

Vertrag
Vermaachnis
hatred Erbhab
schleicher m.
le·gal l'li:gal
rechtlich:
Rücklagen
rechtsgült
rechtlich:

**CODE
OF CONDUCT**

FIELD OF APPLICATION

The present code of conduct describes the ethical and general principles to which ÖBB-Holding AG aligns its financial dealings, and represents the essential elements of its company culture.

It applies to the members of the board, executive officers and employees of ÖBB-Holding as well as to all members of the board, managers, executive officers and employees of those Group companies that have implemented the new code of conduct through making a corresponding decision. For the purpose of simplicity, the ÖBB Group is designated below as the acting addressee.

The aim of the present code of conduct is not to capture every possible combination in a conclusive way. Rather, the intention is for every employee, every executive officer and every member of a governing body to be shown guidelines, to which they must align their day-to-day dealings on his own authority.

Every member of a governing body, every executive officer and every employee contributes to the best possible implementation of these guidelines through his dealings, and thus makes his contribution to a "clean" business. The executive officers must fulfil their function as role models, and bear a special responsibility for imparting and implementing these guidelines.

Insofar as an addition to the guidelines with regard to conduct laid down here appears necessary due to characteristics of specific companies (e.g. in the case of foreign subsidiaries), the code of conduct must be correspondingly adjusted. In any case, the code of conduct of ÖBB-Holding AG lays down minimum standards which must not be fallen short of under any circumstances.

The code of conduct is also available to the employees of the ÖBB Group both electronically and on the [intranet](#).

In the case of all new employees being taken on the code of conduct is attached to the service contract and must be acknowledged by means of a signature. In the case of existing contracts of employment the code of conduct is demonstrably brought to the attention of the employees by way of the executive officers.

In order to improve the reading flow, gender-neutral wordings are used in the present code of conduct. However, it is expressly addressed in equal measure to male and female employees, members of the board, managers and executive officers of the ÖBB Group. The ÖBB Group acknowledges and supports the comprehensive equality of the sexes.

1 | LAW AND REGULATION-COMPLIANT CONDUCT

In all areas of company dealings the ÖBB Group is subject to laws, ordinances and other regulations. What is involved here are legal guidelines at European and national level as well as internal Group rules (e.g.: group guidelines, internal directions) and regulations based on voluntary self-commitment (e.g. Corporate Governance Code).

The integrity of all dealings is an essential prerequisite for operating a business successfully in the long term. For this reason, the ÖBB Group and its employees must only move within this set and continually changing framework. The ÖBB Group itself will do all that is necessary in order to inform its employees of the rules in question and to instruct them in their observance.

In fulfilment of the organisational responsibility of the members of the board and managers, a compliance organisation has been set up within the ÖBB Group which works towards the observance of all internal and external sets of rules (except for sets of operational and technical rules).

2 | CORRUPTION AND IST PREVENTION

| a. GENERAL

Corruption denotes conduct that is to be rejected morally, that is directed towards personal advantage to the detriment of (natural/legal) persons or the general public. Characteristic of this is the abuse of a public or comparable economic function, as a result of which laws or other standards of behaviour are breached. Corruption damages our standing as employees and the reputation of the ÖBB Group as well as of the business in general. Therefore, the ÖBB Group does not tolerate any forms of action where dealings are handled by dishonourable means.

Effective prevention of corruption requires the support of every single employee. All employees are encouraged, through their actions, to signal a clear "No" to corrupt practices. That not only includes showing a positive example to those around us through our own actions but also reacting as appropriate to questionable practices on the part of third parties. Within the context of the prevention of corruption, various measures have been implemented within the ÖBB Group which are intended to help to make it easier to understand applicable rules and to integrate these into the normal working day.

The ÖBB Group is constantly striving to improve and further develop its measures aimed at fighting corruption. You are, therefore, welcome to bring along your requests, complaints and suggestions for improvements at any time. You can contact your supervisor as well as the anti-corruption department, which was set up within ÖBB-Holding AG at **compliance@oebb.at**

The ÖBB Group attaches importance to a working climate that is characterised by mutual trust. Trust requires responsible and ethically correct action on the part of each individual employee. Keep in mind at all times that you are responsible for your own actions. If, in a situation, following critical self-assessment, you come to the conclusion that a particular form of behaviour is not, admittedly, prohibited according to the present code but is, nevertheless, inappropriate, improper or otherwise ethically dubious, act according to the best of your knowledge and belief and the stricter criteria resulting from this. Bear in mind that the benefit that the individual achieves through corrupt behaviour is, in most cases, only short-lived and bears no relation to the permanent loss of trust in one's daily dealings with others as well as all its consequences.

| b. Legal Framework

The legal provisions are the cornerstones of our actions and must be observed absolutely. Furthermore, the ÖBB Group models itself on international guidelines or recommendations (e.g. Transparency International, UN Convention against corruption, OECD guiding principles for multinational companies). However, the provisions quoted do not represent, under any circumstances, the sole basis for our conduct. Not everything that is (just) legally permitted is also morally impeccable and is tolerated by the ÖBB Group. Familiarise yourself with the applicable, statutory rules and with the service-law regulations of the ÖBB Group and really engrave these in your mind.

Lack of knowledge of the laws and service-law provisions does not protect you from either criminal prosecution or service-law consequences.

Please read through the relevant provisions carefully. You can find extracts from the most important regulations

(StGB, UWG, AVB, DBO, KV, BV) in the appendix.

The anti-corruption provisions of the Penal Code (Strafgesetzbuch - StGB) are basically characterised by the fact that in each case a „civil servant“, „office holder“ or „arbitrator“ is involved. These provisions apply to active and passive corruption.

