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## **EUROPEAN SOCIAL CHARTER**

Twenty second 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 7, 8, 11 and 14)**

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Report registered at the Secretariat on 1 April 2004

**CYCLE XVII-2**

## **T W E N T Y - S E C O N D   R E P O R T   -   P A R T   I**

on the implementation of Articles 7, 8 and 11 of the  
EUROPEAN SOCIAL CHARTER  
(Reporting period 1 January 1999 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)

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## **ARTICLE 7**

### **THE RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION**

#### **Article 7 paragraph 2**

#### **Ad A to C:**

The Order of the Federal Minister of Labour, Health and Social Affairs, the Federal Minister for Economic Affairs and the Federal Minister for Science and Transport concerning prohibitions and restrictions on the employment of young persons (KJBG-VO), BGBl. II No. 436/1998, as amended (**Annex 1**), prohibits or imposes conditions on work by young persons up to the age of 18, that is to say, persons who are not regarded as children within the meaning of § 2 (1) of the Federal Children and Young Persons Employment Act 1987 (KJBG), BGBl. No. 599/1987, as amended, and by minors within the meaning of § 2 (1a) KJBG, in operations with dangerous materials, subject to exposure to physical effects, and in operations involving mental and physical stress, operations with dangerous equipment and other dangerous and stressful work and working operations.

Young persons who have not yet reached the age of 16 or who are undergoing apprenticeship or other training lasting at least one year may not be employed on piecework, work similar to piecework, work on which a performance-related bonus is payable and other work in which higher pay can be achieved by an increased rate of working as well as assembly-line work with prescribed rates of working.

The employment of young persons is also prohibited in the following establishments:

1. Sex shops, sex cinemas, striptease bars, table dance bars, go-go bars, peep shows and premises with peep shows;
2. In the production, distribution and screening of pornographic products, irrespective of the medium (data carrier) used;
3. In betting shops and in all activities related to commercial bookmaking agencies and the commercial conclusion of bets;
4. At the cash desks of gambling halls with machines offering money or valuable prizes.

The Agricultural Labour Act 1984 (LAG) BGBl. No. 287, as amended, contains in its § 109a only the principle of issuing employment prohibitions. The individual prohibitions of employment are regulated in the implementing legislation of the *Laender*. The provisions of the *Laender* are in essentials comparable with those of the KJBG-VO, apart from special further prohibitions and restrictions necessary in agriculture and forestry.

Regular monitoring by the Labour Inspectorate or the Agricultural and Forestry Inspectorates ensures compliance with legal and administrative regulations.

#### **Supplementary questions in Conclusions XV-2 on Article 7 paragraph 2:**

The comments of AUVA will be transmitted later.

**Article 7 paragraph 3**

**Ad A and B:**

No changes.

**Ad C:**

The Labour Inspectorate and the Agriculture and Forestry Inspectorates monitor compliance with the provisions of the KJBG in their respective areas of responsibility.

**Supplementary questions in Conclusions XV-2 on Article 7 paragraph 3:**

**Employment of children before the beginning of the school day:**

No special records are kept on the exact extent of early morning work by children in agriculture and forestry. In view of the increased degree of mechanisation and changed working processes in agriculture, the extent of such work in the present age is estimated to be extremely slight.

It was pointed out by the *Laender* that very many children over the age of 10 attend schools outside the home community. Owing to the length of travel to school, employment in agriculture and forestry before the beginning of the school day is as a rule impossible and occurs at most during the school holidays.

So far, no cases of work by children before the beginning of the school day are known to the Agricultural and Forestry Inspectorates.

**Infringements of the KJBG 1999 – 2002:**

In the period 1999 – 2002, the number of infringements and criminal charges in the field of the employment of young persons (including children) developed as follows:

| <u>Year</u> | <u>Infringements</u> | <u>Criminal charges</u> |
|-------------|----------------------|-------------------------|
| 1999        | 1,992                | 142                     |
| 2000        | 1,381                | 100                     |
| 2001        | 1,547                | 83                      |
| 2002        | 1,143                | 130                     |

Source: BMWA, Central Labour Inspectorate

It can be seen from the above figures that the number of infringements is sharply declining (-42.6%). However, the proportion of infringements leading to criminal charges distinctly increased from 2001 to 2002.

