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**Review of implementation of the United Nations
Convention against Corruption**

Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Austria

1. Introduction: Overview of the legal and institutional framework of Austria in the context of implementation of the United Nations Convention against Corruption

The United Nations Convention against Corruption was signed on 10 December 2003 and ratified on 11 January 2006. Austria deposited its instrument of ratification with the Secretary-General of the United Nations on 12 January 2006. The Convention became an integral part of Austria's domestic law following its ratification and entry into force on 10 February 2006. To the extent that this is possible, its provisions are directly applicable for the Austrian authorities. In particular, chapter III of the Convention is not self-executing and requires the enactment of domestic legislation to be enforced. Chapter IV is partly self-executing: if there is no other legal basis for cooperation with another country, the Convention provisions on international cooperation will be applied directly.

Austria's legal framework against corruption includes provisions from the Constitution, the Penal Code (PC) and the Criminal Procedure Code (CPC). It also includes specific legislation such as the Federal Law on the Establishment and Organization of the Federal Bureau of Anti-Corruption; the Federal Statute on Responsibility of Entities for Criminal Offences and the Federal Law on Extradition and Mutual Assistance in Criminal Matters.

Austria has put in place a comprehensive institutional framework to address corruption. Authorities involved in the fight against corruption include the Federal Ministry of Justice, the Federal Ministry of Interior and its Federal Bureau of Anti-Corruption (BAK), the Central Office for Prosecuting Economic Crimes and Corruption (WKStA) and the Criminal Police Office (BK).

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active bribery of domestic public officials is criminalized through sections 307 (active bribery involving a breach of duties), 307a (granting of advantages), 307b (granting of advantages for the purpose of exercising influence) and 302 (abuse of official authority) of the Penal Code (PC). Section 307 requires a breach of duties, but applies to any advantage. Section 307a applies to acts in accordance with duties, but criminalizes only undue advantages. Section 307b applies to any influence, without the use of an intermediary.

The constituent elements of "promising", "offering" or "giving" an advantage to a public official are all included in the description of the conduct covered in those sections. Passive bribery of domestic public officials is incriminated under sections 304 (passive bribery involving a breach of duties), 305 (acceptance of advantages), 306 (acceptance of advantages for the purpose of exercising influence) and 302 PC.

The concept of “public official” is defined in section 74(1)(4a) PC. The definition comprises elected and appointed officials. Since 2013, Members of Parliament are fully covered by section 74(1)(4a)(b) PC. The offences of sections 307 to 307b do not differentiate between domestic or foreign public officials, whereas section 302 only applies to national public officials.

The concept of “advantage” is understood as any type of benefit, pecuniary or non-pecuniary. The provisions on active and passive bribery explicitly cover all cases where the advantage is offered not only for the benefit of the public official himself/herself, but also for the benefit of a third person (third-party beneficiary).

None of the provisions refer to the direct or indirect commission of the offence. Instead, the general principles of criminal law are applicable, particularly section 12 PC (treatment of participants as offenders).

Bribery in the private sector is criminalized through section 309 PC, in conjunction with section 153 PC (breach of trust). Section 309 PC refers to bribery acts committed in the course of business activities involving a servant or agent of a company. The term “in the course of business” is interpreted broadly and includes even unpaid charitable work or work for NGOs. The latter was identified as a good practice by the review team.

Trading in influence is criminalized through section 308 PC (illicit intervention). Both the active and the passive side are covered explicitly, the offence is already completed with the trading of the influence, no matter if the influence is exerted afterwards and also irrespective of whether the (potential) influence is real or only pretended.

Money-laundering, concealment (arts. 23 and 24)

Money-laundering is criminalized through section 165 PC, which provides for the basic definition of the offence. The elements of money-laundering set forth in article 23 of the Convention against Corruption are all covered except for mere conspiracy, which is not criminalized. The purpose of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action is covered by section 299 PC.

All crimes which are intentional acts and liable to imprisonment of more than 3 years are considered as predicate offences for the purpose of money-laundering. Also covered are all misdemeanours against property punishable with more than one year imprisonment. All bribery offences are enumerated as predicate offences. Mere embezzlement involving a damage of not more than 3,000 euros (section 153(1) PC) is not treated as predicate offence.

