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EUROPEAN SOCIAL CHARTER

Twentieth report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

(for the period 1 January 1997 to 31 December 2000:
Articles 2, 3, 4, 9, 10 and 15)

Report registered at the Secretariat on 3rd April 2002

CYCLE XVI-2

TWENTIETH REPORT – PART I

on the implementation of **Articles 2, 3, 4 and 9** of the

EUROPEAN SOCIAL CHARTER

(Reporting period: 1 January 1997 to 31 December 2000)

submitted by the Federal Government of the

REPUBLIC OF AUSTRIA

under Article 21 of the European Social Charter,
the instrument of ratification of which
was deposited on 29 October 1969.

In accordance with Article 23 of the Charter,
copies of this report have been communicated to

The Austrian Trade Union Federation
(Österreichischer Gewerkschaftsbund),

The Federal Chamber of Labour
(Bundesarbeitskammer),

The Austrian Federal Economic Chamber,
(Wirtschaftskammer Österreich),

The Federation of Austrian Industry
(Vereinigung der Österreichischen Industrie),

The Presidential Conference of Austrian Chambers of Agriculture
(Präsidentenkonferenz der Landwirtschaftskammern Österreichs)
and

The Congress of Austrian Chambers of Agricultural Labour
(Österreichischer Landarbeiterkammertag)

ARTICLE 2
THE RIGHT TO JUST CONDITIONS OF WORK

Article 2 paragraph 2

Ad A to C:

No relevant changes. It should merely be added that **exceptions to the cessation of work on public holidays** have **also** been permissible **under collective agreements** since the amendment of the Workers' Holidays Act, BGBl. I No. 46/1997, if that is necessary in order to prevent economic disadvantage or to protect employment. To the extent that this is expedient according to the type of activity, the collective agreement must list the permitted work operations and determine the necessary duration (§ 12a Workers' Holidays Act). The current version of the Workers' Holidays Act is transmitted as **Annex 1**.

Article 2 paragraph 3

Ad A:

Reference is made to previous reporting. Changes have been made in that the provision in § 9 of the Vacations Act (UrlG) concerning vacation remuneration has been repealed and that § 10 UrlG regarding lump-sum vacation remuneration has been revised under the amendment to the Act in BGBl. I No. 44/2000.

The provision of § 10 UrlG, as amended by BGBl. No. 44/2000, entered into force on 1 January 2001 and applies to vacation years commencing after 31 December 2000. The provisions of § 9c UrlG ceased to be in force after 31 December 2000, except for vacation years commencing before 1 January 2001.

For the vacation year in which the work contract ended, the worker is entitled, as of the time of termination of the employment contract, to **compensation** in the proportion of the time served in that vacation year to the entire vacation year. Annual leave that has already been taken should be offset against the proportionate vacation entitlement. Vacation remuneration for annual leave taken over and above the proportionate entitlement is not reimbursable, except in the event of termination of the working contract by unjustified premature resignation or by dismissal for misconduct. In the case of accrued vacation entitlements for earlier vacation years, compensation is due in the full amount of the outstanding vacation remuneration, unless the leave entitlement falls under the statute of limitations (§ 10 Vacations Act).

In reply to a specific inquiry, measures that permit derogation from the statutory rules on daily and weekly working hours have no effect on the duration of annual leave.

The Vacations Act applies equally to full-time and part-time workers, and neither discrimination nor less favourable treatment of part-time workers by comparison with full-time workers are permissible, according to EU Directive 97/81/EG on part-time work as well as under § 19d (6) of the Hours of Work Act, BGBl. No. 461/1969, as amended.

Pursuant to the decision of the Supreme Court of 28 January 1998, 9 ObA 390/97m, the leave entitlement is proportionate to the work to be performed annually. The leave entitlement for full-time workers as regulated under the Vacations Act must therefore be expressed as a fraction and multiplied by the number of working days of a part-time worker. For that purpose, the statutory leave entitlement of the worker has to be converted from working days to actual days worked. Expressed in terms of weeks, the annual leave entitlement of a part-time worker is the same as that of a full-time worker, that is to say, according to the

qualifying length of service, five weeks per working year, and six weeks after 25 years of service.

The previous remarks concerning the leave entitlement of soldiers and seamen should be updated as follows:

Pursuant to § 53 of the Military Service Act 1990, BGBl. No. 305, as amended, short-term volunteers, persons performing deferred compulsory military service or women undergoing voluntary military training are entitled to leave. Leave amounts to 30 working days for every year of such military service. There is a proportionate entitlement to leave for fractions of that period. In that context, fractions of working days are considered as full working days. If such military service is performed immediately following another type of military service, the duration of such other military service, as well as any other service immediately preceding it, must be taken into account in calculating the length of leave. Leave for women undergoing voluntary military training may be taken at the earliest from the beginning of the seventh month of such military training.

In addition, soldiers performing compulsory military service or undergoing training can be granted leave of up to three working days by the commander of the unit in recognition of special duties. The total duration of such leave may not exceed six working days within any six-month period. If special duties deserve higher recognition, the Federal Minister of Defence can grant three additional working days of leave.

In addition to such leave, soldiers performing compulsory military service or women undergoing voluntary military training can be granted leave to the necessary extent in urgent cases, in particular for family or other personal reasons, subject to the exigencies of military service. Such leave may not exceed two weeks in any particular case.

For workers hired to serve on Austrian seagoing ships, the following leave entitlements are granted according to the provisions of the relevant collective agreement:

In the case of seamen on permanent contracts, the provisions of the Federal Act on the standardisation of vacation rights and the introduction of nursing leave, BGBl. No. 390/1976, as amended, apply.

Other seamen acquire a leave entitlement of six days per month (ratings) or seven days per month (officers) for service on board ship or if they are on standby duty for the ship-owner or are on official travel. Fractions of days are taken into account proportionately and fully rounded up to the next day. The above leave entitlement satisfies all claims to leave and in respect of Saturdays, Sundays and public holidays spent at sea.

Ad B:

Pursuant to § 5 of the Vacations Act (UrlG) BGBl. No. 390/1976, as amended, if a worker falls sick or has an accident during leave, the days of sickness falling on working days in which the worker was unable to work owing to sickness are not offset against the leave entitlement, if the sickness lasted more than three calendar days and the worker did not cause the sickness or the accident either intentionally or by gross negligence. If a worker engages in any gainful activity during his/her leave that is inconsistent with the purpose of recovery and if the sickness or accident is causally related to such gainful activity, the days of sickness falling on working days are deducted from the leave entitlement.

The worker must immediately inform the employer of the sickness after three days. If that is not possible for reasons over which the worker has no control, reporting is considered to have been made in due time if it is made immediately after the obstacle is removed. On the return to work, a medical report or a certificate from the competent sickness insurance institution

concerning the commencement, duration and cause of incapacity for work must be presented without undue delay. If the worker falls sick during leave abroad, an official confirmation must be added to the medical certificate, to the effect that it has been issued by a qualified medical practitioner. Such official confirmation is, however, not required if in-patient or out-patient treatment was given in a hospital and a certificate by that institution is presented. If the worker fails to comply with these requirements, the duration of illness is deducted from the leave entitlement (§ 5 (3) UrlG).

Pursuant to § 1 (3) UrlG, these provisions also apply to contracts to which the Theatrical Performers Act, BGBl. No. 441/1922, as amended, is applicable. Moreover, § 18 (4) of the Theatrical Performers Act provides that the time during which the actor/actress was prevented from performing by illness or accident may not be offset against the leave entitlement.

Ad C:

Pursuant to § 12 UrlG, workers' rights based on §§ 2-10 UrlG may be neither cancelled nor restricted by a works contract. In particular, § 7 UrlG determines that agreements between the employer and the worker providing for monetary payments or other valuable consideration by the employer in commutation of accrued leave have no legal effect.

Since, pursuant to § 4 (5) UrlG, the leave entitlement lapses after two years from the end of the vacation year in which it accrued, it is *de facto* possible for workers to waive their right to annual leave indirectly *ex post facto*, by failure to take leave.

Ad D and E:

No relevant changes (see previous reporting on questions B (Old) and C (Old)).

Article 2 paragraph 4

Ad A to C:

Reference is made to previous reporting.

Reply to the supplementary question of the Committee of Social Rights in Conclusions XIV-2 on Article 2 paragraph 4:

In principle, Austrian law is directed towards the prevention of avoidable risks to the health and the safety of workers, or the reduction of unavoidable risks. Such preventive measures for avoiding danger are laid down in the Workers' Protection Act BGBl. No. 450/1994, as amended (see under Article 3) and in the Agricultural Labour Act 1984 BGBl. No. 287 for agricultural and forestry workers.

In addition, compensatory measures for particularly hazardous operations are laid down in the Heavy Night Work Act (NSchG) BGBl. No. 354/1981, as amended (**Annex 2**). In that context, the focus is on the type of activity and not on the branch of industry in question. Working hours are reduced in that **breaks** of at least 10 minutes, counted as working time, must be granted, so that **daily or weekly working time is reduced**. Also, **additional vacations** are granted for such work.

Pursuant to § 10a of the Vacations Act, BGBl. No. 390/1976, as amended, workers are entitled to two working days of additional leave for every year in which they performed at least 50 six-hour night shifts within the meaning of the Heavy Night Work Act between 10 p.m. and 6 a.m. This entitlement is increased to four or six working days if they have performed such work over 5 or 15 years, respectively. If a worker has performed heavy night work at least 40 times but less than 50 times in any one vacation year, he/she is entitled to additional leave for that vacation year as specified in § 10a (1), provided that he/she has

performed heavy night work for a total of at least 100 times in that year and in the immediately preceding vacation year (§ 10a (1a) UrlG). If a worker has performed heavy night work at least 50 times in addition to the heavy night work that occasioned additional leave under § 10a (1) or (1a), he/she is entitled pursuant to § 10a (1b) and (1c) UrlG to one additional day of leave per vacation year.

Workers in the branches of industry that are listed in the inquiry (steel work, metal processing, chemical and pharmaceutical industries, carpentry, building and wood treatment sector) are therefore covered if they have to work under the following conditions - which are listed in the Heavy Night Work Act:

- Work entailing exposure to special heat stress or permanent loud noise,
- The use of equipment, machines or vehicles exposing the body to vibration with adverse health effects,
- Regular wearing of respirators (with filters or backpacks) for at least four hours of working time,
- Permanent effects of noxious inhalable pollutants that can cause occupational disease,
- Work on special firing installations in hot furnaces,
- If heavy physical work is performed with simultaneous exposure to special heat stress.

In addition, 1- to 2-hour reductions of working hours as compared with the statutorily determined normal 40-hour working week are laid down by collective agreements for these branches. The normal working week is 38 hours in the chemical, metallurgical and metal processing industries and the iron and metalworking trade, 38.5 hours in the wood treatment industry, and 39 hours in building and carpentry.

The subject of work accidents/frequency of accidents in the building, carpentry and wood treatment sectors is dealt with under Article 3 paragraph 2.

Article 2 paragraph 5

Ad A:

Reference is made to previous reporting.

If a worker is on duty during a weekly rest period, he/she is entitled, pursuant to § 6 ARG, to a replacement period in the subsequent working week, which is counted as working time.

To make shift work possible, the shift plan can make other arrangements for weekly rest periods. Specifically, the duration of rest periods in any one week can be reduced to 24 hours if, on the average, rest periods of 36 hours per week are ensured over a calculation period of four weeks. For calculation purposes, only rest periods of at least 24 hours may be used in such calculation.

Similar arrangements apply to workers who are employed on major construction sites operated in the public interest or on torrent and avalanche protection works in mountainous regions, as well as to workers employed in the production or distribution of daily newspapers and early Monday newspapers.

Measures that permit a **derogation** from the legal provisions regarding daily and weekly working hours **do not affect** regulations concerning weekly rest periods.

Ad B:

No relevant changes.

Ad C:

Reference is made to previous reporting.

The Labour Law Protection Acts apply to all employed persons, even those on short-term contracts, part-time workers, temporary replacements or temporary workers. An employment relationship is deemed to exist if work is performed on a long-term basis for another party, subject to direction, within the enterprise structure organised by the employer.

Reply to the supplementary question of the Committee of Social Rights in Conclusions XIV-2 on Article 2 paragraph 5:

Pursuant to § 12a of the Workers' Holidays Act (ARG), the collective agreement can permit exceptions to rest periods at weekends and on public holidays if that is necessary in order to prevent economic disadvantage or to safeguard employment.

In so far as this is expedient, depending on the type of activity, the collective agreement must list the permitted work operations individually and determine the necessary time for their performance. Exceptions pursuant to § 12a ARG are possible only by means of a collective agreement but not at works level.

However, it is not impossible for the competent collective agreement parties (i.e. primarily the Austrian Trade Union Federation and the Austrian Economic Chamber) to permit such exceptions for individual enterprises. The important factor is that such agreements are negotiated and concluded not between the individual employer and the works council (by means of a works agreement) but by the collective agreement parties.

Exceptions pursuant to § 12a ARG have so far been permitted for the following branches or enterprises:

Collective agreements pursuant to § 12a ARG

Branch/Enterprise	Activity	Registration No.
Suchard Schokolade GmbH,	Manufacture of chocolate, cocoa butter moulding	129/2001
Confectionery industry	Manufacture of chocolate, cocoa butter moulding	272/2001
Tridonic-Bauelemente Fürstenfeld, salary-earners	Magnetic chokes and transformers	406/1998
Tridonic-Bauelemente Fürstenfeld, salary-earners	Supplementary equipment	134/2000
Austria Hefe	Baker's yeast and ethyl alcohol production	377/2000 384/2000
Master Foods Austria, Bruck /Leitha Arbeiter , salary-earners	Pet food in cans and flexible containers	373+374/ 2000 383/2000
Banks and Bankers	Private customer business in shopping malls	283/2001
Framework collective agreement ; iron and metallurgical ind. Electrical and electronics industry section	Magnetic chokes and transformers for lighting systems Manufacture of circuit parts for power transformers & generators	59/2001 181/2001
SCA Hygiene Austria GmbH Betrieb Ortmann	Manufacture of serviettes and handkerchiefs	119/1997
Trade association for garages, filling and service stations (wage-earners)	Sales pursuant to § 279 (2) of the Commercial Code, Supervision and operation of vehicle washing machines	370/1998
Sale of petroleum products and fuel, operation of filling stations	Sales of certain goods pursuant to § 279 (2) of the Commercial Code	223/2001
City of Vienna Hospitals (DO.B)	Doctors and dental practitioners at Health meetings, Trade fairs, etc.	418/1998
Videotheques, salary-earners.	Hiring of video cassettes	395/1998
IT, salary-earners.	Services for specific enterprise and customer problems	35/2001
Chemical ind., wage-earners , Semperit Techn. Produkte GesmbH.	Manufacture of rubber and plastic moulded goods	297/2001
Paper-making industry: Fa. Carl Joh. Merckens	Manufacture of cardboard and fibreboard	302/2000
Chemical ind.: Semperit Reifen AG	Manufacture of tyres	270/1998 272/1998

If a worker is on duty during the weekend rest period on the basis of the exception and the working-hour arrangement applicable to him/her, he/she is entitled to an uninterrupted rest period of 36 hours in every calendar week, which must include an entire weekday.

With regard to the categories of workers who are not covered by the statutory provisions on weekend rest periods, reference is made to the reply on Article 2 paragraph 5A.

It can be assumed that the vast majority of workers in Austria are covered by statutory or collective agreement provisions concerning weekend rest periods.

In addition, it is pointed out that the provisions of Workers' Holidays Act § 1 (2), 5. do not cover senior staff assigned sole responsibility for key management tasks. The position of such persons is similar to that of an employer, from which it can be deduced that they can defend their interests vis-à-vis the employer themselves without the aid of specific labour law protection. Key management tasks within the meaning of the Workers' Holidays Act are deemed to exist if the relevant staff are assigned sole responsibility for essential departments such as commercial, technical or organisational management by virtue of their position in the enterprise, in such a manner that influence is thereby exerted on the existence and development of the entire enterprise.

ARTICLE 3

THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Article 3 paragraph 1

Ad A:

Reference is made to previous reporting.

In the reporting period, the following Acts and administrative regulations were amended (the most important measures are transmitted in **Annex 3**):

Changes in the law:

The following important changes were introduced to the Federal Act of 17 June 1994, BGBl. No. 450/1994 on occupational safety and health (Workers' Protection Act - ASchG) under the **amendment in BGBl. I No. 12/1999**:

Introduction of a definition of the term "employer" (§ 2 (1) ASchG):

The operative factors with regard to the concept of an employer under worker protection regulations are the existence of a contractual relationship with the employee and his/her employment, even if only in de facto form (without a valid work contract). The supplementary regulation under § 9 (2) ASchG, according to which temporary employers are regarded as regular employers for the duration of temporary employment, remains in force.

"Prevention centres" of the accident insurance institutions; inspection of workplaces (§§ 77a, 78, 78a ASchG):

Safety and occupational medicine services can be provided to workers by in-house experts or by external industrial safety experts and occupational physicians.

Amendment BGBl. I No. 12/1999 also authorised workplaces with up to 50 workers to use the services of the so-called prevention centres of the accident insurance institutions. This new additional service for employers and workers is provided free of charge; as a result of the prevailing economic structure in Austria, it covers most establishments. It is provided mainly by the General Accident Insurance Institution (AUVA), which is practically the only accident insurance institution competent for employers who are subject to the ASchG.

Since the introduction of the amendment, the ASchG has provided for inspections by industrial safety experts and occupational physicians, as a regular form of safety and occupational medicine services in workplaces with up to 50 workers. In such matters, the employer can use the above-mentioned free services of the prevention centres.

That term "inspection" means not only the actual visit to the workplace but above all also comprises counselling of employers and workers, workers' safety representatives and the works council, as well as the submission of proposed improvements by the prevention experts.

"Basic services" in the form of regular inspections must be provided both by safety experts and also by occupational physicians and, as a minimum, at the prescribed intervals (once in every calendar year or every two calendar years).

In addition to such "basic services", inspections must be carried out when there is special need or occasion for them, for example, after work accidents, when new working materials or processes are introduced, and in cases of industrial disease ("ad hoc services").

Extension of the so-called “entrepreneurial model” for safety services (§ 78b ASchG):

If not more than 50 workers are employed, employers who have completed the training as safety experts that is required under § 74 ASchG can take on risk prevention tasks without limitation. If not more than 25 workers are employed, employers require only the knowledge specially related to the specific workplace or branch of industry, which must be certified by an appropriate training authority.

In particular, they must have qualifications in the organisation and methods of industrial worker protection, and in ergonomics, the safety of working systems, hazardous materials and the identification and assessment of dangers at the workplace in question.

Only training institutions that provide training as safety experts that is recognised under the Order on the technical training of safety experts (SFK-VO), BGBl. No. 277/1995 are to be empowered to train and examine employers under the entrepreneurial model.

New regulations on requirements for the establishment of safety and occupational medicine centres:

A further optional form of safety and occupational medicine services which employers can take up in workplaces with more than 50 workers is assistance from a safety and occupational medicine centre (§ 73 (1) 3. and § 79 (1) 3. ASchG).

The amendment establishes the requirements for the operation of safety (§ 75 ASchG) and occupational medicine centres (§ 80 ASchG) and their inspection by the Labour Inspectorate, and provides for the regular registration of existing centres.

The provisions of §§ 75 and 80 ASchG are set forth in detail in the Safety Centres Order (STZ-VO), BGBl. II No. 450/1998 and in the Occupational Medicine Centres Order (AMZ-VO), BGBl. No. 441/1996, as amended by BGBl. II No. 441/1998.)

BGBl. I No. 38/1999 (Mineral Raw Materials Act):

Under the Federal Mineral Raw Materials Act (Mineral Raw Materials Act - MinroG), BGBl. I No. 38/1999, which amends the Workers' Protection Act and the Labour Inspection Act 1993, the Workers' Protection Act and the Orders issued thereunder are now applicable to mining (§ 183 MinroG).

The former exclusion of large sections of mining activities from the purview of the ASchG was also repealed (Article II, 1, MinroG), as were the former special worker protection regulations of the Mining Act 1975, BGBl. No. 259/1975 (§ 194, I, MinroG).

That means that the general occupational safety and health regulations are applied in mining instead of the special regulations under the Mining Act 1975. §§ 195 and 196 MinroG enumerate the special worker protection regulations which in addition continue to be applicable in mining.

Also, monitoring of compliance with worker protection regulations in mining was transferred from the Mining Authorities to the Labour Inspectorate. The former exclusion of a large section of mining activities from the purview of labour inspection was abolished by Article III MinroG.

A further change occurred in the law: The Federal Act on Coordination in Building Work, BGBl. I No. 37/1999 entered into force on 1 July 1999.

Orders issued in the reporting period:

Order of the Federal Minister of Economic Affairs and Labour on the protection of workers in the use of equipment (**Equipment Order**), BGBl. II No. 164/2000, entering into force on 20 July 2000.

Order of the Federal Minister of Labour, Health and Social Affairs, establishing requirements for workplaces and structures on building sites and amending the Building Workers' Protection Order (**Workplaces Order**), BGBl. II No. 368/1998, entering into force on 1 January 1999.

Order of the Federal Minister of Labour, Health and Social Affairs on the protection of workers against danger from biological agents (**Biological agents Order**), BGBl. II No. 273/1998, as amended, entering into force on 1 November 1998.

Order of the Federal Minister of Labour, Health and Social Affairs on worker protection in the use of display screen equipment (**Display Screen Work Order**), BGBl. II No. 124/1998, entering into force on 1 May 1998.

Order of the Federal Minister of Labour, Health and Social Affairs on **Safety Centres**, BGBl. II No. 450/1998, entering into force on 1 January 1999.

Order of the Federal Minister of Labour, Health and Social Affairs, the Federal Minister of Economic Affairs and the Federal Minister for Science and Transport on the **prohibition and restriction of the employment of young people**, BGBl. II No. 436/1998, entering into force on 1 January 1999.

Ad Point a.) of the questionnaire:

The regulations quoted require employers to make occupational safety and health arrangements in all work-related aspects. Employers must take the necessary action to protect life, health and morals, including action to prevent work-related danger, and must provide information and instruction, establish appropriate organisational arrangements and make available the necessary resources.

Ad Point b.) of the questionnaire:

The regulations quoted apply in principle to employed persons. Special arrangements are applicable to self-employed persons, homeworkers and domestic staff.

Pursuant to § 2 (1) ASchG, all persons engaged under an employment or training relationship are regarded as workers. The worker concept also covers persons who are engaged under a training relationship that cannot be regarded as a service relationship. Whether or not there is a service contract is immaterial.