With coming into effect of the 2012 Act amending the Criminal Law on Corruption on 01 January 2013, employees of ÖBB Group fall in principle under the category of office holders. Note, therefore, that you would become liable to prosecution if you violate the statutory corruption provisions. Please also note that you may also be liable to prosecution if you entice someone else to the commission of a criminal offence, or support the immediate perpetrators with the commission of the offense.

| c. Anti-Corruption-Department

Through the resolution of the board of ÖBB-Holding AG an independent anti-corruption department was set up which, in accordance with Group guideline 15, is organisationally placed with the chief compliance officer (CCO) within ÖBB-Holding AG. Among his duties are, inter alia, consultation (advice and assistance) within the context of the construction and practical application of the rules of conduct concerning corruption, quoted in the present chapter as well as the carrying out of training courses for employees aimed at fighting corruption, in collaboration with external partners, if need be. As a further training measure, an e-learning program is being made available. The establishment of a system for giving advice that includes the acceptance of advice concerning behaviour which goes against the rules (for example, breaches of the anti-corruption rules, ethically deficient behaviour and/or behaviour not tolerated by the company) as well as the handling and following-up of these tips in a structured form, is planned. Currently the notices are received by the anti-corruption office via telephone, or by sending an e-mail to **compliance@oebb.at**.

| d. Bestowing of Benefits

Benefits can be offered, promised or granted, or they can be solicited, accepted or promised.

A case of bribery or corruption exists when an office holder is induced through a benefit to commit a breach of duty or omission of an official duty. Both are in any case prohibited.

A case of bestowing or accepting of benefits exists when an office holder or arbitrator is induced to carry out a dutiful act or to omission of an official duty. The request for a benefit is in any case prohibited.

A case of bestowing or acceptance for the purpose of influencing exists when there is a bestowing or acceptance with the intention of influencing an office holder or arbitrator. The request for a benefit is in any case prohibited.

However, the bestowing of benefits and their acceptance is allowed in so far as they are not intended for influencing persons.

In the daily course of business again and again it ends up in the exchange of small gifts, which merely express your appreciation of your business partner, and which are of no or just minor value. Representational duties are frequently associated with the issuing and acceptance of invitations.

The basic rule is: You must not, during your work for the ÖBB Group, either accept benefits from other people or give benefits to other people.

However, it is not intended to make participation in the course of business impossible for you. Furthermore, within the context of the recognised practices in the course of business you are permitted to cultivate social contacts.

Benefits which are granted or accepted on the basis of friendly relationships and solely attributable to the private sphere are not subject to the present Code of Conduct. If the granting of benefits is an invitation to events or dinner, these should never include business discussions. If the separation between personal and business sphere is unclear or ambiguous, you should consult the Compliance Officer before granting or accepting them. Friendly relationships should not be used as justification for the acceptance and granting of benefits which are based on business relationships in order to circumvent the provisions of this Code of Conduct.

What do you have to bear in mind when dealing with the bestowing of benefits?

What is understood by bestowing a benefit?

- “Bestowing benefits” within the context of the present guide is, in daily parlance, frequently equated with the term “gift”. However, closer examination reveals that this term is too narrowly understood, and the situations that are recorded by the code of conduct are not adequately covered.
- Bestowed benefits are tangible and non-tangible payments of any kind, to which the recipient has no legal claim. That includes not only the “traditional” monetary and physical gifts of any kind but also what could be of benefit to the recipient of the gift, and which the latter could better place, and even if this is only the fact that his social standing is increased as a result. Bestowed benefits are also, in particular, invitations of any kind (to restaurants and to events of any kind), the granting of discounts, credit notes, donations, but also the faster and preferential treatment of certain matters (official applications, etc.)
- It is not a matter of the value of the bestowed benefit. The present code of conduct includes all bestowed benefits, even though their value may be ever so small or cannot be measured in money.
- The legal form of the bestowed benefit is irrelevant. Even payments that are exchanged under the term “donations” or “sponsorship” or as a quid pro quo for (sham) payments that were not actually made, are “bestowed benefits” as defined by the present code of conduct. The decision with regard to the awarding of donations and sponsorships is solely a matter for the management of the company and ÖBB employees who have been expressly entrusted with these.
- What is understood by “bestowing” a benefit is not just the actual granting, but the very fact of offering, requesting or promising a benefit (having this done).
- The „acceptance“ of a benefit may imply not only the actual acceptance, but also the soliciting or acceptance of a promise for a benefit.

Who is the recipient of a benefit as defined by the present code of conduct?

- ÖBB employees: all members of the board, executive officers and employees of ÖBB-Holding AG as well as all members of the board, managers, executive officers and employees of those Group companies who acknowledge and support the new code of conduct (in short: ÖBB employees).
- Business partners of the ÖBB Group: all natural persons, public institutions, companies, associations and the like, with which ÖBB employees come into contact in the course of their work on behalf of a Group company.
- It is irrelevant whether a benefit is directly of advantage to such persons themselves or persons related to them, or associations or otherwise third parties attributable to them: the principles of the present code of conduct must be borne in mind both when benefits are being bestowed on an ÖBB employee or business partner himself and when benefits are being bestowed on their “relatives” (persons, associations, etc. persons close to them or third parties attributable to them).

Do the same rules apply to all persons?

- The statutory provisions are developed inter alia more strictly for civil servants, office holders and arbitrators and for dealing with such persons than for private business transactions.
- The ÖBB Group had already set the same strict standards for dealing with all persons. Starting with 01.01.2013 the ÖBB employees meet the definition of office holders, and within their scope of activity they shall be subject to a stricter regulatory regime, which also forms the basis for the Code of Conduct.
- Arbitrators are decision makers of an arbitration tribunal within the meaning of §§ 577 section of Code of Civil Procedure.
- Office holders are particularly the following persons (simplified version):
 - Members of a domestic constitutional representative body with reference to their voting behaviour in elections and votes as well as the fulfilment of their obligations according to the rules of procedure,
 - Persons who are employed in the organisational structure of a regional authority or any other entity under public law (other than a church or religious community), from another state or an international organisation.
 - Persons who otherwise discharge sovereign tasks (e.g. § 57a of the Road Traffic Act - expert opinion by private workshops) as well as
 - Persons who work as organs or officers of a company in which directly or indirectly one or more domestic or foreign regional authorities participate with at least 50 per cent of the shares, joint stocks or equity capital, where such a regional authority is operated independently or together with other such regional authorities or is controlled through financial or other economic or organisational measures, but in any case any company, whose management is subject to the review by the Court of Audit, institutions similar to Courts of Audit of the states or comparable international or foreign supervisory institutions.
- ÖBB employees therefore qualify as office holders according to the last point.

Under which preconditions may you accept bestowed benefits whilst you are working for the ÖBB Group?

