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N o t e V e r b a l e

The Federal Ministry for European and International Affairs presents its compliments to the Permanent Missions/Delegations of all other participating States to the Organization for Security and Co-operation in Europe and to the Conflict Prevention Centre and has the honour to provide in reference to the decision No. 2/09 of 1 April 2009 of the Forum for Security Cooperation, the reply to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security, valid as of 15 April 2010.

The Federal Ministry for European and International Affairs avails itself of this opportunity to renew to the Permanent Missions/ Delegations of all other participating States and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, 15 April 2010



To the Permanent Missions/Delegations of the participating States to the OSCE
and the OSCE Conflict Prevention Centre
Vienna

REPUBLIC OF AUSTRIA

Exchange of Information on the

OSCE Code of Conduct

on Politico-Military Aspects of Security
(submitted April 2010)

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

Austria has signed, ratified and implemented all thirteen UN counter-terrorism Conventions. Austria has signed and ratified all relevant UN counter-terrorism instruments except for the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Both Protocols were signed by Austria on 12 May 2006. The domestic ratification procedure for both Protocols is under preparation.

Austria is party to the Council of Europe's Convention on Extradition of 1957, the second additional protocol thereto, and to the European Convention on the Suppression of Terrorism. It also signed the Protocol to the European Convention on the Suppression of Terrorism.

In May 2005 Austria signed the Council of Europe's Convention on the Prevention of Terrorism. After last years ratification the Convention entered into force on 1 April 2010.

In the relations between the Member States of the EU, extradition ("surrender") with regard to terrorist activities takes place on the basis of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States which entered into force 7 August 2002.

The EU Council Framework Decision 2002/475/JHA of 13 June 2004 on combating Terrorism entered into force 22 June 2002.

The EU Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism entered into force on 9 December 2008. European Union Member States are obliged to implement the Council Framework Decision by 9 December 2010.

Concerning sub-regional initiatives, Austria, Belgium, Luxemburg, the Netherlands, Germany, France and Spain signed a Treaty on strengthening transnational cooperation, especially in countering terrorism, organized crime and illegal migration, on 27 May 2005 in the German city of Prüm. The Treaty entered into force between Austria, Germany and Spain in November 2006 and meanwhile has got 14 European states as signatories.

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

Section 278b § 3 of the Austrian Criminal Code (CC) defines a terrorist association as a union of more than two people, where no particular organisation or hierarchy is required, for a longer time period aiming at the commitment of terrorist offences listed in sec 278c CC by one or more members of the association. According to § 1 leg cit the leader of a terrorist association is punishable by a deprivation of liberty from five up to 15 years, the leader of such an association which confines itself to threaten with terrorist offences is punishable by a deprivation of liberty from one up to ten years. According to § 2 leg cit the participation in a terrorist association is punishable by a deprivation of liberty from one up to ten years.

Sec 278c CC lists offences;

1. murder (sect.75),
2. bodily injuries under sections 84 to 87,
3. extortionate kidnapping (sect. 102),
4. gross intimidation (sect. 106),
5. dangerous threat (sect. 107 § 2),
6. gross damage to property (sect. 126) and damaging of data (sect. 126a) if thereby a danger to the life of another person or a danger to the property of another person to a large extent can be caused,
7. intentional offences of dangerousness to public safety (sects. 169, 171, 173, 175, 176, 177a, 177b, 178) or intentional infringement of environment (sect. 180),
8. hijacking (sect. 185),
9. intentional danger to the safety of aviation (sect. 186) or
10. a criminal offence punishable under section 50 of the Weapons Act 1996 or section 7 of the War Material Act,

if the offence is appropriate to cause a severe interference with the public life or such an interference for a longer time or to cause a severe damage to the economic life being committed with the intent to intimidate people in a serious manner or to force public authorities or an international FATF/ME(2009)2 281 organization to an action, permission or omission or to convulse or destroy the basic political, constitutional, economic or social structures of a state or an international organization) which are to be qualified as terrorist offences when being committed with terrorist intention.

According to § 2 leg cit those offences shall be punished pursuant to the law applicable to the offence mentioned there and the maximum penalty is to be raised by half of the penalty being prescribed respectively but shall not exceed 20 years. According to § 3 leg cit offences are not qualified as terrorist offences insofar the offence is directed to the establishment or reestablishment of a democratic and constitutional situation or the exercise or observation of human rights. In such a case provisions of the Austrian Criminal Code not related to terrorism have to be followed.

According to sec 278d of the Austrian Criminal Code financing of terrorism to provide or collect assets of property in order to be used to commit one of the listed offences;

1. of a hijacking (sect. 185) or an intentional danger to the safety of aviation (sect. 186),
2. of an extortionate kidnapping (sect. 102), or the threat of it,
3. of an attack on life and limb or the freedom of a person protected by international law or a violent attack on an apartment, the official premises or the means of transportation of such a person which is appropriate to expose this person to a danger to life and limb or freedom or a threat with it;
4. of an intentional endangering by nuclear energy or ionized radiation (sect. 171) or a threat with it, of a unlawful use of nuclear materials or radioactive substances (sect. 177b), of any other criminal offence to obtain nuclear materials or radioactive substances or of the threat to commit a theft or robbery of nuclear materials or radioactive substances aiming to force another person to an action, permission or omission;
5. of a considerable attack on life and limb of another person on an airport serving the international civil aviation, of an destruction or considerable damaging of such an airport or a civil aircraft being on it or an interruption of the services on the airport, so far as the offence is committed by the use of a weapon or other device and is appropriate to endanger the security of the airport;
6. of a criminal offence committed in a way mentioned in sects. 185 or 186 against a vessel or a fixed platform, against a person being on board of a vessel or a fixed platform or against the cargo loaded on a ship or an equipment of the ship;
7. of the transportation of a blasting composition or another deadly device in a public place, to a governmental or public institution or a public traffic system or services of supply or of the operation of these means aiming to cause the death or a grievous bodily injury of another person or the destruction of the place, institution or system to a high degree, as far as the destruction is appropriate to bring about a considerable economic damage;
8. of a criminal offence which shall affect the death or a grievous bodily injury of a civil person or another person not being actively involved in the hostilities of an armed conflict if this act is aimed for the reason of its nature and the circumstances at threatening a group of the population or forcing a government or an international organization to an action or omission) is punishable by deprivation of liberty from one to five years.

