

**FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT**  
**CERTIFICATION SHEET**

The following report is submitted on behalf of AUSTRIA [name of the Party or the Signatory] in accordance with decision I/8

<b>Name of officer responsible for submitting the national report:</b>	<u>DI Gerhard Stimmeder-Kienesberger</u>
<b>Signature:</b>	
<b>Date:</b>	<u>14 December 2007</u>

**IMPLEMENTATION REPORT**

Please provide the following details on the origin of this report

<b>Party</b>	<u>Austria</u>
<b>National Focal Point</b>	
Full name of the institution:	<u>Federal Ministry of Agriculture, Forestry, Environment and Water Management</u>
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Public Participation in Decision-making and¶  
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Full name of the institution:	<u>Federal Ministry of Agriculture, Forestry, Environment and Water Management</u>
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*Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.*

Answer:

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 Aarhus Compliance Committee dating from February 2007 (ECE/MP.PP/WG.1/2007/L.4).

In the framework of public consultation, the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, which is responsible for the coordination of Aarhus Convention matters, 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 9 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 organisations (NGOs) and the interested public to participate.

This participation included, in particular, as recommended by the Compliance Committee, a consultation period of appr. 9 weeks, already prior to the first draft available via the Internet, per 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.

For the national consultation process and the received statements, see the following information available on the website of the Federal Ministry of Agriculture, Forestry, Environment and Water Management: <http://www.umweltnet.at/article/articleview/62563/1/7247/>

In summary, public consultation has shown that some environmental organisations and one of the five political parties represented in Austrian parliament view the implementation of the 3rd pillar

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¶ Vom BMLFUW wurden alle anderen relevanten Bundesministerien, die 9 Bundesländer im Wege der Verbindungsstelle der Bundesländer, die Sozialpartner sowie NGOs und insgesamt die interessierte Öffentlichkeit zur Mitwirkung eingeladen. ¶ Diese Mitwirkung umfasste –wie vom Compliance Ausschuss empfohlen- eine Konsultationsperiode von ca. 9 Wochen noch vor dem ersten Entwurf via Internet, per e-mail und in mehreren Koordinationsitzungen. ¶ Nach Fertigstellung des Erstentwurfs und Übermittlung per elektronischem Akt und via Webseite sowie Aussendung via e-mail an potentiell Interessierte erfolgte eine zweite Phase der Konsultation. ¶

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in Austria rather critically. Yet there has been broad agreement as regards the first two pillars of the Aarhus Convention.

*Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).*

Answer:

Austria ratified the Aarhus 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 EU Directives which have already entered into force, especially concerning the 1st and 2nd pillars. In this process, respective EU Directives have been transposed into national law at Federal as well as at provincial levels.

As in several other EU Member States which are Parties to the Aarhus 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 Austrian parliament (National Council and Federal Council).

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 9 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.

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.

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 done to the environment and besides 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.

Besides the Federal structure, also the social partners play a very important role in Austria. In Austria, the social partners, i.e. 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

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Generell ist für die EU festzuhalten, dass vielfach erst EU Richtlinien in den 80 und 90ern und Erfahrungen daraus die Basis der UNECE Konvention 1998 ermöglicht haben. ¶

¶  
Die Republik Österreich ist ein föderaler Staat mit Bund, 9 Bundesländern und den Gemeinden als den 3 Entscheidungsebenen. Die Umsetzung und Verwaltung selbst erfolgt mit wenigen Ausnahmen dezentral d.h. durch die Länder bzw. in den Bezirken und Gemeinden.¶

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Die österreichische Verfassung regelt dabei generell die Kompetenzen von Gesetzgebung und Ausführung im Detail zwischen Bund und Ländern. Für etliche Bereiche der Konvention sind neben Bundesgesetzen daher Gesetze der Bundesländer notwendig. Daher sind Änderungen im EU-Recht und der Konvention in der Regel fast immer mit ... [5]

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representing the interests of the respective groups in society (stakeholders).

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, like e.g.: e-government, e-participation or citizen-service facilities which are available online.

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**Article 3**

**List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.**

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;
- (e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

Answer:

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

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 modernise administration have brought about many good examples proving how the general public can be successfully made an active partner in policy-making and how this process can be fostered.

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 Federal Ministry of Agriculture, Forestry, Environment and Water Management in the framework of an interministerial working group, in which also stakeholders and NGOs 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 policy-making 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

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Ausgehend von der Verwaltung (BMLFUW und Bundeskanzleramt) wurden unter Einbindung von Stakeholdern „Standards der ÖB“ erarbeitet. ¶  
Im “Handbuch Öffentlichkeitsbeteiligung” des BMLFUW findet man neben (... [7])

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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.

b)

The environmental-education activities coordinated by the Federal Ministry of Agriculture, Forestry, Environment and Water Management 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 UN Decade of Education for Sustainable Development 2005-2014 including various and highly specific examples at regional and local levels.

Since 2002, the Austrian Eco-Label for Schools has been awarded by the Federal Ministry of Agriculture, Forestry, Environment and Water Management 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.

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On April 1, 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 adult persons' awareness for environmental protection and for a responsible use of natural resources is to be heightened.

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

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c)

According to the Federal Ministries Act, coordination at all levels of environmental protection falls within the purview of the Federal Ministry of Agriculture, Forestry, Environment and Water Management. 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) to the Austrian Association of Municipalities, together with a request for submission of a statement. The process is coordinated by the relevant divisions of the Federal Ministry of Agriculture, Forestry, Environment and Water Management and/or the Division EU Affairs Environment (for horizontal subjects) by way of written procedure or in the framework of coordination meetings. If non-governmental organisations (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).

The Federal Ministry of Agriculture, Forestry, Environment and Water Management also invites the concerned portfolios, social partners and 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 ("Regular Meeting Days Environment"). In addition to these official coordination meetings, there is a separate NGO round organised in the Federal Ministry held on a regular basis appr. at the time of the Council of EU Ministers in the framework of which environmental subjects are discussed



which usually are also on the Council agenda.

