



12 September 2003

RAP/Cha/**AU**/XXI(2003)

EUROPEAN SOCIAL CHARTER

21st report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

(for the period 1 January 2001 to 31 December 2002:
Articles 1, 5, 6, 12, 13, 16 and 19)

Report registered at the Secretariat on 21 August 2003

CYCLE XVII-1

TWENTYFIRST REPORT - Part II
on the implementation of **Article 1** of the
EUROPEAN SOCIAL CHARTER
(Reporting period: 1 January 2001 to 31 December 2002)

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 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 1

THE RIGHT TO WORK

Article 1 paragraph 1

Ad A:

The development of employment and unemployment

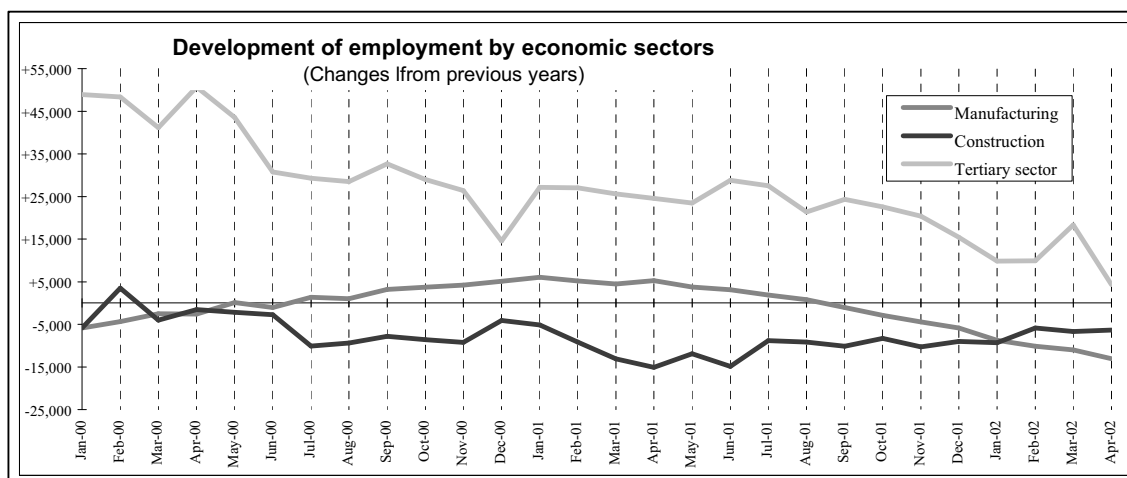
Slowdown in employment growth

Despite the distinctly weaker international cyclical situation, the number of employed persons increased further over the annual average for 2001. With an increase of 14,416 or 0.5% to 3,148,155 (not including marginally employed persons), a new peak level was achieved. Thereby, employment on the annual average rose for the fifth year in succession. Nevertheless, economic development in 2001 also affected the employment system. Considering the development over the course of the year, there was a remarkable weakening in growth. The employment rate (by reference to the population aged 15-65) remained constant in the year 2001 at 63.8%.

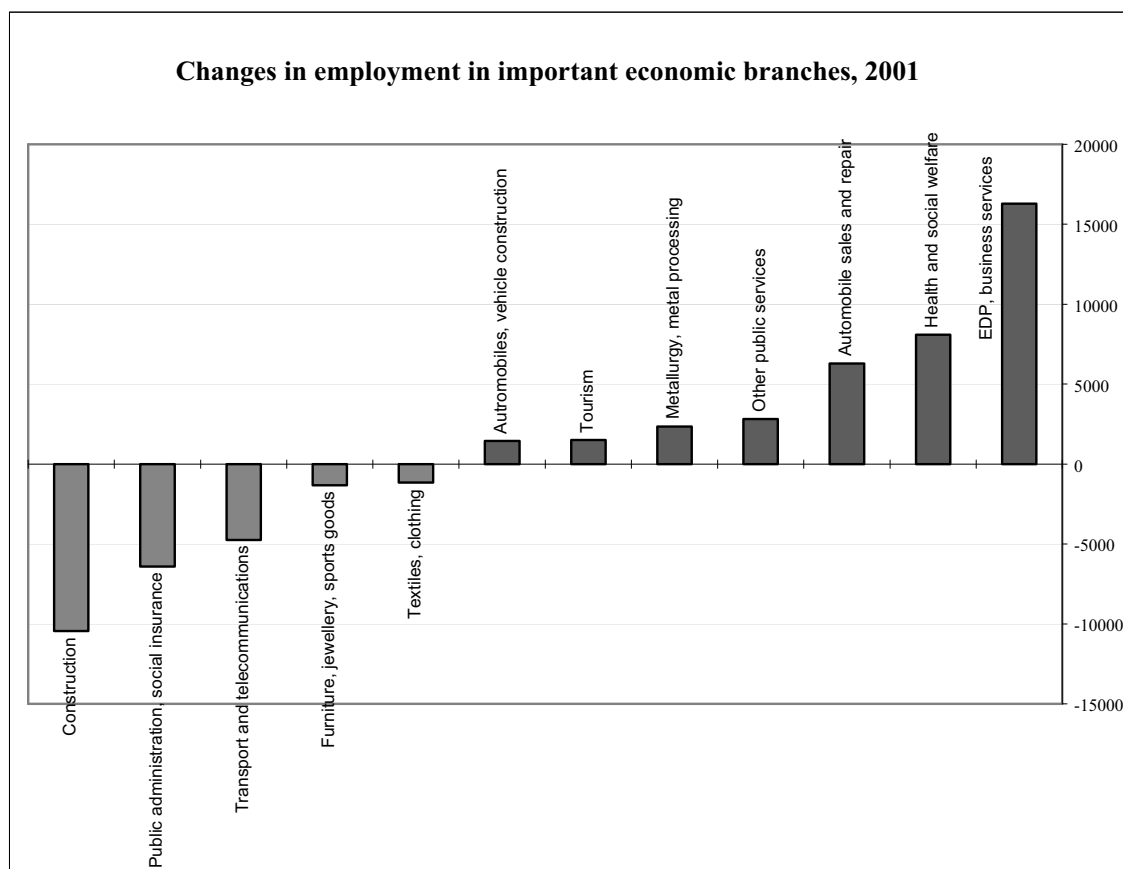
With an increase of 23,712 (+1.7%), growth in employment in 2001 was entirely attributable to **women**. On the average for the year, somewhat more than 1.4 million women were already in employment. The figure for employed **men**, on the other hand, fell by 9,296 (-0.5%) to 1,747,714. This opposite trend was also mainly attributable to branch-specific factors. While there was a decline of 10,199 or 1.1% in the “male-dominated” production sector (and here, chiefly in construction), the services sector grew by a further 24,016 or 1.1%. Thus the long-term structural trend towards **tertiarisation of the employment system** continued.

The **seasonal branches** again continued to develop divergently in 2001. While the rise in annual average employment in tourism by 1,878 (+1.1%) to 180,129 was even slightly greater than normal, construction suffered from a persistent weakness in demand. With a 6,681 or 2.3% decrease of employment to 286,980, that branch was one of the leading problem areas of the Austrian labour market and employment policy in 2001.

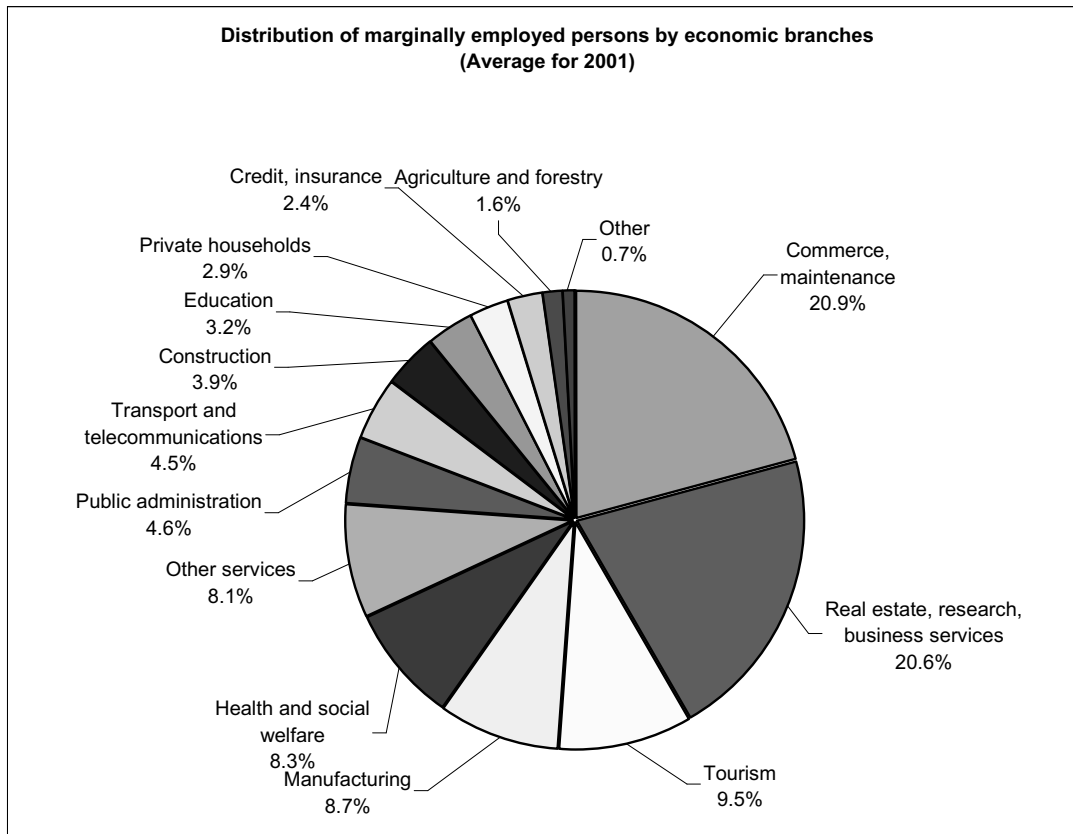
Changes in employment in important economic branches – 2001



This sectoral development continued in the **first quarter of 2002**. In that context, the sharp decline in employment in the secondary sector accelerated distinctly, but the rise in the services area slowed down further. Overall, there was thus only slight growth in employment in the first quarter (+1,500).



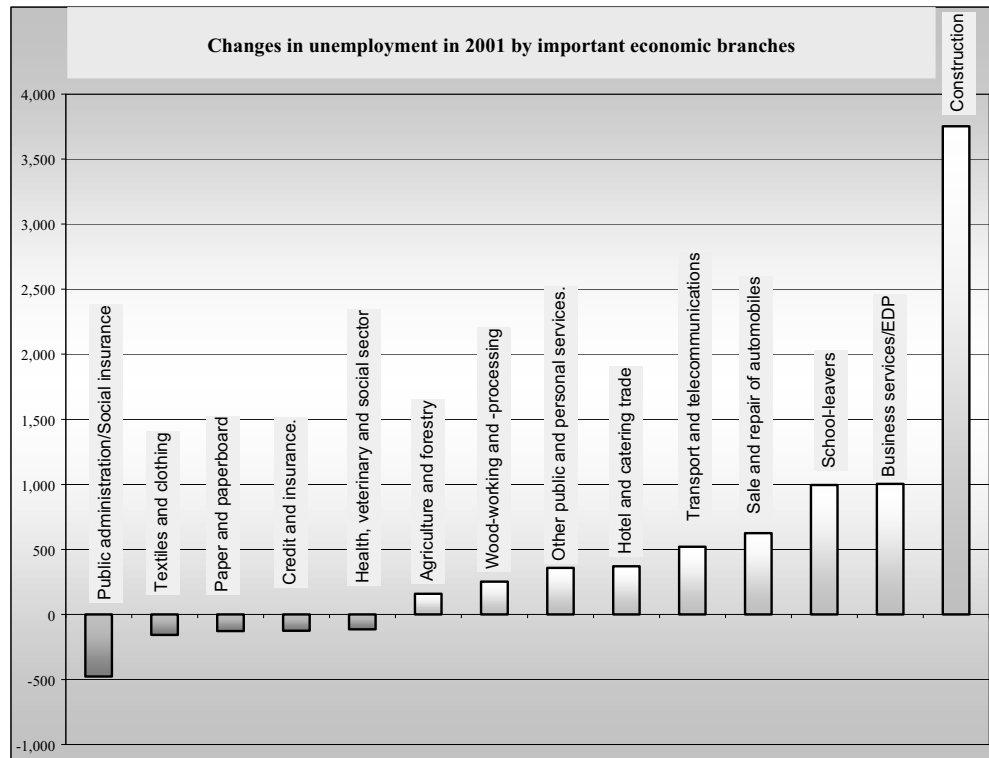
The annual average number of **marginally employed persons** (who are not included in the figure for employed persons) rose in 2001 by 8,415 or 4.3% from the previous year to 205,187. By far the greatest increases were in business services (+2,859) and commerce (+1,297). 23. Quasi-freelance contracts grew further, as in every year since recording by the Central Association of Austrian Social Insurance Institutions, namely, by 1,374 (+6.1%) to 23,720, on the annual average.



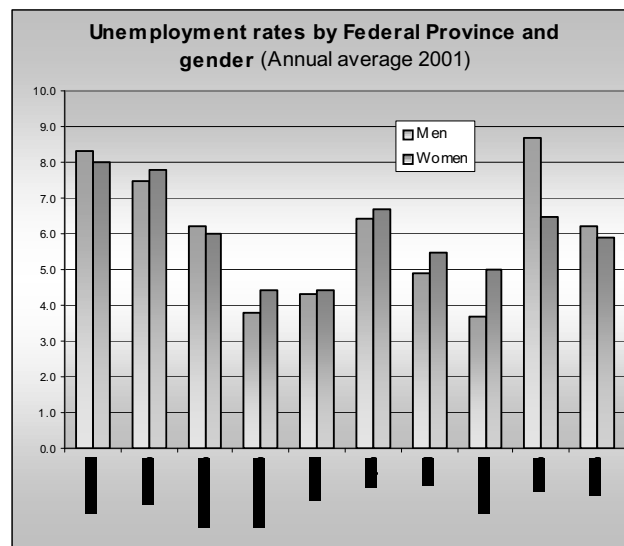
Increase in unemployment

Against the background of economic forecasts, there was an unexpectedly **sharp rise** in registered **unemployment** as from May 2001. The annual average increased by 9,600 or 4.9% to some 203,900. The following trends – sometimes in contrast to the development of employment – were noted in the individual **economic sectors**: a slight rise in unemployment in manufacturing (+450), distinct growth in the services sector (+2,150), sharply rising unemployment in the seasonal branch of construction (+3,750), but a comparatively favourable development in tourism.

In absolute terms, the increase in unemployment was distinctly higher among men (+7,800 or 7.3% to 115,300) than among women (+1,800 or 2.0% to 88,600). That was initially due to **gender-specific** and sectorally divergent developments in employment. Thus, a considerable portion of the total increase in unemployment was accounted for by the secondary sector and chiefly again by construction - that is to say, by male-dominated branches.



By regions, unemployment rose in eight Federal Provinces, and stagnated only in Vorarlberg. Two-thirds of the increase in unemployment in 2001 was accounted for by the eastern Federal Provinces of Vienna (+3,808; +6.4%), Lower Austria (+2,274; +7.1%) and Burgenland (+396; +5.8%).



Youth unemployment grew in 2001 by 2,988 or 10.7% to an annual average of 30,934. The relative increase was thus distinctly greater than that of total unemployment (4.9%). The (registered) unemployment rate among 15- to 24-year-olds thus rose by 0.7 percentage points to 5.9%.

Unemployment among **older people** (>50 years) fell in 2001 even further (by 1.7%), while total unemployment rose. That applied equally to men and women. The reduction over the year occurred among women aged 50-54 and men aged

55-59. In all other age-groups, unemployment increased in absolute terms, particularly in the “pre-retirement age groups” of men over 60 (+1,174) and women aged 55-59 (+748).

On the annual average for 2001, **long-term unemployment** (>6 months) was 34,431, i.e. **distinctly lower than in the previous year** by 8,053 (-19.0%). The number of long-term unemployed women declined somewhat more sharply in relative terms (-3,812 or -20.2%) than that of men (-4,241 or -18.0%). Roughly two-thirds of long-term unemployment for more than six months (namely, 23,095) was represented by registration of 6 to 12 months, while the number of persons unemployed for over one year was 11,336.

With regard to the development of **unemployment among disabled persons and foreign workers**, please see the (separate) remarks below (comments on the Conclusions of the Experts).

Labour-market related measures

The National Action Plan for Employment 2002 (NAP)

The 2002 implementation report on the National Action Plan for Employment is based on the employment guidelines related to the four Pillars of the European Employment Strategy, namely, employability, entrepreneurship, adaptability and equal opportunities, as well as on horizontal targets. The guidelines for the year 2002 were only marginally altered in comparison with the previous year, but a few new aspects were added.

These new aspects and new priorities are the “**quality of work**” (see Section VIII.2.3), **mobility of labour** (see Chapter VII.1), greater integration of the **environmental sector** (see Chapter IX.1), corresponding to the Conclusions of the Göteborg European Council, as well as the attainment of **full employment** in line with the targets defined by the Lisbon European Council (overall employment rate of 70% by 2010; employment rate among women: 60%) and Stockholm (total employment rate of 67% by 2005; unemployment rate among women: 57%; employment rate of 50% among older workers by 2010). Austria devoted special attention to these targets. In addition to the measures for older workers (see below), measures for improving equality of opportunity (see Section VIII.2.3.4) and the compatibility of employment and family responsibilities (see Section VIII.2.3.3) form the central focus of action for raising employment rates.

Further innovations in the year 2001

- **Reform of the Public Employment Service (PES):** The central project of the internal organisational development of the PES in the year 2001 was the launch of the nationwide implementation of a “three-zone model” (organisational development project) in all regional offices. This model is based on the results of a comprehensive analysis of strengths and weaknesses. In addition to the systematic further use of the Internet in the form of the virtual “e-job room” and thus the development of self-service facilities, a further important step is now being taken with the introduction or development of a nationwide “call centre network”.
- **Part-time allowance for older workers:** With effect from 1 October 2000, access to the part-time allowance for older workers was substantially relaxed by the abolition of the compulsory requirement to recruit a replacement worker, with the permissibility of a 40-60% reduction in normal working hours and the extension to up to six-and-a-half years. In the year 2001, approximately 10,000 persons took up the possibility of the part-time model for older workers.
- **Further training allowance for older workers:** In order to promote the further training of older workers from the age of 45, the further training allowance is being raised to the level of the unemployment benefit, the level of the parental allowance being the lower limit, if the option of educational leave is taken up, and the period of drawing unemployment benefit is extended by the duration of the training measures.
- In the year 2001, the PES made available €524.32 million for **training measures**. New search and matching processes were developed for “tele.soft” training. The starting point is the concrete personal and qualification requirements, which were assessed in cooperation with information and communication enterprises. Job requirement profiles and training course syllabuses were derived from these, and training organisations were subsequently commissioned to design new training courses.
- **Measures for the disabled.** In the year 2001, the Federal Government and the ESF launched an employment offensive, the so-called “Disabled Persons Billion”, in order to integrate disabled people into the labour market. In the year 2001, measures were promoted in the course of the “Technology Offensive” so as to give the disabled access to information, communication and further training. The integrative companies are an important focal point in enabling the permanent integration of the disabled into the labour market. The PES target for

2001, to expand the average level of participants in specific measures for disabled persons, was exceeded by 68%.

- Private placement agencies and temporary work agencies:** With the entry into force of the new regulations as from 1 July 2002, prohibition of the simultaneous operation of private placement and temporary work agencies was repealed. Special examinations for the staff of private placement agencies were abolished, as was the previous requirement for temporary work agencies to submit quarterly statistics. In addition, administrative arrangements were simplified by the abolition of the joint competence of the Federal Office of Social Welfare for both the licensing and inspection of private placement and temporary work agencies. Finally, in order to concentrate all interrelated tasks within a single administrative authority, the procedures for the cross-border placement of temporary agency workers from Austria to foreign countries and vice versa was transferred from the Federal Ministry for Economic Affairs and Labour to the commerce, trades and industry authorities.
- Tables:**

Development of private placement agencies			
	1999	2000	2001
Placement agents	42	50	56
Placements	1,970	3,022	3,765

Development of temporary agency work (cut-off date survey)			
	1999	2000	2001
Temporary work agencies	848	999	1,110
User undertakings	7,510	9,704	10,022
Temporary agency workers	24,277	30,120	33,156
Percentage of all employed persons	1.2	1.4	1.6

Central evaluation results of implementation of the National Action Plan for Employment in Austria 1998 – 2002

On the occasion of the evaluation of the first five-year period of the European Employment Strategy by the European Commission, the “Synthesis Forschungsgesellschaft” was commissioned, after an invitation to tender, to evaluate the National Action Plan in Austria from 1998 to 2002. The central results are described below:

Promotion of employment growth

In Austria, general economic growth is accompanied by a distinct increase in employment. With regard to real economic growth, two fields of measures should be emphasised:

- The training activities of the Public Employment Service under Pillar 1 (employability) and
- The promotion of business start-up in the context of Pillar 2 (entrepreneurship and the creation of new jobs).

Without the training of the unemployed in occupational fields in which enterprises had been confronted with shortages, the real GDP growth (per year) would have been 0.32% lower. Without the acceleration of annual business start-up, which was clearly encouraged by NAP measures, real GDP growth would have been 0.23% lower.

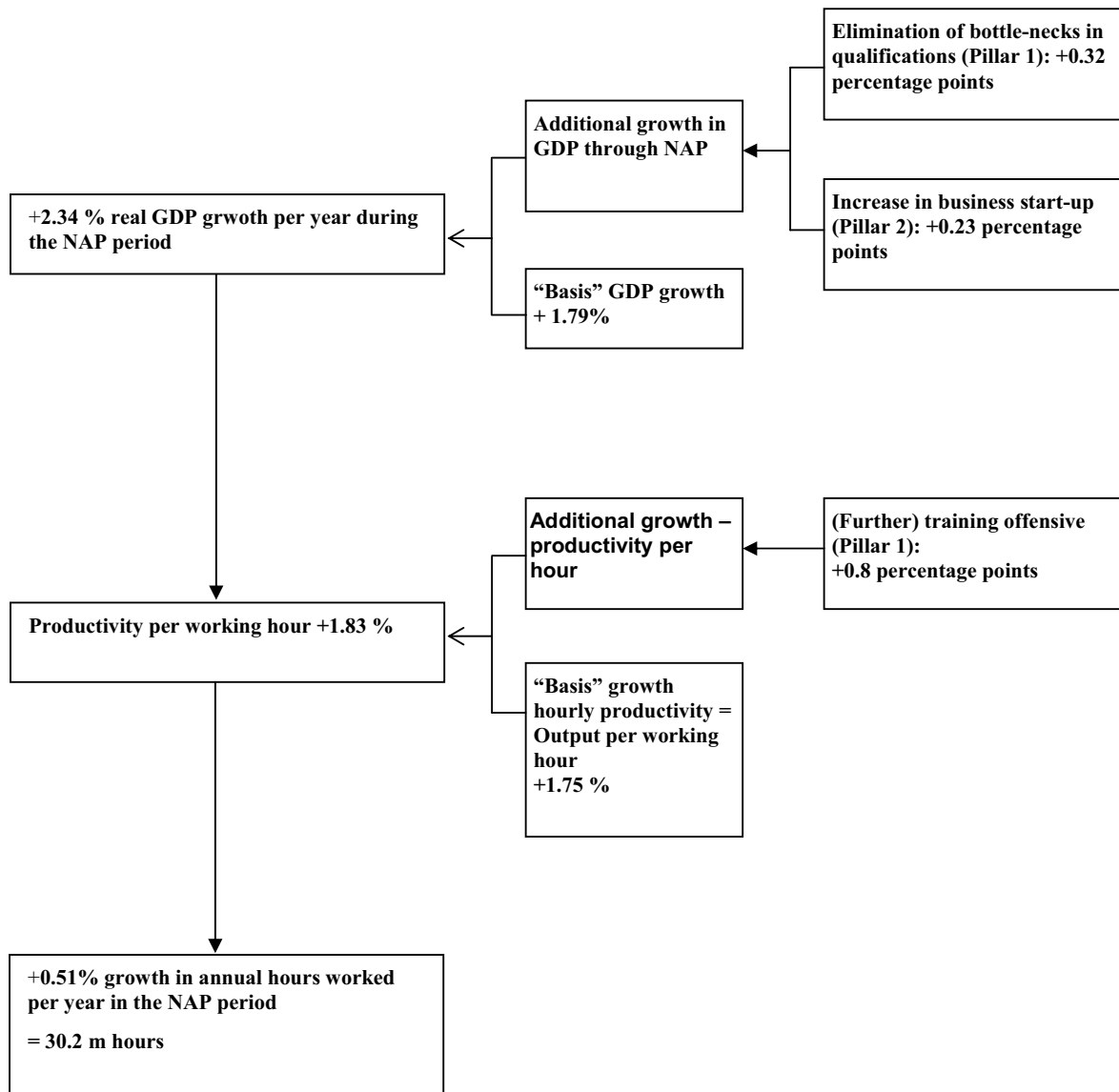
NAP measures contributed some 0.55 percentage points to the real 2.34% annual growth in GDP. Without those measures, practically no additional volume of work would have been created in the period 1998 to 2002.

Also, **hourly productivity** (output per working hour), which generates real GDP, was positively influenced by measures under the NAP. Without the “training offensives” carried out in the context of the Austrian NAP, the annual increase in hourly productivity would have been 0.08 percentage points lower, i.e. about 1.75% instead of 1.83%.

On the average for the period 1998 to 2002, growth in GDP (with a simultaneous increase in hourly productivity) made it possible to increase (demand for) labour by some 0.51% (+30.2 million hours). It was possible to satisfy this additional demand for labour on the supply side only because the enterprises and economically active persons were willing to adopt more flexible employment arrangements, in conformity with Pillar 3 (adaptability).

Over the period **1997-2002, 92,900 additional jobs were created.**

The effect of **NAP measures on growth, productivity and hours worked** (Period 1998-2002 – all figures standardised as annual values) is shown in the diagram below:



Legend: The elimination of skills bottlenecks (some 6,500 and 3,300 additional jobs) contributed 0.32 percentage points to GDP growth, on the basis of average personal labour productivity. The increased business start-up activities (7,000 jobs) had an analogous effect with 0.23 percentage points. The further training offensive - among other things related to IT skills – increased productivity per hour worked (by about 0.08 percentage points). With a growth in the hours worked by 0.51% and GDP growth of 2.34%, output per working hour was raised by 1.83%.

Overall balance of five years of the “National Action Plan” (1998 - 2002)

- The intensive promotion of new business start-up created 7,000 jobs additionally year by year.
- Targeted training for the unemployed can fill 6,550 jobs annually for enterprises confronted with labour shortages.
- The training measures and the promotion of employment ensure annually the integration into employment of 74,000 economically active persons faced with unemployment.
- The volume of unemployment remained almost unchanged (over the five-year period), because the activity level of the Public Employment Service is just sufficient, by continuous activation measures (for re-integration into employment), to counterbalance increasing unemployment related to the flexibilisation of the employment system.
- Continuous integration ensured active working careers for some 12,200 persons per year.
- The activation measures of the Public Employment Service in the form of more intensive training efforts and financial subsidisation of employment for the unemployed served the following purposes:
 - ⇒ The easing of personnel bottlenecks in enterprises
 - ⇒ The continuous employment integration of the unemployed.
- The training and employment-promotion measures of the Public Employment Service brought about a systematic and lasting reduction in long-term unemployment.
- The trend in the employment careers of women is being aligned with that of men; however, the mix of measures cannot prevent the increase in the income gap between men and women.

Other results of the study:

- The measures increased not only economic performance in Austria (annually ½% of GDP)
- But also annual employment income created by skills development measures for the unemployed (+ €2,720);
- Women were able to make better use of measures to implement their employment intentions than men.

Labour market policy

Aims of active labour market policy

In his statement of February 2001 on the Public Employment Service targets in implementation of labour-market policy, the Federal Minister of Economic Affairs and Labour set out the global aims as follows:

- The attainment and maintenance of full employment; the aim is the lasting integration in jobs in the primary labour market with incomes that ensure subsistence.
- Active measures for training in the widest sense with the aim of reducing unemployment, safeguarding employment and supporting take-up of employment and the provision of suitable labour for the economy.
- The greatest possible creation of equal opportunities, cooperation in the elimination of the gender-specific division of the labour market, with special emphasis on the compatibility of family responsibilities and employment.
- Increased transparency in the labour market in order to match labour supply and demand as rapidly as possible and to optimise matching.
- Development of human resources to support the cyclical upswing and to prevent unemployment by timely counselling and support of enterprises in matters that (might) affect the labour market, in questions of personnel recruitment, personnel skills and readjustment of working hours as well as in the development of alternatives to structurally induced cut-backs in employment.
- Overall, preference is to be given to activation rather than to passive provision for unemployment. Material support of the unemployed should be guaranteed by prompt and correct payment of justified entitlements. Conversely, however, it is necessary to demand the immediate repayment of unjustified cash benefits (however, a humane deferred repayment system should not be affected thereby).
- Comprehensive action should be taken to counteract the social marginalisation caused by long-term unemployment, particularly among older people. Support should be given in activating the personal skills of the persons affected and in helping them to become integrated in a meaningful work process.

Expenditure on labour market policy

In the year 2001, funds spent on active labour market policy measures reached their highest level yet (22% increase from the previous year). That distinctly improved the scope for intervention by the Public Employment Service (PES). Expenditure on passive benefits stagnated (+2% from the previous year), accompanied by a slight increase in unemployment. The proportion of total expenditure (on active and passive labour market policy measures) fell from some 71% in 1997 to some 57% in 2001.

<u>Expenditure on labour market policy</u>	1999	2000	2001
	€m		
Passive benefits (unemployment benefit, emergency assistance, parental leave allowance, special emergency assistance and special support)	2,845	2,636	2,684
Active labour market policy (Counselling/placement/training/wage subsidies)	783	775	946

Notes:

- Passive benefits include proportionate contributions to social insurance (pension, sickness and accident insurance) per benefit paid, less passive resources used for active labour market policy.
- The active labour market policy figures should be understood as including the share of the European Social Fund, unemployment insurance resources used for active measures (special integration assistance, etc.) as well as funds in the context of the NAP 1999 and following years (e.g. the safety net for youth, New Start, etc.)
-

	1999	2000	2001
Share of passive benefits in the total labour market policy budget	64%	60%	57%
Active labour market policy expenditure as a proportion of the total budget	18%	18%	20%

Database: Final accounts of labour market policy measures; Source: Federal Ministry of Economic Affairs

NB: The difference from total expenditure (100%) is the result of personnel and materials expenditure, collection charges, bad weather compensation, transfers to the pension insurance and transfers to the Public Employment Service (loan costs).