The Act on reform of the Austrian Criminal Code of Procedure (CCP) Federal Gazette Nr I 19/2004 entered into force 1 January 2008 and provided for a reform of the criminal proceeding in regard of the pre-trial investigation phase. Since than sec 110 CCP provides for the freezing of assets within the disposition of a terrorist group as well as the freezing of funds collected or provided for the financing of terrorist acts. Therefore the freezing of assets is admissible if measures according to sec 20 Austrian Criminal Code confiscations of profits, 20b forfeiture CC or 26 confiscations CC need to be secured.

Special investigating measures may be admissible in order to facilitate investigation of terrorist offences. According to sec 131 § 2 CCP covered investigation may be conducted for a longer time period if the detection or prevention of a criminal association (sec 278 CC), criminal organisation (sec 278a CC) or terrorist association (sec 278b CC) would be otherwise significantly hampered. According to sec 135 § 3 CCP the surveillance of messages is amongst others admissible in order to detect or prevent offences in connection with a criminal or terrorist association or criminal organisation if otherwise the investigation would be significantly hampered. According to sec 136 CCP optical and acoustic surveillance of persons is amongst others admissible if clarifying a crime to be punished with a prison

sentence exceeding 10 years or the crimes of forming a criminal organisation or terrorist association (sec 278a and 278b CC) or of criminal acts planned or committed in connection with such an organisation or association would otherwise be futile or significantly hampered and either the person to be kept under surveillance him/herself is urgently suspicious of committing the aforementioned crime or it can be assumed that the person urgently suspicious of committing an aforementioned crime will get in contact with the person kept under surveillance. Public safety must be in serious danger if such a measure is to be used for preventive purposes. Further more according to sec 141 § 3 CCP the comparison of data (including data which may be requested by court, public prosecution or the criminal police according as well as data on persons who received determined goods or services from determined companies or who are members of organisations of private law or legal entities of private or public law) – whereby sensitive data must not be used.

In order to protect the economy including the financial sector and to prevent money laundering, all occupational groups which could be possible targets for money launderers are within the scope of our anti-money-laundering and combating the financing of terrorism (AML/CFT) system and are therefore also subject to reporting requirements. In accordance with the Financial Action Task Force (FATF), the entire financial sector (all credit and financial institutions, all life insurance companies and all investment services providers), lawyers, notaries, auditors, external accountants, tax advisors, casinos, real estate agents, and all dealers where cash payments in an amount of 15.000 € or more are made are obliged to comply with all AML/CFT obligations (including customer due diligence, reporting obligations, identifying the beneficial owner etc.) and are supervised or monitored for compliance.

The Austrian Financial Investigation Unit (AFIU) was established in 1994 within the Austrian Ministry of the Interior, and has meanwhile become part of the "Bundeskriminalamt Österreich" (Criminal Intelligence Service Austria) and is primarily responsible for money laundering offences.

The AFIU is a law enforcement authority, capable of conducting all sorts of investigations, such as surveillance, interrogations, wire-tapping, search of premises, issuing warrants of arrest, etc. In case of reasonable suspicion, the reporting institutions have to provide the AFIU, upon demand, with all information required to investigate and prosecute money laundering and terrorist financing.

Section 178d of the Austrian Penal Code criminalises “financing of terrorism” and subjects it to up to 5 years in jail. Section 110 of the Austrian Code of Criminal Procedure provides for the freezing of assets within the disposition of a terrorist group as well as the freezing of funds collected or provided for the financing of terrorist acts.

Austria’s extradition practice is based on the Federal Extradition and Mutual Legal Assistance Act (Bundesgesetz für Auslieferung und Rechtshilfe) of 4 December 1979 (Federal Law Gazette No. 529/1979), which allows for the extradition of suspected or convicted terrorists on the basis of reciprocity even in the absence of an applicable treaty.

In the relations between the Member States of the EU, extradition (“surrender”) with regard to terrorist activities takes place on the basis of Sections 2 – 38 of the Austrian Act on Judicial Cooperation in Criminal Matters with the Member States of the EU (EU-JZG) (Federal Law Gazette I nr. 36/2004 in the versions Federal Law Gazette I nr. 164/2004,

38/2007 and 112/2007), which implements Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States into Austrian law.

Besides the general provisions in the Austrian Criminal Code criminalising offences in particular sec 278b, 278c and 278d of the Austrian Criminal Code shall be mentioned which provide for the criminalisation of the leading of and participation in a terrorist association, state terrorist criminal offences and the financing of terrorism. The act on amending the Criminal Code 2002 (Federal Law Gazette I Nr 2002/134) incorporated these provisions into the Austrian Criminal Code.

Section 20 § 3 (confiscation of Profits) of the Austrian Criminal Code provides for the possibility of condemnation to payment of an amount of money fixed by court corresponding to economic benefits of a perpetrator which were gained during the period of their membership in a criminal organisation (sec 278a CC) or in a terrorist group (sec 278b CC), if there is obvious supposition that these profits drive from offences and their legal acquisition cannot be made credible. Sec 20b (forfeiture) CC provides for the forfeiture of property being at the disposal of a criminal organisation or a terrorist group or which has been provided or collected as a means for financing terrorism .

The Act on reform of the Austrian Criminal Code of Procedure (CCP) Federal Gazette Nr I 19/2004 entered into force 1 January 2008 and provided for a reform of the criminal proceeding in regard of the pre-trial investigation phase. Since than sec 110 CCP provides for the freezing of assets within the disposition of a terrorist group as well as the freezing of funds collected or provided for the financing of terrorist acts. Therefore the freezing of assets is admissible if measures according to sec 20 Austrian Criminal Code (CC) confiscations of profits, 20b forfeiture CC or 26 confiscations CC need to be secured.

In order to meet the obligations of the Council of Europe Convention on the Prevention of Terrorism and of the EU Council Framework Decision 2008/919/JHA Austria will amend the Criminal Code accordingly.

For the purpose of ensuring that immigrants and asylum seekers have not engaged in terrorist activities, Austria relies on the Aliens Police Act (Fremdenpolizeigesetz) of 2005 (Federal Law Gazette I No. 2005/100) and on a special screening process for nationals of certain countries. The Aliens Police Act regulates the entry, stay and residence of foreigners. It does not directly list terrorist offences. Instead, it includes the provision of posing a threat to public order and safety, which under § 21 will lead to the denial of a visa and under § 60, entails a ban on residence. In accordance with the relevant UN resolutions and other international legal instruments, the Austrian authorities may issue visas for nationals of certain states only upon explicit authorization by the Ministry of the Interior. These individuals are subject to additional scrutiny when entering Austrian territory.