- You should not solicit any benefits.
- You may only accept benefits or accept promises provided that these are kept in a socially customary, appropriate scope.
- For benefits that are not invitations, the following applies: You may accept bestowing of benefits in principle when these are not undue benefits. It can be assumed that these are not undue benefits if
 - it involves an ordinary gift of only minor value, which is not a monetary payment ("Calendar, Pen, Trinket") and
 - on this occasion it merely involves a generally normal expression of general appreciation and politeness and
 - when looked at critically and objectively, there is no possibility that the impression is created that the person bestowing the benefit expects a certain behaviour or even a quid pro quo from you in return and
 - you do not receive bestowed benefits on a regular basis, at short intervals, from the person bestowing the benefit.

- The following question offers you some help and guidance in relation to the reasonableness of the value of the benefit: Would any other person at all receive this benefit as a “promotional gift”, even if the person making the gift had no interest in making the recipient of the benefit feel favourably-disposed towards him? If the answer to this question, when looked at critically, is “no”, then you must decline the benefit.
- Customary courtesy gifts that are exclusively presented to the companies and that their non-acceptance contradicts the practices of hospitality and courtesy may be accepted by the management bodies.
- ÖBB employees may not accept any cash benefits for themselves or other real persons. Awarding of gratuities to a broader group of employees is allowed in a reasonable, small scale, if they are not paid regularly and at frequent intervals (coffee cash box).
- You may accept invitations to business lunches, corporate events (Christmas parties, lectures, etc.) or other events of the business partner if they are held in a socially customary, appropriate context and the participation represents an objectively justified interest. The frequency of invitations as well as your position in the company must be particularly considered when assessing the appropriateness and socially customary nature of the particular event. An objectively justified interest exists if the interest in participation is based on the principle tasks of the company. These include inter alia the perception of representational obligations. The acceptance of invitations for related third parties (spouse, significant other, etc.) must be coordinated in advance with the Compliance Officer without exception.
- You may, as a matter of principle, claim company discounts which are part of a company-wide discount programme and which are also granted to all other employees of the ÖBB Group or your Group company in this form.
- NOTE: The guidelines set out under this point apply not only to dealings with those outside of the group, but also to inter-group business partners.
- If you have the impression that one party seeks to propitiate by the bestowal of benefits, it is requested that you contact the Chief Compliance Officer of ÖBB-Holding AG as soon as possible.

Which bestowed benefits which are offered to you in the course of your work on behalf of the ÖBB Group must you decline in any case?

- Benefits which go beyond a normal small gift, and which embody more than minor value or - even when the value is minor – it could otherwise look unreasonable or inappropriate.
- Benefits which, when looked at critically and objectively, could give the impression that you might be motivated to act in a certain way as a result.
- Benefits which are bestowed on you because “something could be needed from you in the future”.
- Benefits from persons who have already bestowed benefits - even if they were minor ones - on you in the past at regular, short intervals

When may you, within the context of your work on behalf of the ÖBB Group, bestow benefits on other persons?

- You may not bestow any solicited benefits.
- You may only offer, promise, grant benefits if these are kept within socially customary and appropriate limit.
- For benefits that are not invitations, the following applies: you may offer, promise and grant persons benefits only when these are not undue benefits. It can be assumed that these are not undue benefits when all of the following conditions are met and if you can answer all of the following questions with „yes“:
 - What is involved in the case of the benefit is a normal, small gift of minor value („Calendar, Pen, Trinket“).
 - The benefit is not a monetary payment, irrespective of the level of it.
 - You bestow the benefit off your own bat out of politeness and not because it has been requested (even if only subliminally) by the person taking the gift, or because you wish to achieve a specific form of behaviour as a result.
 - When looked at critically and objectively, the impression cannot be created that you wish to induce the recipient to behave in a particular way as a result of the bestowing of the benefit.
 - Bestowing of benefits to persons is not done regularly in short intervals, even when these are only small benefits.

If you cannot answer “yes” without any doubt at all to even just one of the points listed above, you are not even allowed to offer the intended benefit, let alone actually grant it.

- Customary courtesy gifts to business partners that meet the practices of hospitality and courtesy should be awarded by the management bodies.
- You may issue invitations to business lunches, corporate events (Christmas parties, lectures, etc.) or other events, if they are held in a socially customary, appropriate context and there is an objectively justified interest in the invitation. The frequency of invitations as well as the position of the business partner should be considered when assessing the appropriateness and socially customary nature of a particular event. An objectively justified interest exists if the interest in the issuing of the invitation is based on the basic tasks of the company. Invitation of third parties related to a business partner (spouse, significant other, etc.) must be coordinated in advance with the Compliance Officer without exception.
- Customary business discounting measures by companies are permitted. If in doubt, they are to be agreed in advance with the responsible Compliance Officer.
- NOTE: The guidelines set out under this point apply not only in dealings with those outside of the group, but also with the inter-group business partners.

What else must you bear in mind when dealing with bestowed benefits?

- Ensure that there is the greatest possible transparency: In case of doubt consult with your supervisor, before you offer anyone a benefit within the context of your work on behalf of the ÖBB Group, or accept a benefit. Record:
 - when you bestow which benefits on which persons and
 - when you receive which benefits from other persons

Save these records.

- If you have doubts as to whether you may bestow or accept a benefit, discuss the matter with your superior, and expressly indicate your concerns to him. Your superior must obtain the necessary information and then reach a decision with you which must be documented and kept on file.
- If you have even the slightest doubt as to the permissibility or appropriateness of a benefit, decline it if in doubt. This even applies if your superior has no concerns. In the end, you yourself are responsible for your behaviour.

What consequences can failure to follow these guidelines lead to?

Breaches of the rules of conduct with regard to the bestowing of benefits in accordance with Point 2 of the present code of conduct can lead, for you, to the consequences shown under Point 12.

3 | CONFLICTS OF INTEREST

You are obliged to recognise any situations involving a conflict of interest for yourself and to actively prevent and counter these. The higher your official function, the more critical are the standards of judgement that you must apply. Conflicts of interest can never be completely prevented from arising, and are not always in your sphere of influence. You will be blamed for a conflict of interests above all, if you bring this about with your eyes open or do not reveal this in a timely fashion.