Section 165 PC does not differentiate as to whether a predicate offence has been committed within or outside the Austrian territory. The practice of self-laundering is criminalized in Austria.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Embezzlement, misappropriation or other diversion of property both in the public and private sectors are incriminated through sections 133 (misappropriation) and 153 (breach of trust) PC. Section 153 PC applies to officials and non-officials.

The abuse of functions is incriminated through sections 302, 304 and 306 PC. Purely economic damage is sufficient and a violation of laws will almost always harm the State.

Austria has not criminalized the conduct of illicit enrichment as it would lead to constitutional problems and would be contrary to principles enshrined in the European Convention on Human Rights (ECHR), which enjoys constitutional status in Austria. However, a limited asset declaration scheme is in place, which does not seem to be very comprehensive and does not foresee effective sanctions in case of incorrect declarations.

Obstruction of justice (art. 25)

Article 25(a) of the Convention is implemented through sections 288 PC (criminalization of false testimony) and 105 PC (coercion) and section 12 (complicity). However, the combination of section 288 and section 12, which incriminates those who cause the witness to give false testimony as participants in that offence, does not seem to fulfil the Convention requirement to prohibit the act of contacting or harassing a witness. Moreover, certain situations which are covered by the Convention may not be criminalized by either section 105 or section 288 PC, e.g. where money is given to a potential witness/observer of the bribe as a reward for not reporting it or for refraining from testifying.

Article 25(b) of the Convention has been implemented through sections 269 (obstruction against state authority) and 270 (assault against a public official) PC.

Liability of legal persons (art. 26)

Austria has introduced in its legal system the criminal responsibility of legal persons through the Federal Act on the Responsibility of Entities for Criminal Offences (VbVG). The responsibility of an entity for an offence does not exclude the criminal liability of decision makers or staff on grounds of the same offence (art. 3(4)).

So far, no convictions in connection with bribery exist. This could indicate a structural problem of the law. In passive bribery cases, a possible interpretation of the bribery statute might transform the legal person itself into a purported victim to the offence, thereby shielding legal persons from criminal liability.

Moreover, the maximum fine for an act of corruption raises questions about the effectiveness of the sanction. In addition to that, there is no public criminal record for companies. A certificate containing information on whether a company has already been convicted or whether proceedings concerning a company are pending is only issued at the request and initiative of the company. Dissolution of a company is not possible under the VbVG.

Participation and attempt (art. 27)

Participation in the commission of criminal offences, including corruption-related offences, is covered by section 12 PC. This provision does not differentiate between instigators, aiders and abettors. Section 15 PC deals with the punishability of attempt. The mere preparation for a corruption offence is not criminalized.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

In general, the sanctions applicable to persons who have committed corruption-related offences appear to be sufficiently dissuasive. There are no sentencing guidelines for judges in Austria. The trial judge is free in his or her determination of the sentence.

In relation to the extent and scope of immunities from prosecution, the members of the national Parliament (*Nationalrat* — first chamber of Parliament, MPs) and of the Parliaments of the Länder, as well as the Federal President are the only public officials benefiting from such protection. MPs may be prosecuted for criminal acts only if it is evidently in no way connected to their political activity. The public prosecutor has to seek a decision of Parliament whether such a connection exists if the MP concerned so requests (Article 57(3) Federal Constitution).

However, while the personal scope of immunity is fairly limited, no investigative steps can be undertaken until it is lifted. Finally, the lifting of the MP's immunity is required not only if the MP is the subject of the investigation, but also if the investigation only touches upon the MP's sphere, i.e. if the investigation concerns another person but would imply an investigation of the MP.

Austria's criminal justice system is based on the system of mandatory prosecution by virtue of article 18(1) and (2) of the Federal Constitution. Plea bargaining does not exist in Austria because it runs counter to a fundamental principle of Austrian criminal procedure.

On 1 January 2011, a new leniency programme was introduced to enable the public prosecutor, on the basis of successful cooperation with a principal witness, to withdraw from prosecution of criminal acts committed by such witness (section 209a CPC). In addition, a crown witness may receive a mitigating punishment if he/she contributed with his/her statement considerably to the establishment of the truth (section 34(1)(17) PC).

The protection of persons who cooperate in an investigation or prosecution is subject to the same rules as witness protection.