Performance of the Public Employment Service

Key labour market data at a glance

	2000	2001
Persons affected by unemployment	688,873	706,239
Unemployment register inflows	723,000	808,000
Unemployment register outflows	800,000	824,000
Average duration of unemployment (UE)	118 days	106 days
Resumption of employment (RE) directly from unemployment	425,000	438,000
RE after long-term unemployment (> 6 months)	36,000	34,000
RE of persons over 45 directly from UE	77,000	87,000
RE by disabled persons directly from UE	33,000	32,000
New vacancies	312,000	273,000
Vacancies filled	313,000	282,000
<i>Vacancies filled</i> within 1 month	64.4 %	65.0 %
<i>Vacancies filled</i> within 2-3 months	24.8 %	23.7 %
<i>Vacancies filled</i> after 3 months	10.9 %	11.3 %
Trainees (annual average)	28,585	31,615

Source. Federal Ministry of Economic Affairs

Expenditure and beneficiaries of active labour market policy

Active measures	Beneficiaries/ expenditure 2000	Beneficiaries/ expenditure 2001
PES training measures (Source: Datawarehouse - DWH)	276,342	418,243
Expenditure on PES training measures - DWH and NAP Implementation Reports	€355.1 m	€352.7 m
Regional mobility - thereof childcare allowance	28,084 15,565	28,359 15,227
Expenditure on regional mobility - thereof childcare allowance	€10.0 m €8.4 m	€10.2 m €8.4 m
Enterprise integration allowances for problem groups (BEB)	14,297	18,295
Expenditure on BEB	€97.8 m	€115.2 m
Non-profit integration allowance and non-profit employment projects (GEB and GBP)	2,477	3,579
Expenditure on GEB and GBP	€42.0 m	€35.6 m
Socio-economic enterprises (SÖB)	2,477	5,676
Expenditure on SÖB	€31.3 m	38.8 m
Number of disabled persons assisted	59,584	71,625
Assistance expenditure for disabled persons *	€96.0 m	€102.3 m
Number of foreigners assisted	29,736	49,057
Assistance expenditure for foreigners ⁺	€45.6 m	€53.6 m
Number of youth in assistance measures (especially apprenticeship and preparatory vocational training)	92,154	120,254
Assistance to youth ⁺	€141.9 m	€129.8 m
Total cases of assistance approved according to PES implementation reports, including the Adapt and Employment Community initiatives	338,719	499,696

⁺ Ministry of Economic Affairs estimate; * PES Austria / NAP estimate

Utilisation of unemployment insurance funds for active labour market policy measures*	2000	2001
Occupational mobility, training after drawing parental leave allowance	€55.5 m	€104.2 m
Solidarity funds for retraining workers – unemployment benefit	€38.5 m	€37.5 m
Reintegration allowance after drawing parental leave allowance	€1.2 m	€1.1 m
Unemployment benefit for rehabilitation measures	€8.3 m	€9.9 m
Part-time working allowance for older workers	€6.3 m	€69.4 m
Unpaid training leave and solidarity bonus	€19.6 m	€21.4 m

* Utilisation of passive unemployment insurance resources for active measures: including the social insurance contributions paid by the PES in respect of such measures.

Sources: PES assistance statistics; 2000 Implementation Report on the NAP; Federal Ministry of Economic Affairs, Sektion II

Performance of unemployment insurance

At the interface between aggressive employment policy and social policy, the formulation of targets and correct targeting of transfer payments for the provision of material subsistence have important functions

For the area of unemployment insurance, these are:

- Provision of material subsistence for the unemployed in such a way as to make possible a specific search for jobs;
- Safeguarding mass purchasing power;
- Collaboration in preventing the development of under-employment balances.

As in previous years, the primary aims of the Federal Government were the optimisation of the correct targeting of benefits, rapid payment of benefits and the provision of resources for active labour market policy.

The most important instruments of passive labour market policy are replacement wage income in the form of unemployment benefit and emergency assistance.

In the year 2001, on average, 117,851 persons drew unemployment benefit (70,952 men, 46,899 women) and 71,694 persons drew emergency assistance (39,154 men, 32,540 women). On the average for the year 2001, 107,956 persons drew unemployment benefit (63,987 men, 43,969 women) and 74,928 persons drew emergency assistance.

Ad B and C:

In reply, reference is made to the tables attached as Annex 1 (compilation of the most important labour-market data; tables on the development of employment and unemployment). Further important data and facts on the area of the labour market can be consulted on the home page of the Federal Ministry of Economic Affairs under:

<http://www.bmwa.gv.at/BMWA/Themen/Arbeitsmarkt/Arbeitsmarktdaten/default.htm>:

As additional data, other background information and reports from the Federal Ministry of Economic Affairs and Labour are transmitted in Annex 2:

- Targets set for the Public Employment Service by the Federal Minister of Economic Affairs and Labour for implementation of labour market policy
- The labour market in the year 2001
- The labour market in the year 2002
- Labour market policy in Austria
- Central evaluation results of implementation of the National Action Plan for Employment in Austria in the period 1998 to 2002

Replies to the supplementary questions on Article 1 Paragraph 1 in Conclusions XVI-1:

Labour market policy measures for foreigners:

In his directives to the Public Employment Service (2001), the Federal Minister of Economic Affairs and Labour identifies foreigners (including applicants for asylum with protection against *refoulement* who have already had long lawful residence in Austria and have so far had no access to the labour market) as special target groups for consideration in the labour market. Special measures must be developed and implemented for them if they have problems in access or re-access to the labour market despite their entitlement to unemployment insurance benefits.

The field of activity of active labour market policy and thus of the Public Employment Service is the domestic labour market. As this is not defined formally in terms of the nationality of workers, access to various PES promotion programmes is possible in principle for Austrians and foreigners on an equal basis. However, Austrian labour market policy, according to its statutory function, is directed to the labour potential available on the domestic labour market. Labour market services to foreigners can therefore be provided only in the framework of the provisions of the prevailing law on aliens.

In the year 2002, more than 25,000 non-Austrians received PES benefits (see Table 1), representing a share of approximately 10.1% of all such beneficiaries. By comparison with the previous year, this indicates an above-average increase of +20% (overall: +13.8%). The relevant expenditure to be budgeted was some €63 million. If the passive funds used for “active” labour market integration benefits for foreigners are also taken into account, the aggregate expenditure for the year 2002 can be assumed (according to calculations of the Federal Ministry of Economic Affairs and Labour) to be some €80 million (+19.6% over 2001) (see Table 2).

On the annual average for 2002, 32,927 foreigners (not including EEA nationals) were unemployed. That is 17.6% more than in the previous year (overall +14%). The increases are chiefly in unskilled occupations (+1,008), cleaning (+501) and construction (+334). Some 96% of the unemployed received unemployment insurance benefits.

Table 1: Number of foreigners* receiving PES benefits by gender and type of benefit in the years 2001/02

	2001			2002			Change 01/02 in %		
	Women	Men	Total	Women	Männer	Total	Women	Men	Overall
Integration allowances	632	1,297	1,929	672	1,348	2,020	6.3	3.9	4.7
Commuting allowance	23	16	39	25	10	35	8.7	-37.5	-10.3
Non-profit employment projects	125	118	243	161	188	349	28.8	59.3	43.6
Socio-economic enterprises	201	275	476	280	398	678	39.3	44.7	42.4
Total employment measures.	952	1,669	2,621	1,117	1,898	3,015	17.3	13.7	15.0
Help for subsistence	5,452	6,706	12,157	6,139	8,222	14,361	12.6	22.6	18.1
Subsidisation of training measures	5,766	7,293	13,057	5,818	8,221	14,039	0.9	12.7	7.5
Allowances for course costs	931	1,148	2,079	1,624	2,018	3,642	74.4	75.8	75.2
Allowances for extra course costs	4,905	6,282	11,186	5,501	7,246	12,747	12.2	15.3	14.0
Solidarity funds	240	298	538	169	413	582	-29.6	38.6	8.2
Apprenticeship subsidies	260	520	780	257	430	687	-1.2	-17.3	-11.9
Total training measures.	7,340	9,301	16,639	8,089	11,160	19,249	10.2	20.0	15.7
Counselling and service facilities	1,129	1,094	2,223	2,232	2,453	4,685	97.7	124.2	110.8
Childcare allowances	1,200	31	1,231	1,016	36	1,052	-15.3	16.1	-14.5
Enterprise establishment programme	59	139	198	106	214	320	79.7	54.0	61.6
Business start-up allowance	32	67	99	52	104	156	62.5	55.2	57.6
Interviewing expenses allowance	153	305	458	143	406	549	-6.5	33.1	19.9
Total support measures	2,473	1,562	4,035	3,402	3,055	6,457	37.6	95.6	60.0
Grand total	9,629	11,604	21,231	11,034	14,447	25,481	14.6	24.5	20.0

*Persons who received benefits for at least one day in 2001 or 2002.

Table 2:

**Active Labour Market Policy for Foreign Workers
in the Year 2002**

	Foreign workers	Foreign workers
	2001	2002
	Amount	Amount
Training	37.6	43.5
Employment	14.3	13.7
Support	4.1	5.5
Passive funds used for active policy measures (Not including social insurance)	10.1	13.4
Part-time working allowance for older workers	0.9	4.0
Total	67.0	80.1
Change in %	-	+19.6%
Total in ATS m	922	1,102

Sources: Special PES-DWH EVALUATION;
BMWA Report: "Labour market policy in Austria", October 2002

Employment/unemployment among disabled persons and labour market policy measures for the disabled:

In 2001, the number of unemployed persons with a disability of at least 50% averaged 4,719.¹ Another 25,048 jobless persons were on average classified as disabled.² The total number of 29,767 persons corresponds to a decrease of 2,381 or 7.4% from the previous year (cf. Annex 1, Table 1). In view of this above-average decrease, the share of disabled persons registered as unemployed in the total number of unemployed fell to 14.6% (2000: 16.5%). In total, 32,444 jobless disabled persons (10,755 women and 21,689 men) were able to find new employment (cf. Annex 1, Table 2).

¹ Within the meaning of the Disabled Persons' Recruitment Act, the Persecution Victims' Relief Act and the Provincial Disabled Persons Acts.

² E.g. construction workers with spinal problems.

Table 3: Unemployment among the disabled in 2001

(People with a disability who are eligible under the Disabled Persons' Recruitment Act [Behinderteneinstellungsgesetz], under the Persecution Victims' Relief Act, under the Provincial Disabled Persons Act and/or under the PES guidelines)

Year/ Month	Population	Total		Popu- lation	Men		Popu- lation	Women	
		Change from previous year Absolute	Relative (%)		Change from previous year Absolute	Relative (%)		Change from previous year Absolute	Relative (%)
2000	32,147	- 7,230	- 18.4	20,261	- 4,686	- 18.8	11,886	- 2,545	- 17.6
2001	29,767	- 2,381	- 7.4	18,850	- 1,411	- 7.0	10,917	- 969	- 8.2
<i>Jan 01</i>	33,730	- 6,913	- 17.0	22,248	- 4,676	- 17.4	11,482	- 2,237	- 16.3
Feb 01	33,000	- 6,132	- 15.7	21,691	- 4,269	- 16.4	11,309	- 1,863	- 14.1
Mar 01	31,040	- 5,496	- 15.0	19,921	- 3,709	- 15.7	11,119	- 1,787	- 13.8
Apr 01	29,134	- 4,870	- 14.3	18,217	- 3,175	- 14.8	10,917	- 1,695	- 13.4
May 01	27,711	- 3,787	- 12.0	17,215	- 2,340	- 12.0	10,496	- 1,447	- 12.1
Jun 01	27,253	- 2,079	- 7.1	16,776	- 1,251	- 6.9	10,477	- 828	- 7.3
Jul 01	27,372	- 1,145	- 4.0	16,786	- 640	- 3.7	10,586	- 505	- 4.6
Aug 01	27,658	- 780	- 2.7	16,933	- 385	- 2.2	10,725	- 395	- 3.6
Sep 01	27,376	- 49	- 0.2	16,963	+ 245	+ 1.5	10,413	- 294	- 2.7
Oct 01	28,457	+ 258	+ 0.9	17,640	+ 468	+ 2.7	10,817	- 210	- 1.9
Nov 01	30,507	+ 619	+ 2.1	19,243	+ 813	+ 4.4	11,264	- 194	- 1.7
Dec 01	33,970	+ 1,811	+ 5.6	22,571	+ 1,987	+ 9.7	11,399	- 176	- 1.5

Source: PES

Table 4: Job take-up by the disabled, 1997 to 2001

	1997	1998	1999	2000	2001		
					Men	Women	Total
Total	29,546	29,556	33,940	33,164	21,689	10,755	32,444
Percentage of job take-up by the disabled in all outflows	36.0	34.8	32.7	34.0	-	-	34.9

Source: PES

The labour market policy measures of The Federal Offices for Social Welfare

The National Action Plan for Employment (NAP) gives an overview by target groups of all labour market policy measures intended to facilitate the integration of the disabled into the labour market. The targets and measures set forth take into consideration the differing needs and requirements on the labour market, personal circumstances and age, and are complementary, with the aim of finding a holistic solution for the difficulties experienced by disabled people in obtaining or retaining a job geared to their needs.

The main focus is on the following aims:

- Needs-oriented development of the work adjustment back-up system
- Employment measures
- Training measures
- Other support measures

These aims, focal points and measures are defined by the Community initiative EQUAL, in Objective 1 and Objective 3 of the uniform programme planning document (EPPD) for the planning period 2000-2006, in the context of the Federal Government's employment offensive and in §§ 6 and 10 a of the Disabled Persons' Recruitment Act (BEinstG).

Uniform programme planning document

The EPPD contains the following focal points for Objectives 1 and 3:

- Action to combat (long-term) unemployment and introduce the disabled into the labour market
- Subsidisation of worker training and innovation and adaptation of work organisation
- Awareness-creation among the public in general and employers in particular
- Further development of general organisational conditions.

The Community initiative EQUAL

The Community initiative EQUAL is intended to develop and disseminate new ways for implementing employment policy in order to combat discrimination and inequalities of any kind that are experienced both by people seeking access to the labour market and also by those who have already found such access. New structures for cooperation (development partnerships) and transnational cooperation will support these aims. The

National implementation programme on the Community initiative EQUAL provides for testing innovative approaches to the “disability/work” problem complex both through cooperative structures and concrete action.

The Federal Government’s employment offensive (“The Disability Billion”)

The Federal Government’s employment offensive, which was launched in 2001, is directed to the primary labour market and to jobs protected under social insurance law. The target is integration and reintegration into the primary labour market and the protection of jobs at risk. Therefore, all disabled persons who can be assumed to be capable of integration or reintegration into the primary labour market - at least in the medium term – will be covered by the measures.

Special target groups are:

- Disabled young people with special educational requirements or from integration classes who have learning difficulties as well as those with social and emotional handicap.
- Also, older disabled people whose jobs are at risk or who need help in reintegration – here, the interface between the specific occupation and the disability pension, among other aspects, raises substantial difficulties.
- In any case also, people with psychical, mental or sensory impairment who will in general have problems in integration into the labour market.
- Setting these focal points is by no means intended, however, to exclude other groups of disabled people from these measures.

The general plan for the Federal Government’s employment offensive is based on the difficult labour market situation of the disabled, essentially in the light of three problem fields in which action is acutely necessary:

- Access and re-access to the open labour market,
- Safeguarding jobs at risk,
- Integration of disabled people with special difficulties into the labour market.

In particular, access to information and communication technologies for people with disabilities is also to be made possible by means of a “technology offensive”, because in future such knowledge will be essential in obtaining and retaining a job. Also, projects for persons with sensory impairment and projects to support disabled people in establishing an

independent livelihood are to be built up by means of comprehensive professional counselling.

In order to bring about satisfactory solutions for the employment of the disabled, the direct environment must also be included. Housing is one important aspect here. The housing situation is unsatisfactory for many disabled people, especially for persons with mental impairment. In the framework of the employment offensive, individually adjusted solutions are to be promoted in cases in which the housing situation constitutes an obstacle to obtaining employment.

The **integrative companies**, which are an important tool for the sustainable integration of disabled persons into the labour market, are a special focus in this context. Currently, eight integrative companies are employing 1,400 disabled people. Another instrument that has proved effective over time is the work adjustment back-up system (*Arbeitsassistenz*), which aims to support people with disabilities in finding a job or preventing imminent job loss. The particular needs of women with disabilities have been taken into account in all the measures for disabled persons taken by the Federal Offices for Social Welfare.

Benefits under the Disabled Persons' Recruitment Act (BEinstG)

§ 6 of the Act provides that benefits in cash and in kind can be granted to particular groups of disabled persons eligible under the Act in order to create and maintain jobs and training places and to establish independent economic activity for the provision of a livelihood. The groups of people covered by § 10a paragraph 1a or 1b as well as paragraphs 2, 3 and 3a of the BEinstG can receive benefits in cash or kind from the resources of the Equalisation Tax Fund in order to meet the extra expenditure caused by disablement, to cope with difficult circumstances induced by disablement and to prevent impairment threatened by disablement, and for the purpose of social integration and the alleviation of particular emergency situations.

The eight integrative companies set up under §11 BEinstG have a total of 24 workshops, and provide work for some 1,400 disabled people. The integrative companies are operated on commercial principles, with a non-profit aim, in the legal form of private limited companies. Their products and services are subject to normal competition. The extra expenses resulting from the companies' commitment to employ at least 80% disabled people are met from the resources of the Equalisation Tax Fund, by the Public Employment Service and by the Provincial authorities in question.

Target groups and special measures

Disabled youth

The existing measures are being expanded and new measures are being developed in order to improve access to work for disabled youth in the light of their individual capabilities, inclinations and interests. Suitable forms of vocational preparation are provided, to help them to cope with the challenges of work by timely and appropriate assistance and training. Cooperation has been intensified between the relevant parties in the educational and labour market policy areas (the Federal Office of Social Welfare, the Provincial authorities, the school, PES, the social partners, associations, and parents).

Older people with disabilities

The inflow of older workers with disabilities into unemployment or early retirement is to be prevented, or reintegration is to be facilitated, by close cooperation between the authorities and offices in the labour market and social insurance areas. New as well as tried and tested facilities open to all target groups, such as work adjustment back-up systems, training, the provision of technical aids, etc. are intended to create incentives for employers to maintain or establish jobs for older people.

Disabled people with specific difficulties in the labour market

In order to combat (long-term) unemployment, specific active labour market policy action is being taken for people with disabilities. In order to facilitate the transition from unemployment to work, therefore, the further expansion and professionalisation of ongoing assistance is especially important. Since their training is often inadequate, skills enhancement measures are an important component in combating unemployment among people with disabilities. Although, in line with the principle of integration, general measures must also be made available, greater stress is to be laid on the needs of individual persons, and training must be designed on as individual a basis as possible.

In order to give these people access to the labour market, non-profit bodies also offer training and employment in order to stabilise and expand personal

working capacity. Here also, ongoing help measures should be taken into account in designing programmes.

Incentives are to be offered to enterprises in order to create new jobs for the disabled. In this regard, specific employment programmes can be introduced and integration allowances can be granted.

For the optimum utilisation of working capacity in future, the main stress will be laid on the development of integration and subsidisation packages. In line with the principle of integration paths, the individual instruments will be used in different possible combinations. The aim is to minimise as far as possible the reduced working capacity caused by disability. The share of the self-employed among the disabled is very low by comparison with persons without disability.

The transition to self-employment can offer the chance to build up an independent livelihood. Measures must be strengthened that make it possible and easier for persons wishing to set up in independent business to take this step.

Entrepreneurs

In order to intensify the employment of disabled people in companies, entrepreneurs are to be supported in creating, safeguarding and designing workplaces for these groups of persons. Subsidisation is made available for the counselling of entrepreneurs, for example, on the effects of a certain type of disablement on the design of a workplace or in seeking the best possible workplace in the company.

Environmental activities

Successful occupational integration simultaneously requires measures in the social environment. Awareness must be created among companies of the subject of “disablement and the world of work”.

The social environment of people with disabilities

In the field of social integration, measures such as mobility aids, design of dwellings suited to the needs of disabled persons and technical aids for private use are subsidised. Other activities open up access to the new information and communication technologies. All these measures support the disabled in their transition to independence.

Awareness-creation

Equal opportunity in access to the labour market is restricted among other things by prejudice and fear of physical contact. Targeted sensitivity and

awareness-creation should lead to a normal attitude in work. Such measures might include regional, specific and target-group oriented public relations work, supporting media projects focusing on processes of change in the environment of the disabled or the use of “godfather” models within companies. Representatives for the disabled should be supported in their awareness-creation work. The staff involved, particularly in work adjustment back-up systems and canvassing for jobs, should take greater account of awareness-creation in their external contacts. Further measures are cooperation and communication projects for integration into the labour market.

Activities and targets

In the year 2001, 19,733 measures were subsidised. The share of beneficiaries among women participants throughout Austria was 41%. Of that amount, 13,195 subsidisation measures were successful, the proportion among women being 39%.

Age structure

Analysis of subsidisation by age structure gives the following picture:

Up to 19 years	14.8%
20 - 24 years	12.5%
25 - 45 years	55.4%
Over 45 years	17.3%

The share of women was only 36% in the over-45 age group, and up to 2% above the 41% average in all other cases.

Number of persons, benefits and results

In the planning and implementation of occupational integration measures, the central aspect is the number of beneficiaries. Owing to the results-oriented attitude in achieving the targets set, many persons (necessarily) receive multiple subsidies, for example, in work adjustment back-up systems and integration allowances.

The number of beneficiaries nation-wide was 16,370, and the ratio of beneficiaries to benefits was 83:100. The share of women was 40%.

New jobs were obtained for 4,736 persons (female share = 42%) and jobs were secured for 6,513 persons (female share = 35%).

Financial resources

The above measures were financed as follows in the year 2001:

Employment offensive resources	€54.8 million
Equalisation Tax Fund	€33.3 million
European Social Fund	€8.8 million
PES contribution	€1.3 million
Contributions of the Provinces	€8.2 million
Other contributions	€0.7 million

Total **€107.1 million**

Measures for the disabled taken by the Public Employment Service (PES)

In keeping with the principle of sustainable integration into the labour market, PES subsidisation for specific target groups focuses on comprehensive skills training measures. The PES objective for the year – to expand the average number of participants in specific measures for the disabled – was exceeded by 68% in 2001³. Apart from these specific measures, all other PES skills training measures are open to disabled persons, and in 2001, 71,625 disabled persons (of whom 15,000 or roughly 21% had a degree of disability of at least 50%) took part in measures subsidised by the PES (including specific vocational rehabilitation measures). A total of 18,413 disabled persons participated in subsidised training programmes. In relative terms, the largest participation by disabled persons was attained in non-profit employment projects, where the share was 31% (cf. Annex 1, Table 4). In 2001, the volume of PES subsidies for the labour market integration of the disabled was increased to roughly €102 million, out of which about €51 million was used for skills training measures, about €45 million was spent on employment subsidies/promotion⁴ and roughly €6 million on support measures⁵ (cf. Annex 2, Table 7b). The PES expanded its services for disabled persons and persons with restricted mobility to include Internet use, and now offers them the possibility of using a wide range of information and PES services from

³ Objective: an average of 1,592 participants in vocational rehabilitation measures; the figure was actually 2,682 persons.

⁴ Job-related integration subsidies and project-oriented measures

⁵ For instance, counselling and guidance facilities under active labour market policies

home. The range of information and e-services helping disabled persons to save on time and inconvenient travel, is being continuously broadened⁶.

⁶ For instance, downloading forms and ordering health insurance vouchers in 2001.

Table 5: Disabled persons enrolled in PES measures, 1996 – 2001 (annual average population)

	1996	1997	1998	1999	2000	2001		
						Men	Women	Total
Disabled persons registered as unemployed	34,055	37,469	40,540	39,378	32,148	18,850	10,917	29,767
Percentage of women	35.7	36.2	36.5	36.6	37.0	-	-	36.7
Disabled persons in skills training measures	4,089	4,852	4,450	5,438	5,782	3,675	2,529	6,204
Disabled persons in subsidised employment (estimate by the Federal Ministry for Economic Affairs and Labour)	2,324*	1,616*	1,240*	(2,351*)	-	-	-	-
SO status **) disabled persons aged >19 (primarily subsidised employment)	-	-	-	4,052	4,154	2,028	1,262	3,290
SO status**) disabled persons aged <19 (primarily subsidised apprenticeships)	-	-	-	355	310	178	99	277
Total participants in PES measures*)	6,413	6,468	5,690	9,845	10,246	5,881	3,890	9,771

Source: PES

*) More precise recording of disabled persons enrolled in subsidised employment (job-related integration subsidies and project-oriented measures) and in subsidised apprenticeships has become possible since 1999 (through SO status** coding). Because of the above-average length of subsidies to the disabled, it can be assumed that figures were underestimated up to 1999.

**) SO status = others, i.e. not covered by special legal definitions for the disabled

Table 6: PES benefits in 2001

<i>Subsidy</i>	<i>Beneficiaries</i>									
	Persons without disability			Persons with disability				Total		Total
	Women	Men	Total	Women		Men				
	Absolute		Absolute	Absolute	%	Absolute	%	Absolute	%	
BEBE	7,791	6,639	14,430	1,448	8	2,447	13	3,895	21	18,325
ENT	1,003	613	1,616	67	4	88	5	155	9	1,771
GBP	1,318	1,134	2,452	356	10	741	21	1,097	31	3,549
KUA	797	1,869	2,666	0	0	0	0	0	0	2,666
SÖB	2,003	2,269	4,272	485	9	919	16	1,404	25	5,676
Employment subsidy	12,912	12,524	25,436	2,356	7	4,195	13	6,551	20	31,987
214	804	1,039	1,843	0	0	0	0	0	0	1,843
AST	1,292	1,700	2,992	65	2	159	5	224	7	3,216
DLU	52,935	43,168	96,103	7,181	6	10,773	9	17,954	16	114,057
FBM	52,267	44,536	96,803	7,079	6	11,334	10	18,413	16	115,216
KK	13,721	9,597	23,318	1,445	5	2,167	8	3,612	13	26,930
KNK	50,938	40,746	91,684	6,902	6	10,725	10	17,627	16	109,311
QfB	36,310	7,197	43,507	0	0	0	0	0	0	43,507
SZL	13	31	44	1	2	0	0	1	2	45
LEHR	1,701	2,255	3,956	60	1	102	2	162	4	4,118
Skills training	209,981	150,269	360,250	22,733	5	35,260	8	57,993	14	418,243
BBE	8,644	4,801	13,445	1,383	8	1,879	11	3,262	20	16,707
GB	631	1,184	1,815	35	2	102	5	137	7	1,952
KBE	691	3	694	0	0	0	0	0	0	694
KBH	14,076	266	14,342	847	6	38	0	885	6	15,227
SOL	5	6	11	0	0	1	6	1	6	16
UGP	1,168	2,029	3,197	72	2	240	7	312	9	3,509
VOR	3,198	5,679	8,877	655	6	1,829	16	2,484	22	11,361
Support	28,413	13,968	42,381	2,992	6	4,089	8	7,081	14	49,466
Total	251,306	176,761	428,067	28,081	6	43,544	9	71,625	14	499,696

Source: PES

Legend:

BEBE = integration subsidies

ENT = travel allowance

GBP = subsidy for employment in the non-profit sector

KUA = subsidy for short-time work

SÖB = socio-economic enterprises

214 = non-ESF on-the-job training

AST = Workers' solidarity fund

DLU = subsistence allowance

FBM = subsidy for educational measures

KK = subsidy for training courses

KNK = non-training subsidy

QfB = on-the-job skills training

SZL = subsidy for additional places in apprenticeship workshops

LEHR = subsidy for apprenticeship places

BBE = counselling and guidance facilities under active labour market policies

GB = business start-up subsidy

KBE = childcare facilities

KBH = childcare allowance

SOL = subsidy for solidarity bonus models

UGP = business start-up programme

VOR = allowance for interview expenses

Table 7: Participants in vocational rehabilitation measures

Objective 3: Stabilising vocational rehabilitation of disabled persons registered as unemployed		Q4 01 Absolute	2000 Absolute	Target 2001 min
Total	Austria	2,686	2,565	1,841
	Burgenland	56	55	47
	Carinthia	155	141	122
	Lower Austria	368	283	190
	Upper Austria	662	641	450
	Salzburg	109	127	100
	Styria	414	438	310
	Tyrol	199	230	113
	Vorarlberg	102	77	69
	Vienna	622	574	440
Women	Austria	1,034	981	726
	Burgenland	19	16	15
	Carinthia	73	69	60
	Lower Austria	116	92	65
	Upper Austria	207	213	162
	Salzburg	54	53	42
	Styria	178	178	127
	Tyrol	93	99	48
	Vorarlberg	29	21	22
	Vienna	265	240	185
Men	Austria	1,653	1,585	1,115
	Burgenland	36	39	32
	Carinthia	82	72	62
	Lower Austria	252	191	125
	Upper Austria	455	428	288
	Salzburg	55	74	58
	Styria	236	260	183
	Tyrol	106	132	65
	Vorarlberg	73	56	47
	Vienna	357	334	255

Source: PES

Table 8: Participants in measures of the Federal Offices for Social Welfare and the Disabled (BSB), 1996 - 2001

	1996	1997	1998	1999	2000	2001
Disabled persons in skills training measures (total number of participants)	570	1,045	1,457	1,718	1,581	1,764
Disabled persons in subsidised employment (total number of participants)	4,482	5,432	6,562	9,369*	9,746*	12,110*
Disabled persons in support measures (total number of participants)	2,364	3,090	4,350	3,555	4,120	6,640
Total number of participants in BSB measures	7,416	9,567	12,369	14,642	15,447	20,514
Bonuses according to § 9a of the Disabled Persons' Recruitment Act	9,545	10,213	9,828	11,489	3,750	4,322

Source: Federal Ministry for Economic Affairs and Labour

Note: Number of participants

* Including integrative companies (the former sheltered workshops) since 1999

Table 9a: Year 2000 expenditure (€ million) on labour market integration of the disabled

	PES labour market policy budget ¹⁾	Equalisation tax fund of the Federal Ministry for Economic Affairs and Labour	ESF ¹⁾ (Objectives 1 and 3)	Austrian Provinces	Total
Skills training measures	66.0	2.6	4.1	1.6	74.3
Subsidised employment	30.0	44.8*	7.3	11.2**	93.3
Support measures	-	1.5***	3.1	1.1	5.7
Total	96.0	48.9	14.5	13.9	173.3

Source: Federal Ministry for Economic Affairs and Labour

* Including integrative enterprises (former sheltered workshops) and bonuses for work commissioned

** Including integrative enterprises

*** Including aids for the disabled

¹⁾ Estimate

²⁾ These figures include payments made during the former programming period (1995-1999) and the current programming period (2000-2006)

Table 9b: Year 2000 expenditure (€ million) on labour market integration of the disabled

	PES labour market policy budget ¹	“Disability Billion” (<i>Behinderten-milliarde</i>)	Equalisation tax fund of the Federal Ministry for Economic Affairs and Labour	ESF ¹⁾ (Objectives 1 and 3)	Provincial / local government	Total
Skills training measures	51.0	19.3	0.7	2.0	1.1	74.1
Subsidised employment	44.9	19.8	39.9*	4.1	14.5**	122.7
Support measures	6.4	15.6	4.4	2.6	1.2	30.2
Total	102.3	54.7	32.8	20.9	16.8	227.5

Source: Federal Ministry for Economic Affairs and Labour

* Including bonuses for work commissioned

** Including integrative companies

1) Estimate

Examples of Action by the Federal Provinces

Tyrol:

The Province of Tyrol has set up a 20-member Advisory Council for Disabled Persons at regional level.

Also, some 50 “Daytime structure schemes” with 1,220 places are available for people with mental, physical and multiple disabilities. Depending on the severity of the disability, the daytime services are divided into basic care (the simplest form), care in workshops (pottery, painting, weaving) and a third form of activity, on a smaller scale, which is also organised on the basis of commissioned orders.

Daytime structure services are supplemented by integrated residential and daytime structure places and protected workshops, which offer the possibility of 40-hour employment and work only to order. Finally, there is also the possibility of job-coaching, for the purpose of placement in the free labour market.

Vorarlberg:

Decentralised advisory units for the disabled are available throughout Vorarlberg, and special advisory units have been set up for people with psychical and hearing impairment.

These advisory units provide information and counselling to the disabled, explain possibilities for occupational integration in individual cases, arrange for placement in suitable jobs and provide ongoing assistance until the employment relationship has stabilised.

Grants are made for the integration of disabled people in jobs. They include grants for work trials, subsidisation of wage costs and for vocational integration after substantial periods of unemployment. These grants and allowances are paid partly by the Provincial authorities (from resources of the Vorarlberg Social Fund) and partly by the Federal Office of Social Welfare (from resources of the Equalisation Tax Fund and the ESF), by the Public Employment Service and in some cases by the social insurance authorities. Monthly meetings in which applications are presented and decided on ensure cooperation between these funding agencies.

In Vorarlberg, grants were made to 1,149 persons in the year 2000. They included 217 persons of up to 25 years, 787 persons between 26 and 50, 138 persons between 51 and 60, and 7 persons over 60.

