

Annex

To facilitate the provision of information on good practices and challenges with respect to the establishment of effective financial disclosure systems for appropriate public officials (inter alia information on legislation, policies, practices and institutions on establishing and maintaining effective financial disclosure systems for appropriate public officials, including measures as may be necessary to permit their competent authorities to share that information with the competent authorities in other States parties) the Secretariat has prepared the following questionnaire as a guide that States parties may wish to use.

The Secretariat also wishes to draw the attention of the Government to the note entitled “Asset and interest disclosure systems (article 8, paragraph 5, of the United Nations Convention against Corruption)” contained in document [CAC/COSP/WG.4/2018/3](#) that could be used as background material for the completion of the questionnaire.

Contact information

1. Basic information

1.1. Does your country have a financial disclosure system(s) for appropriate public officials in line with articles 8, paragraph 5 and 52, paragraphs 5 and 6 of the Convention? **YES/NO**

No

If YES,

- a. Please provide a broad overview of your country’s financial disclosure system(s) for public officials and list the relevant national legislation.
- b. If your country has, in addition, ad hoc financial disclosure requirements, please provide a broad overview, including applicable categories of officials, sectors/activities, etc.
- c. What is the objective(s) of your country's financial disclosure system(s) (please select all that apply)?
 - Detection of illicit enrichment
 - Prevention of conflicts of interest
 - All of the above (combined system)
 - Other, please describe: _____

If NO,

- a. Please describe (cite and summarize) the alternative measures put in place to ensure full compliance with article 8, paragraph 5 and article 52, paragraphs 5 and 6 of the Convention or is planning to take, together with the envisaged time frame, if any.

The following provisions only apply to Federal civil service staff. Federal civil service staff is employed either on a statutory or on a contractual basis. Statutory civil servants are employed by virtue of a sovereign act called “appointment” (as a rule, appointment is for life), whereas contractual employees are employed on the basis of a working contract. The legal status of contract staff is comparable to that of salaried employees in the private sector. Their service contracts and remuneration are, however, based on specific Federal laws.

The following provisions regulated in the Civil Service Employment Act are put in place to ensure full compliance with the aforementioned provisions:

General duties of civil servants

§ 43. (1) Civil servants shall perform their official duties personally and conscientiously, with loyalty, dedication, impartiality and due regard to the law, using the means available to them.

(2) Civil servants shall consistently act in such a way as to maintain the public's trust in the objective performance of their official duties.

(3) When performing their official duties, civil servants shall support and inform parties to an extent compatible with official interests and the impartial exercise of their office.

In order to prevent "partiality" and bias as well as to ensure that decisions are taken in accordance with the law and as objectively as possible, civil servants must therefore not be involved in any conflict of interest or conscience. Reasons for bias for civil servants are laid down in the Administrative Procedure Act (in particular § 7). Accordingly, civil servants must abstain from exercising their office in cases of conflicts of interests and arrange for representation if there are important reasons which cast doubt on their complete impartiality. Each member of staff must therefore judge for her- or himself whether there is a reason for bias. Even in cases of doubt, the existence of bias should be presumed in order to ensure the objectivity of the procedure.

Where bias is presumed, civil servants must, in accordance with the law (§ 47 of the Civil Service Employment Act 1979) abstain from any official action and arrange their representation. Only in the event of "imminent danger" they must, if representation by another civil servant is not immediately possible, take the necessary measures to prevent such danger. The conflict-of-interest rules under the employment law are "catch-all rules" for all those areas of responsibility in which no special (procedural) conflict-of-interest rules apply (such as § 7 mentioned above).

Additional occupations

§ 56. (1) "Additional occupation" shall mean any occupation carried out by a civil servant in addition to her/his official duties and to any secondary occupation within the civil service.

(2) Civil servants may not engage in an additional occupation which hinders them in performing their official duties, creates the impression of bias, or otherwise jeopardises important official interests.

(3) Civil servants shall report to the competent personnel authority any gainful additional occupation, as well as any change in such an occupation, without delay. An additional occupation shall be deemed gainful if it is aimed at generating a significant income in cash or in kind.

