, cannot obtain recognition.⁴³ In addition, within the 282 environmental organizations hitherto recognized, there are many so called "user organizations", such as hunting associations, fishing associations or hiking clubs.⁴⁴ "User organizations" are deemed in Germany to be an important support in environmental and nature protection, because, due to their specific knowledge, they put emphasis on special features and thereby complement the range of the four primary environmental organizations, NABU, BUND, WWF and Greenpeace. In environmental science, user associations are considered to be secondary environmental organizations because their activities are not primarily driven by an altruistic approach to the environment.⁴⁵ As mentioned above in Germany user associations seldom, if ever, make use of their legal standing.⁴⁶ Although standing is of the utmost importance for ensuring adequate compliance with environmental law, in Germany only the "primary environmental organizations" (at present NABU and BUND) make use of it after all. If the recognition criteria are formulated in such a way that smaller or even the smallest environmental organizations and hunting or fishing associations can achieve recognition, but that the most important and powerful environmental organizations (Greenpeace and WWF) are excluded, then it is legitimate to state that the German recognition criteria fail the objectives of the Aarhus Convention. Besides only the Federal Republic of Germany and Italy have such strict criteria for the recognition of environmental organizations.⁴⁷ Sweden, for example, has a similar system of recognition to Germany but with less stricter criteria. In

41 <http://www.vier-pfoten.at/ueber-uns/vier-pfoten/> (15.10.2015).

42 See the list of recognized environmental organizations according to section 19 para. 7 UVPG 2000, effective 17.12.2013: http://www.bmlfuw.gv.at/umwelt/betriebl_umweltschutz_uvpg/uvp/Umweltorganisationen.html (01.10.2015).

43 See also Darpö, Jan, *Effective Justice?*, p. 14.

44 See Annex 3.

45 Cf. German Advisory Council on the Environment (Sachverständigenrat für Umweltfragen, SRU), BT-Drs. 13/4108, 1996, p. 221.

46 Schmidt/Zschesche/Rosenbaum, *Die naturschutzrechtliche Verbandsklage. Status Quo und Perspektiven*, Heidelberg 2004, p. 40.

47 Darpö, Jan, *Effective Justice?*, p. 14

Sweden any legal person that has as a main purpose to protect the nature or environment, a non-profit basis, has operated in Sweden for at least 3 years and at least 100 members or in other way shows it has public support.⁴⁸ Such recognition criteria would allow considerably more environmental organizations to obtain recognition in Germany. Thus more associations with an appropriate constitution in terms of personal and financial resources could bring legal cases against violations of environmental law. Eventually appropriate recognition could strengthen the advancement of environmental protection and enhance environmental law.

IV. Nature of alleged non-compliance

In the present complaint it is argued that the implementation of recognition criteria for environmental organizations by the Federal Republic of Germany is too narrow and restrictive. In the opinion of the complainant, this constitutes a violation of Art. 2 para. 5, Art. 3 para. 4, Art. 9 para. 2 and Art. 3 para. 6 of the Aarhus Convention.

V. Provisions of the Convention relevant for the communication

Article 2 paragraph 5, Art. 3 para. 4, Art. 9 para. 2 and Art. 3 para. 6 of the Aarhus Convention

VI. Use of domestic remedies or other international procedures

The recognition criteria for environmental organizations relate to the national implementation of the requirements of the Aarhus Convention. The WWF Germany could not use any domestic remedies or any other international procedures because

- no domestic or international remedies exist for a foundation to challenge the recognition criteria of section 3 para. 1 no. 5 EAA directly.
- domestic remedies that could (theoretically) be invoked to challenge the law implicitly are under no circumstances promising from a legal perspective due to the clear wording and the legislative development of section 3 para. 1 no. 5 EAA. A foundation can never meet the criterion of the “democratic legal structure”: Foundations consist of the foundation assets and its organs and boards to achieve its purpose and by definition do not have members that could have a full voting right in the general meeting of the assembly. Moreover it was the express will of the German legislator not to grant foundations recognition under section 3 para 1 EAA. So the national authorities and the courts have no discretion to interpret the law in such a way that allows the recognition of environmental foundations.

In Germany laws or sections of laws can only be declared invalid by the Constitutional Court of Germany. When the Constitutional Court has jurisdiction it will solely assert the complainants submission with regard on a breach of fundamental rights of the complainant. And foundations could not invoke that the recognition criteria of section 3 para. 1 no. 5 EAA. infringe a fundamental right of the Constitution. So no domestic remedies exist to challenge the recognition criteria of section 3 para. 1 no. 5. EAA directly.

No domestic-remedies exist for foundations either to challenge the recognition criteria of section. 3 para. 1 No. 5 EAA implicitly. Theoretically a foundation would have the possibility to demand recognition under section 3 para 2 EAA at the Federal environmental agency (Umweltbundesamt). But due to the express wording of section 3 para. 1 No. 5 EAA the Federal environmental agency would have no discretion: It would be obliged to dismiss the request for recognition due to the express wording and the legislative development of Section

⁴⁸ Environmental Code of Sweden, Chapter 16 Article13.