Reply to the question concerning the reasons for the negative developments in connection with the individual action plans for long-term unemployed adults and young people:

As was stated in Table 13a of the Statistical Annex to the NAP 2001: EU input and output indicators for adults, the correct figures are as follows:

In the year 1998: 71.47%; in the year 2000: 56.88% (not 54.7%).

Up to the year 2001, favourable cyclical development and the expansion of the training activities of the PES led to a decrease in the number of persons on the long-term unemployment register. These two factors, favourable cyclical development and the intensified training activities of the PES, made a substantial contribution to the decline in long-term unemployment, i.e. registration of one year and longer. That also explains the decrease in the relevant indicator. This explanation also applies by analogy to the decline in long-term unemployment among young people.

Long-term unemployment has decreased since 1998 (annual average of persons registered for one year and longer: 37,889), with a steady decline up to the year 2001 (annual average of persons registered for one year and longer: 11,336).

Reply to the question on the low level of expenditure on active labour market policy:

Expenditure in Austria on active labour market policy is in fact low by international comparison, but the following should be pointed out:

Austrian expenditure on active labour market policy as a percentage of GDP rose from 0.44% in 1998 to 0.53% by the year 2001.⁷

The annual percentage increases from 1998 to 2001 in expenditure on active labour market policy by the Federal authorities were as follows:

1998	1999	2000	2001
+1.7%	+29.8%	-1.0%	+18.6%

Source: NAP 2002; Annex 2: Important Financial Data; Table 31: Expenditure on active labour market policy by the Federal authorities 1998 – 2001 in € million.

The table below (from the Annex) shows the various components of expenditure on active labour market policy.

⁷ Source: OECD Employment Outlook; July 2002; Active Measures include Public Employment Service and administrative measures; labour market training, youth measures, subsidised employment, measures for the disabled.

Federal expenditure on active labour market policy 1998-2001 in € million (ATS million)

	1998	1999	2000	2001
Active labour market policy (PES + Federal Ministry of Labour, Health and Social Affairs)	370.2 (5,094)	433.8 (5,969)	453.9 (6,246)	437.7 (6,0230)
+ BESEB	36.3 (500)	81.7 (1,124)	80.7 (1,110)	89.8 (1,236)
+ ESF+GI	112.5 (1,487)	108.1 (1,487)	69.5 (956)	112.9 (1,554)
Total Labour Market Policy, excluding Youth Labour Provision Act + passive funds used for active measures	519.0 (7,142)	623.5 (8,580)	604.1 (8,312)	640.5 (8,814)
<i>Passive funds used for active measures incl. social insurance</i>	73.4 (1,010)	120.6 (1,659)	129.8 (1,786)	243.3 (3,348)
Unemployment benefit related to solidarity funds	39.5 (544)	41.5 (571)	38.5 (530)	37.3 (513)
Training unemployment benefit/emergency assistance, training after parental leave	30.9 (426)	65.3 (899)	55.5 (763)	104.2 (1,434)
Reintegration allowance	1.5 (21)	1.2 (16)	1.2 (16)	1.1 (15)
Unemployment benefit in rehab. measures	0.5 (7)	5.2 (72)	8.3 (114)	9.9 (136)
Part-time working allowance for older workers	0 0	0 0	6.3 (86)	69.4 (955)
<i>Safety net for youth</i>	5.2 (71)	31.6 (435)	34.5 (475)	266 (366)
Solidarity funds for workers	2.8 (39)	14.3 (197)	18.5 (255)	10.7 (147)
Courses	2.3 (32)	17.3 (238)	15.9 (219)	15.8 (218)
Grand total	597.6 (8,223)	775.7 (10,672)	768.3 (10,572)	910.4 (12,527)
Percentage increase from previous year	1.7	29.8	-1.0	18.6

Source: Federal Ministry of Economic Affairs; NAP Implementation Report 2002; Annex 2: Important financial data; Table 31

With regard to the inclusion of the unemployed in active measures, the following should be pointed out:

It is true that, by international comparison, Austria spends relatively little on active labour market policy. The picture improves, however, if expenditure on active labour market policy is related to the level of unemployment. That would certainly be a better measurement indicator.

By international comparison, the proportion of the unemployed in Austria who are included in active measures is relatively low. This is caused by the special structure of the Austrian labour market (a high seasonal component) on the one hand and the high effectiveness and efficiency of labour market policy measures (relatively short duration of unemployment) on the other hand. However, in recent years, Austria has distinctly expanded the share of unemployed people in active measures (see above).

Article 1 paragraph 2

The elimination of all forms of discrimination in employment

Ad A:

The elimination of gender-based discrimination:

An **EU Night Working Adjustment Act** was adopted in BGBl. I. No. 122/2002, under which special gender-neutral night work provisions were incorporated into the Hours of Work Act, the Hospital Working Hours Act and the Bakery Workers Act 1996, and the Federal Act on Night Work by Women incorporating the prohibition of night work by women was repealed.

These night-working provisions entitle night workers to free medical examinations and establish an entitlement for them vis-à-vis the employers to be transferred to a suitable daytime job, if circumstances within the company permit, in the event of risk to health or in the light of absolutely unavoidable care obligations towards children of up to 12 years.

The Equal Treatment Act 1979 was twice amended in the year 2001.

Under the First Euro Conversion Act (BGBl. I No. 98/2001), the Austrian schilling amounts specified in the Equal Treatment Act were replaced by euro amounts. The entitlement to compensation for sexual harassment now amounts to at least €363.40 instead of ATS 5,000.00.

By a further amendment to the Equal Treatment Act in the year 2001 (BGBl. I No. 129/2001), the legal status of the Chairperson of the Equal Treatment Committee was amended, in particular by time-release of the Chairperson on full pay, in order to make it possible to expedite proceedings before the Equal Treatment

Committee, and the post of deputy was created, for reasons of procedural economy.

The talks between the social partners held in the year 1999 concerning a further comprehensive amendment of the Equal Treatment Act, which, however, it was not possible to conclude, were resumed in the year 2002. The content of the social partner talks included in particular the following points:

Adjustment to EU law:

- Adjustment to the case law of the European Court of Justice by abolition of the ceilings for damages in the event of discrimination in (recruitment) and in career development;
- Implementation of the Directive on the posting of workers in the area of equal treatment;
- Any necessary implementation of the Directive on the burden of proof.

Other improvements of material law, in particular, by:

- Relaxation of the rules of evidence, in cases of sexual harassment as well;
- Measures to strengthen protection against discrimination (especially in the event of sexual harassment);
- Abolition of the alterability by mutual consent of prescription under the statute of limitations;
- Increase of penal sanctions in the event of infringement by employers of the requirement of gender-neutral advertising of posts;
- Improvement of procedural regulations. This applies in proceedings before both the Equal Treatment Committee and the Labour Court.

Discrimination for other reasons:

In the year 2000, the European Union adopted two Ant-discrimination Directives pursuant to Article 13 of the EC Treaty, namely, Council Directive 2000/43/EC for the application of the principle of equal treatment between persons irrespective of racial or ethnic origin (anti-racism Directive) and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, which prohibits discrimination based on religion or belief, disability, age or sexual orientation (Equal Treatment Framework Directive). The anti-racism Directive covers not only employment and occupation but also social protection, social advantages, education and access to and supply of goods and services. The Equal Treatment Framework Directive covers only employment and occupation. The Directives apply to both the public and private sectors.

As a result of the constitutional division of competence between the Federal and the Provincial authorities, the two anti-discrimination Directives have to be

implemented by both the Federal and the Provincial legislatures. With regard to the Federal legislature, implementation is to be carried out largely through the existing Equal Treatment Act, which applies to the private sector and at present prohibits gender-based discrimination in connection with an employment contract. However, with regard to discrimination on grounds of race or ethnic origin, areas outside labour law must also be covered. Discrimination against the disabled is the only area not to be incorporated in the Equal Treatment Act because the legislation necessary for that purpose is to be embodied in a separate Act on the equal status of disabled persons. The special regulations for the public service sector will be incorporated in the Federal Equal Treatment Act.

The European Union also adopted Directive 2002/73/EC of the European Parliament and the Council, amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (amended EU Equal Treatment Directive). The Directive primarily contains measures for adjustment to the anti-discrimination Directives. The discrimination offence of sexual harassment, which was also incorporated in the EU Equal Treatment Directive had already been embodied in the Austrian Equal Treatment Act by the amendment in BGBl. No. 833/1992.

The draft for adjustment of the Equal Treatment Act to European Union law has already been sent for consultation. It is to be presented to Parliament for adoption in the autumn of 2003.

Content of the draft:

- Expansion of the scope of the Equal Treatment Act and of discrimination offences in order to comply with the amended European Union Equal Treatment Directive and the anti-discrimination Directives, in accordance with Article 13 of the EC Treaty, except in the case of discrimination on the basis of disability.
- Extension of the scope of the Act to persons of similar status to employees.
- Extension of the scope of the Act to cases of posting, in implementation of the EU Directive on the posting of workers,
- Inclusion of explicit definitions of the concepts of direct and indirect discrimination,
- Introduction of the discrimination offence of sex-related harassment as well as harassment offences covered by the two anti-discrimination Directives and easing of the burden of proof in all forms of harassment,
- Inclusion of a requirement for active equal status of women and men,
- Introduction of legal enforcement measures, including compensation regulations, for adjustment to the amended EU Equal Treatment Directive and the two Anti-discrimination Directives,
- Introduction of the prohibition of discrimination as a measure to strengthen protection against discrimination (inter alia for witnesses), in implementation of the amended EU Equal Treatment Directive and the two anti-discrimination Directives,
- Application to employers of the penalty for infringement of the requirement of gender-neutral advertising of posts (with a warning on the first offence), as well as introduction of the requirement of non-discriminatory advertising of posts, including a penalty,
- Constitutional protection of the independence of the Equal Treatment Ombudswoman, the Regional Ombudswoman, the Equal Treatment Commissioner and the Regional Deputy,
- Awarding to the Equal Treatment Ombudswoman, the Regional Ombudswoman, the Equal Treatment Commissioner and the Regional Deputy the status of parties in proceedings related to infringement of the requirement of gender-neutral or non-discriminatory advertising of posts, and creation of a right of motion for the Regional Ombudswomen and Regional Deputies to the Equal Treatment Committee, and
- Establishment of special units dealing with equal treatment.

Changes in the scope of the **Federal Equal Treatment Act (B-GBG):**

The provisions of § 42 (priority recruitment to the Federal Service) and § 43 B-GBG (priority in promotion) were amended in the year 2001 to comply with the case law of the European Court of Justice, and a so-called “opening clause” was introduced, meaning that women may be given preference in recruitment and appointment to more senior positions only if there are no preponderant reasons related to the person of the other applicant.

For further information, the B-GBG is transmitted in Annex 3.

Provincial Equal Treatment Acts:

Provincial Equal Treatment Acts, to be issued by the Provincial legislator, exist for the officials of the Provinces, an Association of Local Authorities or a Local Authority. As an example, the Lower Austrian Equal Treatment Act is quoted here: The Lower Austrian Equal Treatment Act 1997, LGBL 2060 (in force since 12 July 1997) regulates the equal treatment of women and men who are in the service of, or undergoing training for service with, the provincial authorities of Lower Austria, a Lower Austrian Local Authority or a Lower Austrian Association of Local Authorities, or are applying for such positions, as well as the temporary promotion of women in areas in which they are under-represented.

The purpose is to avoid gender-based discrimination as well as sexual harassment in relation with employment.

The First Amendment to the Lower Austrian Equal Treatment Act introduced improvements in the law on compensation in the year 2002 (Adjustment to EU standards: in the event of discrimination, appropriate compensation is payable) an easing of the burden of proof in court proceedings for employees subjected to discrimination. The Lower Austrian Equal Treatment Act provides for adequate measures for the effective implementation of prohibited gender-based discrimination.

A further aim is to bring about a balanced numerical relationship between women and men in all branches and at all levels of the Provincial and Local Government hierarchies.

For that purpose, the Provincial authorities of Lower Austria and 11 Lower Austrian Local Authorities have implemented programmes for the advancement of women.

Both the 1997 Lower Austrian Equal Treatment Act and the programmes for the advancement of women provide for the use of appropriate gender language in advertisements of posts. The majority of the (top) positions by the Provincial and Local Authorities are already advertised in a gender-neutral manner, or use both feminine and masculine designations.

The 1997 Lower Austrian Equal Treatment Act and the programmes for the advancement of women have set the target that the proportion of women in all

areas and at all levels should be 40%. A number of measures are provided for that purpose: preferential treatment of women in appointment, in access to training for more senior positions, and in promotion, etc.

The regulations for the advancement of women do not provide for absolute and automatic preference. Cases have to be examined individually on their merits.

Replies to the supplementary questions on Article 1 paragraph 2 in Conclusions XVI-1:

The following should be noted on the question of the legal consequences of a challenge of notice of dismissal under the Equal Treatment Act:

Gender-based discrimination:

In accordance with Austrian legislation, an employer who has given notice of dismissal or issued a summary dismissal on the grounds of the sex of an employee or because of the obviously not unjustified assertion of claims under the Equal Treatment Act cannot refuse to reinstate the employee in the event of a successful appeal against such notice or summary dismissal under § 2a paragraph 8 of the Equal Treatment Act.

Legal consequences of a successful appeal against notice of dismissal or summary dismissal on the grounds of the sex of an employee or an obviously not unjustified assertion of claims under § 2a, paragraph 8 of the Equal Treatment Act:

Basic Rule: The right to appeal pursuant to § 2a, paragraph 8 of the Equal Treatment Act constitutes an individual right. It is to be understood as individual protection and not as forming an integral part of in-plant relations.

Notice of dismissal: A successful appeal against notice of dismissal renders the latter null and void. If the court decision is issued prior to expiry of the period of notice, the employment relationship is not interrupted. If the court decision is issued upon expiry of the period of notice, the employment relationship is temporarily suspended but is restored retroactively as soon as judgment has been passed. The loss of pay during the interim period must be restituted by the employer to the employee in accordance with § 1155 of the Austrian General Civil Code (ABGB).

Summary dismissal: In this case, the employment relationship is terminated forthwith but is reinstated retroactively once judgment has been passed (see above).

However, the employee is entitled to accept the dissolution of the employment relationship, for example, because the relationship with the employer has (irretrievably) broken down, and may enforce his/her claim by legal action. The substance of such a case is the contractual claim to remuneration for the period elapsing between the date of regular notice by the employer (i.e. non-

discriminatory notice in due compliance with notice dates and deadlines) and the termination of the employment relationship (notice-related compensation).

Other discrimination offences:

It is planned to design the compensation regulations and measures for the assertion of rights under the new discrimination offences by analogy with discrimination on the basis of gender. In that context, a change to the Equal Treatment Act is also planned with regard to gender-based discrimination (see above), on the basis of the change in Equal Treatment Directive 2002/73/EC that came into force recently.

On the question of the non-gender neutral advertising of posts, the following should be pointed out:

With regard to the situation in practice, see Annex 4 (extract from the Equal Treatment Report 2001).

In order to improve the situation in practice, it is planned at the legislative level, on the occasion of the next amendment to the Equal Treatment Act, to expand the scope of the penalty for infringement of the requirement of gender-neutral advertising of posts to include employers. Although employers are the main party concerned, they are at present not penalised.

The Public Employment Service as a party concerned naturally complies with the provisions of the Equal Treatment Act both in placement and in the publication of vacancies. In its general business conditions for companies, the Public Employment Service expressly points this out to its clients (“In accordance with the provisions of the Equal Treatment Act, we formulate all advertisements of posts in a gender-neutral manner and select suitable applicants, male or female, independently of considerations of gender”).

Quota arrangements:

Federal Equal Treatment Act (B-GBG):

The requirement for the advancement of women in § 40 B-GBG requires representatives of employers, in accordance with the targets of the plan for the advancement of women, to take action to eliminate any existing under-representation of women in the total number of permanent employees and posts and to eliminate existing discrimination against women in connection with employment. Women are under-represented if their share in the total number of employees in the particular salary, functional or wage groups or in other senior positions in the sphere of activity of the official department in question is less than 40%.

As examples of how the quota arrangements are implemented in the individual Federal ministries, the plans for the advancement of women published in the Federal Law Gazette are transmitted in Annex 5.

§§ 42 and 43 B-GBG (preferential recruitment and treatment in promotion) were formulated in such a way before the 2001 amendment that women must in any case be accepted as the most suitable applicants for established posts, given equal qualifications, until the 40% quota has been reached or, what would be more significant in practice, are to be entrusted with the function desired. The provisions were harmonised in 2001 with the judgments of the European Court of Justice, and the “opening clause” was inserted, that is to say, that preference is to be granted only if “there are no preponderant reasons related to the person of the other applicant”.

The Federal Equal Treatment Committee is competent on application by the woman affected for examination of alleged non-compliance with the requirement for the advancement of women.

Advancement of women in companies under the Collective Labour Relations Act:

No detailed information is available with regard to the advancement of women in companies, which can be implemented in the form of works agreements, because works agreements need not be deposited with, nor communicated to, the Federal Ministry of Economic Affairs and Labour. According to the Collective Labour Relations Act, works agreements need be transmitted only to the bodies representing the interests of the employers and the employees competent for the company in question.

Repeal of § 8 paragraph 2 of the Aliens' Employment Act (AuslBG):

Termination of the employment of alien workers based on the regulation in § 8 paragraph 2 of the Act (AuslBG) does not occur in practice. De facto, therefore, § 8 paragraph 2 of the AuslBG is never applied, so that there can be no question of discrimination against foreign workers. It is intended to eliminate the regulation

under § 8 paragraph 2 from the law in the course of an amendment to the Aliens' Employment Act.

Are there categories of employment/occupations from which aliens are excluded?

The labour laws in Austria are applicable to all workers irrespective of their nationality.

Furthermore, the Aliens' Employment Act contains no regulations that exclude aliens a priori from admission to particular categories of employment.

Ad B:

The previous reporting should be supplemented as follows:

Similar regulations to those related to gender discrimination provide for the cooperation of the employers' and employees' organisations in connection with the new discrimination offences.

Ad C:

No relevant changes.

The prohibition of forced labour

Ad D to E:

No relevant changes.

Ad G:

In reply to the **supplementary questions on Article 1 paragraph 2 in Conclusions XVI-1**, the previous reporting should be updated as follows:

Work in prisons:

In principle, every convict and person committed to prison who is fit for work is obliged to perform work. Work involving danger to life or the danger of severe damage to health is excluded. The performance of meaningful and useful work has proved to be a significant factor in making a substantial period of imprisonment tolerable. Furthermore, skills are to be imparted that will facilitate making an honest living after release.

Overall, work during a prison sentence is of great value. From the convicts' viewpoint, work is an essential factor for participating in social contacts within a prison and at the same time the only possibility for them to earn money during imprisonment. Further important aspects of such work are the maintenance or improvement of the inmates' vocational skills and the provision of meaningful activity. Work is a decisive prerequisite for exerting a positive influence on the inmates and an important factor in re-socialisation.

Since 1 January 1994, working prisoners have been covered by unemployment insurance and have had corresponding unemployment insurance entitlements after release.

In the 29 prisons, approximately 50 different types of trade and business enterprises are carried on, ranging from joinery to metal-working, book-binding, printing, and the production of articles in concrete to agriculture (arable and/or stock farming). The worker protection provisions applicable to private companies also apply to the prison workshops. The average working day is approximately 6 hours.

The level of pay for inmates is linked to the collective wage index calculated by Statistik Österreich; at present, the following hourly rates apply:

- | | |
|-------------------------------|-------|
| a) Light unskilled work | €3.98 |
| b) Heavy unskilled work | €4.48 |
| c) Skilled manual work | €4.98 |
| d) Highly skilled manual work | €5.47 |
| e) Work as foremen | €5.97 |

The commonest forms of work done by inmates of prisons are:

1. Work in a shop attached to the prison (metal-working, joinery, book-binding, etc.). For this purpose, the prison accepts orders for the work in question, for instance, from an outside company, or some private companies locate workshops within the prisons, where the inmates work.
2. The employment of prisoners outside a prison. The prison finds a job for the prisoner and concludes a temporary agency work contract with the external company operator; alternatively, the previous employer requests his former worker (who is imprisoned) and concludes a temporary agency work contract with the prison.

Working hours should be equated as far as possible with normal conditions in commerce, trades and industry enterprises or, where applicable, in agriculture and forestry. The legally permissible maximum working hours may not be exceeded (§ 50 paragraph 1 StVG). Work may not be performed on Sundays or public holidays, unless it is necessary for the operation of the prison or in other cases of urgent need or because it cannot by its very nature be interrupted. Subject to the same limitations, prisoners may not perform work at other times when rest periods are prescribed according to their religious convictions (§ 50 paragraph 3 StVG).

The earnings from work (wages) of prisoners are paid to the Federal authorities (§ 51 paragraph 1 StVG); prisoners who perform satisfactory work must receive pay for work done by them (§ 51 paragraph 2 StVG).

Under § 45 paragraph 2 StVG, employment on work for commerce, trades and industry enterprises or for other private customers is possible. The prisons are permitted to conclude contracts on work by prisoners with enterprises in commerce, trades and industry (§ 46 paragraph 3 StVG).

§ 49 paragraph 3 also applies to work performed de facto for private companies, according to which the working tools to be used and the operations to be carried out by the prisoners are subject mutatis mutandis to the general provisions for the protection of the life, health and physical safety of the workers. In this context, it may be the case that company employees exercise technical supervision, but they have no disciplinary power whatsoever over the prisoners and in particular may not exercise any indirect or direct pressure. Accordingly, the company has no authority over the prisoners. The prison staff exercises surveillance.

The arrangement that a prisoner performs work without surveillance outside the prison and does not have to work for an enterprise belonging to the prison (day release), may in any case be made only with the consent of the prisoner (§ 126 paragraph 3 StVG).

Entitlement to unemployment benefit:

A person who is available for placement by the relevant authorities, who satisfies the entitlement conditions and has not exhausted his entitlement is entitled to unemployment benefit. Persons who can and may accept employment, are willing and able to work and are unemployed are available for placement.

The requirement of willingness to work is not met in the event of refusal to take up work or participate in training. This applies, however, only in the case of refusing employment that the person can reasonably be expected to accept, training that is necessary to increase chances of employment or failure to make reasonable efforts to obtain employment, according to the personal abilities of the unemployed person.

Employment is considered to be reasonable if it is consistent with the physical capabilities of the unemployed person, does not endanger his/her health or morals, is appropriately paid and does not materially endanger future employment in the unemployed person's occupation. Employment is considered to be appropriately paid if the rate applicable under the relevant collective agreement is paid. The right to employment in the trade learned applies for the entire duration of drawing unemployment benefit. During the payment of emergency assistance, there is no longer any such right if there is no prospect that employment in that occupation can be found in the foreseeable future.

The right exists not only on the basis of formal qualifications but also on the basis of skills and knowledge acquired and applied in practice.

For the duration of sustained unwillingness to work, there is no entitlement to unemployment benefit or emergency assistance. If unwillingness to work is established, there is in principle no entitlement to unemployment benefit (emergency assistance) for at least six weeks. In the event of repeated loss of entitlement within one year owing to unwillingness to work, the entitlement is in principle lost for at least eight weeks. Before a decision is made regarding loss of entitlement on grounds of unwillingness to work, the Regional Advisory Council must be heard. The Regional Advisory Council consists of the head of the Regional Office of the Public Employment Service and two representatives each of the employers and the employees. If there are valid reasons, for example, the take-up of different employment, the loss of entitlement is completely or partially ineffective.

Within 14 days after serving of the notice of loss of entitlement to unemployment benefit (emergency assistance), an appeal can be made to the Provincial Office of the Public Employment Service. The appeal is decided on by the Benefits Committee of the Public Employment Service, which consists of a representative of the Public Employment Service as Chairperson and one representative each of the employers and the workers.

The legal framework of part-time work:

The Hours of Work Act BGBl. No. 461/1969, as amended by BGBl I No. 122/2002, provides for regulations regarding part-time work in its § 19d.

Part-time work is considered to exist if the agreed weekly working hours are less than the statutory normal working hours or are on average less than the shorter normal working hours determined under collective bargaining rules.

The extent and timing of working hours and changes are subject to agreement. Workers employed part time are required to perform more work (work beyond the extent agreed) only provided that

- Statutory provisions, collective bargaining rules, or the working contract so provide,

- There is an increased requirement for work, or extra work is necessary for the purpose of preparations for an assignment or work on its final stages, and
- Important interests of the workers do not conflict with the extra work.

Regularly performed extra work must be taken into account where entitlements are calculated according to the extent of working hours (e.g. in the case of special payments).

Discrimination against workers employed part-time vis-à-vis full-time workers is prohibited. In cases of dispute, the employer must prove that no discrimination is made because of part-time work. Differential payment of part- and full-time workers would conflict with the prohibition of discrimination.

The employer can change the timing of working hours only

- If such change is objectively justified owing to reasons related to the type of the work,
- The arrangement of normal working hours for the week in question is announced at least two weeks in advance,
- Important interests of the employees do not conflict with this arrangement and
- There are no agreements to the contrary (§ 19c AZG in conjunction with § 19d AZG).

No minimum working hours have been determined by statute, but there are relevant rules under collective agreements.

Article 1 Paragraph 3

Ad A to E:

See reporting on Article 1 Paragraph 1.

Article 1 paragraph 4

See reporting on Articles 9, 10 and 15.

TWENTYFIRST REPORT - P A R T I

on the implementation of **Articles 5 and 19** of the European Social Charter
(Reporting period: 1 January 2001 to 31 December 2002)
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 5
THE RIGHT TO ORGANISE

Ad A, B and C:

No relevant changes.

Negative conclusion on Article 5 (Conclusions XVI-1):

The right of foreign workers to stand for election to works councils is at present the subject of treaty infringement proceedings (No. 99/4115) initiated by the European Commission against the Republic of Austria. Since a clarification of the legal position by the European Court of Justice is shortly to be expected, the result of those proceedings should be awaited before the discussion of any legal action and any award to foreign workers of the right to stand for election to works councils should be made according to the judgment of the European Court of Justice.

As was already pointed out in reply to the supplementary questions of the Committee of Social Rights on the Nineteenth Report, the question of the right of foreign workers to stand as candidates in Chamber of Labour elections, where there is a similar problem to that of works council elections, is at present the subject of a challenge before the Constitutional Court. By a ruling of 2 March 2001, the Constitutional Court suspended those proceedings and applied to the European Court of Justice for an interlocutory decision. The judgment of the European Court of Justice was issued on 8 May 2003. It was decided that Turkish workers in the regular labour market may not be excluded from the right of eligibility to the General Assembly of the Chambers of Labour. The decision of the constitutional court is to be expected in the autumn of 2003.

TWENTYFIRST REPORT

on the implementation of **Article 6 and 12** of the
EUROPEAN SOCIAL CHARTER

(Reporting period: 1 January 2001 to 31 December 2002)

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 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 6

THE RIGHT TO BARGAIN COLLECTIVELY

Article 6 paragraph 1

No relevant changes.

Reply to the supplementary question on Article 6 paragraph 1 in Conclusions XVI-1:

The civil service:

Questions affecting the civil service in general are the subject of discussion between the employer's side and the public sector trade unions on the employees' side. The public sector trade unions are the Local Authority Service Trade Union, the Arts, Media and Free Professions Trade Union, the Union of Posts and Telecommunications Employees and the Civil Service Trade Union.

The across-the-board interests of public sector workers are represented by the public sector trade unions. Problems that affect only individual groups of employees are discussed between the competent employer's representatives and the competent trade-union representatives before they are regulated by means of Acts of Parliament or Orders.

The proportion of employees covered by collective agreements in the total number of federal employees was only 0.06% (as of 31 December 2002).

Employment and salary conditions of other Federal employees are regulated by means of Acts of Parliament.

Regulation of employment conditions by Act of Parliament instead of by a collective bargaining agreement does not place employees at a disadvantage, since detailed negotiations take place between the representative bodies before adoption by the National Council and since these Acts of Parliament are compromises in the same way as collective agreements.

The same legal provisions as those in the private sector apply to the conduct of collective agreement negotiations.

“Internally”, that is, within the Ministry or department concerned, the employees' interests are represented by the “staff association”. The duties of that institution, created by the Federal Staff Association Act, BGBl. No. 133/1967, are comparable to those of the works councils in industry.

Article 6 paragraph 2

Ad A and B:

Reference is made to previous reporting.

The decision of the Federal Conciliation Board on the award of capacity to conclude collective agreements is required to be published in the “Amtsblatt zur Wiener Zeitung”. As of 31 December 2002, 53 such institutions had the capacity to conclude collective agreements on the basis of a ruling by the Federal Conciliation Board.

The collective agreements deposited with the Federal Ministry of Economic Affairs and Labour numbered 444 in the year 2001 and 368 in the year 2002.

Ad C:

No relevant changes.

Reply to the supplementary question on Article 6 paragraph 2 in Conclusions XVI-1:

In Austria, collective agreements are not as a rule concluded by individual employers.

An exception to the principle that there is no provision in Austria for so-called “company collective agreements”, concluded between a representative body of workers and a single employer, exists under § 7 of the Collective Labour Relations Act only for juristic persons incorporated under public law and for associations. According to § 7 of the Collective Labour Relations Act, if juristic persons incorporated under public law do not belong to another body having capacity to conclude collective agreements, they are awarded such capacity *ex lege*. By virtue of recognition by the Federal Conciliation Board, associations have capacity to conclude collective agreements pursuant to § 4 paragraph 3 of the Collective Labour Relations Act if they are of major importance by reason of their membership and range of activity and do not themselves belong to a body with capacity to conclude collective agreements. In both cases, the capacity to conclude collective agreements exists on the employers’ side, and is awarded to individual employers in respect of the employment contracts concluded with them.

Occasionally, capacity to conclude collective agreements is expressly awarded in special Acts of Parliament (e.g. for the Austrian Broadcasting

Service under the Broadcasting Act or for the Public Employment Service under the Public Employment Service Act).

Since, according to Austrian practice, by far the majority of collective agreements on the employers' side are concluded by statutory representative bodies and since all employers in a given sector belong to such bodies by virtue of the law, all employers in that branch of the economy are subject to the collective agreement if a statutory representative body on the employers' side is a collective agreement party.

Article 6 paragraph 3

Ad A, B and C:

No relevant changes.

Replies to the supplementary questions on Article 6 paragraph 3 in the Conclusions XVI-1 regarding replaceable consent pursuant to § 96 a ArbVG and enforceable works agreements pursuant to § 97 paragraph 1, indents 1-6 a ArbVG (see Annex 6):

With regard to matters that can be regulated by these forms of works agreements, reference is made to previous reporting.

Replaceable assent pursuant to § 96 a ArbVG:

The primary socio-political aim of this regulation is to protect workers against interference in their privacy by measures of the works occupier that are not covered by the right of consent pursuant to § 96 ArbVG. This provision also covers the participation of the employees in decisions on technological changes in this particularly sensitive area. A distinguishing feature is that there is no right of direction and that individual agreements are not permissible. As long as no works agreement has been concluded and also no decision of the Conciliation Office has been made, directives or individual agreements are excluded. In this way, the great interest of the workers and their representatives in codetermination with regard to the registration and processing of personnel data as well as on personnel tests is taken into account, and the works council is granted a relatively favourable position in negotiations on these matters. On the other hand, this form of participation also takes into account the interest of the owner of the establishment, in the event of an unjustified refusal of consent to particular regulations by the works council, in application to a supra-

plant conciliation body and thus bring about a decision on the introduction of and practical arrangements for such systems in the works. In this case, the conciliation office performs a kind of legal review, in which context it can use all possibilities for conciliation and settlement.

Enforceable works agreement pursuant to § 97 paragraph 1, indents 1-6 a ArbVG

These cases primarily involve general regulations (e.g. operating rules, determination of the general commencement and end of the working day). A general regulation of these matters in the form of a works agreement is in the interest of all parties and ensures the smooth running of the works. If there is no agreement owing to refusal by one of the parties, the employer has the alternative possibility of settling the matter by means of a directive or an individual agreement. However, as a sole alternative, this does not seem to be desirable. In order to safeguard the interests of the workers and to satisfy the needs of the works, it therefore seems expedient to allow the parties the possibility of appealing to a supra-plant conciliation body, in order to find a balanced solution in such matters, which are important for the smooth operation of the plant. Moreover, the fact that relatively few cases are referred to the conciliation body shows that its very existence and the resultant theoretical possibility of referral to it contribute greatly to the parties' efforts to reach an agreed solution, acceptable to all, since they can exercise much more influence on such a solution than on the decision of the conciliation body.