Establishments subject to supervision by the Transport Labour Inspectorate:

The provisions of the Workers' Protection Act, BGBl. No. 450/1994 as well as all Orders issued on the basis of that Federal Act apply in full to establishments subject to supervision by the **Transport Labour Inspectorate**. That also applies to all other regulations remain in effect as Federal law on the basis of the transitional provisions of the Workers' Protection Act, for example, Part 4 of the Shipping Installations Order, BGBl. No. 334/1991.

The Order of the Federal Minister for Science and Transport on the protection of workers in the vicinity of railway tracks (**Railway Workers' Protection Order** – EisbAV), BGBl. II No. 384/1999, as amended. The Railway Workers' Protection Order (EisbAV) of the Federal Minister for Science and Transport entered into force on 1 January 2000; supplementing general worker protection provisions, it provides for additional protective measures for workers in the danger area of rail tracks. Safe distances and safe areas are prescribed for the

construction and design of railway installations, while special provisions apply to tunnels. The employer must establish the necessary safety measures in written orders for working operations and construction work in the danger area. The employer may assign workers to the danger area of rail tracks only if they have been instructed on the dangers of railway operation; likewise, the employer must assign the required sufficient number of workers to ensure the safe performance of working operations.

Other special provisions for the protection of the life and health of workers in the railway sector are contained in:

The Tractive Unit Drivers Order (TFVO), BGBl. II No. 64/1999,

The Order on the maximum permissible noise level for rail cars, BGBl. No. 414/1993.

In the **navigation sector**, there are in addition other special provisions for the protection of the life and health of workers, for example:

The Federal Act on Inland Navigation (Navigation Act), BGBl. I No. 62/1997, as amended.

The Order concerning navigational and other installations and work on waterways (Navigational Installations Order), BGBl. No. 334/1991, as amended.

The Order on technical qualifications for the inland navigation trade (Aptitude Testing Order - Inland Navigation Trade – EPVO-BSG), BGBl. No. 481/1995,

The Federal Act on Deep-Sea Navigation (Deep-Sea Navigation Act), BGBl. No. 174/1981, as amended,

The Deep-sea Navigation Order, BGBl. I No. 189/1981,

The Order on medical care on board of seagoing ships, BGBl. II No. 365/1998,

The Order on the equipment of seagoing ships (Ship Equipment Order), BGBl. II No. 139/1999,

The Order on safety requirements for passenger ships (Passenger Ships Order), BGBl. II No. 150/2000,

The Order on the training of seamen and the award of aptitude and watch-keeping certificates (STCW-Order), BGBl. II No. 228/2000.

Mining:

Since 1 January 1999, the Workers' Protection Act and the Orders issued thereunder have also applied to workers employed in mining.

In addition, special provisions for the protection of the life and health of workers are contained in § 109 and § 181 of the Mineral Raw Materials Act - MinroG, BGBl. I No. 38/1999. Also, pursuant to §§ 195 and 196 MinroG, the following Orders, which also regulate workers' protection matters, will continue to be valid as Federal law until such time as a new regulation is introduced by statute: the General Mining Regulations Order, BGBl. No. 114/1959, as amended; the Petroleum Extraction Regulations Order, BGBl. No. 278/1937, as amended; the Mining Regulations Order for cableway operation, BGBl. No. 14/1968; the Mining Regulations Order on rescue work in mines, BGBl. No. 21/1972, as amended; the Mining Regulations Order on electrical installations, BGBl. No. 737/1996; the Mining Regulations Order on overseers, BGBl. II No. 108/1997. Under the Mineral Raw Materials Act, the following Orders have so far been issued: the Order on mines open to the general

public, BGBl. II No. 209/200, the Explosives Order, BGBl. II No. 27/2001 and the Underground Mining Surveying Order, BGBl. II No.69/2001.

Agriculture and forestry:

The relevant provisions on the technical and work hygiene protection of agricultural and forestry workers, which largely follow the Workers' Protection Act, are contained in §§ 76-94e of the Agricultural Labour Act, BGBl. No. 287/1984, as amended, and the corresponding implementing acts of the Austrian Provinces, as well as in § 11 of the Salaried Estate Employees Act, BGBl. No. 66/1923, as amended.

Ad B:

The Workers' Protection Act (ASchG) implements the basic regulations of more than 20 EU Directives in the field of workers' technical and work hygiene protection. Detailed regulations are implemented through Orders under the ASchG.

The following principles of risk prevention are laid down in the ASchG:

Employers must implement the following general risk prevention principles in the design of workplaces, work stations and working operations, in the selection and utilisation of equipment and materials as well as in the assignment of workers to particular tasks and in all measures for the protection of workers:

- The avoidance of risks
- The assessment of unavoidable risks
- Preventing risks at source
- Consideration of the human factor in work
- Consideration of the latest state-of-the-art developments.
- Elimination or reduction of risk factors
- Planning of risk avoidance
- Precedence of general over individual risk protection
- The issue of appropriate instructions to workers

Reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 3 paragraph 1:

Description of the occupational safety and health system and of specific preventive measures, in particular with respect to the following risks:

Workplaces:

General regulations on workplaces are contained in Division 2 of the ASchG, and implementing regulations in the Workplaces Order, BGBl. II No. 368/1998. In addition, the Building Workers' Protection Order, BGBl. No. 340/1994, most recently amended by BGBl. II No. 232/2000, contains regulations applicable to building sites.

The provisions of ASchG cover the following areas: workplaces in buildings, workshops, other parts of the works premises, workplaces in the open air and on building sites, fire and explosion protection, first aid, sanitary facilities in workplaces, social facilities in workplaces, sanitary and social facilities on building sites, protection of non-smokers, floating bodies, floating installations and equipment, and transport vehicles.

Equipment:

Regulations on equipment are contained in Division 3 of ASchG and in the Equipment Order, BGBl. II No. 164/2000. In particular, the ASchG regulations cover the following areas: the installation, operation, testing and maintenance of equipment.

Handling of loads:

Basically, the applicable regulations are contained in § 64 ASchG and in §§ 48 (4), 62 (1) to (3), and 73 (1) and (4) of the Order of the Federal Minister for Social Administration of 11 March 1983 on general regulations for protection of the life, health and morals of workers (**General Workers' Protection Order – AAV**), BGBl. No. 218/1983, most recently amended by BGBl. II No. 164/2000.

Under § 114 (4) ASchG, the provisions of the AAV will apply as Federal law until the entry into force of Orders to regulate the areas covered.

§ 72 (1) ASchG expressly authorises the issue of an Order to determine limit values for the **handling of loads** as soon as reliable scientific findings or standards for the determination of such limit values are available. An Order on that basis has not yet been issued, but is at present in preparation.

Work with display screen equipment:

§ 67 ASchG provides for regulations on work stations equipped with display screen equipment, while § 68 covers special measures applicable to work with display screen equipment. Further regulations are contained in the Display Screen Work Order, BGBl. II No. 124/1998.

Hygiene - commerce and offices:

Worker protection regulations do not distinguish between types of activity (commerce, offices). Work hygiene measures with regard to the following are regulated in particular in Division 4 of the ASchG: hazardous agents and substances, identification and assessment of working materials, substitutes for and prohibition of hazardous agents and substances, risk prevention measures, labelling, packaging and storage, limit values, and measurements. Further regulations are contained in particular in the Biological Agents Order, BGBl. II No. 237/1998, the Order on limit values for working materials and on carcinogenic working materials, BGBl. II No. 253/2001, and in various sections of the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended, namely, in § 16 - Protective measures against gases, vapours, suspended matter and other pollutants in industrial premises, in § 52 - Work with materials injurious to health, and in § 65 - Storage of special working materials.

Air pollution

Relevant regulations are contained in Division 4 of the ASchG, in the Order on limit values for working materials and on carcinogenic working materials, BGBl. II No. 253/2001 and in § 16 of the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended.

Noise:

Regulations concerning noise are contained in § 65 ASchG as well as in the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended, namely, in § 17- Protective measures against noise and vibration in industrial premises and in § 51- Work entailing exposure to noise and vibration.

Vibration

Regulations concerning vibration are contained in § 66 ASchG, as well as in the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended, namely, in § 17- Protective measures against noise and vibration in industrial premises and in § 51- Work entailing exposure to noise and vibration.

Personal protective equipment:

§ 69 ASchG contains general regulations on personal protective equipment while § 70 deals with the selection of such equipment. An Order is at present in preparation. Until the issue of the Order in question, the special regulations on protective equipment and working clothing of Division 6 of the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended, will continue to apply.

Safety and/or health signs at work:

The Order on safety and/or health signs at work, BGBl. II No. 101/1997 (Safety Signs Order – KennV) was issued to specify in detail regulations on safety and/or health signs at work regulated by § 3 (7) ASchG.

Hazardous agents and substances:

Regulations on hazardous agents and substances are contained in particular in Division 4 of the ASchG, the Biological Agents Order, BGBl. II No. 237/1998, the Order on limit values for working materials and on carcinogenic working materials, BGBl. II No. 253/2001, and the General Workers' Protection Order (AAV), BGBl. No. 218/1983, as amended, namely, in § 16 - Protective measures against gases, vapours, suspended matter and other pollutants in industrial premises, in § 52 - Work with materials injurious to health, and in § 65 - Storage of special working materials.

Risks in the building sector:

The provisions of the Federal Act on the Coordination of Building Work, BGBl. I No. No. 37/1999 are applied, as well as the Building Workers' Protection Order, BGBl. No. 340/1994, as amended.

Prevention of major industrial accidents:

Most of the provisions of Directive 96/82/EEC (Seveso II) and Annex I of that Directive were implemented with regard to industrial establishments by the amendment to the Industrial Code 2000, BGBl. I No. 88/2000, in its Division 8a and Annex 5. The scope of the Seveso II Directive is defined in terms of a number of threshold quantities; these threshold quantities were marginally altered, since the Convention on the Transboundary Effects of Industrial Accidents, BGBl. III No. 119/2000, was implemented simultaneously with the Industrial Code. In so far as the duties of establishment operators are concerned, outstanding provisions and the content of Annexes II to VI of the Seveso II Directive are to be implemented through the "Industrial Accidents Order", now in preparation. The consultation procedure on this Order has already been concluded.

Some elements of the Seveso II Directive lie within the competence of the Provinces, in particular Article 12 (Land-use planning) and parts of Article 11 (Emergency plans). Provincial land-use planning and disaster control legislation has to be adjusted or supplemented in the light of these provisions of the Directive, which has not yet been done in all cases. Treaty infringement proceedings are pending before the European Court of Justice with regard to these outstanding implementation measures by individual Provinces.

Other implementation measures are outstanding in a number of laws on materials, which affect a comparatively small number of installations but nevertheless must be carried out for the sake of completeness. In particular, the following should be mentioned: the law on railways and civil aviation and the Mineral Raw Materials Act. The Mineral Raw Materials Act already contains some requirements geared to Seveso II, but they are not adequate in scope. With regard to the law on firearms and explosives, which would also have to be brought into line with Seveso II, discussions are now taking place concerning integration into industrial law.

In the unanimous legal view, measures are also still necessary in the Provincial Building Codes, since the safety measures of non-industrial establishments must be assessed and authorised primarily in that light. On the whole, however, the number of Seveso II establishments not subject to the Industrial Code is comparatively small; there are estimated to be about 10 to 20 such installations. By comparison, at present, 110 establishments are covered by the Seveso II provisions of the Industrial Code.

Information on asbestos:

Provisions on asbestos are contained in Division 4 of the ASchG “Provisions concerning working materials” and in the Building Workers’ Protection Order (BauV), BGBl. No. 340/1994. Prohibition of the use of asbestos for sound and heat insulation and for decoration and prohibition of the application of asbestos coatings, sprayed asbestos rendering and gun and aerosol spraying of insulation varnish containing asbestos are contained in § 55 (6) of the General Workers’ Protection Order (AAV), BGBl. No. 218/1983, as amended. Furthermore the Asbestos Order, BGBl. No. 324/1990, as amended, prohibits the manufacture, marketing or use of certain substances, preparations and finished goods containing asbestos.

Austria has a binding uniform work station limit value of 250,000 fibres/m³ as a shift average for all types of asbestos (chrysotile, amphibole asbestos). This work station limit value is laid down as a practicable technical concentration guideline which can be complied with according to the state of the art. Employers must make arrangements to ensure that the concentration is always as far below this level as possible. The limit value does not apply to processes in which high concentrations can occur, as in repair work on weakly bonded asbestos cement products. In the latter case, additional protective measures must be taken (negative pressure, special ventilation, special cleaning provisions, airlock systems, special hygiene requirements, additional personal protective equipment). This limit value is based on light microscopy – in individual cases, the origin of the fibres is determined by electron microscopy.

In principle, workers must be instructed in the safe performance of tasks before they first take up work on building sites. Also, pursuant to § 154 BauV, they must be instructed concerning health risks, protective measures and the protective equipment to be worn before being assigned to work with substances injurious to health or to working operations and processes in which the effects of such substances may occur.

Pursuant to § 3 (5) 2. BauV, work on structural parts coated with weakly bonded products containing asbestos must be reported under § 124 (4) BauV if the operation is expected to last longer than five working days.

Protection against ionising radiation:

In Austria, the competent licensing authorities essentially apply the measures for protection against dangers from ionising radiation that are listed in Council Directive 96/29/EURATOM of 13 May 1996, laying down the Basic Safety Standards for the protection of the health of workers and members of the public against the dangers of ionising radiation. The recommendations of the International Commission on Radiological Protection are taken appropriately into account.

Fixed-term contracts and temporary workers:

The ASchG applies to the employment of workers, that is so say, all persons engaged in the context of an employment or training relationship. Temporary workers also fall in that category. Special legal provisions apply to employees of Federal, Provincial and local government offices, agriculture and forestry establishments and private households, and to home workers.

According to § 9 ASchG, all temporary workers are covered by technical and work hygiene worker protection regulations. All the duties of regular employers in connection with the dangers arising out of operations in their workplaces, for example, risk prevention, information and instruction, evaluation, occupational medicine and safety services, and the provision of personal protective equipment also apply to temporary employers.

Temporary employment within the meaning of § 98 ASchG is deemed to exist if the services of workers are made available in order to work for and under the control of third parties. A temporary employment agent is a person who, as an employer, instructs workers to perform work for third parties. A temporary employer is a person who uses the services of such workers. For the duration of a temporary employment arrangement, temporary employers are considered to be regular employers within the meaning of the ASchG.

§ 76 ASchG on the duties and the right to information and consultation of safety experts provides that they must be specially informed if workers are employed under a temporary employment arrangement, in so far as that is necessary for the fulfilment of their tasks. Safety experts (like occupational physicians) are required to advise employers, workers, workers' safety representatives and the works council and to assist employers in implementing worker protection.

§ 81 ASchG on the duties and the right to information and consultation of occupational physicians also provides that they must be specially informed if workers are employed under a temporary employment arrangement, in so far as that is necessary for the fulfilment of their tasks.

The Temporary Employment Act (AÜG), BGBl. No. 196/1988, as amended, applies in matters related to the personal protection of workers (for example, working hours) if the temporary workers are covered by the AÜG:

The AÜG applies to the employment of workers whose services are made available to work for third parties.

Neither the ASchG nor the AÜG differentiates between fixed-term and permanent employment relationships. They are geared exclusively to the "employment" of workers, so that fixed-term employment contracts are also covered by both Acts.

Protection of the self-employed:

The term "self-employed" in the supplementary question is not used in the terminology of industrial establishment law within meaning of the Industrial Code 1994 (GewO 1994), BGBl. No. 194, most recently amended by the promulgation of BGBl. No. 53/2001.

However, in this context, attention is drawn to § 74 (2) 1. GewO 1994. According to that provision, an industrial establishment can be constructed and operated only with official authorisation if it is of such a nature – because of the use of machines and appliances, owing to its equipment or in other ways – as to endanger the life or health of the operator or of assisting family members, to whom the ASchG does not apply.

Appropriate official authorisation pursuant to § 77 (1) GewO 1994 must be given if it is to be expected that, in general, or provided that any necessary requirements to be issued are complied with, predictable risks in the individual case within the meaning of § 74 (2) 1. GewO 1994 are avoided.

Even after the award of the licence for the industrial establishment, the supervisory authority must prescribe such other, or additional, directions according to the state of the art and of medical or other appropriate scientific knowledge as are necessary if the interests to be safeguarded pursuant to § 74 (2) GewO 1994 are not adequately protected, despite compliance with the Licensing Order.

Agriculture and forestry:

Agriculture and forestry employers are required pursuant to § 77 of the Agricultural Labour Act (LAG) to identify and assess existing dangers to occupational safety and health. In that context, the following aspects must be taken into consideration:

- The design and equipment of the workplace,
- The design and use of equipment,
- The use of working materials,
- The design of work stations,
- The design of working processes and operations and
- The level of training and instruction of the workers.

Attention must also be given to specially endangered workers or workers requiring special protection.

Furthermore, in the case of work stations at which women are employed, dangers to the safety and health of expectant and nursing mothers and effects on pregnancy or breast-feeding must be identified and assessed.

Before young workers are employed, dangers to their safety, health and morals must be identified.

On the basis of all evaluations, the risk prevention measures must be recorded in writing in occupational safety and health documents. The evaluation must if necessary be verified and adjusted. For instance, it must be verified and adjusted in particular after accidents and on the justified demands of the Agricultural and Forestry Inspectorate, when new equipment, materials or working processes are introduced or in the event of the occurrence of particular diseases.

In all measures for the protection of workers, employers must implement the following general risk prevention principles:

- The assessment of unavoidable risks
- Preventing risks at source
- Consideration of the human factor in work
- Consideration of state-of-the-art developments.
- Elimination or reduction of risk factors
- Planning of risk avoidance
- Precedence of collective over individual risk protection
- The issue of appropriate instructions to workers (§ 80 LAG).

Pursuant to § 83 LAG, a sufficient number of workers' safety representatives that is appropriate in view of the size of the workforce must be appointed in every establishment or workplace with at least 10 permanent workers.

In all questions of occupational safety and health, these workers' safety representatives must:

- Inform, advise and assist the workers.
- Inform, advise, assist and co-operate with the works council
- Represent the interests of the workers,
- Advise the workers on practical aspects of worker protection, etc.

Workers' safety representatives are not subject to direction. They have the right to be consulted by the employer on all matters affecting occupational safety and health. If there is no works council, workers' safety representatives must perform the tasks otherwise

incumbent on the works council (for example, consultation on the selection of personal protective equipment).

Pursuant to § 84 LAG, employers are required to make arrangements to provide workers with adequate information on dangers to occupational safety and health and on risk prevention measures. If no workers' safety representative is appointed and if also no works council is set up, the employer must grant all workers access to the occupational safety and health documents and to records and reports on work accidents; he/she must also make available certain background documents, and must inform workers if limit values are exceeded, and on directions and authorisations in the field of worker protection.

Employers are required to consult workers in all questions related to occupational safety and health.

Employers are also required to make arrangements for adequate instruction of workers during working hours on occupational safety and health.

Records must be kept of all fatal work accidents and on accidents that have caused injury leading to absence from work for more than three calendar days.

Under § 92 LAG, with regard to activities where there is a danger of occupational disease and in which a medical examination would have prophylactic effect in view of the related specific health risk, workers may be assigned to such work only if a medical examination was carried out beforehand and if medical examinations are conducted at regular intervals in cases where the activity is continued.

Pursuant to § 93 LAG, so-called preventive services (safety experts and occupational physicians) must be appointed. The obligation can be met through the employment of security experts or occupational physicians or by using the services of external persons or an occupational medicine or safety centre. The duties, information requirements and rights of occupational physicians and safety experts are regulated in §§ 93a and 94a LAG.

Workers with fixed-term contracts and temporary workers in agriculture and forestry are subject to the technical and work hygiene protection provisions of LAG.

In order to ensure the protection of temporary workers, § 82 LAG provides that, for the duration of temporary employment, temporary employers are regarded as regular employers within the meaning of that Federal Act.

Assistant and salaried domestic staff:

With regard to domestic establishments, § 8 of the Assistant and Salaried Domestic Staff Act (HGHAG), BGBl. No. 235/1962, as amended, should be mentioned. § 8 HGHAG is still in force (see Annex 4).

Article 3 paragraph 2

Ad A:

Reference is made to previous comprehensive reporting.

Monitoring of establishments by the General Labour Inspectorate:

Ad Point a.) of the questionnaire:

As the following table shows, the number of establishments visited, including Federal establishments and external (building) sites, declined over the period 1997-2000 from 71,388 to 62,094. By contrast, the number of assistance and counselling sessions for establishments, which are becoming more and more important in the work of the Labour Inspectorate, rose sharply from 14,714 to 24,752. Those inspection visits did not cover the workplaces subject to supervision by the Agricultural and Forestry Inspectorates and the Transport Labour Inspectorates, the workers employed in administrative units of the Provinces, associations of local authorities, the educational institutions of the Provinces and local authorities, the institutions of the statutorily recognised churches and religious communities or assistant domestic staff employed in private households. **Since January 1999, the Labour Inspectorate has also been competent for the administration of worker protection in those workplaces which were previously subject to the mining supervisory authorities.**

Year	Workplaces monitored	External work (building) sites	Total
1997	57,864	13,524	71,388
1998	54,209	13,413	67,622
1999	51,092	13,180	64,272
2000	48,961	13,133	62,094

Ad Point b.) of the questionnaire:

In the period 1997-2000, the number of inspection visits or inspections fell from 107,197 to 97,706.

Year	Workplaces monitored	External work (building) sites	Total ^{*)}
1997	89,274	17,923	107,197
1998	80,367	16,853	97,220
1999	77,954	16,771	94,725
2000	80,281	17,425	97,706

^{*)} Excluding inspections unrelated to specific establishments.

Ad Point c.) of the questionnaire:

As the table below shows, the number of workers covered by visits to or inspections of workplaces and external work (building) sites decreased in the period 1997-2000 from 1,266,453 to 1,188,775. At the same time, the proportion of workers covered by inspections in workplaces fell from 49.3% to 44.7%.

