

Collection of information prior to the ninth meeting of the Working Group from 6 to 7 September 2018

I - Information requested from States parties in relation to preventing and managing conflicts of interest (art. 7, para. 4)

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention, and in particular to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Information sought may include:

- **Description of specific conflict of interest standard(s), indicating if these standards:**
 - Are publicized widely;
 - Regulate the outside activities of public officials;
 - Prohibit the holding by public officials of certain types of assets or positions in legal entities that are incompatible with their primary functions, such as an individual sitting on the board of a company;
 - Limit the official actions a public official may take because of a conflict of interest;
 - Apply criminal, administrative or other sanctions where public officials do not comply with applicable conflicts of interest regulations;
 - Description of training or advisory services to public officials regarding relevant conflicts of interest regulations;
 - Description of public access to information on government processes in which there is a higher risk of conflict of interest between the interests and activities of a public official and the particular type of government process;
 - Description of the specific duties and responsibilities of the specialized staff or bodies given responsibility to strengthen transparency and prevent conflicts of interest in government;

- Description of the institutional structure and procedures to oversee the compliance with conflict of interest legislation and apply respective sanctions.
- Description of the measures aimed at preventing conflicts of interest concerning former public officials in private entities, such as:
 - Restrictions, for a reasonable period of time, on the professional activities of former public officials;
 - Restrictions, for a reasonable period of time, on the employment of former public officials by the private sector after resignation or retirement;

The Austrian Civil Servants Act as well as the Civil Service Employees Act contains provisions regarding the prevention of conflicts of interest based on, among other things, outside activities or secondary employments as well as the acceptance of gifts. Additionally, the Federal Ministry of the Interior published a regulation on secondary employments in 2016.

Moreover, the Federal Chancellor's Office published a code of conduct to prevent corruption in 2009. The code has the title "The RESPONSibility rests with me"¹ and applies to all Austrian public officials. However, the latest Version is from 2012. Furthermore, the different ministries established own codes of conduct tailored to their specific requirements, e.g. the code of conduct of the Federal Ministry of the Interior "Our Values. Our Approach"². These codes are usually available on the ministries' websites and provide guidelines and rules for different types of conflicts of interest such as gifts or outside activities. Basically, such codes do not contain sanctions for non-compliance but nevertheless, there are measures in the Austrian civil service and disciplinary law. However, there are no further criminal or other sanctions where public officials do not comply with applicable conflicts of interest regulations.

Besides the legal framework the ministries also organize anti-corruption and compliance trainings. In addition, the Federal Bureau of Anti-Corruption, which forms part of the Ministry of the Interior, provides a corruption prevention advisory service with the aim to reduce risk factors, enhance integrity of employees and promote an organizational culture of integrity. In general, every Austrian public servant has the possibility to join an anti-corruption module, which is called "Corruption-prevention, compliance and integrity", at the Federal Academy for Public Services. Finally, the

¹https://www.oeffentlicherdienst.gv.at/moderner_arbeitgeber/korruptionspraevention/infos/Verhaltenskodex_English_2012_barrierefrei.pdf?3shqic

² <http://www.bak.gv.at/en/Downloads/files/522FolderVerhaltenkodexENGLISCHV20171016praes.pdf>

governments of the federal states as well as communities provide their employees with a variety of anti-corruption and compliance trainings. It is important to emphasize that all those trainings within the Austrian public sector are in some way concerned with conflicts of interest.

Regarding the public access to information on government process Austria adopted a “Transparency Package” in 2012. This package comprises a law regulating transparency and incompatibilities for supreme organs and other public officials. According to this Act, members of the federal government have certain reporting obligations regarding their assets. Further, a law focused on the regulation of lobbying together with the related lobbying-register constitutes another part of the “Transparency-Package”. Both acts are concerned with the prevention of conflicts of interest. For the sake of completeness, the Media Transparency Act should be mentioned as the third and last part of the package, even though it basically does not address conflicts of interest.

An independent platform³ created by civil society provides information on parliamentarians and top-level politicians. The information gathered and published on the platform concerns the educational background, secondary employments, outside activities etc. of the politicians. Such information is available online and therefore open to the public. Furthermore, there is another forum set up by Austria’s civil society with the aim to strengthen transparency, public oversight and democratic participation. The primary objective of the forum is the adoption of an Access to Information Act.