At the federal level, in the event of breach of duties, disciplinary measures can be enforced depending on the seriousness of the act. There is no formal procedure of disqualification for a certain period of time. For a conviction related to corruption offences, a public official may be dismissed, either as a direct result of the conviction (depending on the concrete sentence) or as a result of consecutive disciplinary proceedings. A prior conviction may exclude a person from holding elected public office.

Protection of witnesses and reporting persons (arts. 32 and 33)

On the basis of section 22 Code of Police Practice and section 162 CPC, witnesses in corruption cases can benefit from witness protection programmes, including relocation measures. Non-disclosure of information concerning the identity and whereabouts of such persons is a part of the procedural protection measures.

Austria has concluded several bilateral and multilateral international agreements on police cooperation containing provisions on witness protection. The guidelines for

the protection programmes do not distinguish between victims and witnesses. Both can be included in the protection programme.

Provisions of the domestic legislation are aimed at preventing the discrimination of civil servants and judges or prosecutors as a result of their reporting in good faith well-founded suspicions of criminal offences. The Ministry of Justice has established a web-based whistle-blower system. This system offers the possibility to report corruption and related offences to the WKStA. The system allows for bidirectional communication between the whistle-blower and the WKStA while maintaining anonymity. There is no whistle-blower protection in the private sector.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

The confiscation of “assets obtained for or through a punishable act” is regulated in section 20 PC. The term “assets” is interpreted broadly and covers all tangible and intangible assets and anything that has commercial value. Objects which were used or intended by a perpetrator for deliberately committing an offence are also subject to confiscation (sections 19a and 26 PC). Confiscation under civil law does not exist but non-conviction-based confiscation would be possible in some cases. Interim measures are provided in sections 110 (seizure) and 115 (sequestration) CPC.

Under the title “extended forfeiture”, section 20b PC covers special cases in which no explicit proof is required of the specific criminal act from which the assets originated. Paragraph 2 of this section simplifies the rules on the burden of proof with regard to the suspected proceeds of crimes covered by sections 165 (money-laundering), 278 (criminal association) or 278c (terrorist crimes) PC. Such proceeds can be declared forfeit provided that they are suspected to originate from an unlawful act and their lawful origin cannot be substantiated.

According to section 114 CPC, the custody of seized items is incumbent on the criminal investigation department until the seizure is reported to the judiciary, thereafter it is the responsibility of the public prosecutor’s office. The Federal Ministry of Justice has started a process where better possibilities to manage assets are discussed with prosecutors and other practitioners.

Access to bank and financial records can be obtained where such information is required for “solving a deliberate criminal act” (section 116 CPC; art. 38 of the Banking Act). There is no central register of bank accounts in Austria. Therefore, if the suspicion exists that a person has a bank account in Austria, a two-step approach must be followed: a court order is sent to the five bank associations in Austria, which forward the request to their member banks. Both the associations and the concerned banks themselves can challenge the court order. However, under a new Ministerial Decree of 13 August 2013, the process has been streamlined. The original court order shall be transmitted to the banks only with respect to the specific request and only to a limited range of persons (e.g. the compliance officer or the anti-money-laundering officer). The banks are supposed to inform the prosecution authority within five days of the accounts of the person concerned.

Statute of limitations; criminal record (arts. 29 and 41)

General statutes of limitation for the prosecution of criminal offences are provided under section 57 PC and depend on the level of punishment incurred. For some of the corruption-related offences, the statute of limitations is 5 years as they carry

sentences that range from 1 to 5 years. However, any investigative step would suspend the limitation period (section 58(3)(2) PC).

Section 73 PC (foreign convictions) stipulates that foreign convictions are considered to be “equal to domestic convictions” for purposes of establishing the criminal record of the case under certain circumstances.

Jurisdiction (art. 42)

Austrian legislation establishes jurisdiction over offences committed within the national territory (sections 62 and 67 PC) and offences committed on board of Austrian vessels and planes (section 63 PC).