(4) Civil servants

1. whose regular weekly working hours have been reduced in accordance with §§ 50a, 50b, 50e or 50f, or
2. who are working part-time in accordance with the Maternity Leave Act [Mutterschutzgesetz 1979 - MSchG, Federal Law Gazette No. 221/1979] or the Law on Parental Leave for Fathers [Väterkarenzgesetz, Federal Law Gazette No. 651/1989], or
3. are on care leave in accordance with § 75c

may only pursue a gainful additional occupation provided that and to the extent that the competent personnel authority permits it. Permission shall be denied in the cases referred to in para. 2, as well as in cases where the pursuit of an additional occupation runs counter to the objective of a measure taken pursuant to subparas. 1 to 3.

(5) Civil servants shall in any case report any membership of the supervisory board, management board, board of directors or any other corporate body of a legal entity under private law operating for profit.

(6) The competent personnel authority shall without delay prohibit, by written order, the pursuit of an occupation which is impermissible according to para. 2, or an occupation within the meaning of para. 5.

(7) The competent Federal Minister may lay down, by regulation, any occupations which shall in any case be impermissible pursuant to para. 2.

Prohibition of the acceptance of gifts

§ 59. (1) Civil servants shall not solicit or accept gifts or other benefits for themselves or third parties in connection with their official position or the performance of their official duties. Likewise, they shall not obtain gifts or other benefits, or accept promises of gifts or other benefits, for themselves or third parties in connection with their official position or the performance of their official duties.

(2) Customary gifts of minor value shall not be deemed to be gifts or other benefits within the meaning of para. 1 unless a civil servant intends to secure a regular income for her-/himself or a third party by repeatedly acting contrary to the provisions of para. 1.

(3) "Gifts of honour" shall mean objects awarded to civil servants for their services or out of courtesy by foreign countries, institutions under public law or traditional institutions.

(4) Civil servants may accept gifts of honour. They shall inform the competent personnel authority of such gifts without delay. The gifts thus received shall be recorded as Federal assets and sold or otherwise realised in accordance with the principles of economy, efficiency and effectiveness. The proceeds shall be used for charitable purposes benefiting civil servants, or for other charitable purposes. Detailed provisions shall be laid down by regulation for each ministry.

(5) Civil servants may be allowed to keep for their own use gifts of honour of minor or merely symbolic value.

(6) Civil servants may accept benefits granted to them in the course of events in which their participation is justified by official interests or other objective reasons, if these benefits

1. are generally granted to all participants in the respective event,
2. are of a standard that is customary at comparable events,
3. are connected to the topic of the event in question, and
4. are not connected to any particular official business save as referred to in subpara. 3.

(7) It is no gift or benefit within the meaning of para. 1, if

1. the civil servant fulfills a responsibility provided for by law, regulation or other general order, or an express official order issued by a competent authority, by his or her conduct within the meaning of para. 1,
2. this allowance is due exclusively to the Federation or to the legal entity for which the civil servant works as such,
3. this allowance is not connected with any particular official business,
4. already the appearance of a possible influence or dependence on the performance of official duties can be excluded,
5. the entire process is properly documented in files, and
6. there are no conflicting official interests.

The provisions depicted above are also applicable to contractual employees via § 5 of the Act on Contractual Public Employees.

1.2. Has your country criminalized "illicit enrichment" as foreseen under article 20 of the Convention? **YES/NO**

If **YES**, please explain.

2. Targeted officials

2.1. Please list the categories of officials required to file a financial disclosure. Please select all that apply and provide the range of targeted officials in each relevant category.

The provisions described under point 1.1. apply to Federal civil service staff, no matter what function they have. This does not include politicians.