Year	Workers covered by inspections of work-places	external workplaces (building) sites	Total	Percentage of workers covered by inspections of workplaces
1997	1,191,403	75,050	1,266,453	49.3
1998	1,194,779	67,553	1,262,332	48.9
1999	1,141,833	65,588	1,207,421	46.0
2000	1,125,701	63,074	1,188,775	44.7

Monitoring of establishments by the Transport Labour Inspectorate:

Ad Points a.) and b.) of the questionnaire:

Number of inspections and establishments and workplaces inspected, broken down by area of activity								
Enterprises/transport services	Total inspections				Total establishments and workplaces inspected			
	1997	1998	1999	2000	1997	1998	1999	2000
Main and branch railway lines	716	712	428	426	362	459	327	175
Trams	55	44	24	29	44	38	21	28
Cable cars, funiculars	138	85	99	111	118	77	97	107
Private-sector railways	50	66	67	51	41	44	65	49
Sleeping and restaurant car enterprises	0	2	1	3	0	1	1	1
Post	147	158	198	179	127	129	183	172
Telecommunications enterprises	31	50	46	65	31	42	36	58
Shipping	97	126	119	101	75	14	9	11
Civil aviation	42	45	55	62	28	36	29	43
TOTAL (all transport operations)	1,276	1,288	1,037	1,027	826	840	768	644

Ad Point c.) of the questionnaire:

<u>Number of workers covered by inspections</u>					
Report- ing year	Total number of workers covered by inspections	Male		Female	
		Adults	Juveniles	Adults	Juveniles
1997	19,623	16,636	2,888	97	2
1998	18,788	15,811	2,901	75	1
1999	38,141	34,259	3,681	176	25
2000	34,674	29,007	5,364	297	6

**Monitoring of agricultural and forestry establishments by the Agricultural and Forestry
Inspectorates:**

Ad Points a.) to c.) of the questionnaire:

Reference is made to previous reporting.

According to the law, agricultural and forestry establishments are defined as establishments engaging in agricultural and forestry production and their subsidiary and auxiliary establishments. In this context, agricultural and forestry production includes in particular arable farming, the cultivation of meadows, pastures and forests, animal husbandry for breeding, fattening or for animal products, wine-growing, fruit-growing and horticulture, tree nurseries, bee-keeping, hunting and fisheries.

Agricultural and forestry trading and industrial co-operatives, marketing as well as purchasing and farmers' co-operatives are also regarded as agricultural and forestry establishments.

The relevant statistics are contained in the enclosed 1997-2000 reports of the nine Agricultural and Forestry Inspectorates attached to the Provincial Government Offices (**Annex 5**).

Monitoring by the mining authorities:

Ad Points a.) to c.) of the questionnaire:

Until 31 December 1998, the mining authorities were required and entitled, pursuant to § 198 (1) of the Mining Act 1975, BGBl. No. 259, to monitor compliance with mining and other applicable regulations as well as with the Orders based thereon, particularly with regard to protecting life and health, environmental protection and the training of miners, among other things. For monitoring purposes, the District Mining authorities were required, under § 199 (1) of the Mining Act 1975, to visit sites at which mining was carried out, as well as the mining installations, vehicles, opencast mining equipment, industrial equipment, etc. used at such sites, in so far as that was necessary in order to exercise their supervisory rights, particularly in the event of special danger to life and health. Pursuant to § 199 (3) of the Mining Act 1975, officials of the Federal Ministry of Economic Affairs dealing with monitoring were entitled to carry out visits of the type specified in § 199 (1) in order to verify the activity of the District Mining authorities.

In performing their monitoring tasks, the mining authorities carried out the following underground inspections in the years 1997 and 1998:

<u>Year</u>	<u>Mining operations</u>	<u>Underground inspections</u>
1997	511	1,283
1998	522	1,249

Since 1 January 1999, the (General) Labour Inspectorate has also been responsible for the statutory protection of workers in mining establishments.

Ad B:

Monitoring of establishments by the (General) Labour Inspectorate:

The statutory regulations for protecting occupational safety and health are in the public domain in Austria. Non-compliance is punishable as an **administrative offence (with fines, or imprisonment in lieu thereof)**.

Pursuant to § 9 ArbIG, labour inspectors must order employers in writing to rectify the position within a prescribed period in the event of infringements. If the employer fails to comply, the Labour Inspectorate *must* under present rules **report the matter to the administrative penal authority**. In the event of a serious infringement of statutory occupational safety and health provisions, labour inspectors must *immediately* report the matter to the administrative penal authority. The report must also contain an application for the imposition of a specific fine. The administrative penal authority, in the final instance the Independent Administrative Court, decides whether to impose a fine.

Fatal work accidents and all work accidents that lead to sickness and absence from work for more than three days must be reported by the employers to the statutory accident insurance authority, the AUVA. A copy of the work accident report is forwarded to the competent Labour Inspectorate. In this context, if the suspicion arises in the course of subsequent investigation that the work accident was due to infringement of a statutory provision, the Labour Inspectorate must report the matter to the public prosecutor. **If appropriate**, the public prosecutor institutes judicial penal proceedings on grounds of suspected **action liable to judicial prosecution** (negligent homicide, negligent homicide in particularly dangerous circumstances, negligent bodily injury and endangerment of personal safety, pursuant to §§ 80, 81, 88 or 89 of the Criminal Code, BGBl. No. 60/1974, as amended).

Ad Point a.) of the questionnaire:

The following table shows that the number of infringements fell from 74,781 to 73,597 in the period 1997-2000.

Year	Infringements ^{*)}
1997	74,781
1998	73,332
1999	73,646
2000	73,597

^{*)} Including user protection, excluding checks on drivers.

Ad Point b of the questionnaire:

As is shown by Table 1 in **Annex 6**, most of the infringements occurred in the following branches of the economy in the period 1997-2000.

	1997	1998	1999	2000
Building	20,789	19,918	18,363	15,473
Commerce, maintenance and repair of automobiles and consumer goods	17,205	16,766	16,891	18,940
Hotel and tourist trade	9,723	9,852	10,181	10,932

The number of infringements decreased in building but rose slightly in commerce, the maintenance and repair of automobiles and consumer goods and in the hotel and tourist trade.

Ad Point c.) of the questionnaire:

In addition to any priority counselling for the correction of irregularities, establishments were ordered in writing to take corrective action and, if necessary, the matter was reported to the administrative penal authorities. Like the number of infringements (see Point a.), the number of written orders and reports was on the decline, as follows:

Year	Orders ^{*)}	Reports ^{*)}
1997	25,183	1,941
1998	23,375	1,760
1999	23,313	1,692
2000	22,057	1,282

^{*)} Including user protection.

Monitoring of establishments by the Transport and Labour Inspectorate:

Relevant statistics for the sphere of operation of the Transport Labour Inspectorate are not available for the years 1997-2000. However, since the number of infringements, the sectors affected, and the measures taken have been statistically recorded as from the year 2001, the relevant data can be made available in the next report.

Monitoring of agricultural and forestry establishments by the Agriculture and Forestry Inspectorates:

Reference is made to the 1997-2000 annual reports of the nine Agricultural and Forestry Inspectorates attached to the Provincial Governments (**Annex 5**).

Ad C:

Monitoring of establishments by the (General) Labour Inspectorate:

In the period 1997-2000, the number of work accidents among employed persons (excluding accidents occurring on the way to work) as recognised by the AUVA decreased from 112,212 to 110,429, while the number of fatal work accidents increased slightly from 132 to 135. At the same time, the number of cases of occupational diseases recognised by the AUVA rose slightly, namely, from 1,119 to 1,136. A breakdown of work accidents by branches of the economy and the definition of the data set are given in Table 2 (work accidents) and Table 3 (occupational diseases) of **Annex 6**.

Monitoring of establishments by the Transport Labour Inspectorate

A C C I D E N T S (Reporting years 1997-2000) <i>broken down by type of transport operation*)</i>								
Transport operations	Accidents 1997	thereof fatal	Accidents 1998	thereof fatal	Accidents 1999	thereof fatal	Accidents 2000	thereof fatal
Railways	3,752	3	2,911	7	3,170	5	3,357	6
Trams and private railways	796	0	778	1	715	0	783	1
Cable cars and funiculars	426	0	468	3	459	1	572	5
Post and telecommunication enterprises	1,710	3	1,818	1	1,848	2	1,441	2
Shipping	39	0	32	4	35	0	22	0
Civil aviation	276	0	252	1	305	0	317	0
T O T A L	6,999	6	6,259	17	6,532	8	6,492	14

*) The figures reflect only the number of the accident reports received by the Transport Labour Inspectorate but do not give any information about the work accidents actually recognised by the social insurance institutions.

Enterprises/transport operations	Number of medical reports on OCCUPATIONAL DISEASES received by the Transport Labour Inspectorate in the reporting period 1997								
	TOTAL	19*)	22*)	23*)	26*)	27*)	33*)	41*)	99*)
Main and branch railway lines	61	4	0	1	1	0	51	2	2
Trams	3	0	0	0	0	1	2	0	0
Cable cars and funiculars	4	0	0	0	0	0	3	1	0
Private-sector railways	0	0	0	0	0	0	0	0	0
TOTAL railways	68	4	0	1	1	1	56	3	2
Sleeping and restaurant car operators	0	0	0	0	0	0	0	0	0
Post	7	1	1	0	0	1	3	1	0
Telecommunications enterprises	0	0	0	0	0	0	0	0	0
Shipping	1	1	0	0	0	0	0	0	0
Civil aviation	0	0	0	0	0	0	0	0	0
TOTAL (all transport operations)	76	6	1	1	1	2	59	4	2

*) Code number in list of occupational diseases – as below:

- 19 Skin diseases
- 22 Pressure paralysis of nerves
- 23 Chronic disorders of the synovial bursae of the knee or elbow joint caused by continuous pressure or vibration
- 26 Pneumoconiosis
- 27 Asbestosis
- 33 Noise-induced hearing impairment
- 41 Disorders of the lower respiratory tract or lungs caused by chemical irritants or toxic substances
- 99 Pursuant to § 177 (2) ASVG (See [Annex 7](#))

Notification of recognition as occupational diseases was received by the Transport Labour Inspectorate in 8 cases, 5 of which were related to noise-induced hearing impairment, 2 to skin diseases and 1 to the effects of isocyanates.

Enterprises/transport operations	Number of medical reports on OCCUPATIONAL DISEASES received by the Transport Labour Inspectorate in the reporting period 1998				
	TOTAL	19*)	26*)	30*)	33*)
Main and branch railway lines	32	7	0	0	25
Trams	5	2	0	1	2
Cable cars and funiculars	0	0	0	0	0
Private-sector railways	0	0	0	0	0
TOTAL railways	37	9	0	1	27
Sleeping and restaurant car operators	0	0	0	0	0
Post	5	0	0	1	4
Telecommunications enterprises	0	0	0	0	0
Shipping	0	0	0	0	0
Civil aviation	2	0	0	0	2
TOTAL (all transport operations)	44	9	0	2	33

*) Code number in list of occupational diseases – as below:

- 19 Skin diseases
- 26 Pneumoconiosis
- 30 Bronchial asthma caused by allergenic substances
- 33 Noise-induced hearing impairment

Notification of recognition as occupational diseases was received by the Transport Labour Inspectorate in 11 cases, 9 of which were related to noise-induced hearing impairment, and 2 to skin diseases.

Enterprises/transport operations	Number of medical reports on OCCUPATIONAL DISEASES received by the Transport Labour Inspectorate in the reporting period 1999						
	TOTAL	9*)	19*)	26*)	33*)	52*)	99*)
Main and branch railway lines	14	0	1	0	12	0	1
Trams	4	1	1	1	1	0	0
Cable cars and funiculars	1	0	1	0	0	0	0
Private-sector railways	0	0	0	0	0	0	0
TOTAL railways	19	1	3	1	13	0	1
Sleeping and restaurant car operators	0	0	0	0	0	0	0
Post	2	0	0	0	2	0	0
Telecommunications enterprises	0	0	0	0	0	0	0
Shipping	0	0	0	0	0	0	0
Civil aviation	1	0	0	0	0	1	0
TOTAL (all transport operations)	22	1	3	1	15	1	1

*) Code number in list of occupational diseases – as below:

- 9 Disorders caused by benzene or its homologues or by styrene
- 19 Skin diseases
- 26 Pneumoconiosis
- 33 Noise-induced hearing impairment
- 52 Polyneuropathy or encephalopathy caused by organic solvents or mixtures thereof
- 99 Pursuant to § 177 (2) ASVG

Notification of recognition as occupational diseases was received by the Transport Labour Inspectorate in 9 cases, 7 of which were related to noise-induced hearing impairment and 2 to chemicals.

Enterprises/transport operations	Number of medical reports on OCCUPATIONAL DISEASES received by the Transport Labour Inspectorate in the reporting period 2000						
	TOTAL	9*)	19*)	26*)	33*)	52*)	99*)
Main and branch railway lines	41	0	8	0	29	0	4
Trams	0	0	0	0	0	0	0
Cable cars and funiculars	3	0	1	0	2	0	0
Private-sector railways	0	0	0	0	0	0	0
TOTAL railways	44	0	9	0	31	0	4
Sleeping and restaurant car operators	0	0	0	0	0	0	0
Post	3	0	2	1	0	0	0
Telecommunications enterprises	0	0	0	0	0	0	0
Shipping	0	0	0	0	0	0	0
Civil aviation	0	0	0	0	0	0	0
TOTAL (all transport operations)	47	0	11	1	31	0	4

*) Code number in list of occupational diseases – as below:

- 9 Disorders caused by benzene or its homologues or by styrene
- 19 Skin diseases
- 26 Pneumoconiosis
- 33 Noise-induced hearing impairment
- 52 Polyneuropathy or encephalopathy caused by organic solvents or mixtures thereof
- 99 Pursuant to § 177 (2) ASVG

Notification of recognition as occupational diseases was received by the Transport Labour Inspectorate in 24 cases, 21 of which were related to noise-induced hearing impairment, 2 to skin diseases, and 1 case to a disorder caused by benzene or its homologues.

Monitoring by the Mining Authorities:

The number and frequency of mining accidents developed as follows:

Year	Accidents	thereof fatal	Accidents per million work hours
1997	464	3	33.7
1998	382	12	29.0
1999	388	1	34.0
2000	265	1	27.3

Monitoring of agricultural and forestry establishments by the Agricultural and Forestry Inspectorates:

The Agricultural and Forestry Inspectorates receive information on accidents among workers in agriculture and forestry mainly from the General Accident Insurance Institution (AUVA), and on accidents among self-employed persons and all close relatives from the Farmers' Social Insurance Institution (SVB).

The AUVA **Tables 2** (work accidents) and **3** (occupational diseases) transmitted in **Annex 6** thus also take into account work accidents and occupational diseases among agricultural and forestry workers.

The data provided by the two social insurance institutions do not, however, cover establishments subject to monitoring by the Agricultural and Forestry Inspectorates and cannot both be corrected in the same way. On the one hand, the data provided by the SVB would have to be reduced to include only family members employed full-time and, on the other hand, the statistics provided by AUVA would have to be increased by adding accidents occurring in co-operative agricultural and forestry establishments.

In addition to the statistics contained in **Annex 6**, **some Provinces** have reported the following detailed information on work accidents and occupational diseases recognised by AUVA and SVB:

Burgenland:

Year	Assisting family members			Workers	
	Work accidents	Occupational diseases	Thereof fatal	Work accidents	Thereof fatal
1997	365	3	7	29	1
1998	311	1	7	19	---
1999	328	2	5	31	1
2000	278	3	2	27	---

Of the 23 fatal accidents, 13 occurred in forestry work and 6 were related to work with transport vehicles. The occupational diseases were bronchial asthma, farmers' lung and Central European (tick-borne) encephalitis.

Lower Austria:

Work accidents recognised by AUVA and SVB in the year 2000:

Assisting family members: 1,544 (12 fatal)

Workers: 279 (3 fatal)

Upper Austria:

Work accidents broken down by the individual groups of causes:

1. Self-employed farmers and their family members:				
GROUP OF CAUSES	Accidents (fatal)			
	1997	1998	1999	2000
Power generation and transmission plant	1	1	1	1
Agricultural and forestry machinery	197	158 (1)	137 (2)	123
Industrial machinery	54	38	29	41
Conveyor machines and equipment	4	4	7	10
Transport equipment	115 (5)	86 (4)	121 (7)	122 (4)
Collapsing or falling objects (incl. forestry accidents)	196 (3)	200 (2)	182 (4)	157 (3)
Hazardous substances and agents	20 (1)	17 (1)	15 (1)	9
Falls	835 (7)	665 (5)	703 (5)	647 (10)
Animals	353 (1)	307	297 (1)	307 (1)
Hand tools and equipment	90	84	76	56
Natural disasters and weather conditions	2	-	-	1
Miscellaneous: Injuries caused by pointed or sharp objects, contusions, infectious diseases, hunting accidents, etc.	301	309	246	200 (2)
Total	2,168 (17)	1,869 (13)	1,814 (20)	1,674 (20)

2. Wage- and salary-earners in agriculture and forestry				
GROUP OF CAUSES	Accidents (fatal)			
	1997	1998	1999	2000
Flying splinters and fragments	1	4	8	1
Self-propelled machines other than vehicles	-	-	1	-
Other and unknown causes	2	4	2	-
Collisions	19	7	9	6
Agricultural machinery	6	6	4	1
Metalworking machines	1	-	-	-
Woodworking machines	20	16	20	14
Earth-moving and hydraulic engineering machinery	-	1	-	-
Mining machinery	-	-	-	1
Building machinery	-	-	-	1
Contusions	10	4	5	7
Electric shock	-	-	-	1
Bicycles	1	4	4	-
Hazardous substances and agents	1	2	1	3
Hand carts / other means of transport	-	1	3	2
Hand tools	25	19	24	19
Falling or collapsing objects	87 (1)	74	68	65 (1)
Mopeds	4	1	6	4
Motor-operated conveyors	4	4	6	3
Industrial trucks and similar vehicles	2	2	1	2
Motor bicycles and scooters	-	-	1	1
Natural forces and weather	-	-	1	2
Automobiles, trucks and similar vehicles	4	10	12	8
Sharp and pointed objects	16	24	21	31
Other means of transport	2	3	2	-
Falls	115	88	91	97
Animals	14	13	14	18
Tractors, traction engines and similar vehicles	4	6	9	5
Hand carriage	9	13	8	15
Misc. machines, plant, equipment	4	3	9	7
Total	351 (1)	309	330	314 (1)

3. Aggregate statistics				
GROUP OF CAUSES	Accidents (fatal)			
	1997	1998	1999	2000
Self-employed farmers / family members	2,168 (17)	1,869 (13)	1,814 (20)	1,674 (20)
Wage- and salary-earners	351 (1)	309	330	314 (1)
Total	2,519 (18)	2,178 (13)	2,144 (20)	1,988 (21)

Development of recognised **occupational diseases**:

1. Self-employed farmers and their family members				
OCCUPATIONAL DISEASES	1997	1998	1999	2000
Skin diseases	-	1	-	1
Bronchial asthma	1	5	5	8
Diseases transmitted from animals to humans	-	-	2	-
Diseases caused by chemical irritants	-	1	1	-
Farmers' (threshers') lung	7	10	12	4
Diseases transmitted by tick-bite (borreliosis)	4	2	3	3
Total	12	19	23	16

2. Wage- and salary-earners in agriculture and forestry				
OCCUPATIONAL DISEASES	1997	1998	1999	2000
Skin diseases	3	1	2	1
Noise-induced hearing impairment	-	-	1	-
Bronchial asthma/allergic alveolitis	1	-	1	1
Total	4	1	4	2

3. Aggregate statistics				
OCCUPATIONAL DISEASES	1997	1998	1999	2000
Self-employed farmers / family members	12	19	23	16
Wage- and salary-earners	4	1	4	2
Total	16	20	27	18

Preventive measures:

The specific preventive measures introduced and recommended in agriculture and forestry are: suitable personal protective equipment (helmets, cut-resistant trousers, technical devices for the reduction of vibration, dust masks and respirators, etc), training and structural and mechanical protection.

Vienna:

Work accidents and occupational diseases coming directly to the notice of the Vienna Agricultural and Forestry Inspectorate (reports of accidents which are forwarded by the above-mentioned social insurance institutions to the Vienna Agricultural and Forestry Inspectorate, as well as accidents coming to the notice of the Vienna Agricultural and Forestry Inspectorate in the course of its monitoring activity):

Reports received by the Vienna Agriculture and Forestry Inspectorate	1997	1998	1999	2000
Work accidents	5	8	1	1
Accidents	---	---	---	---

See also **Annex 5**, containing the 1997-2000 **reports** of the nine Agricultural and Forestry Inspectorates attached to the Provincial Government Offices, which contain statistics on work accidents and occupational diseases.

Reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 3 paragraph 2:

Work accidents in building, woodworking and wood-processing:

Table 4 transmitted in **Annex 6** shows the work accidents recognised by the AUVA and occurring among employed persons in the period 1997-2000 (not including accidents occurring on the way to work) broken down by occupational groups or integrated major occupational groups. In that period, as can be seen from Table 2, the number of work accidents in building fell from 25,804 to 23,652 and the relevant proportion of all work accidents declined from 23.0% to 21.4%. In the woodworking and wood-processing area (not including the manufacture of furniture) the number of work accidents also dropped, from 3,268 to 3,156, while the proportion of all work accidents remained stable at 2.9%.

The Labour Inspectorate took the increase in work accidents in building into consideration by undertaking specific priority programmes, for example, the “Roof work safety devices” programme. (The report on this campaign is transmitted in **Annex 7**).

Work accidents and occupational diseases in agriculture and forestry:

See remarks on Article 3 paragraph 2, question C.

Action to counteract the increase of occupational diseases related to asbestos and the doubling in the incidence of skin diseases and allergic asthma:

Asbestos-related diseases:

Since the causes of asbestos-related diseases lie chiefly in the past (for example, the application of sprayed asbestos rendering, processing of asbestos cement, asbestos brake linings, etc.) a further increase is also to be expected in the future, in view of the long latency period, namely, several decades.

Skin diseases:

The most frequent cause of allergic and toxic eczema as an occupational disease is exposure to the chemicals used in hairdressing. For that reason, a priority programme was undertaken by the Labour Inspectorate in **hairdressing establishments** throughout Austria. The programme began in June 1996 and ended in June 1997. In all, 431 establishments were surveyed in nine regional districts. In that context, the ventilation situation, the products used (substitute substances less injurious to health) and the presence of suitable personal protective equipment were investigated. Processing of this programme's results showed that more attention must be given to raising the information and training levels of those affected. This Labour Inspectorate programme made possible not only a rapid survey of existing specific working conditions in small and medium establishments but also targeted counselling and assistance for such establishments (covering both workers and employers); at a higher level, it also promoted general cooperation between the Labour Inspectorate, workers' representative bodies and individual establishments.

The statutory requirement for conducting evaluations and for regular visits by occupational physicians and security experts, which is now applicable to the smallest establishments, is expected to improve worker protection among hairdressers as well.

Allergic asthma:

In November 2000 the Labour Inspectorate started a nationwide campaign on **occupational safety and health in bakeries**, which is to run until 2005 and is based on the following findings:

- Flour dust and some flour components can have a sensitising effect on the human organism, so that allergic conditions such as allergic asthma ("bakers' asthma") and skin diseases can occur.
- Bronchial asthma caused by allergenic substances is the **most frequent recognised occupational disease of the respiratory tract** in Austria; the majority of cases occur among bakers.