Moreover, the Federal Ministry of Agriculture, Forestry, Environment and Water Management 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 Federal Ministry of Agriculture, Forestry, Environment and Water Management 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.

Over the last years, many stakeholder dialogues - starting from the level of administration - were held in Austria at 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, Round Table on Water etc. 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 furthermore constitute an explicit focus in the framework of the National Rural Development Programme.

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 work sheets on participation containing specific recommendations; strategy talks held with representatives of the business world and with stakeholders of representative democracy; organisation of events and issuing of publications on public participation and the relationship between the state and civil society etc.). Moreover, Austria is an active partner in the OECD working group on "Open and Inclusive Policy-Making".

d)

The coordination of Austrian positions in international matters is also part of the consultation mechanism stated under c). As regards several meetings of international bodies (COP/MOP), environmental organisations are also part of the Austrian delegation (e.g. Belgrade Conference "Environment for Europe" as well as in the framework of the recent UN Climate Conference held in Bali). Especially in the framework of the UN Climate Framework Convention and the Biological Diversity Convention, environmental organisations are involved very deeply.

e)

Austrian constitutional law contains the following non-discrimination provisions: according to Art. 2 of the Basic Law on the General Rights of Nationals and Art. 7 of the Federal Constitution, all nationals (Austrian citizens) are equal before the law. In addition, § 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).

Based on EU membership, EU citizens (nationals of European Union member states) are equally guaranteed the fundamental rights enshrined in the European Human Rights Convention and in the EU Charter on Fundamental Rights or they provide for a protection against discrimination on grounds of nationality, sex, race, or ethnic origin, religion or philosophy, disability, age or sexual orientation.

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Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.

Answer:

Concerning Art. 3 (7) Austria has already used the 2nd 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.

Provide further information on the **practical application of the general provisions of the Convention.**

Answer:

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.

Give relevant web site addresses, if available:

<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>

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## Article 4

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### List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Any person may have access to information without having to state an interest;
  - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
  - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
  - (i) Provide for exemptions from requests;
  - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

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### Answer:

By way of 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, was brought in line with the provisions of the EU Environmental Information Directive (2003/4/EC) and the Aarhus Convention. Also the Federal provinces 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.

The definitions are transposed into national law in §§ 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.

a)

(i) Free access to environmental information is ensured in § 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*.

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(ii) and (iii) The duty of information to be fulfilled by the bodies obliged to provide information is regulated under § 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.

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b)

In accordance with § 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.

c)

(i) § 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

1. the request for information refers to the transfer of internal information;
2. the information is requested in a way that is obviously abusive;
3. the request for information is too general;
4. the request for information refers to material which is in the process of being completed or involves written documents which have not yet been finalised or data which have not yet been edited.

§ 6 Para. 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.

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(ii) § 6 Para. 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

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information do not result in a limited obligation to information incumbent on the body obliged to provide information.

d)

As it is, in many cases, not easy for citizens to find the body obliged to provide information which disposes of the environmental information requested by him/her, § 5 Para. 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.

e)

In accordance with § 6 subpara. 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 finalised or data which have not yet been edited.

f)

The deadlines for notification, the extension of deadlines and the negative response are regulated in § 5 Paras. 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 (§ 8).

g)

In accordance with § 5 Para. 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.

Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

*Answer:*

Provide further information on the **practical application of the provisions on access to information**, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

*Answer:*

Many inquiries and requests for information concerning the environment are constantly submitted to the Federal Ministry of Agriculture, Forestry, Environment and Water Management per telephone, e-mail or in writing. Yet only very few inquiries are expressly based on the Austrian Environmental Information Act. As the Ministry of Agriculture, Forestry, Environment and Water Management 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.

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

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and urban planning, Mineral Resources Act, Emission Allowances Act, radiation-protection law and industrial law.

The Federal Environment Agency (Umweltbundesamt) 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.

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

In 2006, information seekers accessed the environmental information actively made available on the Internet by Umweltbundesamt just under 2 mio times. Websites dealing with the subjects of waste, air, water and contaminated sites were accessed most frequently. Of the publications made available at [www.umweltbundesamt.at](http://www.umweltbundesamt.at), the number of downloads of publication details was appr. 810,000.

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## Article 5

### List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
  - (i) Public authorities possess and update environmental information;
  - (ii) There is an adequate flow of information to public authorities;
  - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;

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(c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;

(d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;

(e) Measures taken to disseminate the information referred to in **paragraph 5**;

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

a)

(i) In accordance with § 9 Para. 3 of the Austrian Environmental Information Act, the bodies obliged to provide information shall update the environmental information at suitable intervals.

(ii) The provision on the publication of environmental information (§ 9 of the Austrian Environmental Information Act) emphasises 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.

(iii) § 9 Para. 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 (§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.

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.

b)

In order to fulfil their duty of information in accordance with § 9 Para. 2 of the Austrian Environmental Information Act, the bodies obliged to provide information shall take practical

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precautions facilitating access to information by, in particular

1. Publishing charts concerning organisation and the distribution of functions to the extent that such charts are available,
2. Naming contact persons or information centres,
3. Managing lists or registers concerning the environmental information they have at their disposal.

c)

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

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d)

In accordance with § 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 § 6 of the Austrian Environmental Control Act and in its capacity as the environmental expert body of the Austrian Federal government, Umweltbundesamt 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](http://www.umweltbundesamt.at).

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e)

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

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1. The wording of contracts, conventions and agreements under international law, as well as Community and other legal provisions on the environment or touching upon environmental issues;
2. Policies, plans and programmes referring to the environment;

...

f)

In accordance with § 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 s/he is obliged to measure for the period of the respectively last month (or the last year) in a way that is easily understandable by the general public and in a place which is easily accessible.

g)

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).

h)

The website of Umweltberatung ([www.umweltberatung.at](http://www.umweltberatung.at)), an environmental consultancy body, 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

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companies selling environmentally-friendly products as well as advice on sustainable shopping.