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

The tasks of the Federal Armed Forces are directly and finally defined within the Federal Constitutional Law (Article 79). According to this provision the Federal Armed Forces' first and foremost task is the country's military defence. Other tasks laid down in the Constitution

include the so-called “assistance missions” (Assistenzeinsätze), which consist in “the protection of the constitutionally established institutions and their capacity to operate as well as the population’s democratic freedoms”, “the maintenance of order and security inside the country in general” and “assistance in the case of natural catastrophes and disasters of exceptional magnitude”. In general, these tasks may only be fulfilled in assistance and upon request of a civil authority. Due to this necessary request by the competent civil authority the Federal Armed Forces have only a very limited role in preventing and combating terrorism.

Based on the security police law, the security agencies have to generically counter threats and preventatively secure legally protected interests. The protection of constitutional facilities and to ensure their capacity to function is one priority.

In order to act preventatively, the security agencies are in charge of monitoring groupings and communities regarding their structures in place and developments in their surrounding. They are also in charge of assessing whether a group constitutes a major threat to public security. The security policy law provides for advanced threat analysis. In this context, security agencies have authorized competences such as concealed investigations, the (concealed) use of image recording devices and phonographs and observation. In general, security agencies are tasked to carry out the threat analysis.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

— Financing of terrorism;

Money or value transfer services are regulated. Banking businesses in Austria require a banking licence. Thus, providers of such services are subject to the full set of AML/CFT legislation applicable to credit and financial institutions as mentioned above.

The obligations under FATF Special Recommendation VII, which was developed with the objective of preventing terrorists and other criminals from having unfettered access to wire transfers for moving their funds was implemented through Regulation (EC) No. 1781/2006, which is directly applicable in all EU Member States and requires financial institutions to ensure that all wire transfers are accompanied by "complete information on the payer".

The obligation to freeze funds or other assets under UNSCR 1267 (1999) has been implemented through Council Regulation (EC) No. 881/2002, which is directly applicable to EU Member States. The obligations under UNSCR 1373 (2001) have been implemented through Council Regulation (EC) No. 2580/2001, which is as well directly applicable to EU Member States, and through a national law called "Foreign Exchange Act" ("Devisengesetz").

In August 2006, the Federal Agency for State Protection and Counter Terrorism (BVT) of the Austrian Federal Ministry of Interior installed a special group that exclusively deals with countering terrorism financing. This group works closely and successfully with the Austrian Financial Intelligence Unit. On 1 January 2008, the third EU Directive on Money Laundering was implemented into national legislation, including important provisions on the prevention of terrorism financing. In trainings for the private sector, reference is always made to the

Austrian legal framework as well as to the guidelines issued by the Financial Action Task Force (FATF).

— Border controls;

In accordance with the Schengen Agreement, in Austria border controls are carried out according to the regulation EG Nr. 562/2006 of the European Parliament and of the Council of the European Union from 15 March 2006 on the Community Code on the rules governing the movement of persons across borders (Schengener Grenzkodex – Schengen Borders Code).

The elimination of the border control as control filter is compensated by the police through other means in mobile form (compensatory measures). These measures are carried out in the entire federal territory and at the major traffic routes (road and railway) in particular.

Within the framework of Frontex Joint Operations, temporary “guest officers” from other EU Member States are installed in support to the Austrian border control officers. This mechanism for exchange of information is worth highlighting in a positive way. The European External Border Agency Frontex coordinates the cooperation of the individual EU Member States at the EU external borders and arranges trainings for the national border security officers.

In some countries, Austria has installed document advisors with Austrian Embassies and/or Consulates as well as at airports in order to support the staff of airlines in document screening and verification of individuals.

Further legal regulations – besides then Schengen Borders Code – for the border control are the Common Consular Instructions (GKI), the regulation (EG) Nr. 767/2008 of the European Parliament and of the Council of the European Union from the 9 July 2008 regarding the Visa Information system (VIS) and the Data exchange between the member states on visa for a short-term entry (VIS-VO). National regulations that are considered as well are the security police law, the law on border control, the aliens’ police law 2005, the regulation on the enforcement for aliens’ police, the law on police cooperation and appropriate bilateral agreements.

Austria has initiated bilateral agreements with neighbouring countries with regard to police cooperation, which provide for the establishment of police cooperation centers. Furthermore, there is cross-border cooperation in the fields of security police, criminal and border police.

In order to detect the physical cross-border transportation of currency and bearer negotiable instruments that are related to money laundering or terrorist financing, Austria applies Regulation (EC) No. 1889/2005 by which a declaration system at the external border of the European Union is required concerning bearer negotiable instruments or currency with a threshold of 10.000 € or more.

— Security of radioactive sources;

In Austria the Federal Law for a Nonnuclear Austria entered into force on 14 August 1999. This law stipulates that it is prohibited to produce, stock, transport, test or use nuclear weapons. Likewise it's prohibited to build facilities with the aim of production of energy through nuclear fission. Furthermore, Austria has ratified the Agreement on physical protection of nuclear material. In the Federal Law of the establishment of a security control system, the security of nuclear material and facilities and the export control to guarantee peaceful utilization of atomic energy implemented adequate legal regulations for the security of nuclear material.

— Use of the Internet and other information networks for terrorist purposes;

The BMI/BVT participates in international projects that serve the monitoring and the exchange of experiences in this field. For example the Programme „Check the Web“ by EUROPOL.

— Legal co-operation including extradition;

The security police law entitles the security agencies to demand information from departments of the area municipalities and other statutory corporations which is needed for certain missions.

Territorial cooperation:

The article 22 B-VG obliges all agencies of the government, the Länder and the municipalities to mutual administrative assistance within their constitutional sphere of action.

The security police law entitles the security agencies to demand information from departments of the area municipalities and other statutory corporations which is needed for certain missions.

International co-operation:

The international police co-operation operates on the basis of the police cooperation law and serves the purpose of security police, criminal police, pass entity, aliens' police and border control.

The international police cooperation contains the international administrative assistance and the intervention of security agencies and their departments abroad as well as foreign security agencies and their departments in the federal territory.

The international administrative assistance takes place between security agencies and security organisations.

— Safe havens and shelter to terrorists and terrorist organizations.

In the procedure of granting the right of asylum, the person applying for asylum should be checked on a terroristic background. Of course it can't be ruled out that criminals or terrorist use such procedures and gain asylum. Until now such cases have not emerged.

2. Stationing of armed forces on foreign territory

- 2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

Any deployment of Austrian troops abroad is regulated by the “Federal Constitutional Law on Cooperation and Solidarity in Deploying Units and Individuals Abroad”, adopted in 1997. According to its provisions, the possibility of deploying military (as well as civilian) personnel abroad is limited to peace operations in the framework of an international organisation, measures of humanitarian assistance (including disaster relief), search and rescue missions and training purposes.