Also, the composition of the conciliation body and the proceedings before it take into account the special nature of this type of settlement of disputes: primarily, the parties in the plant determine the composition of the conciliation body. With regard to the decision, the conciliation body is bound by the consonant pleas of the parties; moreover, it must weigh the interests one against the other and make a decision.

In practice, the conciliation machinery is used to restart negotiations that have reached an impasse. As a rule in these cases therefore, the conciliation body does not take a decision but the parties autonomously conclude a works agreement. Thus, in 2001 four out of five conciliation proceedings were settled by withdrawal of the application. In one case, the application was rejected because the legal requirements were not met.

With regard to examples of disputes in matters of enforceable works agreements and replaceable consent, the main subjects of dispute in 2001

and 2002 were working hours and arrangements regarding breaks (§ 97 paragraph 1, indent 2, Collective Labour Relations Act) and social plans, that is to say, measures to prevent, eliminate or mitigate the effects of a change in the works, provided that such changes entailed significant disadvantages for all or a considerable proportion of the workers (§ 97 Paragraph 1, indent 4, of the Collective Labour Relations Act).

As to the number of cases of compulsory conciliation, 15 such proceedings were carried out in the year 2000 and 10 in the year 2002. With regard to the content of the disputes, reference is made to the previous reporting and/or to the reply to the previous question.

ARTICLE 12

THE RIGHT TO SOCIAL SECURITY

Article 12, Paragraphs 1 and 2

The previous presentation should be updated as follows:

The group of protected persons

1. Sickness insurance

a) Medical care, maternity benefits in kind

Employed persons, self-employed persons, civil servants, the unemployed and pensioners and their family members are protected. Generally speaking, only economically active persons in a few liberal professions (e.g. authors, lawyers and engineers) are not protected under the Austrian sickness insurance scheme. However, it should also be added that all persons residing in Austria have the right to voluntary insurance.

On the average for 2002, over 5.8 million contributors were protected by sickness insurance. On the basis of the results of the 1991 population census, it can be estimated that in addition about 2.1 million persons were protected as co-insured family members. At the same time, almost 200,000 persons had sickness insurance with health care institutions (officials of certain Federal Provinces and communes and their family members), so that some 99% of the Austrian resident population were entitled to medical care:

Insured contributors	61.1%
Co-insured family members	30.4%
Persons insured with health care institutions	<u>2.5%</u>
Total	99.0%

b) Sickness benefit, maternity cash benefits

Employed persons compulsorily insured under the General Social Insurance Act (ASVG) and unemployed persons are entitled to sickness benefits or maternity cash benefits. The number of employed persons

protected (plus the unemployed) in 2002 was 2,820,656, or 89.4% of all employed persons plus the unemployed and civil servants (3,154,512).¹⁾

¹⁾ Multiple insurance possible

To complete the picture, it should be pointed out that, under the relevant civil service welfare regulations, civil servants are entitled to the continued payment of salary in the event of incapacity for work because of sickness or maternity. Thus, in 2002, the only persons without insurance cover were some marginally employed persons (marginal employment earnings limit for 2002: 301,51 € per month), namely, those who were not already protected by sickness insurance outside their marginal employment or were not self-insured if in marginal employment.

In addition, self-employed persons receive sickness benefit under the Self-Employed Persons' Social Insurance Act (GSVG) if they take out voluntary supplementary insurance. In the event of maternity, self-employed women in small-scale businesses or agriculture and forestry receive a maternity cash benefit under the Enterprise Assistance Act (Betriebshilfegesetz – BHG) if it is impossible to provide an assistant.

2. Accident insurance

(Benefits in the event of work accidents and occupational diseases)

Primarily, accident insurance covers economic activity. Persons not economically active are therefore in principle not protected by accident insurance. However, accident insurance also covers the area of schools and universities as well as areas incidental to economic activity or school and university attendance (in particular, travel accidents).

Accident insurance covers practically 100% of the economically active population, including schoolchildren and students. The only persons not protected are self-employed persons in a few liberal professions (e.g. authors, lawyers and engineers).

In 2002, the number of persons protected was as follows:

Employed persons (including civil servants)	3,027,644
Self-employed persons (including assisting family members)	1,399,134
Schoolchildren and students	<u>1,272,275</u>
Total	5,699,053 ²⁾

²⁾ Multiple insurance possible

3. Pension insurance

(Old age, invalidity and survivors' benefits)

As in the case of sickness insurance, pension insurance covers in principle a person's economic activity. If a person is not subject to statutory pension insurance or if there is no entitlement to benefit under public law (as a civil servant), there is the possibility of voluntary insurance, given residence in Austria.

a) In 2002, the number of persons protected was as follows:

Employed persons (excluding the unemployed)	2,726,596
Self-employed persons	474,668
Civil servants	<u>333,856</u>
Total	3,535,120 ³⁾

That is to say, 100 % of the economically active population excluding the unemployed were protected.

3) Multiple insurance possible

b) Rates of benefit, pension adjustment

i) Maximum contributory base

The maximum contributory base used for calculating individual assessment bases was as follows:

2001 ATS 44,400 (+2.7%)

2002 € 3,270 (+1.3%)

ii) Average contributory base

2001 ATS 27,309 (+2.0%)

2002 € 2,024.30 (+2.0%)

2003 (not yet known)

iii) Standard wage

The standard wage for a skilled male worker in accordance with Article 26 (6.) (c) of Convention No. 102 was as follows

2001 ATS 29,736 (+2.0%)

2002 € 2,204.24 (+2.0%)

2003 (not yet known)

iv) Maximum pension (normal old-age pension after 40 insurance years)

(80% of the highest possible individual assessment base)

2001 ATS 31,112.8 (+1.8%)

2002 € 2,308.91 (+2.1%)

v) Old-age pension after 40 insurance years on the basis of the standard wage

2001 ATS 21,410 (+4.1%)

2002 € 1,587.03 (+1.9%)

vi) Equalisation supplement

The standard rates for granting an equalisation supplement to the pension (in order to ensure a minimum income) were raised as follows:

- Standard rate for single pensioners:

As from 1 January 2001, to ATS 8,437

As from 1 January 2002, to € 630.92

- Standard rate for married couples

As from 1 January 2001, to ATS 12,037

As from 1 January 2002, to € 900.13

- Standard rate supplement for each child

As from 1 January 2001, to ATS 898

As from 1 January 2002, to € 67.15

vii) Pension adjustment

The increase of pensions in payment and of the standard rate of the equalisation supplement for married couples was as follows:

As from	Pensions	Standard rate
1 January 2001	0.8%	1.5% *)
1 January 2002	1.1%	2.9% *)

*) plus additional payments for persons drawing low pensions.

	I.	II.	III.
Reporting date	Average old-age pension according to the ASVG	Maximum pension on the basis of the standard wage	Other factors affecting the amount of benefit ³⁾
December 2001	ATS 12,522	ATS 21,410	ATS 12,037
December 2002	€ 926	€ 1,587.03	€ 900.13
Increase	1.75%	2.0%	2.9%

³⁾ Standard rate of the equalisation supplement for married couples

viii) Comparison of cost of living, working wages and pension adjustment

Reporting date	Cost-of-living index (1986 = 100)	Tariff wage index (1986 = 100)	Pension adjustment (1986 = 100)
Annual average 2001	141.38	167.91	146.00
Annual average 2002	143.92	171.61	147.10
Increase in %	1.8%	2.2%	1.01%

4. Unemployment insurance

(Benefits during unemployment and parental leave)

Insurance protection is related to gainful activity as an employed person. Protection extends, e.g. to employees, apprentices, homeworkers, persons undergoing vocational training and development assistants. Civil servants are excluded from the unemployment insurance requirement and receive from the Public Employment Service a benefit corresponding to unemployment benefit and emergency assistance in the event of

unemployment ("bridging aid" or "extended bridging aid"), which is financed direct by the relevant Federal or local government authorities.

On the annual average for 2001, the number of persons protected by unemployment insurance was 2.626.893 (2000: 2.601.532).

On the annual average for 2002, the number of persons protected by unemployment insurance was 2.614.479 (2001: 2.626.893).

The number of civil servants 2002 was 333.856 (2001: 343.161; 2000: 353.626).

5. Family benefits

In principle, this benefit covers the entire resident population. In the year 2002 approximately 1,090.162 persons were entitled to family allowances for about 1, 830.124 children.

Article 12 paragraph 3

Ad A and B:

The following measures were adopted in the reporting period in order to adjust regulations in the field of **sickness, accident and pension insurance** to economic change, to consolidate the progress achieved and as far as still possible raise it to a higher level:

Federal Act of 31 January 2001, BGBl. I No. 12/2001

Contains appropriate adjustments in connection with the Act on a Fund for the Compensation of Victims of National Socialism and for Restitution Measures.

Federal Act of 1 March 2001, BGBl. I No. 28/2001

Contains appropriate adjustments in the framework of legal and administrative aid in connection with changes in the Registration Act and the Population Census Act.

Federal Act of 2 April 2001, BGBl. I No. 35/2001

In connection with the reversal by the Constitutional Court (judgment of 16 March 2001, G 152/00) of the regulation concerning the charge for out-patient treatment in hospitals, which had been embodied in the Social Law Amendment Act 2000 (§ 135a ASVG), contains a new version of that

provision as well as an expansion of the competence of the Central Association of Sickness Insurance Institutions for issuing directives.

SV-WUBG of 6 June 2001, BGBl. I No. 67/2001 (Supplementary Act on Currency Conversion in relation with the Social Insurance Act).

Regulates the necessary conversion from Austrian schilling amounts to euro amounts in social insurance law following the entry into force of the Economic and Currency Union on 1 January 2002.

Federal Act of 4 July 2001, BGBl. I No. 103/2001 (Childcare Benefit Act)

Support measures in connection with the introduction of the Childcare Benefit Act (§ 236 paragraph 4a ASVG: creation of a pension entitlement in respect of time spent in bringing up children: maximum 18 contributory months per child).

58th Amendment of 6 July 2001, BGBl. I No. 99/2001

Contains numerous changes and supplementary provisions to social insurance law for purposes of clarification, improvement of practice or adjustment to the development of law within and outside the sphere of social insurance. The following individual measures should be emphasised:

- Exemption of creative artists from compulsory insurance pursuant to § 4 paragraph 4 ASVG
- Exemption of civil engineers, including candidates for that profession, and lawyers not in independent practice from full insurance
- Status as family members and exemption from accident insurance for participants in the EU “European Voluntary Service Programme”
- Changes in relation with the inclusion of contract employees of the Provincial and Local Authorities under the B-KUVG
- Publication of certain directives of the Central Association and the Articles of Association on the Internet instead of in the “*Soziale Sicherheit*” (Social Security) Journal.
- Determination of the total wages procedure as the standard method for the calculation and collection of contributions
- Granting the possibility of payment of the employees’ contributions by third parties
- Grant of a “period of grace” after the example of the Federal Tax Code for the payment of interest on arrears
- Authorisation of the pension insurance institutions to pay cash benefits due from the Provinces against full reimbursement of costs

- Support measures in social insurance law in connection with the introduction of group medical practices
- Reversal of payment of a patient's contribution for psychological diagnosis
- New regulation of occupational accident and occupational disease benefit pursuant to § 210 ASVG
- Clarification of the competence of private hospitals to conclude contractual arrangements with the sickness insurance authorities
- New regulation of self-administration and management in the Central Association
- Repeated suspension of the new regulation regarding competence for benefits in kind in the case of multiple sickness insurance

Federal Act of 24 October 2001, BGBl. I No. 131/2001 (Amendment regarding euro court fees)

Contains alterations to the ASVG, which are necessary in connection with the cancellation of the exemption of social insurance institutions from payment of court fees.

59th amendment of 23 November 2001, BGBl. I No. 1/2002

This amendment in particular combines the pension insurance institutions of wage-earners and salary-earners into *one single* pension insurance institution. Furthermore, it contains numerous measures, which serve chiefly for clarification of the law, improvement of practice and adjustment to legal developments within and outside the sphere of social insurance.

In particular, the following measures should be emphasised:

- Clarification in connection with changes in the law outside the sphere of social insurance
- The possibility of storage of emergency aid data on the chip card at the express request of the card holder
- Unification of two euro values pursuant to the Euro Tax Conversion Act in order to simplify wage calculation
- Alteration of the “starting value” for the maximum contributory base 2002
- The removal of the special fees to be paid to physicians from the concept of remuneration
- Simplification of collection of the additional contribution for family members
- Replacement of the outdated concept of “nursing” by “care”

- Publication of further legal acts in the Internet
- Ensuring the quality of information measures
- Cashless payment of benefits
- Precise determination of the birth dates of insured persons
- Increase of the minimum level of the transitional children's grant in pension insurance
- Further reduction of the fictional retired farmer's portion in the context of the equalisation supplement
- Regulation of the apportionment of costs with arbitration commissions
- Requirement for preparation of a continuous advance operations plan calculation by the social insurance institutions and the Central Association
- Preparation of a psychotherapy scheme
- Electronic accounting of services by medical practitioners under contract
- Expanded data transmission by the Federal tax authorities and the Register Office authorities
- Admission of the *ArGe Selbsthilfe* working group into the Austrian Social and Health Forum
- Compliance with the judgments of the Constitutional Court
- Postponement to the end of 2004 of the new regulation on competence for benefits in kind in multiple sickness insurance
- Temporary inclusion of marginally employed "new" contract employees under the ASVG

Federal Act of 13 December 2001, BGBl. I No. 31/2002

Contains changes in relation with pension adjustment and in the law on the equalisation supplement (value adjustment) as well as the inclusion of paramedics in accident protection.

Federal Act of 18 April 2002, BGBl. I No. 82/2002

Contains supplementary regulations in relation with combining the pension insurance institutions for wage-earners and salary-earners into *one single* pension insurance institution.

Federal Act of 12 June 2002, BGBl. I No. 100/2002 (Employee Provision Act)

Contains in its Article 29 social insurance law regulations in connection with the creation of a new right to termination payments.

Federal Act of 11 July 2002 (Second Tax Amendment Act 2002), BGBl. I No. 132/2002

Has the effect that all taxes linked to wages (wage tax, social insurance contributions, local authority tax) are verified together. The necessary changes to the ASVG are contained in Article XI.

60th amendment of 11 July 2002, BGBl. I No. 140/2002

Contains not only measures to clarify the law, but also in particular the following measures:

- Dissolution of the Pengg works sickness insurance fund and takeover of persons insured under that fund by the insurance institution of the Austrian mining industry
- Reorganisation of the Equalisation Fund of sickness insurance institutions
- Establishment of an independent commission on medicaments which, as a tribunal within the meaning of Article 6 MRK, can hear appeals against (partially) negative decisions on the acceptance of specialist medicaments into the pharmacopoeia
- Abolition of the sickness voucher charge, with the simultaneous introduction of a service charge for the social insurance chip card
- Creation of a new competence of the Central Association for the issue of directives, in order to standardise the practice of insurance institutions in action on registration, insurance and contribution matters
- The extension of favourable further pension insurance to persons in long-term care stage III
- Linkage of family member status, in particular of students, to the grant of the family allowance
- Increase in the calculation base in accident insurance for operators of enterprises in commerce, trades and industry and for schoolchildren and students.

Federal Act of 11 July 2002, BGBl. I No. 169/2002 (Curative Masseurs Act)

Under this amendment, certain curative massage services are placed on the same basis as medical assistance in treatment of the sick.

Federal Act of 19 September 2002 (Act on the Compensation Package for Flood Victims), BGBl. I No. 155/2002

Contains in its Article 6 an alteration to the ASVG including the following measures:

- Grants from accident insurance resources to particular employers in order to indemnify them for the expenditure on continued payment of remuneration after accidents to employees covered by accident insurance

- Abolition of the employers' and employees' contributions to sickness insurance of apprentices in the first two years of apprenticeship
- Abolition of accident insurance contributions in all years of apprenticeship

Social insurance amendment Act 2003 of 23 January 2003, BGBl. I No. 8

The standard rate of the equalisation supplement for married couples is raised 7.3% as an exception with retroactive effect to 1 January 2003, in order to avoid the risk of impoverishment of married couples drawing pensions, in compliance with the internationally announced relevant threshold values.

In the reporting period the following measures were taken in the sphere of **labour market policy**:

Uniform net replacement rate of unemployment benefit (§ 21 AIVG) BGBl. I No. 142/2000

Under the Supplementary Budget Act 2001 (Article 42, indent 11, Amendment to § 21 AIVG), a uniform net replacement system was introduced instead of the previous wage class system with different net replacement rates. The net remuneration is so calculated – as had already been the case in the establishment of the wage classes – that the statutory charges payable by a sole earner (income tax, social insurance contributions, Chamber of Labour levy, housing promotion contribution) are subtracted from the gross wage. As a result, rational implementation is possible without extensive investigations among employers and without costly administrative work by the Public Employment Service.

The basic amount of unemployment benefit due is 55% of net wages. Persons drawing benefits lower than the standard equalisation supplement for sole earners under pension insurance pursuant to § 293 paragraph 1, indent a, sub-indent bb ASVG (2002: €630.92) are entitled to a supplement. A limitation of the maximum net replacement rate ensures that there is still a sufficient incentive to take up work. Persons with entitlement to family supplements receive at most 80% of the former net income, and persons without entitlement to family supplements receive at most 60% of the former net income.

Increase of the minimum period of employment required for renewed entitlement (§ 14 paragraph 20 AIVG), BGBl. I No. 142/2000

Since there is a disproportionately high take-up of unemployment benefit resulting from short-term and seasonal employment, the necessary minimum

duration of employment for the acquisition of a new entitlement after drawing benefit was raised from 26 to 28 weeks.

Strengthening of the priority of active measures for youth (§ 14 paragraph 1 indent 2 AIVG), BGBl. I No. 142/2000

The preferential youth entitlement with a minimum employment period of 26 weeks on first becoming unemployed now applies only to youth whose unemployment cannot be resolved by the Public Employment Service within four weeks – either by take-up of work or by the commencement of training. Authorization of Orders for an additional period of suspension of unemployment benefit (§ 16 paragraph 5 AIVG) BGBl. I No. 142/2000

Pursuant to § 10 paragraph 2 of the Hours of Work Act, BGBl. No. 461/1969, the collective agreement can determine whether, in the absence of an agreement to the contrary, overtime compensation can take the form of cash or (compensatory) time off. The trade associations of the Austrian Economic Chamber for the catering and hotel trade and the union of hotel, catering, and personal services workers as well as the union of private salaried workers have made an arrangement under a collective agreement to lengthen seasonal employment, which provides for the utilization of one-third of overtime and half of the vacation entitlement to increase the duration of employment. With regard to the vacation regulation, the foundation was laid, on the basis of a change to the Vacation Act, BGBl. No. 390/1976, for a collective agreement for workers in the hotel and catering trade to provide that the period of employment must be increased by a vacation entitlement accumulated in the current vacation year and to be consumed at the end of the employment.

In the event that, on the basis of the necessary implementation at the single enterprise level, such possibilities for extension of employment are not used to a substantial extent, so that the financial load on the contributors as a whole is disproportionately high owing to benefits due in respect of seasonal fluctuations, it can be determined by means of an Order that employees receive no unemployment benefit for the corresponding period if, in agreement with their employers, they do not take up the possibility of extending employment. If an entitlement is already suspended because a replacement benefit in lieu of vacation remuneration is due (pay in lieu of vacation, vacation compensation), there is no further postponement of the time of the entitlement. The period of drawing benefit is not reduced.

No such Order has so far been issued.

No continuation of benefit in the event of the acquisition of a new entitlement (§ 19 paragraph 2 AIVG) BGBl. I No. 142/2000

In the event of the acquisition of a new entitlement, continuation of a more favourable residual entitlement is no longer possible. As a result, the insurance principle is strengthened and the benefit is no longer oriented according to prior employment. There is no change for unemployed persons as from the age of 45, since, in view of the prevailing protection of the calculation basis, the current entitlement cannot be less favourable than a residual entitlement.

Requirement for the acquisition of a new entitlement for the further training allowance (§ 26 paragraph 2 AIVG), BGBl. I No. 142/2000

A new entitlement consumed by drawing unemployment benefit or parental leave benefit cannot be relied upon once more for drawing a further training allowance. Since, pursuant to § 11 paragraph 1 of the Adjustment Act on the Law of Employment Contracts (AVRAG), there must have been three years of uninterrupted employment to qualify for unpaid training leave and there is no entitlement to unemployment benefit during unpaid leave because there was no unemployment, there is in any case a new entitlement if this requirement is met after drawing unemployment benefit. If an employment contract remains valid during a period of drawing parental leave allowance and there are less than 28 weeks of employment subject to unemployment insurance after that period, there is no entitlement to a further training allowance.

No upward revaluation and dynamisation of unemployment benefit and emergency assistance (§§ 19, 21, 36 paragraph 1 AIVG), BGBl. I No. 142/2000

Unemployment benefit and emergency assistance are not revalued upwards and dynamised because they are transitional benefits, which as a rule need not be granted over a considerable period.

Upward revaluation of the calculation bases for emergency assistance awarded before 1998 (§ 81 paragraph 6 AIVG) BGBl. I No. 47 2001

In order to avoid a substantial reduction of emergency assistance by the reorganisation of the system, the calculation bases for emergency assistance awarded before 1998 were revalued upwards using the adjustment factor valid in the year 2000 for the year of award.

Upward revaluation of annual contributory bases dating back more than four years (§ 21 paragraph 1 AIVG) BGBl. I No. 103/2001

If the annual contributory bases to be used in determining the basic amount of unemployment benefit date back more than four years at the time of claiming, they are revalued upwards using the revaluation factors for the relevant years.

Availability for placement during the period of drawing childcare benefit (§ 7 Paragraph 5 AIVG) BGBl. I No. 103/2001

It is in principle possible to draw unemployment benefit during the period of drawing childcare benefit. However, an entitlement to unemployment benefit exists only for persons who are available for placement on the labour market without substantial restrictions. If childcare benefit is drawn, that is the case only if it is shown that the child is being cared for by other suitable persons within or outside the family circle, for instance, in institutions such as crèches or kindergartens or by a childminder. A person who must himself/herself look after the child during normal working hours cannot be available to the necessary extent for the take-up and exercise of an occupation and is therefore not available for placement. At the time of placement, evidence must be given that the child is being cared for by another suitable person or in a suitable institution when work is taken up.

The integration task of the Public Employment Service (§ 9 paragraph 8 AIVG) BGBl. I No. 103/2001

To ensure that persons who have problems in obtaining or regaining a job are integrated as quickly and successfully as possible, the Public Employment Service must make special placement efforts in order to support the chances of employment by means of the flexible provision of training and reintegration measures. Promotion of the take-up of employment by women who are seeking a new job during the period of drawing childcare benefit or after an interruption in employment to provide childcare are a special focal group.

Abolition of special emergency assistance (Repeal of § 39 AIVG), BGBl. I 103/2001

By the Childcare Benefit Act, an entitlement to a childcare benefit payable to one parent up to the end of the 30th month of the child's life and to both parents together up to the end of the 36th month of the child's life was created for children born on or after 1 January 2002. Special emergency assistance is therefore no longer necessary for the care of such children. Special emergency assistance is still payable for children born before 1 July 2000 and in respect of claims already allowed (§ 80 paragraph 11 AIVG).

New regulation of sickness insurance contributions (§ 42 AIVG) BGBl. I No. 103/2001

For the years 2002 to 2004, a lump-sum is payable for sickness insurance benefits under the Unemployment Insurance Act, in each case amounting to the total of the sickness insurance contributions paid in 2001 for persons who draw unemployment benefit, emergency assistance and the further training allowance. As from 2005, in the same way as for the childcare benefit under the Childcare Benefit Act, the sickness insurance contribution in the amount of the rate of contribution set for benefits in kind is also payable for benefits under the Unemployment Insurance Act. The sickness insurance institutions are to be compensated for expenditure on cash benefits on the basis of cost accounting. As a result a balanced relationship is to be achieved between the expenditure on contributions and benefits.

Introduction of Family Hospice Leave (§§ 29 to 32 AIVG), BGBl. I No. 82/2002

The Family Unpaid Hospice Leave provision creates an entitlement under labour law to unpaid leave in order to provide ongoing care for terminally ill family members and children suffering from severe illness (§§ 14a and 14b AVRAG), with protection under social law in sickness and pension insurance, paid for out of unemployment insurance resources.

Alteration of the bonus/penalty system (§ 5a to § 5c AMFG), BGBl. I No. 101/2000

The system of incentives for the employment of older workers is strengthened by the complete abolition of the employer's portion of the unemployment insurance contribution as from the recruitment of persons over 50 (previously only from 55, and up to that stage only reduction by half). The basic amount of the penalty is raised from 0.1% to 0.2% of the contributory base. The basic amount of the penalty due if older workers are made redundant is raised from 0.1% to 0.2% of the contributory base. The basic amount is then multiplied by the number of months elapsing up to the statutory age limit for an early old age pension (as a rule 18 months later than before). In the case of persons with long periods of insurance, the result is a higher penalty.

New regulations on placement agencies (§§ 2-7 AMFG), BGBl. I No. 68/2002

Under Article 7 of the Economic Stimulation Act 2002, the provisions on labour placement services so far regulated under §§ 9-18 AMFG were amended in §§ 2-7 AMFG. At the same time, the Industrial Code 1994 was

amended under Article 4 of that Federal Act and the Temporary Work Agency Act under Article 8. As a result, it is now possible to carry out labour placement and temporary work agency activities simultaneously.

In future only the authority for commerce, trades and industry will be competent for all commercial placement agencies (including agents for artists). The licensing procedure with the Federal Offices of Social Welfare necessary so far pursuant to §§ 17a-18 has been abolished. A separate aptitude test for workers has also been abolished.

The authorisation procedure for non-profit placement agencies under § 17 paragraph 3 AMPFG has been replaced by a notification procedure, with the possibility of prohibition (§ 4, paragraphs 3-5 AMFG).

Inclusion of the 2001 school-leavers' class (§§ 1 and 8 JASG), BGBl. I No. 127/2001

Beginning in the training year 2001/2002, for the 2001 school-leavers' class, and in accordance with the Youth Training Consolidation Act (JASG), canvassing projects for apprenticeship places and for training in courses and preparatory measures with special emphasis on the new technologies are to be carried out with the co-operation and financial participation of the Federal Provinces, particularly in Provinces in which there is a special imbalance in the training market.

Inclusion of the 2002 and 2003 school-leavers' classes (§§ 1, 3, 6 and 8 JASG) BGBl. I No. 158/2002

Young people in the 2002 and 2003 school-leavers' classes who do not find an apprenticeship place can be included in training and preparatory courses, in the same way as members of the 2001 school-leavers' class. Young people who are disabled or have special placement difficulties can participate in training courses after finishing compulsory schooling. The training courses can begin as early as October of the calendar year in question. To ensure the success of the measures, continuous support can be provided. Supplementary training courses can be set up if necessary for young people who do not find a training place even after the conclusion of a training course. The course participants can take the final apprenticeship examination after completing the full period of apprenticeship.

Replies to the supplementary questions on Article 12 Paragraph 3 in the Conclusions XVI-1:

Reasons for the 2000 pension reform and its effects:

In reply to this question, two articles on the pension reforms in Austria are transmitted in Annex 7:

- Pension Reform in Austria (Buczolich, Felderer, Koman, Schuh, 2002)
- Austria: Public Pension Projections 2000 – 2005, Federal Ministry of Finance, Working Paper 7/2001 (Part, Stefanits, 2001)

The effects of cancelling non-contributory co-insurance of family members:

As a result of this measure, the operational results in sickness insurance improved by €15,349,987 in 2001 and by €14,121,312 in 2002.

Article 12, paragraph 4**Ad A:**

In the reporting period, agreements on social security with the following States came into force (for details, see tables attached as Annex 7– status as of 9 April 2003):

- Hungary (1.1.2001)
- Portugal (1.1.2001)
- Czech Republic (1.7.2001)
- Bosnia-Herzegovina (1.10.2001)
- Israel - Supplemental Convention (1.3.2002)
- Yugoslavia (1.5.2002)
- Australia - Supplemental Convention (1.10.2002)

International Relations of Austria in the Field of Social Security

at a glance

(As of: 1 July 2003)

IMPORTANT NOTE

The following summary is intended to give an initial overview of the international relations of Austria with other States and international organisations. Because the differences between the individual instruments are often great, this overview cannot, however, give comprehensive answers concerning concrete individual cases.

I. Overview

International agreements are in force or are shortly to come into force with the following States (in alphabetical order – more details follow concerning the individual instruments):

Australia	Greece	Poland
Belgium	Hungary	Portugal
Bosnia	Ireland	Sweden
Canada (+Québec)	Iceland	Switzerland
Chile	Israel	Slovakia
Croatia	Italy	Slovenia
Cyprus	Liechtenstein	Spain
Czech Republic	Luxembourg	Tunisia
Denmark	Macedonia	Turkey
Finland	Netherlands	Yugoslavia
France	Norway	United Kingdom
Germany	Philippines	USA

Supplementary regulations regarding the application of the international instruments are contained in the Federal Act with respect to Supplementary Regulations in the Field of Social Security in Relations with the European Union and other Contracting States (Social Insurance Supplementation Act –

SV-EG), BGBl. No. 154/1994, as amended by BGBl. No. 602/1996, BGBl. No. 764/1996, BGBl. I No. 93/2000, BGBl. I No. 5/2001 and BGBl. I No. 67/2001.

II. Regulation (EEC) No. 1408/71

In relations with the following States, Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of the systems of social security to employed persons, self-employed persons and their family members moving within the Community and Council Regulation (EEC) No. 574/72 of 21 March 1972 on the implementation of Regulation (EEC) No. 1408/71 apply:

1. EU member States

Belgium	Greece	Portugal
Denmark	Ireland	Sweden
Germany	Italy	Spain
Finland	Luxembourg	United Kingdom
France	Netherlands	

2. EEA States

Liechtenstein	Iceland	Norway
----------------------	----------------	---------------

3. Switzerland

Scope of these Regulations:

- **Personal scope**

Nationals of the States in question who are covered by the social security systems of those States as employed persons, self-employed persons or students and their family members, irrespective of their nationality;

Nationals of third States who are lawfully resident in a member State and engage in cross-border movement within the Union, and members of their families.

- **Substantive scope**

Systems of benefits for

- Sickiness and maternity
- Invalidity
- Old age
- Survivors' benefits
- Accidents at work and occupational diseases
- Death grant
- Unemployment benefit

- Family benefits

1. Current versions of these Regulations applicable in relations with the 14 European Union member States (first group of States).¹

- VO² 118/1997 (Reannounced) of 02.12.1996 OJ No. L 28 of 30.01.1997, p 1
- VO 1290/1997 of 27.06.1997 OJ No. L 176 of 04.07.1997, p 1
- VO 1223/1998 of 04.06.1998 OJ No. L 168 of 13.06.1998, p 1
- VO 1606/1998 of 29.06.1998 OJ No. L 209 of 25.07.1998, p 1
- VO 307/1999 of 08.02.1999 OJ No. L 38 of 12.02.1999, p 1
- VO 1399/1999 of 29.04.1999 OJ No. L 164 of 30.06.1999, p 1
- VO 89/2001 of 17.01.1999 OJ No. L 14 of 18.01.2001, p 16
- VO 1386/2001 of 05.06.2001 OJ No. L 187 of 10.07.2001, p 1
- VO 410/2002 of 27.02.2002 OJ No. L 62 of 05.03.2002, p 17
- VO 859/2003 of 14.05.2003 OJ No. L 124 of 20.05.2003, p 1

2. Current versions of these Regulations applicable in relations with the three EEA States (second group of States)³:

- EEA-Agreement of 02.05.1992 BGBl. No. 909/1993
- B⁴ No. 7/1994 of 21.03.1994 BGBl. No. 566/1994
- B No. 1/1995 of 10.03.1995 OJ No. L 86 of 20.4.1995, p 58
- B No. 63/1996 of 22.11.1996 OJ No. L 71 of 13.03.1997, p 31
- B No. 64/1996 of 22.11.1996 OJ No. L 71 of 13.03.1997, p 34
- B No. 82/1997 of 12.11.1997 OJ No. L 134 of 07.05.1998, p 11
- B No. 66/1998 of 04.07.1998 OJ Nr. L 123 of 13.05.1999, p 60
- B No. 67/1998 of 04.07.1998 OJ No. L 123 of 13.05.1999, p 62
- B No. 33/1999 of 26.03.1999 OJ No. L 266 of 19.10.2000, p 18
- B No. 7/2000 of 28.01.2000 OJ No. L 103 of 12.04.2001, p 13
- B No. 8/2000 of 04.02.2000 OJ No. L 103 of 12.04.2001, p 16
- B No. 9/2000 of 28.01.2000 OJ No. L 103 of 12.04.2001, p 18

3. Current version of these Regulations applicable in relations with Switzerland⁵

- Sectoral Agreement of 21.6.1999 OJ No. L 114 of 30.04.2002, p 1

¹ Regulation 1408/71 applies to Austria, Finland and Sweden as European Union member States as from their accession on 1 January 1995 (BGBl. No. 45/1995); before that date the Regulation applied in the context of the EEA Agreement (see next section).

