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The Permanent Mission of Austria presents its compliments to the Office of the High Commissioner for Human Rights and with reference to your letter from 26 February 2007 and 24 April 2007, while apologizing for missing the deadline, has the honour to transmit relevant information from Austria in response to the questions posed on the issue of Human Rights and Access to Water.

The Permanent Mission of Austria avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 7 June 2007



To the attention of the
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High Commissioner for
Human Rights,
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1211 Geneva 10
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OHCHR REGISTRY

- 7 JUIN 2007

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Human Rights and Access to Water; Statement by Austria

The issue of access to drinking water and sanitation has ranked prominently on the international agenda during the last years. Austria has participated actively in these discussions and supports fully the goals set for access to safe drinking water and sustainable exploitation of water resources in the Millennium Declaration and the Johannesburg Declaration. Within Austrian Development Cooperation (ADC), the right to water is an integral part of its human rights policy. The financing of concrete projects in the area of drinking water and sanitation is one of the priority areas for the ADC.

Human beings need an adequate amount of drinking water to survive. Thus, access to this amount of drinking water is as necessary as adequate food. This need for adequate drinking water and food has been recognized in a number of international instruments in relation to the adequate standard of living (cf. e.g. Art. 25 of the Universal Declaration and Art. 11 of the UN-CESCR).

Access to drinking water and sanitation raises a number of questions, which have to be addressed by national authorities. It is for them to establish the necessary framework – practical and legal – to ensure that human beings have access to the necessary amount of drinking water. This includes the determination of ownership of water resources or the provision of adequate distribution systems. The different conditions of the country in question will be decisive for elaborating the most effective and efficient framework.

Yet, water issues are not only to be seen in relation to human beings but in a broader context; This is underlined by the work undertaken under the auspices of international organisations on a global and regional level, such as FAO, WMO, WHO, the Convention on Biological Diversity, the UN Commission on Sustainable Development, UN-ECE as well as the Council of Europe, among others.

The (growing) importance of water issues is highlighted by the large number of international fora which have been concerned with water issues in recent years. They deal with various aspects of the uses of water resources, such as equitable and reasonable utilization or pollution. The need for action on water and sanitation will also be the focus of the International Year of Sanitation 2008 and is a major concern for the International Decade for Action “Water for Life” 2005-2015.

In line with international policy the right to water in essence comprises the state's obligation to supply water and to provide **affordable** access to water, in other words to protect water resources. Water as a public good should remain for free but the service and infrastructure around should not since these to remain sustainable always involve costs for maintenance and construction of new infrastructure, which tend to be higher if poverty is larger and if investment in water supply and sanitation is smaller. Therefore, it is considered fair and necessary to collect fees for cost recovery.

One experience on international level is the risk to create a *supply driven approach*" putting the local stakeholders and consumers back into a passive role of mere recipients. Therefore, it should be investigated how the legal implementation of the human right to water can become supportive in a way to improve the legal and institutional setting on national and local level in the respective partner country and to involve all relevant stakeholders in the institutional and operative environment by pushing a *demand driven approach*.

One way of doing so is to delegate the administrative competence for planning and management of water supply to the local level with appropriate centralised control. This will allow for the adequate participation of citizens in management of water supply and sanitation. Citizens will also better be able to initiate legal proceedings to obtain better enforcement of existing laws. The right to water however does not mean that water networks must reach every dwelling and that water suppliers have to pay water of the poor.

The problem with implementation of the human right to water is the complexity of the "water system", necessary on regional, national and local level in a political, legal and socioeconomic dimension, to guarantee the access to water. It is definitely insufficient to proclaim the human right to water, without harmonizing the concept with national realities.

In the planned study, definitions and criteria should be reconsidered, issues like differences in urban/rural areas, protection of water resources, cost recovery for water and sanitation supply systems, competing water usage, water quality, trans-boundary water management etc. and all resulting implications on national and local level have to be examined as well and not just ownership and distribution systems, as mentioned in the statement from 2004.

The study by OHCHR should take into account the work undertaken by other international bodies as it is of utmost importance not to duplicate efforts. Finally it has to be borne in mind that within the ambit of a human rights concept any right to access to drinking water would exclusively concern the relationship between individuals under the jurisdiction of a particular State and that State itself.