Decisions on deployments in the framework of peace operations have to be taken unanimously by the Council of Ministers (the Federal Government) and need to be approved, before the planned deployment actually takes place, by a majority decision of the Main Committee of Parliament (“Hauptausschuß des Nationalrats”). Simplified procedures of decision and approval apply to humanitarian missions, search and rescue operations and training activities.

The law also specifically mentions that decisions on all deployments must take into account Austria’s obligations under international law as well as the principles of the UN Charter and the Helsinki Final Act.”

Since 1995 Austria has been participating in NATO’s Partnership for Peace programme. In this context, Austria has also signed the „Agreement among the States Parties to the North Atlantic Treaty and the other States Participating in the Partnership for Peace regarding the Status of their Forces“(PfP-SOFA), which entered into force on 2 September 1998 (Federal Law Gazette, Vol. III, No. 136/1998). The agreement forms the basis for the legal status of troops from partner countries sent to another partner country to engage in PfP activities. Austria has also signed a number of bi- and multilateral agreements with other states, which regulate, among others, the legal status of troops abroad.

3. Implementation of other international commitments related to the Code of Conduct

- 3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

Austria has been a longstanding advocate for arms control, disarmament and confidence- and security-building, and attaches particular importance to the implementation of such commitments by as many states as possible. It consequently seeks to further this aim in bi- and multilateral fora. Numerous initiatives have been undertaken in this regard.

In the field of conventional weapons Austria is currently playing an active role in the promotion of the Convention on Cluster Munitions signed in December 2008. With a view to speeding up the Convention’s ratification and implementation process the Austrian Law on the Prohibition of Cluster Munitions was circulated as a possible model among states that have not yet implemented it.

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

Arms control, disarmament and confidence-building are key elements to enhancing security and stability in the OSCE area and beyond. To that effect Austria has launched numerous initiatives aimed at the universalisation of international treaties in different fields.

Austria has been a longstanding advocate of nuclear disarmament and prevention of the proliferation of nuclear weapons. An early entry into force of the Comprehensive Test Ban Treaty (CTBT) is a top priority for Austria and would be an important confidence- and security-building measure which could facilitate reductions in strategic and non-strategic nuclear weapons as well as changes of strategic doctrines. Austria is especially dedicated to increase the number of States adhering to the CTBT.

Austria continues its efforts against Anti-Personal Mines (APM) by seeking to promote the universality of the Ottawa-Convention. Since 1999 Austria has provided considerable financial means for demining projects. South Eastern Europe has been a priority region for such projects.

As a member of the Executive Council of the Chemical Weapons Convention (CWC) in the period from 2008 to 2010 Austria is paying particular attention to extending the circle of state parties and to speed up the implementation of the Convention by its signatories.

3.3 Implementation of UNSCR 1325

In addition, Austria would like to provide information on efforts undertaken to further implement Resolution 1325 (2000), which was adopted unanimously by the United Nations Security Council on 31 October 2000.

Austria was among the first countries to adopt a National Action Plan in August 2007. A working group chaired by the Federal Ministry for European and International Affairs was established for the purpose of implementing measures under the Action Plan. The group is made up of representatives of all the ministries involved and of the Austrian Development Agency (ADA). So far two implementation reports have been submitted to the Council of Ministers and forwarded to Parliament.

Since the adoption of the national Action Plan existing pre-deployment training programmes have been adapted, in addition the Austrian contingent participating in EUFOR was specifically trained on the human rights of women and children. Furthermore, a seminar on women's rights is included in the compulsory basic training programme for young diplomats. During this seminar, participants are familiarised with the objectives of Resolution 1325.

Mainstreaming of the objectives of Resolution 1325 in the daily work of the Security Council is one of Austria's priorities during its Security Council membership 2009/2010. Austria was actively involved in negotiating Resolutions 1888 (2009) and SCR 1889 (2009) and supported the creation of the mandate of a Special Representative of the Secretary General on sexual violence. In March 2010 Austria together with the United Nations hosted an expert meeting focussing on global indicators for the implementation of Resolution 1325. This meeting provided input for the further work of the Security Council in this area. Austria also

participated in the work of the EU Task Force to elaborate a set of EU indicators on Resolution 1325. Indicators measure progress and achievements and are one way of ensuring better accountability.

Austria supported the UNIFEM programme on Building Accountability for the Implementation of Resolutions 1325 (2000) and 1820 (2008) and the UNIFEM programme on the Implementation of Resolution 1325 in the Western Balkans. Gender equality and the empowerment of women are underlying principles of Austria's bi- and multilateral development cooperation.

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

According to the Austrian defence constitution ("Wehrverfassung"), the Austrian Armed Forces (AAF – "Österreichisches Bundesheer") are part of the Austrian public administration. The constitutional regulations concerning public administration thus also apply to the AAF (Principle of rule of law).

The Federal President is the Commander-in-chief (Oberbefehlshaber) of the AAF (Art. 80 Federal Constitutional law). The authority to dispose (Verfügungsbefugnis) of the AAF is divided between the Federal President and the Minister of Defence and Sports. The power of order (Befehlsgewalt) over the AAF is given to the Minister of Defence and Sports.

Legislation related to defence matters is the responsibility of the Federal State. Parliament can discuss defence issues at its National Defence Committee, a special parliamentary body with competence for examining legislative proposals in the defence sector, and at plenary meetings.

Moreover, Parliament exercises political control over governmental action: It may address queries concerning governmental action (i.e. the action of each member of government and of the public institutions under their authority) to government or to individual ministers (Interpellationsrecht). Parliament may also express itself on how to conduct governmental action by means of a resolution (Resolutionsrecht). Furthermore, Parliament may establish investigating committees to conduct enquiries on governmental action (Enqueterecht). The two military intelligence services are subject to parliamentary control within the Permanent Subcommittee of the National Defence Committee mentioned above.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

Pursuant to section 7 § 1 of the Austrian Military Service Act 2001 (Wehrgesetz) the Federal Government determines fundamental issues concerning the organisation of the armed forces,

weapons, deployment and designation of troops. The financial resources provided for national defence are laid down in the Federal Finance Act (Bundesfinanzgesetz).