The EU project "Workplace Health Promotion in Bakeries" was carried out in Germany and Austria on the basis of these findings as early as 1996-1998. Taking the experience gained in that project as a starting point, the local Labour Inspectorates in Upper Austria and Styria carried out regional pilot projects by the end of 1999 in cooperation with the Provincial Bakers Guilds, the vocational schools, the General Accident Insurance Institution, the District Health Insurance Fund, the Chamber of Labour and the trade union. Chiefly owing to the success of this regional co-operation, and building on the experience of the above-mentioned pilot projects, the nationwide campaign was begun, with the following aims:

- Establishment of agreed uniform basic requirements (preventive measures related to working practices and conditions)
- Status analysis (survey of the existing situation and comparison with the target situation)
- Counselling, building up regional networks and monitoring of compliance with the agreed basic requirements
- Implementation of the basic requirements and reduction of exposure to flour dust in bakeries by the year 2005

Inquiry concerning private households:

Private households are not included in the sphere of competence of the Labour Inspectorates (§ 1 (2) 6. ArbIG). The relevant exception covers assistant domestic staff and salaried staff in private households, that is to say, persons who render housekeeping services for the employer or for members of his/her household. The Labour Inspectorate is competent for households of juristic persons. It is also competent for the activity of caretakers and home workers.

Decline in inspection activity:

The marked rise in counselling in the years 1998-2000 was accompanied by a distinct decrease in criminal charges, against the background of a practically constant level of monitoring and infringements. This proves that, while monitoring is still necessary, compliance with worker protection regulations can be achieved above all by intensified and targeted counselling. The increasing volume of preliminary discussions of industrial projects also makes it possible to implement worker protection by means of preventive measures and to point out certain design defects of industrial projects at the planning stage.

Year	Assistance and counselling sessions	including: preliminary project discussions	Monitoring ¹⁾	Infringements ²⁾	Offences reported
1998	17,470	7,611	98,922	73,332	1,760
1999	19,570	7,931	92,261	73,646	1,692
2000	24,752	9,001	99,391	73,597	1,282

¹⁾ Total inspections and surveys

²⁾ Not including checks on drivers

Source: BMWA, Central Labour Inspectorate

The quality of inspections has remained constant, the number and scope of investigations have distinctly risen, and both the overall number of infringements and the number of infringements per inspection visit have remained practically the same, so that effective compliance with the relevant statutory regulations continues to be ensured.

Year	Inspections	Surveys
1998	49,496	49,426
1999	45,644	50,617
2000	43,015	56,376

Source: BMWA, Central Labour Inspectorate

The staffing situation in the Transport Labour Inspectorate:

There has been a slight decrease in inspection activity, i.e. in the number of establishments and workplaces inspected, because it has still not been possible to increase the staff resources of the Transport Labour Inspectorate and because the scope and nature of tasks have increased

or changed as compared with previous years. Some staff have been reassigned to intensive counselling of enterprises.

It must also be stressed that, in recent years, there has been a rapid increase in the number of persons employed in some sectors, for example, civil aviation or telecommunications.

Number of Transport Labour Inspectors and sectoral assignment				
Sectoral assignment	Number of Transport Labour Inspectors			
	1997	1998	1999	2000
Railways	7	8	8	8
Trams: trolley buses	2	2	2	1
Cable cars, funiculars	2	2	3	3
Post and telecommunications	3	3	3	3
Shipping	1	1	1	1
Civil aviation	1	1	1	1
Occupational medicine: User protection (all establishments)	2	2	2	2
TOTAL	18	19	20	19

The number of transport labour inspectors in service remained approximately stable in the reporting period and by no means represents the number necessary for the proper fulfilment of statutory tasks.

In the area of the Transport Labour Inspectorate, inspectors specialise in various forms of transport.

Maintenance of the technical competence of inspectors:

Transport inspectors are sent to further training courses in order to maintain their level of specialised competence in the various fields of worker protection (technical worker protection, radiation protection, machine safety, ergonomics, occupational medicine, user protection, transport technology, traffic safety, etc) both technically and with regard to changes in regulations. In order to cope with the large volume of further training requirements, each of such courses is attended by only one or two persons, who pass on their knowledge to all other transport labour inspectors in the context of internal training.

Amounts of fines:

Punishable offences were broken down into various categories and the ceilings of fines were raised under the Workers' Protection Act (ASchG), BGBl. No. 450/1994, as amended, which entered into force on 1 January 1995. Rates of fines were raised to ATS 2,000-100,000 for employers, temporary employment agents, and operators of safety or occupational medicine centres (or ATS 4,000-200,000 in the event of a repetition of the offence) and to ATS 3,000 for workers (ATS 5,000 in the event of repetition).

The pertinent considerations in determining the ceilings of fines were that infringements usually endanger the life or health of workers and frequently also result in work accidents or work-related diseases or damage to health and that employers frequently make considerable

savings in investments by disregarding worker protection regulations. High fines are often the only means of deterring employers from such infringements.

No reliable information can be given as to the average level of fines for statutorily defined criminal acts (negligent homicide, negligent homicide in particularly dangerous circumstances, negligent bodily injury and the endangerment of personal safety pursuant to §§ 80, 81, 88 or 89 of the Criminal Code, BGBl. No. 60/1974, as amended). The chief respect in which existing statistics are not adequately informative is that the facts of a specific case cannot be deduced from conviction by a criminal court under the above sections (in concrete terms, the existing statistics do not differentiate, for example, between injuries caused by work accidents and traffic accidents).

The report for the period 1 June 1999 to 31 May 2001 on Convention (No. 81) on Labour Inspection in Industry and Commerce is transmitted in **Annex 8**. Convention (No. 129) on Labour Inspection (Agriculture) has not been ratified by Austria.

Article 3 paragraph 3

Reference is made to previous reporting, which should be updated as follows:

Activities of the Workers' Protection Advisory Board pursuant to § 91 of the Workers' Protection Act in the reporting period 1 January 1997 to 31 December 2000:

Period 1 January 1997 to 31 December 1998:

Three plenary meetings and nine Technical Committee meetings were held in the years 1997 and 1998. The plenary meetings considered the draft proposal for a "Biological Agents Order", the "Deliberations of the Technical Committee in the period June 1997 to May 1998 on maximum workplace concentrations of hazardous agents and substances" and the draft proposal for an "Order on certification of technical knowledge on the organisation and preparation, performance and monitoring of certain types of work". The nine Technical Committee meetings were devoted to preparing MAK (maximum workplace concentration) and TRK (technical concentration guideline) values.

Period 1 January 1999 to 31 December 2000:

An amendment to the Workers' Protection Act, BGBl. I No. 12/1999, entering into force on 1 January 1999, expanded the area of competence of the Workers' Protection Advisory Board. In addition to "Advising the Federal Minister on questions of principle regarding occupational safety and health", it is now also required to "Inform the Minister on the organisational structure and activity of the prevention centres operated by the accident insurance institutions". The provisions concerning such prevention centres were promulgated together with the amendment and entered into force on the same date (see remarks on Article 3 paragraph 1, Question A).

The Advisory Council for Worker Protection held four plenary meetings in the years 1999 and 2000, devoted to information concerning the organisational structure and activity of the prevention centres of the accident insurance institutions.

Mining activities:

Pursuant to § 176 of the Mineral Raw Materials Act, it is one of the responsibilities of the social insurance institutions and the statutory employers' and workers' organisations in the various branches to assist the authorities in performing their tasks. For their part, the

authorities are required to cooperate with the relevant social insurance institutions and with the statutory employers' and workers' organisations.

Pursuant to § 57 (1) of the Rules of Procedure of Works Councils 1974, BGBl. No. 355, the works councils in mining establishments must appoint two men or women (as representatives for underground working conditions) and a corresponding number of deputies, in order to monitor the implementation of and compliance with worker protection regulations, particularly in work hygiene and accident prevention, and to participate in inspections by mining authority officials. Pursuant to § 175 (1) of the Mineral Raw Materials Act, the works council must be co-opted in inspections; if underground working representatives have been appointed by the works council, they must be co-opted.

Reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 3 paragraph 3:

Pursuant to the Collective Labour Relations Act (ArbVG), the works council has the following participation rights in worker protection matters:

Pursuant to § 89 ArbVG, the works council is required to monitor the implementation of and compliance with worker protection regulations. For that purpose, it can inspect the establishment premises, installations and workplaces. The establishment operators are required to inform the works council immediately of any work accidents.

Pursuant to § 90 ArbVG, the works council has the right to propose action in the area of worker protection and to make proposals for the prevention of accidents and occupational diseases. The establishment operator is required to consult the works council at its request on all matters affecting the interests of the workers in the establishment.

Pursuant to § 91 ArbVG, establishment operators are required to provide the works council with information on all matters affecting the health interests of workers.

Pursuant to § 92 ArbVG, establishment operators are required to hold regular joint consultations with the works council on general management principles of the establishment in the technical respect, to inform the works council on important matters and to provide it with the necessary background information.

Pursuant to § 92a ArbVG, which was introduced in connection with the implementation of the Framework Worker Protection Directive (Directive 89/391/EEC) and spells out in detail the works council's information and intervention rights, establishment operators are required to hold consultations and discussions with the works council in good time on all occupational safety and health matters. They are required to consult the works council on the planning and introduction of new technologies and their impact on working conditions, on the selection of personal protective equipment and on the avoidance of danger. They are required to give the works council access to occupational safety and health documents and to records of and reports on work accidents, to make available background information concerning working methods, to disclose measurement and investigation results and to provide information on official requirements, prescribed procedures and necessary authorisations in the worker protection field. Furthermore, establishment operators are required to consult the works council on the appointment and removal of safety experts, occupational physicians and persons entrusted with preventive services; appointments made without informing or consulting the works council are legally invalid.

Pursuant to § 97 (1) 8. ArbVG, a works meeting can be held concerning action to be taken and installations to be provided for the avoidance of accidents and occupational diseases as

well as on measures for protection of the health of workers. § 97 (1) 6a. regulates the conclusion of relevant works agreements in the area of heavy night work.

Under Austrian law, the works level is the central point of contact in matters of occupational safety and health. In implementation of Framework Directive 89/391/EEC, comprehensive regulations on the provision of information (§ 12) and the consultation and participation rights of workers (§ 13), or of their representatives (workers' safety representatives), see (**Annex 9**), were also incorporated in the Workers' Protection Act (ASchG).

In establishments subject to the Agricultural Labour Act (LAG), the works council has the right to monitor compliance with worker protection regulations and to inspect the establishment premises, installations and workplaces for that purpose. The establishment operator must immediately inform the works council of every work accident (§ 194 LAG). The works council is entitled to make proposals for the improvement of working conditions, for the avoidance of accidents and occupational diseases and for humane working methods (§ 195 LAG).

§ 197a LAG and the supplementary implementing Acts of the Provinces also provide that the establishment operator is required to hold consultations and discussions with the works council in good time on all occupational safety and health matters. In particular, the establishment operator is required to consult the works council on the planning and introduction of new technologies, and to cooperate with it on the selection of personal protective equipment, the identification and assessment of danger, the determination of necessary action and on the planning and organisation of standing instructions to workers.

The works council must be provided with or given access to the following:

- Occupational safety and health documents,
- Records of and reports on work accidents,
- Background information concerning findings in the field of working methods,
- Measurement and investigation results,
- Records concerning working materials and noise levels.

The works council must be informed on cases in which limit values have been exceeded and on prescribed requirements or authorisations in the worker protection field. The intended appointment or removal of safety experts, occupational physicians, first-aid, fire-fighting and evacuation officers must be discussed with the works council. The works council can delegate certain powers to the workers' safety representatives appointed in the establishment. Furthermore, the workers' safety representatives and the works council are required to co-operate with one another.

In the implementation of Framework Directive 89/391/EEC, the consultation rights of individual workers and the works council within an establishment were also considerably strengthened for the area of agricultural work, and the function of workers' safety representatives with special tasks in the areas of occupational safety and health was introduced within establishments.

ARTICLE 4
THE RIGHT TO A FAIR REMUNERATION

Article 4 paragraph 1

Ad A to C:

No relevant changes

Ad D:

Taking into account the **supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 4 paragraph 1**, Question D is answered as follows

Net average wages:

The latest figures on average incomes from 1997 to 2000 are represented by the so-called per capita incomes from national accounts: net wages and salaries, inter alia, are shown in the following table

Aggregate wages and salaries

	Gross wages and salaries	Deductions ¹⁾	Net wages and salaries	Gross wages and salaries per worker ²⁾ , nominal	Net wages and salaries per worker ²⁾ , nominal
	ATS bn			ATS per month ³⁾	
1997	1,044.5	317.0	727.5	30,000	20,900
1998	1,087.3	331.3	756.0	30,950	21,520
1999	1,127.9	320.2	807.7	31,690	22,700
2000	1,170.1	326.2	843.9	32,410	23,380

Source: Statistik Austria

- 1) Pension contributions of established civil servants, wage tax including all supplements, workers' social insurance contributions and Chamber levies, bad weather compensation in the building trade
- 2) Full-time equivalent
- 3) 1/12 of annual income

Gross monthly wages in the year 2000 amounted to ATS 34,376 in manufacturing, ATS 30,758 in building and ATS 36,846 in industry.

Source: WIFO

With regard to the distribution of average incomes, reference is made to the Report of the Court of Auditors pursuant to Article I § 8 of the Act on the Limitation of the Emoluments of Public Officials, BGBl. I No. 64/1997, as amended. That report also contains information on the incomes of employed persons (broken down by branches, occupational groups and functions) and of pensioners (according to the type of pension and the pension insurance authorities) for 1998 and 1999 as well as on the income of self-employed persons (for the years 1996-1999). The main results are to be found on the following Internet address: http://www.statistik.at/fachbereich_03/einkommen_txt.shtml. An extract from that report is enclosed as **Annex 10**. According to that report, the average net annual income (arithmetic mean) of wage- and salary-earners for the year 1999 was ATS 223,321 and the median income (50% earn less than ...) was ATS 201,765. However, it should be borne in mind that

the relevant data in that report are not standardised by daily or weekly working hours. Here, an improvement is on the way, since it is to be possible as from the income year 2002 to differentiate in the basic administrative figures (wage tax statistics) between full-time and part-time workers.

Lowest net wages actually paid:

As reported under A and B, there is no statutory minimum wage in Austria. Equally, there is no survey of lowest net wages actually paid.

The **Federal Chamber of Labour** has provided the following information in this context:

An estimate based on the Austrian Central Statistical Office's Microcensus shows for the year 1997 that approximately 175,000 persons (corresponds to 6% of the economically active population) had a standardised net income of less than ATS 9,700 (corresponds to gross income of approximately ATS 12,000). For further details, see "The situation of workers 1999" published by the Federal Chamber of Labour (**Annex 11**).

With regard to **collective agreement wages**, it was decided at the 12th Federal Congress of the Austrian Trade Union Federation (1990) to set the minimum wage target for the lowest incomes at ATS 10,000. The 13th Federal Congress (1995) raised that figure to ATS 12,000, and the 14th Federal Congress (1999) set a minimum wage target of €1,000.

Collective agreement wages below the €1,000 limit (corresponding, without a sole earner's allowance, to ATS 10,846 net for wage-earners and ATS 10,889 net for salary-earners) were found in the following branches or professional groups (December 2000):

- **Wage-earners:** Chemical industry (small-scale), plastics processing, paper processing trade, confectionery, leather working trade, textiles and garments trade, hairdressers, dry cleaning workers, laundry workers, dyeing, florists, house and office cleaners, security guards employed by private agencies, glass industry (Gablonz goods), tanning industry, leather processing industry, garments industry, textile industry, taxi enterprises and private hospitals.
- **Salary-earners:** General trades, bakers, butchers, advertising, industrial bakeries, shoe-making industry, garments industry, textile industry, commerce (general wholesale and retail), tobacconists, doctors, notaries public, lawyers, dentists and chartered accountants.

Minimum salaries or wages below the €1,000 limit also still exist for salary- and wage-earners in the hotel and catering trade under the relevant collective agreements. However, during the most recent collective bargaining negotiations, agreement was reached on a gradual increase of the relevant salary or wage tariffs to the €1,000 limit within the next two years.

Collective agreement wages below ATS 12,000 per month gross (corresponding to ATS 9,816 net for wage-earners and ATS 9,822 net for salary-earners) are found among

- **Wage-earners:** Leather processing trade and tanning and leather-processing industries, textile and garments trade and garments industry, dry cleaning workers, dyeing, laundry, florists, glass industry (Gablonz goods), taxi enterprises and private hospitals.
- **Salary-earners:** Garments industry, bakers, butchers, doctors, lawyers, notaries public and dentists.

Collective agreement wages at ATS 10,000 gross (corresponding to ATS 8,235 net) **or less** are found in the tariff agreements for the clerical staff of doctors in Carinthia (ATS 9,000

gross for receptionists, etc. up to the third month, thereafter ATS 9,350), notaries public in Styria (ATS 10,000 for staff on “simple” clerical duties in the first year of employment) and lawyers in Styria (ATS 10,000 for staff on “simple” clerical duties in the first year of employment) and Tyrol (ATS 7,545 for staff on “simple” clerical duties in the first year of employment; ATS 8,255 for “higher” clerical duties in the first year of employment, ATS 9,025 for “top” clerical duties in the first year of employment).

The following should be noted in connection with these collective agreement salaries:

The minimum collective agreement salaries quoted in brackets are increased to only a slight extent even after the first year of employment, and most of them never rise above ATS 12,000 according to the tariff (“simple” clerical duties with notaries public in Styria, doctors’ receptionists in Carinthia, “simple” and “higher” clerical duties in Tyrol). As a rule, the most recent collective agreement negotiations date back several years (notarial staff, Styria: 1992; doctors’ receptionists, Tyrol: 1996; lawyers’ clerks, Tyrol: 1988; lawyers’ clerks Styria: 1992).

In view of the low level, **higher salaries are in fact usually agreed upon in practice on an individual basis**. As a result, collective agreements become less significant. Efforts that have meantime been made by the competent trade unions to agree on more up-to-date and appropriate salaries on a tariff basis have so far had no success, in view of the negative attitude so far adopted by the employers’ representatives.

It should be noted quite generally with regard to tariff wages that collective agreements **usually also provide for an entitlement to a 13th and 14th monthly salary or wage**; however, no guarantee of the completeness of the above information can be given in view of the large number of existing tariff agreements.

For other up-to-date figures on actual or tariff wages, see **Annex 11/A**.

Wages in agriculture and forestry:

According to surveys by the Congress of Austrian Chambers of Agricultural Labour (see **Annex 12**) the average net monthly wage (not including the sole earner’s allowance) was ATS 11,565 in the year 1999 and ATS 11,726 in the year 2000.

Article 4 paragraph 2

Ad A:

For workers subject to the **Hours of Work Act (AZG)**, BGBl. 461/1969, as amended, payment for overtime is regulated by § 10 AZG. According to that provision, an overtime supplement is payable equal to 50% of the normal hourly wage. In the case of piece rates, the normal wage must be calculated according to the average for the previous 13 weeks.

For work performed on public holidays on the basis of current exemption provisions, remuneration must be paid in addition to the regular remuneration (§ 9 of the Workers’ Holidays Act (ARG), BGBl. No. 144/1983, as amended, and § 3 (2) of the Public Holidays (Cessation of Work) Act 1957, BGBl. No. 153, as amended). Calculation of the remuneration is regulated by § 9 ARG and by the Order of 29 October 1945, StGBI. No. 212 concerning the payment of wages on public holidays, as amended by Federal Act BGBl. No. 103/1961. With regard to the scope of application of that provision, reference is made to the remarks on Article 2 paragraph 2 under Question B.

The amendment to the AZG in BGBl. I No. 46/1997 gave express statutory authorisation to granting compensatory time off for overtime. Pursuant to § 10 AZG, either a 50% supplement or compensatory time off is due for overtime. The overtime supplement must be taken into

account in calculating compensatory time off or must be paid separately. In that context, it was left to the collective agreement to decide whether, in the absence of an agreement to the contrary, compensation for overtime had to take the form of either time off or payment.

If the collective agreement does not regulate the matter or if no collective agreement is applied, the matter can be settled in a works agreement.

However, if the matter is not regulated by collective bargaining, and in the absence of an agreement to the contrary, compensation is due in the form of pay (§ 10 (2) AZG).

Taking the overtime supplement into account in calculating compensatory time off means that every hour of overtime worked must be compensated in the ratio 1:1.5 or that the supplement must be paid separately.

Pursuant to **§ 4 of the Bakery Workers Act (BäckAG) 1996**, BGBl. No. 410, an overtime supplement of at least 50% of the normal hourly wage must be paid for every hour of overtime worked.

For Sunday working, § 13 BäckAG provides for the payment of a 100% supplement – calculated on the basis of the normal weekday hourly working wage.

The following provisions apply to workers in **agriculture and forestry**:

Pursuant to § 65 (1) of the **Agricultural Labour Act 1984 (LAG)**, BGBl. No. 287, overtime is remunerated specially (overtime remuneration) unless time off is granted in compensation for the extra work done.

Pursuant to § 65 (2), sentences 1 and 2 LAG, special payment is due for every hour of overtime worked which is at least 50% higher than the hourly wage; in that context, not only cash payments but also payments in kind have to be taken into account. The rates applicable for the purpose of social insurance apply to the evaluation of payments in kind.

A 100% supplement to the wage is payable for work performed during the nightly rest period, on Sundays and on replacement rest days granted in return for Sunday work.

A worker may not be ordered to perform more than 2 hours of overtime on a weekday, 8 hours on what would otherwise be a day off, or more than 12 hours in a working week. A different regulation applies to peak working periods (§ 61 LAG).

Essentially equivalent provisions are contained in the Agricultural Labour Orders, but regulations in Lower Austria and Upper Austria provide that compensatory time off must be given within 8 days and 2 weeks, respectively.

The Agricultural Labour Order for Styria provides that working time in which no work was done as a result of unfavourable weather conditions can be worked off later without payment of overtime.

A number of collective agreements provide that compensatory time off must be granted within a specific period (8 days to 6 months).

According to the collective agreement provisions for certain workers in Styria (in farms, estates, horticultural establishments) overtime can be compensated for by time off in the ratio 1:1 within 7 days, and in the ratio 1:1.5 thereafter. A number of collective agreements provide a priori for compensatory time off in the ratio 1:1.5. On the basis of various collective agreement provisions, it is permissible for hours lost because of bad weather during peak working periods to be worked off over a certain period (2 or 3 weeks).

Pursuant to § 5 (5) of the **Domestic Servants and Salaried Domestic Staff Act**, BGBl. No. 235/1962, as amended, working hours in excess of the provisions of paragraph 1 are

permissible only in exceptional circumstances. If compensatory time off for this extra work is not granted within the subsequent 2 calendar weeks, it must be specially remunerated. The payment to be made is the remuneration due for that period plus a supplement, the amount of which is to be determined in the applicable minimum wage tariffs. The same applies to extra work on Sundays or public holidays, if no compensatory time off is granted.