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](http://www.nachhaltigewochen.at)), enabling consumers to make informed choices when shopping. Food and traders, electric equipment retailers, DIY markets, butchers and furniture traders take part in the campaign. Moreover, a growing number of self-employed merchants are supporting the campaign, which has been launched by the Federal Ministry of Agriculture, Forestry, Environment and Water Management, its partners and the Austrian retail industry.

i)

At a 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.

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.

*Answer:*

**Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?**

*Answer:*

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 as 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 closeness to the citizen in the entire field of environmental administration.

Give relevant web site addresses, if available:

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

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## Article 6

**List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.**

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
  - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
- (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
  - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

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(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

*Answer:*

In order to comply with the citizen-participation provisions of the Aarhus Convention, the EIA and IPPC Directives were adapted at a European level by way of Directive 2003/35/EC providing for public participation in respect 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 used to implement the Aarhus Convention also 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 2 years earlier. The SEA Directive had already implemented the Aarhus Convention with regard to the plans and programmes covered by it. A need for implementation evolved in particular from the interaction of Art. 2 Para. 5, Art. 6 and Art. 9 Para. 2 of the Convention, requiring the involvement of certain environmental non-governmental organisations in approval procedures.

Austria transposed the EIA Directive 85/337/EEC (amended by Directive 97/11/EC), the UNECE Espoo Convention and the Aarhus Convention at 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).

Annex I to the Convention, to which the provisions set forth under Art. 6 refer, includes projects which are covered by the EIA and IPPC Directives. Further adaptations to the Aarhus 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), by way of 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).

a)

i) ii) 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 Aarhus Convention).

b) c) d) e)

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 § 9 of the 2000 EIA Act, with every interested citizen or organisation having the opportunity to submit a statement. A circular published on the website of the Federal Ministry of Agriculture, Forestry, Environment and Water Management points to the fact that project applicants are supposed to do respective public-relations work already in the run-up to application. In addition, there is the option of oral proceedings in accordance with § 16 of the EIA Act, which is to be announced accordingly (also via the Internet).

f) i) ii) and g)

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The information given in Art. 6 Para. 6 of the Aarhus Convention is a subject of the Environmental Impact Declaration in accordance with § 6 of the 2000 EIA Act, which is to be published for at least 6 weeks in accordance with § 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.

h) i)

In accordance with § 17 Para. 4 of the 2000 EIA Act, the received statements 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 § 17 Para. 7 of the 2000 EIA Act.

j)

In accordance with § 3a of the EIA Act, any changes shall be subject to an EIA procedure.

k)

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.

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 (§§ 43 and 44) and on the information of the general public on permits granted for bringing the respective substances into circulation (§ 58a).

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.

Answer:

**Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.**

Answer:

On its website, the Federal Ministry of Agriculture, Forestry, Environment and Water Management has published a list of all environmental organisations 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>).

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 Federal Ministry of Agriculture, Forestry, Environment and Water Management and information on the documents available in the EIA documentation are accessible to the general public.

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Give relevant web site addresses, if available:

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

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

## Article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

As regards the Environmental Impact Assessment including public participation, also Article 2 Para. 7 of the UNECE Espoo Convention includes a provision encouraging the application of EIA principles also to 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 Art. 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.

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 Aarhus 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 Aarhus Convention.

Moreover, several Federal acts have been amended with regard to adaptation to the provisions of the Aarhus Convention for the following areas: waste (at a Federal level, in particular §§ 8 and 8a 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 provincial level, laws pertaining to the same and other environmental areas are covered as well as the pertinent regional-planning legislation.

The definition of the term of “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, organisations or groups, and, in particular, organisations promoting environmental protection ...” (e.g. Regional-Planning Act of the Federal province of Vorarlberg, Provincial Legal Gazette No. 29/1996, § 10c Para. 2).

In addition, Austria has provided for strategic environmental assessments involving voluntary public participation with regard to plans and programmes which are not covered by the SEA

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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 strategic environmental assessment is required or not).

### Erklären Sie, welche Möglichkeiten der Öffentlichkeitsbeteiligung an der Vorbereitung umweltbezogener Politiken bestehen.

Answer:

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.

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 3 priorities: strengthening policy-making which is open and close to the citizen in order to improve the quality of democracy, stimulating stakeholders’ responsibility vis-à-vis society and promoting local/regional sustainable processes.

Central activities are:

- “Public-participation standards” should also be regarded as a contribution to the implementation of the Austrian and EU sustainability strategies. In order to promote sustainable development, citizen participation in policy-making should be improved, and administrative bodies should be provided with hands-on support in order 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.
- In 2002, ÖGUT, the Austrian Society for Environment and technology, set up a “Participation” strategy group at the instigation of the Federal Ministry of Agriculture, Forestry, Environment and Water Management, made up of members from ministries and authorities as well as NGOs and the world of science. It is the aim of the “Participation” strategy group to firm up the concept of “participation”, develop it further and to 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.
- 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.
- Over the last years, a website on the subject of participation ([www.partizipation.at](http://www.partizipation.at)) has become an information hub (“one-stop-shop”) for public participation.

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Hintergrund:¶

Was die Umweltverträglichkeitsprüfung inklusive einer Öffentlichkeitsbeteiligung anbelangt, beinhaltet schon die UNECE Espoo-Konvention im Artikel 2 Abs. 7 eine Bestimmung, die anregt, die Prinzipien der UVP auch auf Politiken, Pläne und Programme anzuwenden. ¶ Erst 10 Jahre später, im Jahr 2001, wurde diese Anregung schließlich mit der SUP-RL 2001/42/EG über die Prüfung der Umweltauswirkungen bestimmter Pläne und Programme (nicht für Politiken) umgesetzt. Die SUP-RL setzte auch gleichzeitig die weitergehenden relevanten Öffentlichkeitsbeteiligungsbestimmungen der Aarhus-Konvention für einen weiten Kreis von Plänen und Programmen um. ¶ Mit der EU RL 2003/35/EG betreffend die Öffentlichkeitsbeteiligung bei der Ausarbeitung bestimmter umweltbezogener Pläne und Programme und zur Änderung der Richtlinien 85/337/EWG und 96/61/EG in Bezug auf die Öffentlichkeitsbeteiligung und den Zugang zu Gerichten wurden die relevanten Bestimmungen der Aarhus Konvention auf eine Reihe weitere Pläne und Programme (nicht für Politiken) umg[... [23]

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- In the future, more attention shall be paid to e-participation/e-democracy instruments. As mentioned earlier on 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).

