The Permanent Mission of Austria to the United Nations (Vienna) presents its compliments to the United Nations Office on drugs and crime and has, with reference to Verbal Note CU2012/28(A)/DTA/CEB from February 27, 2012 - the honour to submit pertinent information concerning the recommendations of the Open-ended Intergovernmental Working Group on Prevention, established by the Conference of States Parties to the United Nations Convention against Corruption in its resolution 3/2 entitled “Preventive Measures”.

I. Information requested from States parties in relation to conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7 – 9 of the Convention

1. Has your country adopted and implemented articles 7 – 9 of the UNCAC?

**Article 7:** Austria implemented most of the measures relating to article 7 of the UNCAC by adopting corresponding provisions at federal, regional and municipal level. As to article 7, paragraphs 3 and 4, amendments to the existing legislation are currently being drafted in line with the recommendations of GRECO on party funding and transparency (third evaluation round).

**Article 8:** Austria has implemented article 8 of the UNCAC through a code of conduct being developed by the Austrian Federal Chancellery, which addresses all civil servants and additionally through codes of conduct for individual Ministries (e.g. Federal Ministry of Finance, Federal Ministry of the Interior), territorial authorities at regional and municipal level (e.g. City of Vienna), as well as government-related entities. As to article 8, paragraph 5, amendments to the existing legislation are currently being drafted in line with the recommendations of GRECO on transparency (third evaluation round).
**Article 9:** Austria has taken the necessary measures to implement article 9 of the UNCAC in accordance with fundamental principles of its national legal system.

2. **Please cite, summarize and, if possible, provide copies of the applicable policy(ies) or measure(s).**

**Article 7, paragraph 1 (a)**

For recruitment, hiring, retention, promotion and retirement of civil servants several legal provisions at federal level (Civil Servants Act/ Beamten-Dienstrechtsgezetz - BDG Federal Law Gazette No. 333/1979 as amended by BGBI. No. 140/2011), Act on Contractual Public Employees (Vertragsbedienstetengesetz - VBG Federal Law Gazette No. 86/1948 as amended by BGBI. No. 140/2011) and Service Law for Judges and Prosecutors (Richter- und Staatsanwaltschaftsdienstgesetz - RStDG Federal Law Gazette No. 305/1961 as amended by BGBI. I No. 140/2011) as well as comparable regulations at regional and municipal level are being applied.

**Article 7, paragraph 1 (b)**

There are obligatory training procedures for civil servants in order to improve the awareness of corruption risks.

**Article 7, paragraph 1 (c)**

There are legal provisions at federal, regional and municipal level for the adequate remuneration of civil servants. (see Gehaltsgesetz/ Remuneration Act, Federal Law Gazette No. 54/1954 as amended by BGBI. I No. 140/2011, and Vertragsbedienstetengesetz/ Act on Contractual Public Employees, BGBI. 86/1948 as amended by BGBI. I No. 140/2011)

**Article 7, paragraph 1 (d)**

There are obligatory and voluntary (further) training measures for civil servants in order to raise awareness of possible corruption risks and promote ethical behaviour in the public service.
Article 7, paragraph 2

Referring to this paragraph several legislative and administrative measures for civil servants at federal and regional level are existing.

Article 7, paragraphs 3-4

National legal provisions relating to these paragraphs can be found in the Political Parties Act (Parteiengesetz – PartG see Federal Law Gazette No. 404/1975 as amended by BGBl. I No. 111/ 2010), the Act on Public Funding for Political Education and Media Information (Publizistikförderungsgesetz – PubFG see Federal Law Gazette No. 404/1975 as amended by BGBl. I No. 111/ 2010 ), the Parliamentary Groups Funding Act (Klubfinanzierungsgesetz – KlubFG, see Federal Law Gazette No. 158/1985 as amended by BGBl. I No. 139/ 2008 ) and in several regulations at regional level.

An amendment to the legislation on the funding of political parties and election campaigns, which is to increase transparency of party funding at federal and regional level, is currently being drafted.

Article 8, paragraphs 1-3

For the correct performance of public duties codes of conduct or norms of behaviour have been worked out and implemented at federal, regional and municipal level.

Article 8, paragraph 4

A specific system of legal protection for whistleblowers was set up for civil servants of the federal administration who- in good faith- report well-founded suspicions of corruption offences (see § 53a BDG, BGBl. [Federal Law Gazette] No. 333/1979 as amended by BGBl. I No. 140/2011, § 5, paragraph 1, VBG, BGBl. 86/1948 as amended by BGBl. I No. 140/2011).
Article 8, paragraphs 5-6
There are service regulations for civil servants at federal and regional level corresponding to these paragraphs. Elected public officials (members of domestic constitutional assemblies as being defined in § 74, paragraph 1 (4a) of the Austrian Penal Code [Strafgesetzbuch - StGB]) do have the legal obligation to disclose all activities and employments for which they receive more than 1,142.40 € per year. (Ref: Bezügebegrenzungsgesetz/ Act on the Limitation of Emoluments, Federal Law Gazette No. I 64/1997 as amended by BGBl. No. I 119/2001). An amendment to the provisions on the funding of political activities of elected representatives at federal and regional level is currently being under discussion.