In December 2001 the Austrian Parliament took note of the analytical part of the report on the „Austrian Security and Defence Doctrine“ which had been submitted by the Federal Government. It accepted the resolution on a new „Austrian Security and Defence Doctrine“. Since the parliamentary decision on the „Defence Doctrine“ of 1975, this resolution was the first fundamental political guideline for the forming of the Austrian security policy. On the basis of the recommendations on the security and defence policy laid down in the resolution the government is requested by parliament to elaborate partial strategies for all fields related to security policy matters. These partial strategies shall in particular deal with those measures necessary to execute the recommendations.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

Austria's constitution regarding the armed forces is characterised by a far-reaching integration into the administrative apparatus of the state. The armed forces are thus a complex organ of the public administration, which is shown not only by a systematic definition of its set-up and tasks under constitutional law, but also by the fact that it is subject to the command authority of some of the highest administrative organs. Being part of the public administration, the armed forces are also subject to the control mechanism established by constitutional law.

In accordance with the principles of a democratic state governed by the rule of law enshrined in the Austrian Federal Constitution, democratic political control of the security forces is entrusted above all to the following institutions;

- parliament (legislative prerogatives incl. adoption of the federal budget, control of the executive branch through instruments such as the approval of international treaties, interpellation of members of government, commissions of enquiry, no confidence motions)
- the ordinary judiciary (civilian and criminal courts)
- the Constitutional Court and the Administrative Court
- independent administrative tribunals (“Unabhängige Verwaltungssenate”)
- the Public Audit Office (“Rechnungshof”)
- the Ombudsman Board (“Volksanwaltschaft”)
- the Data Protection Commission

Concerning the Armed Forces, a Parliamentary Armed Forces Commission for Complaints has been established under Section 4 of the Military Service Act 2001, whose first and foremost task is to make recommendations for dealing with complaints brought before the Federal Minister of Defence and Sports. Furthermore, the Commission is also entitled to undertake, on its own initiative, inquiries on suspected deficiencies and grievances regarding national service.

In the area of competence of the Federal Ministry of the Interior, two more organs have to be mentioned, namely the Advisory Committee on Human Rights and the Federal Anti-Corruption Bureau.

- The task of the Advisory Committee on Human Rights, which was called into being by §§ 15a to 15c of the “Security Police Law” (“Sicherheitspolizeigesetz”) is to advise the Minister of the Interior regarding questions of ensuring respect of Human Rights as well as to support mainstreaming of Human Rights aspects in the activities of internal security authorities by surveillance and inspections. For example, the Advisory Committee on Human Rights conducts visits to detention facilities, identifies shortcomings and proposes concrete solutions.
- The Office for internal affairs (BIA) as an organisational unit which is independent and unbound to directives. It leads security police and criminal police investigations against “internal wrongdoers”. This means receipt and inspection of accusations and complaints against civil servants of the Federal Ministry of the Interior and subordinated departments that can be assigned to the field of malpractice in office (§§ 302-313 StGB). The BIA is also in charge of investigations regarding civil servants of other ministries and territorial authorities when these are in charge of task in the field of security management or criminal police. In particular cases the BIA is in charge of other similar affairs (e.g. investigations of other grave violation of the official duty such as sexual harassment through superior or colleagues). The BIA has furthermore established itself as specialised agency for the investigation of corruption cases in other areas and fields. If required relevant investigations in other government departments, in magistrate of cities, areas and districts as well as in the private sector (keyword: "private sector corruption") are undertaken.

On 16 November 2001, a law on the formation of the National Security Council entered into force. This Council, chaired by the Federal Chancellor, must be heard in all fundamental matters of foreign, security and defence policy. It advises the Federal Government and the individual Federal Ministers. Its other members include the Vice-Chancellor, the Federal Minister for European and International Affairs, the Federal Minister of Defence and Sports, the Federal Minister of Interior, the Federal Minister of Justice and representatives of the political parties. Moreover, several senior civil servants participate in the National Security Council as advisors: a representative from the President's Office, a representative from the Presidency of the Governors of the “Länder”, the Secretary General for European and International Affairs, the Chief of Defence, the Director General for Public Security and respectively one civil servant appointed by the Federal Chancellor, the Vice-Chancellor, the Federal Minister for European and International Affairs and the Federal Minister of Defence and Sports.

In the military field, two Austrian intelligence agencies are operating. They are both part of the Austrian Armed Forces. The “Heeres-Nachrichtenamt” is a strategic foreign intelligence agency which procures information on regions, countries and organizations. The “Abwehramt” is a military intelligence agency which provides counterintelligence services for the Austrian Armed Forces. Its task is to gather and evaluate information about activities endangering or directed against the Austrian Armed Forces and military security, e.g. activities against military personnel, military secrets, military compounds and military goods.

For the purpose of reviewing the measures for the safeguard of constitutionally established agencies and their operative capacity, as well as for the purpose of reviewing intelligence

measures to secure the country's military defence, the Austrian Constitution provides for two standing sub-committees of the Austrian Parliament.

The two standing sub-committees are entitled to request all relevant information and insight into relevant documents. This does not apply to information and documents whose disclosure would endanger national security or the safety of individuals. Section 57 of the Austrian Military Service Powers Act installs a representative for legal protection (Rechtsschutzbeauftragter), who is authorised to examine the lawfulness of measures of the intelligence agencies.

The "Federal Agency for State Protection and Counter Terrorism" (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung/BVT) which maintains nine regional branches is a civilian intelligence service and law enforcement agency under the authority of the Federal Ministry of the Interior. It is entrusted with competences in fields such as counter-terrorism, counter-espionage and non-proliferation. The Agency is also responsible for the personal protection of high ranking officials and the security of installations of international institutions in Austria.

2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

The compliance with regulations through civil servants is regardless of the responsibility under criminal law, ensured through the public services law and the disciplinary laws. A violation of official duties through a civil servant will be punished by disciplinary-judicial measures. The penalty depends on the severity of the violation of official duties and can lead to dismissal.

For contract agents there is the possibility of admonition as well as the possibility of termination of the service through suspension or dismissal for violation of official duties.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

Under Article 79 of the Austrian Constitution, the Federal Armed Forces' first and foremost task is the „country's military defence“. Other tasks laid down in the Constitution include the “protection of the constitutionally established institutions as well as their capacity to operate and the population's democratic freedoms”, „the maintenance of order and security inside the country in general“, „rendering assistance in the case of natural catastrophes and disasters of exceptional magnitude“. Additional tasks are stipulated by federal constitutional law. The only constitutional law enacted so far in that respect is the “Federal Constitutional Law on Co-operation and Solidarity in Dispatching Troops and Individuals to other Countries“ (KSE-BVG) (Federal Law Gazette Vol. I, No. 38/1997).