Finally, the Federal Bureau of Anti-Corruption represents the Austrian specialized body given responsibility to strengthen transparency and prevent conflicts of interest. According to Section 4 Paragraph 3 of the Federal Law on the Establishment and Organization of the Federal Bureau of Anti-Corruption, the BAK has a mandate to analyze corruption phenomena, gather information on preventing and combating them and develop appropriate preventive measures. In this context, the BAK is responsible for strengthening the willingness and abilities of individuals as well as territorial communities or authorities to obtain knowledge about measures for the prevention of corruption and promotion of integrity and, accordingly, to develop an awareness of this issue. On this account, the BAK also initiated a Network of Integrity Officers (NIO) whereby one of its aims is the prevention of conflicts of interest throughout the public sector.

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties may face include:

³ <https://www.meineabgeordneten.at/>

- Challenges in developing the proper legislative or regulatory framework for managing or preventing conflicts of interest;
- Challenges in administering conflict of interest systems;
- Challenges in relation to specific recruitment, selection or training requirements for categories of positions considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest;
- Challenges in providing ethical guidance or advice to public officials; and
- Challenges in communication, and in particular in raising awareness and disseminating information about new standards of conflict of interest or in developing training manuals, courses, curricula or other related material, including online initiatives, used in training programmes for public officials.

As mentioned above, there are certain reporting obligations within the Austrian legal system. Nonetheless, reports of public servants are sent to the Auditor General's Office but without public access to such reports. Furthermore, the Austrian reporting-system does not provide any sanctions for late or incomplete reports. The lenient reporting system was already an issue in Austria's first and second GRECO-evaluation round.

Furthermore, Austria was recommended in the course of its UNCAC-review in the first cycle to consider strengthening the existing asset declaration regime by making it more comprehensive and subject to monitoring, as well as providing for more effective criminal sanctions in dealing with incorrect declarations.

With respect to the code of conduct to prevent corruption published by the Federal Chancellor's Office the latest Version is from 2012 and therefore not up to date. However, the code is currently undergoing a general evaluation and actualization process.

II - Information requested from States parties in relation to asset and interest disclosure (art. 8, para. 5)

1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 8 (5) of the Convention, and in particular to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

Information sought may include:

- **Description of the objectives of the declaration system applicable to public officials (prevention of conflict of interest, illicit enrichment, or both [dual system])**
- **Where such a declaration system is in place, you may wish to provide information on the following:**
 - Types (categories) of public officials required to make declarations and approximate total number of persons submitting declarations;
 - Information that must be declared (assets, outside activities and employments, positions in companies, other associations, gifts and other benefits, liabilities, etc.);
 - Frequency of declarations required;
 - How declarations are submitted (in paper format, electronically, in person) and the entities to which they are submitted;
 - Availability of tools and advisory services that officials can use in order to comply with their disclosure-related obligations (guidelines for filling out forms, resources for learning about conflict of interest issues, resources for receiving tailored advice on specific conflict of interest situations, etc.);
 - Whether information is declared on assets of public officials' family members or members of public officials' households and under which circumstances such information is provided;
 - What mechanisms are in place for ensuring compliance with the obligation to disclose;
 - Whether there is public access to any of this information;
- **Any mechanism in place to carry out the verification/monitoring of the content of declarations; including information on the verification mechanism, such as:**
 - How many disclosures are verified (all, a certain percentage, etc.);
 - What triggers verification (complaints, routine verification/ex-officio, notifications from other institutions, random selection, etc.);
 - What processes are involved in the verification/review process (checks for internal consistency, cross-checks with external databases, comparisons across years, identification of potential conflicts of interest, etc.);
 - What information can be accessed during the verification/review process (from public officials or public and private sector entities);

- What happens once irregularities are identified (potential conflicts of interest, unjustified variations of wealth, inaccurate information, etc.);
- **Whether and to what extent the content of disclosures (in summary form or all information disclosed) or names of persons submitting declarations are made available to the public and other public sector entities and, moreover, how the information is made available (upon individual request, on-line, etc.);**
- **Number of trained staff dedicated to collection, compliance, providing advisory services to officials, making disclosures publicly available, verification, sending referrals to other entities; what types of sanctions are available in the declaration system (for non-submission, actual conflict of interest, false statement, illicit enrichment, etc.).**

Please see response above (“Transparency Package” and reporting obligations).

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties may face include:

- Challenges related to developing and adoption of the legal framework of the assets and interest disclosure system;
- Challenges related to the functioning of the asset and interest disclosure system and in particular:
- Challenges related to submission of the declarations;
- Challenges related to verification of the declarations;
- Challenges related to the follow up and to imposing sanctions;
- Challenges related to the transparency of the regime; and
- Challenges related to resources limitations, lack of capacity, etc.

Please see responses above.