- Public officials, including representatives from all branches and agencies of government
 - Members of the legislative branch, please list:
 - Members of the judiciary and prosecution, please list:
 - Members of the executive branch, including armed forces and agencies subordinate to a minister, please list:

- Officials of independent government bodies (e.g., standalone boards, commissions and agencies that fall outside the executive, legislative and judicial branches of government), please list:
- Officials at the supranational (high-level) bodies (e.g., representatives of the country in regional and global organizations/bodies), please list:
- Officials at subnational levels of government (e.g., officials at the level of local government, provinces and municipalities), please list:
- Political party officials, please list:
- Representatives of publicly owned (fully and partially) enterprises, please list:
- Representatives of private entities, professional associations, foundations and similar bodies performing public functions and services of public interest, please list:
- Other, please list:

2.2. What factor(s) shaped the decision on the targeted categories of officials? Please select all that apply.

- Objective of the system
- Hierarchical level and position of officials
- Corruption risk level of sectors and functions
- Resources and capacity to manage and verify disclosure
- X Other.
- Prevention of corruption in the civil service

2.2.1. Please elaborate on your response above.

2.3. Does any authority have the power to request any official who would usually fall outside the disclosure system to file financial disclosure (e.g., designate those in high-risk categories, those under investigation for corruption offences, etc.)? **YES/NO**

If YES, please list the authority(ies), and explain the applicable criteria and procedures.

2.4. How does your country create and update the list of filers?

2.5. Please provide the approximate number of filers.

3. Frequency of disclosure

As described under point 1.1. Federal civil service staff shall report any changes regarding gainful additional occupation (§ 56 of the Civil Service Employment Act 1979).

3.1. When and how often are targeted officials required to file/submit financial disclosures? Please select all that apply.

- Upon entering office
- Upon leaving office
- Annually
- Biennially (once every two years)
- Once every three years
- Some categories of officials are more frequently required to declare than the others
- Other, please describe. _____

3.2. Does the competent authority have the power to request targeted officials (filers) to submit ad hoc financial disclosures between the official submission periods? **YES/NO**

If **YES**, please explain.

3.3. Are the targeted officials required to update/amend their financial disclosures between submission periods? **YES/NO**

If **YES**, please provide the ground for updating/amending submitted disclosures and the relevant time frame.

4. Competent authority and disclosure process

Gainful additional occupations shall be reported to the competent personnel authority going through official channels.

4.1. Which authority/entity is responsible for collecting and maintaining financial disclosures? Please select all that apply.

- Central competent authority
- Entities employing the targeted officials
- Other authorities depending on the categories/levels of officials (election Commissions, supreme courts, parliamentary committees, etc.). Please list: _____

4.2. How are the financial disclosures submitted?

- Centralized submission directly to the central competent authority via:
 - Electronic (online) submission system
 - Submission using the paper submission
- Delegated submission using paper submission (e.g., to individual bodies, which store them and transmit them to the competent authority)
- Delegated submission using both paper and electronic (online) submission (*paper declarations are submitted to individual bodies while the electronic copies are submitted to a centralized online system of the competent authority*)
- Other.

4.2.1. Please elaborate on your response above and describe the processes and methods of submitting the disclosures.

4.3. If electronic submission is possible, please describe the online tools and platforms available for submitting financial disclosures.

4.4. Please describe the measures implemented to ensure compliance and appropriate quality of information when completing and submitting the financial disclosure (e.g., disseminating information materials, training, awareness raising, etc.).

5. Scope of disclosures

Reference may be made to the comments on point 1.1. regarding additional occupations. There is no differentiation regarding additional occupations in Austria or abroad.

5.1. Please list the assets and interests included in the financial disclosure forms, including categories of assets and other financial interests. Please also refer to the list below.

- Immovable and movable assets
 - their value and source
 - those (assets) held in the name of others
- Income
 - their source
- Securities
- Investments
- Savings
- Bank accounts
 - Any other business relationships with financial institutions
- Liabilities / loans / mortgage
- Cash
- Gifts
- Livestock
- Ownership interests (*shareholdings*) in companies and other legal entities and arrangements
- Business / outside activities (*business interests and financial connections*)
- License(s) (*to carry out commercial activities*)
- Usufruct rights (to use and benefit from an asset owned by others)
- Information on all legal persons linked to the official in any way, individual economic activity, membership and position in undertakings, establishments, associations or foundations

5.2. Is the requirement to disclose an asset dependent on its value (*e.g., assets below a certain threshold do not need to be declared*)? Please explain.

