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Note Verbale

The Permanent Mission of Austria presents its compliments to the Office of the High Commissioner for Human Rights, Working Group on Enforced or Involuntary Disappearances, and has the honour to transmit attached, in reference to Note Verbale dated 30 November 2018, the Austrian replies to the mentioned questionnaire.

The Permanent Mission of Austria avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, Working Group on Enforced or Involuntary Disappearances, the assurances of its highest consideration.

Geneva, 31.01.2019



Office of the High Commissioner for Human Rights

Working Group on Enforced or Involuntary Disappearances (WGEID)

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Austrian responses to the

WGEID study on standards and public policies on effective investigation on enforced disappearances

The replies to Questions 8, 9, 15 and 17 to the questionnaire are given below. The answers to the other questions of the questionnaire have mostly been given in the context of Austria's submission of the recent List of issues and the report submitted by Austria under article 29 (1) of the CED. Many of the contents have already been dealt with in this context by submitting comprehensive and exhaustive information to the Committee.

Ad question 8:

According to Article 24 (1)2-4 (§ 24 para. 1 fig. 2 to 4) of the Security Police Act (*Sicherheitspolizeigesetz – SPG*), the search for missing persons is the responsibility of the security authorities. If there is no suspicion that the disappearance was caused by a legally punishable act, in which relatives could be involved, close relatives are generally informed about the status of the investigation. If a person of full age is located, he/she has the right to demand that his/her place of residence is not disclosed to the relatives in order to protect his/her privacy. In the case of a criminal offence, in which the public prosecutor's office conducts an investigation, the Code of Criminal Procedure (*Strafprozessordnung - StPO*) defines the prerequisites for the access to documents by relatives. With regard to the possibility of psychosocial support, please refer to the answer to question 15.

Ad question 9:

If there are indications that police or judicial officers might be involved in a criminal offence, disciplinary and criminal investigations must be initiated immediately. This means that they are immediately excluded from all investigations.

Ad question 15:

Facts that constitute a criminal offence under the Criminal Code (*Strafgesetzbuch*) are reported immediately to the competent public prosecutor's office. This applies not only to criminal offences committed on Austrian territory, but also to certain offences committed abroad (e.g. kidnapping involving blackmail, slave trade, human trafficking, forced marriage), if the offender is in Austria and cannot be extradited. Pursuant to Article 29 (§ 29) of the Code of Criminal Procedure (*Strafprozessordnung - StPO*), the public prosecutor's office conducts the investigation procedure and issues the necessary orders to the criminal investigation

department, which serve to obtain, secure, evaluate or process information in order to clarify the suspicion of a criminal offence.

In Articles 65, 66 and 66a (§§ 65, 66 and 66a) the Code of Criminal Procedure (*Strafprozessordnung*) also defines the rights of the "victim" of a criminal offence. The concept of „victim“ includes not only those persons against whom certain criminal offences were directly targeted, but also certain persons from the victim's family, in particular the spouse, parents, children and siblings, or other relatives who were witnesses to the crime. In this context, psychosocial and legal assistance in legal proceedings or measures to protect the identity of a witness can be provided.

Witness protection measures are provided both in the Austrian Security Police Act (*Sicherheitspolizeigesetz*) and in the Code of Criminal Procedure (*Strafprozessordnung*). They offer protection possibilities which on the one hand serve to prevent dangerous attacks or to defend against already existing attacks and on the other hand include measures to protect witnesses from various dangers during criminal proceedings and those in connection with the proceedings.

Ad question 17:

In principle, the processing of missing persons cases in Austria - depending on the circumstances and the duration of the case - is carried out by the competent local police service, usually a police station or criminal investigation office (*Polizeiinspektionen oder Landeskriminalämter*). The Federal Criminal Police Office (*Bundeskriminalamt*) in the Federal Ministry of the Interior is also authorised to intervene (supervision and coordination) in cases with a supra-regional dimension. In addition, the Federal Criminal Police Office (*Bundeskriminalamt*) is responsible for international searches for missing persons both in the Schengen Information System (SIS II) and through INTERPOL.

In 2013, the Federal Criminal Police Office (*Bundeskriminalamt*) also established a Competence Centre for Missing Persons (*Kompetenzzentrum für abgängige Personen*), which is responsible for all matters of principle of missing persons. The primary objective of this unit is to provide comprehensive support to the Austrian police services, particularly in the following areas:

- Ensuring operational capability in the implementation of the relevant legal norms
- Design and optimisation of administrative processes
- Development and implementation of possibilities for care of relatives
- Gaining knowledge about behaviour patterns of missing persons
- Intensification of networks with other authorities and organisations at home and abroad
- Quality management
- Participation in the development of target group-oriented prevention measures

- Development and implementation of best practice methods in national and international projects

Every year, the Competence Centre for Missing Persons (*Kompetenzzentrum für abgängige Personen*) organises a training event for search specialists from the Regional Criminal Investigation Offices (*Landeskriminalämter*). This includes a transfer of knowledge on all important topics relating to the search for missing persons."