Unfortunately, Austria cannot provide an estimate of the number of children employed in family businesses, since no differentiated statistics exist in this area.

**Article 7 paragraph 4**

**Ad A to E:**

No relevant changes.

**Article 7 paragraph 5****Ad A and B:**

The previous reporting should be updated as follows:

The following tables give statistics on the apprenticeship pay determined by collective agreement, the minimum wages for young workers and the initial wages for adults (workers) in important branches of the economy.

Rates of pay for apprentices (manual workers) determined by collective agreement

Minimum wage rates for young workers and  
initial wages for adults (manual workers) in selected occupations in important  
branches of the Austrian economy

**Occupations, categories of work: Applicable to Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg and Vienna**

**MINING** (Monthly wages in euros) as from 1 Nov. 2002:

|                                                          |          |
|----------------------------------------------------------|----------|
| 1st year of apprenticeship:                              | 416.55   |
| 2nd year of apprenticeship:                              | 558.07   |
| 3rd year of apprenticeship:                              | 754.68   |
| 4th year of apprenticeship:                              | 1,021.28 |
| Skilled workers with final apprenticeship examination    | 1,447.19 |
| Workers without specific training<br>(Unskilled workers) | 1,215.24 |

**PETROLEUM INDUSTRY** (Monthly wages in euros) as from 1 Feb. 2002

|                                                        |          |
|--------------------------------------------------------|----------|
| 1st year of apprenticeship:                            | 597.85   |
| 2nd year of apprenticeship:                            | 797.13   |
| 3rd year of apprenticeship:                            | 996.42   |
| 4th year of apprenticeship:                            | 1,195.70 |
| Skilled workers with final apprenticeship examination: | 1,992.83 |
| Workers employed on simple tasks (unskilled workers)   | 1,284.66 |

**CONSTRUCTION INDUSTRY AND BUILDING TRADE** (*Bauhauptgewerbe*)  
as from 1 May 2002 (Monthly wages in euros)

|                                                     |          |
|-----------------------------------------------------|----------|
| 1st year of apprenticeship:                         | 640.71   |
| 2nd year of apprenticeship:                         | 961.07   |
| 3rd year of apprenticeship:                         | 1,281.42 |
| 4th year of apprenticeship, if learning two trades: | 1,442.45 |

|                                                                        |          |
|------------------------------------------------------------------------|----------|
| Apprentices commencing apprenticeship<br>after reaching the age of 18: | 1,281.42 |
| Skilled workers employed in the trade learned:                         | 1,601.78 |

|                          |          |
|--------------------------|----------|
| Building labourers (m/f) |          |
| a) Up to 18              | 1,228.88 |
| b) Over 18               | 1,364.48 |

FERROUS AND OTHER METALLURGY AND METAL-WORKING INDUSTRY  
as from 1 Nov. 2002 (Monthly wages in euros)

|                                                        |          |
|--------------------------------------------------------|----------|
| 1st year of apprenticeship:                            | 416.55   |
| 2nd year of apprenticeship:                            | 558.07   |
| 3rd year of apprenticeship:                            | 754.68   |
| 4th year of apprenticeship:                            | 1,021.28 |
| Skilled workers with final apprenticeship examination: | 1,447.19 |
| Workers without specific training (unskilled workers)  | 1,215.24 |

IRON AND METAL PROCESSING TRADE

Plumbers and heating fitters

as from 1 Jan. 2003 (Monthly wages in euros) (excluding board and lodging for apprentices)

|                                                        |          |
|--------------------------------------------------------|----------|
| 1st year of apprenticeship:                            | 403.44   |
| 2nd year of apprenticeship:                            | 540.97   |
| 3rd year of apprenticeship:                            | 727.87   |
| 4th year of apprenticeship:                            | 977.84   |
| Skilled workers with final apprenticeship examination: | 1,444.55 |
| Workers without specific training (Unskilled workers)  | 1,212.42 |