As soon as it comes to your knowledge that a conflict of interest could arise, you are obliged to inform your superior immediately and demonstrably. The latter must decide what further steps to take, which might be to assign specific tasks to another ÖBB employee.

4 | SECONDARY JOBS AND SHARES IN COMPANIES

Secondary jobs are activities exercised on a self-employed or employed basis for gain outwith your official work on behalf of the ÖBB Group. It makes no difference whether these activities are permanent or simply exercised on a case-by-case basis.

A job that is secondary to your official work on behalf of the ÖBB Group should be the exception and, under no circumstances, the rule. A secondary job may only be exercised, if it does not prevent the fulfilment of your official duties or does not threaten other vital interests of the company.

Every gainful secondary job must be reported to your superior in writing. A secondary job is gainful, if it is aimed at achieving considerable earnings.

Even taking on functions on bodies within companies and other (quasi-) legal persons (such as managerial, board or supervisory board mandates) requires to be reported beforehand in writing to your superior, even if these are to be exercised unpaid.

Your superior can prohibit a secondary job being taken up or the taking on of functions on bodies in individual cases.

The exercise of secondary jobs and the taking on of functions on bodies are not permitted under any circumstances,

- if you end up in a conflict of interests as a result, or if business interests of the ÖBB Group could otherwise be harmed (e.g. carrying out work for competing firms),
- if they take place at your place of work or during the hours that you are working on behalf of the ÖBB Group, or even if they take place outwith working hours, your performance is so greatly impaired that the work that you put in for the ÖBB Group is negatively affected as a result,
- if the secondary job is carried out using materials and equipment belonging to the ÖBB Group or
- if, at any time at all, the fulfilment of your professional duties on behalf of the ÖBB Group is impaired due to the secondary job.

If such reasons which make them improper become compelling only after you have taken up your secondary job or have taken on your function on a body, you are obliged to report this to your superior immediately. The latter decides on how to proceed further and is also entitled to prohibit you from further exercising your secondary job or your function on a body.

The exercising of a secondary job that is not permissible may constitute a breach of official duties and bring with it industrial-law consequences and compensation obligations towards your employer.

In principle, leisure activities that are not for gain such as the exercising of types of sport, but also an (honorary) commitment in associations are not subject to these restrictions. However, take care that you do not land yourself in conflicts of interest as a result of such activities or that you may damage the reputation of the ÖBB Group.

In addition, you must inform your superior immediately in writing of the acquisition of stakes in companies. The acquisition of stakes in companies is not permitted, if these occur in a company that is a competitor of the ÖBB Group, or they could otherwise cause a conflict of interests.

Exempted from this duty to report is the acquisition of stakes, which merely represent an investment, do not go beyond a negligible free float, do not open up the possibility for you of exerting any decisive influence on the company in question and are not likely to constitute a conflict of interests.

5 | HANDLING OF ASSETS

ÖBB employees must handle the property of the ÖBB group according to the rules and with care as well as ensure their efficient use. In addition, you are obliged to protect the property of the ÖBB Group against loss, damage, misuse, theft, embezzlement or destruction. Every situation and every incident that could lead to such an outcome, must be reported immediately to your executive officer.

Materials and equipment belonging to the ÖBB Group (e.g.: computers, telephone equipment, copiers, office supplies, company cars, company mobile telephones) must be used in accordance with the rules passed within the Group for this purpose and/or the agreements reached between yourself and the ÖBB Group in writing.

6 | DATA PROTECTION AND DATA SECURITY

A data protection organisation of its own was set up within the ÖBB Group based on the Group data protection guideline that is operationally responsible for all data protection matters. In addition, documents were designed which not only show in detail how to handle personal data within the ÖBB Group but also contain handling guidelines and practical examples for ÖBB employees.

These documents are available for you on the intranet. Inform yourself fully of your rights and obligations concerning data protection, and speak to the data protection representative responsible for you, if you have any questions.

7 | LOBBYING

In the explanatory notes to the 2012 Act amending the Criminal Law on Corruption it is clarified: „... that not every exertion of influence on decision-making is subject to prosecution. Legitimate lobbying or the legitimate representation of interests of a mandate should not be threatened with prosecution under any circumstances. „

Lobbying aims to employ suitable persons in order to influence the decision-making processes in legislation and implementation in terms of specific interests of individuals in a legal manner. A lobbying activity consists in informing, in arguing and promoting the contract position, but not to entice or threaten an office holder to make a specific decision. Transparent and professional lobbying therefore supports well-informed decisions by supplying expertise to the decision-makers.

Starting with 01 January 2013 the Lobbying and Advocacy Transparency Act (LobbyG) came into effect, which in § 7 regulates that companies which employ corporate lobbyists must have their lobbying activities grounded on a Code of Conduct.

The ÖBB group of companies use corporate lobbyists for the best possible positioning of their interests. In the ÖBB Group these should be aligned with the Code of Conduct which is implemented pursuant to legal regulations, and is available on the intranet.

For questions related to lobbying, contact the department in charge of Corporate Affairs in your corporate affiliate.

8 | COMPETITION

To the extent that Group companies appear on the market in competition to competitors, they acknowledge and support the principles of fair competition and business conduct, and win people over through the standard of and continuous improvement in your performance. Dishonest business practices such as making statements or comments which damage someone's reputation, spying out of business secrets or agreements with other competitors are not permitted and are rejected by the ÖBB Group.

Legal restrictions resulting from antitrust-law provisions, in particular, must be observed absolutely. Inform yourself timeously and fully of the legal framework conditions that you must observe within your field of business.

9 | PARTNERSHIP WITH SUPPLIERS

The ÖBB Group regards its suppliers not merely as isolated business partners but strives for a fair and trusting partnership with them, in which services, quid pro quos, opportunities and risks are in a balanced relationship.

The ÖBB Group expects its partners to observe the principles of ethical and sustainable business.

The ÖBB strictly rejects cooperation with companies that breach existing laws or that do not feel committed to those principles that are presented in the present code of conduct.

If you deal with the conclusion of contracts, please take this aim into account during your work. If you become aware that a partner violates existing laws or otherwise infringes on the principles of ethical business practices or if you become aware of increased risk of such a violation, report it immediately to your supervisor and attune your further procedure with the legal department and the Compliance Officer for the ÖBB Group.

