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Legal Developments in Criminal Law in Austria 2006

Dear Ladies and Gentlemen,
Dear Colleagues,

Let me please give you a short overview of recent developments in Austrian Criminal Law:

1. Criminal liability for legal entities

During the year of 2005 the Austrian Parliament adopted the “**Verbandsverantwortlichkeitsgesetz**”, which extends criminal responsibility to legal entities (companies, enterprises). Starting from 1st January 2006, when managers and even employees of a company face a charge, the company itself can also be charged and sentenced if certain conditions are fulfilled. The first condition that must be established is that the company has benefited from the offence committed or that a special legal duty laid upon the company has been breached. The second condition is that criminal liability of the company will be assumed if the person committing the offence was a manager or a person with some decisive influence on the company’s business operations. If nonetheless an employee commits the offence the legal entity will only be responsible if it has failed to hinder such actions by omitting organizational or technical measures.

The statutory punishment, which can of course only be a fine, ranges from € 2.000,-- to € 1,800.000,-- and depends on the economic situation of the legal entity. It should also be mentioned that fines can be imposed conditionally.

2. More rights for victims

In addition to the aforementioned, the year 2006 also brought some **important amendments to the Austrian Code of Criminal Procedure**. These changes primarily focussed on the law governing the rights of victims in criminal trials.

One of the most important innovations in this respect is the introduction of the so called “**Psychosoziale und juristische Prozessbegleitung**”, which gives victims of violent or sex

crimes the right to be supported psychologically by specialists before and during the trial. Apart from that it also gives the victim the right to legal advice and representation (legal aid). Courts and prosecutors are obliged to inform victims about these possibilities.

At last § 195 of the Austrian Code of Criminal Procedure has been amended in the way that it grants victims also the right to be informed about a release of the offender from pre-trial custody. The same special warning should be reported to the local police station.

Furthermore, I would like to draw your attention to the fact that still the problem of overcrowding of Austrian prisons has not been solved.

3. Overcrowded prisons

In 2005 the official capacity of Austrian prisons and detention centres was regularly exceeded by 10-20%. Even now the **prison population** reaches the number of **9.000**, whereelse only 7.000 were counted until the end of 2001.

Proposals for alternative measures to imprisonment and other ways to keep suspects or convicts out of prison have been delivered. There are two projects which I would like to mention shortly and which started at the beginning of this year. One is focussed on electronic monitoring of sentenced persons to facilitate their release on parole. The other project allows to do community service instead of serving a term in cases where fines cannot be paid.

As you see, there are no dramatic news concerning the Austrian Criminal Justice system. Anyway, we will have elections in autumn 2006 – maybe then a new fresh approach will be done to modernise our system and to come back to an adequate rate of prisoners in Austria.

Edinburgh, 29 April, 2006

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