WOODWORKING TRADE

as from 1 May 2002 (Monthly wages in euros)  
(excluding board and lodging for apprentices)

|                             |        |                                                                                                                                                                                                    |
|-----------------------------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1st year of apprenticeship: | 372.38 | Apprentices who commence their training after reaching the age of 18 or who continue their training after compulsory military service receive a 25% supplement to the rates of apprenticeship pay. |
| 2nd year of apprenticeship: | 508.78 |                                                                                                                                                                                                    |
| 3rd year of apprenticeship: | 614.86 |                                                                                                                                                                                                    |
| 4th year of apprenticeship: | 697.13 |                                                                                                                                                                                                    |
|                             |        | Apprentices who qualify under the above paragraph after reaching the age of 21 receive a 50% supplement to the rates of apprenticeship pay set.                                                    |

|                                                                                              |          |
|----------------------------------------------------------------------------------------------|----------|
| Skilled workers with final apprenticeship examination in the first year after apprenticeship | 1,130.59 |
| Unskilled workers (m/f)                                                                      | 1,130.59 |

SAWMILL INDUSTRY as from 1 May 2002 (Monthly wages in euros)  
(excluding board and lodging for apprentices)

|                                                       |          |                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------------------------------------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1st year of apprenticeship:                           | 489.81   | Young workers up to the age of 17 receive 80% of the rate for their wage group.                                                                                                                                                                                                                                                                                                              |
| 2nd year of apprenticeship:                           | 699.73   |                                                                                                                                                                                                                                                                                                                                                                                              |
| 3rd year of apprenticeship:                           | 979.62   |                                                                                                                                                                                                                                                                                                                                                                                              |
| On-the-job trainees                                   | 1,217.43 | For the duration of on-the-job training, trainees receive the hourly wages of an unskilled worker; after due completion of the agreed training period, they receive the hourly wages of a semi-skilled worker; the management, in agreement with the works council, determines when on-the-job training is complete, which must be after at least three months of employment on the machine. |
| Skilled workers with final apprenticeship examination | 1,354.37 |                                                                                                                                                                                                                                                                                                                                                                                              |
| Semi-skilled workers                                  | 1,302.60 |                                                                                                                                                                                                                                                                                                                                                                                              |
| Unskilled workers (m/f)                               | 1,217.43 |                                                                                                                                                                                                                                                                                                                                                                                              |

TEXTILE INDUSTRY as from 1 Apr. 2002 (Monthly wages in euros)

|                              |        |                                                                                                                                                                                       |
|------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3- or 4-year apprenticeship: |        |                                                                                                                                                                                       |
| 1st year of apprenticeship:  | 463.50 |                                                                                                                                                                                       |
| 2nd year of apprenticeship:  | 540.20 |                                                                                                                                                                                       |
| 3rd year of apprenticeship:  | 656.60 |                                                                                                                                                                                       |
| 4th year of apprenticeship:  | 754.00 |                                                                                                                                                                                       |
| 2-year apprenticeship:       |        |                                                                                                                                                                                       |
| 1st year of apprenticeship:  | 463.50 |                                                                                                                                                                                       |
| 2nd year of apprenticeship:  | 611.70 |                                                                                                                                                                                       |
| On-the-job trainees:         | 953.57 | On-the-job trainees receive the hourly tariff wages for unskilled workers; if they are on piece or bonus rates, the agreed piece or bonus rates apply to them.                        |
|                              |        | The duration of on-the-job training depends on the nature of the activity to be learned and the personal capacity of the trainee, but may not exceed 13 weeks in any individual case. |



|                                                                                                                     |                    |
|---------------------------------------------------------------------------------------------------------------------|--------------------|
| Skilled workers with final apprenticeship examination<br>or skilled workers, depending on the<br>branch in question | 978.56 to 1,045.24 |
| Unskilled workers                                                                                                   | 953.57             |

GARMENT-MAKERS Dressmaking trade  
(Bespoke tailoring and dressmaking; men's and women's ready-made clothing)  
as from 1 January 2003 (Monthly wages in euros)

|                                                                    |        |
|--------------------------------------------------------------------|--------|
| 1st year of apprenticeship:                                        | 244.00 |
| 2nd year of apprenticeship:                                        | 330.00 |
| 3rd year of apprenticeship:                                        | 446.00 |
| Skilled workers in the 1st year<br>after completing apprenticeship | 928.35 |
| Semi-skilled seamstress in the first year                          | 897.18 |
| Unskilled work, first five years                                   | 912.76 |