The powers of military organs are extensively regulated in the “Military Powers Act” (Militärbefugnisgesetz), which entered into force on 1 July 2001 (Federal Law Gazette, Vol. 1, No. 86/2000). This Act covers in a comprehensive way inter alia requests for information, control of persons, instructions to leave a certain place, body search, entering premises, seizure of property, use of weapons and data processing.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

Pursuant to section 10 of the Military Service Act 2001, Federal Law Gazette Vol. I, No. 146/2001, all male Austrian nationals between the age of 17 and 50 are liable for military service (this liability ends for officers, non-commissioned officers, and staff with special skills at the age of 65). Pursuant to section 11 of the Military Service Act 2001 compulsory military service means the duty to appear before a draft board and to participate in the necessary physical and psychological evaluation, the duty to serve in the Austrian Armed Forces, the duty to fulfil the obligations as member of the „militia“ (reserve) and the duty to notify the military authorities of facts with relevance to the service in the military e.g. change of residence etc.

Section 12 of the Military Service Act 2001 divides the Austrian territory into recruitment areas in order to facilitate the registration, evaluation and induction of persons liable for military service. These areas correspond to the territories of the nine Austrian Federal Provinces. Pursuant to section 13 of the Military Service Act 2001 a military command is to be established for each recruitment area, which is responsible for the recruitment of conscripts.

The particulars and other relevant data of persons liable for military service (i.e. name, date and place of birth, place of residence etc.) must, upon request, be communicated to the respective military command by the competent civilian administrative authorities.

After their registration, conscripts are subjected to an evaluation procedure in the year in which they attain the age of 18. Pursuant to section 17 § 1 of the Military Service Act 2001 the examination may only be carried out by evaluation centres (draft boards), which - according to section 16 § 1 of the Military Service Act 2001 - consist of an officer (superior), a doctor and a psychologist. The purpose of the examination is to determine whether a person liable for military service has the physical and mental fitness required for military service. The evaluation procedure usually lasts for 1 1/2 days and is concluded by a written decision declaring him „FIT“, „UNFIT“ or „TEMPORARILY UNFIT“ for military service.

Pursuant to section 9 of the Austrian Military Service 2001 Act only Austrian nationals that have attained the age of 18 (on a voluntary basis this is possible also after having attained the age of 17) and whose fitness for military service has been established by the decision „FIT FOR MILITARY SERVICE“ may be called up for military service. Under section 24 of the Military Service Act they are called-up for national service in accordance with military interests by means of a decree in the form of a draft notice (or where military conditions so require, also by a general announcement by the Federal Minister of Defence and Sports). The draft notice essentially states the type and duration of the military service to be rendered, as well as the place and time at which the person concerned is to report for duty.

Persons liable for military service are assigned to the individual units by taking into account their aptitudes and military requirements and in the absence of any military requirements to the contrary, also by taking into account their profession and other certified expert

knowledge, the place of residence, and any wishes regarding the place of duty, type of force and date of call-up.

The induction into the Austrian armed forces occurs at 00.00 hrs of the day stated in the draft notice, even if a draftee fails to comply with it.

Recruitment and call up for voluntary military service:

Female Citizens as well as persons liable for military service may volunteer for a kind of military service called “training service,” in order to prepare them for a career as an officer, a non-commissioned officer or a member of a unit of the Forces for International Operations. The period of this service is basically limited to twelve months, but may be extended by another six months, if military interests so require. Personnel applying for this service have to pass an aptitude test including a special medical check-up, a psychological screening and a physical fitness test conducted by the Armed Forces Personnel Agency. Call-up of these personnel is similar to compulsory military service, procedures for the subsequent different employments are numerous and varying.

The admission in the service of the executive authority takes place within the framework of a comprehensive admission procedure. After tending for free positions, the applicants must undergo a security check and a medical examination; complete a written acceptance test as well as an admission interview and athletic test.

3.2 What kind of exemptions or alternatives to military service does your State have?

Under Article 9a § 3 of the Constitution every male citizen is liable for general military service but may refuse to fulfil compulsory military service, if he commits himself to rendering an alternative service.

The detailed provisions governing military service are regulated in the Military Service Act 2001 and those governing the civilian alternative service in the Civilian Alternative Service Act 1986 (Zivildienstgesetz), Federal Law Gazette No. 679/1986, as amended by Federal Law, Fed. Law Gazette Vol. 1, No. 29/1998.

Exemption from the duty to undergo an evaluation procedure:

All persons liable for military service must in any event undergo an evaluation procedure unless they are exempt by law from doing so. Pursuant to section 18 § 3 of the Military Service Act 2001, the following members of a legally recognised church or religious community are exempt from this duty:

- Ordained priests; persons who have completed their theological studies and are now engaged in spiritual welfare work for the church or teach theology in schools.
- Monks
- Students of theology preparing for the priesthood

Exclusion from the call-up for military service:

Pursuant to section 25 of the Military Service Act 2001 the following persons are excluded from the call-up for military service:

- Persons liable for military service on whom a prison sentence has been imposed and who have been granted a postponement or interruption of serving their sentence, are excluded during the period of postponement or interruption.
- Persons liable for military service that are imprisoned or otherwise detained by order of a public authority, are excluded during the period of imprisonment or detainment.
- Persons liable for military service who fulfil the exemption requirements of p. 18 § 3 of the Military Service Act 2001 unless they have expressly agreed to the call-up.

Moreover, persons liable for military service who have rendered at least two years of service in development assistance abroad, are also exempt from the call-up for military service, unless they have expressly agreed to the call-up.

Exemption from compulsory military service:

Pursuant to section 26 § 1 of the Military Service Act 2001, persons liable for military service are exempt from compulsory military service:

- ex-officio, if and as long as military considerations or other public interests, in particular overall economic or family policy interests, so require, and
- upon their request, if and as long as economic and family interests, that are to be especially taken into account, so require.

Postponement of basic military service:

Unless military interests require otherwise, section 26 § 3 of the Military Service Act 2001 provides for the postponement of basic military service upon a request by persons declared fit for military service, if

- they were attending school or university or were receiving other preparatory professional training at the beginning of the calendar year during which the induction procedure declaring them fit for the first time or fit again after being found „temporarily unfit“ or „unfit“ began.
- they were not called-up for compulsory military service at a certain date within one year after they were in a position to render basic military service, and they would be put at a severe disadvantage as a result of an interruption of their educational or university training or other preparatory professional training.

