

**Statement of OEKOBUERO – Alliance of the Austrian Environmental Movement on the behalf of the European ECO Forum regarding item 7(b): Draft decision VII/8f concerning compliance by the European Union**

*7<sup>th</sup> Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*

I represent the communicants, OEKOBUERO and GLOBAL 2000 in case ACCC/C/2015/128 (EU) (C128). We thank the Committee and the secretariat for their work on this case, as well as the helpful interventions of observers.

We also truly appreciate and welcome the expressions of concern and the comments voiced by the Chair, as well as those raised by Switzerland and Norway.

The EU is a Party to the Convention. Full stop. Under Article 27 of the Vienna Convention on the Law of Treaties (VCLT), a Party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

At any event, as my colleagues have pointed out, the Committee has already considered the structure and nature of the European Union and the role of national courts within that system. This examination already evaluated comprehensively the different competencies between the EU and its member States, notably in ACCC/C/2008/32 (C32) and ACCC/C/2014/123, for example.

Thus it will come as no surprise that we oppose the amendments to draft decision VII/8f unequivocally and condemn in the strongest terms what is essentially a repeat of the appalling behavior of the EU at Budva with respect to the Committee's earlier findings on C32.

Specifically, we oppose the proposed amendment in paragraph 11 that draft decision VII/8f merely "acknowledges the concerns and raised in the findings" with respect to C128, as well as the removal of all reference to the Committee's recommendations.

Moreover, we oppose the proposed amendment to paragraph 12 of decision VII/8f, according to which the Parties to the Convention are to "take note" of the EU's stated intention to analyze the implications of the findings and assess the options available towards implementation.

Such a statement does not belong in a MOP decision and we strongly oppose this amendment as well.

Nonetheless we acknowledge the proposed steps and think indeed that would be an excellent opportunity for engagement with the communicants and observers in the course of a MOP decision implementation review or, should it come to that, a MOP request. There is time in the intersessional period for the EU to come into compliance, and we would welcome engagement with the EU in order to realize this.

That being said, we find the failure to endorse the findings on C128 and the postponement on the decision thereon unacceptable and, ultimately, totally unnecessary. It moreover sets a terrible precedent for the special treatment by a single party. A precedent we cannot and will not accept, and doubt very much other Parties will either.