² VO = Regulation (EEC/EC) of the Council or, in so far as only changes to VO 574/72 are affected, of the Commission.

³ As from 1 January 1994 on the basis of the EEA Agreement for Austria, Finland, Iceland, Norway and Sweden (EEA Agreement of 2 May 1992, BGBl. No. 909/1993), as from 1 May 1995 for Liechtenstein (OJ No. L of 20 April 1995, p. 58)

⁴ Resolution of the Joint EEA Committee

⁵ From 1 June 2002, Sectoral Agreement with Switzerland on free movement.

III. EC/EEA-Supplemental Agreements

In relations with the following States, the scope of Regulation (EEC) No. 1408/71 was extended by bilateral agreements to nationals of third States. However, exceptions were provided for (e.g. exclusion of whole areas of benefits such as unemployment or family benefits); regulations going beyond EC law and supplementary regulations (e.g. concerning enforcement aid) also apply:

Germany	of 04.10.1995	in force 01.10.1998	BGBI. III No. 139/1998
Iceland	of 18.11.1993	in force 01.02.1996	BGBI. No. 62/1996
Liechtenstein	of 23.09.1996	in force 01.12.1998	BGBI. III No. 151/1998
Luxembourg	of 31.07.1997	in force 01.10.1999	BGBI. III No. 156/1999
Netherlands	of 09.12.1998	in force 01.02.2000	BGBI. III No. 47/2000
Norway	of 18.10.1996	in force 01.10.1998	BGBI. III No. 139/1998
Portugal	of 16.12.1998	in force 01.02.2001	BGBI. III No. 205/2000
Sweden	of 21.03.1996	in force 01.07.1997	BGBI. III No. 72/1997

IV. Cost reimbursement agreements with States to which Regulation 1408/71 applies

Cost reimbursement agreements exist with the following States, which, inter alia, envisage changes in competence for insured persons in certain cases (these agreements have always entered into force simultaneously with Regulation 1408/71 in the bilateral relations in question):

Belgium	of 03.12.2001	Not yet announced
Denmark	of 13.02.1995	BGBI. No. 171/1995
Finland	of 23.06.1994	BGBI. No. 898/1994
Germany	of 21.04.1999	BGBI. III No. 58/2000
Iceland	of 21.06.1995	BGBI. No. 551/1995
Ireland	of 25.04.2000	BGBI. III No. 99/2000
Liechtenstein	of 14.12.1995	BGBI. No. 61/1996
Luxembourg	of 22.06.1995	BGBI. No. 552/1995
Netherlands	of 17.11.1993	BGBI. No. 896/1994
Norway	of 17.12.1996	BGBI. III No. 10/1997
Portugal	of 16.12.1998	BGBI. III No. 210/1999
Sweden	of 22.12.1993	BGBI. No. 897/1994
United Kingdom	of 30.11.1994	BGBI. No. 67/1995

V. Old agreements with States to which Regulation 1408/71 applies

The following agreements are formally still in force. However, with regard to the substantive and personal scope of Regulation 1408/71 they are superseded by the latter. Therefore, they are applied particularly to third party nationals (if the personal scope of such bilateral agreements is not restricted to the nationals covered by the bilateral agreements in question). However, more favourable regulations than those in Regulation 1408/71 are still unrestrictedly applicable¹. The substantive scope of these agreements is not so wide as that of Regulation 1408/71.

Belgium	of 04.04.1977	restr. ²	in force 01.12.1978	BGBI. No. 612/1978
Denmark	of 16.06.1987	restr.	in force 01.03.1988	BGBI. No. 76/1988
Germany	of 19.07.1978	restr.	in force 01.10.1997	BGBI.No.392/1979
AIV3 Agrmt				
Finland	of 11.12.1985	restr.	in force 01.07.1978	BGBI. No. 349/1987
1st. ZA ⁴	of 09.03.1993		in force 01.01.1994	BGBI. No. 15/1994
France	of 28.05.1971	restr.	in force 01.11.1972	BGBI. No. 383/1972
1st ZA	of 09.06.1980		in force 01.11.1983	BGBI. No. 515/1983
Greece	of 14.12.1979	restr.	in force 01.10.1981	BGBI. No. 420/1981
1st ZA	of 21.05.1986		in force 01.10.1987	BGBI. No. 381/1987
Ireland	of 30.09.1988	unrestr. ⁵	in force 01.12.1989	BGBI. No. 486/1989
Italy	of 21.01.1981	unrestr.	in force 01.07.1983	BGBI. No. 307/1983
Liechtenstein				
Agrmt/Unemp.	of 24.07.1981	restr.	in force 01.04.1982	BGBI. No. 76/1982
Switzerland	of 15.11.1967	restr.	in force 01.01.1969	BGBI. No. 4/1969
1st ZA	of 17.05.1973		in force 01.07.1974	BGBI. No. 314/1974
2nd ZA	of 30.11.1977		in force 01.12.1979	BGBI. No. 448/1979
3rd ZA	of 14.12.1987		in force 01.01.1990	BGBI. No. 545/1989
4th ZA	of 11.12.1996		in force 01.07.1998	BGBI. No. 203/1998
Agrmt/Unemp	of 14.12.1978	restr.	in force 01.01.1980	BGBI. No. 515/1979
Spain	of 06.11.1981	unrestr.	in force 01.07.1983	BGBI. No. 305/1983
United Kingdom				
1st ZA	of 22.07.1980	unrestr.	in force 01.05.1981	BGBI. No. 117/1981
2nd ZA	of 09.12.1985		in force 01.11.1987	BGBI. No. 436/1987
	of 13.10.1992		in force 31.12.1992	BGBI. No. 50/1993
Quadripartite Agreement.⁶				
1st ZA	of 09.12.1977	restr.	in force 01.11.1980	BGBI. No. 464/1980
	of 08.10.1982		in force 01.07.1982	BGBI. No. 28/1984

¹ European Court of Justice, judgment of 7 February 1991. C-227/89. Röfeldt, or concerning the Austro-German Agreement on unemployment insurance of 9 November 2000, C-75/99, Thelen, and of 5 February 2002, Kaske.

² Refers in its personal scope only to the nationals covered by the relevant bilateral agreements. Nationals of third States can, however, be covered by individual provisions (e.g. posting provisions).

³ AIV = Unemployment insurance

⁴ ZA = Supplemental agreement.

⁵ Refers in its personal scope to all insured persons, irrespective of nationality.

⁶ Quadripartite agreement between Germany, Liechtenstein, Austria and Switzerland, which has the particular task of extending those bilateral agreements that are restricted in their personal scope to the nationals of all four Contracting States.

VI. Agreements with States to which Regulation 1408/71 does not apply

Bilateral agreements have been concluded with the following States outside the EU, EEA and Switzerland. First of all, we should point out the great differences between these agreements in **their personal and substantive scope** (the references to the individual branches of social security refer to the right to benefits, and with regard to the legal regulations to be applied, that is to say, the question of compulsory insurance, all branches of social insurance are covered); the sources of the individual provisions are indicated in a following table:

Australia	unrestr.	-	PV¹	-	-	-
Bosnia	unrestr.	KV²	PV	UV³	AIV⁴	-
Canada	unrestr.	-	PV	-	-	-
Chile	unrestr.	-	PV	-	-	-
Croatia	unrestr.	KV	PV	UV	AIV	-
Cyprus	unrestr.	KV⁵	PV	UV	AIV	-
Czech Rep.	unrestr.	KV	PV	UV	AIV	-
Hungary	unrestr.	KV	PV	UV	AIV	-
Israel	unrestr.	KV⁶	PV	UV	AIV	FbH⁷
Macedonia	unrestr.	KV	PV	UV	AIV	-
Philippines	restr.	-	PV	UV	AIV	-
Poland	unrestr.	KV⁸	PV	UV	AIV	-
Slovakia	unrestr.	KV⁹	PV	UV	AIV	-
Slovenia	unrestr.	KV	PV	UV	AIV	-
Tunisia	restr.	KV¹⁰	PV	UV	-	-
Turkey	unrestr.	KV	PV	UV	AIV	-
USA	unrestr.	-	PV	-	-	-
Yugoslavia	unrestr.	KV	PV	UV	AIV	-

¹ **NB:** The Agreement contains no provisions regarding the legal regulations to be applied and therefore no international posting regulation but, for example, only § 3 paragraph 2 indent d ASVG.

² KV = Sickness insurance

³ UV = Accident insurance

⁴ AIV = Unemployment insurance; as a rule only substantive regulations on the accumulation of insurance periods.

⁵ Only accumulation of insurance periods.

⁶ Sickness insurance only limited (only accumulation for maternity benefits)

⁷ FbH = Family allowance (thus much more restricted than under EC law, which generally covers all family benefits and therefore also childcare benefit, subsistence advance, tax-free children's allowance, etc.).

⁸ Does not cover medical treatment of holidaymakers from these States during a temporary stay in Austria or regarding illness at place of residence, but is indeed applicable to all persons insured in Austria during a temporary stay in these States.

⁹ The regulations on sickness insurance are not yet in force for persons insured in Slovakia.

¹⁰ Only regarding sickness insurance for pensioners.

With regard to the sources of the individual agreements, please see the following table:

Australia	of 01.04.1992	in force 01.12.1992	BGBI. No. 656/1992
1st ZA	of 26.06.2001	in force 01.10.2002	BGBI.No.192/2002
Bosnia	of 12.02.1999	in force 01.10.2001	BGBI. No. 229/2001
Canada ¹	of 24.02.1987	in force 01.11.1987	BGBI. No. 451/1987
1st ZA	of 12.09.1995	in force 01.12.1996	BGBI. No. 570/1996
Québec ¹⁴	of 09.12.1993	in force 01.06.1994	BGBI. No. 551/1993 + BGBI. No. 464/1994
1st. ZA Québec	of 11.11.1996	in force 01.05.1997	BGBI. No. 333/1996 + BGBI. I No. 28/1997
Chile	of 19.06.1997	in force 01.12.1999	BGBI.No.00/1999
Croatia	of 16.01.1997	in force 01.12.1998	BGBI. No. 151/1998
Cyprus	of 05.11.1991	in force 01.01.1993	BGBI. No. 670/1992
Czech Republic	of 20.07.1999	in force 01.07.2001	BGBI. No. 95/2001
Hungary	of 31.03.1999	in force 01.01.2001	BGBI.No. 99/2000
Israel	of 28.11.1973	in force 01.01.1975	BGBI. No. 6/1975
1st ZA	of 13.01.2000	in force 01.03.2002	BGBI. No. 30/2002
Macedonia	of 31.07.1997	in force 01.04.1998	BGBI. No. 46/1998
Philippines	of 01.12.1980	in force 01.04.1982	BGBI. No. 116/1982
1st ZA	of 15.09.2000	not yet in force	
Poland	of 07.09.1998	in force 01.12.2000	BGBI. No. 212/2000
Slovakia	of 21.12.2001	in force 01.06.2003	BGBI. No. 60/2003
Slovenia	of 10.03.1997	in force 01.05.1998	BGBI. No. 103/1998
Tunisia	of 23.06.1999	in force 01.11.2000	BGBI. No. 197/2000
Turkey	of 28.10.1999	in force 01.12.2000	BGBI. No. 219/2000
USA	of 13.07.1990	in force 01.11.1991	BGBI. No. 511/1991
1st. ZA	of 05.10.1995	in force 01 01.1997	BGBI. No. 779/1996
Yugoslavia	of 05.06.1998	in force 01.05.2002	BGBI. No. 100/2002

VII. European Agreement on Social Security (Council of Europe)

The European Agreement is at present in force in relations with the following States:

Belgium

Netherlands

Turkey

Italy

Portugal

Luxembourg

Spain

The European Agreement applies in principle to the nationals of the Member States and, in its substantive scope, covers the same risks as Regulation 1408/71. It extends the relevant bilateral agreements to the nationals of the other Member States (except Belgium) and contains directly applicable

regulations in the case of careers in several States, in particular regarding the legal regulations to be applied, pension and accident insurance. In view of the preferential application of European Community law, this agreement essentially has practical significance only in relations with Turkey.

As to entry into force, the following dates are relevant:

• Austria	in force 01.03.1977	BGBI. No. 428/1977
• Belgium	in force 22.04.1986	BGBI. No. 667/1986
• Italy	in force 12.04.1990	BGBI. No. 268/1990
• Luxembourg	in force 01.03.1977	BGBI. No. 428/1977
• Netherlands	in force 09.05.1977	BGBI. No. 428/1977
• Portugal	in force 19.06.1983	BGBI. No. 281/1983
• Spain	in force 25.04.1986	BGBI. No. 667/1986
• Turkey	in force 01.03.1977	BGBI. No. 428/1977

Supplementary amendments, in particular of the Annexes to the European Agreement, are to be found in the following Gazettes: BGBI. No. 564/1980, BGBI. No. 281/1983, BGBI. No. 51/1984, BGBI. No. 191/1986, BGBI. No. 666/1986, BGBI. No. 667/1986, BGBI. No. 668/1986, BGBI. No. 160/1988, BGBI. No. 268/1990, and BGBI. No. 658/1990.

VIII. Arrangements in relations with international organisations

Austria also has arrangements for the employees of certain international organisations. In essentials, these arrangements are based on the principle that employees of international organisations are not required to become members of the Austrian social insurance system. Therefore, provisions are made concerning the conditions under which insurance becomes effective in Austria and the procedure for the transition from the Austrian system to the system of the International Organisation and vice-versa (primarily in the area of pension insurance). The following special arrangements should be mentioned¹:

CERN ²	Agreement	of 01.06.1973	in force 03.05.1974	BGBI. No. 217/1974
	1 st Sup. Agrmt	of 13.12.1988	in force 01.01.1990	BGBI. No. 582/1989
EU ³	Act ⁴		in force 01.03.1999	BGBI. I No. 7/1999
	Amendment			BGBI. I No. 142/2000
IIASA ⁵	Act		in force 01.01.1980	BGBI. No. 219/1981
UNHCR ¹	Agreement	of 06.08.1976	in force 07.08.1977	BGBI. No. 355/1977

¹ General regulations, such as Headquarters Agreements, which also affect social insurance, are not included.

² European Organization for Nuclear Research

³ These regulations apply only to officials of the organs of the European Union, Council, Commission, Parliament, the European Court of Justice and European Court of Auditors, but also for officials of the European Investment Bank

⁴ Social Insurance Act for European Union officials (EUB-SVG)

⁵ International Institute for Applied Systems Analysis.

IAEA ²	Agreement	of 02.12.1999	in force 01.12.2000	BGBI. No. 187/2000
ICMPD ³	Act		in force 31.08.2000	BGBI. No. 145/2000
OPEC ⁴	Agreement	of 20.07.1998	in force 01.09.1999	BGBI. No. 143/1999
OSCE ⁵	Act		in force 05.10.2002	BGBI. No. 157/2002
UN Offices	Agreement	of 27.02.1982	in force 01.08.1983	BGBI. No. 340/83
UNIDO ⁶	Agreement	of 15.12.1970	in force 01.01.1972	BGBI. No. 424/1971

Ad B and C:

No relevant changes.

Replies to the supplementary questions on Article 12 Paragraph 4 in Conclusions XVI-1:

Family allowance:

With regard to the export of family allowance/indirect discrimination, please see Joint Declaration of 15 Contracting States on the occasion of the 101st meeting of the Governmental Committee.

Minimum employment period of three months:

The ECSR criticism of the has been passed on to the competent units.

The current version of § 3 of the Family Burdens Equalisation Act dates from the 1970s, when greater numbers of foreign citizens were employed in Austria. At that time, it was decided that the entitlement to family allowance depended not only on the place of residence but also on employment for at least three months. Thereby, the Family Burdens Equalisation Act fulfils ILO Convention No. 102, which permits a certain waiting period for the entitlement to family allowance:

Emergency assistance:

Since 1 August 1999, the same conditions have applied to unemployment benefit and emergency assistance, except for the requirement of an emergency.

Any person who is available for placement, meets the expectancy criteria and has not yet exhausted the entitlement period is entitled to unemployment

¹ United Nations High Commissioner for Refugees.

² International Atomic Energy Agency.

³ International Centre for Migration Policy Development.

⁴ Organization of the Petroleum Exporting Countries.

⁵ Organization for Security and Co-operation in Europe (formerly CSCE)

⁶ United Nations Industrial Development Organization.

benefit. Any person who can and may take up employment and is willing to work, capable of work and unemployed is available for placement.

A person can take up employment who is available to accept and engage in reasonable work, such as is normally offered on the labour market, is subject to unemployment insurance, and conforms to statutory and collective agreement regulations.

A person may take up employment who is not barred by legal regulations from engaging in employment and against whom there is no deportation notice pursuant to § 34 paragraph 3 indent 2 of the Aliens Act 1997. Deportation under that statutory provision is possible if a person has been established in Austria for more than one year but less than eight years and has not engaged in any permitted economic activity, almost without interruption, for the duration of one year. Periods of drawing maternity benefit or parental leave allowance, even if the employment contract is no longer valid, and periods of sickness, work or other accident are treated in the same way as permitted gainful employment, so long as there is still an entitlement to continued payment of remuneration vis-à-vis the employer or to sickness benefit vis-à-vis a social insurance institution.

Unemployed persons who have exhausted their entitlement to unemployment benefit are entitled to emergency assistance if they fulfil all requirements for drawing unemployment benefit, except for expectancy, and are in an emergency situation. An emergency situation exists if it is impossible to satisfy daily needs. Application for emergency assistance must be made within three years after exhaustion of the entitlement to unemployment benefit. That period is extended by the period of drawing sickness or maternity benefit, accommodation in a curative or care institution, periods of inability to work, of drawing childcare benefit, of the care of close relatives at home requiring a high degree of care and with continued insurance under pension insurance, as well as by periods of self-employment subject to compulsory sickness insurance.

The entire financial circumstances of the unemployed person and the spouse or cohabitee living in the joint household must be taken into account in the assessment of the emergency. The income generated in a calendar month (after deduction of any taxes, social levies and expenses necessary in order to generate that income) is offset against emergency assistance in the subsequent month in each case. Only income from gainful activity that does not exceed the marginal income limit (2002: €301.54 per month) is not taken into account. That part of the spouse's or cohabitee's income is offset

against emergency assistance which exceeds the exemption limit¹. The exemption limit for the spouse (cohabitee) amounted to €435 per month in 2002, that for children and other persons entitled to maintenance being in each case half of that value. The exemption limits are doubled if an entitlement to unemployment insurance for a duration of at least 52 weeks was exhausted after the 50th year of life. The limits are trebled if unemployment began after the 55th year of life and if an entitlement to at least 52 weeks of unemployment benefit was exhausted, and if at least 240 months or 1,040 weeks counting towards expectancy of an entitlement had been acquired. The same applies if an unemployed woman has reached the age of 54 and was employed subject to unemployment insurance for at least 180 months in the past 25 years.

Export of benefits (sickness, accident and pension insurance):

Under Article 12 paragraph 4, the Contracting Parties undertake to conclude agreements in order to ensure equal treatment for export into other Contracting States and for the accumulation of insurance periods.

If one considers the supranational instruments in effect for Austria (chiefly Regulation (EEC) No. 1408/71), with their extended applicability on the basis of the EEA Agreement as well as the sectoral agreements with Switzerland and also the bilateral agreements, there are now scarcely any States in Europe that are not covered. Above all, the next wave of enlargement as of 1 May 2004 should be borne in mind, by which ten new States will be included in this coordination machinery. In States in which such instruments apply, the requirements of Article 12 paragraph 4 are in any case completely met in the sphere of social insurance (sickness, accident and pension insurance). Above all, in relations with the EU Member States, the judgment of the European Court of Justice in the case EC-55/00, Gottardo, brought about a very important extension of the prohibition of discrimination in international relations. It has now been made clear that, even in the application of agreements with third States, Union citizens may no longer be treated differently from nationals covered by the relevant bilateral agreements.

A further important step at Union level was the extension of Regulation (EEC) No. 1408/71 to nationals of third States by means of Regulation (EC) No. 859/2003. That ensured that, within the Union, hardly any persons are now excluded from international coordination.

¹ Freigrenze

With regard to the States that are not yet covered by international instruments, but to which the European Social Charter applies, the following, in summary, should be borne in mind: Although the accession of Bulgaria and Romania to the EU is quite possibly to be expected only in the next few years (2007?), Austria has already contacted those two States in order to work out bilateral agreements for the transitional period. It can therefore be taken that these gaps could also be closed before the possible accession of those two States to the EU. The relevant negotiations with Bulgaria have already been concluded at expert level.

Then, only the situation with regard to the CIS States (except for the new member States of Estonia, Latvia and Lithuania), to Albania and the small States of Andorra and San Marino would remain open. There are de facto hardly any problem points in relations with the latter two States, and in the Austrian view, the results of the repeated efforts undertaken at the Community level to arrive at a satisfactory solution in the sphere of social security should first be awaited.

In relations with the remaining CIS States and Albania, it should first be pointed out that the commitments under Article 12 paragraph 4 do not apply, almost without exception. However, Austria would not oppose the desire of those States to conclude agreements, provided that relevant requests were made. That, however, has so far hardly ever been the case. Assuming the conclusion of new agreements, however, the socio-political background conditions (chiefly, the number of persons affected) and also the limited resources of the administrations for working out new agreements should be taken into account.

It should also be remembered that, precisely with regard to the export of benefits, no complaints have been made concerning pensions since in practice, even in the case of residence in those States, they are always granted (consent to residence abroad).

Austria is aware that the requirement of consent does not constitute a statutory entitlement of the persons concerned, which was regarded in the past as an infringement of Article 12 paragraph 4. However, it should be noted that the requirement of consent also applies to Austrians. Discriminating practice only against aliens would certainly constitute an infringement of the Human Rights Convention, in the light of the judgment of the European Court of Human Rights in case 39/1995/545/631, *Gaygusuz vs Austria*. Since export restrictions for Austrian nationals are inconceivable, that also de facto amounts to an export guarantee for all foreigners.

In the light of these facts, as well as with regard to Austria's efforts to conclude agreements with all States that so wish and among which an adequate number of persons are affected, it is justifiable to conclude that Austria now completely fulfils the commitments under Article 12 paragraph 4.

ARTICLE 13
THE RIGHT TO SOCIAL AND MEDICAL ASSISTANCE

Article 13 paragraph 1

Ad A to D:

Burgenland:

The previous presentation should be updated as follows:

In the year 2001, the standard social assistance rates were raised 1.5% from the year 2000 level. In 2002, they were raised 2.9% from 2001.

In 2001, the total net expenditure by the Provincial and Local Authorities (less income) in the various sectors was as follows:

General social assistance and assistance to the disabled	€19.10 million
Long-term care allowance	€9.77 million
Youth welfare	€5.53 million
Miscellaneous (for example, assistance to refugees, workers and families, and addicts)	€1.45 million
<u>Total</u>	<u>€35.85 million</u>

The above figures include neither expenditure for the advisory and care staff employed by the Provincial and Local Authorities (such as social workers and psychologists), nor projects financed or individual payments made by individual Local Authorities.

Supplementary information is contained in Annex 9 (Social Assistance Statistics –Burgenland).

Replies to the supplementary questions on Article 13 paragraph 1 in Conclusions XVI-1:

As a rule, consumer prices and the social insurance adjustment factor or the increase in the standard equalisation supplement rates are used to adjust the level of social assistance to changes in economic conditions and the cost of living.

Since relevant data are not available, it is not possible to compare the level of social assistance with average and minimum wages or in relation with a minimum family income. Furthermore, owing to the absence of such data, no breakdown of social assistance benefits into general benefits and benefits to meet special emergency situations can be provided.

According to the provisions of the Burgenland Provincial Government Order LGBL No. 70/2001, payments must be made in June and December of every year equal to the subsistence benefit paid in those months to recipients of monthly monetary benefits (long-term beneficiaries) in order to meet requirements for clothing and heating. A clothing allowance of up to €266, including VAT, must be granted in June and December to beneficiaries who are inmates of homes and institutions, provided that clothing cannot be purchased out of the beneficiaries' own means or income.

Lower Austria:

In reply to the **supplementary questions on Article 13 paragraph 1 in the Conclusions XVI-1**, the previous reporting should be supplemented as follows:

- The subsidiarity of social assistance benefits means that they are always only subordinate to those provided by third parties. Such third-party benefits can be provided either under public law on the basis of a claim to insurance or maintenance, by persons liable for subsistence or under civil law claims. Only benefits provided by non-profit organisations are not to be taken into account and are thus secondary.
- Under the definition of the "need" concept, every person who cannot provide for his necessary day-to-day needs by the use of his working capacity or with the support of third parties receives cash benefits (= standard rates of social assistance) or benefits in kind (medical assistance, care).
- EU citizens have the same status as Austrian citizens, and therefore many Contracting States of the European Social Charter (ESC) are completely equated with Austria. Nationals of the other ESC Contracting States are entitled to help if they are lawfully resident in Austria.

Upper Austria:

In reply to the **supplementary questions on Article 13 paragraph 1 in the Conclusions XVI-1**, the previous reporting should be supplemented as follows:

All social assistance benefits are granted on the grounds of need. No distinctions are made in this respect.

Assistance “in special social situations” is not limited to a few narrowly defined situations. The very opposite is the case, for any relevant social situation is considered under this type of assistance.

With regard to social assistance beneficiaries, it should be noted that this group is limited to persons who are in fact residing in Upper Austria, have their lawful residence in Austria, are threatened by a social emergency or are in such an emergency and are prepared to make efforts to avert, cope with or overcome the social emergency. This very general definition cannot unfortunately be expressed in greater detail.

“Actual” lawful residence in Upper Austria means that a person must be physically present in Upper Austria. The benefit is therefore not dependent on a fixed abode. Social assistance is therefore also payable to persons of no fixed abode who are, however, in fact (physically) present in Upper Austria.

“Help for work” is a social assistance measure that is granted to persons who, on the one hand, cannot be placed on the regular labour market, but on the other hand, wish to work. Precisely this assistance is intended to offer a standard of living worthy of human dignity, since people often regard it as degrading not to perform a service in return for the receipt of cash benefits.

Medical care is granted free of charge to all persons in need of assistance in Upper Austria. This can be provided either by the payment of social insurance contributions or by taking over treatment costs in individual cases. The social assistance authority must take the relevant decision independently.

With regard to the question of the reduction of social assistance benefits and the attendant risk to subsistence, it is pointed out that this can apply only to persons who are capable of work but not willing to work. That regulation would be problematic only if there were an unconditional right to a floor of protection.

In the year 2001, there were 1,977 persons who were drawing long-term benefits, 1,598 main beneficiaries and sole beneficiaries, 204 co-beneficiaries without family allowance and 560 co-beneficiaries with family allowance. No figures are yet available for the year 2002.

The criteria as to the prerequisites for and assessment of need were explained in the most recent report. As to the question whether the welfare benefits are appropriate in the light of the cost of living, it should be noted

that the standard rates are geared to the standard rates of adjustment supplements of the social insurance institutions.

The right to welfare is guaranteed as a statutory entitlement (individual ruling with legal effect). In some cases, application can be made to the Independent Administrative Board for a grant of that right.

In the year 2001, expenditure by the central and regional administrations on welfare benefits (social assistance, assistance to the disabled, long-term care allowance) amounted to €247,994,844.73. Private welfare expenditure cannot, unfortunately, be estimated. Figures are not yet available for the year 2002.

The following comments refer to the question what procedure ensures medical care for persons outside the social insurance system or persons who do not have adequate resources, and to the question whether access to medical care or special services is free of charge or whether there are rules as to contributions:

Medical care for persons in hospitals is regulated by the Upper Austrian Hospitals Act 1997, LGBl. No. 132/1997, as amended (OÖ. KAG 1997).

Pursuant to § 46 OÖ. KAG 1997, persons must be admitted to a hospital only if they are in need of hospital treatment, that is to say, if their mental or physical condition requires admission to hospital care. Patients who may not be turned away must in any case be accepted. Persons whose mental or physical condition makes necessary immediate hospital care owing to danger to life or danger of otherwise unavoidable severe health impairment, as well as in any case pregnant women if delivery is imminent, must be considered as incapable of being turned away.

Persons who do not need admission to hospital care must be examined or treated as outpatients if that is necessary among other things for the provision of medical first aid or for the continuation of treatment after medical first aid or hospital care which must be provided in the same hospital, in the interests of the patient (§ 50 paragraph 1 OÖ. KAG 1997).

With regard to the payment of the costs of nursing and special expenses incurred in a hospital (including the fees charged in hospital out-patient departments), § 55 paragraphs 1-3 OÖ. KAG 1997 provides that the patient is primarily obliged to pay such fees unless another physical or juristic person is responsible on the basis of social insurance provisions, other statutory regulations or contracts. If the nursing (special) fees cannot be collected from the patient or from the other persons identified above, the persons responsible for his/her maintenance must be charged. If the nursing

(special) fees cannot be collected from the persons responsible for maintenance either, the competent social insurance institution is required to bear the costs (cf. § 18 OÖ. Social Assistance Act 1998).

Salzburg:

The previous reporting should be updated as follows.

The level of social assistance is regularly adjusted to increases in the cost of living by means of Orders. The criterion is the current increase in the consumer price index.

The rate of social assistance in the year 2003 is €394 per month for a sole beneficiary, €355 for persons living in the joint household as main beneficiaries, and €227.50 for co-beneficiaries. In addition, there are benefits for housing expenditure varying from district to district, which can be as high as €407 in the city of Salzburg. There are also supplementary individual benefits for cases of special need. The concrete level of social assistance granted is calculated basically from the difference between the existing income and the quoted standard rates, though there are a number of special regulations (e.g. tax-free allowance for employed persons). The fact that social assistance is designed as a subsidiary benefit to be calculated individually therefore makes it impossible to relate it to quantities such as average or minimum wages even in an approximately meaningful manner.

Social assistance is in principle designed entirely as a “general benefit”. In addition, special emergency situations can be met by means of supplementary benefits. Here also, it is not possible to state a “ratio” (general benefit: special emergency situation payment).

Styria:

In reply to the **supplementary questions on Article 13 paragraph 1 in Conclusions XVI-1**, the previous reporting should be supplemented as follows:

Increase in social assistance:

In this context, reference is made to § 8 paragraph 9 of the Styrian Social Assistance Act, according to which the basic assumption in setting standard rates is that the comparable minimum benefits granted in pension insurance under the General Social Insurance Act, BGBl. No. 189/1955, as amended, as a rule ensure adequate subsistence, in each case excluding accommodation expenditure.

In the year 2002, the standard social assistance rate for sole beneficiaries was €460. By comparison, the mean gross income in Styria was €1,824 in

2001 (figures for 2002 are not yet available), indicating an 0.3% decline in mean net income).