Describe any **obstacles encountered** in the implementation of article 7.

Answer:

**Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.**

Answer:

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

Give relevant web site addresses, if available:

<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.oerok.gv.at/EU_Regionalpolitik_in_Oesterreich/EU_Strukturfonds_2007_2013.htm)

[http://www.nachhaltigkeit.at/LA\\_21.php3](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.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](http://www.vorarlberg.at/pdf/kurzinfo-120_umsetzungder.pdf)

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## Article 8

**Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that have a significant effect on the environment. To the extent appropriate, describe the transposition of relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.**

*Answer:*

In Austria, the social partners - i.e. the above-stated organisations of business and industry, agricultural 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.

The Acts on the Incorporation of the Federal Chamber of Commerce of Austria (§ 10), of the Chamber of Labour (§ 93 Para. 2) as well as of the Chambers of Agriculture (see, for example, § 8 of the 1991 Chamber of 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.

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 Austria. In some cases already prior to official review procedures, for example for the purpose of expert discussion, pre-drafts of legal instruments.

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 responsible corporate body with a view to environmental policy are also included in the provisions on review rights. The term "public authorities" are partly mentioned in the review rules (see, for example, § 93 of the Austrian Chamber of Labour Act).

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 objective circumstances.

Moreover, mention has to be made of the fact that a series of plans and programmes covered by the Convention (e.g. in the area of regional planning) are also enacted as ordinances in Austria, i.e. there is no public participation in the preparation of executive regulations or there are general and legally binding provisions.

Describe any **obstacles encountered** in the implementation of article 8.

*Answer:*

**Provide further information on the practical application of the provisions on public participation in the field covered by article 8.**

*Answer:*

The responsible Federal and provincial bodies publish draft laws on their websites (see below).

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Beitrag WKÖ Juli 2007:¶  
In Österreich kommt den Sozialpartnern, das sind die teilweise auf gesetzlicher Basis beruhenden Organisationen der gewerblichen Wirtschaft und der Industrie, der Landwirtschaft, der Arbeitnehmer sowie die nationale Gewerkschaftsorganisation, eine wichtige Stellung bei der Vertretung der Interessen der jeweiligen Gesellschaftsgruppen (Stakeholder) im Hinblick auf allgemein verbindliche gesetzliche Regelungen mit signifikanten Auswirkungen auf die Umwelt zu. ¶  
In den Gesetzen zur Errichtung der Wirtschaftskammer Österreich (§ 10), der Arbeiterkammern (§ 93 Abs. 2) sowie auch der Landwirtschaftskammern (siehe etwa § 8 Kärntner Landwirtschaftskammergesetz 1991) ist vorgesehen, dass Entwürfe von Gesetzen (sowie auch Durchführungsregelungen) vor Einbringung in die gesetzgebende Körperschaft (legislative body) von den öffentlichen Stellen den Kammern zur Begutachtung (consultation) vorzulegen sind. Es ist jedenfalls auch geübte Praxis, hier die Gewerkschaft und die Vereinigung der österreichischen Industrie sowie die Energiewirtschaft einzubinden. ¶  
Diese Interessenvertretungen führen dann unter Umständen entsprechende interne Konsultationsverfahren zur Meinungsbildung durch und geben Stellungnahmen (Gutachten) an die öffentlichen Stellen ab. Letztere haben die Stellungnahme [...] [46]

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information also includes a general e-mail address as well as other partners which can be contacted for submission of statements. Moreover, adequate time limits are provided for. In this process, every received statement is considered.

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

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

Give relevant web site addresses, if available:

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

<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&PURL=NR](http://www.parlament.gv.at/portal/page?_pageid=908,97306&_dad=portal&_schema=PORTAL&PURL=NR)

[http://portal.wko.at/wk/format\\_detail.wk?AngID=1&StID=320836](http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=320836)

[www.arbeiterkammer.at](http://www.arbeiterkammer.at)

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

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¶ Teilweise haben auch die Interessenvertretungen eigene Konsultationshomepages (siehe etwa

[http://portal.wko.at/wk/format\\_detail.wk?AngID=1&StID=320836](http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=320836)). ¶

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<http://recht.lebensministerium.at/article/archive/12317> ¶  
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## Article 9

### List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
  - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
  - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
- (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
  - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

a)

Austria has transposed the provisions concerning Art. 9 Para.1 of the Convention by the legal protection provisions set forth in the Federal Environment Information Act (§ 8) and by way of respective provincial legislation.

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**Deleted:** b) (Zu Art. 9 Abs. 2 mit Bezug auf Art. 6 Aarhus aus UVP-Sicht);<sup>¶</sup> Der weite Parteienkreis des § 19 UVP-G 2000 stellt sicher, dass alle möglicherweise betroffenen Personen, Personengemeinschaften (Bürgerinitiativen) und Umweltorganisationen, sofern sie die gesetzlich vorgesehenen Kriterien erfüllen, Rechtsmittel ergreifen und damit sowohl aus inhaltlicher als auch aus verfahrensrechtlicher Sicht die Entscheidung durch den unabhängigen Umweltsenat bzw. den Verwaltungs- oder Verfassungsgerichtshof überprüfen lassen können.<sup>¶</sup>

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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.

