

Access to Justice in environmental matters under Austrian Law

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Access to Justice for associations in Austria is limited to competition and consumer law. In the area of environmental law access to justice has so far not been granted to associations. The only instrument in Austrian environmental law which comes close to the access to justice for associations is the attribution of the status of a concerned party to citizen groups consisting of at least 200 persons in the course of Environmental Impact Assessments (EIA). These persons are required to have the right to vote in the concerned municipality or a neighbouring municipality. As party in this procedure the citizen groups are entitled to ask for the compliance with environmental protection regulations as if these regulations granted subjective rights to these persons. Also the citizen groups are entitled to lodge an appeal against formal decisions in the EIA procedure. These rights have been part of the first Austrian EIA Act 1993 (BGBl 1993/697).

The amendment of this regulation in the year 2000 (BGBl I 2000/89) did not bring an improvement to the rights of citizen groups but rather the contrary: a limitation of the scope of procedures, where citizen groups are involved. Now many installations need to be permitted in the course of a facilitated procedure, where citizen groups are not admitted as parties.

The only other possible substitute for the access of the public to justice in Austrian law is the “environment attorney” (Umweltanwalt), who disposes of party rights in permitting procedures inter alia in nature protection procedures and is supposed to represent the public in such cases.