Expenditure by the Province of Styria on social assistance benefits in the context of so-called mandatory benefits was €192 million in the year 2002 (Provincial authorities and social assistance associations), and expenditure for “assistance in special situations” (a benefit to deal with special emergencies) was €378,333 (€227,000 from the Province, €151,333 from the social assistance associations).

Tyrol:

In reply to the **supplementary questions on Article 13 paragraph 1 in Conclusions XVI-1**, the previous reporting should be supplemented as follows:

The level of social assistance is mainly determined by means of prescribed standard rates, which are index-linked annually. All other social assistance benefits not covered by the standard rate are granted according to the criteria of expediency, economy and cost-effectiveness.

Level of social assistance in comparison with average and minimum wages and in relation to minimum family income:

1. Median incomes

Gross monthly income in Tyrol – median, 2001: €1,788

Gross monthly income 2001 in Tyrol by occupational status*)

Overall: €1,788 (Men: €2,106; women: €1,435)

Wage-earners: €1,689 (thereof, male: €1,929; female: €1,309)

Salary-earners: €1,988 (thereof, male: €2,675; female: €1,585)

*) Wage-earners, excluding civil servants and apprentices, including special bonus payments (two extra monthly payments) . Weekly working hours not considered. The calculation base is the annual income liable to contributions and days of insurance per annum.

NB: The figures shown are not “averages” (arithmetic means) but medians (i.e. 50% earn more/less than ..).

(Source: *Central Association of Social Insurance Institutions*)

Data taken from Statistik Österreich

Average income of the Austrian population:

By social status:

The net income of employed persons in 2001 was €15,420 (women: €11,660; men: €17,860)

By social status:

	Women and men	Women	Men
Wage-earners	€12,620	€8,110	€15,380
Salary earners	€16,760	€13,560	€22,340
Civil servants	€23,560	€22,680	€24,070
Apprentices	€5,420	€4,750	€5,670

Employed persons working full-time all the year earned in 2001 gross income (excluding severance payments) of €27,920 (women: €23,440; men: €30,370).

The income of self-employed persons is more difficult to assess. Average incomes are relatively low chiefly because of the relative frequency of negative income (losses), while the large income differences lead to a much wider scatter of results.

By means of updating for 2001, the average annual income for persons exclusively self-employed was calculated as €9,890 (women: €6,770; men: €12,370).

Persons who had parallel income from self-employed activity and employment or pension had incomes of:

2001: €25,840 (women: €19,350; men: €30,600).

The gross income of pensioners (with place of residence in Austria) was €13,570 in 2001 (women: €10,220; men: €18,650), net incomes in 2001 averaged €12,340 (women: €9,800; men: €15,830).

2. Net household income:

Net household and equivalent income 1999/2000									
	Households: Projected	Net household income				Net equivalent income			
		25	50	75	Arith. mean	25	50	75	Arith. mean
		% earning less than € ..				% earning less than € ..			
Tyrol	248,000	14,340	26,810	40,680	29,750	12,370	15,610	21,340	17,530
Austria	3,241,000	17,740	27,740	39,200	30,570	12,950	17,080	22,170	18,480

Households of unemployed persons have on average net household income of €16,000.00 and net equivalent income of € 9,700.00 per year,

3. Minimum wages:

Collective agreement wages and salaries (Collective agreement wage index)
2002

Collective agreement wages index 1986 = 100

Wage-earners 181.7

Commerce, trades and industry	181.2
Industry	186.3

Commerce 172.8

Transportation	165.7
Tourism	177.5

Salary-earners 176.3

Commerce, trades and industry	173.8
Industry	189.1
Commerce	170.5
Transportation	159.0
Tourism	161.0
Banking, credit and insurance	167.6
Public sector	153.2
Public sector transport officials	166.7

Collective agreement wages – overall: 172.3

(Source: STATISTIK AUSTRIA)

Examples of standard social assistance rates in 2002:

Persons living on their own	€ 391.10 (2003: € 398.90)
Household members	€ 334.60 (2003: € 341.30)

Double the above standard rates are paid in May and October of each year.

An allowance equal to the actual cost is paid for accommodation, heating and clothing, taking into account the principles of expediency, economy and cost-effectiveness. A direct comparison with the above-mentioned data cannot be made because in some cases the grant of social assistance is partly related to the individual situation of the beneficiary.

The question of what proportion of social assistance benefits is accounted for by the general benefit and what proportion is intended to cover special emergencies can be answered as follows:

1. General data from the budget estimates for the year 2003:

General social assistance:	€20,634,400
Social assistance for special situations (public law sector):	€3,184,700
Social assistance for special situations (private law sector):	€111,390,700

2. Personal data:

A listing of individual items is not possible since the social assistance to be granted is calculated according to a standard rate system for expenditure on subsistence and an allowance in the amount of the actual costs for accommodation, heating and clothing, taking into account the principles of expediency, economy and cost-effectiveness. Therefore, the exact level of the social assistance benefits granted can be calculated only case by case.

Social assistance expenditure in Tyrol (budget estimate 2003).

Public law social assistance	
Expenditure	€23,819,100
Thereof	
Accommodation	€6,348,000
Heating, clothing	€510,700
Care in homes and institutions	€1,542,300
Aid to the sick	€2,893,800
Income	€13,306,400
Private law social assistance	

Expenditure	€74,090,700
Income	€40.100,200
Help for persons in need of long-term care	
Expenditure	€71,910,200
Long term care allowance	
Expenditure	€21,834,300
Income	€8,509,000

The expenditure budgeted for assistance to the disabled in 2003 totalled €59,186,900. No figures are yet available for the year 2002; however, in the year 2001, net expenditure on accommodation, care, including daytime structures (hostels, residential communities, hostels, workshops, integrative kindergartens, etc.) in institutions for persons with physical and mental disablement amounted to €33,868,585. This figure is not complete, because at the time of the evaluation not all the facilities had been fully surveyed. Also, and not included in the amount mentioned, speech therapy, physiotherapy and ergotherapy as well as residential communities and employment initiatives for psychically sick persons are made available and financed in the form of payment for services.

With regard to the question whether the relevant facilities and institutions are adequately staffed, at present a total of 43 staff members are employed in administration in the social area in the first-level authorities in Tyrol (some of them, however, working only part-time). At present, 10 staff members are employed in the Tyrolean Provincial Government Office on administrative duties in relation with implementation of the Tyrolean Social Assistance Act.

Vorarlberg:

The previous reporting should be updated as follows.

Assistance for an adequate subsistence level is as a rule given in the form of cash benefits. Standard rates determined by the Provincial Government are used for the assessment of the adequate subsistence level. This standard rate covers expenditure on food, lighting, small household goods, cleaning, personal hygiene and health care, culture and recreation to an extent commensurate with the needs of the recipient, transportation, mending of clothing and other smaller needs. The standard social assistance rate is determined according to various comparative factors (e.g. inflation rate, social insurance adjustment factor, increases in the standard rates of the equalisation supplement, cost-of-living index in Vorarlberg). For the year

2002, it was raised 2% from the year 2001. The necessary expenditure for accommodation is covered by an allowance equal to the actual costs. In order to meet the expenditure for heating and clothing, an allowance equal to the standard rate is granted twice yearly, unless evidence is given of justified necessary extra expenditure.

The standard lump-sum rates are adjusted annually. As a “building block system”, social assistance is comparable to only a limited extent with other minimum benefits. Social assistance is geared to minimum incomes, in particular the equalisation supplement, though accommodation costs are granted in the actual amount. Coverage for special emergencies is necessary only if primary systems (in particular, allowances, income replacement, family allowances, tax-free children’s allowance, subsistence, sickness and unemployment pay) do not suffice to cover need.

In the case of “assistance to expectant mothers and newly delivered women” benefits are granted – subject to need – which include medical and financial measures related to pregnancy and delivery. These benefits are decided on by administrative action. Assistance for expectant mothers and newly delivered women is to be granted to every alien in need of assistance (i.e. irrespective of nationality or legality of residence). No exact figures can be given of the number and benefits in individual cases. It is also pointed out that in the year 2002 total expenditure of €534,278 was incurred for services related to pregnancy and baby care in a total of 2,401 cases.

The groups of persons who receive social assistance are essentially classified as those who live outside institutions and homes and as those who live in such institutions and homes. In the case of those living outside institutions and homes, a distinction is made between those who receive long-term support for subsistence and those who receive only a one-off benefit out of social assistance funds. In the year 2002, a total of 1,757 beneficiaries received long-term support for subsistence outside institutions and homes. Grants to such persons also benefited 862 family members with a family allowance entitlement (children) and 319 family members without such an entitlement. 2,949 persons received one-off benefits for subsistence or housing expenditure. The accommodation and board costs for 2,509 persons in old people’s homes or nursing homes were borne by the authorities. In addition, costs for social and health advisory and care services were paid in a total of 9,580 cases.

In the year 2002, expenditure of €66,476,216 for social assistance, €13,554,317.20 for youth welfare, and €44,912,642 for assistance to the disabled was incurred out of social fund resources. In the year 2002,

Provincial long-term care allowances of €8,766,502.55 were also paid. As of 31 December 2002, 1,588 persons were receiving a Provincial long-term care allowance.

Vienna:

The previous reporting should be updated as follows.

The structure of the Viennese Social Administration was fundamentally reformed in the years 2001 and 2002. The basic social rights of all Viennese were formulated as the target of the newly developed model (“For an existence worthy of human dignity”), as defined in the Universal Declaration of Human Rights. This is to be achieved by methods corresponding to the guiding principles of “early action” (prevention), “working together” (cooperation) and “sustained effectiveness” (intervention) if possible in all action taken by staff of Municipal Department 12 – Wien Sozial.

In three operative areas (work with the disabled, social work and social assistance, assistance to the homeless), action is taken directly under the Viennese Social Assistance Act, the Viennese Long-term Care Allowance Act and the Viennese Disabled Persons Act. Three interdisciplinary groups (budget, law, personnel) support action in these three areas, five staff units of the departmental management ensure client-friendly and smooth operation and a further development of socialist Vienna in keeping with the needs of the age.

The work of the operative areas is supported by numerous private organisations, which provide services for clients on behalf of Municipal Department 12 – Wien Sozial.

The benefits offered are cash benefits (social assistance, long-term care allowance) and benefits in kind (counselling/care, accommodation, support for mobility) in an effort to match these assistance facilities with the needs situation of every person (individual assistance plan). In this context, the overriding aim is to make use of all existing integration potential and to ensure the best possible stabilisation of personal situations.

Social assistance

The Viennese Social Assistance Act defines the aim of social assistance as also making possible an existence worthy of human dignity for persons who require the assistance of the community for that purpose.

The principles of social assistance

- Individually and family-friendly assistance

- Preventive and follow-up assistance
- Creating the capacity for self-help
- Timely social assistance action
- Statutory entitlement
- Subsidiarity
- No application requirement

Types of assistance services

- Help in providing subsistence
- Assistance in special situations
- Social services

A suitable range of care services is to be created for all clients, according to their individual situations, by a new form of organisation, with the aim of making possible lasting independence from social assistance. The assessment of entitlements and payment of social assistance will be designed in an economical and effective manner.

The introduction of target-group-oriented social assistance action is intended to lead to more efficient use of resources and to increase the quota of persons placed in employment.

- Social assistance beneficiaries with high potential for self-help and low barriers to placement are to be cared for with as low a level of administrative action as possible.
- The efforts of the social work support management concentrate on the target group of employable social assistance beneficiaries with obstacles to placement that can be overcome. Furthermore, preferential care is given to persons whose social assistance status is not yet stabilised or only to a slight extent, and in whom the development of a “resignative beneficiary mentality” is noted.
- Clients whose integration in the labour market does not seem possible in the short or long term owing to their individual situations (e.g. care duties, age, severe inadequacy of training, addiction problems, etc.) will receive such a level of care that the stability of their individual situation is guaranteed.

Persons who have no sickness insurance will be given medical assistance under the social assistance programme.

Medical assistance comprises

- Therapeutic treatment, including dentistry
- Provision of medicines
- Care in hospitals
- Ambulance services
- Treatment in spas and health resorts (for the restoration or improvement of health)

Assistance for the homeless

Under the Viennese step-by-step plan for the integration of the homeless, initiated in the year 1988, assistance is given to people who are either homeless or at acute risk of homelessness. The aim of all measures is to offer homeless people individual care and suitable housing for every specific group of persons. Accommodation in intramural facilities should be made as short as possible by means of concrete assistance (e.g. financial assistance, care by social workers). The successful conclusion of the integration process is the move by the client to a dwelling of his/her own. Individual care is guaranteed in all institutions through the services of social workers.

In 2001, the National Plan of Action Against Poverty and Social Marginalisation formulated the target that there should be no homeless families and no long-term homeless people in Vienna by the year 2006. That target is to be achieved by the continued efficient prevention of loss of housing in Vienna and by the intensified integration of persons now homeless. After 2006, homeless people are to be housed in supervised institutions only for a maximum period of two years. After the expiration of the care phase, the former homeless people are to live independently in their own dwellings. The implementation of that plan still seems to be realistic.

Assistance to the disabled

Disabled persons who are permanently and severely hampered as a result of illness or disability in their ability to receive appropriate education and schooling or to be placed in and retain employment can apply for the following types of assistance:

- Integration assistance
- Help in obtaining protected work
- Occupational therapy

- Help in finding accommodation
- Personal assistance

Integration assistance

This is intended to enable disabled persons to become integrated into society and gainful activity or to facilitate and consolidate their status in society and gainful activity.

Support measures are:

- Therapeutic treatment (e.g. medical treatment, care in hospitals or spas)
- Provision of prosthetic devices
- Help in schooling and education
- Help for vocational integration (e.g. vocational training, job training, obtaining a job, job trials)
- Help for subsistence

Help in obtaining protected work

This measure is intended to secure jobs for disabled people in whose cases integration assistance is inadequate or no longer adequate and who cannot successfully compete with non-disabled persons on the labour market because of illness or disability.

This is carried out by:

- Assistance in protected jobs
- Assistance in protected workshops

Occupational therapy

The purpose of occupational therapy is to provide disabled people whose physical, mental or psychological condition is a hindrance to vocational training or integration, even in protected circumstances, with the means or equipment for the retention and further training of existing skills and for integration into society.

The measures also include payment of travel costs if disabled people cannot be expected to use public transport for the journey from the dwelling to an institution for assistance to the disabled and back.

Help in finding accommodation

Because of their illness or disability, disabled people are often unable to make use of integration assistance measures, help for protected work or occupational therapy in order to lead an independent life. It is only by housing disabled people in suitable institutions that such measures become possible or guarantee success.

Personal assistance

This includes counselling and management of disabled people and their families to overcome psychical difficulties and to lead a meaningful life.

In the reporting period, 55,458 people received social assistance cash benefits, and the number of persons drawing the Provincial long-term care allowance was 10,793. The vast majority of people drawing cash benefits also took up benefits in kind. Approximately 13,000 people received only benefits in kind (help for mobility, accommodation in housing, social counselling and care). In all, approximately 80,000 persons received welfare benefits from Municipal Department 12 – Wien Sozial in the years 2001 and 2002 (approximately 5% of the Viennese population).

Access to social assistance benefits (Help for subsistence)

Prerequisites:

- Austrian citizenship, refugee status recognized under the Convention. Aliens who enjoy equal status with Austrians under international treaties, with whose home States there is reciprocity in actual practice, or who were granted asylum, as well as nationals of EEA States also have a statutory entitlement to all social assistance benefits of the Province of Vienna.
- Evidence of valid registration in Vienna. Homeless people must present confirmation of a main residence.
- Evidence of income and property
- Evidence of personal status and family circumstances
- Evidence of housing conditions.

Reasonability criteria:

The applicant is required to place his/her working capacity at the disposal of the labour market and to register as seeking work with the competent Public Employment Service unit. Social assistance beneficiaries are required to accept any employment provided that there are no objections for reasons of labour law or health or if a change in the place of residence would be necessary. The psychical and physical condition of beneficiaries of social assistance and their ability to withstand psychical and physical stress must be taken into account.

Applicants presumed to be incapable of work must be assessed by the Assessment Unit (police surgeon).

The following social assistance beneficiaries are permanently or temporarily exempted from the requirement of seeking employment:

- Applicants who have reached the age for an old-age pension (60/65) or have been found to be incapable of work for at least half a year
- Applicants who can no longer be placed permanently on the labour market in the opinion of the Public Employment Service
- Applicants who are already receiving a benefit indicating that they are at present not capable of work (sickness pay, disability pension, etc.) or applicants who have submitted a pension application
- Applicants who are temporarily unable to engage in work (for up to half a year) for physical and psychical reasons or for reasons of their addictive behaviour (assessment by the police surgeon)
- Newly delivered women
- Applicants with childcare responsibilities, if the proper upbringing of the child is not duly guaranteed in the event of their taking up work
- Applicants who are providing care for close relatives if care would no longer be guaranteed in the event of their taking up work (as from care grade V)
- Applicants who are temporarily unable to take up work in view of their social problem situation
- Applicants who do not have and cannot receive a work permit
- Applicants who are attending a retraining course or under-age co-beneficiaries during their school education

Reduction of benefits:

The reduction of social assistance should be considered only as a last resort. The mere suspicion of “moonlighting” is not sufficient for a reduction of social assistance.

Reduction is possible under the following circumstances:

“Refusal” to seek work or thwarting take-up of work or attendance at a course. If the applicant repeatedly refuses on principle to accept work or to register as seeking work, despite explanations, counselling and attempts at motivation, a 20% reduction in the subsistence grant is possible. The reduction applies for one month. In the event of further refusal, a reduction of up to 50% of the subsistence level can be made. A 50% reduction can be made for at most one month in each case.

Family members entitled to maintenance are not affected by a reduction. Assistance for rental and heating are excluded from the reduction.

In order to avoid emergencies, an individually agreed amount to cover the most urgent needs can be granted in addition in every case. However, the payment (minus rental) may not exceed a maximum of 80% of the subsistence grant.

Access to medical assistance

All persons who are not covered by sickness insurance and receive social assistance or whose income does not exceed one-and-a-half times the standard rate of social assistance receive medical assistance.

Access to the long-term care allowance

The long-term care allowance is payable in the form of a lump sum in respect of the extra expenditure incurred by the need for care in order to ensure as far as possible the necessary care and help for persons in need of long-term care as well as to improve their ability to lead a self-determined needs-oriented life.

Persons who would be expected to need permanent care and assistance for at least six months by reason of a physical, mental or psychical impairment or a sensory impairment are regarded as requiring long-term care.

The long-term care allowance is paid monthly (12 times per year).

Depending on the extent of the need for care and irrespective of the cause of such need, the long-term care allowance is payable in seven grades.

The prerequisites for the grant of assistance are the need for long-term care, Austrian citizenship or citizenship of an EEA State (in exceptional cases, this requirement can be waived), as well as a principal place of residence in

Vienna. Furthermore, there must be no entitlement to a long-term care allowance under the Federal Long-Term Care Allowance Act.

The question whether and at what level the long-term care allowance is granted is decided on the basis of an expert medical opinion.

The need for long-term care is assessed on the basis of an Order determining standard values for the duration of care and binding overall values for the time to be spent in providing assistance.

Comments can be made in writing within two weeks after service of the assessment of need for long-term care. Only thereafter is a decision taken in the form of an official ruling.

Access to assistance to the disabled

The requirement for the grant of assistance is recognition as a disabled person, Austrian citizenship or that of an EEA State as well as regular residence in Vienna (this also applies to persons who have equal status with such persons on the basis of international treaties). In exceptional cases (for the avoidance of social hardship), this requirement can be waived.

Applicants must present to the Disabled Persons Assistance Unit their personal documents, registration form, certification of citizenship, medical certificates, statement of income and the trusteeship decree (if applicable). After a positive assessment of the need for the benefit by an expert team, the award is made in the form of an official ruling or an instruction.

As already mentioned, foreigners who have equal status with Austrians on the basis of international treaties, with whose home States there is reciprocity in actual practice, or who have been granted asylum, as well as nationals of EEA States have a statutory entitlement to all social assistance benefits of the Province of Vienna. Foreigners who do not have equal status with Austrian citizens according to the above provisions and have been lawfully in Austria for a period of more than three months can be granted benefits by the social assistance authority, as an entity vested with private law rights, if that seems necessary in order to avoid social hardship on the basis of their personal, family or financial circumstances. Applicants for asylum have no entitlement to social assistance until the asylum procedure has been completed with legally effect.

There is a statutory entitlement to all public social assistance benefits that serve to ensure the provision of subsistence. No application is required for such benefits, which are granted independently and by means of official notices or instructions.

In social assistance matters, the district administrative authority is the authority of first instance, and the Provincial Government (Provincial Government Office) decides on appeals. In addition, after exhausting all normal legal channels, an appeal against the decision of the Provincial Government can be made to the Administrative Court or the Constitutional Court.

The Independent Administrative Board decides as a tribunal of second instance only on administrative offences under the Viennese Social Assistance Act. Claims for restitution against the social assistance beneficiary or third parties must be entered by the Municipality. The normal courts are competent for disputes about such claims against third parties.

The grading of benefits under the Viennese Long-Term Care Allowance Act is based on the expert opinion of a police surgeon. Assessment is made in principle by reference not to a diagnosis but to physical capacity, taking into account the care and assistance measures required in individual cases, in the context of the guidelines of the Viennese Provincial Government Order on the Viennese Long-Term Care Allowance Act.

The long-term care allowance is paid as a cash benefit in order to enable the beneficiary to choose freely the form of and the person providing care. The patient's condition is verified on a routine basis by means of home visits. If it is discovered that the provision of care is inadequate, the cash benefit can be converted into a benefit in kind.

The competent authority for implementation of the Long-Term Care Allowance Act is primarily the Municipality, as the district administrative authority. Applicants for the long-term care allowance can submit appeals to the competent Labour and Social Court against rulings. Appeals can be entered within three months from service of the official notice.

Standard Social Assistance Rates 2001

(Examples from MISSOC-Table 12: Figures include family allowance – FB)
 Allowances for housing costs and heating and possibly household goods and clothing
 should be added to the following figures

	B	K	N	O	S	ST	T	V	W
Sole beneficiaries	5,110	5,015	6,180	6,640	4,995	6,200	5,230	5,920	5,220
Main beneficiaries	4,340	4,095	5,427	6,030	4,085	5,690	4,475	4,970	5,089
Co-beneficiaries without FB	3,000		2,825	3,590	2,700	3,740	3,110	3,170	2,614
1st		2,625							
2nd		1,960							
3rd		1,320							
4th+		665							
Co-beneficiaries with FB	1,260		1,675		1,205	1,920	1,740	1,930	1,565
1st		1,525							
2nd		1,145							
3rd		765							
4th+		385							
Up to 10				1,305					
Over 10				1,805					
FB for 1st child<10	1,450	1,450	1,450	1,450	1,450	1,450	1,450	1,450	1,450
FB for 1st child 10<19	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700
FB for 1st child 19,>19	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000
FB for 2nd child <10	1,625	1,625	1,625	1,625	1,625	1,625	1,625	1,625	1,625
FB for 2nd child 10<19	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875	1,875
FB for 2nd child 19,>19	2,175	2,175	2,175	2,175	2,175	2,175	2,175	2,175	2,175
FB for 3rd+ child <10	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800
FB for 3rd+ child 10<19	2,050	2,050	2,050	2,050	2,050	2,050	2,050	2,050	2,050
FB for 3rd+ child 19,>19	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350	2,350
Couple with child10	10,300	9,945	11,627	13,125	9,690	13,050	11,025	11,770	10,968
Couple with children 8+12	13,185	12,715	14,927	16,055	12,520	16,595	14,390	15,325	14,158
Couple with children 8+10+12	16,495	15,530	18,652	19,910	15,775	20,565	18,180	19,305	17,773
Lone parents with child 10	7,300	7,320	8,802	9,535	6,990	9,310	7,915	8,600	8,354
Lone parents with children 8+10	10,185	10,090	12,102	12,465	9,820	12,855	11,280	12,155	11,544

Standard Social Assistance Rates 2002

(Examples from MISSOC-Table 12: Figures include family allowance – FB)

Allowances for housing costs and heating and possibly household goods and clothing should be added to the following figures

	B	K	N	O	S	ST	T	V	W
Sole beneficiaries	382.10	390.00	458.10	496.50	392.00	460.00	391.10	438.90	390.33
Main beneficiaries	324.50	322.00	402.30	451.00	353.00	420.00	334.60	368.40	380.55
Co-beneficiaries without FB	224.30	235.00	209.50	268.40	226.00	280.00	232.60	235.00	195.47
Co-beneficiaries with FB	94.20	116.00	124.20	138.00	105.00	142.00	130.10	143.10	117.03
FB for 1st child<10	105.40	105.40	105.40	105.40	105.40	105.40	105.40	105.40	105.40
FB for 1st child 10<19	123.60	123.60	123.60	123.60	123.60	123.60	123.60	123.60	123.60
FB for 1st child 19,>19	145.40	145.40	145.40	145.40	145.40	145.40	145.40	145.40	145.40
FB for 2nd child	12.80	12.80	12.80	12.80	12.80	12.80	12.80	12.80	12.80
FB for 3rd child	25.50	25.50	25.50	25.50	25.50	25.50	25.50	25.50	25.50
Childless couples	548.80	557.00	611.80	719.40	579.00	700.00	567.20	603.40	576.02
Couple with child10	766.60	796.60	859.60	981.00	807.60	965.60	820.90	870.10	816.65
Couple with children 8+12	979.00	1,030.80	1,102.00	1,237.20	1,030.80	1,225.80	1,069.20	1,131.40	1,051.88
Couple with children 8+10+12	1,222.30	1,295.90	1,375.30	1,524.30	1,284.90	1,516.90	1,348.40	1,423.60	1,318.01
Lone parents with child 10	542.30	561.60	650.10	712.60	581.60	685.60	588.30	635.10	621.18
Lone parents with children 8+10	754.70	795.80	892.50	968.80	804.80	945.80	836.60	896.40	856.41

B = Burgenland; K = Carinthia; N = Lower Austria; O = Upper Austria; S = Salzburg; St = Styria; T = Tyrol;

V = Vorarlberg; W = Vienna

For further information see **Annex 10**

Article 13 paragraph 2

No relevant changes.

Article 13 paragraph 3

Burgenland:

The previous reporting should be updated as follows.

Extramural nursing and care services (home nursing, personal assistance and support in housekeeping) help to ensure, in the event of sickness, disablement or a need for long-term care, that the beneficiary should remain in his/her familiar surroundings. The services are provided by qualified nurses, nursing auxiliaries and home-help staff of private non-profit institutions and a number of Local Authorities.

At the end of 2002, 18 organisations were employing 333 persons (= 187 full-time staff):

89 qualified nurses (= 46 full-time staff)

51 nursing auxiliaries (= 28 full-time staff)

193 home helps (= 113 full-time staff)

In the year 2001, approximately 2,520 persons received services totalling 224,000 hours (81,000 hours by specialist staff, 143,000 hours by home- helps). Also, about 1,270 initial visits, financed by the Provincial authorities, were made for the purposes of information and counselling.

Per hour of service, the provider organisations receive a grant from the Provincial authorities of between €16.10 (qualified nursing staff) and €3.20 (home-helps from local providers).

In 2001, the Provincial authorities, the Hospital Financing Fund and the Sickness Insurance Funds paid approximately €2,180,185 for such services – the total costs of care and nursing services amounted to approximately €6,395,209.

In 2002, the Youth Welfare and Social Work Units of the district administrative authorities had a staff of 28 qualified social workers.

The psychosocial service:

Staff level 2002: 14 qualified social workers and 4 psychologists (a total of 14 full-time staff), as well as psychiatric specialists available at every counselling unit on an hourly basis.

In 2001, 2,123 clients received care (budget for 2001: €0.91 million out of public funds.)

The “Staircase – Shelter” Association (*“Die Treppe – betreutes Wohnen”*) operates three “social shelters” in Eisenstadt and Oberwart, which offer temporary accommodation as well as support by counselling staff (4 social workers) in coping with emergencies, chiefly for women (with children),

The shelters have capacity for about 14 women and 25 children. The relevant costs are paid out of social assistance funds.

Lower Austria:

The previous reporting should be updated as follows:

Advisory units for women:

Eight advisory units In Lower Austria deal especially with matters of concern to women. The range of services comprises psychosocial counselling, further training facilities, labour market counselling and courses, as well as counselling for women who are victims of violence and for migrant women. The Women’s Section supports these advisory units with a total of €58,168 per year.

Projects for women:

Personal help is offered to women in special projects which concentrate on support in career development or (re-)entry into employment and are intended to facilitate integration into the labour market.

Flying nannies:

Flying nannies: This form of childcare, based on flexible time arrangements, offers temporary employment to kindergarten teachers who have not been able to find a post after completing their training. At the same time, help is given to families who need additional childcare at unusual hours. It has so far been possible to find employment for some 100 kindergarten teachers through this project. The total costs amount to €850,000 for 2003.

Regional mentoring programme:

The Regional Mentoring Programme for Women in Lower Austria was launched in 1999 on the initiative of the Lower Austrian Women’s Section as an EU project (Fourth Framework Programme. In the long term, the Regional Mentoring Programme is intended to bring about a balanced participation by women in regional and communal structures and to develop greater participation by women in social decisions. The great interest among women and the

successes achieved led to its continuation as an autonomous mentoring programme, which is now available as a service to all Lower Austrian women. The range of facilities comprises the brokering of mentor ships, seminars and workshops as well as support in building up networks, so-called mentoring meetings.

The programme is financed out of funds of the Lower Austrian Women's Section, Office of the Lower Austrian Provincial Government. Costs 2003: €15,000.

MUT - Girls and technology:

The MUT project is implemented by the Lower Austrian Women's Section in cooperation with six other Federal Provinces (Salzburg, Tyrol, Carinthia, Styria, Vorarlberg, Upper Austria) as well as by the Federal Ministry for Education, Science and Culture (BMBWK) and 11 NGOs working in the field of counselling (for girls). The target is to interest girls living in rural areas in technical occupations and to expand the spectrum of occupations open to girls. The Lower Austrian Women's Section implements the measures specific to Lower Austria in cooperation with the Sunwork association. These measures comprise an assessment centre to identify the potential of women in technical occupations and skilled trades, holistic individual counselling and technical trials (learning by doing). The project is subsidised out of European Social Fund resources (Objective 3), and funds of the BMBWK and the Federal Provinces. The costs for Lower Austria amount to €109,528.

NOEL - New Opportunities for Equality in Lower Austria

Noel was initiated by the Lower Austrian Women's Section in order to bring about a sustained improvement in the future chances of women on the labour market and to reduce their disadvantages with regard to access and advancement in information society occupations. The project partnership comprises 23 organisations and institutions in Lower Austria, which cooperate in six sub-projects and implement or participate in projects.

- Adaptation of the higher technical training colleges (HTL) to the needs of girls
Gender-sensitive optimisation of the interface between the school and the career choices
- Pool of female business trainers
Adaptation of IT further training facilities to the needs of women, on a regional basis
- Learning in itinerant Internet cafes
Opening up new paths for training in the regions suitable for women
- Occupational profiles of the information society

More transparency and realism in IT occupation profiles

- Future-oriented activation programmes
Motivating and activating girls and women
- Regional internet radio
Opening up global information channels on a regional basis

The project is promoted out of ESF funds (Objective 3) and funds of the Federal Ministry for Economic Affairs and Labour.

Total costs: €1,750,000.

Girlsday:

This programme offers interested girls the possibility of finding out about their future careers. Women who are already in employment introduce their jobs and answer questions, for example, what training is needed for what occupation. The Lower Austrian Women's Section initiated the Girlsday in order to expand the spectrum of occupational choices for girls and to create awareness among future female and male employers regarding the recruitment of women in occupations that have so far been atypical. On the 24 April 2003 Girlsday, 18 enterprises opened their doors to some 350 girl pupils. The Girlsday is financed out of funds of the Lower Austrian Women's Section in the Office of the Lower Austrian Provincial Government. Costs in 2003: €10,700.

Upper Austria:

The previous reporting should be updated as follows.