A postponement may in any case be granted until they have completed their respective training but must not exceed the date of 15 September of the calendar year during which they attain the age of 28.

Duty to render alternative service (civilian alternative service) for conscientious objectors:

The constitutional provision of section 2 § 1 of the Civilian Alternative Service Act in the current version gives all persons liable to military service a subjective right guaranteed by constitutional law to refuse military service for reasons of conscience, requiring them at the same time to render alternative service („civilian alternative service“).

According to this provision, persons liable to military service who within the meaning of the Military Service Act have been found fit for the first time, may declare:

- that they are unable to comply with their duty to render military service because - apart from acting in self-defence or assisting in an emergency - they refuse to use arms against other people for reasons of conscience and would thus be faced with a moral dilemma in the military service, and
- therefore wish to render civilian alternative service.

The right to submit a declaration to that effect is at any rate guaranteed for at least six months following the completion of the pre-induction procedure during which the person liable to military service was for the first time found fit to render such service. In addition, he may submit his declaration until the second day prior to being called-up for compulsory military service. Civilian alternative service lasts for twelve months.

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

Appeals to the Constitutional Court or to the Administrative Court:

All disciplinary actions or measures under the relevant provisions of the service law must be issued in the form of administrative decisions. A soldier who considers his or her right to have been violated by a decision which, after exhaustion of available remedies, has become final, may lodge an appeal against that decision with the Constitutional Court or with the Administrative Court. If the appeal is granted, the impugned decision is repealed.

In addition, a soldier - like any other citizen - may lodge an appeal against a decision by an administrative authority with the Administrative Court and in certain cases with the Constitutional Court.

Appeals Commission at the Federal Chancellor's Office:

Soldiers who are civil servants (career officers, regular non-commissioned officers, contract personnel) may challenge a decision by the hierarchical authority ordering a transfer or qualified change of assignment by appealing to the Appeals Commission at the Federal Chancellor's Office.

Decisions are issued by individual chambers of the Appeals Commission whose chairperson and deputy chairperson must be judges. The Commission is independent and not subject to instructions under the Federal Constitution Act. Decisions by the Appeals Commission may not be challenged before the Administrative Court.

Appeals to an Independent Administrative Tribunal:

In accordance with a special federal constitutional law, Independent Administrative Tribunals were installed in the nine Federal Provinces whose competences include decisions on complaints from persons who claim an infringement of their rights by a measure of direct coercion. Apart from appeals against police actions based on the power of coercion, soldiers may also seize these Independent Administrative Tribunals with complaints against arrests under the military disciplinary law.

Grounds for exemption from Punishment under the Code of Military Offences:

Competence for penalising criminal offences committed by soldiers lies with the general courts of criminal justice. In addition to the penal laws applicable to all citizens, the Code of Military Offences also contains provisions governing a number of other offences, including court sentences for violations of the military duty to obey.

Any conflict between the soldier's duty to obey, on the one hand, and his or her rights and the obligation to observe the general penal laws, on the other, is avoided with the possibility of exemption from punishment explicitly listed in section 17 of Code of Military Offences. A violation of the duty to obey is not liable to punishment under the Code if the instruction constitutes a violation of human dignity; if it is issued by an incompetent person or agency; if it is invalidated by another instruction; if it is rendered redundant by a change of situation and if obeying the instruction would entail a significant drawback; if it is entirely unrelated to national service; or if it orders the perpetration of a criminal offence.

Offences which are committed by superiors or subordinates in violation of the rights of other soldiers are also subject to special punishment under the Code of Military Offences.

Issuance of instructions in writing:

A part from the right to refuse to obey an instruction if one of the reasons above applies, a subordinate is also entitled to request a written version of an oral instruction prior to its execution if the instruction relates to facts, news or projects of military relevance, or if he or she has raised objections to the instruction which were not considered. A superior is obliged to comply with such a request unless this is not feasible for service-related reasons.

Regular complaints:

Under the general service regulations for the Armed Forces, every soldier has the right to complain orally or in writing about any defects or flaws, in particular any injustice or interference with service competences, affecting him or her in the performance of national service.

Regular complaints must be addressed to the competent superior, who is obliged to deal with them expeditiously, however no more than six weeks later. If the complaint is about the superior to whom it would normally be addressed, it may be submitted to the next higher superior. No superior is authorised to deal himself with an ordinary complaint directed against him. If an ordinary complaint is incompletely or not at all granted or dealt with in due time, it may be submitted to the next higher superior within a specified time.

Extraordinary complaint:

A soldier may also lodge a grievance in the form of an extraordinary complaint to the Parliamentary Armed Forces Complaints Commission at the Federal Ministry of Defence and Sports. Extraordinary complaints filed with the competent national service authority must be forwarded, without delay or compliance with official channels, to the Parliamentary Armed Forces Complaints Commission.

The Parliamentary Armed Forces Commission for Complaints has been established under a constitutional provision of the Military Service Act and is composed of three chairpersons appointed by the Federal Parliament ("Nationalrat") and six members nominated by the

political parties in relation to their number of seats in the Main Committee of the Parliament ("Nationalrat").

Advisory members of the Commission are the Inspector General of the Armed Forces and a civil servant nominated by the Federal Minister of Defence. The tasks of the Parliamentary Armed Forces Complaints Commission are to receive, examine and decide on a recommendation to settle extraordinary complaints from persons who are: undergoing voluntary pre-induction or voluntary military training, liable to pre-induction or national service, soldiers, or members of the militia or reserve who are liable to further service after completion of basic national service.

The Commission is also competent to perform ex-officio examinations of suspected flaws and grievances of national service operations. The Commission is authorised to conduct any investigations required under its mandate directly at the site of the grievance, if necessary, and to obtain all relevant information from the competent authorities.

By March 1 the Parliamentary Armed Forces Complaints Commission submits an annual report on its activities and recommendations for the previous year, which must be presented every other year to Parliament by the Federal Minister of Defence and Sports along with a statement on the recommendations contained in the report.

Complaints to the Ombudsman Board:

In addition, soldiers, as all other citizens, have the right to complain about alleged grievances in the federal administration to the Ombudsman Board, established under a constitutional law, to the extent that they are personally affected and provided that no other remedies are available. The Ombudsman Board is obliged to examine each and every complaint that is submitted to it and to inform the appellant about the result of the examination and about the measures taken, if any.

Reports:

In conformity with the General Service Regulations, every soldier is obliged to report to his or her superior, without an invitation, any facts, events, news or projects that are relevant to the service operation, in order to enable the superior to take the necessary measures.