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.

b)

The wide range of affected parties covered by § 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.

c)

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:

- Concerning environmental private law, § 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 (§ 364 Paras. 2 and 3 of the Austrian Civil Code) and the special provisions on approved plants (§ 364a 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: § 26 of the Austrian Water Act, § 53 of the Austrian Forestry Act, §§ 79a et sqq. of the Austrian Genetic Engineering Act, § 11 of the Austrian Nuclear Liability Act.
- In the Federal provinces, Environmental Advocacy Offices were set up as regional bodies representing the cause of environmental protection in administrative procedures (§ 2 Para. 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 authorised to

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lodge complaints with the supreme courts with regard to compliance with legal provisions which are relevant for the environment.

- 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 organisations 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.
- 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.

d)

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*).

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*) who 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.

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.

e)

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

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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.

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Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.

*Answer:*

Certain members of the general public as well as a political party represented in Austrian parliament have criticized the existing implementation of Art. 9 Para. 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.

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**Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?**

*Answer:*

Also the instrument of environmental mediation provides a reference to Art. 9 Para. 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.

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In the framework of a specific promotion scheme, the Federal Ministry of Agriculture, Forestry, Environment and Water Management supports Ökobüro, which has its primary focus on environmental law and on the Aarhus 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 & Environment project supports activities of the Justice & 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.

Give relevant web site addresses, if available:

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[www.volksanw.gv.at](http://www.volksanw.gv.at)

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Articles 10-22 are not for national implementation.

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#### General comments on the Convention's objective:

If appropriate, indicate how the implementation of the Convention contributes 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.

*Answer:*

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

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

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(Item 6 (b) of the provisional agenda)

**DRAFT DECISION I/8  
REPORTING REQUIREMENTS**

adopted at the first meeting of the Parties  
held in Lucca, Italy, on 21-23 October 2002

The Meeting.

Recalling article 10, paragraph 2, of the Convention, which states that, at their meetings, the Parties shall keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties,

Recognizing that reporting is a vital element in ensuring that it is informed about activities undertaken by Parties pursuant to the Convention,

Recognizing also that regular reporting by Parties provides important contextual information which will facilitate the assessment of compliance under the Convention and thereby contribute to the work of the Compliance Committee,

Believing that public involvement in the process of reporting is likely to improve the quality and accuracy of reports and to strengthen the credibility of the reporting process,

Noting that regular reporting by Parties may also serve as a means to keep the public informed of measures taken by Parties to implement the Convention,

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Taking into account the objective of a simple, concise and not excessively burdensome reporting mechanism,

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Recognizing that using a standard format for reporting will provide a useful structure for organizing the information received and will facilitate the incorporation of relevant parts of the reports into a database, as well as contribute to the comparability of reports,

Emphasizing the importance of timely submission of reports,

Requests each Party to submit to the secretariat, in advance of the second ordinary meeting of the Parties, or in advance of the first ordinary meeting of the Parties following the entry into force of the Convention for that Party, whichever is the later, a report on:

The necessary legislative, regulatory or other measures that it has taken to implement the provisions of the Convention; and

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Their practical implementation,

in accordance with the format set out in the annex to this decision;

Also requests each Party in advance of each subsequent meeting of the Parties to review the report and to prepare and submit an updated version of it to the secretariat;

Furthermore requests the Parties to prepare their reports through a transparent and consultative process involving the public;

Requests that such reports should be submitted to the secretariat electronically and on paper in one of the official languages of the Convention, as well as in the language(s) of the Party, so as to arrive no later than 120 days before the meeting of the Parties for which they are submitted;

Requests the secretariat to prepare a synthesis report for each meeting of the Parties summarizing the progress made and identifying significant trends, challenges and solutions (“synthesis report”);

Invites Signatories and other States not Party to the Convention, pending their ratification or accession, to submit reports on measures taken to apply the Convention, in accordance with the aforementioned procedures;

Invites international, regional and non-governmental organizations engaged in programmes or activities providing support to Parties and/or other States in the implementation of the Convention to provide the secretariat with reports on their programmes or activities and lessons learned;

Requests the secretariat to:

Circulate the synthesis report and the reports referred to in paragraphs 1 and 2 in the official languages of the Convention, as well as reports submitted to it in accordance with paragraphs 6 and 7, to the Meeting of the Parties; and

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Post these reports on the UNECE web site in the languages in which they are available;

Invites Parties and other States preparing their reports to consider adapting these to

provide guidance to members of the public on the exercise of their rights under the Convention and the relevant implementing legislation.

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Um den Bericht und generell die Auswirkungen der Konvention auf die österreichische Gesetzgebung und Umsetzung zu verstehen, ist ein grundlegendes Verständnis einerseits über die Entwicklung der UNECE Konventionen, insbesondere der Espoo-Konvention als auch über Entstehung und Umsetzung der relevanten EU-Richtlinien für den Aarhusbereich nötig.

Generell ist für die EU festzuhalten, dass vielfach erst EU Richtlinien in den 80 und 90ern und Erfahrungen daraus die Basis der UNECE Konvention 1998 ermöglicht haben.

Die Republik Österreich ist ein föderaler Staat mit Bund, 9 Bundesländern und den Gemeinden als den 3 Entscheidungsebenen. Die Umsetzung und Verwaltung selbst erfolgt mit wenigen Ausnahmen dezentral d.h. durch die Länder bzw. in den Bezirken und Gemeinden.

Die österreichische Verfassung regelt dabei generell die Kompetenzen von Gesetzgebung und Ausführung im Detail zwischen Bund und Ländern. Für etliche Bereiche der Konvention sind neben Bundesgesetzen daher Gesetze der Bundesländer notwendig. Daher sind Änderungen im EU-Recht und der Konvention in der Regel fast immer mit Umsetzungsmaßnahmen von Bund und Ländern verbunden und entsprechend aufwändig (stimmt das rechtlich auch für internationales Recht, wenn es ganz klar determiniert wäre?).

