

BMeiA-O1.2.07.26/0004-II.7b/2008

Annex

Note Verbale

The Permanent Mission of Austria to the OSCE presents its compliments to all other Missions and Delegations to the OSCE and to the Conflict Prevention Centre (CPC) and has the honor to provide Austria's response to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security in accordance with FSC Decision 4/03. An electronic copy of the information will be passed to the Conflict Prevention Centre.

The Permanent Mission of Austria to the OSCE avails itself of this opportunity to renew to all other OSCE Missions and Delegations and to the CPC the assurances of its highest consideration.



To: All Permanent Mission and Delegations to the OSCE
and Conflict Prevention Centre (CPC)

REPUBLIC OF AUSTRIA

Exchange of Information on the

OSCE Code of Conduct

on Politico-Military Aspects of Security
(submitted April 2007)

1. Appropriate measures to prevent and combat terrorism, in particular participation in international agreements to that end:

(a) List of international agreements, including all United Nations conventions and protocols related to terrorism, to which the participating State is a party:

Austria has ratified all 12 universal legal instruments in the field of counter-terrorism. In September 2005 Austria signed the UN Convention on Nuclear Terrorism:

	P = Party	Instrument: (R) Ratification	(a) accession	(s) succession	(A) Acceptance	(AA) Approval	
CONVENTIONS AND PROTOCOLS							
1. Offences and Certain Other Acts Committed on Board Aircraft (1963) *	P	P					
2. Suppression of Unlawful Seizure of Aircraft (1970)*	P	P					
3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*	P	P					
4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)	P		(a)				
5. Against the Taking of Hostages (1979)	P		(R)				
6. Physical Protection of Nuclear Material (1980)	P		(R)				
7. Suppression of Unlawful Acts of Violence at Airports Serving Intl. Civil Aviation, supp. to 1971 Convention	P						
8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	P		(R)				
9. Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)	P		(a)				
10. Marking of Plastic Explosives for the Purpose of Detection (1991)	P		(R)				
11. Suppression of Terrorist Bombings (1997)	P		(R)				
12. Suppression of the Financing of Terrorism (1999)	P		(R)				
13. Suppression of Acts of Nuclear Terrorism (2005)						Signed	12
Party (out of 12)							

(b) Accession to and participation in other multilateral and bilateral agreements or measures undertaken to prevent and combat terrorist activities:

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. The Committee of Experts on Terrorism that prepared the Convention was chaired by the Austrian expert, Ms. Gertraude Kabelka.

The Convention on strengthening trans-national cooperation, especially in countering terrorism, organized crime and illegal migration between Belgium, Luxemburg, the Netherlands, Germany, Spain, France and Austria, which was signed in 2005, was ratified by Austria in 2006.

(c) National measures, to include pertinent legislation, taken to implement the international agreements, conventions and protocols cited above:

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.

The Aliens Act (Fremdengesetz) of 1997 (Federal Law Gazette I no. 75/1997) regulates the entry, stay and residence of foreigners. It does not directly list terrorist offences. Instead, it includes the offence of posing a threat to public order and safety, which under section 10 will lead to the denial of a visa or residence permit and under section 36 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 authorisation by the Ministry of the Interior. These individuals are subject to additional scrutiny when entering into Austrian territory.

(d) Information on national efforts to prevent and combat terrorism, including appropriate information on legislation beyond United Nations conventions and protocols (e.g., pertaining to financing of terrorist groups):

Section 178d of the Austrian Penal Code criminalises "financing of terrorism" and subjects it to up to 5 years in jail. Section 144a 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 terrorism.

In order to protect the economy including the financial sector and in order 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 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 dealers in high value goods are obliged to comply with all AML/CFT obligations and are supervised or monitored for compliance.

According to the Banking Act, Section 40 (similar rules can be found in all other laws regarding other occupational groups which are subject to the AML/CFT requirements) every customer has to be identified. Special rules apply to situations which may represent a higher risk as for instance non-face-to-face businesses.

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.

(e) Roles and missions of armed and security forces preventing and combating terrorism:

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 fully filled 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.