The range of available social services is formulated in the Upper Austrian Social Assistance Act 1998 (OÖ. SHG), (§ 12 Personal assistance), while subsidisation and financing are spelled out in §§ 30 and 31.

The following social services are listed in that Act as examples:

- Mobile care and assistance
- Social home nursing
- Short-term care, also for rehabilitation after hospital care
- Services by semi-intramural institutions (e.g. day or night care)
- Hiring of aids
- Physiotherapy and other therapeutic services
- Meals services
- Measures to assist persons providing care
- Measures for daytime care and organisation of daytime activity
- Other housekeeping assistance
- Specific forms of accommodation with appropriate expert care for women and children, for temporary housing and for coping with the experience of violence,

for the homeless, persons with psychical impairment and need for psychosocial care, chronically sick persons in need of care

- Family assistance and family work
- Special counselling for persons with debt problems
- Psychically impaired persons or persons with need for psychosocial care
- Ongoing care services for the dying and their families

Pursuant to §§ 30 and 31 OÖ. SHG 1998, the social assistance institutions are responsible for subsidising or financing these services. As a rule, voluntary welfare institutions are entrusted with implementation, and agreements pursuant to § 60 OÖ. SHG 1998 are concluded with them if they are regularly commissioned for that purpose.

These agreements contain provisions regarding:

- The substance, type and extent of the services to be provided
- The service standards to be observed
- The necessary qualifications of the staff assigned by the services provider as well as the necessary provision for further training and supervision
- The payment due for the agreed services
- The duties of the services provider for cooperation in the necessary coordination measures, particularly within a district social authority
- Appropriate provision for the guarantee and further development of quality
- The necessary documentation and reporting system as well as suitable evaluation and controlling measures
- The requirement to provide persons seeking help who wish to take up a service with suitable information on the range of services available and the conditions for their provision.

The OÖ SHG 1998 already contains some appropriate regulations regarding the financing or subsidisation of these services, or else competence for directives in these matters already exists. The intended development of these services is incorporated in social planning. There is no statutory entitlement to the services mentioned. They can be taken up only in the light of existing resources.

Tyrol:

In the year 2002, five staff were employed in social counselling for the disabled, two staff in the context of client-centred quality management (regional counselling activity for the disabled), three staff in the Provincial Addiction Coordination Unit up to the middle of the year 2002, and thereafter two. No changes in this respect are envisaged for the year 2003.

In addition to the Provincial Addiction Coordination Unit, numerous private associations are active in the field of counselling. These received subsidies of €1,212,132 in the year 2002.

Vorarlberg:

On the basis of the provisions of § 6 of the Vorarlberg Social Assistance Act (assistance in special situations) and in § 18 of that Act, which requires the Province of Vorarlberg as an entity vested with private law rights to use the services of voluntary welfare and other institutions for cooperation in social assistance, a varied network of private services providers has developed in Vorarlberg in the social area. A similar provision is contained in § 25 of the Provincial Youth Welfare Act for voluntary youth welfare institutions.

Apart from the institutions under public law with central responsibility for the counselling and support of destitute persons or persons threatened with destitution (the Provincial Government, the District Commissioners' Offices, the Local Authorities, the Public Employment Service, the Federal Office of Social Welfare, etc.) there are, on the basis of the Youth Welfare Act, the Disabled Persons Act and the Social Assistance Act in particular the following social services, which are chiefly provided by voluntary welfare institutions: services for pregnant women and infants (also follow-up parental counselling), vacation facilities, childcare facilities, counselling for youth, adults, married couples, families and child-rearing, psychotherapy, counselling of migrants, legal counselling, debt counselling, childminder services, family services, social work in schools, child and youth psychiatric services, crisis services, emergency accommodation facilities, socio- pedagogical institutions and projects, orthopedagogical facilities, specialised services for the disabled such as speech therapy or counselling for the deaf, health services and services to the sick, socio-psychiatric services, addiction counselling and therapy, preventive health service institutions and addiction prophylaxis, etc.

Depending on the type of problem in question, action focuses on information, counselling, care, financial, psychological, social, nursing or therapeutic assistance. Prevention is of great importance.

Corresponding to the diversity of these services, several specialist groups operate in these institutions: social workers, social educators, family helps, orthopedagogical staff, psychologists, psychotherapists, specialised nurses, medico-technical personnel, midwives, doctors, lawyers, administrative staff, etc. Interdisciplinary teams cooperate in many areas,

With this wide variety of services there is also a corresponding diversity of providers: apart from the social insurance institutions and representative bodies of workers, the field of private welfare includes not only the major organisations

such as the Institute for Social Services, Caritas, the Vorarlberger Kinderdorf, Arbeitskreis für Vorsorge- und Sozialmedizin, Lebenshilfe and a number of other smaller providers. The Local Authority organs have an important counselling and support function.

Vienna:

Social services:

In Vienna, responsibility for social services lies with the social assistance provider as an entity vested with private law rights. There is no statutory entitlement to its services. These social services are now organised in Vienna by a separate department, Municipal Department 47 – Nursing and Care. The social services are provided in a decentralised, regional form. Eight care regions have been created, each under the responsibility of a Health and Social Centre. The Health and Social Centres are operated by staff of the City of Vienna. The staff working in these Centres are social workers, qualified nursing staff, nursing auxiliaries, home helps, ergotherapists and physiotherapists and administrative staff. The Centres are the focal points of contact for the population of the region. The staff provide information, determine need, arrange for care and social services through the private welfare organisations and provide special care services.

In addition, 13 private welfare organisations are commissioned by Municipal Department 47 – under contract – to provide outpatient care and social services. In 70 intramural care institutions in Vienna and in 100 such institutions in other Federal Provinces, approximately 8,000 persons in need of nursing and care are housed with the support of social assistance funds. In Vienna, some 10,000 care places and 10,000 residential places are available, including private residential and care facilities.

Social assistance:

The main focus is on safeguarding subsistence and the integration of social assistance recipients, prevention and basic social security. Orientation towards the needs of clients and the improvement of the range of facilities are the main concerns. Ten regional social centres in Vienna are in principle open to all people with social problems. A holistic approach is taken to the provision of care. Social workers offer initial interviews and prepare a help and care plan jointly with the clients. Social welfare payments are also administered in the social centres. The main focus is on dealing with individual situations and working out step-by-step solutions with the clients for overcoming the crisis.

Debt counselling:

Debt counselling and assistance are available in the event of over-indebtedness problems of families or individuals.

Jobchance:

The aim of this project is reintegration into the primary labour market. The essential elements are:

- Precise analysis of the skills and limitations of the job-seeker
- Intensive and individual support in finding work
- Search for “hidden” job vacancies, building up a wide network of contacts with medium-sized and small enterprises.
- Reduction of expenditure on social assistance.

JOBCHANCE re-opens an opportunity for work for social assistance recipients. Over 300 persons were integrated into long-term work and at least 100 persons are added yearly. Since 2002, it has also been possible to accept in this programme persons drawing PES benefits, who receive an additional standard rate supplement from Wien Sozial because of the low level of those benefits. This can be expected to double the number of persons successfully integrated into work.

In the context of the EU EQUAL programme, a regional development partnership is being established to improve employment possibilities for persons drawing social assistance. The main target group is recipients of standard rate social assistance supplements.

Fachstelle für Wohnungssicherung – FAWOS:

FAWOS is a central point of contact for persons living in private and cooperative apartments who are threatened with loss of their dwelling.

Activities concentrate on:

- Contact with all persons affected
- Information and counselling on tenancy law and social work
- Crisis intervention
- Mediation between landlords and tenants.

In the specialised unit for safeguarding housing, which received an international award, the group of clients was extended under the 2000 reform of tenancy law (more rapid notification by the courts). The operational result remained unchanged, and it was possible for tenants to remain in their apartments in three-quarters of the cases dealt with.

Work with the disabled:

All Viennese disabled persons benefits are offered through private organisations, whose expenses are refunded by the City of Vienna. The necessary specialists are recruited by the associations.

Assistance for the homeless:

Accommodation and day-care are offered both by the City of Vienna and by private organisations, the latter being commissioned and financed by the City of Vienna. In this entire sector care is provided to contractually agreed standards (for example, number of social workers assigned) and is regularly monitored.

Viennese women's shelters:

In the reporting period, an additional Viennese shelter for women was established, so that there are now four houses in Vienna for the temporary accommodation of women who are victims of violence and their children.

Article 13 paragraph 4

No relevant changes.

ARTICLE 16
**THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL
 AND ECONOMIC PROTECTION**

Ad A:

The previous reporting should be updated as follows:

Help for victims of violence in the family:

Following a model project carried out from 1998 to 2000, the systematic development of psychosocial and legal support in court proceedings throughout Austria began in the year 2000. This additional service for victims of violence (in the family) is intended to prevent them from suffering further distress in making charges and in court proceedings and from suffering secondary trauma. Ongoing support is provided on the basis of standards that were worked out by an inter-ministerial working group. In order to guarantee constant quality, seminars for psychosocial and legal support officers were organised throughout Austria and the establishment of regional cooperation structures was initiated. The report on the implementation of such support measures was published in September 2002.

Ongoing psychosocial and legal support in court cases is incorporated into existing services for assistance to victims in Austria – support by family counselling and intervention units, targeted youth welfare measures, expulsion of offenders and prohibition of entry ordered by the police under the Violence Protection Act, interim injunctions by the civil courts and psychotherapy for coping with the experience of violence, which is among other things financed under the Crime Victims' Act. Meanwhile, throughout Austria, some 70 (advisory) units provide free ongoing psychosocial and legal support in court cases for all victims of violence (in the family).

In relation to the expulsion of violent offenders and prohibition of entry by the police, it should be pointed out that, under a 1999 amendment to the Police Services Act, expulsion and prohibition of entry can be ordered for 10 (previously, 7 days) in cases in which further acts of violence are imminent; if an application for expulsion is made to the court, this period is extended to a maximum of 20 (previously 14) days until a decision is taken by the court.

Mediation:

It was announced in the previous report that the Federal Ministry of Justice was requested in a resolution of the National Assembly, E 40-NR/XXI GP, dated 22 November 2000, to present a bill to the National Assembly by 31 December 2001 that would regulate the legal prerequisites and legal framework for the practice of mediation, taking previous experience into account.

The Federal Ministry of Justice prepared a bill that was submitted to the National Assembly in 2002 (1284 of the Annexes to the verbatim records of the National Assembly XXI GP). However, because of the premature ending of the 21st legislature, the bill was not negotiated on or adopted by Parliament. That government Bill is attached as Annex 11.

Ad B:

The previous reporting should be updated as follows:

Family allowances

Family allowances up to 31 December 2002

From birth	€105.4	
From 10 years		€123.6
From 19 years		€145.4
Supplement for severely disabled child		€131.0

Family allowances from 1 January 2003

From birth	€105.4
From 3 years	€112.7
From 10 years	€130.9
From 19 years	€152.7
Supplement for severely disabled child	€138.3

If family allowance has been drawn for two children since 1 January 2002, the total family allowance is increased by €12.8 per month, and in addition by €25.5 per month and child as from the third child for whom family allowance is drawn.

Since 1 January 2002, a large family supplement of €36.4 per month has been granted for each third and further child living permanently in the Federal territory (exception: EU zone) for whom family allowance is granted.

An entitlement exists only if the taxable family income in the calendar year before the calendar year in respect of which the application is made did not exceed a certain level.

A separate application for the large family supplement must be made every calendar year to the tax office responsible for the collection of taxes on income in the context of the (employees') tax assessment.

In the year 2002, the following payments were made from the resources of the Family Allowances Equalisation Fund:

Expenditure on family allowances	approx. €2,738,372
Expenditure on childcare benefits, mother-and-child passport bonus, infants' allowance	approx. €867,875
<u>Expenditure on other family policy measures</u>	
(e.g. school books, contribution to the parental leave allowance), mother-and-child passports, family hardship adjustment, family advisory units, etc., etc.	approx. €879,952
Total	<u>approx. €4,486,199</u>
Income	approx. €4,519,461

Family allowance rates – monthly in euros

<u>Allowance for each child/orphan</u>	<u>Basic amount</u>	<u>1st age-based supplement (3 years)</u>	<u>2nd age-based supplement (10 years)</u>	<u>3rd age-based supplement (19 years)</u>	Severe disablement supplement (increased family allowance)
<u>From 1.1.2003</u>					
<u>1st child</u>	<u>105.4</u>	<u>7.3</u>	<u>18.2</u>	<u>21.8</u>	<u>138.3</u>
<u>2nd child</u>	<u>118.2</u>	<u>7.3</u>	<u>18.2</u>	<u>21.8</u>	<u>138.3</u>
<u>3rd child</u>	<u>130.9</u>	<u>7.3</u>	<u>18.2</u>	<u>21.8</u>	<u>138.3</u>

Childcare benefit

Legislative basis: Childcare Benefit Act BGBI. I No. 103/2001, as amended.

The childcare benefit (KBG) has been payable for children born from 1 January 2002 onwards.

The qualifications for drawing KBG are in principle the entitlement to family allowance for the child, a joint household with the child and observance of the additional earnings limit.

With regard to the payment of family allowance, it is sufficient if an entitlement to family allowance exists for the child, though the question which parent has that entitlement is irrelevant.

Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons and their families moving within the Community applies to EEA and EU citizens. That regulation is based on the principle of the State of employment.

Accordingly, the Member State competent for the payment of family benefits (including KBG) is primarily the State in which one parent is employed. Equalisation payments may possibly be due in the State of residence if the family benefits of the employing State are lower. If the two parents are employed in different States, the KBG is payable in the employing State in which the child is permanently resident (resident country principle).

If neither the father nor the mother has a entitlement to the family allowance, that parent who can demonstrate a certain number of insurance periods on the basis of gainful activity can also draw childcare benefit.

Both the natural and the adoptive or foster parents are eligible for the childcare benefit.

The KBG amounts to €14.53 per day, that is to say, approximately €436 per month, and is paid at most up to the 30th month of the child's life (if only one parent draws the KBG). If the parents alternate in drawing the KBG, the period of payment is extended up to at most the 36th month of life.

Alternating between the parents is possible twice, for at least three months in each case. The childcare benefit is payable for the youngest child, and at the earliest from the birth of the child.

The childcare benefit is suspended during the period in which the maternity allowance is drawn. However, if the maternity allowance is lower than the childcare benefit, the difference is payable.

The additional income limit amounts to €14,600 per calendar year. Supplementary income is defined in principle as the total of all taxable income earned during the period in which the KBG is drawn. In the calculation of income, however, only the income of the parent drawing the KBG is considered. The family income is irrelevant. If the additional income limit is exceeded, the childcare benefit paid in the respective calendar year must be repaid.

For health policy reasons, payment of the childcare benefit is related to the conduct of mother-and-child passport examinations (five during pregnancy and five during the life of the child). If the examinations are not carried out and certified, only half of the KBG is payable as from the 21st month of the child's life. In exceptional cases, certification of individual examinations is not required (e.g. in the case of adoption or late detection of pregnancy).

Additional financial support for low-income parents and sole parents with low income is granted in the form of a supplement to the KBG. This is payable on application and amounts to €6.06 per day (approximately €181 per month). It is a type of loan that is repayable as soon as certain income limits are exceeded.

The insurance fund with which the parent in question has sickness insurance, or was most recently insured, is competent for applications for the childcare benefit and the supplement to the KBG. The benefit is payable monthly in arrears.

In order to protect their social rights, persons are covered by sickness insurance during the period in which they draw the childcare benefit. Furthermore, 18 calendar months during which the childcare benefit is drawn are rated as genuine contributory periods in pension insurance and are thus recognised as pensionable. In addition, the periods up to at most the child's fourth birthday are regarded as replacement periods.

As of the end of December 2002, 58,795 persons were drawing the childcare benefit, though that figure is not very significant since the scheme had not yet become fully operational by that date. As of the same date, 7,868 persons, or 13 % of all beneficiaries, were also drawing a supplement.

Family hospice leave – hardship compensation

Any person who takes release from work with protection under labour and social law (family hospice leave) for the purpose of providing ongoing care for dying relatives or seriously sick children can receive a grant from the family hospice hardship fund in the event of a resultant financial emergency.

However, the weighted monthly income of the household (excluding family allowance, housing allowance, long-term care allowance and childcare benefit) may not exceed €500.

The monthly payment is limited to the amount of the income lost as a result of taking family hospice leave.

The textbook scheme

To ease the financial burdens on parents arising out of the education of their children, pupils of all grades receive the textbooks necessary for schoolwork free of charge out of Family Burdens Equalisation Fund resources; the textbooks become the property of the pupils. The schools place collective orders for the textbooks, subject to a maximum amount per pupil (the “textbook limit”) – depending on the grade and the particular type of school. The textbooks are distributed to the pupils at the beginning of the school year (approximately 10 million textbooks for roughly 1.1 million pupils). The budget for the textbook scheme is €91.5 million.

The parents pay a contribution of 10% of the “textbook limit” per textbook. Pupils of special schools are exempted from payment of this contribution with respect to all textbooks, and pupils with special educational needs are exempted with respect to educational materials for their special needs. Also, no contribution is payable in respect of the following: therapeutic educational aids for disabled pupils and textbooks for visually impaired pupils, pupils not of German mother tongue and for bilingual education.

In order to ensure the provision of pupils with the necessary textbooks, suitable textbooks can be re-used, on a class-by-class basis. The financial resources released by the re-use of textbooks can be used to order educational material selected by the school (therapeutic material, printed material, audio-visual and computer data-carriers, CD-ROMs, educational games). Up to 15% of the relevant “textbook limit” can be used in this way.

Free travel for schoolchildren and apprentices, travel allowance

1. Free travel for schoolchildren:

Children in regular education for whom there is an entitlement to the family allowance are given the opportunity of using public transport free of charge for normal travel between their home and the school. If there is no suitable public transport available, a special transport service can be arranged.

2. School travel allowance:

If free transport is not available because, for example, there is no public transport available and no special transport service can be arranged, a school transport allowance is granted.

2.1. Hostel travel allowance for schoolchildren:

Since 1 September 2002, there has been an entitlement to a school travel allowance for the journey between the principal residence in Austria and the second residence, if the schoolchild lives away from home at the location of the school or in its vicinity in order to attend school.

3. Free travel for apprentices:

Since September 1992, apprentices in a legally recognised apprenticeship who are entitled to the family allowance and are not older than 26 have had the possibility of free travel on public transport for the journey between the residence inside Austria and the training place inside Austria or close to the border abroad. Pursuant to the 1998 amendment to the Vocational Training Act, the free travel facility for apprentices was extended for a limited period to persons undergoing training under the Youth Training Provision Act and to persons undergoing pre-apprenticeship training.

4. Travel allowance for apprentices:

If free travel between the residence and the training workshop is not possible, a travel allowance has been granted since 1 January 1994.

4.1. Hostel travel allowance for apprentices:

Since 1 September 2002, there has been an entitlement to a travel allowance for travel between the principal residence in Austria and the second residence if the apprentice occupies a second residence outside his normal residence at the location of the training workshop or in its vicinity for purposes of training.

Free travel and the travel allowance for schoolchildren and apprentices are financed out of the Family Burdens Equalisation Fund. Approximately €300 million per year is spent for this purpose. Since the 1996/97 academic year, schoolchildren and apprentices have had to pay a contribution of €19.60.

Income tax

Tax concessions to take into account support obligations towards children ensure that the minimum subsistence amount necessary for the maintenance of children remains free of tax. This is achieved by direct transfer payments (family allowances) and fiscal measures (tax-free children's allowances). The tax-free children's allowance, a standard €50.90 per month for every child up to the 19th or, for students, etc. the 26th year of life, is granted together with the family allowance, irrespective of income.

A monthly tax-free maintenance allowance of €25.50 (first child), €38.20 (second child) and €50.90 (third and further children) can be claimed in respect of children not living in the joint household.

The tax concession for married couples and families (or cohabitees with at least one child) who have only one income consists of a sole earner's tax-free allowance, while single parents receive a lone-parents' tax-free allowance, each allowance amounting to €364 per year. If only marginal tax is due or no tax is payable, the tax-free allowance is paid out in the same amount, in the form of a negative tax.

In principle, the ceiling for claiming special expenditure against tax is €2,920 per annum; of that amount, 25% is tax deductible. For sole earners and lone parents, this amount rises by a further €2,920 per annum; with three or more children, there is a special expenses limit of €7,300 per annum.

Claims can be made under family tax regulations for the following extraordinary charges: accommodation of dependants in a long-term care ward, costs of childcare outside the home incurred because the sole parent is gainfully employed, sickness and treatment costs for children, costs for external vocational training of children (lump-sum of €110 per month), extra expenses resulting from disablement (lump-sum amount of between €75 and €726 per annum dependent on the reduced earning capacity, not payable, however, if a long-term care allowance is drawn), extra expenditure for disabled children.

The following innovations have been announced by the Federal Provinces:

Upper Austria:

Mother-and-child grant:

As of 1 January 2002, a mother-and-child grant of €370 was introduced in Upper Austria.

In order to increase take-up of the facility for the examinations of pregnant women prescribed in the mother-and-child passport scheme, which has unfortunately been declining sharply since the abolition of the birth grants, mothers are paid a bonus of €370, divided into two instalments of €185 each, after the birth of their child and after presenting evidence that the requirement of examinations and immunisations up to the second and the fifth year of life stipulated in the mother-and-child passport has been met. This measure is regarded as very important for health reasons, because the mother-and-child passport examinations serve above all to reduce the number of high-risk pregnancies and high-risk births. The progress achieved in recent decades is now at risk owing to the abolition of the former financial incentives. The bonus is paid retroactively for all births as from 1 January 2000 provided that the requirements (all prescribed mother-and-child passport examinations as well as protective immunisations up to the second and fifth year of life, respectively) are met.

Youth counselling facilities:

In Upper Austria, Provincial Youth Service Units have been set up in Linz and in 13 districts; these are available to youth free of charge for counselling and information.

In the year 2001, 11,225 young people applied personally to a Youth Service Unit of the Province of Upper Austria. In 2000, the number was 11,795.

Vorarlberg:

In the year 2002, 1,806 persons received family allowances from the Province of Vorarlberg, totalling approximately €4.59 million.

Owing to the introduction of the nationwide childcare benefit, a new directive on the further development of the family allowance came into effect as of 1 January 2002.

Vienna:

Since 2001, EEA citizens have had equal status with Austrian citizens for the grant of the Vienna family allowance. Since the conversion of the currency to euros as of 1 January 2002, the ceiling of the weighted per capita income is €508.71. The Vienna family allowance is granted in amounts from €50.87 to €152.61 monthly.

Applications totalled 4,358 in the year 2001 and 4,321 in 2002. Allowances were being paid to 3,810 families as of the end of 2001 and to 4,039 at the end of 2002. The total expenditure on family allowances was ATS 5.8 million in 2001 and €6.4 million in 2002.

In the year 2002, 974 applications for economic aid were settled positively. The amount available was some €1 million, 21% of which was used for obtaining and maintenance of accommodation, 13% for the supply of gas, electricity and heating, and 66% for the provision of essential furniture and household goods.

Ad C:

No relevant changes.

The Federal Provinces announced the following innovations:**Upper Austria:****Parenting counselling and training**

In Upper Austria, six child and youth psychologists employed by the Provincial authorities (some part-time) provided counselling free of charge for parents and guardians, children and young people. This counselling takes place in the youth offices of all district commissioners' offices as well as those of the municipalities of Wels and Steyr, cities with their own charter. This Provincial service was partly outsourced: Wels and Steyr as well as the district commissioners' offices of Braunau and Ried employ psychologists on a contractual basis. In the year 2002, the number of counselling sessions was 1,579. That figure does not include the psychological counselling sessions (2,425 in July 2002) of the municipality of the provincial capital Linz. The Provincial authorities also employed a female psychologist specialising in kindergarten children and another specialising in early childhood development.

In the year 2002, parenting training, which is also part of youth welfare, comprised a total of 394 events (courses and individual sessions), attended by a total of 12,733 participants. These events were organised by three associations on behalf of the Provincial authorities of Upper Austria.

In addition, 15 seminars for foster and adoptive parents were held in Upper Austria, attended by 237 persons (married couples and individuals). These events were carried out by an association commissioned by the Upper Austrian Provincial authorities.

Vacation schemes for children and families:

As part of youth welfare services, two associations were commissioned by the Upper Austrian Provincial authorities to organise and carry out children's recreational schemes in the summer months. The parents' financial contribution depends on income and can be completely waived. In 2002, a total of 297 children from the ages of 6 to 15 benefited from this scheme. The Upper Austrian Provincial authorities spent public funds amounting to approximately €220,000 on these child recreation schemes in 2002.

Since 1981 – also in the context of youth welfare services – families in Upper Austria have been able to receive a Provincial grant towards the cost of a family holiday, provided that the family's total income does not exceed a certain limit and that the holiday destination chosen is in Austria. The beneficiaries must be the two parents or one of them, or foster-parents with at least three children, or two children if one child is disabled. In the year 2002, a total of 820 families received such support from the Upper Austrian Provincial authorities; the relevant expenditure was approximately €313,550.

Tyrol:

To supplement the previous reporting on youth welfare, it should be added that the functions of the social services have been expanded under an amendment to the Youth Welfare Act. These expanded functions include training for prospective parents, parents and guardians.

Through this new task of the public youth welfare services, appropriate training for youth has been offered in order to prevent developmental disturbances, educational difficulties and physical, psychical and sexual violence as well as to strengthen the capability for care and education.

The necessary resources are available. Furthermore, it was laid down that certain types of assistance can be granted beyond the age of majority up to the end of the 21st year of life.

The youth welfare provisions of the Federal Province of Tyrol were re-promulgated with the Provincial Government Announcement dated 9 April 2002 (LGBI. No. 51/2002 – Annex 12).

Vienna:

The City of Vienna Youth and Family Office operates a family planning advisory unit and eight parenting schools for expectant mothers and fathers. In a year of courses (September to July), five series of lectures are held per week, each covering five to seven two-hour sessions. As standard practice, five evening courses are held by midwives, speakers from the Chamber of Labour, psychologists, mobile social educators and social workers. The other evening lectures are held by gynaecologists, paediatricians, staff of private organisations (Nanaya, Hara Shiatsu) and the environmental advisory service. The purpose is

preparation for birth, parenthood and day-to-day life with babies and infants as well as developing the skills of prospective parents; they also are informed where they can find support and help.

In the year 2000, the City of Vienna parenting schools held 350 evening courses, attended by 3,943 persons, giving an average of eleven participants per evening course.

Since 1989, nine parent-and-child centres have been set up by the City of Vienna that provide expert information and counselling to parents before and after the birth of their children regarding the needs of babies and infants, the new daily routine with the child, nutrition and care, initial education questions and development stages and practical instructions on play and contact with the child. The subjects offered range from preparation for birth, communication sessions and group activities with children to specific expert advice by social workers, psychologists, social educators and midwives.

Furthermore, 42 parent-counselling units have been set up (including nine in the parent-and-child centres). In the event of regional need, assistance by Serbian, Bosnian, Croatian and Turkish translators is available.

The City of Vienna presents all newborn children in Vienna with an outfit for babies and infants, which also contains a very attractive nappy-changing rucksack. On application for this package of clothes, the prospective parents receive an advisory booklet "You and your baby", the Vienna folder of documents, and information material on the services of the parent-and-child centres and the advisory services of Municipal Department 11.

All services in this area are offered free of charge.

Crisis accommodation is available for homeless pregnant women and mothers in which the women can live until final solutions have been found.

Childcare facilities

Upper Austria:

Care by childminders:

As of the end of 2002, there were seven childminder associations in Upper Austria, with 545 male and female childminders, of whom 368 were employed by associations and 177 were marginally employed or volunteers. These 545 childminders regularly care for a total of 1,380 children, for part of the day, against payment.

Childcare centres:

At the end of 2002 Upper Austria had a total of 103 childcare centres (toddlers' groups, children's groups, mixed-age groups, etc) in which children under school age were cared for throughout the day by trained staff. 67 of these centres were operated by private institutions (associations). In these 103 childcare centres, 563 children received full-day care and 1,065 children half-day care. The institutions charge contributions from the parents, usually staggered socially.

Kindergartens:

2001: 39,340 children in 391 public and 315 private kindergartens (1,898 groups)

2002: 38,285 children in 389 public and 314 private kindergartens (1,907 groups)

After-school centres:

2001: 7,762 children in 80 public and 56 private after-school centres (383 groups).

2002: 7,571 children in 81 public and 66 private after-school centres (409 groups).

The operators of these centres charge contributions from parents and guardians – staggered socially in the vast majority of cases.

Vorarlberg:

Families are offered supplementary care for their children in the field of social learning in playgroups with children of their own age. In the year 2002, a total of 110 action groups applied for Provincial subsidies for 191 playgroups. These playgroups provided care for some 1,645 children. The subsidies to these playgroups from Provincial funds totalled some €200,815.

As of 31 December 2002, 260 children were being looked after by a childminder of the *Tagesbetreuung* Association.

As of the end of 2002, 934 children were being cared for in 40 childcare centres and 615 in 16 centres for schoolchildren. Other childcare facilities in Vorarlberg are: parent-and-child centres, babysitter services, vacation kindergartens, vacation schemes for children, etc.

Childcare facilities outside the family (starting from a low level) have been greatly developed in recent years. In addition to the existing kindergarten places for four- to five-year-olds, new places were created especially for full-day care and for smaller children. This development process is still in full swing. It also includes the creation of a special service unit in the Province as from 1 January 2003.

Ad D:

No relevant changes.

Ad E:

The **Provinces (Constituent States)** are responsible for both **legislation and implementation of the relevant laws** for the **direct promotion of housing construction and the refurbishment of the existing building stock** by means of loans, mortgage instalment grants and interest subsidies, housing allowances etc., out of tied Federal funds. For their part, the Federal authorities take several indirect ancillary promotion measures, including tax concessions, exemption from fees, promotion of building society savings.

The main objective of housing promotion policy in Austria has always been the elimination of the quantitative housing shortage. Furthermore, the refurbishment of old houses and apartments has become more and more important during recent years. Promotion consists mainly in measures to reduce financing costs, additional promotion measures being available for families, depending on the size of the family, the family income, the presence of handicapped children and so on.

Construction activity in 2001:

In the year 2001, 45,850 dwellings were completed in Austria, 38,057 by new construction, and 7,793 by enlargement or conversion of existing dwellings. On the Austrian average, 5.7 dwellings were completed per 1,000 inhabitants in 2001. The following table gives a comparison of the dwellings completed per 1,000 inhabitants by Federal Province:

Burgenland	7.0
Carinthia	5.5
Lower Austria	6.8
Upper Austria	4.7
Salzburg	5.7
Styria	6.1
Tyrol	7.3
Vorarlberg	7.2
Vienna	4.1
<hr/>	
Austria	5.7

In 2001, 49% of the newly completed dwellings were built by private persons, 30% by non-profit building societies, 19% by other legal entities and 2% by Federal, Regional and Local Authorities.

A classification of the above-mentioned 45,850 dwellings by tenure shows that 22,173 (48%) of the dwellings were owner-occupied, freehold dwellings accounted for 9,225 (20%), rented dwellings numbered 12,956 (28%) and 1,496 (4%) dwellings had other legal status.

The average usable floor area of the dwellings completed in 2001 was 101 m². It is noteworthy that dwellings completed by private persons had an average usable floor area of 123 m², whereas the usable floor area of dwellings completed by Federal, Regional and Local Authorities averaged only 66 m². Dwellings completed by non-profit building societies had an average usable floor area of 72 m².

Classification of the existing housing stock by Federal Province:

Taking into account reduction by demolition or re-designation of dwellings, the updated housing stock amounted to 3,772,544 dwellings at the end of 2001. The housing stock of the Federal Provinces was as follows:

	Census of houses and apartments 15 May 1991	Updated housing stock at the end of 2001
Burgenland	110,920	123,638
Carinthia	223,267	250,192
Lower Austria	648,471	719,469
Upper Austria	513,150	580,944
Salzburg	200,860	228,655
Styria	469,527	521,956
Tyrol	249,774	295,427
Vorarlberg	124,211	145,507
Vienna	853,091	906,756
Austria	3,393,271	3,772,544

Comparison of the data for 2001 with those of the census of 15 May 1991 shows that the number of dwellings increased over that period from 3.4 million to 3.8 million (+11.2%).