3 EAA. Associations can only be recognized under Section 3 EAA if they meet all of the five criteria laid down in this section.⁴⁹ As stated above Section 3 para. 1 No. 5 EAA reads as follows:

“Die Anerkennung ist zu erteilen, wenn die Vereinigung (...) jeder Person den Eintritt als Mitglied ermöglicht, die die Ziele der Vereinigung unterstützt; Mitglieder sind Personen, die mit dem Eintritt volles Stimmrecht in der Mitgliederversammlung der Vereinigung erhalten“
In English this is to be translated into: “The association shall be recognized if ... it allows any person who supports the objectives of the association to become a member; members are persons who are given full voting rights in the general meeting of the association upon joining”

This means that the association must have an organizational structure that allows any person who supports the objectives of the organization to become a member of it. This membership includes the right to vote – meaning that only those members which have the right to vote are covered by the criterion “member” in the legal sense.⁵⁰ The WWF is organized as an incorporated non-profit foundation under civil law. This means that the WWF is constituted as a legal person without members. The foundation consists of the foundation assets and has different organs and boards to achieve its purpose. But a foundation by express law cannot have any members. And the work of a foundation is never structured by voting members in a general meeting.⁵¹ Therefore it is common sense that foundations are not covered by the wording of section 3 para. 1 No. 5 EAA.⁵² Moreover the history of the law clearly shows that the exclusion of corporations was intended by the German legislator: During the legislative process it was explicitly debated whether foundations should have the option to be recognized under Section 3 EAA too. A request of the Group “Bündnis 90/DIE GRÜNEN” to grant foundations the possibility to be recognized as well was explicitly rejected.⁵³ The request suggested to implement exemptions under Section 3 No. 5 EAA for environmental foundations. Due to this legislative debate it can clearly be stated that the current wording of Section 3 EAA explicitly does not include foundations due the explicit intention of the German legislator. As explained above the criterion of the „democratic internal structure“ can, due to the legal definition of foundations, never be met by environmental foundations. It is common sense in the legal context that the interpretation of a legal provision by public authorities and courts cannot go further than the wording and the development of the provision, which is defined by the legislative will, permits.⁵⁴ Public authorities and courts have no possibility to change the law or to apply an interpretation *contra legem* of the provisions at issue. So the Federal Environmental Agency as the responsible authority is bound by the express wording of Section 3 EAA and would be obliged to dismiss a request for recognition of the WWF under Section 3 EAA. The Administrative Courts would be bound by the express wording of Section. 3 EAA as well. Courts have no possibility to change the law or to apply an interpretation *contra legem* of the provisions at issue either.⁵⁵

VII. Confidentiality

The information of the complaint can be made transparent.

⁴⁹ See Bunge, Umweltrechtsbehelfsgesetz, Kommentar, 2013, p. 136, paragraph 33.

⁵⁰ As can be seen e.g. in the official reasons for the draft bill on the Nature Protection Law (same wording as in Section 3 Environmental Appeals Act), BT-Drs. 16/12274, p. 79).

⁵¹ See Palandt/Heinrichs, Bürgerliches Gesetzbuch, Kommentar, 68. Auflage, vor § 80 Rn. 5 ff.

⁵² Among others: Bunge, Umweltrechtsbehelfsgesetz, Kommentar, 2013, p. 135, paragraph 29; Marty, Die Erweiterung des Rechtsschutzes in Umweltangelegenheiten - Anmerkungen zum Umweltrechtsbehelfsgesetz, ZUR, 2009, 115, 117

⁵³ See: Request from the group Bündnis 90/DIE GRÜNEN, Ausschuss-Drs. 16(16)140, printed in BT-Drs. 16/3312, S. 10/12.

⁵⁴ e.g. Roman Herzog, Gesetzgeber und Gerichte, in: Festschrift für Helmut Simon, 1987, p. 103 to 112; Jörg Neuner, Die Rechtsfindung *contra legem*, 2. Aufl. 2005, p. 132.

⁵⁵ e.g. Constitutional Court of Germany, Beschluss vom 26. September 2013 – 2 BvR 2216/06; Constitutional Court of Germany, Urteil vom 11.07.2012 - 1 BvR 3142/07

VIII. Supporting documentation (copies, not originals)

The following documents are enclosed with the complaint:

- Excerpt of the Environmental Appeals Act (Umweltrechtsbehelfsgesetz - UmwRG)
- List of organizations recognized in Germany (Bund) and the 16 Bundesländer
- Excerpt of the Equality for the Disabled Act (Behindertengleichstellungsgesetz - BGG) (in German)
- Excerpt of the Injunctions Act (Unterlassungsklagengesetz - UKlaG) (in German)

IX. Summary

The current complaint is targeted at the recognition criteria for environmental organizations in the Federal Republic of Germany under section 3 of the EAA, which are held to be too narrow and too restrictive and thus in non-compliance with the AC. All the environmental organizations that have been recognized so far are organized as non-profit associations with the legal structure of a registered association (German: e.V.). In Germany no other environmental organization in a different legal form has been recognized so far. The AC, however, does not stipulate that only a specific type of organization should be able to obtain recognition. The wording of AC Article 3 paragraph 4 refers to associations, organizations and groups promoting environmental protection. In Germany, some environmental organizations are organized in the legal form of registered associations, but others in the legal form of environmental foundations, non-profit corporate societies, non-profit limited companies, non-profit incorporated companies as well as citizens' initiatives without any legal structure. All of the latter-mentioned types of organizations are currently excluded from recognition. Their number amounts to several thousand. Out of these, about 1800 are environmental foundations. Due to the fact that relevant forms of environmental organizations are excluded from recognition procedures, the implementation of the recognition criteria in section 3 EAA, is thought to be in violation of Article 2 para. 5, Art. 3 para. 4, and Art. 9 para. 2 of the Aarhus Convention. The results of the restrictive recognition criteria in Germany are serious. Only 282 environmental organizations have been recognized so far and have standing to bring legal proceedings. Of these 282 environmental organizations, many are „user associations“, such as hunting associations, fishing associations or hiking clubs. According to empirical data they almost never use their standing. Out of the 282 recognized environmental organizations, basically the only organizations which use their standing to challenge violations of environmental law are: the 16 branches in the Bundesländer of NABU (Nature and Biodiversity Conservation Union) and BUND (Friends of the Earth Germany) as well as the Deutsche Umwelthilfe and some local environmental associations such as the Grüne Liga (Green League). Many of the smaller and smallest environmental associations have been officially recognized, but in terms of personnel and finances they do not have the capacity to bring legal cases against violations of environmental law. The largest environmental organizations in Germany (considering the number of members, staff and turnover) such as WWF Germany and Greenpeace Germany, as well as numerous middle-sized environmental foundations, cannot obtain recognition under the current recognition criteria in German law. This is considered to be a violation of Art. 3 para. 5, Art. 3 para. 4, and Art. 9 para. 2 of the Aarhus Convention.