In addition, Austria has two concepts of extraterritorial jurisdiction. Section 64 PC provides for national jurisdiction without the double criminality requirement for criminal acts committed against an Austrian official while he/she fulfils his/her tasks, as well as criminal acts committed by an Austrian official. For other offences, jurisdiction is established subject to double criminality if the offender is an Austrian citizen or a foreigner, was arrested in Austria and cannot be extradited to a foreign State for other reasons than the nature or other characteristics of the offence (section 65 PC). Consequently, the Austrian legislation not only allows jurisdiction to prosecute when extradition is denied due to nationality but also allows such jurisdiction when extradition is denied for other reasons not related to the nature of the offences.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

The Federal Public Procurement Act provides for the possibility of annulment of decisions taken by the awarding authority, if such decision is in breach of the law. In addition, the general principle of invalidity of a contract which violates a legal prohibition or public morality also applies to contracts concluded as a result of corrupt conduct (section 879 Civil Code).

The general principles of Austrian tort law also apply to cases involving corruption. In case of harm caused by unlawful conduct, the person whose rights have been infringed has a right to claim damages (sections 1293 et seq. of the Civil Code).

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

There are two main agencies in the fight against corruption, the Central Office for Prosecuting Economic Crimes and Corruption (WKStA) and the Federal Bureau of Anti-Corruption (BAK). WKStA was established in September 2011 and is responsible for filing charges and representing the prosecution in court in corruption cases where the value is above a certain threshold. Moreover, it has an opt-in competence and is responsible for a catalogue of severe economic crimes.

The Federal Ministry of Justice can give instructions to the higher-level prosecutor offices. In important cases, involving important crimes or persons of public interest, prosecutors have to obtain prior authorization from the Ministry before they can prosecute the case in court. However, initial investigative steps can be taken without authorization. At the end of the investigation, when a decision about prosecution or discontinuing proceedings has to be taken, the prosecutor has to report to the

Ministry. If prosecution is declined by the Ministry, that decision has to be made in the form of an official instruction.

The Federal Bureau of Anti-Corruption (BAK) was established in January 2010. It has nationwide jurisdiction in the prevention of and the fight against corruption. BAK has to report all cases to the prosecution in order to ensure adequate supervision of corruption cases. There are periodical informal contacts between the head of the WKStA and the director of the BAK and joint trainings. However, BAK currently has no access to the judgments resulting from its investigations.

In relation to the cooperation between national authorities and the private sector, it was reported that since 2010, a multidisciplinary committee was in place to coordinate measures in the area of anti-corruption with the participation of representatives of various Federal Ministries, the Länder, WKStA, BAK and the Financial Market Authority. The private sector is represented by the Chamber of Commerce, the Union of Civil Servants, the Chamber of Notaries and the Bar Association. In future, Transparency International will also be a permanent Member.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing Chapter III of the Convention are highlighted:

- The broad interpretation of the concept of “business activities” when applying the provision on bribery in the private sector (art. 21 of the Convention against Corruption);
- The broad range of State authorities protected within the context of section 269 PC, which goes beyond the requirement of protecting the judicial and law enforcement authorities against obstruction of justice, as foreseen in article 25(b) of the Convention;
- The availability of “extended forfeiture” for assets that are likely to be proceeds of crime if their legal origin cannot be proven to the satisfaction of the court (art. 31 of the Convention);
- The fact that the Austrian legislation not only allows jurisdiction to prosecute when extradition is denied due to nationality but also allows such jurisdiction when extradition is denied for other reasons not related to the nature of the offences (art. 42 of the Convention).

2.3. Challenges in implementation

While noting Austria’s considerable efforts to harmonize the national legal system with the Convention’s criminalization and law enforcement provisions, the reviewers identified some challenges in implementation and/or grounds for further improvement and made the following remarks to be taken into account for action or consideration by the competent national authorities (depending on the mandatory or optional nature of the relevant Convention requirements):

- Expand the scope of predicate offences for purposes of money-laundering to include the offence established in section 153(1) PC (mere embezzlement involving a damage of not more than 3,000 euros) (art. 23 of the Convention);