Pursuant to § 7 (1) and (4) of the **Caretakers Act**, BGBl. No. 16/1970, as amended, the house-owner must pay the caretaker appropriate remuneration monthly in arrears for the services to be rendered under §§ 3 and 4 (1) (supervision, cleaning and maintenance of the building). The Provincial Governor is required to set by Order the level of remuneration for services rendered pursuant to §§ 3 and 4 (1), taking collective agreement wage provisions for essentially equivalent work into consideration as a comparison.

Province	LGBl. No.
Burgenland	77/1999
Carinthia	3/1999
Lower Austria	151/1999
Upper Austria	103/1999
Salzburg	21/2000
Styria	116/1999
Tyrol	7/2000
Vorarlberg	57/1999
Vienna	2/2000

Established Federal civil servants are entitled pursuant to § 16 of the Salaries Act 1956, BGBl. No. 54, as amended, to payment for overtime for which compensatory time off is not granted before the end of the month following overtime working. Subject to the exigencies of the service, the period for taking compensatory time off can be extended on application by the civil servant or with his/her consent. Compensation for overtime performed outside night-time hours (10 p.m. to 6 a.m.) must be made before that for overtime performed during night-time hours. Overtime on Sundays and public holidays may not be compensated for in the form of time off.

Overtime payment consists of a basic amount and an overtime supplement. The basic amount is calculated by dividing the normal salary by the normal working hours determined in § 48 of the Civil Service Regulations Act 1979, BGBl. No. 333 (currently, 40 hours per week). The supplement is 50% of the base salary for overtime worked outside night-time hours, 100% for overtime during night-time hours, 100% for overtime on Sundays and public holidays (Sunday and public holiday payment) up to and including the 8th hour, and 200% from the 9th hour (compensatory time off is not permissible in the latter case). Pursuant to § 22 of the Contractual Employees Act, BGBl. No. 86/1948, as amended, the regulation applicable to established civil servants has to be applied to contractual employees *mutatis mutandis*.

For certain special groups of the Federal Service, essentially analogous provisions apply.

Similar provisions to those in the Federal Service apply to employees of the regional and local government authorities. The **regulations under Provincial law** are modelled on the relevant provisions of the Salaries Act.

Members of the **Federal armed forces**, excluding those performing compulsory military service, are entitled to monthly lump-sum compensation for extended roster duty (Order of the Federal Minister of Defence, BGBl. No. 628/1995, as amended).

Employees of the Austrian Federal Railways who work on a regular shift basis are entitled to compensation for extra working that they are ordered to perform beyond the normal monthly limit, namely, at their choice, in the form of either:

Cash with a 62% supplement, or

Compensatory time off in the ratio 1:1.5, or

Compensatory time off in the ratio 1: 1, but with an additional 62% of the base hourly wage as a supplement.

Employees of the Austrian Federal Railways in the special S Roster Division who are ordered to perform overtime over and above normal duty roster or working hour regulations must in principle receive compensatory time off in the ratio 1:1.5 by the end of the month immediately following that in which overtime is worked. If compensatory time off for overtime is not possible within that period, cash payment must be made, either on a time basis in the ratio 1:1 plus an overtime supplement, namely, 50% for work outside night-time hours or 100% for work during night-time hours. Alternatively, overtime must on principle be paid for in cash (base pay plus overtime supplement). The employer is responsible for determining the type of compensation.

Under the collective agreement for **employees of Austrian cable-car enterprises**, work done in excess of 173 hours per month is regarded as overtime. In that context, a period of 10 minutes in excess of working hours is counted as a full half-hour and a period of 40 minutes as a full hour for the calculation of overtime payment. Overtime can be compensated in the form of time off within a calendar year or as follows:

Daytime: (7 a.m. – 7 p.m.) with a supplement of 50% of the hourly wage, or

Night-time: (7 p.m. – 7 a.m.) with a supplement of 100% of the hourly wage per hour.

In the case of compensatory time off, the rest period to be granted is also increased in the above proportions. Employees who are ordered to work on free Sundays or on scheduled days off, are entitled to a 100% supplement for the hours of work performed.

Working hours and overtime payment for **teachers and educators at private sector schools**, are determined by collective agreements or regulations at the establishment level. For example, according to the collective agreement of 19 June 1991 for teachers at the City of Vienna Music Schools, teachers are entitled to a 50% supplement for hours of overtime that they are ordered to perform and for which compensatory time off cannot be granted. Under the collective agreement of 20 March 2000 for **salaried employees of Austrian driving schools**, overtime payment is due for each hour of work performed by the teaching staff and ordered by the employer which exceeds the daily timetable assignment. Overtime payment consists of the hourly base salary plus a supplement. The hourly base salary amounts to 1/160th of the gross base monthly salary. The overtime supplement amounts to 50% in the period from 6 a.m. to 8 p.m. and 100% in the period from 8 p.m. to 6 a.m. Sunday working is paid for at the base hourly salary plus a 100% supplement.

According to the collective agreement for **Austrian Airlines cabin crew members** of 4 July 1996 as amended on 1 January 1997, flying time above the limit of 65 hours 20 minutes in the month of February (67 hours 40 minutes in leap-years), 70 hours in the months of April, June, September and November, and 72 hours 20 minutes in the months of January, March, May, July, August, October and December – that is to say, approximately 71 hours per calendar month on the annual average – must be paid for as overtime with a supplement of 1/70th of the base monthly salary, plus the flying allowance per qualifying hour of flying time.

For the **commercial and technical employees** of Austrian Airlines, the basic overtime payment is 1/157th of the monthly salary. As a rule, a 50% supplement is payable for

overtime worked in the period 6 a.m. to 8 p.m. and a 100% supplement for the period 8 p.m. to 6 a.m.

In the case of shift work, the overtime supplement is 50% for the first three hours of overtime per week performed between 6 a.m. and 8 p.m. and 100% for all other hours of overtime.

Work on Sundays and public holidays is compensated for in the same way as work on rest days, namely, with a 100% supplement.

Under the collective agreement for **employees of foreign airlines**, payment for at least 6 hours must be made in every case for unscheduled shift work.

According to the collective agreement for **salaried employees of public airports** in Austria, a 65% supplement is payable for overtime performed on working days between 6 a.m. and 8 p.m. and a 100% supplement for the period from 8 p.m. to 6 a.m.

The collective agreement for wage-earners at public airports in Austria provides for a 65% supplement as from the 41st hour of the week for overtime worked in the period from 6 a.m. and 8 p.m. and a 100% supplement for the period from 8 p.m. to 6 a.m.

The collective agreement for the **commercial and technical staff and cabin crew of Tyrolean Airways** provides for a special supplement for workers on shift work or in continuous service, if the work regularly falls completely or partially in the period between 8 p.m. and 6 a.m. This special supplement amounts to 10% of the base hourly salary for the period between 8 p.m. and 10 p.m. and 30% of the base hourly salary for every hour worked in the period between 10 p.m. and 6 a.m. For the cabin crew of Tyrolean Airways, depending on the service group, 10/800ths or 10/825ths of the monthly salary, including the flying allowance, is paid for every hour of flying time above the minimum of 80 or 82.5 hours.

In the case of **senior staff** assigned sole responsibility for key management tasks, working hours and overtime payment are subject to agreement with the employer (§ 1 (2) 8. AZG).

The **Home Work Act** 1960, BGBl. No. 105/1961, contains only a few general regulations on working hours, in view of the special nature of the employment relationships subject to the Act. The regulations in question are intended to protect home workers against working on Sundays and public holidays and against exceeding statutory normal working hours. Thus, § 12 provides that home work assignments may not be distributed (delivered to the home worker) and that completed homework assignments may not be accepted (collected from the home worker) on Sundays and public holidays. § 14 (2) provides that the principal may not assign to a home worker for a particular period, in any case not exceeding one month, a quantity of work greater than can be performed within statutory normal working hours. § 14 (4) provides that delivery periods must be so calculated that the orders can be completed within statutory normal working hours and without working on Sundays and public holidays. Moreover, women and young people must be able to complete the orders without night working, in accordance with applicable worker protection regulations.

Within the framework determined by the Act, the organisation of working time is left entirely to the home worker. However, principals might induce their home workers to perform night work by setting short delivery dates (for instance, from one day to the next). To deal with such cases, it is possible to agree on supplements by means of homework tariffs or homework agreements. Thus, for example, the collective home work agreement for the production of Gablonz goods provides for a 50% supplement for home work performed in the period from 8 p.m. to 10 p.m. and a 100% supplement from 10 p.m. to 6 a.m., if the urgency of the order requires night work. It follows from the above structure of the Austrian law on home working, that home workers cannot in principle perform overtime.

International Labour Organisation Convention (No. 1) Limiting Hours of Work in Industrial Undertakings to 8 Hours in the Day and 48 Hours in the Week and Convention (No. 30) concerning hours of work (Commerce and Offices) have been given qualified ratification by Austria.

Reply to the supplementary question of the Committee of Social Rights in Conclusions XIV-2 on Article 4 paragraph 2:

Flexible working hour arrangements are intended to improve the use of resources and to bring about better adjustment to the needs of workers.

For example, part-time working in the public sector has been further intensified. **Established civil servants** already had a statutory entitlement to reduction of regular working hours to half for the period until children reached school age; this possibility has now also been created for contract employees, after the reform of the Contractual Employees Act.

The amendment to the **Working Hours Act**, BGBl. I No. 46/1997, provided for the following **flexible working hour arrangements**:

Collective agreements will have the authority to permit the extension of normal weekly working hours in individual weeks of reference periods (for calculation purposes) of up to 52 weeks,

- Up to a maximum of 50 hours in a reference period of up to 8 weeks,
- Up to a maximum of 48 hours in a longer reference period, provided that working hours do not on the average exceed 40 hours or the shorter normal working hours determined by collective agreement. Normal daily working hours may not exceed 9 hours in this context.

The collective agreement can permit the extension of normal daily working hours to 10 hours

- over 4 successive days, in the case of regular distribution of total weekly working hours,
- when normal working hours are calculated over a reference period of up to 52 weeks, if compensatory time off is taken up in periods of several successive days,
- when normal working hours are calculated over a period of more than 52 weeks, if compensatory time off is taken in periods of several successive weeks.

In both cases, authorisation is granted on the basis of a collective agreement. A works agreement can permit such arrangements if the collective agreement authorises the works agreement to that effect or if no collective agreement can be concluded because of the absence on the employers' side of a body with capacity to conclude collective agreements, and the works agreement was transmitted to the competent body with capacity to conclude collective agreements on the workers' side.

The authorisation of longer reference periods for the calculation of normal working hours makes possible year-long working hour models and thus saving of time credit over several years. The four-day week was placed on a legal foundation.

However, these flexible working-hour arrangements may not have the effect that working hours in an establishment should in practice be oriented exclusively in terms of the needs of the establishment and that workers have no opportunity to participate in relevant decisions. Therefore, in return for longer reference periods for the calculation of normal working hours, the employer's right to issue directions is restricted, and regulations have been introduced on compensation for time credit in the event of termination of the working relationship during the reference period, and on the unilateral consumption of time credit by the worker.

For instance, it was determined among other things that the timing and extent of working hours must be agreed upon between workers and employers (§ 19c AZG). The timing of normal working hours can be altered by employers only if

- That is justified on objective grounds inherent in the type of work,
- The workers are informed of the timing of normal working hours for any week at least two weeks in advance,
- The arrangement does not conflict with important interests of the worker, and
- It is not inconsistent with any existing agreement.

§ 20a AZG provided for restriction of the periods in which workers can be on call, while § 20b AZG established regulations concerning business travel.

At the same time, average maximum weekly working hours were restricted (normal working hours and overtime) to 48 hours over a reference period of 17 weeks.

This amendment gave express statutory authorisation for compensatory time off for overtime working (see reply to Question A).

Ad B:

A number of collective agreements provide that lump-sum overtime payment can be agreed upon for reasons of expediency.

Before overtime is performed, it can be agreed that the worker should receive a rest period of 1 1/2 hours for each hour of overtime and a rest period of 2 hours for each hour of overtime during the night or on Sundays. Such a regulation is contained for example in the collective agreement for salary-earners in small-scale industry.

When all the statutory possibilities are exhausted by means of collective agreements, the result of the above-mentioned flexibilisation measures is that the 9th or 10th hour of the working day must be remunerated as normal working time and not as overtime. However, it is a condition for the reference-period models that compensatory time off for the 9th or 10th hour must be taken up within the relevant reference periods or in longer units of time off in the case of the four-day week. On the one hand, this is in the interests of the workers, and on the other hand it is also in line with labour market policy objectives.

Article 4 paragraph 3

Ad A and B:

The previous reporting should be updated as follows:

The Federal Act of 27 February 1998, BGBl. I No. 44/1998, amended the Equality of Treatment Act for the fourth time. This amendment, which entered into force on 1 May 1998, introduced improvements in the implementation of the Equality of Treatment Act by the Equality of Treatment Committee and by the Office of the Equality of Treatment Ombudswoman.

The central point of the amendment was the creation of statutory authorisation to set up Regional Offices of the Ombudswoman by means of Orders, to appoint Regional Ombudswomen (and where applicable woman deputies) and to determine the geographical area of competence of the individual Regional Offices. The substantive area of competence of the Offices and co-operation with the Equality of Treatment Committee in Vienna and the Office of the Ombudswoman are laid down in the Act itself.

The first Regional Office of the Ombudswoman for Equality of Treatment Questions was set up by means of an Order in the autumn of 1998. It is competent for the Provinces of Tyrol,

Vorarlberg and Salzburg and is located in Innsbruck (Tyrol). In the autumn of 2000, two further Regional Offices were set up by means of Orders: one for the Federal Province of Carinthia, located in Klagenfurt, and one for the Federal Province of Styria, located in Graz.

The Amendment also makes it clear that sexual harassment by a third party (colleague, customer), and thus discrimination, is also held to exist even if the employer cannot be accused of culpable failure to provide an appropriate remedy. In addition, the Amendment regulates procedural matters, in particular the refunding of travel and accommodation costs for witnesses and determination of the time-limits for asserting claims before the courts under the Equality of Treatment Act.

In the reporting period, the Equality of Treatment Committee completed its action on 13 cases of **discriminatory remuneration**, raised by the Ombudswoman's Office.

These 13 cases, brought before the Equality of Treatment Committee by or with the support of the Ombudswoman's Office between 1997 and 2000 and examined by the Committee, are transmitted in Annex 13.

The cases presented cannot be interpreted as constituting general progress in the implementation of the Equality of Treatment Act, since they do not constitute a representative result. They merely describe concrete action by the Ombudswoman's Office and decisions of the Equality of Treatment Committee on the basis of the Equality of Treatment Act in the period between 1 January 1997 and 31 December 2000.

Up-to-date figures on income differences between women and men are presented in the study "Incomes of Male and Female Employees", published by the Federal Ministry of Economic Affairs and Labour (Annex 14).

Ad C:

Through the 1986 amendment of the Collective Labour Relations Act 1974 (ArbVG), BGBl. No. 22, as amended, a further item was added to the list of grounds for challenging notices of dismissal based on illegal motives that is contained in § 105 (3) 1. ArbVG. If the employer in an establishment that is required to have a works council (as from 5 workers) disputes the obviously not unjustified assertion by the worker of claims arising out of the working relationship, notice of dismissal can be challenged, unless the works council expressly assented to the notice of dismissal (veto right).

§ 105 (5) ArbVG applies to the challenge. According to that provision, the person entitled to challenge, in so far as he/she relies on such grounds in the course of the proceedings, must present prima facie evidence (not proof). The challenge must be rejected if, considering all circumstances, it seems more probable that another motive credibly asserted by the employer was the decisive factor in the notice of dismissal.

In order also to provide protection for women in small establishments, the possibility of challenge as an individual right under the Equality of Treatment Act was extended by the latest amendment to the Act to establishments with less than 5 workers (see Reply to the Supplementary Question).

Reply to the supplementary question of the Committee of Social Rights in Conclusions XIV-2 on Article 4 paragraph 3:

The amendment to the Equality of Treatment Act, BGBl. No. 833/1992, entering into force on 1 January 1993, introduced a lump-sum compensation entitlement in the event of violation of the equality of treatment requirement on establishment of the working relationship and in career development, specifying compensation ceilings. In the event of violation of the

equality of treatment requirement on establishment of the working relationship, there is a compensation entitlement of up to two months' remuneration, in which context the calculation base is the remuneration that could have been received in the first two months. In the event of violation of the equality of treatment requirement in career development, compensation of up to four months' remuneration is payable, the compensation being equal to the difference over four months between the remuneration that the worker would have received in the event of promotion and the actual remuneration.

In the event of discrimination against a number of workers on establishment of the working relationship, the Act provides for per capita distribution of the amount of compensation; in the case of such discrimination in career development, it provides for the distribution of the compensation pro rata, according to the individual differences in remuneration.

This arrangement, which conflicts with the judicature of the European Court of Justice, is to be changed in the course of the next amendment to the Equality of Treatment Act.

The above-mentioned amendment to the Equality of Treatment Act also created the possibility of challenging notices of dismissal and summary dismissal on the basis of individual rights if obviously not unjustified assertion of claims under the Equality of Treatment Act are disputed by the employer. The individual right to challenge a notice of dismissal or summary dismissal pronounced on grounds of gender was already possible under the legal situation created by the 1990 amendment. Under the Collective Labour Relations Act, it was also already possible to challenge a notice of dismissal on grounds of the obviously not unjustified assertion by the worker of claims arising out of the working relationship that are disputed by the employer. However, in view of the scope of application of the Collective Labour Relations Act, that provision was restricted to establishments required to have a works council, that is to say, with at least five workers.

In order to provide protection for women in small establishments as well, the possibility of challenge in relation with the assertion of claims under the Equality of Treatment Act, in particular by application to the court or the Equality of Treatment Committee, was extended as an individual right under the Act to establishments with less than five workers. That also covers those cases in which, for example, a female worker's allegations of gender discrimination are plausible but insufficient to secure conviction and she is given notice of dismissal for making such allegations.

For the successful challenge of a notice of dismissal on disallowed grounds – as follows from judicature under the Collective Labour Relations Act – there must be a causal relationship between the reprehensible motive and the notice of dismissal. As a rule, it can probably be assumed that there is a causal relationship between the assertion of claims under the Equality of Treatment Act and a discriminatory termination of the working relationship if only a short interval of time elapses between the two events.

On the question of illegal collective agreements, reference is made to the remarks in the Sixteenth Report of 1998, since the existing system of collective agreement autonomy has not changed in Austria and no change is intended.

On the basis of a court judgment, discriminatory collective agreement provisions lose their effectiveness only for the individual case, that is to say, for the parties to the proceedings in question. However, according to § 2 (1) of the Collective Labour Relations Act, the collective agreement provisions that are deemed null and void in the individual case can be adjusted only by the collective agreement parties themselves, by means of an appropriate agreement. Since the relevant provisions can no longer be applied in other cases, because of the de facto

effect of the court judgment as a precedent, the collective agreement parties are indirectly compelled to amend the collective agreement.

Collective litigation rights have long been provided for in Austrian law..

Pursuant to § 6 (3) of the Equality of Treatment Act, any of the representative bodies that are mentioned in the Act (the Austrian Trade Union Federation, the Federal Chamber of Labour, the Austrian Federal Economic Chamber, the Federation of Austrian Industry) can apply to the court for the ascertainment of violation of the equality of treatment requirement in individual cases, if the employer fails to comply within one month with the instructions of the Equality of Treatment Committee to terminate the discrimination. In that context, it is immaterial whether discrimination in the individual case is based on an individual agreement or on a collective provision. This ascertainment procedure, which can take place before the dispute between the worker and employer is heard, is intended to reduce the worker's risk of losing the case. In keeping with the principle of collective agreement autonomy, violations of the equality of treatment requirement lead merely to the non-application of the provision in the individual case, that is to say, in the dispute before the labour court, but not to its being generally quashed.

A special ascertainment procedure is also provided for in the Labour and Social Courts Act (ASGG), BGBl. No. 104/1985, as amended.

At the establishment level, pursuant to § 54 (1) ASGG, both the organs of the workers with litigation capacity in matters of labour law (works council and central works council members, etc.) and the employers can sue or be sued for ascertainment of the existence or non-existence of rights or legal relations affecting at least three workers of the establishment or enterprise. At the industry-wide level, pursuant to § 54 (2) ASGG, employers' and workers' associations with collective agreement capacity in their several areas of competence can bring motions before the Supreme Court against workers' and employers' associations with collective agreement capacity for ascertainment of the existence or non-existence of rights or legal relations which refer to facts and circumstances unrelated to persons specified by name. The motions must refer to questions of substantive labour law which are important to at least three workers or employers. In both cases, the subsequent rulings have no wider legal effect for particular workers or employers, but have a noteworthy de facto effect as precedents.

Federal employees:

The amendment to the Federal Equality of Treatment Act, BGBl. I No. 132/1999, changed the provisions regarding compensation. A compensation entitlement without setting a maximum was granted to persons who suffered injury in recruitment or career development through non-materialisation of such recruitment or promotion, in cases where the employer made an objectively erroneous assessment of their application papers owing to gender-based discrimination.

For persons who suffered injury through rejection of their applications in recruitment or career advancement procedures because of gender-based discrimination, compensation was set at certain maximum amounts.

Employees of the Province of Vienna (as an example as under provincial law):

Pursuant to § 10(2) of the Vienna Equality of Treatment Act (W-GBG) LGBl. f. Wien No. 18/1996, as amended, the following amounts of compensation are paid:

- If the applicant would have been recruited on the basis of higher qualifications, given non-discriminatory selection procedure – at least three months of salary,

- If, despite de facto discrimination in the recruitment procedure on grounds of the higher qualifications of the successful candidate, the applicant would not have been recruited even if the selection procedure had not been discriminatory – up to three months' salary at Category II, Grade V, Step 2.

Pursuant to § 14 (2) W-GBG, the following amounts of compensation are paid:

- If the official would have been assigned to a higher post (function) because of higher qualifications, given non-discriminatory selection – the difference in salary for at least three months,
- If, despite de facto discrimination because of the higher qualifications of the candidate promoted, the official would not have been assigned to a higher post even if the selection procedure had not been discriminatory – the difference over up to three months between the monthly salary which the official would have received if the event of assignment to the higher post (function) and the actual monthly salary.
- Pursuant to § 17 W-GBG, there is also an entitlement to appropriate compensation for sexual harassment, which must also include compensation for the injury suffered through the affront to personal dignity. In determining the latter, the extent to which the discriminatory behaviour (sexual harassment) created an intimidating, hostile or humiliating working climate for the eight official in question should also be taken into account.

Article 4 paragraph 5

Ad A and B

No relevant changes.