Was den EU-Acquis generell betrifft, so stellt die Europäische Kommission wie in allen EU- Mitgliedstaaten die Umsetzung gegebenenfalls auch durch Vertragsverletzungsverfahren gegen einen Mitgliedstaat sicher.

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Eine ebenfalls große Rolle in Österreich ist neben der föderalen Struktur auch der Sozialpartnerschaft vorbehalten:

In Österreich kommt den vier, de facto fünf Sozialpartnern, das sind die großteils auf gesetzlicher Basis beruhenden Organisationen der gewerblichen Wirtschaft (WKÖ) und der Industrie (IV), der Landwirtschaft(LWK), der Arbeitnehmer (BAK) sowie die nationale Gewerkschaftsorganisation (ÖGB) eine wichtige Stellung bei der Vertretung der Interessen der jeweiligen Gesellschaftsgruppen (Stakeholder) im Hinblick auf allgemein verbindliche gesetzliche Regelungen mit signifikanten Auswirkungen auf die Umwelt zu.

Generell ist in Österreich neben hohem Umweltbewusstsein, das immer wieder



international bestätigt wird, auch großes Interesse an den der Konvention zugrunde liegenden Prinzipien festzustellen. Dazu zählen insbesondere neue Formen der öffentlichen Beteiligung, e-government, e-participation, Umweltmediation etc..

Die Aarhus Konvention per se als Begriff und Prozess dagegen ist aus der mehrjährigen Erfahrungen des NFP eher nur spezialisierten Kreisen ein fester Begriff. Wesentlicher für die Umsetzung erscheint jedoch, dass die Bevölkerung Österreichs durchaus selbstbewusst agiert, ihre Rechte, wo nötig, einfordert und vertraut zu sein scheint mit den wesentlichen Bestandteilen der Konvention.

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Ausgehend von der Verwaltung (BMLFUW und Bundeskanzleramt) wurden unter Einbindung von Stakeholdern „Standards der ÖB“ erarbeitet. Im “Handbuch Öffentlichkeitsbeteiligung” des BMLFUW findet man neben Checklisten und Empfehlungen für die praktische Arbeit viele nützliche Anregungen und Methoden. Es gibt sowohl eine deutsche als auch eine englische Sprachfassung. Weiterführende Informationen finden sich insbesondere auf der Webseite [www.partizipation.at](http://www.partizipation.at), die im Laufe der letzten Jahre zur einer Informationsdrehscheibe (one-stop) geworden ist. Die Strategiegruppe Partizipation arbeitet seit 4 Jahren intensiv an dieser Thematik.

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Zu Art. 3(7) hatte Ö in Alamty 2005 bereits auf die Herausforderungen der Leitlinien in seinen internationalen Details hingewiesen. Die Umsetzung der Leitlinien ist daher auch in einem generell gut vernetzten Land mit hohem Umweltprofil eine große ministerien- und sektorenübergreifende Aufgabe. Aus der Erfahrungszeit mit den Leitlinien lässt sich nur sagen, dass für die Umsetzung klare Prioritätensetzungen, entsprechende Ressourcen und entsprechende Netzwerke auszubauen oder in anderen Prozessen zu verankern sind. Auch ist der Aspekt der Kommunikation darüber sowohl national, als auch auf UN/UNECE Ebene effizienter zu verfolgen.

Generell muss Ö davon ausgehen, dass es im UNECE Raum bzw. in vielen der maßgeblichen internationalen Foren noch immer größere Unterschiede zu eigenen nationalen österreichischen Positionen gibt Bsp. GMO, Atomenergie, Verkehrs- und Energiepolitik.

Die Beteiligung der Zivilgesellschaft an sich in allen maßgeblichen internationalen Foren bringt hier wohl mehr sicher mittelfristig mehr Transparenz, kann jedoch grundlegend verankerte gesellschaftliche Unterschiede der Parteien Bsp. in der Frage der Energiegewinnung oder in der des Risikos bei GMOs in Lebensmitteln nur langfristig zu lösen versuchen.

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Hintergrund (Zusammenhang zw Aarhus Konvention und entsprechenden EU Richtlinien):

Die UNECE Aarhus Konvention und ihr Anhang I, der eine Reihe von Vorhaben auflistet, wurde zu einem großen Teil von der 1991 unterzeichneten UNECE Espoo-Konvention über grenzüberschreitende UVP und der entsprechenden EU UVP RL (85/337/EWG) inspiriert. Schon die Espoo Konvention sah eine möglichst frühe Information und Konsultation des betroffenen Staates und dessen Bürger über ein geplantes in Anhang I aufgelistetes Vorhaben und dessen möglicher grenzüberschreitender Auswirkungen vor. Die Ergebnisse dieser Konsultationen sind angemessen bei der endgültigen Entscheidung zu berücksichtigen.

Die Aarhus Konvention hat ihren Fokus auf der Beteiligung von Bürgern bei umweltrelevanten Entscheidungen. Der zweite Pfeiler der Konvention greift wiederum die Thematik der Umweltverträglichkeitsprüfung auf und spezifiziert den Begriff der Öffentlichkeit und die Beteiligungsmöglichkeiten für die projektbezogene UVP und die SUP für Pläne und Programme und, wo angemessen, auch für Politiken. Anhang I der

Aarhus Konvention deckt sich mit den entsprechenden Anhängen I der Espoo Konvention und der UVP RL, ergänzt durch einige Anlagen der IPPC-RL (96/61/EG). Um den erweiterten Bürgerbeteiligungsbestimmungen der Aarhus Konvention gerecht zu werden, wurden auf EU Ebene im Jahr 2003 mit der RL 2003/35/EG die UVP-RL und

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die Aarhus Konvention auch für jene Pläne und Programme (in Anhang I der RL aufgelistet) umgesetzt, die nicht schon von der im Jahr 2001 beschlossenen SUP-RL 2001/42/EG erfasst sind. Die SUP-RL hatte die Aarhus Konvention für die von ihr erfassten Pläne und Programme bereits ausreichend umgesetzt.

