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Encl.

The Permanent Mission of Austria presents its compliments to the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and has the honor to transmit the following information as requested in its letter of March 13, 2013:

Referring to Part IV of the Optional Protocol to the Convention against Torture, the Austrian Permanent Mission has the honour to inform the Secretariat of the Subcommittee on the Prevention of Torture that, as part of the implementation of the above mentioned Optional Protocol, the Austrian Ombudsman Board (Volksanwaltschaft) and its commissions – a minimum of six multidisciplinary expert commissions organized by region or subject matter – have been designated as Austrian National Prevention Mechanism (NPM).

Based on amendments of the Austrian Federal Constitution (Bundes-Verfassungsgesetz) and the Ombudsman Board Act 1982 (Volksanwaltschaftsgesetz 1982), the Austrian Ombudsman Board and its commissions assumed their new functions on 1 July 2012.

The relevant provisions of the Austrian Constitution (articles 148a, 148f, 148h and 148i) in their amended version read as follows (unofficial English translation):

Art. 148a. (1) Everyone can lodge complaint with the ombudsman board (Commission for Complaints from the Public) against alleged maladministration by the Federation, including its activity as a holder of private rights, mainly for alleged violation of human rights, provided that they are affected by such maladministration and in so far as they do not or no longer have recourse to legal remedy. All such complaints must be investigated by the ombudsman board. The complainant shall be informed of the investigation's outcome and what action, if necessary, has been taken.

(2) The ombudsman board is ex officio entitled to investigate its suspicions of maladministration by the Federation including its activity as a holder of private rights, mainly of violations of human rights it assumes.

(3) For the protection and the advancement of human rights it is incumbent on the Ombudsman Board and the commissions appointed by it (Art. 148h para 3) in the area of the administration of the Federation including its activity as holder of private rights

1. to visit and inspect the location of deprivation of liberty,
2. to watch and check in advisory manner the conduct of the organs authorized to exert direct administrative power and compulsion as well as
3. to check respectively visit certain institutions and programs for handicapped persons

(4) Notwithstanding para 1 anyone can complain with the Ombudsman board for alleged delay of a Court to hear a case, if being personally affected. Para 2 applies accordingly.

Office of the High Commissioner for Human Rights (OHCHR)

To the att. of Mr. Patrice Gillibert

Secretary of the SPT

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(5) It is moreover incumbent on the ombudsman board to assist in the disposal of petitions and group memorials presented to the National Council. The Federal law on the National Council's Standing Orders stipulates the details.

(6) The ombudsman board is independent in the exercise of its authority.

Article 148f. If differences of opinion arise between the ombudsman board and the Federal Government or a Federal Minister on the interpretation of legal provisions. The Constitutional Court on application by the Federal Government or the ombudsman board decides the matter in closed proceedings.

Article 148h. [...]

(3) In order to fulfill the tasks according to Art. 148a para 3 the ombudsman board has to appoint commissions and create a Human Rights Advisory Council as its advisor. The Human Rights Advisory Council consists of a Chairman, a Deputy Chairman and other members and substitute members being appointed by the ombudsman board. Federal Law provides to which extent the ombudsman board in appointing members and substitute members of the Human Rights Advisory Council is bound by proposals of other institutions. The Chairman, the Deputy Chairman and the other members of the Human Rights Advisory Council are not bound by any instructions in exerting their activity.

Article 148i. (1) The Laender can by Land constitutional law declare the ombudsman board competent also in the sphere of the particular Land's administration. In such case Art. 148f shall apply analogously.

(2) If Laender create agencies in the sphere of Land administration with tasks similar to the ombudsman board, Land constitutional law can prescribe a provision corresponding to Art. 148f above.

(3) A Land not making use of the authorization of para 1 regarding the tasks according to Art 148a para 3, has to create by Constitutional Law of the Land an agency for tasks similar to Art. 148a para 3 for the sphere of the administration of the Land and to provide the corresponding provisions in order to handle the tasks according to Art. 148c and Art. 148d.

All Länder, except Vorarlberg, have recognized the Austrian Ombudsman Board and its commissions as competent also for matters falling in the particular Land's competence, in accordance with Article 148i of the Federal Constitution. Vorarlberg has entrusted its regional ombudsperson and the commission set up by her with the task of monitoring the institutions falling under the competence of Vorarlberg (cf. Vorarlberg Regional Law Gazette Nr. 89/2012 and Nr. 90/2012).

For further information please find attached the text of the Austrian Ombudsman Board Act 1982, as amended, including an English translation of the text. The relevant – implementing – provisions concerning the exercise of the functions of NPM can be found in Chapter III (“Protection and promotion of human rights”).

The Austrian Ombudsman Board and its expert commissions can be contacted at:

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Singerstrasse 17, P.O. Box 20
1015 Vienna
Phone: +43 1 515 05-0
Fax: +43 1 515 05-150 / -190
E-mail: post@volksanwaltschaft.gv.at
<http://volksanwaltschaft.gv.at/en>

The Ombudsperson of the Land Vorarlberg can be contacted at:

Landesvolksanwältin von Vorarlberg
Römerstraße 14
6900 Bregenz
Phone: +43 5574 47027
Fax: +43 5574 47028
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The Permanent Mission of Austria avails itself of this opportunity to renew to the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), the assurances of its highest consideration.


Geneva, 22 August 2013