10 | ENVIRONMENTAL PROTECTION

The ÖBB Group regards itself as the largest provider of environmentally friendly mobility in Austria.

It is aware of its function as a role model and its responsibility within society as a whole and feels committed to the principles of sustainable and resource-saving business.

Measures to improve the protection of the environment in daily working life are a great source of concern to the ÖBB Group. Therefore, you, as an ÖBB employee, are taught to make your contribution towards protecting the environment and sustainable business. Inform yourself of the environmental protection programme and internal guidelines concerning dealing with resources sparingly.

11 | POLITICAL ACTIVITIES

The carrying out of party-political work in premises and using resources belonging to the ÖBB Group, or in the name of the ÖBB Group is prohibited. The necessary exchanges with official representatives of the federal republic, of the states and the communities and those persons authorised to do so on the part of the ÖBB Group are not affected by this.

Activities of the groups canvassing for votes during the works council elections in accordance with the Labour Constitution Act and elections of the legal representatives of interests are unaffected by this.

12 | RESPONSIBILITY/CONSEQUENCES

Breaches of the present code of conduct may constitute a breach of official duties, are associated with a representational risk for the ÖBB Group and its employees and, accordingly, may also lead to legal and financial disadvantages for the latter. For this reason, breaches are not tolerated, as a matter of principle, and are suitably sanctioned within the framework of legal options.

Breaches may have criminal as well as industrial-law and civil-law consequences for you. In addition to a fine or a custodial sentence imposed by the criminal court your employer could also, in any case, take disciplinary and service-law measures.

Works agreement No.14 - "Disciplinary Regulations 2004" - provides for relevant measures in the event of the breach of official duties. This can – irrespective of the seriousness of the breach of official duties - involve a lecture, warning, reprimand or imposition of disciplinary punishments (fines amounting to three months' wages and even dismissal).

Employees without protection against wrongful dismissal may be given notice or dismissed.

In addition, both your employer and third parties could make civil-law claims for compensation against you.

Should you have allowed yourself to be tempted to behave in an inappropriate way, attempts to cover up your misdemeanours are not to be recommended in any case. On the one hand, this can substantially increase any damage already caused; on the other hand, in certain cases it is possible that as part of the so-called „Leniency Policy“ - in simple terms - the law enforcement authorities refrain from a criminal prosecution based on cooperation with the public prosecutor's office.

Possible consequences mostly turn out to be less severe, if you disclose your misdemeanours off your own bat than if your behaviour is revealed by chance or by a third party.

APPENDIX:

EXTRACTS FROM THE RELEVANT LEGAL NORMS

Penal Code - StGB

§ 74. (1) The penal code as defined by the present federal law is

4. Official: anyone who is appointed, in the name of the republic, a state, a community association, a community or another person under public law, except for a church or a religious society, to take care of legal acts, as their body alone or along with another, or is otherwise entrusted with federal, state or community administration duties; anyone who, according to another federal law or by virtue of an international agreement, when deployed at home, is on a par with an Austrian official is also regarded as an official;

4a. Office bearer: anyone who

- a. is a member of a domestic representative body according to the constitution, insofar as he casts his vote in an election or vote or otherwise carries out or does not carry out an action in the exercise of the obligations laid down in the regulations through its rules of procedure,
- b. takes care of legislation, administration or justice as their organ or independent contractor on behalf of the federal republic, a federal state, a community association, a community, on behalf of a social security agency or a main association, on behalf of a another state or for an international organisation, with the exception of those office bearers quoted in lit.a in fulfilment of their duties,
- c. is otherwise authorised in the name of the corporations quoted in lit.b to carry out official business in execution of the laws, or
- d. is active as the organ of a legal entity or by virtue of a contractual relationship with a legal entity which is subject to control by the audit office, institutions of the states or a comparable international or foreign control institution that are similar to the audit office, provides the vast majority of its services for the administration of the corporations quoted in lit.b.

4b. Community official: anyone who is an official or contractual employee as defined by the statute of officials of the European Communities or the terms of employment in relation to the miscellaneous servants of the European Communities, or who is made available to the European Communities by the member states or by public or private institutions, and is entrusted with duties there that correspond to the duties of the officials or miscellaneous servants of the European Communities; the members of institutions which were set up in accordance with the agreements for the establishment of the European Communities, and the servants of these institutions, the members of the Commission, of the European Parliament, of the Court of Justice and of the audit office of the European Communities as well as those presiding over these organs and servants of the European Police Office (Europol) are also community officials;

4c. Arbitrator: every decision-maker of a court of arbitration as defined by §§ 577 ff of the Code of Civil Procedure with its headquarters at home or with headquarters not yet determined (Austrian arbitrator) or with its headquarters abroad;

(3) What is understood by managerial employees are employees of a company who are entitled to have a decisive influence on its management. They are on a par with managers, members of the board or the supervisory board and authorised signatories not employed on a monthly salary.

Infringement of a Trade or Company Secret

§ 122. (1) Anyone who reveals or exploits a trade or company secret (Para 3) which has been entrusted to him or to which he has been given access during his work in the execution of supervision, inspection or survey tasks prescribed by law or official order must be punished with a prison sentence of up to six months or with a fine of up to 360 times his daily rate of income

(2) The one who commits the act in order to bestow a financial benefit on himself or another person or to cause a disadvantage to another person must be punished with a prison sentence of up to one year or with a fine of up to 720 times his daily rate of income.

(3) Only a trade or company secret that the perpetrator is obliged to safeguard by virtue of the law, and the revelation or exploitation of which is liable to infringe a legitimate interest of the person concerned by the supervision, inspection or survey comes under Para 1.

(4) The perpetrator must not be punished if the revelation or exploitation in terms of contents and form is justified by a public or a legitimate private interest.

(5) The perpetrator must only be prosecuted at the request of the party injured in his interest in secrecy (Para 3).

Spying Out of a Trade or Company Secret

§ 123. (1) Anyone who spies out a trade or company secret with intent to exploit it, to hand it over to another person to be exploited or to divulge it to the public must be punished with a prison sentence of up to two years.