- Consider strengthening the existing asset declaration regime by making it more comprehensive and subject to monitoring, as well as providing for more effective criminal sanctions in dealing with incorrect declarations (art. 20 of the Convention);
- Introduce a specific offence to fully implement the mandatory requirements of article 25(a) of the Convention;
- Take measures to ensure the effectiveness of the domestic legislation on the criminal liability of legal persons; in doing so, consider the need for increasing the fines against entities to ensure that they have sufficient deterrent effect (art. 26 of the Convention);
- Adopt legislation to clarify that investigative action to secure evidence is allowed before the lifting of immunity takes place; and to ensure that the process for lifting the immunity should be strictly restricted to those cases where the Member of the Parliament himself/herself is the subject of the investigation (art. 30(2) of the Convention);
- Explore the possibility of expanding the scope of criminal offences for which extended confiscation is allowed to include corruption-related offences (art. 31 of the Convention);
- Consider the establishment of an asset management office (art. 31(3) of the Convention);
- Take measure to expand the protection of whistle-blowers in the private sector, including protection against any unjustified treatment (e.g. unfair dismissal) by private employers and consider precisely interpreting the term “good faith” in legislation to avoid the case where whistle-blowers are reluctant to expose suspicions of criminal offences (art. 33 of the Convention);
- Continue efforts to ensure that there are no unnecessary delays in accessing bank information and to keep information related to suspicions of criminal offences confidential; consider the introduction of a central bank account registry (art. 40 of the Convention);
- Abolish the requirement for prosecutors to obtain prior approval from the Ministry of Justice for the prosecution of cases involving persons of public interest and limit reporting obligations (art. 36 of the Convention);
- Strengthen the cooperation between WKStA and BAK and ensure that BAK receives feedback on the effectiveness of its work; Take further action to improve the independence of WKStA and BAK in terms of financial and human resources (art. 36 of the Convention).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

*Extradition; transfer of sentenced persons; transfer of criminal proceedings
(arts. 44, 45 and 47)*

A two-tier system on extradition has been put in place in Austria. With regard to other Member States of the European Union (EU), the surrender of fugitives is carried out in line with the requirements of the European Council Framework

Decision of 13 June 2002 on the European Arrest Warrant (EAW). The Framework Decision was implemented in Austria through the Act on Judicial Cooperation in Criminal Matters with the Member States of the European Union (EU-JZG).

With regard to other countries, although Austria does not make extradition dependant on the existence of a treaty, it is bound by existing multilateral treaties, such as the Council of Europe Convention on Extradition and its two Additional Protocols and the United Nations Convention against Transnational Organized Crime. Austria has also concluded bilateral agreements on extradition with Australia, the Bahamas, Canada, Pakistan, Paraguay and the United States of America.

Austria recognizes the Convention against Corruption as a legal basis for extradition, although no such request has yet been made. In the absence of an international treaty, the domestic extradition legislation shall apply on a basis of reciprocity.

Double criminality is always a requirement for granting extradition. It is interpreted on the basis of the “underlying conduct” approach, in line with article 43(2) of the Convention. Exceptionally, the double criminality requirement is not needed when executing an EAW, as the Framework Decision removes this condition in respect of a list of 32 offences, including corruption offences.

The substantive and procedural conditions for extradition, as well as the grounds for refusal of extradition requests, are stipulated in the Federal Law on Extradition and Mutual Assistance in Criminal Matters (ARHG). The extradition process revolves around the competences of both the judicial authority, which judges on the admissibility of the extradition request, and the Minister of Justice that has the final word on the surrender of the person sought.

The time frame needed to grant an extradition request varies depending, among others, on the complexity of the case, the type and nature of the process that can be applied, as well as the potentially parallel asylum proceedings. There is also the possibility of a simplified extradition process if the person sought consents to be extradited and waives his/her entitlement to the speciality rule. The EAW process has substantially shortened the period needed for the surrender of a fugitive to another EU Member State.

Section 65 PC authorizes domestic prosecution in cases where the Austrian authorities decline to extradite a fugitive to serve a sentence solely on the ground of his/her nationality. Austria allows the surrender of its nationals only on the basis of an EAW on the condition that, after the trial in the issuing State, the person sought is to be returned to Austria to serve the custodial sentence or detention order.

Austria cannot execute a foreign (non-EU) conviction for a Convention offence against an Austrian national but will prosecute him/her all over again.

The surrender of an Austrian national for purposes of enforcing a sentence is only feasible within the context of the EAW process. Outside this context, the execution of a decision by a foreign court imposing a custodial sentence is only admissible if the convicted person is an Austrian citizen, has his/her domicile or place of residence in Austria and has agreed to the execution in Austria (section 64(2) ARHG).

The transfer of sentenced persons is regulated by regional conventions (Council of Europe Convention on the Transfer of Sentenced Persons and its Additional Protocol).