Furthermore, the Federal Government is in breach of the principle of equivalence. The instrument of representative actions also exists in other fields of law (social legislation; consumer protection law). However, the recognition criteria in these fields of law are not as strict as those for environmental organizations and groups. Additionally, the Federal Republic of Germany toughened the recognition criteria in force for the first time in 2002 and then again when enacting the Environmental Appeals Act in 2006 and herewith violated AC Article 3 para. 6.

X. Signature

A handwritten signature in black ink, appearing to read 'C. Heinrich', written in a cursive style.

Christoph Heinrich, Chief Conservation Officer of WWF Deutschland

XI. Address

Please send the communication by email AND by registered post to the following address:

Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH-1211 Geneva 10, Switzerland
Phone: +41 22 917 2384
Fax: +41 22 917 0634
E-mail: public.participation@unece.org

Attachment 1:

Act Concerning Supplemental Provisions on Appeals in Environmental Matters Pursuant to EC Directive 2003/35/EC (Environmental Appeals Act) in the version of 8 April 2013 (Federal Law Gazette I p753)), last amended by Art. 1 of the Law of 20 November 2015 (Federal Law Gazette I p. 2069)

Section 3

Recognition of associations

(1) Upon request, a German or foreign association shall be recognized for the purpose of filing appeals pursuant to this Act. The association shall be recognized if:

1. According to its bylaws, it predominantly, and not just temporarily, encourages the objectives of environmental protection;
2. It has existed for at least three years at the time of recognition and has been active as defined in number 1 during that period;
3. It offers guarantees of proper performance of its duties; the type and scope of its previous activity, its membership, and the effectiveness of the association must be taken into account in that regard;
4. It promotes public-benefit purposes as defined in Section 52 of the German Tax Code [Abgabenordnung]; and
5. It allows any person who supports the objectives of the association to become a member; members are persons who are given full voting rights in the general meeting of the association upon joining; if at least three quarters of its members are legal persons the association may be exempted from the requirement in the first half of this sentence, provided the majority of such legal persons fulfil this requirement.

The field of activities in accordance with the bylaws to which the recognition applies must be referred to in the recognition; in particular, it shall be stated whether the association has a main emphasis on encouraging the objectives of nature conservation and landscape preservation. The recognition can be linked, also retroactively, with the obligation to notify amendments to the bylaws. It can also be publicly announced. In cases pursuant to paragraph (3), the recognition of an association that has a main emphasis on encouraging the objectives of nature conservation and landscape preservation shall further state whether this association is active state-wide according to its bylaws.

(2) For a foreign association or an association with an area of activity exceeding the territory of one German state (Land), recognition shall be pronounced by the Federal Environment Agency [Umweltbundesamt]. For an association pursuant to the first sentence, which has a main emphasis on encouraging the objectives of nature conservation and landscape preservation, this recognition shall be issued in agreement with the Federal Agency for Nature Conservation [Bundesamt für Naturschutz].

(3) For a domestic association with an area of activity not exceeding the territory of one German state (Land), recognition shall be pronounced by the competent authority of this state.

Attachment 2: List of the recognized environmental organizations

List of the recognized environmental organizations on the federal level

(e.V. stands for: "eingetragener Verein", meaning: registered (non profit) association)

1	Aktion Fischotterschutz e. V.
2	Aktionsbündnis gegen eine feste Fehmarnbeltquerung e. V.
3	Allianz pro Schiene e. V.
4	Aqua Viva e.V.
5	Arbeitsgemeinschaft Biologischer Umweltschutz im Kreis Soest e. V.
6	Arbeitsgemeinschaft Limnologie Oberrhein e. V.
7	Arbeitsgemeinschaft Main e. V. (ArGe-Main) - Verein zum Schutze des Mains und seiner Nebengewässer e.V.
8	Arbeitskreis für Umwelt und Heimat e. V.
9	Berlin-Brandenburgischer Bahnkunden-Verband e. V.
10	Biologische Schutzgemeinschaft Hunte Weser-Ems e. V.
11	Botanischer Verein zu Hamburg e. V., Verein für Pflanzenkunde Naturschutz und Landschaftspflege e.V.
12	Bund für Umwelt und Naturschutz Deutschland (BUND) e. V.
13	Bund für Umwelt und Naturschutz Deutschland, Landesverband Baden-Württemberg e. V.