(2) The perpetrator must only be prosecuted at the request of the injured party.

Embezzlement

§ 153. (1) Anyone who knowingly abuses the power to dispose of assets that are not his own or the power to oblige another party and thereby imposes a financial damage on the other party, must be punished with a prison sentence of up to six months or with a fine of up to 360 times his daily rate of income.

(2) Abuse of power is committed by anyone, who unjustifiably infringes rules that are meant to protect the assets of the beneficial owner.

(3) Anyone who causes a loss in excess of 5,000 Euros through the act must be punished with a prison sentence of up to three years, and anyone who causes a loss in excess of 300,000 Euros must be punished with a prison sentence of between one and ten years.

Acceptance of Gifts by Power Brokers

§ 153a. Anyone who has accepted something that is not just a minor financial benefit for exercising the power granted to him by law, official order or legal transaction to dispose of assets that are not his own or to obligate another person and does not pay it over, contrary to his duty, must be punished with a prison sentence of up to one year or with a fine of up to 720 times his daily rate of income.

Misuse of Assistance

§ 153b. (1) Anyone who uses assistance granted to him improperly for purposes other than those for which it was granted must be punished with a prison sentence of up to six months or with a fine of up to 360 times his daily rate of income.

(2) In accordance with Para 1, anyone who commits the act as the managerial employee (§ 74 Para 3) of a legal person or of an association of individuals without any legal personality, to whom the assistance was granted, or without the agreement of the person to whom the assistance was granted, but as his managerial employee (§ 73 Para 3), must also be punished.

(3) Anyone who commits the act involving a sum in excess of 5,000 Euros must be punished with a prison sentence of up to two years.

(4) Anyone who commits the act involving a sum in excess of 300,000 Euros must be punished with a prison sentence of between six months and five years.

(5) Assistance is a donation which is granted for the pursuit of public interests from public budgets and in relation to which no appropriate payment in kind is made in return; donations in the nature of a social security benefit and grants in accordance with §12 of the Financial Constitution Act 1948 are exempted. Public budgets are the budgets of local or regional corporations, of other persons under public law, with the exception of churches and religious societies as well as the comprehensive budget plan of the European Communities and the budgets that are administered by the European Communities or on their behalf.

Anti-Competitive Agreements in the Case of Contract Awarding Procedures

§ 168.b (1) Anyone who lodges an application to participate in the case of a contract awarding procedure, submits a bid or conducts negotiations that are based on an illegal agreement which is aimed at inducing the principal to accept a specific bid must be punished with a prison sentence of up to three years.

(2) Anyone who voluntarily prevents the principal from accepting the bid or the latter from providing his service must not be punished in accordance with Para 1. If the bid is not accepted without the help of the perpetrator or the service of the principal is not provided, then he is not subject to prosecution, if he has voluntarily and seriously made an effort to prevent the acceptance of the offer or the provision of the service.

Abuse of Authority

§ 302. (1) An official who consciously abuses his authority to carry out official business in the name of the federal republic, a state, a community association, a community or another person under public law as their organ in execution of the laws with the intention of thereby harming his rights must be punished with a prison sentence of between six months and five years.

(2) Anyone who commits the act whilst carrying out a matter of official business with a foreign power or supranational or international institution must be punished with a prison sentence of between one and ten years. Anyone who causes damage in excess of 50,000 Euros through the act must likewise be punished.

Corruptibility

§ 304. (1) An office bearer or arbitrator who requests, accepts or has a benefit promised for himself or a third party in return for the carrying out or not carrying out of a matter of official business that is contrary to his duty must be punished with a prison sentence of up to three years. Anyone who, as an expert appointed by a court or another authority for a specific procedure, requests, accepts or has a benefit promised for himself or a third party in return for the reporting of incorrect findings or an incorrect expert opinion must likewise be punished.

(2) Anyone who commits the act where the value of the benefit is in excess of 3,000 euros must be punished with a prison sentence of between six months and five years. However, anyone who commits the act where the value of the benefit is in excess of 50,000 Euros must be punished with a prison sentence of between one and ten years.

Acceptance of Benefits

§ 305. (1) An office holder or arbitrator who demands a benefit for himself or a third person for the dutiful execution or omission of an official duty or accepts, or allows himself to be promised an undue benefit (section 4), is punishable with imprisonment of up to two years.

(2) Whoever commits the act in return for a benefit with a value exceeding EUR 3,000, is punishable with imprisonment of up to three years, anyone however, who commits the act in return for a benefit with a value exceeding EURO 50,000, is punishable with imprisonment of from six months to five years.

(3) Benefits that are not considered as undue are

1. Benefits, the acceptance of which is permitted by law or which are granted in connection with events for participation in which there is an officially or factually justified interest,

2. Benefits for charitable causes (§ 35 BAO), in the use of which the office holder or arbitrator exercises no decisive influence, and

3. in the absence of permission standards within the meaning of the above item 1, the customary local and country-specific courtesies of slight value, unless the offense is committed on a commercial basis.

Preparation for Corruptibility or the Acceptance of Benefits

§ 306. (1) An office bearer or arbitrator who requests, accepts or has a benefit promised for himself or a third party with the intention of preparing the ground for the carrying out or not carrying out of a future matter of official business contrary to his duty must be punished with a prison sentence of up to two years.

(2) Anyone who commits the act where the value of the benefit is in excess of 3,000 Euros must be punished with a prison sentence of up to three years. However, anyone who commits the act where the value of the benefit is in excess of 50,000 Euros must be punished with a prison sentence of between six months and five years.

(3) Whoever accepts merely a slight benefit or allows himself to be promised such benefit is not punishable pursuant to section 1, unless the offense is committed on a commercial basis.

Bribery

§ 307. (1) Anyone who offers, promises or grants an office bearer or arbitrator a benefit for himself or a third party in return for the carrying out or not carrying out of a matter of official business contrary to his duty must be punished with a prison sentence of up to three years. Anyone who offers, promises or grants an expert (§ 304 Para 1) a benefit for himself or a third party in return for the reporting of incorrect findings or an incorrect expert opinion must likewise be punished.