5.3. Does the information mentioned in question 5.1 include assets and relevant financial interests located both in and outside the country? **YES/NO**

5.3.1. **If YES**, does it require the disclosure of an interest in or a signature or other authority over a financial account in a foreign country (please see article 52, paragraph 6, of the Convention)?

5.4. Does your country's financial disclosure system include a declaration of beneficial ownership (of legal entities and arrangements, including nominee arrangements and trusts)?¹ **YES/NO**
Please explain.

5.4.1. Are the targeted officials required to declare assets and interests held, managed or controlled through such legal entities and arrangements? **YES/NO**
If YES, please explain.

5.5. Are targeted officials also required to submit information for their family members? **YES/NO**
No

If YES,

¹ On beneficial ownership, please refer to the conference room paper prepared by the secretariat entitled "Good practices and challenges with respect to beneficial ownership and how it can foster and enhance the effective recovery and return of proceeds of crime" ([CAC/COSP/WG.2/2022/CRP.1](#)).

- a. Please describe the scope of the family members (spouse(s), registered/non-registered partner(s), children (minor, financially dependent, within the same household, age limits, etc.)).
- b. Please describe the type of information that must be submitted for family members. Is it the same as of the public official?

5.6. Does the financial disclosure system cover individuals other than the family members of the filers? **YES/NO**

No

If **YES**, please list the applicable individuals and the type of information that needs to be submitted.

5.7. For subsequent regular financial disclosures, what is the extent of information included in such financial disclosures?

- Information required in the disclosure includes only changes in the equity of the filer since the last disclosure
- A complete new disclosure (i.e., a net worth statement)
- Other, please describe: _____

5.8. Does your country's financial disclosure regime require declaring expenditures? **YES/NO**

If **YES**, please provide an overview of the relevant features.

6. Access to disclosed information

6.1. Is the information on financial disclosure publicly available? **YES/YES IN PART/NO**

No

If **YES OR YES IN PART**

- a. Please describe the measures in place to ensure public access to financial disclosure information (*e.g., proactive publication on a central online platform and/or on relevant authorities' websites, ad hoc disclosure in a paper form upon request, etc.*)
- b. If not all disclosures are publicly available, please list the categories of targeted officials whose disclosures are accessible and/or remain confidential.
- c. If only part of the financial disclosure information is available, please list the type of information that is publicly available.
- d. Does accessing financial disclosure information entail any costs?
- e. Does the publication of financial disclosure provide features to search information by different types of information, e.g., legally and beneficially held entities' names and business addresses, types of assets and interests? Please explain.
- f. Do the means of enabling public access allow for a comparison of the targeted officials' assets and interests over a specific period?
- g. Are any measures in place to protect the personal information of the targeted officials and their family members, when applicable? Please explain.

h. Please provide the link(s) to the online platform/resource where financial disclosure information is available to the public, if applicable.

6.2. Do the relevant competent national authorities (law enforcement, FIU, tax and customs authorities, etc.) have access to the financial disclosures? **YES/YES IN PART/NO**

Access to personnel files within the framework of procedures is possible.

If YES or YES IN PART, please explain how such access is granted, including the list of competent national authorities that can access or request access.

7. Verification of financial disclosure information

7.1. Is the information disclosed verified? **YES/NO**

As direct contacts, the executives are responsible for technical and administrative supervision. In this sense, an appraisal interview shall take place once a year.

If YES, please describe the procedures and practices in place to verify the content of financial disclosures, including:

- a. Competent authority that conducts the verification (centralized and/or delegated)
- b. Frequency (regularity) of verifications (ad hoc and/or systematic and routine)
- c. Extent of verification (verification of completeness, compliance with disclosure requirements and/or the analysis of the content of the disclosures)
- d. Verification processes and methodologies (e.g., manual examination, electronic checks undertaken against other databases or relevant information, etc.)