14	Bund für Umwelt und Naturschutz Deutschland, Landesverband Berlin e. V.
15	Bund für Umwelt und Naturschutz Deutschland, Landesverband Brandenburg e. V.
16	Bund für Umwelt und Naturschutz Deutschland, Landesverband Hamburg e. V.
17	Bund für Umwelt und Naturschutz Deutschland, Landesverband Hessen e. V.
18	Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Mecklenburg-Vorpommern e. V.
19	Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Niedersachsen e. V.
20	Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen e. V.
21	Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Rheinland-Pfalz e. V.
22	Bund für Umwelt und Naturschutz Deutschland, Landesverband Saarland e. V.
23	Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Sachsen-Anhalt e. V.
24	Bund für Umwelt und Naturschutz Deutschland, Landesverband Schleswig-Holstein e. V. (BUND S-H)
25	Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Thüringen e. V.
26	Bund Heimat und Umwelt in Deutschland (BHU) e.V.
27	Bund Naturschutz in Bayern e. V.
28	Bundesverband beruflicher Naturschutz e. V. (BBN)
29	Bundesverband Bürgerinitiativen Umweltschutz (BBU) e. V.
30	Bundesverband für fachgerechten Natur- und Artenschutz e. V. (BNA)
31	Bundesvereinigung gegen Fluglärm e. V.
32	Bundesvereinigung gegen Schienenlärm e. V.
33	Bürger für ein besseres Müllkonzept in Ostholstein e. V.
34	Bürgergemeinschaft gegen die Zerstörung der Weetfelder Landschaft e. V.
35	Bürgerinitiative Elzmündung Schwanau e. V.
36	Bürgerinitiative „Für ein lebenswertes Werratal“ e. V.
37	Bürgerinitiative für eine lebenswerte Gemeinde Nonnweiler e. V.
38	Bürgerinitiative gegen den Weiterbau der A1 e. V.
39	Bürgerinitiative Landschaftsschutz Roxel e. V.
40	Bürgerinitiative Schönes Falkensee e. V.
41	Bürgerinitiative: Windkraft im Spessart - In Einklang mit Mensch und Natur e. V.
42	Bürgerinitiative „Wohnen und Umwelt“ Kölner Norden e. V.
43	Bürgerverein Brandenburg-Berlin e. V.
44	Bürgerverein Köln-Longerich e. V.
45	Deutsche Gesellschaft für Gartenkunst und Landschaftskultur e. V. (DGGL)
46	Deutsche Gesellschaft für Herpetologie und Terrarienkunde e. V. (DGHT)
47	Deutsche Umwelthilfe e. V.
48	Deutscher Alpenverein e. V. (DAV)
49	Deutscher Angelfischerverband e.V. (ehemals Verband Deutscher Sportfischer e. V.)
50	Deutscher Falkenorden, Bund für Falkneri, Greifvogelschutz und Greifvogelkunde e. V.
51	Deutscher Jagdverband – Vereinigung der deutschen Landesjagdverbände für den Schutz von Wild, Jagd und Natur e. V.
52	Deutscher Naturschutzring (DNR) e. V.
53	Deutscher Rat für Vogelschutz e. V. (DRV)
54	Deutscher Tierschutzbund e. V.
55	Deutscher Wanderverband und Verband Deutscher Gebirgs- und Wandervereine e. V. (VDGW)
56	Deutscher Wildschutz Verband e. V.
57	Fischereiverband Nordrhein-Westfalen e. V.
58	Gemeinnütziger Umweltschutzverein „pro grün“ e. V., Paderborn
59	Gemeinschaft für Fischerei und Naturschutz Lügde e. V.
60	Germanwatch Nord-Süd Initiative e. V.
61	Grüne Liga e. V.
62	Interessengemeinschaft Umweltschutz für Kappeln und Umgebung e. V.
63	Interessenvertretung für nachhaltige Natur & Umwelterziehung, Kurzform INNU, e. V.
64	Komitee gegen den Vogelmord e. V. - Aktionsgemeinschaft Tier und Artenschutz

65	Landesnaturaenschutzverband Baden-Württemberg e. V.
66	Landesverband Bürgerinitiativen Umweltschutz Niedersachsen e. V.
67	Landesverband Sächsischer Angler e. V.
68	Landschaftspflegeverein Dummersdorfer Ufer e. V.
69	Landschaftsschutzverein Kottenforst e. V.
70	Landschaftsschutzverein Vorgebirge e. V.
71	NABU-Naturschutzstation Niederrhein e. V.
72	NaturFreunde Deutschlands, Verband für Umweltschutz, sanften Tourismus, Sport und Kultur, Bundesgruppe Deutschland e. V. (NaturFreunde Deutschlands)
73	Naturgarten - Verein für naturnahe Garten- und Landschaftsgestaltung e. V.
74	Naturschutzbund Deutschland (NABU) e. V.
75	Naturschutzbund Deutschland (NABU), Gruppe Stuttgart e. V.
76	Naturschutzbund Deutschland (NABU), Landesverband Baden-Württemberg e. V.
77	Naturschutzbund Deutschland, Landesverband Berlin e. V.
78	Naturschutzbund Deutschland, Landesverband Brandenburg e. V.
79	Naturschutzbund Deutschland, Landesverband Hamburg e. V.
80	Naturschutzbund Deutschland (NABU), Landesverband Hessen e. V.
81	Naturschutzbund Deutschland (NABU), Landesverband Niedersachsen e. V.
82	Naturschutzbund Deutschland, Landesverband Nordrhein- Westfalen e. V.
83	Naturschutzbund Deutschland (NABU), Landesverband Rheinland-Pfalz e. V.
84	Naturschutzbund Deutschland, Landesverband Sachsen e. V.
85	Naturschutzbund Deutschland, Landesverband Sachsen-Anhalt e. V.
86	Naturschutzbund NABU Schleswig-Holstein e. V.
87	Naturschutzbund Osnabrück e. V. - Kreisgruppe im Naturschutzbund Deutschland (NABU)
88	Naturschutzforum Deutschland e. V.
89	Naturschutzverband Niedersachsen e. V.
90	Ökolöwe - Umweltbund Leipzig e. V.
91	Regionale Arbeitsgruppe für Naturschutz im Artland e. V.
92	Rheinischer Fischereiverband von 1880 e. V.
93	Rhein-Kolleg e. V.
94	Schutzgemeinschaft Deutscher Wald – Bund zur Förderung der Landespflege – Landesverband Niedersachsen e. V.
95	Schutzgemeinschaft Deutscher Wald e. V.
96	Schutzgemeinschaft Deutsches Wild e. V. (Organisation zur Erhaltung der freilebenden Tierwelt)
97	Schutzgemeinschaft gegen Fluglärm Lübeck und Umgebung e. V.
98	Schutzgemeinschaft Hochwang e. V.
99	Umweltforum Osnabrücker Land e. V.
10	Umweltschutzverband Alztal und Umgebung e. V.
10	Umweltschutzverband Bothel/Brockel (BBU) e. V
10	Umweltstammtisch Ketsch e. V
10	Verband Deutscher Naturparke e. V. (VDN)
10	Verein Natura Havel e. V.
10	Vereinigung Deutscher Gewässerschutz e. V.
10	Verkehrsclub Deutschland e. V.
10	Verkehrsclub Deutschland, Landesverband Nord e. V.
10	Verkehrsclub Deutschland, Landesverband Nordost e. V.
10	Zoologische Gesellschaft Frankfurt von 1858 e. V.