(2) Anyone who commits the act where the value of the benefit is in excess of 3,000 Euros must be punished with a prison sentence of between six months and five years. However, anyone who commits the act where the value of the benefit is in excess of 50,000 Euros must be punished with a prison sentence of between one and ten years.

The Bestowing of Benefits

§ 307a. (1) Whoever offers, promises or grants an undue benefit (§ 305 section. 4) to an office holder or arbitrator, for him or a third person, for the execution or omission of official duties, is punishable with up to two years of imprisonment.

(2) Anyone who commits the act where the value of the benefit is in excess of 3,000 Euros must be punished with a prison sentence of up to three years. However, anyone who commits the act where the value of the benefit is in excess of 50,000 Euros must be punished with a prison sentence of between six months and five years.

Bestowing of benefits with the intention of influencing

§ 307b. (1) Except for cases in §§ 307 and 307a, whoever offers, promises or grants an office holder or arbitrator, for him or a third person, an undue benefit (§ 305 para 4) for the dutiful execution or omission of official duties with the intent of thereby influencing his activities as office holder, is punishable with imprisonment of up to two years.

(2) Whoever commits the act in return for a benefit with a value exceeding EUR 3,000, is punishable with imprisonment of up to three years, anyone however, who commits the act in return for a benefit with a value exceeding EURO 50,000 is punishable with imprisonment of from six months to five years.

Illicit Intervention

- § 308.** (1) Whoever demands, accepts, or allows himself to be promised a benefit for himself or a third person in return for unduly influencing the decision making of an office holder or an arbitrator is punishable with imprisonment of up to two years.
- (2) Equally punishable are those who offer, promise or grant a benefit to another in return for unduly influencing the decision making of an office holder or an arbitrator.
- (3) Whoever commits the act in return for a benefit with a value exceeding EUR 3,000, is punishable with imprisonment of up to three years, anyone however, who commits the act in return for a benefit with a value exceeding EURO 50,000 is punishable with imprisonment of from six months to five years.
- (4) Influencing the decision making of an office holder or arbitrator is then considered undue when it aims at the commission of a wrongful act or omission of official duties or with the offering, promising or granting of an undue benefit (§ 305 para 4) for the office holder or a third person related to him.
- (5) The offender is not punishable under the sections above, if the offense is punishable under any other provision with more severe punishment.

Acceptance of gifts and bribes by employees or authorized agents

- § 309.** (1) An employee or authorised agent of a company, who in the course of a business transaction demands, accepts, or allows himself to be promised a benefit for himself or a third person in return for the commission of a wrongful act or omission of an official act, is punishable by imprisonment of up to two years.
- (2) Equally punishable are those who offer, promise or grant an employee or authorised agent of a company a benefit for himself or a third person in the course of a business transaction in return for the commission of a wrongful act or omission of an official act.
- (3) Whoever commits the act in return for a benefit with a value exceeding EUR 3,000, is punishable with imprisonment of up to three years, anyone however, who commits the act in return for a benefit with a value exceeding EURO 50,000 is punishable with imprisonment of from six months to five years.

Breach of Official Secrecy

- § 310.** (1) An official or former official who discloses or exploits a secret that has been entrusted to him or to which he has been given access by virtue of his office, the disclosure or exploitation of which is liable to infringe a public or legitimate, private interest must, if the act is not threatened with a stricter punishment in accordance with another provision, be punished with a prison sentence of up to three years.

(Note: Sub-paragraph 2 was abolished by BGBl. I Nr. 101/2014)

- (2a) Anyone - whether it even be after he leaves the office or employment relationship as the presiding officer of the body or servant of the European Police Office (Europol), as the liaison officer or as the person particularly obligated to maintain secrecy (Art. 32 Para 2 of the Europol Convention, Federal Gazette III No. 123/1998), discloses or exploits a fact or matter to which he has exclusively been given access by virtue of his office or his work, and the disclosure or exploitation of which is liable to infringe a public or a legitimate, private interest must likewise be punished.
- (3) If the perpetrator discloses an official secret that concerns facts that are a threat to the constitution (§ 252 Para 3), then he must only be punished if he acts with the intention of infringing private interests or causing a disadvantage to the Republic of Austria. The assumption, by mistake, of facts that are a threat to the constitution does not free the perpetrator from punishment.

False Certification and Authentication in Office

§ 311. An official who falsely certifies in a public document, the issuing of which comes under the remit of his office, a right, a legal relationship or a fact, or falsely applies a public certification mark, the application of which comes under his remit, if he acts with the intention of the document being used in legal dealings as proof of the right, of the legal relationship or the fact, or the item being used in legal dealings must, if the act is not threatened with punishment in accordance with § 302, be punished with a prison sentence of up to three years.

Federal Law Against Unfair Competition – UWG

Bribery of Servants or Agents

§ 10. (1) Anyone who, in the course of business, offers, promises or grants the servants or representatives of a company gifts or other benefits for the purposes of competition in order to secure preferential treatment for himself or a third party through unfair behaviour on the part of the servant or representative when purchasing goods or services must be punished by the court with a prison sentence of up to three months or with a fine of up to 180 times his daily rate of income.
(Federal Gazette No. 120/1980, Art. I Clause 4)

(2) The same punishment applies to a servant or representative of a company who, in the course of business, requests, has promised for himself or accepts gifts or other benefits so that he may obtain preferential treatment for another person through unfair behaviour when purchasing goods or services in competition.

(3) Paras 1 and 2 must not be applied if the act is threatened with equal or stricter punishment in accordance with other provisions.
(Federal Gazette No. 120/1980, Art. I Clause 5)

(4) Prosecution only takes place at the request of someone who is entitled to assert the claim to forbearance in accordance with § 14, sentence 1. (Federal Gazette No. 74/1971, Art. I Clause 5).

General Contractual Terms and Conditions for Service Contracts with Austrian Federal Railways (AVB)

§ 6. General Obligations

(2) Third parties or uninvited fellow servants must not be given access to trade and company secrets. The statutory obligations to make a statement or give information at judicial or official hearings remain unaffected.

(2a) ÖBB employees are obliged to observe the provisions of the Data Protection Act 2000. Personal data from data applications may be passed on to third parties regardless of any other obligations to maintain secrecy only by virtue of an express instruction from the company.
The obligation to maintain secrecy with regard to data is without limit of time and continues to exist beyond the period of the contractual relationship.