Article 9, paragraph 1
There are several legal provisions at federal and regional level corresponding to this paragraph (see Bundesvergabegesetz / Federal Procurement Act- Federal Law Gazette No. 17/2006).

Article 9, paragraphs 2-3
There are several legal provisions at federal, regional and municipal level corresponding to this paragraph.

3. Please provide examples of the successful implementation of domestic measures adopted to comply with articles 7 – 9 of the Convention.

a.) Codes of conduct for public officials (Article 8 of the UNCAC)
The code of conduct to prevent corruption within the public service was published in 2008. Linked to current legislation, the code explains possible conflicts of interest and situations in which corruption is likely to occur. However, it does not create new rules for public service employees. The aim of the code being mentioned is to provide guidelines for civil servants on how to deal with conflicts of interest as well as to raise awareness among organizational decision-makers and senior officials of their special responsibility in the field of corruption prevention.
The code had been developed in order to make all civil servants aware of corruption issues and inform citizens on standards that can be expected from public service employees. In addition to the code of conduct, special further training measures are offered for senior officials and civil servants working in areas with a particular high risk of corruption (see Code of Conduct to prevent corruption in the Public Service – available at http://www.bka.gv.at/DocView.axd?CobId=40153).

Furthermore some authorities have launched initiatives to elaborate specially adapted codes of conduct. For example the code of conduct of the Federal Ministry of the Interior, which was published in 2010, deals with possible conflicts of interest employees of the Ministry may be confronted with. It contains practical examples providing guidance to handle specific critical situations. Under the direction of the Austrian Federal Bureau of Anti-Corruption, a comprehensive programme for the sustainable implementation of the Code was developed and has been in use since mid of 2011.

These measures additionally include an e-learning programme (demonstration of the Code) as well as special courses and workshops for senior officials and employees of the Ministry of the Interior (see Code of Conduct of the Federal Ministry of the Interior, available at http://www.bmi.gv.at/cms/BMI_Service/BMI_CodeofConduct_screen.pdf.)

At the end of 2011, the Austrian Association of Cities and Towns developed its own anticorruption e-learning programme, which is already available and being used by civil servants of a number of cities and municipalities (more information on the e-learning programme of the Association of Cities and Towns is available at http://www.staedtebund.gv.at/index.php?id=8504).
b.) Whistleblower hotlines, Reporting Centre for Corruption and Abuse of Authority

All federal employees can report suspicious circumstances concerning criminal offences falling within the remit of the Federal Bureau of Anti-Corruption (BAK) (see § 4, paragraph 1, BAK-G -Law on the BAK- Federal Law Gazette No. 72/2009) directly to the Bureau without going through the official channels. The employees are informed about this possibility – inter alia – on the website of the BAK (see already mentioned Reporting Centre for Corruption and Abuse of Authority, URL http://www.bak.gv.at/cms/BAK_en/spoc/start.aspx).

Reports can be made by post, telephone, fax, email or in person. The introduction of an anonymous whistleblower system increasing the number of reports on corruption and at the same time protecting the whistleblower is currently being discussed.

c.) Disclosure of assets

There are service regulations for civil servants concerning the obligation to report secondary employments. Elected public officials (members of domestic constitutional assemblies as defined in § 74, paragraph 1 (4a) of the Austrian Penal Code [Strafgesetzbuch - StGB]) have the legal obligation to disclose all activities and employments for which they receive more than 1,142.40 € per year.

(Ref: Bezügebegrenzungsgesetz/ Act on the Limitation of Emoluments- Federal Law Gazette No. I 64/1997 as amended by BGBl. No. I 119/2001). An amendment to the provisions on the funding of political activities of elected representatives at federal and regional level is currently being discussed.
4. Have you ever assessed the effectiveness of the measures adopted to implement articles 7 – 9?

Evaluations of the (further) training programmes are constantly being carried out in order to assess the effectiveness of applied training measures. The Austrian Federal Bureau of Anti-Corruption is the nationwide reporting centre for corruption and abuse of authority collecting all incoming reports in this field. Once a year the relevant statistical data are being published in the BAK’s annual report. (available: http://www.bak.gv.at/cms/BAK_en/service/publications/files/BAK_Annual_Report_2010.pdf).

5. Which challenges and issues are you facing in (fully) implementing articles 7 – 9 of the Convention?

Austria has implemented most of the measures defined in articles 7 – 9 of the UNCAC. A need for improvement in certain fields, such as the creation of adequate provisions on the funding of political activities of elected public officials and on the funding of political parties, has been recognized. Possible improvements are currently being discussed.

6. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

No assistance required.

II – Information requested from States parties in relation to implementation of article 12 of the Convention (Private sector), including the use of public-private partnerships

Regarding measures for the private sector, it has to be stated that BAK has only limited jurisdiction in this field. Nevertheless, the said Bureau maintains contact with representatives of the private sector and NGOs on the basis of bilateral contacts or on the occasion of anticorruption events such as the Austrian Anti-Corruption Day organized by the BAK on a regular basis.
The Permanent Mission of Austria to the United Nations (Vienna) avails itself of this opportunity to renew to the Secretariat of the United Nations Office on drugs and crime the assurances of its highest consideration.

Vienna, May 5, 2012

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