

Answer by Austria to question 13b

According to **section 9a para. 1 subpara.s 5 and 6 of the Criminal Records Act** (Strafregistergesetz = StRegG) the Regional Police Directorate Vienna shall provide free of charge and if possible by long-distance data transfer information pursuant to the sentences mentioned in section 2, para. 1a and data pursuant to section 2, para. 1, subpara. 7 and 8 to

- courts, public prosecution offices and security authorities of a Member State of the European Union in criminal proceedings, as well as
- other foreign courts, public prosecution offices and security authorities in criminal proceedings according to the provisions of Chapter V of the General Data Protection Regulation.

Section 2 of the Criminal Records Act reads as follows:

« (1) *The following items shall be included in the Criminal Record:*

1. *all final sentences by domestic criminal courts, as well as decisions by foreign criminal courts taken on the basis of such convictions in the context of taking over monitoring or enforcement;*
2. *all final sentences of Austrian citizens and such persons who have their domicile or habitual residence in Austria, by foreign criminal courts as well as decisions by domestic criminal courts taken on the basis of such convictions in the context of taking over monitoring or enforcement;*
3. *all final sentences by foreign criminal courts, information about which contractual states of the International Treaty of 4 May 1910, Imperial Legal Gazette No. 116/1912 for Combating the Dissemination of Obscene Publications, of the International Convention for the Suppression of Counterfeiting Currency of 20 April 1929, Federal Legal Gazette. No. 347/1931, of the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 13 July 1931, Federal Legal Gazette No. 198/1934 II, and of International Convention for the Suppression of the Traffic in Women of the Full Age of 11 October 1933, Federal Legal Gazette No. 317/1936, have undertaken to mutually exchange;*
4. *all decisions by the Federal President or by domestic courts related to one of the sentences mentioned in subparagraphs 1 to 3 about*
 - a. *subsequently fixing punishment;*
 - b. *subsequently appointing a probation officer or cancelling probation services;*
 - c. *pardoning a convicted person, alleviating, altering or reassessing a punishment;*
 - d. *prolonging the probation term;*
 - e. *revoking a conditional punishment or a conditional preventive measure involving deprivation of liberty;*
 - f. *finally cancelling a punishment or a preventive measure involving deprivation of liberty;*
 - g. *abstaining from executing a prison sentence;*
 - h. *conditional release from a prison term, conditional release from a measure or from a preventive measure involving deprivation of liberty, because the danger against which the measure was taken, does not exist anymore (Section 24, paragraph 2 Criminal Code, Section 157, paragraph 2 Correction Services Act);*
 - i. *cancelling a conditional release from a prison sentence or the conditional release from a preventive measure;*
 - j. *final release;*
 - k. *cancelling or altering a judgment or a subsequent decision;*
 - l. *finally abstaining from passing sentence;*
 - m. *deleting a conviction;*

- n. *preliminarily abstaining from executing a sentence (133a, paragraph 1 and paragraph 2 Correction Services Act) and executing a residual sentence (Section 133a, paragraph 5 Correction Services Act);*
- 5. *all information relative to sentences mentioned in one of the subparagraphs 1 to 3, about when all prison sentences, fines (fines compensating forfeiture or as value replacement) and all preventive measures involving deprivation of liberty have been executed, are considered to be executed, have been abstained from, or must no longer be executed;*
- 6. *all decisions, dispositions and notifications by foreign authorities relative to convictions by foreign criminal courts included in the Criminal Record, which correspond to the resolutions, decisions and notifications mentioned in subparagraphs 4 and 5;*
- 7. ***orders for court monitoring pursuant to Section 52a Criminal Code and instructions pursuant to Section 51 Criminal Code, given to a person convicted for an offence against sexual integrity and self-determination;***
- 7a. [...]
- 8. ***enforceable disqualifications from practising an activity pursuant to Section 220b Criminal Code, as well as disqualifications from practising an activity on the basis of provisions in other Member States, together with data pursuant to Section 3, paragraph 2, subparagraph 1 to 3;***
- 9. *exclusively for the purpose of conveying an annex to criminal record information (Section 9b) all final sentences of Austrian citizens passed by criminal courts in other Member States of the European Union, regardless of whether the underlying conduct is punishable under Austrian law, and the information associated with such sentences, in particular concerning the convicted person, concerning the type and content of the sentence, and concerning the disqualifications from practising an activity set forth in connection with the sentence.*

(1a) Sentences for an offence against sexual integrity and self-determination, which were included in the criminal record pursuant to subparagraphs 1 to 3, shall be specially marked for purposes of notification pursuant to Section 9a. Also, any entries pursuant to paragraph 1, subparagraph 9 for the purposes of Section 9b shall be specially marked.

(1b) [...]

(2) [...]

(3) As a sentence in the meaning of the present Federal Act shall be considered any decision under Austrian legislation by which a regular court of law has imposed a punishment or a preventive measure upon a person for a punishable action according to the Criminal Prosecution Code 1975 (CPC), Federal Legal Gazette No. 631 in proceedings complying with the principles of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Federal Legal Gazette No. 210/1958 or has issued a guilty verdict. »