List of the recognized environmental organizations on the level of the “Bundesländer”, last visit on the websites: 01.02.2016

Baden-Württemberg

(<http://www.um.baden-wuerttemberg.de/servlet/is/102145/>)

Landesnaturausschutzverband Baden-Württemberg e.V. (LNV); Bund für Umwelt und Naturschutz Deutschland (BUND) Landesverband Baden-Württemberg e.V.; - Naturschutzbund Deutschland (NABU) Landesverband Baden-Württemberg e.V.; Landesfischereiverband Baden-Württemberg e.V.; Landesjagdverband Baden-Württemberg e.V.; Schutzgemeinschaft Deutscher Wald (SDW) Landesverband Baden-Württemberg e.V.; Schwäbischer Albverein e.V.; Schwarzwaldverein e.V.; Arbeitsgemeinschaft der Naturfreunde in Baden-Württemberg; Schutzgemeinschaft Filder e. V.; BUND Ortsgruppe Kirchheim/Teck; Schutzgemeinschaft Deutscher Wald e. V., Kreisverband Main-Tauber e. V.; Bürgerinitiative für eine verträgliche Retention Breisach/Burkheim e. V.; Naturschutzbund (NABU) Bezirksverband Südbaden, Habsburgerstr. 9, 79104 Freiburg im Breisgau; Verein zur Erhaltung des Abhaus und des Haselbachtals, Wiesenweg 5, 79737 Herrisried; Vereinigung Naturschutz & Fischerei e. V.; Vereinigung Natürlich für's Allgäu e. V.; Bürgerinitiative Natürlich St. Leon Stop! Umgehung e. V.

Bayern

(http://www.stmuv.bayern.de/umwelt/naturschutz/organisation/nat_verband.htm)

Bund Naturschutz in Bayern e.V.; Deutscher Alpenverein e.V.; Wanderverband Bayern e.V.; Landesbund für Vogelschutz in Bayern e.V.; Landesfischereiverband Bayern e.V.; Landesjagdverband Bayern e.V.; Schutzgemeinschaft Deutscher Wald Landesverband Bayern e.V.; Verein zum Schutz der Bergwelt; Verkehrsclub Deutschland (VCD) Landesverband Bayern e.V.; Landesverband für Höhlen- und Karstforschung in Bayern e.V.; Verein für Landschaftspflege und Artenschutz in Bayern e.V.; Isartalverein München e.V.

Berlin

(http://www.stadtentwicklung.berlin.de/natur_gruen/naturschutz/verbaende/)

Berliner Landesarbeitsgemeinschaft Naturschutz e.V. (BLN); Baumschutzgemeinschaft Berlin e.V.; Bund für Umwelt und Naturschutz Deutschland Landesverband Berlin e.V.; Deutsche Gesellschaft für Herpetologie und Terrarienkunde (DGHT) Landesverband - Berlin e.V.; GRÜNE LIGA Berlin Landesverband Berlin e.V.; Landesjagdverband Berlin e.V.; Naturschutzbund Deutschland (NABU) Landesverband Berlin e.V.; Naturschutzzentrum Ökowerk Berlin e.V.; Schutzgemeinschaft Deutscher Wald e.V. Landesverband Berlin; NaturFreunde Deutschlands Landesverband Berlin e.V.; Volksbund Naturschutz e.V.

Brandenburg

(<http://www.mlul.brandenburg.de/cms/detail.php/bb1.c.281581.de>)

Bund für Umwelt und Naturschutz Deutschland Landesverband (BUND); Naturschutzbund Deutschland Landesverband (NABU); Grüne Liga Landesverband (GL); Landesjagdverband (LJV) Brandenburg e.V.; Schutzgemeinschaft Deutscher Wald (SDW) Landesverband Brandenburg e.V.; "Die Naturfreunde" Landesverband Brandenburg e.V.; Waldkleeblatt – Natürlich Zauche e.V.

Bremen

(<http://www.bauumwelt.bremen.de/umwelt/detail.php?gsid=bremen213.c.29871.de>)

GNUU (Gesamtverband Natur- und Umweltschutz Unterweser e.V.); Landesfischereiverband Bremen e.V.; Landesjägerschaft Bremen e.V.; Naturschutzbund Deutschland (NABU) Landesverband Bremen e.V.

Hamburg

(<http://www.hamburg.de/contentblob/3373816/data/liste-anerkannter-naturschutzverbaende.pdf>)

NABU Landesverband Hamburg e.V.; Botanischer Verein zu Hamburg e.V.; Naturwacht Hamburg e.V.; Gesellschaft für ökologische Planung e.V.; Verein Jordsand zum Schutze der Seevögel und der Natur e.V.; Schutzgemeinschaft Deutscher Wald Landesverband Hamburg e.V.; Landesjagd- und Naturschutzverband Freie und Hansestadt Hamburg e.V.; BUND Landesverband Hamburg e.V.; Verein zum Schutz des Mühlenberger Loches e.V.; Förderkreis „Rettet die Elbe“ e.V.; Verein „Schlickfall“ zur Förderung des Naturschutzgebietes Westerweiden e.V.; Angelsport-Verband Hamburg e.V.