Requests:

Every soldier has the right to submit, orally or in writing, requests to his or her superior (starting at the level of unit commander). Such requests must list specific reasons. Report meetings during which requests or complaints may be submitted orally are held daily by service units and occasionally by superior command units. Requests or complaints may also be presented in a personal interview which must be granted by the superior subject to service schedules.

Requests must be dealt with by the superior after a thorough examination. If the matter is not within his purview, the superior must immediately transmit the request along with his comments to the competent authority. If a request is not approved, a reason for that decision must be provided. If a request is rejected or insufficiently granted, the soldier has the right to submit the request to the officer who is superior to the one having competence for dealing

with the request.

Soldiers' representatives and personnel representatives are authorised within their statutory scope of action to submit requests and complaints. They may be asked by soldiers to offer assistance in drafting requests and complaints and to be present during personal talks.

Interferences in the subjective rights of the civil servants or the applicants are just allowed on the base of legal regulations. The violation of subjective rights of the civil servant can be enforced by the person concerned in the proceedings of the civil servant law through a formal declaratory procedure in writing. Moreover the civil servant and the applicant as person concerned can enforce a possible claim of occurred claims through civil liability in front of an ordinary court

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

With the current law (Military Service Act 2001, Code of Military Offences, Civilian Alternative Service Act) and the relevant ordinances (General Service Regulations), decrees (Code of Conduct for Soldiers) and training instructions, the prerequisites of the OSCE Code of Conduct are generally considered to be fully complied with.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

International humanitarian law and other international rules, conventions and commitments governing armed conflict are elements of curricula of Officers and NCO's courses. Conscripts are informed about international humanitarian law during basic training. Subsequently, international humanitarian law and other international rules, conventions and commitments governing armed conflict are elements of further training of Officers and NCO's. Forces prepared for international missions get additional training in relevant contents. All these instructions are also included in various regulations throughout the Austrian Armed Forces.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

Trough relevant ordinances (General Service Regulations), decrees (Code of Conduct for Soldiers) and training instructions military personnel is made aware of in particular to limit military actions in a way not to harm the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity. Austrian military personnel are aware of their personal responsibility and accountability for all actions during military service

in national and international duties.

- 4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

Under the Federal Constitution Act and the Military Service Act 2001, all members of the Federal Armed Forces generally have the same civic rights as all other citizens.

At the same time, section 43 of the Military Service Act 2001 provides that the members of armed forces must refrain from any partisan political activity during the duty hours and within the area of national service, such as promoting the aims and objectives of a political party or in an election campaign, or the organisation of meetings and rallies on military premises. Section 43 § 4 of the Military Service Act 2001 prohibits soldiers from taking part in public meetings, manifestations or demonstrations while in uniform.

In the field of basic rights, there are legal restrictions on the right to freedom of expression regarding the duty to preserve official confidentiality and military secrets. Finally, the rights of soldiers are limited by such duties as provided for by laws and ordinances and specifically necessitated by the peculiarities of a military service operation.

- 4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

Basic documents setting out the foundations for defence policy and doctrine, such as the 2001 "Security and Defence Doctrine" are elaborated in procedures that ensure due scrutiny by legal experts under aspects of constitutional as well as international law, in many cases (where security policy in a general sense is concerned) experts not only from the Ministry of Defence and Sports but also from other government agencies such as the Federal Chancellery, the Ministry for European and International Affairs and the Interior Ministry.

The dispositions of the "Federal Constitutional Law on Cooperation and Solidarity in Deploying Units and Individuals Abroad" regarding the necessity of troop deployments abroad to be undertaken in accordance with international law as well as the principles of the UN Charter and the Helsinki Final Act have already been mentioned in the answer to question 2.1. Section I.

Furthermore, the structures of democratic control referred to in the answer to question 2.1. of Section II can also be considered as important guarantors for the consistency of national defence policy and doctrine with international law.

Section III: Public access and contact information

1. Public access

- 1.1 How is the public informed about the provisions of the Code of Conduct?

The implementation of relevant provisions of the Code of Conduct is pursued by the respective Federal Ministries. These Ministries are providing according to their public policy information on defence and security policy issues through their press and public division on a regularly basis. This is done by press releases or by posting relevant information on the internet homepages of these Ministries, whereas requests for additional information could be made by everyone;

<http://www.bmeia.gv.at/aussenministerium/aktuelles/presseaussendungen.html>

http://www.bmlv.gv.at/journalist/pa_menu.php

<http://www.bka.gv.at/site/4115/default.aspx>

http://www.bmi.gv.at/cms/bmi_presse/

http://www.bmi.gv.at/cms/bmi_service/

<http://www.bmj.gv.at/buergerinfo/index.php?nav=68>

In addition, public broadcasting stations and selected newspaper are contracted to publish changes and updates on national regulations and laws. Among those also information on national policies related to provisions of the Code of Conduct is provided to the public.

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

(See answer 1.3 of the same section)

1.3 How does your State ensure public access to information related to your State's armed forces?

Public access to information on the Austrian Armed Forces is ensured by the fact that all politically or legally relevant documents and decisions are published and easily made available. This is achieved by using different modes to provide related information;

Internet: www.bmlvs.gv.at

Newspaper: "DER SOLDAT", www.dersoldat.at

Periodical: "TRUPPENDIENST" and "ÖMZ-Österreichische Militärische Zeitschrift"

Events: Presentation of the Austrian Armed Forces on National Holiday 26 October as well as open days at barracks

Seminars: Regular presentation and discussion of military related topics at National Defence Academy and National Military Academy

In addition the Ministry of Defence and Sports is providing videos, leaflets as well as posters on military activities and missions. Finally military officers are visiting on request schools and provide information on the military system in Austria.

The rules concerning the access to classified information received by Austria from international organizations and other states are contained in the "Law on Information Security" (Informationssicherheitsgesetz). It restricts the information access to public officials and other persons if they need access to enable them to fulfil their official duties or for an activity in the public interest ("need to know principle"). The law does not apply in relation to the Austrian Parliament, which has its internal procedures for the protection of classified documents. It stipulates that the Austrian classification has to guarantee the level of

protection envisaged by the international organization or other states and would not provide a basis for a higher classification.

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

Austrian Ministry for European and International Affairs

Unit II.7.b – Military Affairs and non-military Security Affairs in the framework of the OSCE

BMeiA, Minoritenplatz 8, A-1014 Wien

Tel.: +43 (0)5 01150-3986, Fax.: +43 (0)5 01159-3986

or

Tel.: +43 (0)5 01150-3673, Fax.: +43 (0)5 01159-3673