PAPER AND PAPERBOARD PROCESSING INDUSTRY  
as from 4 March 2002 (Monthly wages in euros)

|                                                          |        |
|----------------------------------------------------------|--------|
| 1st year of apprenticeship:                              | 337.74 |
| 2nd year of apprenticeship:                              | 476.30 |
| 3rd year of apprenticeship:                              | 692.80 |
| 4th year of apprenticeship,<br>(if learning two trades): | 866.00 |

|                                                                                                                |                      |
|----------------------------------------------------------------------------------------------------------------|----------------------|
| Skilled workers with completed<br>apprenticeship in the first year of<br>work, varying according to<br>branch: | 1,248.56 to 1,488.31 |
|----------------------------------------------------------------------------------------------------------------|----------------------|

|                                   |          |
|-----------------------------------|----------|
| Other workers (unskilled workers) | 1,097.96 |
|-----------------------------------|----------|

PAPERMAKING, CHEMICAL AND MECHANICAL PULP AND PAPERBOARD  
INDUSTRY  
as from 1 November 2002 (Monthly wages in euros)

|                                                           |          |
|-----------------------------------------------------------|----------|
| 1st year of apprenticeship:                               | 483.45   |
| 2nd year of apprenticeship:                               | 561.42   |
| 3rd year of apprenticeship:                               | 857.73   |
| 4th year of apprenticeship:                               | 1,325.58 |
| Skilled workers with final<br>apprenticeship examination: | 1,456.90 |
| Workers on probation                                      | 1,147.85 |

CHEMICAL INDUSTRYas from 1 May 2002 (Monthly wages in euros)

|                                                                                         |          |
|-----------------------------------------------------------------------------------------|----------|
| 1st year of apprenticeship:                                                             | 608.00   |
| 2nd year of apprenticeship:                                                             | 759.50   |
| 3rd year of apprenticeship:                                                             | 1,064.00 |
| 4th year of apprenticeship:                                                             | 1,215.50 |
| Workers with completed apprenticeship and<br>up to one year's service in the enterprise | 1,518.40 |
| Semi-skilled workers, up to 6 months                                                    | 1,303.13 |
| Unskilled workers (m/f)                                                                 | 1,251.03 |

FOOD, BEVERAGES AND TOBACCO TRADE – Bakersas from 1 October 2002 (Monthly wages in euros)

(excluding board and lodging)

|                                                                     |          |
|---------------------------------------------------------------------|----------|
| 1st year of apprenticeship:                                         | 347.00   |
| 2nd year of apprenticeship:                                         | 445.00   |
| 3rd year of apprenticeship:                                         | 633.00   |
| 4th year of apprenticeship (if learning<br>two trades):             | 679.00   |
| Workers after completing apprenticeship.<br>in the retention period | 981.60   |
| Young persons under 18 yrs                                          | 895.70   |
| Other workers (Unskilled workers (m/f))                             | 1,018.41 |

FOOD, BEVERAGES AND TOBACCO TRADE – Butchersas from 1 July 2002 (Monthly wages in euros)

|                             |                 |
|-----------------------------|-----------------|
| 1st year of apprenticeship: | 475.19 – 487.92 |
| 2nd year of apprenticeship: | 616.98 – 627.76 |
| 3rd year of apprenticeship: | 822.64 – 840.47 |

| Butchers                                                               | Burgenland,<br>Lower Austria,<br>Vienna (from<br>1.7.2002) | Carinthia (from<br>1.7.2002) | Upper Austria (from<br>1.1.2002) |
|------------------------------------------------------------------------|------------------------------------------------------------|------------------------------|----------------------------------|
| Workers in the first<br>year after com-<br>pleting apprentice-<br>ship | 1,244.00                                                   | 1,244.00                     | 1,192.17                         |
| Semi-skilled workers                                                   | 1,244.00                                                   | 1,244.00                     | 1,215.75                         |
| Workers under 18                                                       | 1,038.00                                                   | 1,041.00                     | 1,016.27                         |
| Unskilled workers<br>(m/f)                                             |                                                            |                              |                                  |
| Workers over 18                                                        | 1,195.00                                                   | 1,195.00                     | 1,171.12                         |

  

| Butchers,<br>contd. | Salzburg (from<br>1.7.2002) | Styria (from<br>1.7.2002) | Tyrol (from<br>1.7.2002) | Vorarlberg<br>(from 1.7.2002) |
|---------------------|-----------------------------|---------------------------|--------------------------|-------------------------------|
|---------------------|-----------------------------|---------------------------|--------------------------|-------------------------------|

BUTCHERS – contd.