AT Umsetzung:

AT hat die EU UVP-RL, die UNECE Espoo-Konvention und die Aarhus-Konvention auf Projektebene im Bundesgesetz über die Prüfung der Umweltverträglichkeit (UVP-G 2000, BGBl. Nr. 697/1993 zuletzt geändert durch BGBl. Nr. 149/2006) umgesetzt.

a) i) ii)

Die UVP-pflichtigen Vorhaben sind in Anhang 1 UVP-G 2000 aufgelistet, in dem sowohl die Vorhaben des Anhangs I als auch des Anhangs II der UVP-RL 85/335 i.d.F. 2003/35/EG (damit auch des Anhangs I der Aarhus Konvention) enthalten sind.

b) c) d) e)

Im AT UVP-Verfahren wird die Öffentlichkeit mehrmals informiert und einbezogen. Der 1. Schritt der Öffentlichkeitsbeteiligung findet in UVP-Verfahren sehr frühzeitig, durch Auflage des Vorhabens für mindestens sechs Wochen gem. § 9 UVP-G 2000 statt, wobei jede/r interessierte BürgerIn oder Organisation eine Stellungnahme abgeben kann. In einem Rundschreiben, das im Internet (<http://www.umweltnet.at/article/articleview/43742/1/7240/>) verfügbar ist, wird hingewiesen, dass der Projektwerber / die Projektwerberin bereits vor Antragstellung entsprechende Öffentlichkeitsarbeit leisten sollte. Weiters gibt es gem. § 16 UVP-G eine mündliche Verhandlung, die entsprechend kundzumachen ist (auch per Internet).

f) i) ii) g)

Die in Art. 6 Abs. 6 der Aarhus Konvention aufgezählten Informationen sind Gegenstand der Umweltverträglichkeitserklärung gem. § 6 UVP-G 2000, die gem. § 9 mindestens 6 Wochen lang öffentlich aufzulegen ist. Jedermann kann innerhalb dieser Frist zum Vorhaben und zur Umweltverträglichkeitserklärung eine Stellungnahme an die zuständige Behörde abgeben.

h) i)

Die eingelangten Stellungnahmen sind gem. § 17 Abs. 4 UVP-G 2000 bei der Entscheidung zu berücksichtigen. Die Entscheidung einschl. der Maßnahmen und der

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Auseinandersetzung mit den eingelangten Stellungnahmen ist unverzüglich gem. § 17 Abs. 7 UVP-G 2000 öffentlich aufzulegen.

j)  
Änderungen von Vorhaben sind gem. § 3a UVP-G einem UVP-Verfahren zu unterziehen.

k)  
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*Answer:*

**Hintergrund:**

Was die Umweltverträglichkeitsprüfung inklusive einer Öffentlichkeitsbeteiligung anbelangt, beinhaltet schon die UNECE Espoo-Konvention im Artikel 2 Abs. 7 eine Bestimmung, die anregt, die Prinzipien der UVP auch auf Politiken, Pläne und Programme anzuwenden.

Erst 10 Jahre später, im Jahr 2001, wurde diese Anregung schließlich mit der SUP-RL 2001/42/EG über die Prüfung der Umweltauswirkungen bestimmter Pläne und Programme (nicht für Politiken) umgesetzt. Die SUP-RL setzte auch gleichzeitig die weitergehenden relevanten Öffentlichkeitsbeteiligungsbestimmungen der Aarhus-Konvention für einen weiten Kreis von Plänen und Programmen um.

Mit der EU RL 2003/35/EG betreffend die Öffentlichkeitsbeteiligung bei der Ausarbeitung bestimmter umweltbezogener Pläne und Programme und zur Änderung der Richtlinien 85/337/EWG und 96/61/EG in Bezug auf die Öffentlichkeitsbeteiligung und den Zugang zu Gerichten wurden die relevanten Bestimmungen der Aarhus Konvention auf eine Reihe weitere Pläne und Programme (nicht für Politiken) umgesetzt, die nicht von der SUP-RL erfasst sind.

**AT Umsetzung:**

Aufgrund der Kompetenzaufteilung in AT sind für die Umsetzung der relevanten EU RL (und damit der relevanten Bestimmungen der Aarhus-Konvention) neben dem Bund auch die Bundesländer zuständig, die die SUP RL und die RL 2003/35/EG in einer Reihe von relevanten Bundes- und Landesgesetzen umgesetzt haben. Einige Bundesländer (zB: Kärnten, Niederösterreich, Salzburg, Steiermark, Tirol, Vorarlberg) haben zusätzlich SUP Leitfäden als Unterstützung für die Behörden und die Öffentlichkeit für eine EU und Aarhus konforme Anwendung der SUP Prinzipien herausgegeben.

Relevante im Hinblick auf Aarhus geänderte Bundesgesetze betreffen vor allem die Bereiche Abfall (hier auf Bundesebene va §§ 8 und 8a des Abfallwirtschaftsgesetzes; AWG BGBl I 102/2002 in der Fassung BGBl I 43/2007), Lärm, Luft (Immissionsschutzgesetz Luft, IG-L, BGBl I 1997/115 idF BGBl I 2006/xx), Verkehr und Wasser (Wasserrechtsgesetz, WRG, BGBl 1959/215 idF BGBl I 2005/87). Auf Landesebene sind Gesetze derselben und weiterer Umweltbereiche umfasst sowie auch die jeweiligen Raumordnungsgesetze.

Was die Definition der Öffentlichkeit in AT anbelangt, so ist dieser Begriff denkbar weit gefasst. Generell ist mit zu konsultierender Öffentlichkeit 'jedermann' in AT erfasst. Manche Gesetze spezifizieren diese Öffentlichkeit zB mit '...natürliche und juristische Personen sowie deren Vereinigungen, Organisationen oder Gruppen, insbesondere auch Organisationen zur Förderung des Umweltschutzes...' (z.B. Vorarlberger Raumplanungsgesetz LGBL Nr. 29/1996 § 10c Abs 2).