2. Description of the national planning and decision-making process – including the role of Parliament and Ministries – for the determination/approval of:

(a) The Military Posture:

According to the Austrian defence constitution (“Wehrverfassung”), the Austrian Armed Forces (AAF – “Österreichisches Bundesheer”) is 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. The power of order (Befehlsgewalt) over the AAF is given to the Minister of Defence.

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, the National Council 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.

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 Foreign Affairs, the Federal Minister of Defence, 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 Foreign 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 Foreign Affairs and the Federal Minister of Defence.

Pursuant to section 1 par. 1 of the Austrian Military Service Act 2001 (Wehrgesetz 2001) the AAF (“Bundesheer”) are based on the principles of a militia system. The organisation of the armed forces shall meet the military requirements for the fulfilment of their operational tasks. The permanently required organisational

structures (peace-time organisation) shall, meet the requirements of the organisational framework that is necessary for the fulfilment of the various tasks (operational organisation). Such organisation shall primarily comprise troops that assemble for training or operational purposes.

(b) Defence Expenditures:

Pursuant to section 7 par. 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 is 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.

3. (Paragraphs 20, 21, 22) Description of:

(a) Constitutionally established procedures to ensuring effective democratic control of the military, paramilitary, and internal security forces, as well as intelligence services, and the police:

Armed forces:

Austria's constitution regarding the armed forces is characterised by a far-reaching integration of the Bundesheer into the administrative apparatus of the state. The Bundesheer is 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.

The control organs include in particular the Constitutional Court and Administrative Court (Verfassungs- und Verwaltungsgerichtshof; Articles 130 to 148 of the Federal Constitution), the Court of Audit (Rechnungshof; Articles 121 to 128 of the

Federal Constitution), the Independent Administrative Tribunals (Unabhängige Verwaltungssenate; Articles 129a and 129b of the Federal Constitution), the Ombudsman Board (Volksanwaltschaft; Articles 148a to 148j loc. cit.) and the Data Protection Commission (Datenschutzkommission; section 35 et seq. of the Data Protection Act). Moreover, a Parliamentary Armed Forces Complaints Commission 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; the Commission is also entitled to review ex officio suspected deficiencies and grievances in the military service.

Paramilitary forces:

Not applicable. In Austria there are no security forces other than the ones mentioned in the other chapters.

Internal security forces:

Not applicable. In Austria there are no security forces other than the ones mentioned in the other chapters.

Intelligence services:

In the military field, two Austrian intelligence agencies are operating which are 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.

In civil affairs the Federal Agency for State Protection and Counter Terrorism (“Bundesamt für Verfassungsschutz und Terrorismusbekämpfung”) with its nine regional “Offices for State Protection and Counter Terrorism” is the civil intelligence service and law enforcement agency. In organisational matters the Agency is part of the Ministry of Interior and is entrusted with competences in the field of counter-terrorism, counter-espionage and non-proliferation. The Agency is also responsible for personal and physical security of high ranking officials and international institutions.

Police:

Articles 78a -78d of the Federal Constitutional Law regulate the organisation of the federal security authorities. According to these provisions, the supreme security authority is the Federal Minister of the Interior.

Under the Minister of the Interior act the security authorities, including district administrative authorities and federal police directorates. The detailed organisation of the public security administration and the activities of the security police are regulated by the Security Police Act. Section 5 of this Act provides that the public security organs act as police officers for the security authorities.

As part of the public administration, the security administration and the security police are subject to checks and control of constitutional law, notably by the courts of public law, the Constitutional Court and the Administrative Court, the Court of Audit, the Independent Administrative Tribunals, the Ombudsman and the Data Protection Commission. The Human Rights Advisory Board was established by constitutional law in order to advise the Federal Minister of the Interior on human rights issues. In order to review measures for the protection of constitutionally established agencies and their operative capacity, a standing subcommittee of the competent committee of the Federal Parliament was established under Article 52a of the Federal Constitutional Law.

(b) Constitutionally established authorities/institutions responsible for the democratic control of military, paramilitary, and security forces:

See under (a).

(c) Roles and missions of the military, paramilitary, and security forces, as well as controls to ensure that they act solely within the constitutional framework:

Military forces:

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 to be prescribed 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.