Amenities of housing in Austria:

The Microcensus classifies **occupied dwellings** (principal residences) in the following categories:

- Category A: dwellings with bathroom, WC and central heating
- Category B: dwellings with bathroom, WC and individual stove heating
- Category C: dwellings with WC and running water
- Category D: dwellings without WC

In June 2001, 2,835,700 or 86.3% of the 3,284,700 occupied dwellings (principal residences) were in category A, the highest category. The following table illustrates the classification of occupied dwellings (principal residences) by category and Federal Province as of June 2001:

Federal Province	Total dwellings (principal residences)	Category			
		A	B	C	D
	In 1,000				
Burgenland	102.0	90.3	9.7	0.6	1.4
Carinthia	216.9	177.5	34.2	2.1	3.1
Lower Austria	587.9	512.0	56.4	5.7	13.8
Upper Austria	536.8	478.7	49.4	4.7	3.9
Salzburg	204.5	182.0	20.1	1.1	1.3
Styria	452.2	399.5	38.7	4.9	9.2
Tyrol	253.8	205.2	44.7	1.8	2.1
Vorarlberg	130.3	113.2	15.9	0.9	0.4
Vienna	800.0	677.3	38.9	10.6	73.2
Austria	3,284.4	2,835.7	308.1	32.2	108.4

	%				
Burgenland	100.0	88.5	9.5	0.5	1.4
Carinthia	100.0	81.8	15.8	1.0	1.4
Lower Austria	100.0	87.1	9.6	1.0	2.3
Upper Austria	100.0	89.2	9.2	0.9	0.7
Salzburg	100.0	89.0	9.8	0.5	0.6
Styria	100.0	88.3	8.6	1.1	2.0
Tyrol	100.0	80.9	17.6	0.7	0.8
Vorarlberg	100.0	86.8	12.2	0.7	0.3
Vienna	100.0	84.7	4.9	1.3	9.1
Austria	100.0	86.3	9.4	1.0	3.3

Rented dwellings by
Federal Province
and housing expenses

Annual average 2001

	Number of dwellings (x 1,000)	Average housing expenses per dwelling, in €	Average housing expenses per m² usable area, in €
Burgenland	14.7	274	3.43
Carinthia	83.7	278	3.79
Lower Austria	179.9	293	4.15
Upper Austria	228.5	295	4.13
Salzburg	105.9	361	5.41
Styria	210.6	312	4.49
Tyrol	119.7	347	4.68
Vorarlberg	57.1	407	5.54
Vienna	737.7	305	4.53
Austria	1,738.0	312	4.48

Source: Microcensus, results of the year 2001, Statistik Austria

Households and families in the year 2001
(x 1000)

Total resident population	8,132
Dwellings: principal residences	3,298.7
Total households	3,320
hereof: single-person households	1,051
multiperson households	2,270
Persons in households	7,997
average size of households	2.41
Total families	2,284
hereof: without children	866
with children	1,418
hereof: with children	836
under 15	
Total lone parent families	298
hereof: with children under 15	130
Lone mothers	253
hereof: with children under 15	118
Lone fathers	45
hereof: with children under 15	13

Source: Microcensus, results for the year 2001, Statistik Austria

The following comments have been submitted by the Federal Provinces:

Burgenland:

Pursuant to § 10 paragraph 1 indent 1 of the Burgenland Housing Promotion Act 1991 – BWFG 1991, LGBl. No. 53, as amended, subsidised loans may in principle be granted only to Austrian citizens.

Pursuant to § 10 paragraph 2 of that Act, the following groups of persons have equal status with Austrian citizens and are thus eligible for subsidies on the same conditions:

1. Foreigners who lost Austrian citizenship after 6 March 1933, had to emigrate from Austria for political, racist or religious reasons, returned to Austria and intend to settle permanently there;
2. Persons whose status as refugees has been recognised pursuant to the Asylum Act 1997 and who are entitled to reside in the Federal territory;
3. Nationals of States Parties to the Agreement on the European Economic Area who engage in gainful activity in Austria on the basis of the EEA Agreement or remain in Austria thereafter.

There is no discrimination against EEA citizens, since assessment of the question of gainful activity (socially staggered subsidies and maximum rates) and also the question of residence (assessment of urgent requirement for housing) are also applicable to Austrians (see §§ 6 and 8 BWFG 1991).

Non-EEA citizens or other persons not equated with Austrians have at present no entitlement to subsidised loans under the BWFG 1991 in connection with the construction, purchase or refurbishment of a home.

Only in the context of the rental of a subsidised dwelling do such persons have fully equal status with Austrians (§ 11 paragraph 4 BWFG 1991).

The necessity of a relevant amendment to the Act is being examined at the moment by the Provincial authorities.

Lower Austria

Promotion of new construction (2002) in euros

Owner-occupied houses

Housing units	4,290
Loans granted	€ 132,916,500.00

Multiple dwelling units:

New construction

Housing units	5,185
Applications granted	
Annual grants	€ 3,828,731.46
Loans	€ 285,189,282.20
Disbursements	
Annual grants	€ 93,201,735.73
Loans	€ 140,062,566.68

Refurbishment promotion (2002) in euros:

Refurbishment of small units

Applications	6,041
Authorisation – annual grants	€ 4.862.000,00
Grants – disbursement of grants authorised in prior years	€ 37.651.134,10

Multiple dwelling units:

Refurbishment of old housing stock

Housing units	6,155
Applications granted	
Annual grants	€ 3,291,397.00
Loans	€ 26,192,600.00
Disbursements	
Annual grants	€ 10,856,097.35
Loans	€ 8,886,843.14

Personal subsidisation: Housing allowance and special subsidies

Housing allowance:

Authorisations	5,920
Amounts authorised (by official notification)	
	€ 7,465,126.00

Special subsidies:

Authorisations	12,454
Amounts authorised	€ 23,119,638.26

Upper Austria:

In Upper Austria, subsidisation of new housing construction and housing refurbishment is regulated by the Upper Austrian Housing Promotion Act 1993:

Promotion of new construction (2001) in € million:

Loans	178.86
Mortgage instalment grants and interest subsidies	49.30
Other grants (excluding housing allowance)	11.10
Guarantees taken up
Housing allowances: Owner-occupied houses	7.50
Apartments	42.65
Total	289.41

Refurbishment promotion (2001) in € million:

Loans	0.90
Mortgage instalment grants and interest subsidies	41.94
Other grants (excluding housing allowances)
Housing allowances: Owner-occupied houses	0.39
Apartments	0.49
Total	43.72

In the year 2001, the following subsidised dwellings were completed:

Owner-occupied houses	3,985
Multi-storey dwellings	4,005
Total	7,990

Promotion of owner-occupied house construction:

Owner-occupied house construction is subsidised by means of non-repayable interest subsidies on mortgage loans from the Upper Austrian Provincial Bank (*OÖ Landesbank*) with a basic amount of €37,000. As the family-friendly component of the subsidy, the basic amount is raised by €7,500 for every child living in the joint household (e.g. family with two children: €52,000). Most of the subsidies for owner-occupied houses, numbering some 2,400 annually, go to families. The volume of loans subsidised in the year 2002 was €117 million.

Housing allowance:

The housing allowance serves to meet housing expenses. In that context, the family situation is taken into account by means of special weighting factors per child. For families with three or more children, there is a further additional weighting factor.

In 2002, housing allowances totalling €52.5 million were paid to over 26,00 beneficiaries, mostly families.

House enlargement:

Enlargement of houses (addition and installation of rooms and apartments), for example, owing to the increasing size of the family, is subsidised under refurbishment measures.

With regard to the question of discrimination against nationals of States Parties who are not EEA citizens it is pointed out that since 1 January 2003, the Upper Austrian housing promotion scheme has been available to all foreigners, irrespective of their origin (also to non-EEA citizens, provided that:

- They have had their uninterrupted principal lawful residence in Austria for more than five years and
- They are subject to income tax on their earnings or have paid contributions to the statutory social insurance scheme in Austria on the basis of gainful activity and now receive benefits from that scheme.

Tyrol:

The basis for the grant of housing construction and refurbishment subsidies is the Tyrolean Housing Promotion Act 1991, LGBl. No. 55/1991, as amended, and the promotion directives issued under that Act.

The subsidisation provisions are directed particularly towards the correct targeting of social benefits, intensified promotion of greater building density, the limitation of costs, equal status of the building entities and the aspect of family-friendliness. The subsidisation provisions take the latter aspect into account among other things by grading the income limits and the level of the subsidy according to the number of persons living in the household. In addition, families receive further grants and higher allowances.

In the context of promoting new building construction, loans or housing construction cheques are granted to beneficiaries with Austrian nationality for the construction or purchase of dwellings. Nationals of an EU or EEA member State who are residing in Tyrol by virtue of the free movement of workers pursuant to Article 39 of the EC Treaty or Article 28 of the EEA Agreement or of the freedom of establishment under Articles 43 and 48 of the EC Treaty and Articles 31 and 34 of the EEA Agreement are placed on the same footing as

Austrian citizens with regard to the grant of these subsidies. The same applies to persons granted asylum.

Allowances are granted to Austrian citizens and persons equated with them as well as to other natural persons who have had their principal place of residence in Tyrol for at least five years.

In the context of housing refurbishment, the Provincial authorities of Tyrol award mortgage instalment grants or grants to supplement the use of own funds. A requirement is that the building refurbished be occupied all year round and be of a certain age.

In view of the limited resources available, a further extension of the group of beneficiaries of housing subsidies is not under consideration at present. In this context, the following is particularly pointed out:

1. Nationals of States Parties to the European Social Charter who are not EEA nationals, irrespective of nationality, can also rent subsidised apartments.
2. Nationals of States Parties to the European Social Charter who are not EEA nationals can also apply for housing allowances if they have had their principal place of residence in Tyrol for at least five years. In cases of social hardship, the Housing Promotion Board can authorise exceptions.
3. An adjustment of the housing promotion provisions with regard to the subsidisation of freehold apartments is not a priority at present, because the possibility of purchasing land in Tyrol is still not open to nationals of States Parties to the European Social Charter under real-estate law.

Vorarlberg:

The basis for the grant of subsidies for the construction and refurbishment of housing as well as the grant of housing allowances is the Vorarlberg Housing Promotion Act LGBL No. 31/1989, as amended.

Subsidisation of new housing construction:

The Vorarlberg authorities grant subsidised housing construction loans subject to certain requirements for the purchase or construction of an owner-occupied house or an apartment or for the enlargement, installation and conversion of housing. Rented apartments constructed by non-profit building associations are also subsidised. The requirement for a subsidy is Austrian citizenship or equal status with Austrians (EEA citizens). Certain income limits related to the size of the household may not be exceeded and there must be a need for housing.

The amount of the housing construction subsidy depends largely on the building density, the type of building, the area of the dwelling in m², the size of the household and the ecology standard. The minimum area of an apartment is 30 m². The amount of loans ranges from €306 to €1,000 per m² of usable area. The

area subsidised is 80 m² for one person, 100 m² for two persons, 120 m² for three persons 130 m² for four or five persons and 150 m² as from six persons. In households of up to five persons, the maximum usable area is 150 m². For six or more persons or given a valid residence title for the parents or close relatives, the usable area is limited to 170 m².

Refurbishment of old houses:

For the refurbishment of old houses, the Provincial authorities of Vorarlberg pay one-off contributions or interest and redemption grants for loans contracted for the purpose of refurbishment and maintenance work. The requirement is that the building refurbished should be occupied throughout the year and that the building permit date back at least 20 years. Important factors are the observance of income limits per household and personal eligibility for a subsidy. The mortgage instalment grants range from 28% to 50% and the contributions from 14% to 25%.

Housing allowance:

A housing allowance is a grant from the Provincial authorities towards rental payments or loans repayments in the case of freehold apartments and owner-occupied houses, if there is a disproportionate relationship between the income and the housing expenses. The grant is not repayable. The decisive factors for the grant of a housing allowance are the level of income, the amount of the rent or the monthly repayments, the size of the family and the size of the dwelling.

Expenditure on the housing allowance was €12.51 million in 2001 and €12.52 million in 2002.

Discrimination against nationals of other Contracting States:

The grant of house-building subsidies was originally reserved typically for Austrian nationals. In the context of accession to the EEA, it was extended to nationals of the European Economic Area.

In Vorarlberg, housing subsidies are now so regulated that Austrian citizens and persons who engage in gainful activity in Austria on the basis of the EEA Agreement or remain in Austria thereafter receive subsidies for new building construction and housing allowances if they can give proof of a three-year stay in Vorarlberg and are fully taxable in Austria (§§ 3, 4 and 14 Housing Promotion Act).

With regard to the refurbishment of old houses, Austrian citizens and persons who engage in gainful activity in Austria on the basis of the EEA Agreement or remain in Austria thereafter are in principle eligible for subsidies (§ 10).

In the Directives to be issued pursuant to § 17, the Provincial Government can determine exceptions to the requirement of a three-year principal place of residence in Vorarlberg for the subsidisation of new buildings and the grant of

housing allowances; also the requirement of Austrian citizenship can be waived for the refurbishment of old houses.

However, for political and economic reasons, it is not intended to make a further general enlargement of the group of beneficiaries of housing subsidies.

In the social and economic sphere, an objection to the amendment of the Housing Construction Subsidisation Act as suggested by the Committee of Social Rights is that, without the restrictions mentioned, Vorarlberg could not afford the present level of promotion funds, owing to the large number of foreign nationals residing in the Province.

In this context, it should be borne in mind that Directives as to the upper income limit also apply to persons who are in principle eligible for subsidies. If the entitlement were to be extended to all inhabitants of Vorarlberg, either the subsidies to be awarded would have to be so sharply reduced in individual cases that promotion of house construction would lose its controlling effects or income limits would have to be so adjusted that many citizens would be no longer have an entitlement. That would also undermine the desired social, economic and environmental effects of promoting housing construction.

In the past decade, Vorarlberg experienced a 6.1% population growth and thus a particularly dynamic development (Austria: 3.1%). Vorarlberg is an immigration Province but has very limited spatial capacity. Approximately 80% of the population of the Province live in the Rhine valley and Walgau, which make up just over 10% of the entire area of the Province. Removal of the restrictions might increase immigration to Vorarlberg, which would give rise to concern owing to the restricted area available (overloading of the housing and labour market, infrastructural problems).

Vienna:

Housing construction subsidies awarded for the construction and refurbishment of housing complexes (referred to as *Objektförderung*) are available to foreigners and Austrians to the same extent. Until the Housing Construction Subsidisation and Housing Refurbishment Act was amended in LGBl. für Wien No. 16/2001, the subsidisation of freehold apartments was still linked to the requirement of Austrian citizenship. Now, in the light of the Aliens' Land Purchase Act, foreigners can also purchase subsidised apartments on a freehold basis. Subsidised apartments already constructed at the time of the entry into force of the amendment or apartments under construction may now be purchased by foreigners.

Both Austrians and foreigners can apply on an equal basis to the Province of Vienna for a 1% loan in lieu of own funds in respect of the share of land and building costs pre-payable on the purchase of subsidised apartments.

Under the Viennese Housing Construction Subsidisation and Housing Refurbishment Act a housing allowance is available to tenants of subsidised new buildings and of old buildings refurbished out of public funds (§§ 20, 47).

The latter allowance is also available to persons with an employment entitlement (holders of employment permits or permanent work permits pursuant to the Aliens' Employment Act). Under an amendment of 1 June 2001, the former was also made available to non-EEA nationals with at least five years' residence.

The amendment also introduced a general housing allowance (§ 60 ff), to which tenants of non-subsidised old buildings are entitled. Since then, there has been a housing allowance for tenants of apartments constructed out of public funds, apartments refurbished with public funds and unsubsidised apartments. The new general housing allowance is also available to non-EEA nationals who have had uninterrupted lawful residence in Austria for at least five years. Uninterrupted lawful residence for at least five years must be demonstrated by means of an establishment or residence permit. In all cases, payment of the housing allowance depends on the size of the family, the family income, the area of the apartment and the housing expenditure and a minimum income according to the standard rate for equalisation supplements.

Pursuant to the internal directives of the Municipality of Vienna, only Austrian and EEA citizens and refugees entitled to asylum under the Geneva Convention have access to subsidised rented apartments owned by the Municipality of Vienna. However, since the year 2000, emergency apartments belonging to the Municipality can also be awarded on a one-off basis to permanent residents without EEA citizenship. Since August 2001, a five-year lawful residence has been required for this.

Other requirements are that the applicants should:

- Be victims of "housing speculation" or
- Be living in apartments injurious to health in which there is serious danger to the development and health of children (and also to persons already sick), or
- Be living in crisis accommodation (e.g. mother-and-child homes, etc), or
- Be in a special social emergency situation, and
- Have been living and registered for at least one year in Vienna.

Housing conditions of the elderly:

The previous reporting should be supplemented as follows:

According to the 2001 population census, the proportion of the over-60s in the total Austrian population was 21%, so that Austria has almost the highest proportion of elderly people among European countries. As a result, it is

necessary to make corresponding arrangements to secure suitable housing for the elderly.

Old people's and nursing homes:

Consideration is now being given at the Federal level to standardising relations under civil law between home authorities and inmates. The purpose is to make the mutual rights and duties clear and transparent and to take into account the special needs of the affected inmates for legal protection. However, it should be borne in mind that nursing homes are to a large extent the responsibility of the Provincial authorities. The main focus of the project is thus on consumer protection (which is a Federal matter in Austria). Just as in other consumer protection provisions, special attention should be devoted in the nursing home sector to clear and transparent contractual conditions. Furthermore, the special need of home inmates for protection should be met by restrictions on eviction. Consideration is also being given to providing for the possibility of group actions by consumer protection organisations.

As to the restriction of the liberty of inmates of old people's and nursing homes and similar care institutions, consideration is being given to providing the inmates by law with an expert and independent representative. That "inmates' representative" should have the authority to visit homes and similar care institutions at any time, to examine the situation of inmates, to discuss that situation with those responsible for care and if necessary to apply to the court, which would then have to decide on the admissibility or inadmissibility of a limitation of personal liberty. The inmates' representatives should be trained and appointed by the Association for Administrators and Patient Attorneys. The courts should make rapid but nevertheless thorough decisions in any procedures.

Developments in the Federal Provinces:

There has been a Nursing Home Act in **Vorarlberg** since 17 April 2002 (LGBl. No. 16/2002). The Act serves primarily to create a sound legal basis for nursing homes, the protection of the legal interests of the inmates, ensuring the development and coordination of nursing services through the Needs and Development Plan and the limitation of further cost increases.

In addition, the Act is intended to maintain the high standards envisaged in the previous licensing regulations under hospital law. It should provide a comprehensive guarantee of respect for the rights, interests and needs of persons who are inmates of institutions for the elderly owing to their need for long-term care. A further focal point is to determine the duties of the nursing home authorities. The principle is to guarantee appropriate care, in which respect the employment of suitably qualified staff is particularly necessary.

The Act defines nursing homes as fee-paying intramural institutions for older people who are in need of long-term care. A written contract must be concluded with persons who are admitted to such homes. In order to protect the privacy of the inmates, only the construction of single rooms is to be permitted. Measures limiting freedom may be ordered only by the management and only with medical approval. In order to protect personal liberty, complaints can be submitted to the Independent Administrative Board.

Ad F:

Reference is made to the comments on question C.

Ad G:

No relevant changes.

ARTICLE 19
THE RIGHT OF MIGRANT WORKERS AND THEIR FAMILIES
TO PROTECTION AND ASSISTANCE

Article 19 paragraph 1

Ad A:

The previous reporting should be updated as follows:

Foreign workers can apply at any time to the Public Employment Service (PES) offices, in some of which interpreters are also available, for information regarding the labour market.

Throughout Austria, the Public Employment Service offices are supplemented and supported by “Advisory Centres for Foreign Workers” organised under private law, which were co-financed by the Public Employment Service in 2002 with a contribution of some €2.93 million.

The tasks of these Advisory Centres include giving advice in the mother tongue on questions of labour market policy to foreign job-seekers and persons not of German mother tongue and arranging translations of the necessary background documents and forms.

The focus of advisory activity is shifting more and more to persons who have already been living in Austria for a considerable time and to so-called second- and third-generation migrant workers, as well as to counselling of and services to refugees.

The following table shows among other things the cost-sharing arrangements and the number of persons receiving services from the individual advisory centres in 2002.

Labour Market Advisory Facilities for Migrants												
Prov.	Project sponsor	Type	Staff	PES subsidy Hours per week	Posts	Staff (40-hr)	Total costs	PES costs	Financing partners	Persons counselled	PES Plan 2003	
Vienna	Advisory Centre for Migrants	AL*	10.0	380.0	10.0	9.5	479,520.0	479,520.0	0.0	5,449	529,000.0	
Vienna (Women)	Advisory Centre for Migrants (Foreign Women)	FB	4.0	120.0	5.0	3.0	195,880.0	175,880.0	Fed. Min. Lab., Health, & Soc. Affair	4,050	188,208.2	
LA	"Horizon" Association	AL	5.0	200.0	5.0	5.0	299,742.8	239,721.6	Provincial, Communal, other	4,993	235,247.9	
LA	"Opportunity" Wkg. Gp. Association	AL	2.0	65.0	2.0	1.6	80,000.0	40,000.0	Fed. Min. Interior	310	46,530.3	
LA	"Take-off" Association	AL	3.0	106.0	3.0	2.7	94,787.1	82,191.5	Lower Austrian Chamber of Labour	1,719	95,973.3	
LA	FAIR People's Aid Association	AL	3.0	60.0	3.0	1.5	94,774.7	60,565.0	Communal, Fed. Min. Int., Diakonie	356	70,554.0	
UA	Association for Services to Foreign Women in Upper Austria	AL	14.0	164.0	3.0	4.1	589,139.0	209,624.0	Province, City, Ch. Lab., TU Fed.	3,279	219,038.0	
Sbg.	"Vebbas" Association	AL	6.0	220.0	6.0	5.5	269,107.0	257,770.0	Salzburg Chamber of Labour	1,874	133,125.0	
Styria	Zebra	AL	19.0	187.0	8.0	4.7	811,900.0	229,713.0	UN, Fed. Min. Int., own funds	1,342	230,000.0	
Styria	ISOP Placement Pool Association	AL	4.0	105.5	4.0	2.6	126,743.2	126,743.2	0.0	1,069	126,000.0	
Styria	ISOP Job Assistance Association, Styria	AL	8.0	187.3	8.0	4.7	212,155.0	212,155.0	0.0	765	212,000.0	
Styria	ISOP work adjustment back-up Association, Graz	AL	11.0	265.3	11.0	6.6	305,787.0	305,787.0	0.0	579	306,000.0	
Garin.	Association for Advisory Services to Foreigners	AL	4.0	160.0	4.0	4.0	242,889.6	205,034.9	Province, Fed. Min. Int.	924	400.0	
Tyrol	Advisory Services to Foreigners, Tyrol	AL	8.0	215.0	6.0	5.4	313,988.9	303,515.4	Province of Tyrol	5,800	303,989.0	
Vbg	Social Services Institute, Advisory Services to Foreign Women	AL	0.0	0.0	0.0	0.0	43,837.0	0.0	0.0	453	36,322.0	
	15 Projects		101.0	2,435.0	78.0	60.9	4,160,251.1	2,928,220.7	0.0	32,962.0	2,732,387.7	

AL* = General counselling
BF** = Counselling for women

The Austrian Public Employment Service also finances advisory services for persons not of German mother tongue and the advisory service for Romany in Burgenland, which focuses on the special labour market problems of the Romany population groups living in Southern Burgenland. The total costs of this advisory service amounted to €237,906, out of which PES subsidies accounted for €68,218; the number of persons receiving advice and assistance related to labour market matters in the year 2002 was 152.

Ad B:

No relevant changes.

Ad C:

The Austrian missions abroad give applicants for immigration and migrant workers information in their national languages.

In almost all Austrian Provinces, the workers' representative bodies provide migrant workers with information in their mother tongue. Individual trade unions and also chambers of labour, whose clientele has been shown by experience to include many migrant workers, produce and make available information leaflets for migrant workers in their mother tongue.

Further information can be obtained from the Serbo-Croatian and Turkish language periodicals appearing in Austria.

Finally, in areas with the highest proportion of migrant workers from Yugoslavia and Turkey, application forms for re-entry visas and the related residence permits are printed not only in German but also in Serbo-Croatian and Turkish.

Reply to the supplementary question on Article 19 paragraph 1 in Conclusions XVI-1:

Developments in the Federal Provinces:

Since 17 July 2001, the Tyrolean Provincial Administration has had an Integration Unit, whose aims are:

- To create awareness among the local population and among immigrants of the importance and necessity of integration.

- To identify emotional, social and legal obstacles to integration and to work (or cooperate) in eliminating them.
- To coordinate and promote the many diverse integration projects and initiatives in Tyrol.

The main focal points are:

- Awareness creation, among other things, of the risks and opportunities for the local population and immigrants
- Measures to promote equality of social status
- Special measures for women, children, youth, the elderly and the sick
- Participation models
- Promotion of citizen involvement
- Conflict mediation
- Projects and studies
- Subsidies

Article 19 paragraph 2

Ad A and B:

Reference is made to previous reporting.

Admission formalities are regulated by the Aliens Act 1997, BGBl. I No. 75/1997, which has been in force since 1 January 1998 and to which major changes were most recently made in the amendment contained in BGBl. I No. 126/2002 (see Annex 13).

Under the new provisions, every person who wishes to work or take up residence in Austria – for the purpose of training or study or for other private reasons or in the context of family reunification – requires a residence or an establishment permit under the Aliens Act 1997. The Federal Government determines by means of an Order, in agreement with the Main Committee of the National Assembly, the maximum number of establishment permits that may be granted per year.

In accordance with the reform of the law concerning aliens that entered into force on 1 January 2003, the Aliens' Employment Act now provides in principle for two procedures for the initial admission of workers who are nationals of third States:

The new key personnel admission procedure for highly qualified workers with special knowledge and skills in the framework of a separate quota in the annual establishment Order:

After submission of their application by the potential employer(s) and an interdepartmental verification procedure with the Public Employment Service (one-stop-shop principle) regarding their qualifications as key personnel and the satisfaction of other requirements under labour market law, conducted, such key personnel receive from the aliens authority an establishment permit (as key personnel), which entitles them, without any further legal formalities, to engage in the authorized occupation with a particular employer for a maximum of one year.

The secured work certificate or employment permit procedure for the initial admission of workers employed for a fixed-term and for integrated aliens without entitlement to a permanent work permit or establishment permit:

With the secured work certificate, which is issued to the employer by the Public Employment Service provided that the requirements under labour market law are met, the foreign worker as a rule receives a residence permit from the Austrian mission abroad or from the aliens authority, subject to meeting the requirements under aliens law. On submission of the two documents, the employer receives an employment permit from the Public Employment Service and may then recruit the foreign worker. In the case of integrated aliens, an employment permit is awarded on principle if the requirements under labour market law are met and given special socio-humanitarian considerations.

Since 1 January 1998, a medical examination has no longer been required as a prerequisite for granting an employment permit.

Neither of these two procedures is necessary if the third-State national holds a work permit, a permanent work permit or an establishment permit.

An alien receives a work permit on application to the Public Employment Service if he has been employed in the regular labour market for 52 weeks in the last 14 months. It is issued for two years and is valid only in the Federal Province of issue.

A permanent work permit is awarded to foreigners who do not hold an establishment permit but have been employed in Austria for at least five years (in the last eight years), or have been married to an Austrian citizen for at least five years, or, in the case of young people, have attended the last year of their compulsory education in Austria, or have so far been exempted

from application of the Aliens' Employment Act as favoured third-State family members of an Austrian or other EEA citizen and have been lawfully resident in Austria for at least two-and-a-half years in the previous five years. Permanent work permits are issued for five years in each case and entitle the holders to take up any work throughout Austria.

Subject to meeting certain requirements under the law concerning aliens (good behaviour, integration agreement, secure maintenance or income, etc.), foreigners are issued establishment permits by the aliens authority (on application) after five years of lawful establishment or on the basis of their status as favoured family members of an EEA citizen or of an Austrian after two years of main residence in Austria. The establishment permit combines an indefinite right of establishment with unrestricted access to the labour market in a single document.

Article 19 paragraph 3

No relevant changes.

Article 19 paragraph 5

No relevant changes.

Article 19 paragraph 6

Ad A to C:

Reference is made to previous reporting.

The residence and establishment of aliens in Austria is regulated by the Federal Act on the Entry, Residence and Establishment of Aliens, BGBl. I No. 75/1997, as amended by BGBl. I No. 126/2002 and BGBl. I No. 134/2002.

Replies to the supplementary questions on Article 19 paragraph 6 in Conclusions XVI-1:

Family reunification:

Family reunification of third-State nationals with other third-State nationals who immigrated before 1 January 1998 is available only to spouses and unmarried minor aliens, provided that the latter apply before the end of the 15th year of life (Annex – cf. § 21 paragraph 3 FrG).

“Anchor aliens” who immigrated after 1 January 1998, have a legal entitlement, limited in time, to reunification with the spouse and unmarried minor children (age-limit: 18 years), if a relevant declaration was made on originally applying for immigration.

Under the above-mentioned amendment to the Aliens Act BGBl. I No. 134/2002, a paragraph 1 a was inserted in § 21 (see Annex 14). According to that provision, the spouse of key personnel and unmarried minor children (age-limit: 18 years) and persons with independent means who immigrate after 1 January 2003 are entitled to family reunification even if the key personnel or person with independent means did not apply for family reunification.

Such family members must be granted an initial establishment permit on application if the other requirements are met.

Health:

A medical certificate (Annex 14 – cf. § 8 paragraphs 6 and 7, § 10 paragraph 2 FrG 1997) must be submitted on the initial application for a residence permit if the intended period of residence is greater than six months and the application is made after 1 January 2003.

The medical certificate must have been issued not more than 90 days before the submission of the residence permit application. The content of the medical certificate is regulated by an Order of the Federal Minister of Social Security and Generations (Annex 15 - FrG-GZV, BGBl. II No. 481 of 17 December 2002. The medical certificate attests the presence or absence of the following diseases:

- Tuberculosis (if medical treatment or supervision is necessary),
- Leprosy,
- Cholera,
- Transmissible infantile paralysis,
- Paratyphoid fever,
- Plague,
- Dysentery,
- Typhoid fever,
- Hepatitis A, B, C, D, G,

- Diphtheria,
- Pertussis (whooping cough).

Certification that the person is not suffering from transmissible infantile paralysis, hepatitis A or B, diphtheria or pertussis can be replaced by a currently valid protective immunisation certificate.

The medical certificate must be issued by a doctor entitled to engage in independent practice. The medical certificate can also be issued abroad – by a doctor entitled to engage in independent practice under the pertinent national regulations.

In cases in which the medical certificate indicates a serious illness, a residence permit may be refused.

The quota system:

The statistics requested cannot be provided owing to the absence of relevant records.

It should be added that nationals of EEA Member States and Switzerland enjoy freedom of establishment and therefore do not need any residence documents in Austria. Family members of such citizens who are nationals of third States are also privileged, because they can be granted residence papers outside any quotas.

Access to the labour market:

Under the 2002 amendment to the law concerning aliens, requirements for the access of family members to the labour market were substantially relaxed. In the authorisation procedure, special importance is attached to the criterion of “advanced integration”, as a result of which foreigners who are already established in Austria, particularly family members, are granted priority in access to employment. In addition, an establishment permit was created, which any alien can receive after five years of lawful establishment and with which he has unrestricted access to the Austrian labour market. Young aliens who do not yet meet that requirement and have completed their last year of compulsory education in Austria, receive a permanent work permit and are thereby also equated with Austrians on the Austrian labour market. Additional relaxations in the grant of employment permits were also provided for in the case of young persons who join their families after the age of compulsory education and have not yet ended the 18th year of life,

and for family members affected by violence in the family, in the context of the amendment to the Order on Exceeding the Federal Maximum.

Article 19 paragraph 9

No relevant changes.