Hessen

(<https://umweltministerium.hessen.de/umwelt-natur/umweltrecht-und-mitteilungen>)

Schutzgemeinschaft Deutscher Wald - Landesverband Hessen e.V.; Hessische Gesellschaft für Ornithologie und Naturschutz e.V.; Naturschutzbund Deutschland (NABU) - Landesverband Hessen e.V.; Landesjagdverband Hessen e.V.; Bund für Umwelt und Naturschutz Deutschland - Landesverband Hessen e.V.; Deutsche Gebirgs- und Wandervereine - Landesverband Hessen e.V.; Verband Hessischer Fischer e.V.; Botanische Vereinigung Naturschutz Hessen (BVNH) e.V.; Vogelschutzverein Holzhausen/ Hünstein e. V.; Naturkundliche Gesellschaft Mittleres Fuldataal (NGMF) e.V.; Verband Hessischer Fischer e.V.; Aktionsgemeinschaft Rettet den Burgwald e.V.; Schutzgemeinschaft Vogelsberg (SGV) e.V.; Verein „Naturerbe Taunus“ e.V.

Mecklenburg-Vorpommern

(<http://www.landesrecht-mv.de/jportal/portal/page/bsmvprod.psm!showdoccase=1&doc.id=VVMV-VVMV000002170&st=vv>)

Naturschutzbund Deutschland Landesverband Mecklenburg-Vorpommern; Bund für Umwelt und Naturschutz Deutschland Landesverband Mecklenburg-Vorpommern e. V.; Landesjagdverband Mecklenburg-Vorpommern e. V.; Landesanglerverband Mecklenburg-Vorpommern e. V.; Schutzgemeinschaft Deutscher Wald Landesverband Mecklenburg-Vorpommern e. V.; Grüne Liga Mecklenburg-Vorpommern e. V.

Niedersachsen

(http://www.umwelt.niedersachsen.de/portal/live.php?navigation_id=2167&article_id=8499&_psmand=10)

Bund für Umwelt und Naturschutz e.V.; NABU Landesverband Niedersachsen e.V.; Niedersächsischer Heimatbund e.V.; Schutzgemeinschaft Deutscher Wald Landesverband Niedersachsen e.V.; Biologische Schutzgemeinschaft Hunte-Weser-Ems e.V.; Landesverband Bürgerinitiativen Umweltschutz Niedersachsen e.V.; Landesjägerschaft Niedersachsen e.V.; Naturschutzverband Niedersachsen e.V.; Landesverband Niedersachsen Deutscher Gebirgs- und Wandervereine e.V.; Verein Naturschutzpark e.V.; Aktion Fischotterschutz e.V.; Landessportfischerverband Niedersachsen e.V.; NaturFreunde Niedersachsen; Heimatbund Niedersachsen e.V.; Landesfischereiverband Weser-Ems e.V.; Bürger für Umwelt e.V.; Bürger für eine lebenswerte Wedemark e.V.; Blauer Himmel über Ilmenau e.V.; Bürgerforum Burgwedel e.V.

NRW

(request via email)

Aktionsgemeinschaft Naturpark Rothaargebirge e.V.; Arbeitsgemeinschaft Biologischer Umweltschutz im Kreis Soest e.V.; Arbeitskreis für Umwelt und Heimat e.V.; Bürgergemeinschaft gegen die Zerstörung der Weetfelder Landschaft e.V.; Bürgerinitiative gegen den Weiterbau der A1 e.V.; Bürgerinitiative Landschaftsschutz Roxel e.V.; Bürgerinitiative „Wohnen und Umwelt“ Kölner Norden e.V.; Bürgerinitiative gegen den Bau der B 55n westlich von Stirpe und Weckinghausen e.V.; Bürgerverein Köln-Longerich e.V.; Gemeinnütziger Umweltschutzverein „pro grün“ e.V., Paderborn; Gemeinschaft für Fischerei und Naturschutz Lüdge e.V.; Industrie – Wasser- Umweltschutz e.V.; Landschaftsschutzverein Kottenforst e.V.; Landesfischereiverband Westfalen und Lippe e. V.; Landschaftsschutzverein Vorgebirge e.V.; NABU- Naturschutzstation Niederrhein e.V.; Rheinischer Fischereiverband von 1880 e.V.; VerBund e.V. Verein zur Förderung von Natur, Umwelt und des sinnvollen Umganges mit Energie in Geseke und Umgebung; Bund für Umwelt und Naturschutz Deutschland, Landesverband NRW e.V.; Bund Heimat und Umwelt in Deutschland (BHU); Bundesverband beruflicher Naturschutz e.V. (BBN); Bundesverband Bürgerinitiativen Umweltschutz (BBU) e.V.; Bundesvereinigung gegen Fluglärm e.V.; Deutsche Gesellschaft für Herpetologie und Terrarienkunde e.V. (DGHT); Deutscher Jagdschutz- Verband e.V. (DJV); Deutscher Naturschutzring (DNR) e.V.; Deutscher Tierschutzbund; Germanwatch Nord-Süd Initiative e.V.; Komitee gegen den Vogelmord e.V. – Aktionsgemeinschaft Tier- und Artenschutz; Landesgemeinschaft Naturschutz und Umweltschutz NRW e. V.; Naturschutzbund Deutschland, Landesverband Nordrhein- Westfalen e.V.; Schutzgemeinschaft Deutscher Wald e.V.; Schutzgemeinschaft Deutsches Wild e.V. (Organisation zur Erhaltung der freilebenden Tierwelt); Verband Deutscher Naturparke e.V.