|                                                                    |          |          |          |                         |
|--------------------------------------------------------------------|----------|----------|----------|-------------------------|
| Workers in the<br>first year after<br>completing<br>apprenticeship | 1,244.00 | 1,247.14 | 1,223.51 | 1,211.59                |
| Semi-skilled<br>workers                                            | 1,244.00 | 1,247.14 | 1,258.87 | 1,238.87                |
| Workers under<br>18                                                | 1,038.03 | 1,041.49 | 1,035.61 | Young persons<br>610.59 |
| Unskilled<br>workers (m/f)                                         |          |          |          |                         |
| Workers over 18                                                    | 1,194.01 | 1,199.67 | 1,209.63 | 1,191.07                |

BRICK-MAKING AND PREFABRICATED PRODUCTS INDUSTRY (Applicable  
to all *Laender*)  
as from 1 May 2002 (Monthly wages in euros)

|                                       |          |
|---------------------------------------|----------|
| Workers with completed apprenticeship | 1,483.67 |
| Semi-skilled manual workers           | 1,483.67 |
| Semi-skilled labourers                | 1,286.96 |
| Unskilled labourers                   | 1,240.29 |

## MINIMUM WAGES IN AGRICULTURE AND FORESTRY

### Forestry workers in the private sector (All Laender except Tyrol and Vorarlberg)

Valid as from 1 April 2002

| Category                                                                              | Monthly wages in euros |
|---------------------------------------------------------------------------------------|------------------------|
| 1st year apprentices                                                                  | 779.90                 |
| 2nd year apprentices                                                                  | 953.15                 |
| 3rd year apprentices                                                                  | 1,126.45               |
| Vacation workers                                                                      | 866.50                 |
| Unskilled workers                                                                     | 1,161.11               |
| Semi-skilled forestry workers                                                         | 1,230.43               |
| Skilled forestry/horticultural workers, with examination                              | 1,265.09               |
| Foremen without skilled forestry/horticultural workers examination                    | 1,272.02               |
| Foremen with skilled forestry/horticultural workers examination                       | 1,306.68               |
| Foremen without skilled forestry workers examination                                  | 1,403.73               |
| Skilled forestry workers with examination                                             |                        |
| Forestry workers employed on skilled manual work, for the duration of such employment |                        |
| Truck and tractor drivers and mechanics                                               |                        |
| Foremen with skilled forestry workers examination                                     | 1,443.60               |
| Skilled manual workers, e.g. bricklayers, mechanics, etc.                             |                        |
| Master foresters                                                                      | 1,488.65               |

### Farming operations in Lower Austria

As from 1 June 2002

| Category                | Monthly wages in euros |
|-------------------------|------------------------|
| 1st year apprentices    | 453.26                 |
| 2nd year apprentices    | 633.71                 |
| 3rd year apprentices    | 814.88                 |
| Skilled workers over 18 | 1,094.37               |
| Farm workers over 18    | 961.60                 |
| Farm workers under 18   | 765.08                 |

**Farming operations in Vorarlberg**

| Category                | Monthly wages in euros |              |
|-------------------------|------------------------|--------------|
|                         | Farm workers           | Alpine dairy |
| Apprentices: 1st year   | 353.61                 | 684.74       |
| Apprentices: 2nd year   | 403.69                 | 895.27       |
| Apprentices: 3rd year   | 548.81                 | 1,052.66     |
|                         |                        |              |
| Skilled workers over 18 | 1,174.28               | 2,091.98     |
| Farm workers over 18    | 1,023.02               | ---          |
| Farm workers under 18   | 884.03                 | 1,159.10     |

**Market gardening operations in  
Vienna, Lower Austria and  
Burgenland**

As from 1 January 2002

| Category                            | Monthly wages in euros |
|-------------------------------------|------------------------|
| Apprentices: 1st year               | 333.00                 |
| Apprentices: 2nd year               | 383.00                 |
| Apprentices: 3rd year               | 520.00                 |
| Horticultural workers under 18      | 852.64                 |
| Horticultural workers over 18       | 947.95                 |
| Journeymen (trained), from 3rd year | 1,174.97               |