§ 9. Conduct in Service

(3) The acceptance of gifts in kind or the bestowing of other benefits from persons outside the company as well as fellow servants whereby the intention is to achieve influence over or influence can be expected over official activities is prohibited.

§ 11. Exercising of Secondary Jobs and Secondary Activities

- (1) Secondary employment is any job which an ÖBB employee exercises outwith his contractual relationship and any possible secondary activity. Secondary activity is an activity which is assigned to an ÖBB employee as a further activity on behalf of the company in another sphere of activity which has no direct connection with his official duties.
- (2) The servant may only exercise a secondary job if it does not prevent the fulfilment of his official duties or pose a threat to any vital interests of the company.
- (3) Every gainful secondary job must be reported in writing. A secondary job is gainful if it is aimed at achieving considerable earnings. The operation of a trade as well as any activity on the board, supervisory board, administrative board or on any other body of a legal person under private law aimed at making a profit must be reported in each case.
- (4) The exercising of secondary jobs can, in specific job functions, be totally prohibited. It can be prohibited in each case if the preconditions of Para 2 are not present.
- (5) ÖBB employees may not, under any circumstances, execute commercial transactions within the business branches of the company without the approval of the company (§ Para 3 of the Railways Act 1992) on his own account or on the account of persons outwith the company. If the ÖBB employee contravenes this regulation, then the company can request compensation for the damage caused or, instead of this, demand that the transactions concluded on account of the ÖBB employee be regarded as having been concluded on account of the company. With regard to those transactions concluded on account of persons outwith the company, the company can demand the surrender of the payment with reference to these or the transfer of the claim for payment. The claims of the company lapse within three months of the date on which knowledge was obtained of the conclusion of the transaction, but within five years of the conclusion of the transaction in any case.

Service and Salary Regulations for the Servants of the Austrian Private Railways (DBO)

§ 6. General Obligations

(2) Third parties or uninvited fellow servants must not be given access to trade and company secrets. The statutory obligations to make a statement or give information at judicial or official hearings remain unaffected.

§ 9. Conduct in Service

(3) The acceptance of gifts in kind or the bestowing of other benefits from persons outside the company as well as fellow servants whereby the intention is to achieve influence over or influence can be expected over official activities is prohibited.

§ 11. Exercising of Secondary Jobs and Secondary Activities

(1) Secondary employment is any job which a servant exercises outwith his contractual relationship and any possible secondary activity. Secondary activity is an activity which is assigned to a servant as a further activity on behalf of the company in another sphere of activity which has no direct connection with his official duties.

(2) The servant may only exercise a secondary job if it does not prevent the fulfilment of his official duties or pose a threat to any vital interests of the company.

(3) Every gainful secondary job must be reported to the management of the company in writing. A secondary job is gainful if it is aimed at achieving considerable earnings. The operation of a trade as well as any activity on the board, supervisory board, administrative board or on any other body of a legal person under private law aimed at making a profit must be reported in each case.

(4) The exercising of secondary jobs can, in specific job functions, be totally prohibited. It can be prohibited in each case if the preconditions of Para 2 are not present.

(5) Servants may not, under any circumstances, execute commercial transactions within the business branches of the company on his account or on account of persons outwith the company without the approval of the company. If the servant contravenes this regulation, then the company can request compensation for the damage caused or, instead of this, demand that the transactions concluded on account of the servant be regarded as having been concluded on account of the company. With regard to those transactions concluded on account of persons outwith the company, the company can demand the surrender of the payment with reference to these or the transfer of the claim for payment. The claims of the company lapse within three months of the date on which knowledge was obtained of the conclusion of the transaction, but within five years of the conclusion of the transaction in any case.

Collective Agreement for the Employees of the Austrian Railway Companies

§ 5. General Obligations

- (2) Third parties or uninvited work colleagues must not be given access to trade and company secrets. The statutory obligations to make a statement or give information at judicial or official hearings remain unaffected.

§ 7. Conduct in Service

- (3) The acceptance of gifts in kind or the bestowing of other benefits from persons outside the company as well as work colleagues whereby the intention is to achieve influence over or influence can be expected over official activities is prohibited.

§ 10. Exercising of Secondary Jobs and Secondary Activities

- (1) Secondary employment is any job which an employee exercises outwith his/her contractual relationship and any possible secondary activity. Secondary activity is an activity which is assigned to an employee as a further activity on behalf of the company in another sphere of activity which has no direct connection with his/her official duties.
- (2) The employee may only exercise a secondary job if it does not prevent the fulfilment of his/her official duties or pose a threat to any vital interests of the company.
- (3) Every gainful secondary job must be reported to the management of the company in writing. A secondary job is gainful if it is aimed at achieving considerable earnings. The operation of a trade as well as any activity on the board, supervisory board, administrative board or on any other body of a legal person under private law aimed at making a profit must be reported in writing in each case.
- (4) The exercising of secondary jobs can, in the case of specific activities, be totally prohibited. It may be prohibited in each case if the preconditions of Para 2 are not present.
- (5) An employee may not, under any circumstances, execute commercial transactions within the branches of the company without the approval of the company on his/her own account or on the account of persons outwith the company. If the employee contravenes this regulation, then the company can request compensation for the damage caused or, instead of this, demand that the transactions concluded on account of the employee be regarded as having been concluded on account of the company. With regard to those transactions concluded on account of persons outwith the company, the company can demand the surrender of the payment with reference to these or the transfer of the claim for payment. The claims of the company lapse within three months of the date on which knowledge was obtained of the conclusion of the transaction, but within five years of the conclusion of the transaction in any case.

WORKS AGREEMENT No.14 – Disciplinary Regulations 2004

Measures in the event of breaches of official duties

- § 2. (1) In the event of the culpable breach of official duties measures must be taken that are suitable for keeping the employee from committing further breaches of his official duties, and which ensure the proper, safe and economical handling of business within the company. Such measures are:
- a. a lecture and other training measures
 - b. a warning
 - c. a reprimand
 - d. the imposition of disciplinary punishments
- § 8. (1) Disciplinary punishments are
- a. a fine up to the value of three months' wages (without child benefit)
 - b. dismissal