7.2. How does your country determine which disclosures to verify?

- Annual verification plan(s)
- Periodic mandatory verification of specific categories of officials
- Random sampling of declarations
- Media reports and/or complaints from the public
- Requests from law enforcement / investigative units
- Other, please describe: _____

7.3. If applicable, does the electronic financial disclosure mechanism(s) allow for automated verification (cross-checking) of information across various registers and databases held by the public and private entities, such as registries of various assets, company registers, HR, tax and real estate data, etc.? **YES/NO**

If YES, please explain.

7.4. Do the competent authorities have timely and direct access to databases and information necessary to verify information in the financial disclosure? **YES/NO**

Please explain.

7.5. Do competent authorities have access to the information held by financial institutions, including bank account records? **YES/NO**

Please explain.

7.6. Please provide the overall verification rate of financial disclosures in percentages for each applicable verification method.

8. Sanctions

8.1. Please provide an overview of sanctions for non-compliance with financial disclosure requirements, including the sanctionable conducts, type of sanctions, forms of sanctions (administrative/criminal) and targeted officials.

Non-compliance with the provisions laid down in point 1.1. means a breach of duty. Civil servants are subject to disciplinary measures depending on the seriousness of the breach. These measures include reprimands and warnings, fines, (temporary) suspension, or dismissal (§§ 92, 109 and 112 of the Civil Service Employment Act 1979). Contractual employees are subject to warnings, termination of employment or dismissal.

8.2. Is there any applicable statute of limitations? **YES/NO**

Yes

Please explain.

For civil servants the statute of limitations is regulated in § 94 of the Civil Service Employment Act 1979.

The civil servant may no longer be punished for a breach of duty, if nothing of the following has been done:

1. a disciplinary order has been issued or a report has been made to the federal disciplinary authority within six months of the date on which the disciplinary authority became aware of the breach of duty;
2. disciplinary proceedings have been instituted before the federal disciplinary authority within one year from the date on which the disciplinary authority became aware of the breach of official duty;
3. a disciplinary order has been issued or disciplinary proceedings have been instituted before the federal disciplinary authority within three years from the date on which the breach of duty came to the attention of the disciplinary authority.

A disciplinary penalty may not be imposed three years after the decision to conduct disciplinary proceedings against the accused civil servant has been served on him.

In the case of contractual employees, a breach of duty shall be asserted without delay.

8.3. Please describe the powers available to the competent authority (responsible for verification of disclosures) to impose and enforce the sanctions described above.

9. International cooperation and asset recovery

9.1. Does your country (proactively or at the request of another State party) share financial disclosure information with foreign States? **YES/NO**

If YES, please describe the channels and mechanisms for cooperation.

9.2. Does your country cooperate and execute requests received from foreign authorities to assist them in the verification of information in their financial disclosures? **YES/NO**

If YES, please explain, including the channels used.

9.3. If applicable, please provide the contact details of the authority responsible for the above types of international cooperation (for exchanging financial disclosure information).

10. Good practices

10.1. Please provide examples of any good practices in connection with your country's financial disclosure regime that facilitated the recovery and return of proceeds of crime.

10.2. Do you have any case studies or examples where the financial disclosure regime has enabled or facilitated the recovery and return of proceeds of crime in (or for) your country?

10.3. Please provide examples of good practices concerning the operation of your country's financial disclosure system, including policies and measures adopted to enhance compliance with financial disclosure requirements.

11. Challenges

11.1. What were the main challenges faced by your country when introducing the financial disclosure system(s)?

11.2. In your opinion, what are the main challenges faced by competent authorities of your country to verify financial disclosures, including accessing information regarding assets and financial interests located abroad?

11.3. What are the main challenges faced by your country when imposing and enforcing sanctions for non-compliance?

12. Follow-up to the special session of the general assembly against corruption

12.1. Please describe any other measures, if any, that your country may have taken to implement paragraph 7² of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021.

13. Other

13.1. Please provide any other information you consider relevant to your country's legal framework and practices in connection with establishing an effective financial disclosure system that is not highlighted in the questions above.

² 7. We will strengthen our efforts to prevent, identify and manage conflicts of interest, including by assessing and mitigating corruption risks and through effective and transparent financial disclosure systems, with information disclosed by appropriate public officials made available as widely as possible, and we will use innovative and digital technology in this field, with due regard for data protection and privacy rights.