ARTICLE 9

THE RIGHT TO VOCATIONAL GUIDANCE

Ad A:

The Public Employment Service (PES) was established in 1994 as an autonomous legal entity separate from the direct Federal administration. It was required under the Public Employment Service Act, BGBl. No. 314/1994, which forms the basis for the implementation of Austrian labour market policy, “to work, within the context of the Federal Government’s full employment policy for the prevention and elimination of unemployment, towards as complete, economically meaningful and sustained a matching of labour supply and demand as possible, pursuing an active labour market policy while observing social and economic principles” (see § 29 of the Public Employment Service Act). To fulfil its tasks, the Public Employment Service has to arrange for the provision of appropriate services such as “Information on the labour market and working life” or “Counselling in choosing an occupation” (see § 32 of the Public Employment Service Act). Accordingly, vocational information, counselling and guidance are integral parts of PES services.

ad a:

Services such as counselling, information and placement promotion for workers, the unemployed and job seekers must be offered free of charge pursuant to § 32 (4) of the Public Employment Service Act.

ad b:

In principle, the following consideration applies: If the PES cannot itself provide services for the preparation, enabling or facilitation of placement or for the safeguarding of jobs, or if provision by the PES seems to be inexpedient or uneconomic, “external” and on occasion even private-sector institutions can also be commissioned for such purposes.

On the one hand, assistance in choosing an occupation is offered by the PES as a standard labour market policy service. In addition, the Vocational Information Centres established within the PES offer modern and easily accessible facilities for addressing relevant topics in choosing an occupation, training and occupational reintegration.¹ However, vocational information, counselling and guidance services are also provided by the “external” institutions to which special labour market policy tasks are entrusted. Thus, in particular, the support of external labour market policy counselling and service institutions is enlisted to solve preliminary problems with regard to employability (for example, debts, psychic impairment or gender-specific discrimination, etc). Finally, labour market training measures provided by various training institutions are also commissioned by the PES, some of which are very strongly geared towards assistance in deciding on the choice of an occupation and in career planning (vocational orientation courses, etc).

ad c:

Pursuant to § 31(1) of the Public Employment Service Act, PES services such as vocational information and counselling, which do not constitute official procedures, are in principle open to all at any of the PES offices and facilities.

¹ From 1995 to 2000, the number of Vocational Information Centres (BIZ) rose from 41 to 52 (and already to 53 by September 2001). Thereby, roughly half of all regional offices have a BIZ. The number of BIZ visitors rose in that period from 246,651 to 393,452.

ad d:

In accordance with statutory labour market policy mandates, the primary purpose of all PES services for job seekers, including vocational information and counselling, is to achieve labour market policy aims such as filling vacancies or safeguarding existing employment (see, for example, § 32 of the Public Employment Service Act).

ad e:

In order to provide services that meet market and client needs as closely as possible and are effective in their labour market policy impact, the PES and its services are being continually developed (for example, in vocational counselling and information inter alia). The current PES reorganisation concentrates on efforts to achieve systematic orientation according to client needs. Important elements of the new client-friendly organisation model for the regional offices are the structuring of services according to the needs of various client segments and the combination of job placement with measures to achieve economic security. Accordingly, a three-zone plan is to be implemented by the year 2003, offering information and self-service facilities in the info zone, job placement and measures to achieve economic security in the service zone, and intensive individual counselling and special measures in the counselling zone.

In addition, it is above all intended to make greater use of new information and communication technologies. The Internet is rapidly developing into a service-oriented vocational information highway. The PES computerised information programmes offer access to comprehensive vocational and training databases; the PES home page (www.ams.or.at) also contains abundant information material and brochures for downloading. In the year 2000, the PES home page already had 8.4 million page views, making it at the moment one of the top 10 most frequently visited Internet addresses in Austria.

Ad f:

The entire PES range of services is available without restriction to disabled persons. Specially trained staff are assigned in many offices to meet their counselling and service demands, which are often unusual. In addition, the special integration problems of the disabled are taken into account by a range of appropriate assistance facilities for specific target groups. For example, individually adjusted training programmes can be offered, in which special preliminary guidance often constitutes a necessary first step in the return to working life. A successful counselling and service instrument that has been used increasingly in recent years is work assistance (mainly under the responsibility of the Federal Offices for Social Affairs and Disabled Persons), which offers disabled persons ongoing assistance at the workplace. Also, for the benefit of employers, the PES undertakes comprehensive information and counselling activities in order to dispel the fears and prejudices with regard to the disabled that influence recruitment attitudes.

Vocational counselling in schools:

Vocational counselling in vocational schools:

Specially trained teachers are posted as educational counsellors to intermediate and higher vocational schools. Their services are available to pupils for counselling and information on school and vocational matters and for the provision of assistance.

There is less need for vocational counselling in vocational schools, because an initial choice of occupation has already been made with the decision to take up an apprenticeship trade. Counsellors have been assigned to vocational schools in the Federal Provinces of Vienna, Burgenland and Styria and act as points of contact on personal matters, including questions of selecting an occupation, for instance, apprenticeship in two trades, change of the apprenticeship trade or further career development after completing apprenticeship.

All five central vocational schools in Vienna have so-called communication centres, which also counsel apprentices on all social, educational and personal questions.

All of these counselling services are available to all pupils, irrespective of nationality.

Vocational guidance for girls, promotion of equal opportunity for girls/young women and expansion of the occupational prospects of girls and young women:

Curriculum: Introduction of a compulsory “vocational guidance” tutorial course as from the 1998/99 school year. The syllabus (of the basic and general secondary schools, BGBl. No. 60 and 61 of 26 February 1998) provides among other things that schoolchildren of both sexes should address the “problems and consequences of gender-specific concentration on certain training tracks”, to ensure that they “reflect upon and critically examine their own role expectations and their personal lifelong career planning” and that they should confront the topic of “the double load of working women and possible solutions”.

Action Plan 2000: This Plan, issued by the Federal Minister of Education and Cultural Affairs, has been implemented since 1997. It comprises 99 measures for promoting equality of status at school and in adult education, its chief priorities including: “Vocational guidance for girls”, “Girls and technology”, “Expansion of the vocational and lifelong prospects of girls”. The Action Plan was prepared by the Federal Ministry of Education and Cultural Affairs on the basis of the catalogue of measures of the Platform for Action organised following the Fourth World Conference on Women, 1995.

Since girls and women are still seriously under-represented in technical, manual and scientifically oriented training courses and occupations, the Education Ministry has for several years increasingly concentrated its efforts, particularly in the context of the Action Plan 2000, on information and awareness-creation and on concrete action to raise the proportion of girls and women in those areas.

After the conclusion of this Action Plan, the Federal Ministry of Education, Science and Culture (BMBWK) held a major three-day symposium in November 2000, entitled “The Mobility-for-Girls Event 2000”. It focused principally on vocational guidance, IT, the new media, and non-typical occupations for girls, and simultaneously constituted the launch of the subsequent Action Plan 2003.

For further initiatives in this connection, see Annex 15.

Action for the disabled:

On the basis of the amendments to the Schools Organisation Act adopted in the summer of 1998, "Vocational guidance" was incorporated by Order as a compulsory tutorial course in the 7th and 8th grades of the general curriculum special schools.

This compulsory 7th and 8th grade course is run on integrative lines, and comprises 32 periods over the year. Implementation in project form has proved to be beneficial. This ensures the development of vocational guidance in terms of practical processes. By a holistic approach to this special task, a large number of learning needs and possibilities emerge for helping pupils to reach a stage of development at which they can enter and hold their own in working life.

A further measure for preparing disadvantaged young people for working life is the so-called "pre-vocational year" in the 9th grade of special schools, which was also provided for in the 1998 amendment. The purpose is to enable pupils to develop their personal lifelong vocational prospects, and to help them to familiarize themselves with and understand working life from the points of view of both the worker and the employer. A further target is to enable and motivate them to apply for jobs or training places on their own so far as possible, or with outside support, and to take advantage of existing training and further training facilities.

The general education of these young people is to be intensified and broadened, taking their personal situation as a starting point, fostering their personality development, especially with regard to the development of an appropriate attitude to work.

Teaching builds on the individual capabilities of the pupils and its aim is that the young people should:

- Develop their capacity for independent action in their personal and working lives (individual, social and substantive competence) and their creativity
- Expand their faculty of judgement and capacity for decision
- Apply acquired theoretical and practical learning in new situations
- Acquire versatile vocational qualifications that are marketable in the longer term and
- Adjust to the requirements of mobility and lifelong learning.

The pre-vocational year is intended to impart basic abilities, skills and knowledge, thus creating favourable conditions for entry into working life, whatever the later sphere of activity.

Ad B

As mentioned already (see Question A d) most PES services are geared to the placement of job seekers and to filling vacancies by matching labour supply and demand. PES services such as vocational counselling and vocational information should therefore be regarded as steps in a process for attaining the overall target of placement in employment.

Ad C:

Information and counselling interviews geared to individual cases, as a standard service or in the PES Vocational Information Centres, are certainly important instruments for assistance in choosing an occupation. Information publications (folders and brochures) concerning apprenticeship trades, school courses, study courses at higher technical colleges, academic professions, university study, courses and employment openings, are also provided, chiefly in the Vocational Information Centres. Video libraries with a wide range of vocational films have been set up in those Centres. Vocational interest tests are valuable aids in deciding upon an occupation and are evaluated free of charge by the Vocational Information Centres. The Vocational Information Centres continuously host special events (some 6,400 in the year 2000) in particular for informing groups of pupils of both sexes about the available range of

services. Computerised information systems have been significantly developed and provide inter alia access to helpful information on certain occupational fields, special courses of education and labour market developments.

Ad D a-d:

In view of the high degree of integration of the PES services, despite the development of priority services for choosing an occupation (for example, Vocational Information Centres), it is scarcely possible to give a reliable estimate of the total expenditure in this area and of the total capacity needed for this purpose. Accordingly, only general information can be given on the numbers and structure of the clientele who take up this special PES vocational counselling/information service. The number of persons affected by unemployment can be taken as an approximation – but an overestimate – of the total potential, but the closest approximation is the number of unemployed persons who are registered for more than three months with the PES as seeking jobs; the number of visitors to the Vocational Information Centres, which is well surveyed quantitatively, could be regarded as a subset.

- The number of persons affected by unemployment constitutes a systematic overestimate of the total number of clients counselled, because not all registered unemployed persons need, or wish to have, counselling. Conversely, not all clients counselled who received counselling before becoming unemployed are included. Accordingly, some structural criteria regarding inflows to unemployment are presented. In the year 2000, some 690,000 individuals were registered as unemployed for at least one day with the regional PES offices (including approximately 42.4% women).
- Since the PES is working on the development of its organisational structure to provide in any case for a guaranteed counselling session at the latest after three months of unsuccessful placement efforts, the number of persons receiving such supplementary counselling is a good indicator but systematically underestimates the total set of persons counselled, especially as the three-month period is a maximum. This approximation therefore systematically ignores all those unemployed persons who received counselling immediately after becoming unemployed and those clients counselled who have not yet been unemployed but are in employment or undergoing training, etc. According to the PES statistics, in the year 2000, the total number of outflows of registered unemployed was 800,111: of these, 507,850 had been unemployed for up to 3 months, 176,398 for up to 3-6 months, 80,776 for up to 6-12 months and 35,087 for 12+ months. That means that 292,261, or some 36.5%, of all outflows were from unemployment lasting more than three months.
- Another figure which, by contrast, is surveyed more accurately and overlaps only marginally with the two above indicators, is the number of visitors to the Vocational Information Centres, who may be but are not necessarily unemployed, and are not identified individually. In the year 2000, the number of visitors to the Vocational Information Centres was already some 393,000.

Visitor statistics (Vocational Information Centres):

Total visitors	393,452
Young people	221,116
Adults	172,336
Female visitors	212,270
Male visitors	181,182

Ad E:

The PES services – including assistance in choosing an occupation – are in principle available in exactly the same way to foreigners as to Austrian citizens. Moreover, if necessary, a package of measures specific to a particular target group is provided. However, it should also be noted that, according to its statutory function, Austrian labour market policy has to be related to the labour potential available on the domestic market. Labour-market policy services to foreigners can therefore be rendered only in the framework of the guidelines of the current law on aliens. The entire range of PES services is also available without restriction to disabled persons; they have for years constituted one of the main target groups of labour market policy.

TWENTIETH REPORT – PART II

on the implementation of **Articles 10 and 15** of the

EUROPEAN SOCIAL CHARTER

(Reporting period: 1 January 1997 to 31 December 2000)

submitted by the Federal Government of the

REPUBLIC OF AUSTRIA

under Article 21 of the European Social Charter,
the instrument of ratification of which
was deposited on 29 October 1969.

In accordance with Article 23 of the Charter,
copies of this report have been communicated to

The Austrian Trade Union Federation
(Österreichischer Gewerkschaftsbund),

The Federal Chamber of Labour
(Bundesarbeitskammer),

The Austrian Federal Economic Chamber,
(Wirtschaftskammer Österreich),

The Federation of Austrian Industry
(Vereinigung der Österreichischen Industrie),

The Presidential Conference of Austrian Chambers of Agriculture
(Präsidentenkonferenz der Landwirtschaftskammern Österreichs)
and

The Congress of Austrian Chambers of Agricultural Labour
(Österreichischer Landarbeiterkammertag)

ARTICLE 10
THE RIGHT TO VOCATIONAL TRAINING

Article 10 paragraph 1

Ad A:

According to Article 18 of the Basic Act (StGG) of 21 December 1867, RGBI. No. 142, concerning the general rights of citizens, every person is “free to choose his/her occupation and to train for that occupation however and whenever he/she wishes.” Article 18 of StGG guarantees all citizens the liberty to choose an occupation without limitation by Austrian law and also to undergo the necessary training for that purpose. Notwithstanding this provision, legislation can regulate in detail the curriculum and requirements of training in all important occupations.

Austrian vocational training facilities at secondary level II are classified according to the following criteria:

a. By educational level:

- **Vocational schools in the compulsory sector:**
These schools (part-time schools to supplement workshop training for apprentices), and agriculture and forestry schools (part-time schools to supplement training for agriculture and forestry apprentices) do not prepare pupils for general university entrance, but school-leavers can subsequently take an examination (the *Berufsreifeprüfung* – *BRP*) entitling them to study any subject at an Austrian university. In the 2000/2001 academic year, approximately 40% of all 10th-grade pupils were attending schools of this type.
- **Intermediate vocational schools:**
These full-time technical schools dispense vocational and general education, as a rule in a three-year course (14 - 17 years). However, there are also shorter and longer forms. They do not prepare pupils to enter higher education but such an entitlement can be acquired by taking the BRP examination. Various subjects are taught.
In the 2000/2001 academic year, about 12% of all 10th-grade pupils were attending schools of this type.
- **Higher vocational schools:**
These dispense higher vocational training in addition to thorough general education (duration 5 years); their leaving certificates give holders access to general university study and also to certain vocational qualifications (double qualifications).
In the 2000/2001 academic year, about 26% of all 10th-grade pupils were attending schools of this type.
- **Special forms for persons in employment** (higher vocational schools, supplementary courses for the acquisition of general university entrance qualifications, secondary technical college courses, special courses to supplement vocational training).
- **Post-secondary vocational training institutions:**

Non-university vocational training: open only to holders of university entrance qualifications.

- ***Fachhochschule* courses**
These have been offered in Austria since the 1994/95 academic year; they give thorough scientific and at the same time practically oriented training at university level.
- **Higher technical colleges and universities**
- **University Centre for Further Education: Donau-Universität Krems**
According to the Federal Gazette BGBl. No.269/94, its tasks are postgraduate teaching, practically oriented research and services.

b. By technical speciality:

Schools for agriculture and forestry, trades and crafts, technical, art, handicrafts and commerce, schools for business, social, and tourism occupations, training institutions for teachers and educationalists.

The Federal Provinces are responsible for the establishment and maintenance of vocational schools in the compulsory sector, as well as for administrative regulations for teachers.

In the 2000/2001 academic year, 320,323 pupils were attending Austrian vocational schools in the compulsory sector – at the intermediate and higher levels.

1. Vocational schools, compulsory sector, 2000/2001

178 schools
5,660 classes
132,613 pupils (including, 45,091 girls)
4,621 teachers

2. Vocational schools, intermediate, 2000/2001

717 schools
2,780 classes
64,034 pupils (including, 38,534 girls)

3. Vocational schools, higher, 2000/2001

341 schools
4,965 classes
123,676 pupils (including 61,927 girls)

In 2000/2001, 20,151 teachers were employed at intermediate and higher vocational schools.

4. Vocational training academies, 2000/2001

70 academies
159 classes
4,121 students (including, 3,451 women)
233 teaching staff

5. Teacher training academies, 2000/2001

34 academies
13,206 students (including, 10,387 women)
2,691 teaching staff

In addition, 3,669 students (including 1,021 women) were being trained at the four Federal Physical Education Institutions (intermediate teacher training schools) in the 2000/2001 academic year, and 9,071 students (including 8,702 women) at the 45 training institutions for kindergarten and social education teachers (higher training schools for teachers and educationalists) in 348 classes. The total teaching staff of all these institutions numbered 1,421.

6. Fachhochschule courses, 2000/2001 academic year

67 courses
11,743 students
3,515 teaching staff

7. Universities and universities for the arts, winter semester 2000

12 general universities with some 300 courses of study, 221,500 matriculated students (including 27,850 foreign students) and some 18,300 university teachers and academic staff; 6 universities for the arts with some 160 courses of study, 7,740 matriculated students (including 2,940 foreign students) and some 2,000 university teaching staff.

8. University Centre for Further Education: Donau-Universität Krems, winter semester 2000

In the 2000 winter semester, 1,552 non-matriculated students (including 552 women and 400 foreign students) were registered for 44 university further education courses. Courses of study are offered in European Community law, business and management studies, telecommunication and media, cultural studies, environmental and medical studies.

Pupils who have completed the first eight years of general compulsory education can be admitted to intermediate and higher vocational schools, irrespective of the type of school previously attended (see also the Reply to the supplementary question of the Committee of Social Rights in Conclusions XIV-2 on Article 10 paragraph 1 concerning entrance requirements for intermediate and higher vocational schools).

Technical and vocational training is promoted by targeted school career counselling in the general secondary schools and through continuous counselling by educational advisers in the vocational schools.

Finally, persons already in employment can acquire further qualifications by attending evening classes with the full educational content of the corresponding full-time schools.

At the moment, 25 courses for persons in employment are offered in the *Fachhochschule* sector.

Three study centres throughout Austria serve approximately 2,200 distance learners (1998 winter semester). Distance learning is carried out in Austria in cooperation with the University of Hagen.

Since the entry into force of the new Studies Act in August 1997, universities have been able to offer individual distance study modules in designing their syllabuses.

In the 2000 winter semester, 23,512 study grants were authorised for students at general universities and universities for the arts and in *Fachhochschule* courses.

After completion of the 22nd year of life, persons who do not have the traditional secondary school leaving certificate (*Matura*) can take an entrance examination for study in a single subject (*Studienberechtigungsprüfung – SBP*) at general universities, universities for the arts and *Fachhochschulen* and in other post-secondary courses. In 1990, the minimum age for persons who had passed a final apprenticeship examination, had attended an intermediate vocational school or had equivalent training and wished to take the SBP examination was reduced to 20 years. In 1997, the BRP examination, equivalent to the *Matura*, was also created for persons without that qualification; it can be taken on completion of the 19th year of life. The SBP examination is also still available.

The BRP examination must be taken at a higher level school. Preparatory courses are offered by adult education institutions, some of which can also conduct examinations in up to three subjects, and by higher vocational schools.

The SBP examination must usually be taken at the university and sometimes at the training institution at which the candidate wishes to study. Preparatory courses for the SBP examination are offered at universities and at adult educational institutions.

The primary purpose of the SBP and the BRP examinations is to satisfy individual educational aspirations.

In the 1999/2000 academic year, some 1,700 applications were made for authorisation to take the SBP examination, including approximately 55% by women. Persons who have passed the SBP examination account for 3% of Austrian first-year university students.

The regulations of the University Studies Act on the access of foreigners to university education in Austria provide that in principle a suitable leaving certificate authorising the holder to enter university in the country of issue must be produced and that adequate knowledge of German must be demonstrated. Furthermore, foreigners from outside the European Economic Area are admitted only to the extent that places are available. The European Convention on the Equivalence of Diplomas leading to Admission to Universities, BGBl. No. 44/1957, also provides for admission to university on the basis of a diploma awarded in one of the Contracting States, subject to the availability of places. According to Article 33 of the Charter, compliance with that paragraph is also considered effective if the provisions are applied, not to all but merely to the great majority – and that is the case here.

Admission to study at universities for the arts and *Fachhochschule* courses is decided on the basis of an examination or an admission procedure.

Ad B:

Austria has no statistics on the breakdown of vocational training expenditure among the various occupations.

Pursuant to the Framework Act on the Maintenance of Schools in the Compulsory Sector, as amended, and of the implementing acts of the Federal Provinces promulgated under that Act, the establishment and maintenance of vocational schools must be financed by the school authorities, that is to say, the Provinces, the Communes and the Associations of Communes.

Ad C:

See the report on Article 9.

Ad D:

Higher technical training is free of charge in Austria. Since the winter semester 2001, matriculated and non-matriculated students at general universities and universities for the arts

have been charged fees (€ 363.36 for EEA citizens or € 726.72 for other students). In the case of *Fachhochschule* courses, as previously, only some of the authorities charge this fee. Fees are charged for university degree courses, the amount being determined by the university according to the specific course.

Ad E:

Access to vocational training institutions does not depend on citizenship in Austria. With regard to disabled persons, reference is made to the report on Article 15.

Reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 10 paragraph 1:

All pupils are treated equally in access to intermediate and higher vocational schools (BMHS), irrespective of nationality.

All pupils who wish to attend a BMHS and meet the entrance requirements obtain a place, but possibly not at the school, or for the course, of their first choice, because there are more applicants than places at many schools. However, in that case, the pupils can opt for another school or subject of study.

The exact BMHS entrance requirements are transmitted in **Annex 16**.

See also the tables in **Annex 17** (proportion of 20- to 24-year-olds who have completed further education, and highest educational qualification attained).

Article 10 paragraph 2

Ad A and B:

No relevant changes.

Ad C:

Reference is made to previous reporting.