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**Explain what opportunities there are for public participation in the preparation of policies relating to the environment.**

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Die Förderung einer qualitätsvollen Zusammenarbeit und Entscheidungsfindung zwischen Staat und Zivilgesellschaft in Angelegenheiten von öffentlichem Interesse spielt in AT eine wichtige Rolle. Die Öffentlichkeit an Entscheidungen zu beteiligen, die sie betreffen, ist wesentlicher Bestandteil eines modernen Politik- und Verwaltungsverständnisses. AT setzt folgende Schwerpunkte: die Stärkung einer offenen/bürgerInnennahen Politikgestaltung zur Steigerung der Demokratiequalität, die Aktivierung der gesellschaftlichen Verantwortung von Stakeholdern sowie die Unterstützung von lokalen/regionalen Zukunftsprozessen.

#### **Zentrale Aktivitäten:**

**Förderung von Öffentlichkeitsbeteiligung:** Derzeit werden „Standards der Öffentlichkeitsbeteiligung“, die in Zukunft bei der Entwicklung von Plänen und Programmen, **Politiken** und Rechtsakten von der Verwaltung routinemäßig angewandt werden sollen, erarbeitet. Ziel ist eine Selbstverpflichtung der Verwaltung zur Anwendung der Standards in Form eines Regierungsbeschlusses bis Ende 2007. Als wichtigste Publikation ist das „Handbuch Öffentlichkeitsbeteiligung“ mit guten Beispielen aus der Praxis und Empfehlungen für AkteureInnen zu nennen ([www.partizipation.at](http://www.partizipation.at)). In den letzten Jahren wurden ausgehend von der Verwaltung zahlreiche Stakeholder-Dialoge durchgeführt (z.B. Klimastrategie, Walddialog usw.). Zukünftig sollen auch Instrumenten zur e-participation/e-democracy mehr Augenmerk geschenkt werden.

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*Answer:*

Keine Angaben

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*: (???specific activities in Art 7?? Was soll das sein?)*

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[Auswahl von SUP-Leitfäden einiger Bundesländer](#)

<http://www.landesplanung.ktn.gv.at>

<http://www.raumordnung-noe.at/dynamisch/showinfostand.php?id=87>

<http://www.raumvision.at>

[www.sbg.gv.at/publi\\_haro.htm](http://www.sbg.gv.at/publi_haro.htm)

[http://www.salzburg.gv.at/themen/bw/raumplanung/rp1\\_publicationen.htm](http://www.salzburg.gv.at/themen/bw/raumplanung/rp1_publicationen.htm)

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<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](http://www.vorarlberg.at/pdf/kurzinfo-120_umsetzungder.pdf)

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Anm.:

Beitrag WKÖ Juli 2007:

In Österreich kommt den Sozialpartnern, das sind die teilweise auf gesetzlicher Basis beruhenden Organisationen der gewerblichen Wirtschaft und der Industrie, der Landwirtschaft, der Arbeitnehmer sowie die nationale Gewerkschaftsorganisation, eine wichtige Stellung bei der Vertretung der Interessen der jeweiligen Gesellschaftsgruppen (Stakeholder) im Hinblick auf allgemein verbindliche gesetzliche Regelungen mit signifikanten Auswirkungen auf die Umwelt zu.

In den Gesetzen zur Errichtung der Wirtschaftskammer Österreich (§ 10), der Arbeiterkammern (§ 93 Abs. 2) sowie auch der Landwirtschaftskammern (siehe etwa § 8 Kärntner Landwirtschaftskammergesetz 1991) ist vorgesehen, dass Entwürfe von Gesetzen (sowie auch Durchführungsregelungen) vor Einbringung in die gesetzgebende Körperschaft (legislative body) von den öffentlichen Stellen den Kammern zur Begutachtung (consultation) vorzulegen sind. Es ist jedenfalls auch geübte Praxis, hier die Gewerkschaft und die Vereinigung der österreichischen Industrie sowie die Energiewirtschaft einzubinden.

Diese Interessenvertretungen führen dann unter Umständen entsprechende interne Konsultationsverfahren zur Meinungsbildung durch und geben Stellungnahmen (Gutachten) an die öffentlichen Stellen ab. Letztere haben die Stellungnahmen zu würdigen und entsprechend zu berücksichtigen.

Darüber hinaus existieren oft schon vor offiziellen Begutachtungsverfahren entsprechende Arbeitskreise

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der zuständigen öffentlichen Stellen mit den Sozialpartnern, etwa zur fachlichen Diskussion von Vorentwürfen von Rechtsakten.

[Die Definitionen von Artikel 2 sind insoweit umgesetzt, als etwa die Begriffe “the public” und “the public concerned” für die von der jeweiligen Körperschaft vertretenen Interessen im Hinblick auf die Umweltpolitik in den Bestimmungen über die Begutachtungsrechte mit umfasst sind. Die “Public authorities” sind teilweise in den Begutachtungsregelungen genannt (siehe etwa § 93 Arbeiterkammergesetz).

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Innerhalb der einzelnen mit Begutachtungsrechten ausgestatteten Stakeholdergruppen wird dabei auch nicht diskriminiert (bei der Wirtschaftskammer hängt das natürlich von der Mitgliedschaft ab, die

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ab gewissen Umständen (Gesellschaftssitz im Ausland, Verwaltungssitz in Österreich) nicht mehr gegeben sein kann – im Rahmen von internen Konsultation wird hier aber in der Regel nicht unterschieden. Konkrete gesetzliche Regelungen, die hier ein Antidiskriminierungsregelungen im Hinblick auf die Einbindung in die Umweltrechtssetzung vorsehen, sind mir aber so nicht bekannt.]

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Öffentliche Internetseiten in Österreich mit der Möglichkeit, zu Umweltrechtsakten im Entwurfsstadium Stellungnahmen abzugeben:

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

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