

An das
Bundesministerium für Europäische und inter-
nationale Angelegenheiten

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OHCHR; Informationsersuchen VN-Sonderberichter- statter zu Menschenrechten und Umwelt;

Das Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und
Technologie nimmt zu o.a. Betreff wie folgt Stellung:

**2. What are the most heavily polluted places in your State? Are any areas in your State
designated as “sacrifice zones” because of extreme pollution? Are there any examples
of heavily polluted places that have been comprehensively cleaned up and rehabilitated?
If not, what are the barriers to cleanup and rehabilitation.**

Remediation of Contaminated Sites

Austrian environmental policy dealt with the problem of contaminated sites very early and
provided important impetus for tackling them. The Act on the Remediation of Contaminated
Sites (enacted in 1989), forms the basis for identification of contaminated sites and
establishes the framework conditions for protection and remediation orders and finally
creates the financing basis for the funding of corresponding measures. This remediation
model is unique. There isn't any comparable financing model across the EU that allocates
earmarked levies from waste management to remediation of contaminated sites. This ensures
reliable protection of the population and the environment in Austria, as well as the alleviation
of old environmental sins.

Since 1989, 332 contaminated sites have been detected and most of them have been cleaned
up already. More details are available at www.altlasten.gv.at.

3. What are the specific obligations of States and responsibilities of businesses in terms of

preventing exposures to unhealthy levels of pollution and toxic substances, rehabilitating toxic sites, and providing compensation to adversely impacted individuals?

A number of sector-specific laws (Federal Waste Management Act, Industrial Code, Chemicals Act, Water Act, Mineral Resources Act etc.) contain provisions to prevent environmental pollution.

Chemical's Management

The responsibilities of businesses are laid down in the Austrian Chemicals Act 1996 (Federal Act on protection of human beings and the environment from dangerous chemical substances): The aim of this Act is the protection of human life and health as well as of the environment in a precautionary manner. Pollution prevention means the protection from harmful effects resulting from the manufacture, processing, handling and placing on the market of chemicals (substances, mixtures, products) through the whole life-cycle. To such purpose, producers as well as importers and exporters must ensure compliance with the Act. The text consists of 78 articles divided into 7 Parts, i.e.: General Provisions; provisions on certain consumer products; poisons; registration of new substances, labelling and packing; compliance, search and seizure; sanctions; enforcement.

Federal Waste Management Act

According to the objectives of the Federal Waste Management Act, waste management is based on the precautionary principle and sustainability so that adverse or detrimental effects on humans, flora and fauna, their livelihoods and their natural environment are prevented, or any detrimental effects on the general well-being of humans are otherwise kept to a minimum. Furthermore, emissions from air pollutants and climate-relevant gases are kept as low as possible, resources (raw materials, water, energy, countryside, land, landfill volumes) are conserved, and in the case of material recovery, the waste or the substances recovered therefrom do not have a higher risk potential than comparable primary raw materials or products from the same. And landfilling of waste must not adversely affect future generations. The responsibilities of businesses are also laid down in the Federal Waste Management Act.

4. Please provide specific examples of constitutional provisions, legislation, institutions, regulations, standards, jurisprudence, policies and programmes that apply a rights-based approach to ensuring toxic-free environments.

The Austrian constitutional law on sustainability declares: 1 The Republic of Austria (federal government, federal provinces and municipalities) is committed to comprehensive environmental protection. A number of sector-specific laws (Federal Waste Management Act, Industrial Code, Chemicals Act, Water Act, Mineral Resources Act...) contain provisions for the

¹ § 3 (1) Die Republik Österreich (Bund, Länder und Gemeinden) bekennt sich zum umfassenden Umweltschutz. (2) Umfassender Umweltschutz ist die Bewahrung der natürlichen Umwelt als Lebensgrundlage des Menschen vor schädlichen Einwirkungen. Der umfassende Umweltschutz besteht insbesondere in Maßnahmen zur Reinhaltung der Luft, des Wassers und des Bodens sowie zur Vermeidung von Störungen durch Lärm.

permitting of installations. Protected interests are inter alia the health of employees or neighbours of an installation or the protection of waters.

The Industrial Emissions Directive 2010/75/EU (IED) has been transposed into Austrian law by the before mentioned laws, thus for the respective installations the obligation to reduce emissions into the environment according to the best available techniques is foreseen. This principle applies also to smaller installations (also covered by the Industrial Code).

Environmental NGOs have a legal standing in the permitting process for installations that fall within the scope of the IED and the Environmental Impact Assessment Directive 2011/92/EU (EIA-Directive). The EIA-Directive has been transposed by the EIA-Act in Austria. EIA provides for an integrative assessment of the environmental effects of potentially polluting projects and transparent approval procedures through comprehensive public participation.

Austria is a Party to the Basel-Rotterdam-Stockholm Conventions (<http://www.brsmeas.org/>) as well as the Montreal Protocol on Ozone-Depleting Substances and the Minamata Convention on Mercury and complies with the implementing European Union law.