Rheinland-Pfalz

(http://www.luwg.rlp.de/icc/effnet/nav/62d/broker.jsp?uCon=7872cf52-aa4f-c013-3e2d-cfc638b249d6&SP_fontsize=0&uTem=d7b60e07-224c-2701-33e2-dcfc638b249d&uMen=62d10e4a-258d-2701-33e2-dcfc638b249d)

Bund für Umwelt und Naturschutz Deutschland (BUND), Landesverband Rheinland-Pfalz e. V.; Deutscher Gebirgs- und Wanderverein, Landesverband Rheinland-Pfalz e. V. (Pfälzerwaldverein); Gesellschaft für

Naturschutz und Ornithologie Rheinland-Pfalz e. V. (GNOR); Landes-Aktions-Gemeinschaft Natur und Umwelt Rheinland-Pfalz e. V.; Landesfischereiverband Rheinland-Pfalz e. V.; Landesjagdverband Rheinland-Pfalz e. V.; Naturschutzbund Deutschland (NABU), Landesverband Rheinland-Pfalz; Die Naturfreunde - Verband für Umweltschutz, sanften Tourismus und Kultur, Landesverband Rheinland-Pfalz e. V.; Pollichia, Verein für Naturforschung und Landespflege e. V.; Schutzgemeinschaft Deutscher Wald, Landesverband Rheinland-Pfalz e. V.

Saarland

(<http://www.saarland.de/8886.htm>)

NABU Landesverband Saarland; BUND Landesverband Saarland; Saarwaldverein; Schutzgemeinschaft Deutscher Wald, Sektion Saarland; Verband der Gartenbauvereine Rheinland-Pfalz/Saarland

Sachsen

(<http://www.umwelt.sachsen.de/>)

Landesverein Sächsischer Heimatschutz e. V.; Bund für Umwelt und Naturschutz Deutschland (BUND) Landesverband Sachsen e. V.; Grüne Liga Sachsen e. V. Landesgeschäftsstelle; Schutzgemeinschaft Deutscher Wald Landesverband Sachsen e. V.; Landesjagdverband Sachsen e. V.; Landesverband Sächsischer Angler e. V.; Naturschutzbund Deutschlands (NABU) Landesverband Sachsen e. V.

Sachsen-Anhalt

(<http://www.lau.sachsen-anhalt.de/analytik-service/vom-land-anerkannte-umwelt-und-naturschutzvereinigungen/>)

Bund für Natur und Umwelt (BNU) Landesverband Sachsen-Anhalt e.V.; Bund für Umwelt und Naturschutz Deutschland e.V.; Landesanglerverband Sachsen-Anhalt e.V.; Landesheimatbund Sachsen-Anhalt e.V.; Landesjagdverband Sachsen-Anhalt e.V.; Landesverband für Landschaftspflege Sachsen-Anhalt e.V.; Landesverband Sachsen-Anhalt der Deutschen Gebirgs- und Wandervereine e.V.; NaturFreunde Deutschlands Landesverband Sachsen-Anhalt e.V.; Naturschutzbund Deutschland e.V. (NABU) Landesverband Sachsen-Anhalt; Ornithologenverband Sachsen-Anhalt e.V.; Schutzgemeinschaft Deutscher Wald e.V. Landesverband Sachsen-Anhalt; Verband Deutscher Sportfischer (VDSF) Landesanglerverband Sachsen-Anhalt e.V.; Vogelschutzwarte Storchenhof Loburg e.V.; Naturschutzbund Deutschland e.V. (NABU) Regionalverband Halle/Saalkreis; Förderkreis für Vogelkunde und Naturschutz am Museum Heineanum e.V.

Schleswig-Holstein

(https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEWjZpP2tp97KAhUBXQ8KHbJBANoQFggkMAA&url=http%3A%2F%2Fwww.schleswig-holstein.de%2FDE%2FLandesregierung%2FV%2FService%2FVereinigungen%2FUmweltNatSchutzVereinigungen.pdf%3F__blob%3DpublicationFile%26v%3D2&usq=AFQjCNHqmcSYpQp3zeaUcDzBfKgzfmyfmw&cad=rja)

BUND Landesverband; Schutzgemeinschaft Deutscher Wald Landesverband; Schleswig-Holsteinischer Heimatbund; Landesjagdverband; Landessportfischerverband; NABU Landesverband; Verein Jordsand zum Schutze der Seevögel und der Natur; AG Geobotanik in Schleswig-Holstein und Hamburg; Naturschutzgesellschaft Schutzstation Wattenmeer; Bürger für ein besseres Müllkonzept in Ostholstein; Interessengemeinschaft Umweltschutz für Kappeln und Umgebung; Schutzgemeinschaft gegen Fluglärm Lübeck und Umgebung; Bürgerinitiative zur Verhinderung gesundheitsgefährdender Abfallbeseitigung; Landesnaturschutzverband Schleswig-Holstein; Umwelt- und Naturschutz Raketau e.V.

Thüringen

(<http://www.thueringen.de/th8/tmlfun/naturschutz/recht/recht/ehrenamt/naturschutzvereinigungen/>)

Arbeitsgruppe Artenschutz Thüringen e. V. (AAT); Arbeitskreis Heimische Orchideen Thüringen e. V. (AHO); Bund für Umwelt und Naturschutz Deutschland (BUND) Landesverband Thüringen e.V.; Grüne Liga e. V. Landesvertretung Thüringen; Kulturbund e. V. Landesverband Thüringen; Landesjagdverband Thüringen e. V. (LJV); Naturschutzbund Deutschland (NABU) Landesverband Thüringen e. V.; Schutzgemeinschaft Deutscher Wald (SDW) Landesverband Thüringen e. V.; Landesanglerverband Thüringen Verband der Fischwaid und zum Schutz der Gewässer und Natur e. V.; Verband für Angeln und Naturschutz Thüringen e. V. (VANT)

Attachment 3:

Auszug aus dem Gesetz zur Gleichstellung behinderter Menschen (BGG) v. 27. April 2002 (BGBl. I S. 1468), letzte Änderung v. 1. Januar 2008 (Art. 21 Abs.1 G vom 19. Dezember 2007)

§ 13 Verbandsklagerecht

(1) Ein nach Absatz 3 anerkannter Verband kann, ohne in seinen Rechten verletzt zu sein, Klage nach Maßgabe der Verwaltungsgerichtsordnung oder des Sozialgerichtsgesetzes erheben auf Feststellung eines Verstoßes gegen

1. das Benachteiligungsverbot für Träger der öffentlichen Gewalt nach § 7 Abs. 2 und die Verpflichtung des Bundes zur Herstellung der Barrierefreiheit in § 8 Abs. 1, § 9 Abs. 1, § 10 Abs. 1 Satz 2, § 11 Abs. 1,

(...)