The transfer of criminal proceedings is enabled through sections 60 et seq. and 74 et seq. ARHG, as well as the European Convention on the Transfer of Proceedings in Criminal Matters.

Mutual legal assistance (art. 46)

Mutual legal assistance is subject to section 50 et seq. ARHG and international agreements, and can be afforded for all purposes stipulated in article 46(3) of the Convention, including in cases where legal persons may be held liable.

The provision of assistance is subject to the double criminality requirement (section 51(1) ARHG). The absence of criminal liability under Austrian law shall not oppose the service of documents if the recipient is prepared to accept them (section 51(2) ARHG). In this case, the service of documents is considered as a non-coercive measure for which assistance can be afforded even if the double criminality requirement is not fulfilled. A similar approach is followed in relation to the hearing of experts and witnesses who are not forced to appear before the court to testify.

Austria has designated the Federal Ministry of Justice as the central authority for receiving and transmitting MLA requests and has informed the Secretary-General of the United Nations accordingly. The MLA requests can be transmitted through diplomatic channels or, in urgent circumstances, through INTERPOL. Direct transmittal between competent authorities is also possible.

A request for judicial assistance which requires a procedure that differs from the Austrian laws on criminal procedure will be executed, if this is compatible with the principles set forth in the CPC (section 58 ARHG).

The customary length of time between receiving MLA requests and responding to them, including the decision on execution, was reported to be approximately three months.

Austria has concluded bilateral MLA treaties with Australia, Canada and the United States of America. It is also a party to the European Convention on Mutual Assistance in Criminal Matters and its First Additional Protocol. Austria has ratified the EU Convention on Mutual Assistance in Criminal Matters (2000) and its Protocol (2001).

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Austria can provide for cooperation between law enforcement authorities based on domestic law (section 3 ARHG), even without any treaty, as long as reciprocity is guaranteed. Moreover, the Convention against Corruption has already been considered as legal basis and will be used more often in the future.

As a member of INTERPOL, Eurojust and Europol, Austria can engage in information exchange through their databases. Cooperation and exchange of information is further facilitated through the Schengen Information System and via

police liaison officers. The BAK acts as point of contact for OLAF, INTERPOL, Europol and other comparable international institutions.

Joint investigation teams are possible and subject to ad hoc arrangements. In relation to EU Member States, it is regulated by sections 60 et seq. of the EU-JZG. At the operational level, two bilateral joint investigation teams and one trilateral are dealing with cases involving bribery allegations.

Special investigative techniques are regulated in the CPC. Sections 129-133 provide for observation, covert investigation, fictitious business transaction, whereas sections 134-140 provide for surveillance of telecommunications and persons. Section 72(2) EU-JZG concerns controlled deliveries.

3.2. Successes and good practices

Austria has established a comprehensive and coherent legal framework on international cooperation in criminal matters. The domestic legislation encompasses all forms of international cooperation and is efficiently implemented. Moreover, the following successes and good practices in implementing Chapter IV of the Convention are highlighted:

- The interpretation of the double criminality requirement focusing on the underlying conduct and not the legal denomination of the offence (art. 44 of the Convention);
- The fact that the Austrian legislation not only allows jurisdiction to prosecute when extradition is denied due to nationality but allows such jurisdiction when extradition is denied for other reasons not related to the nature of the offences (art. 44 of the Convention).

3.3. Challenges in implementation

The following points are brought to the attention of the Austrian authorities for their action or consideration (depending on the mandatory or optional nature of the relevant Convention requirements) with a view to enhancing international cooperation to combat offences covered by the Convention:

- Explore the possibility of further relaxing the strict application of the double criminality requirement in line with article 44(2) of the Convention and following such a flexible approach for cases beyond the execution of European Arrest Warrants, with due respect to the protection of human rights;
- Consider ways to overcome potential challenges posed by the fact that Austria cannot execute a foreign (non-EU) conviction for an UNCAC offence against a Austrian national but instead, when it denies extradition on the basis of nationality, will prosecute the offender anew (art. 44 of the Convention);
- Consider ways to address the potential impact that the practical difficulties in collecting domestically bank information (due to lack of central registry, etc.) may have on the ability to obtain and provide such information and evidence under mutual legal assistance (art. 46 of the Convention).