6. Please provide specific examples of good practices in preventing, mitigating, or rehabilitating toxic environments. These examples may occur at the international, regional, national, sub-national, or local level. Examples may involve monitoring concentrations of toxic substances in air, water, soil, food and people; guaranteeing procedural rights (e.g. public access to information, public participation in decisionmaking, access to remedies); legislation, regulations, standards, jurisprudence and policies that address toxic substances; and initiatives to achieve toxic-free environments (e.g. banning the use of specific substances, reducing air and water pollution, remediation projects). Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices.

Monitoring:

The Federal Ministry of Climate Action, Environment, Energy, Mobility, Innovation and Technology, in close co-operation with the Environment Agency Ltd. (Umweltbundesamt GmbH) and the Agency for Food Security (AGES) have several monitoring programmes on air, water and soil pollution in place.

The Electronic Data Management (EDM) is a network of internet applications and databases established to support complex procedures in connection with documentation, registration and reporting obligations in the environment sector. The EDM assesses, among others, the waste types, their quantities and their whereabouts.

Through the Contaminated Sites Portal, each person can retrieve information about suspected areas or contaminated sites in Austria (<https://www.umweltbundesamt.at/altlasten/altlastenatlas>).

In 2007, the Platform for Human Biomonitoring was implemented in Austria under the auspices of the Ministry of the Environment. Human Biomonitoring is used to determine the individual exposure to pollutants in blood, urine or saliva and hair.

Regarding Air Quality/Clean Air:

The legal framework of air quality follows two different schemes: On one hand, a regime of federal laws implements a sectoral approach, targeting air pollution irrespective of specific polluters (Federal Law on Ambient Air Quality, the Federal Ozone Law, the Federal Clean Air Act and the Air Emission Act). On the other hand, there are several (federal and state) laws,

targeting air quality issues via their emission source, e.g. the (federal) Forestry Act, the (federal) Industrial Code, the (federal) Waste Management Act, regulations on vehicle and traffic control and regulations on boiler plants.

In particular, the Federal Law on Ambient Air Quality implements the respective EU Air Quality directives and outlines a mechanism that ensures that air quality is monitored coherently and that air quality plans and implemented measures are suitable in accordance with the specific problems and needs of the zone affected by limit value exceedances. Measures have been introduced for plants, traffic, products and substances on regional levels. Examples are speed limit restrictions, driving bans for heavy duty traffic depending on its Euro Class, regulation for new heating facilities (eg extended checks, limit values), bans on polluting substances, regulation on the use of particulate filters etc.

Furthermore, there are several initiatives to improve public transport on national and region level. Soft measures like the "klimatektiv mobil" programme promote alternative vehicles, multimodal mobility and slow modes. There are also several initiatives regarding heating facilities in place (eg increasing of the share of district heating, replacement of old facilities). Moreover sustainable building site management is pursued by reducing site traffic, use of trains and waste separation.

The Federal Clean Air Act lays down a general ban on burning materials outside of combustors as well as the obligation for everybody to prevent air pollution. The strict regime of the ban is softened by exceptions that are either directly applicable or need to be enacted by the Governor of the respective province allowing the burning under restricted conditions for specific needs (eg pest control, bonfires lit in tradition, protection against frost etc).

On a federal level, key environmental provisions with regard to access to justice are the Environmental Impact Assessment Act, the Industrial Code, the Air Pollution Control Act, the Air Emission Act, the Waste Management Act, Water Act, the Environmental Liability Act and the Environmental Information Act. The Aarhus Participation Act introduced provisions on access to justice in the areas of waste, water and air protection.

In certain legal areas, such as environmental impact assessment, waste management, IPPC and Seveso sites, water management, clean air or nature protection, the relevant acts regulating administrative procedure also grant recognized environmental NGOs standing to challenge environmental administrative decisions.

Evidence:

- Annual reports on air quality: <https://www.umweltbundesamt.at/luft-jahresberichte>
- Air quality measures in the province of Styria (exemplary for the nine Austrian federal provinces that are each responsible for introducing air quality measures if limit values are exceeded):

<https://www.umwelt.steiermark.at/cms/ziel/2054533/DE/>

- Air quality measures regarding traffic (driving bans and speed limits) in the province of Tyrol (exemplary):

<https://www.tirol.gv.at/umwelt/luftqualitaet/nachtfahrverbot/>

<https://www.tirol.gv.at/umwelt/umweltrecht/luftreinhaltereht/100-kmh-luft/>

Annual reports on waste management:
https://www.bmk.gv.at/themen/klimatektiv/abfall/aws/bundes_awp/bawp.html

7. Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to toxic environments (e.g. women, children, persons living in poverty, members of Indigenous peoples and traditional communities, older persons, persons with disabilities, ethnic, racial, religious or other minorities, migrants and displaced persons). How can these populations be empowered to protect their rights?

Vulnerable groups (like women and children, persons with special needs...) are indirectly protected by an impact assessment (Wirkungsfolgenabschätzung) that has to be carried out for every law or ordinance before it is sent out for comments by stakeholders.

With regard to Human Biomonitoring: There is a focus on vulnerable groups.

Für die Bundesministerin:

Mag. Evelyn Schögl