Number of apprentices, 1980-2000:

	1980	1990	1995	1999	2000	
Section	Number				Number	%
Manual trades and crafts	102,051	76,120	69,805	68,493	67,309	53.2
Industry	28,668	21,815	14,850	14,275	14,557	11.5
Commerce	40,536	26,352	20,212	19,119	19,517	15.4
Banking and insurance	524	687	708	875	900	0.7
Transport and telecommuni- cations	3,001	2,689	2,126	2,259	2,269	1.8
Tourism and leisure industry	16,232	13,941	11,363	13,515	13,233	10.5
ALL SECTIONS	191,012	141,604	119,064	118,536	117,785	93.0
Non-Chamber area	3,077	3,912	4,313	8,815	8,815	7.0
AGGREGATE	194,089	145,516	123,377	127,351	126,600	100.0
Federal Province						
Burgenland	5,215	4,044	3,204	3,242	3,119	2.5
Carinthia	15,288	11,430	9,477	9,765	9,686	7.7
Lower Austria	31,428	23,379	19,832	20,528	20,183	15.9
Upper Austria	35,514	27,793	24,092	26,662	26,855	21.2
Salzburg	13,819	10,814	10,094	10,000	10,003	7.9
Styria	35,606	25,363	20,358	20,244	20,172	15.9
Tyrol	17,094	13,116	11,512	12,312	12,377	9.8
Vorarlberg	9,045	7,722	7,073	6,963	7,106	5.6
Vienna	31,080	21,855	17,735	17,635	17,099	13.5
AUSTRIA	194,089	145,516	123,377	127,351	126,600	100.0

As of 31 December

Source: Austrian Federal Economic Chamber

The 10 commonest apprenticeship trades, 2000:

Girls		Boys	
Trade	Number	Trade	Number
Retail sales assistant	8,372	Joiner	6,231
Office clerk	5,920	Automobile mechanic	6,137
Hairdresser/Wigmaker (Period)	5,588	Electrical fitter	5,737
Cook/Restaurant manageress	2,366	Bricklayer	3,648
Cook	1,906	Shop assistant	3,318
Restaurant manageress	1,886	Metalworker	3,003
Shop assistant – food sector	1,481	Fitter	2,754
Hotel and catering assistant	1,071	Cook	2,705
Florist	887	Plumber and gas-fitter/ Plumber and heating engineer	2,677
Chemist's shop assistant	764	Painter, house-painter	2,560
Total "TOP-10"	30,241	Total "TOP-10"	38,770
Total: girls	42,450	Total: boys	84,150

Source: Austrian Federal Economic Chamber

Ad D:

The chief form of PES support for the dual vocational training system is the programme of "Allowances for financial aid to training pursuant to the Vocational Training Act". The most important target is to create employment and training opportunities for youth with labour-market problems (youth with physical or mental impairment, socially maladjusted youth, youth with special educational needs, etc). That instrument also serves to reduce the general shortage of apprenticeship places, to lessen discrimination against women in working life and to improve the quality of training. Action is usually implemented through a workshop or other establishment. Aid for apprentice training can also be granted in training institutions recognised under the Vocational Training Act. Financial aid takes the form of allowances towards the cost of training (monthly lump sum) and is granted differentially by target group of persons, training institution and type of action.

Ad E:

The previous reporting should be supplemented as follows:

In view of its labour market policy background, the Public Employment Service (PES) concentrates primarily on financing apprenticeship places for those groups of persons who are at a special disadvantage in the labour market. In the year 2000, assistance was granted in some 6,000 cases under the programme of "Allowances for financial aid to training pursuant to the Vocational Training Act". Assistance to women accounted for some 43%, which was distinctly greater than the proportion of female apprentices, namely, about one-third. According to the statistics of the Austrian Federal Economic Chamber, the total number of apprentices in the year 2000 was 126,600.

Ad F:

PES financial aid programmes – e.g. for apprenticeship places – are in principle open to foreigners in exactly the same way as to Austrian citizens, but, according to the statutory labour market policy mandate of the PES, its action must be related to the labour potential available on the domestic market. Disabled youth, as a group of persons at a special disadvantage in the labour market, constitute explicitly one of the target groups for PES financing of apprenticeship places.

**Reply to the supplementary questions of the Committee of Social Rights in Conclusions
XIV-2 on Article 10 paragraph 2 and Article 1 paragraph 4:**

By means of special integration measures, foreign youth from all non-EEA countries (third States) who have completed at least their final year of compulsory education in Austria or in whose case other socio-humanitarian considerations apply (such as the integration of one parent) are granted employment permits for access to apprenticeship training, irrespective of labour market aspects, if they are not in any case already entitled to free access to the labour market by reason of long residence in Austria. A very small number of applications (only 35 as against 900 granted, from June 2000 to 31 December 2000) had to be rejected because compliance with important wage and working conditions was not ensured in the case of the intended training.

With regard to the improved situation in access to vocational training explained in the 16th report, it is confirmed that the new provisions apply to Turkish children residing in the parental home if at least one of their parents was or is in authorised employment in the Federal territory, if the children do not in any case benefit by the provisions of the integration decree applicable to all youth who are citizens of third States.

As to the development of the apprenticeship places situation from 1997 to 2000 (shortage of apprenticeship places), reference is made to the table in **Annex 18**.

In the course of September 2001, 8,607 applicants were placed in apprenticeships. However, at the end of September, 5,483 persons were seeking immediate placement (+11.8% over the previous year), as compared with 3,482 registered vacancies (+12.4% over the previous year). That corresponds to a gap of 2,001. A further 2,011 young people (-605 from the previous year) were registered as applicants. 416 additional apprenticeship vacancies were registered for later placement (+93 over the previous year).

The development of new apprenticeship trades was intensified, in line with the trend on the labour market. By the end of 1999 alone, 24 new apprenticeship trades had been established; in all, 4,255 apprenticeship contracts had been concluded in the new trades by the end of 1999 (counting from the beginning of 1997).

As an incentive for the intensification of apprentice training, a tax-free allowance totalling ATS 60,000 (€ 4,360.37) was introduced in the year 1999 in order to reduce costs for training enterprises; the allowance is payable in respect of first-year apprentices who begin and complete an apprenticeship and pass the final apprenticeship examination. Also, no sickness insurance contribution was charged for the first two years of apprenticeship (neither by the employer nor by the apprentice). For the third year of apprenticeship, the apprentice's one-half contribution was payable, but the employer's contribution was suspended. In addition, the employer's contributions to accident insurance were waived.

A further central focus of youth training facilities is the safety net programme to provide adequate vocational training facilities for young people. In the training year 2000/2001, training places were made available for about 2,000 young people.

To improve the integration into working life of disadvantaged youth with personal placement difficulties, the content of the first year of apprenticeship training can be spread over a pre-apprenticeship period (maximum duration, two years).

Federal Government action for young people seeking employment, pursuant to the Youth Training Provision Act ("safety net programme"):

The "**safety net programme**" for the provision of adequate vocational training facilities for youth, based on the Youth Training Provision Act (JASG), which has been in place since 1998, was continued in the year 2000. As from the 1998/1999 training year and by December 2000, a total of 644 young people had benefited by safety net programme measures throughout Austria, including 470 (300 women, 170 men) attending training centres (special autonomous training institutions within the meaning of § 30 of the Vocational Training Act 1969, BGBl. No. 142, as amended) and 174 (114 women, 60 men) attending training courses. More than half of the participants in the safety net programme were undergoing training in the commercial sector, for example, as retail and wholesale sales assistants, and also in new trades such as computer and garden centre sales assistants.

For the 1999/2000 training year, approximately 2,500 places in training courses and 1,500 places in training centres were provided under the safety net programme for the some 4,000 young people who had not found apprenticeship places by 15 November 1999. However, the contract situation for persons of sufficient educational and general maturity to enter apprenticeship had improved, so that the above measures were intended primarily for young people with learning difficulties and for those not yet ready for an apprenticeship. As of December 2000, 1,253 young people were benefiting by safety net programme measures, 454 were attending training courses (289 women, 165 men) and 799 were attending training centres (419 women, 380 men).

The positive trend on the apprenticeship places market continued in the training year 2000/2001. Under the safety net programme, training places were again provided for some 2,000 young people. However, training centre programmes were now continued only to the earlier extent and new action was taken only in the form of training courses. As of December 2000, 1,593 participants were attending specific training courses (859 women, 734 men). Thus some 80% of the available course places were taken up in December 2000.

Canvassing for apprenticeship places was further intensified, and financial support was provided by the Federal authorities in the form of grants for the employment of apprenticeship canvassing officers. This option was taken up particularly by the Federal Provinces of Burgenland, Salzburg, Tyrol and Upper Austria.

Annex 19 gives detailed information on the apprenticeship places situation in Upper Austria and Vorarlberg, as examples of action by the Federal Provinces in this sector.

Finally, the following statistics are provided on the significance of vocational training in Austria:

VOCATIONAL TRAINING/EDUCATION OF YOUNG PEOPLE AFTER COMPLETING COMPULSORY EDUCATION – 10th grade pupils (%)

Year	Apprenticeship	BMS ¹	BHS ²	AHS ³	No training	Aggregate	Absolute (rounded)
1970/71	48.8%	12.3%	6.2%	14.3%	18.4%	100%	104,200
1990/91	47.4%	13.9%	20.8%	16.6%	1.3%	100%	96,100
1996/97	38.6%	14.0%	24.4%	21.1%	1.9%	100%	97,100

¹ Intermediate vocational school; ² Higher vocational school; ³ Secondary academic school

Source: Vocational Training Report 1999

Article 10 paragraph 3

Ad A:

The previous reporting should be updated as follows

The appropriate training of workers in the light of labour market policy and support for the continuously necessary adjustment of the labour potential to the rapidly changing demands of the market are essential core tasks of the Public Employment Service, which is the competent organ for implementation of Austrian labour market policy. The primary statutory function of PES financial aid is to bring about desirable labour market developments, since financing is largely provided out of employers' and workers' contributions to the Unemployment Insurance Fund. For that reason, there is no general statutory entitlement to allowances under the Public Employment Service Act. Concrete decisions and agreements on subsidies must be made in individual cases. In that process, some important decision criteria are the probability of success of the action and the budgetary resources available in each case. In the context of the statutory and budgetary demands of Austrian labour market policy, priority is given to training in special courses rather than in schools. The training is provided by institutions commissioned by the Public Employment Service that offer an appropriate range of instruction. Since disadvantage in the labour market can frequently be attributed to a lack of so-called key competences, PES training is not restricted merely to imparting purely technical knowledge. The most important types of measures are:

- **Assistance for active job-seeking:** Imparting skills immediately directly related to job-seeking (training in submission of applications, etc.).
- **Vocational guidance courses:** Professional assistance in deciding on the vocation to be followed and on further career planning for persons who have difficulty in deciding on vocational prospects.
- **Preparation for working life:** For new entrants, personal stabilisation and making up for gaps in training relevant to the labour market, in a protected environment.
- **Job training:** A combination of productive work with the acquisition of skills in demand on the labour market (particularly for the reintegration of the long-term unemployed).
- **Further training:** Acquisition of vocational entrance and supplementary qualifications (for example, CAD courses for various branches).
- **Training:** Acquisition of officially recognised school and vocational certificates (for example, final apprenticeship examination). The contents of courses are laid down by statute – for example: intensive training as skilled workers.
- **Integrated packages of measures,** For example, training centres or similar measures (vocational guidance, basic and further training, intensified job-seeking, enterprise establishment programme, etc.) for the sustainable solution of employment problems (for example, in the case of change of occupation or long-term unemployment).
- In the year 2000, about 60% of PES financial aid (ATS 4.9 million out of approximately ATS 8.1 million) was spent on training measures, and PES training courses were attended by an average of some 28,500 persons.

Numerous post-qualification courses are available in the vocational schools. Furthermore, schools for master craftsmen/foremen, building workers, other courses and curricula offer facilities for the expansion or intensification of technical training and for the acquisition of

additional qualifications (for example, preparation for the master craftsman's examination; authorisation to train apprentices).

Ad B:

Owing to the degree of integration of PES services (counselling, placement, subsidies, allocation of expenditure), data on the breakdown of training measures among the various types of vocational activities can no longer be provided without great difficulty. In addition, the industrial and vocational environment is permanently changing.

Ad C and D:

In view of their labour market policy background, Public Employment Service subsidies are concentrated on groups of persons with problems in the labour market. Typical target groups for PES training measures are persons without any vocational training, or with vocational training that is not or no longer in demand on the market, re-entrants (after interruptions in employment for family reasons), persons with disabilities related to the labour market, older people, workers affected by structural change, persons at risk of redundancy, etc.

The majority of subsidy recipients are unemployed. For example, in the year 1999, almost 90% of all subsidies went to the unemployed (Progress Report 2000 on the National Action Plan for employment in Austria, Annex 1, Guidelines 19, p. 53, Table 18 – see **Annex 20**). On the average for the year 2000, some 28,500 persons were benefiting by training and some 4,500 by action on apprenticeship (new authorisations, including those under the Youth Training Provision Act), so that the annual average proportion of persons included under training measures among all unemployed persons (approximately 194,000) was about 17%.*

Ad E:

According to the Public Employment Service Act, it is the duty of the Public Employment Service, in pursuing the aim of equal opportunities in the labour market, to “counteract the gender-specific division of the labour market and discrimination against women in the labour market through the appropriate use of its services” (§ 31 (3) AMSG). The focal point on women is also embodied in the European Employment Guidelines and in the National Action Plan (NAP). On the basis of the priority accorded to women's affairs in labour market policy, the proportion of women in active labour market policy measures was 55.3% in the year 2000, which was distinctly higher than the proportion of women registered as unemployed on the average for the year, namely, some 44.7%. Analysis of the gender-specific breakdown of subsidy expenditure shows that approximately 50% of the resources assigned to active measures went to women. On the annual average for 2000, 23.2% of female and 16.9% of male job-seekers participated in active measures.

For a more detailed description of measures for women, see **Annex 20**, Progress Report 2000 on the National Action Plan for Employment in Austria, p. 22 ff.

See also **Annex 15** regarding Article 9 on action by the Federal Ministry of Education, Science and Cultural Affairs regarding vocational guidance for girls, the promotion of equality of opportunity for girls/young women and expansion of their vocational prospects.

Ad F:

Public Employment Service subsidisation of training is in principle open to foreigners in exactly the same way as to Austrian citizens, though, according to the statutory mandate, PES measures must be related to the labour potential available on the domestic market. Disabled persons are one of the priority target groups in the PES training programmes.

Reply to the supplementary questions of the Committee of social rights in Conclusions

XIV-2 on Article 10 paragraph 3:

Adult education: Overview of all forms of basic and further vocational training:

Basic considerations:

The new technologies are particularly important in the area of adult education. Along the lines of lifelong learning at the workplace and at home, which is particularly necessary in view of rapid technological change (occurring about every 18 months), skills ranging from basic training to higher general and vocational and even university training should be made accessible through e-learning, irrespective of considerations of time and place. In that context, priorities must be set in integrative action for disadvantaged target groups. Competence centres for adult education are being established and e-learning _____

* Overall, the proportion of all unemployed persons participating in active measures (that is to say, including action to promote employment and supporting action) in the year 2000 was already almost 20%.

models, in particular for the second educational path, are being further developed. There is also a wide range of general and vocational adult education courses, including IT skills, which can be verified, tested and certified at adult education institutions.

Information on public and private training measures and numbers of participants (Federal Ministry of Education, Science and Cultural Affairs, BMBWK):

Vocational further training in the adult education sector is a very complex and differentiated field. Parallel to PES action, vocational further training is provided in the enterprises themselves (in-house further training), in schools and higher education colleges (chiefly, schools for persons in employment, degree and other courses), in non-profit adult education institutions, and also in commercial institutions.

Vocational further training is provided by the following organisers:

Company's own training (in-house further training)	22%
Institute of Business Promotion (WIFI)	19%
Manufacturer/customer training	11%
Public sector/schools	11%
Vocational Promotion Institute (BFI)	7%
Chambers/trade unions	6%
Adult education institutions	4%
Rural Further Training Institute (LFI)	2%
Distance learning institutes	0.4%
Other/Unknown	18%

Source: Federal Ministry of Economic Affairs (ed.): *Learning for life - lifelong learning*, Vienna 1996

Independent institutions outside the official school and vocational further training sector offer adult education and vocational further training, while the Federal authorities merely provide subsidies. The organisational unit for adult education in the Federal Ministry of Education, Science and Cultural Affairs (BMBWK) provides subsidies (on the basis of the Adult Education Subsidisation Act, under which the Federal authorities assumed an obligation for the financial support of non-profit institutions). It is also responsible for coordination and co-operation between the State adult education institutions and the various associations and for co-ordination with the other educational administrative units of the BMBWK (responsible for

schools and universities). It also coordinates its action with outside authorities (Federal Ministries of Economic Affairs and Labour, Social Security and Generations, Agriculture and Forestry, Environment and Water Resources Management, PES, social partners and other bodies) in order to ensure the continuity of educational work and to improve the quality of adult education facilities.

Adult education subsidies are provided by the BMBWK in the following areas.

1) Member associations of the Konferenz der Erwachsenenbildung Österreichs (Austrian Adult Education Conference) (KEBÖ):

These are the following:

- Arbeitsgemeinschaft der Bildungsheime Österreichs (Study Group of Austrian Residential Educational Institutes)
- Berufsförderungsinstitut Österreich (BFI) (Austrian Vocational Promotion Institute)
- Büchereiverband Österreichs (Association of Austrian Public Libraries)
- Forum Katholischer Erwachsenenbildung in Österreich (Forum of Catholic Adult Education in Austria)
- Ländliches Fortbildungsinstitut (LFI) (Rural Further Training Institute)
- Ring Österreichischer Bildungswerke (Guild of Austrian Educational Associations)
- Verband Österreichischer Gewerkschaftlicher Bildung (Austrian Trade Union Educational Association)
- Verband Österreichischer Volkshochschulen (Association of Austrian Adult Education institutions)
- Volkswirtschaftliche Gesellschaft Österreich (Austrian Society for Economics)
- Wirtschaftsförderungsinstitut der Wirtschaftskammer Österreich (WIFI) (Business Promotion Institute of the Austrian Federal Economic Chamber)

A clear division into general educational and vocational training institutions is not possible since the borderline between the two is becoming blurred. Normally, however, the institutions listed in the following table, which gives an overview of the number of staff, courses and participants, can be regarded as vocational training institutions:

<i>Institution</i>	V. Number of staff			Number of courses	Number of participants
	<i>Full-time</i>	Part-time	<i>Honorary</i>		
Austrian Vocational Promotion Institute	1,558	5,701	0	13,151	164,387 (♀ 55 %, ♂ 45 %)
Rural Further Training Institute	105	899	755	14,059	521,244 (♀ 41 %, ♂ 59 %)
Austrian Society for Economics	41	258	84	2,551	56,914 (♀ 49 %, ♂ 51 %)
Business Promotion Institute of the Austrian Federal Economic Chamber	519	9,000	0	24,029	306,036 (♀ 48 %, ♂ 52 %)
Association of Austrian Adult education institutions	767	20,747	94	58,156	1,244,490 (♀ 76 %, ♂ 24 %)

1) Overview of general and vocational courses;

Chief vocational courses,

- Second educational pathway, 13,869 participants (♀ 51 %, ♂ 49 %, i.e. 2.8 % of total adult education institution courses)

- Business and administration (IT, office organisation, cost accounting, management, etc.)

52,263 participants (♀ 67 %, ♂ 35 %, i.e. 10.4 % of total adult education institution courses)

- Languages 122, 293 participants (♀ 73 %, ♂ 27 %, i.e. 24.3 % of total adult education institution courses)

Source, 15. KEBÖ Statistics (Operations year 1999/2000)

2) Second educational pathway for adult education of the Federal Ministry of Education, Science and Cultural Affairs:

In view of the rapid changes in occupational requirements, financial support is provided for the adult education measures that are an important foundation for the acquisition of further qualifications. The availability of preparatory courses for taking the compulsory sector leaving certificate examination, the single-subject university entrance examination (SBP) and the general university entrance examination (BRP) helps to improve both general and vocational qualifications.

For specific assistance to migrants, basic educational courses in the run-up to taking second educational pathway certificate examinations, courses in German and supplementary IT courses are also subsidised, in order to facilitate their entry into an occupation or their access to courses for the acquisition of further occupational qualifications.

Overview of participants receiving BMBWK subsidies for courses in the reporting period 1996 to 2000:

	SBP	BRP	Compulsory sector leaving certificate
1996/97	2,330	-	100
1997/98	2,500	2,080	100
1998/99	2,300	4,500	540
1999/00	2,200	4,500	670

3) Women and new technologies:

Integrative measures for women are also subsidised, particularly in disadvantaged regions. Women who have no experience or little experience of the new media and new forms of learning are offered low-threshold access to computers, the Internet and learning software in the context of several projects. In the year 2000, approximately 750 women took part in such courses.

4) As an example of action by the Federal Provinces in this area, the Vorarlberg authorities contribute ATS 8 million or ATS 3.5 million per year to the basic and further training facilities offered by WIFI and the Vocational Education Centre of the Chamber of Labour (BBC), respectively. These courses are attended annually by some 23,000 participants in Vorarlberg.

The BIFO (Vocational Information Institute), which is financed half by the Provincial authorities and half by the Austrian Federal Economic Chamber, offers information and services for counselling on educational and vocational matters and with regard to questions of vocational reintegration. Furthermore, Provincial Government and Chamber of Labour subsidies are available for workers, in which context the reintegration of women into the employment process is an important priority.

Access by unemployed citizens of Contracting States to basic and further vocational training

The Aliens' Employment Act does not provide for any restriction on access to basic and further education by citizens of third States who are entitled to unemployment insurance benefits and have their normal legal residence in the Federal territory. Quite the reverse, any necessary employment permits are granted automatically to such citizens of third States for vocational basic and further training.

Article 10 paragraph 4

The following information is provided in reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 10 paragraph 4:

Ad A:

With regard to exemption from school fees and the abolition of examination fees and stamp duty, see the reporting on Article 17, question A (extract from the report on Article 17, status: 31 December 1998 – **Annex 21**).

Pursuant to § 47 of the Public Employment Service Act, BGBl. No. 31/1969, as amended, submissions made in the context of the provisions of that Act related to training and subsidies, as well as the relevant enclosures and any powers of attorney, are exempted from payment of Federal stamp duty and legal fees.

Ad B:

Needy apprentices and pupils of vocational training schools are eligible for the grant of many scholarships and training allowances by the Federal, Provincial and communal authorities, the associations of workers and employers, and a number of major enterprises and charitable institutions.

With regard to school attendance allowances, free travel and travel allowances, the textbook scheme and accident insurance for pupils, see the remarks on Article 17, question A (**Annex 21**).

The Labour Market Administration offices grant allowances for vocational training in an apprenticeship trade on the basis of the provisions of the Public Employment Service Act.

Access to subsidies:

Austrian citizens who are attending an intermediate or higher school as from the 10th grade are eligible for school attendance allowances if:

They are socially needy,

Their academic performance is satisfactory

They are not repeating a grade

They begin attending the school for which the allowance is applied for before the completion of the 30th year of life.