- (2) Eine Klage ist nur zulässig, wenn der Verband durch die Maßnahme in seinem satzungsgemäßen Aufgabenbereich berührt wird. Soweit ein behinderter Mensch selbst seine Rechte durch eine Gestaltungs- oder Leistungsklage verfolgen kann oder hätte verfolgen können, kann die Klage nach Absatz 1 nur erhoben werden, wenn der Verband geltend macht, dass es sich bei der Maßnahme um einen Fall von allgemeiner Bedeutung handelt. Dies ist insbesondere der Fall, wenn eine Vielzahl gleich gelagerter Fälle vorliegt. Für Klagen nach Absatz 1 Satz 1 gelten die Vorschriften des 8. Abschnitts der Verwaltungsgerichtsordnung entsprechend mit der Maßgabe, dass es eines Vorverfahrens auch dann bedarf, wenn die angegriffene Maßnahme von einer obersten Bundes- oder einer obersten Landesbehörde erlassen worden ist.

- (3) Auf Vorschlag der Mitglieder des Beirates für die Teilhabe behinderter Menschen, die nach § 64 Abs. 2 Satz 2, 1., 3. oder 12. Aufzählungspunkt des Neunten Buches Sozialgesetzbuch berufen sind, kann das Bundesministerium für Arbeit und Soziales die Anerkennung erteilen. Es soll die Anerkennung erteilen, wenn der vorgeschlagene Verband

1. nach seiner Satzung ideell und nicht nur vorübergehend die Belange behinderter Menschen fördert,
2. nach der Zusammensetzung seiner Mitglieder oder Mitgliedsverbände dazu berufen ist, Interessen behinderter Menschen auf Bundesebene zu vertreten,
3. zum Zeitpunkt der Anerkennung mindestens drei Jahre besteht und in diesem Zeitraum im Sinne der Nummer 1 tätig gewesen ist,
4. die Gewähr für eine sachgerechte Aufgabenerfüllung bietet; dabei sind Art und Umfang seiner bisherigen Tätigkeit, der Mitgliederkreis sowie die Leistungsfähigkeit des Vereines zu berücksichtigen und
5. wegen Verfolgung gemeinnütziger Zwecke nach § 5 Abs. 1 Nr. 9 des Körperschaftsteuergesetzes von der Körperschaftsteuer befreit ist.

Attachment 4

Auszug aus dem Gesetz über Unterlassungsklagen bei Verbraucherrechts- und anderen Verstößen (Unterlassungsklagengesetz - UKlaG) in der Fassung der Bekanntmachung vom 27. August 2002 (BGBl. I S. 3422, 4346), das zuletzt durch Artikel 21 des Gesetzes vom 20. November 2015 (BGBl. I S. 2029) geändert worden ist"

§ 4 Qualifizierte Einrichtungen

(1) Das Bundesamt für Justiz führt eine Liste qualifizierter Einrichtungen. Diese Liste wird mit dem Stand zum 1. Januar eines jeden Jahres im Bundesanzeiger bekannt gemacht und der Kommission der Europäischen Gemeinschaften unter Hinweis auf Artikel 4 Abs. 2 der Richtlinie 98/27/EG des Europäischen Parlaments und des Rates vom 19. Mai 1998 über Unterlassungsklagen zum Schutz der Verbraucherinteressen (ABl. EG Nr. L 166 S. 51) zugeleitet.

(2) In die Liste werden auf Antrag rechtsfähige Verbände eingetragen, zu deren satzungsmäßigen Aufgaben es gehört, die Interessen der Verbraucher durch Aufklärung und Beratung nicht gewerbsmäßig und nicht nur vorübergehend wahrzunehmen, wenn sie in diesem Aufgabenbereich tätige Verbände oder mindestens 75 natürliche Personen als Mitglieder haben, seit mindestens einem Jahr bestehen und auf Grund ihrer bisherigen Tätigkeit Gewähr für eine sachgerechte Aufgabenerfüllung bieten. Es wird unwiderleglich vermutet, dass Verbraucherzentralen und andere Verbraucherverbände, die mit öffentlichen Mitteln gefördert werden, diese Voraussetzungen erfüllen. Die Eintragung in die Liste erfolgt unter Angabe von Namen, Anschrift, Registergericht, Registernummer und satzungsmäßigem Zweck. Sie ist mit Wirkung für die Zukunft aufzuheben, wenn

1. der Verband dies beantragt oder
2. die Voraussetzungen für die Eintragung nicht vorlagen oder weggefallen sind.

Ist auf Grund tatsächlicher Anhaltspunkte damit zu rechnen, dass die Eintragung nach Satz 4 zurückzunehmen oder zu widerrufen ist, so soll das Bundesamt für Justiz das Ruhen der Eintragung für einen bestimmten

Zeitraum von längstens drei Monaten anordnen. Widerspruch und Anfechtungsklage haben im Fall des Satzes 5 keine aufschiebende Wirkung.

(...)