Paramilitary forces:

Not applicable. In Austria there are no security forces other than the ones mentioned in the other chapters

Internal security forces:

Not applicable. In Austria there are no security forces other than the ones mentioned in the other chapters

(d) Public access to information related to the armed forces:

In the implementation of relevant provisions the Federal Ministry of Defence regularly provides various groups of the public with information on defence policy issues. It informs them in particular of the fulfilment of the tasks assigned to the armed forces.

The means of communication include the internet, CD-ROM, videos, leaflets and posters, events, seminars, the visiting of troops, trainers at schools and discussion events, as well as the citizen's service of the Federal Ministry of Defence.

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.

4. (Paragraph 14) Stationing of armed forces on the territory of another participating State in accordance with their freely negotiated agreement as well as in accordance with international law:

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.

On 1 July 2001 the “Law on the Stationing of Troops” („Truppenaufenthaltsgesetz“ Federal Law Gazette, Vol. I, No. 57/2001) entered into force. This law regulates the preconditions and purposes of temporary presence of foreign armed forces in Austria. The permission for the stay of foreign troops on Austrian territory shall be given by the Austrian Minister of Defence in agreement with the Austrian Minister for Foreign Affairs and is to be considered as a political act. With regard to the status of foreign armed forces within Austria the law further enables the Austrian government - in case that the PfP-SOFA is not applicable - to conclude Status of Forces Agreements at the governmental level. The possible content of these agreements is determined by law and refers in general to those legal matters regulated in the PfP-SOFA.

5. (Paragraph 27, 28, 33) Description of:

(a) Procedures for the recruitment or call-up of personnel for service in the military, paramilitary, or security forces, if applicable:

Recruitment and call-up of compulsory military service personnel

General remarks:

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.

Registration:

The particulars and other relevant data of persons liable for military service (i.e. first and surnames, 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.

Evaluation:

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 par. 1 of the Military Service Act 2001 the examination may only be carried out by evaluation centres (draft boards), which - according to section 16 par. 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.

Call-up 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). 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:

1. by taking into account their aptitudes and military necessities, and
2. 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

Females 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.

(b) Exemptions from, or alternatives to compulsory military service, if applicable:

General remarks:

Under Article 9a par. 3 of the Constitution every male Austrian national 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 par. 3 of the Military Service Act 2001, the following members of a legally recognised church or religious community are exempt from this duty:

1. ordained priests
2. persons who have completed their theological studies and are now engaged in spiritual welfare work for the church or teach theology in schools
3. monks and
4. 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:

1. 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.
2. Persons liable for military service who are imprisoned or otherwise detained by order of a public authority, are excluded during the period of imprisonment or detainment.
3. Persons liable for military service who fulfil the exemption requirements of p. 18 par. 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 par. 1 of the Military Service Act 2001, persons liable for military service are exempt from compulsory military service:

1. ex-officio, if and as long as military considerations or other public interests, in particular overall economic or family policy interests, so require, and
2. 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 par. 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

1. 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.
2. (a) 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

(b) 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 par. 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:

1. 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
2. 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.

(c) Legal and administrative procedures protecting the rights of all forces personnel:

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 Armed Forces must be kept away 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 par. 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.

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 by the grounds for an 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. 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 Complaints Commission 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 the Federal Parliament ("Nationalrat") by the Federal Minister of Defence 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, elected soldiers' 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.

6. (Paragraphs 29, 30) Instruction on international humanitarian law and other international rules, conventions and commitments governing armed conflict included in 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.

International humanitarian law and other international rules, conventions and commitments governing armed conflict are element 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 element 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.

7. Any other information - Plans for the Transformation of the AUSTRIAN Armed Forces:

In June 2004 a Reform Commission (RC) released recommendations to the Austrian Government on the transformation of the Austrian Armed Forces. These recommendations are based on the changed military strategic situation in the 21st century. They gear towards more professional and mobile forces able to support ESDP Crisis Management Operations (CMO) within the full range of the EU Petersberg Tasks.

At the end of 2005, the Austrian Armed Forces entered the transformation phase. The main aim until 2012 is the enhancement of the Force's capabilities for international tasks in the framework of multinational crisis management and conflict prevention, as well as humanitarian operations and disaster relief.

The national tasks, such as the preservation of the national integrity, the military protection of the people and disaster relief will remain the key tasks for the Austrian Armed Forces.