

**PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS  
MISSION PERMANENTE DE L'AUTRICHE AUPRES DES NATIONS UNIES**

No. 66.130/5/08

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations and in response to the Secretary-General's request dated 31 December 2007 has the honor to submit the following information on Austria's implementation of resolution 62/63 of 6 December 2007 entitled "Criminal Accountability of United Nations officials and experts on mission".

"The Austrian Criminal Code provides ample legal basis for the jurisdiction of Austrian Courts regarding crimes committed by Austrian nationals while serving as United Nations officials or experts on mission, where the conduct as defined in the Austrian Criminal Code constitutes a crime under the laws of the host State. It also recognizes the possibility of extraterritorial jurisdiction as defined in sections 64 and 65 of the Austrian Criminal Code.

As a rule, Austrian nationals serving in such function are still to be considered as Austrian civil servants according to the Federal Constitutional Act on Cooperation and Solidarity in connection with deployment of units and persons to destinations abroad (BGBl. I Nr. 38/1997, section 4 para. 3).

According to section 64, paragraph 1, subparagraph 2 of the Austrian Criminal Code, crimes committed by Austrian civil servants in foreign countries are punishable under Austrian law, irrespective of whether or not they are punishable under the law of the State where they were committed. This jurisdiction of the Austrian Courts is not restricted to only certain crimes, but encompasses all crimes punishable under Austrian law.

To the  
Secretary-General of the United Nations  
Office of Legal Affairs  
Codification Division  
United Nations Headquarters  
New York

Section 64 also provides the application of Austrian criminal law

- to crimes committed abroad if Austria is obliged to prosecute them irrespective of the criminal law of the State where the crime was committed (subparagraph 6),
- to crimes committed abroad by an Austrian national against another Austrian national (if both have their domicile in Austria, subparagraph 7),
- to criminal acts of terrorism committed by an Austrian national abroad (subparagraph 9),
- or to the financing of terrorism if the perpetrator was an Austrian national (subparagraph 10).

Section 65 addresses crimes committed abroad by Austrian nationals irrespective of their status as Austrian civil servants. Such crimes are punishable under Austrian law only if they are punishable under the law of the State where they were committed."

The Permanent Mission of Austria to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration. *BM*