The following have equal status with Austrian citizens:

Citizens of EEA States pursuant to the Convention

Refugees as defined by the Convention

Foreign and stateless pupils if at least one parent has been employed subject to income tax for at least five years and has had the central point of his/her life interest in Austria.

Similar provisions apply for granting the hostel and travel costs allowances.

Level of the basic amounts:

School attendance allowance, € 982 annually; hostel allowance, € 1,200 annually; travel costs allowance, € 88 annually.

Ad C:

Pursuant to § 9 of the Vocational Training Act 1969, BGBl. No. 142, as amended, authorised apprentice trainers are required among other things to release apprentices for the time necessary to attend vocational school, to urge them to attend and to monitor regular attendance. Under § 24 (3) of the Compulsory Education Act, BGBl. No. 76/1985, as amended, they are required to register apprentices with the school management on admission and to notify the management on their leaving the school.

In agriculture and forestry, authorised apprentice trainers are required pursuant to § 130 (4) of the Agricultural Labour Act to release apprentices for the necessary time to attend the vocational school, without a reduction in pay and to urge the apprentices to attend the vocational school regularly.

Ad D:

Apprentice training is organised on the dual system in Austria. The matter to be taught in apprenticeship training is imparted at two different locations, chiefly in the workshop, but with supplementary instruction in the vocational school. As a result, apprentice training is related as no other area in the Austrian educational system to developments in the individual sectors of the economy and particularly to labour market developments.

The trades in which apprentices can be trained are enumerated in the list of trades, an Order of the Federal Minister for Economic Affairs based on the Vocational Training Act. That Order also determines the duration of apprenticeship (in the vast majority of cases, three years), the relationship to other trades and the extent to which training in one trade can be credited towards training in another. Training regulations must be issued for all the trades listed and must among other things contain occupational profiles. The occupational profile lists all the knowledge and skills for each trade to be imparted by the workshop during the apprenticeship. The knowledge and skills mentioned in the vocational profiles are divided up by years of apprenticeship and must be imparted accordingly. Training in a trade must be oriented according to the relevant profile. Training requirements in the individual trades are largely taken into account in determining the occupational profile.

An examination for instructors employed by authorised trainers was created in order to ensure the quality of apprentice training. Its purpose is to determine whether authorised trainers and instructors have the necessary knowledge to train apprentices and can apply that knowledge in practice. The examination must be taken orally and must cover the following areas: setting the goals of training on the basis of the occupational profile, planning of training in the workshop, preparation, implementation and verification of training, conduct of the instructor vis-à-vis the apprentice, questions related to the Vocational Training Act, the Act for the Employment of Children and Young People, workers' protection regulations and the place of the dual vocational training system in the Austrian educational system. As can be seen, particular importance is attached in this examination to the practical ability of the examinee (that is to say, the authorised trainer or instructor) to apply his/her knowledge in training. The examination is therefore mainly practical in nature and can be taken either on its own or as part of the examination for qualification as master craftsman or of an examination necessary to provide proof of fitness to practise controlled or licensed trades. There is no provision for exemption from this examination.

The Vocational Training Act created institutions that guarantee the involvement and co-operation of the employers' and workers' representative organisations in vocational training. There is a Federal Advisory Council on Vocational Training, and a corresponding Advisory Council in every Province. Employers and workers are represented as social partners in both institutions. The Federal Advisory Council is responsible among other things for issuing expert opinions in a number of areas: on general questions of vocational training, on the necessity of promulgating or amending Orders on the basis of the Vocational Training Act (for example, the list of trades, training regulations and examination regulations regarding final apprenticeship examinations and the examination for instructors), as well as on the equivalence of final apprenticeship examinations taken abroad. The duties of the Provincial Advisory Councils include the issuing of expert opinions, proposals and suggestions in matters directly affecting apprenticeship in the Federal Province in question (for instance, the conduct of final apprenticeship examinations, inter-enterprise training, training experiments, the increase or reduction of the maximum number of apprentices in individual workshops). These institutions are also an important factor in guaranteeing effective up-to-date apprentice training.

Before a workshop can begin training apprentices, the vocational training authority must *inter alia* determine whether the enterprise or workshop is equipped and managed in such a manner that the necessary skills and knowledge for learning the trade in question can be imparted to the apprentices (suitability of the establishment or workshops for training apprentices).

Apprentice training is effectively supplemented by parallel training in vocational training schools. Supervision of training in such schools is exercised by the Provincial school boards.

Competence for supervising industrial apprenticeship training (compliance with the provisions of the Vocational Training Act and the decrees issued under that Act, in particular, training regulations) lies with the vocational training authorities, especially the apprenticeship offices, as the authorities of first instance (§ 19 of the Vocational Training Act, BGBl. No. 142/1969, as amended) and with the Chambers of Labour, pursuant to the Chambers of Labour Act 1992, BGBl. No. 626/1991, as amended.

Pursuant to § 3 of the Federal Traffic Labour Inspectorate Act, BGBl. No. 650/1994, as amended, the Inspectorate is competent for monitoring apprentice training in its sphere of activity.

Supervision of vocational training in agriculture and forestry:

Pursuant to § 14 of the Agricultural and Forestry Vocational Training Act, BGBl. No. 298/1990, as amended, the offices for the technical training of agricultural and forestry apprentices have a number of responsibilities in the area of apprenticeship. For instance, they are responsible for keeping a central register of apprentices, for approving apprenticeship contracts and the dissolution of such contracts and for authorising the changeover from one apprenticeship place to another, for the recognition of authorised trainers, instructors and training establishments and for the withdrawal of such recognition. Monitoring of compliance with the Orders and decrees issued for the protection of apprentices is the province of the Agricultural and Forestry Inspectorate pursuant to § 112 of the Agricultural Labour Act.

Ad E:

The requirements of Article 10, paragraph 4 (a), (b) and (c) are met for the vast majority of the persons concerned.

ARTICLE 15

THE RIGHT OF PHYSICALLY OR MENTALLY DISABLED PERSONS TO VOCATIONAL TRAINING, REHABILITATION AND SOCIAL RESETTLEMENT

Article 15 paragraph 1

Ad A:

The question how many people with disabilities are in employment is not easy to answer as there is no legal definition of disability covering all fields of social life, and there are consequently no corresponding statistics. According to estimates based on representative polls, about 29.9% of the whole population consider that they have at least one considerable physical impairment.

On the other hand, there is a formal registration procedure for people with disabilities according to the particular degree of disability under the Disabled Persons Employment Act. However, registration is voluntary, so that not all severely disabled people in employment are covered.

In 1998, about 3,077,000 persons were in employment, i.e. about 69.5% of the whole working age population. On 31 December 2000, there were 80,532 registered disabled persons within the meaning of the Disabled Persons Employment Act, 54 592 of whom were working, i.e. 67.8% of registered disabled people and 1.8% of the total working population. According to estimates, about 5,000 unregistered and severely disabled persons are working in special workplaces subsidised by Provincial Governments.

The legal definition of registered disabled persons provides that they must be severely disabled but must at least be able to work in sheltered employment, covered by social insurance and on the basis of employment contracts.

In the context of its statutory mandate to ensure greater equality of opportunity on the labour market, the Public Employment Service (PES) applies an extended concept of disability. In addition to the relatively small group of “preferentially treated” disabled persons (with a degree of disability of at least 50%), the PES classification of disabled persons also included those persons who can produce medical or psychological certificates testifying that their disability has a strong impact on their employability. The decisive factor in this PES definition is that the disability should in fact have a negative effect on individual chances of placement and employment. At the end of October 2001, about 27,400 persons were registered as unemployed with the PES, some 4,400 of whom had, so to speak, legally certified disabilities.

Ad B:

The previous reporting should be updated as follows:

The following legislation guarantees the effective exercise of the right of physically, mentally or psychologically disabled persons to vocational training and to vocational and social integration or resettlement: in addition to the Disabled Persons Recruitment Act (BEinstG), the General Social Insurance Act (ASVG) and the other Federal social insurance regulations, these are first and foremost the Provincial Disabled Persons Acts (Vienna, Upper Austria, Styria, Salzburg, Vorarlberg), the Tyrolean Rehabilitation Act and the provisions of Division 4 – Assistance to disabled persons – of the Lower Austrian Social Assistance Act, of Division

4 – Assistance to disabled persons – of the Burgenland Social Assistance Act and Division 3 – Assistance for the integration of disabled persons – of the Carinthian Social Assistance Act.

On the basis of more recent action by the Provincial diets, assistance for persons with disabilities has meanwhile been regulated in the following Provincial legislation:

Vienna	Act concerning assistance to disabled persons (Disabled Persons Act 1986)
Lower Austria	Lower Austrian Social Assistance Act 2000, Division 4 – Assistance to persons with special needs
Upper Austria	Upper Austrian Disabled Persons Act 1991
Burgenland	Burgenland Social Assistance Act 2000 Division 4 – Assistance to disabled persons
Styria	Act of 9 July 1964 on assistance to disabled persons (Disabled Persons Act)
Carinthia	Carinthian Social Assistance Act 1996, Division 3 – Assistance for the social integration of disabled persons
Salzburg	Salzburg Disabled Persons Act 1981
Tyrol	Act of 6 July 1983 on the rehabilitation of disabled persons (Tyrolean Rehabilitation Act)
Vorarlberg	Disabled Persons Welfare Act (Disabled Persons Act)

For further information concerning action by the Federal Provinces, the contributions of the Provinces of Salzburg, Tyrol and Vorarlberg to reporting on Article 15 are presented in **Annex 21/A**.

Ad C:

In the year 1993, the integration of children with special educational needs at the primary school level was incorporated in the normal school system. In the area of the lower secondary schools, the lower classes of the secondary academic schools and the polytechnic school, further educational experiments were conducted for the purpose of integration.

On the basis of a further amendment to the Education Act in the year 1996, the continuation of parallel teaching in the lower secondary schools and the lower classes of the secondary academic schools was also embodied in legislation.

In the context of these basic statutory changes, the concept of the necessity of admission to a special school was replaced by “certification of the need for special educational assistance”. The reason prescribed by law for such a decision, is that the child in question is unable to follow teaching in a primary or lower secondary school or in the lower classes of a secondary academic school without special educational assistance, as the result of physical or mental disablement. The decision as to the type of school that the child should attend lies with the parents, who have the option of choosing whether their disabled child should be taught on an integrative basis or in a special school.

In order to ensure continuous integrative assistance for pupils with physical or sensory disability in secondary stage II (secondary academic schools – upper forms, intermediate and higher vocational schools), special statutory provisions were created for this group of pupils in 1996, which enable the competent school authorities among other things to provide for appropriate deviation from the syllabus.

As from the 1998/1999 academic year, the compulsory “vocational guidance” class was introduced in the 7th and 8th grades, in order to give young people better support in the

process of choosing an occupation. This compulsory class is intended to help develop an informed approach to the choice of an occupation and to prepare for a relevant decision.

On the basis of an amendment to the Act adopted in 1998, pre-vocational classes can, if there is need, be set up in special schools. It is the purpose of this “pre-vocational year” to intensify and expand the existing competences of the young people in the personal, theoretical and practical areas in order to facilitate access to the labour market and to increase chances of obtaining a suitable job and coping with the related challenges. (For further details on vocational guidance and the pre-vocational year, see remarks on Article 9).

A further facility for preparation for working life consists of experiments in integrative assistance to disabled school children, especially at the polytechnic school as well as, individually, in vocational schools (for example, agricultural and domestic science schools). Pupils at such schools can be taught entirely or partially according to the pre-vocational year syllabus.

Pupils at the **Federal Institute for the Education of the Deaf** in Vienna can attend integration classes at a fashion design school, a specialised business school, a technical school or a specialised school for house painters.

Pupils at the **Federal Institute for the Education of the Blind** can select training in the following areas: commercial school, training as telephonists, makers of household and artists’ brushes, apprenticeship in basket-weaving and rattan furniture-making and training as masseurs working under medical supervision in hospitals or in independent practice.

Reply to the supplementary questions of the Committee of Social Rights in Conclusions XIV-2 on Article 15 paragraph 1

Assessment of disabled persons’ occupational skills/vocational training facilities:

There are no special rules governing access to educational and vocational facilities for persons with disabilities, but all measures are open to all, so that the educational target set forth in Article 7 of the Federal constitution is probably reached. More detailed legislative regulations will be considered in the future in implementing Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation.

Clearing institutions are being established in order to guarantee young people with disabilities the best counselling for the choice of an occupation.

Occupational accidents and diseases:

Persons whose disability is the result of a work accident or an occupational disease are subject to the provisions of the Disabled Persons Employment Act (BEinstG), BGBl. No. 22/1970, as amended, in exactly the same way as other disabled persons.

The Disabled Persons Employment Act requires all employers with 25 or more employees to recruit at least one preferentially treated disabled person within the meaning of the Act (i.e. with at least 50 per cent disablement) for every 25 employees. Employers who fail to comply with this requirement must pay a compensatory levy, adjusted annually. The revenue from the compensatory levy is used inter alia to provide grants to employers for the installation of special working equipment, machines and appliances for the employment of disabled persons. Preferentially treated disabled persons enjoy special protection against notice of dismissal on the basis of § 8 BEinstG.

Furthermore, social insurance law provides possibilities for promoting the employment of disabled persons, in particular granting occupational rehabilitation assistance pursuant to § 198 of the General Social Insurance Act, BGBl. No. 189/1955, as amended (see **Annex 21/B**), which provides inter alia for vocational training, wage costs allowances for employers and various types of financial aid to enable disabled persons to remain in employment.

Allowances/staff situation/equal treatment:

Vocational training subsidies and integration action for unemployed and employed disabled persons:

- Subsidies for disabled persons setting up in business on their own
 - Vocational training grants to improve the general employability of unemployed disabled persons;
 - Mobility aids to enable persons who cannot use normal means of transport to travel to their place of work;
 - Adaptation of the workplace, including equipment or adaptation of both the workplace itself and its environment (e.g. sanitary installations for wheelchair users),
 - On-the-spot consultancy by ergotherapists and the provision of modern technological aids.

Subsidies for institutions (programme-related running costs):

- Training institutions (profit and non-profit);
- Counselling institutions (non-profit).

In the years 1998, 1999 and 2000, respectively, 1,457, 1,806, and 5,220 persons with disabilities benefited directly from such measures.

With the support of the European Social Fund, a total of some ATS 1 billion (about € 70 million) was spent in both 1999 and 2000 on vocational integration measures (see **Annex 22** and the remarks on vocational integration subsidies for employers).

There was a planned doubling of this amount in the budget years 2001 and 2002 in order to implement extraordinary structural measures.

The qualifications of key programme personnel are defined in detailed agreements between the provider of training and the subsidising authority.

No cases are known to us of discrimination against severely disabled citizens of Council of Europe Member States in access to training measures.

Article 15 paragraph 2

Ad A:

The previous reporting should be updated as follows:

In principle, the entire range of PES services (counselling, vocational information, placement, training, employment subsidisation) is also available to disabled persons. Subsidisation of disabled persons has been intensified by the Public Employment Service (and also by the Federal Offices of Social and Disabled Persons Affairs) in recent years.

Some 5,800 disabled persons benefited from labour market training measures on the annual average for 2000. In addition, approximately 4,500 disabled persons were granted employment subsidies (job subsidisation by means of integration allowances, non-profit employment projects and socio-economic enterprises) and for apprenticeship. Roughly one-quarter of the annual average of all beneficiaries of such measures in 2000 had disability certificates. Such persons are as a rule subsidised in cooperation with the Federal Offices of Social and Disabled Persons Affairs.

In 2001, the Federal Government launched an employment offensive for disabled persons in order to intensify their integration into the labour market. ATS 1 billion (€ 73 million) is available in each of the years 2001 and 2002. Roughly 8,000 people have been covered by this programme. In addition, job assistance, in particular, is being expanded and action is being taken to safeguard jobs for disabled persons.

The volume of PES subsidisation for the integration of disabled persons into the labour market was raised to some ATS 1,320 million (€ 96 million) in 2000, of which roughly ATS 905 million (€ 66 million) was spent on training and ATS 415 million (€ 30 million) on employment measures.

The annual target of the PES is “To stabilise the occupational rehabilitation of registered unemployed disabled persons”. The indicator chosen was the “Average population of persons participating in vocational rehabilitation measures”.

The average population of participants in rehabilitation measures was expanded by one-fifth over the 1999 level. The proportion of the disabled women is still slightly below 40%.

In recent years, the general conditions for cooperation between the PES and the relevant players have been successfully developed: e.g. conclusion of quota agreements with the vocational rehabilitation institutions, adjustment of framework agreements with the social insurance institutions regarding joint financing, and co-operation agreements with the Federal Offices for Social and Disabled Persons Affairs.

Ad B:

According to PES statistics, about 33,000 unemployed persons classified as disabled with the Public Employment Service were able to commence employment in the year 2000. At the same time, the volume of unemployment as from the year 1999 was reduced for the first time in many years (1999: -2.9% and 2000: -18.4%). In the first three quarters of 2001, unemployment among disabled persons averaged 29,364 (-10.6%) by comparison with the corresponding period in the previous year.

**Reply to the supplementary questions of the Committee of Social Rights in Conclusions
XIV-2 on Article 15 paragraph 2:**

Placement services:

The full range of PES services is available to disabled persons without restriction, although chances of placement are sharply restricted for this target group in particular. Specially trained staff are assigned in many offices to meet counselling and service requirements, which are often unusual. To support activities for the placement of disabled persons, the Public Employment Service provides information and counselling in order to dispel the fears and prejudices against disabled persons that influence recruitment patterns. Job assistance (mainly within the purview of the Federal Offices for Social and Disabled Persons Affairs) often proves to be a useful adjunct to placement. By means of this instrument, the disabled can receive more intensive ongoing assistance for their entry into employment, the future work environment can be prepared and the employer in question can be counselled and assisted.

The recruitment of disabled persons can also be supported by the Public Employment Service by granting so-called recruitment allowances (wage costs grants amounting to a maximum of two-thirds of wage and non-wage labour costs, available for a limited period) which, under nationwide guidelines, are available on a more generous basis to disabled persons than to all other target groups.* In the case of persons who cannot be directly placed in the primary labour market, supervised jobs with a transitional function are also available for the target group of disabled persons under employment projects. Young people with physical, psychological and mental disablement or social maladjustment are also among the target groups for the promotion of apprenticeship places (allowances towards the cost of training, limited in time, especially for workshops but also for training institutions). In this context, it should be mentioned that there are special pre-apprenticeship and on-the-job learning models.

* In the case of disabled persons, the maximum probationary phase in which an allowance of up to 100% of the calculation base (= the gross wage plus a 50% lump-sum supplement for non-wage labour costs) can be granted has been fixed at six months, whereas it is normally restricted to three months. In the case of disabled persons within the meaning of the Disabled Persons Recruitment Act or the relevant Provincial Disabled Persons Acts, the subsidisation period, normally a maximum of two years, can also be extended to three years (joint subsidisation with other contributing agencies).

In addition, the Federal Offices of Social Affairs have established Supported Employment service agencies, in which a special counselling service for providing jobs for people with disabilities is rendered by private non-profit organisations. These agencies are financed out of compensation levy funds, and in some provinces by the Provincial Governments and the Public Employment Service. This programme has been designated best practice by the European Commission.

In those regional agencies, about 3,700 disabled persons received vocational case management services during the year 2000. Additionally, about 5,700 persons were counselled in disability-related vocational matters.

There are 36 such institutions in the nine Provinces, most of which have regional bureaux. About 120 counsellors provide case management services to enable persons with disabilities to find and retain jobs (see **Annex 23**).

Unemployment among disabled persons and numbers taking up employment:

After an above-average increase in unemployment among disabled persons, that trend was reversed to some extent as from 1999. Then, for the first time in years, there was a decrease in the annual average number of unemployed persons classified as disabled. On the annual average for 2000, this trend distinctly strengthened, with an 18.4% reduction. Since the statistical survey methods for recording the number of disabled persons were changed in September 1999, an exact comparison of the figures for 1999 and 2000 with the figures for the whole of the previous years is not possible. However, the positive development is clearly perceptible and has continued in the current year: in the first three quarters of the year 2001, unemployment among disabled persons averaged 29,364 – a reduction by 3,472 (-10.6%).

There was a substantial increase of some 15% in the take-up of employment by disabled unemployed persons in 1999. In the subsequent year, there was, for the first time in years, a slight reduction in that indicator, though it was far smaller than the reduction in unemployment.

	1995	1996	1997	1998	1999	2000
Disabled persons unemployed (Annual average)	30,068	34,055	37,469	40,540	39,378	32,148
Rel. change from previous year	+7.3	+13.3	+10.0	+8.2	-2.9	-18.4
No. taking up employment	27,198	28,072	29,546	29,556	33,940	33,164
Rel. change from previous year	+5.3	+3.2	+5.3	0	+14.8	-2.3

NB: In view of the complexity of the question and the lack of unambiguous data (definition of the term “disabled”), it is not possible to give a breakdown of PES expenditure on vocational rehabilitation.

It is reiterated that Austria has neither legal definitions of disability covering all fields of social life nor corresponding statistics. It merely has data on those disabled persons who are registered as unemployed. The unemployment rate among such persons stagnated at about 9% between 1998 and 2000 – which is not a satisfactory level. That is the justification for the above-mentioned plan to double the amount of funds for vocational integration in the 2001 and 2002 budgets, in order to implement extraordinary structural measures.

Quota system:

In 1999, 14,235 employers with at least 25 employees each were subject to the quota system. About 66% of mandatory working places were occupied by persons with disabilities. The compensation levy amounted to ATS 2,010 in 1998, ATS 2,040 in 1999 and ATS 2,050 in 2000. At present it is ATS 2,700 (€ 196.22). The levy is payable monthly for each mandatory working place not filled.

Employment incentives/equal treatment:

Vocational integration subsidies for employers:

- Wage subsidies (including a lump sum to cover parts of the gross wage) to compensate for the reduced productivity of disabled employees that persists despite the use of material aids;
- Wage subsidies for employers who employ long-term unemployed disabled persons by creating additional workplaces (if the employer guarantees employment for at least three years);
- “Special programmes” for the employment of groups of disabled persons in the open labour market, with generous grants to cover all costs;
- Premiums for employers who:
 - employ disabled persons as apprentices; or
 - outsource work to sheltered institutions;
- Adaptation of the workplace, including equipping or adapting both the workplace and its environment (e.g. sanitary installations for wheelchair users).

Subsidies for institutions (current programme-related running costs):

- Integrative enterprises (former sheltered workshops)
- “Transitional” workshops (non-profit)

In the years 1998, 1999 and 2000¹ respectively, 6,833, 8,194 and 7,531 ^{persons} with disabilities benefited directly from such measures.

Within the framework of the Disabled Persons Recruitment Act, direct vocational integration measures are open to all severely disabled persons who are eligible for placement on the legal labour market.