**Estate and  
non-farm operations  
Monthly wages in euros**

| <b>Category</b>                                     | <b>Burgenland<br/>01.03.2002</b> | <b>Carinthia<br/>01.06.2002</b> | <b>Lower Austria<br/>01.03.2002</b> | <b>Upper Austria<br/>01.03.2002</b> | <b>Salzburg<br/>01.03.2002</b> | <b>Styria<br/>01.03.2002</b> | <b>Vienna<br/>01.03.2002</b> |
|-----------------------------------------------------|----------------------------------|---------------------------------|-------------------------------------|-------------------------------------|--------------------------------|------------------------------|------------------------------|
| <b>Valid as from</b>                                |                                  |                                 |                                     |                                     |                                |                              |                              |
| Estate, field and_horticultural workers<br>under 18 | 1,133.40<br>to<br>1,154.20       | 975.00                          | 1,133.40<br>to<br>1,154.20          | 927.30                              | 973.00                         | 941.10                       | 1,133.40<br>to<br>1,154.20   |
| Estate, field and_horticultural workers<br>over 18  | 1,154.20<br>to<br>1,214.80       | 975.00                          | 1,154.20<br>to<br>1,214.80          | 936.20                              | 1,008.00                       | 981.80<br>to<br>1,019.90     | 1,154.20<br>to<br>1,214.80   |
| Day labourers under 18                              | -                                | -                               | -                                   | 918.50<br>to<br>1,005.10            | -                              | 958.40                       | -                            |
| Day labourers over 18                               | -                                | -                               | -                                   | 935.80<br>to<br>1,022.50            | -                              | 1,015.50<br>to<br>1,079.70   | -                            |
| Young persons under 16                              | 1,069.30                         | -                               | 1,069.30                            | 745.20<br>bis<br>779.90             | -                              | -                            | 1,069.30                     |
| Young persons under 18                              | -                                | 894.00                          | -                                   | -                                   | -                              | -                            | -                            |

**Comments of the *Laender***

**Upper Austria:**

Current minimum gross wages under the relevant collective agreements:

**Estate operations (as from 1 March 2003)**

|                                                              |                 |
|--------------------------------------------------------------|-----------------|
| Full-time workers under 18:                                  | €947.60/month   |
| Workers under 18 on daily or hourly rates:                   | €5.50-6.00/hour |
| Young persons under 16 on daily or hourly rates:             | €4.40-4.60/hour |
| Apprentice pay, 1st year, monthly:                           | €395.00         |
| Apprentice pay, 2nd year, monthly:                           | €456.00         |
| Apprentice pay, 3rd year, monthly:                           | €518.00         |
| Apprentice pay, 4th year, monthly, (supplementary training): | €729.00         |

**Farm operations (as from 1 March 2003)**

|                                                              |               |
|--------------------------------------------------------------|---------------|
| Agricultural workers up to 18:                               | €846.00/month |
| Workers under 18 on daily or hourly rates:                   | €5.90/hour    |
| Apprentice pay, 1st year, monthly:                           | €404.00       |
| Apprentice pay, 2nd year, monthly:                           | €466.00       |
| Apprentice pay, 3rd year, monthly:                           | €529.00       |
| Apprentice pay, 4th year, monthly, (supplementary training): | €745.00       |

**Horticultural operations (as from 1 March 2003)**

|                                    |            |
|------------------------------------|------------|
| Unskilled workers up to 18:        | €4.79/hour |
| Apprentice pay, 1st year, monthly: | €323.00    |
| Apprentice pay, 2nd year, monthly: | €397.50    |
| Apprentice pay, 3rd year, monthly: | €508.00    |

**Forestry (according to collective agreement as from 1 April 2003)**

|                                  |       |
|----------------------------------|-------|
| 1st year apprentice (time rate): | €4.50 |
| 2nd year apprentice (time rate): | €5.50 |
| 3rd year apprentice (time rate): | €6.50 |
| Vacation worker (time rate):     | €5.00 |
| Unskilled worker (time rate):    | €6.70 |
| Semi-skilled worker (time rate): | €7.10 |

**Tyrol:****Forestry workers**

|          | Apprentices | Unskilled/vacation | Unskilled |
|----------|-------------|--------------------|-----------|
| Under 16 | 4.82        | 4.83               | 5.25      |
| 16 to 18 | 5.48        | 5.58               | 5.98      |
| Over 18  | 6.66        | 6.85               | 7.27      |

|                | Journeymen | Skilled workers | Master foresters |
|----------------|------------|-----------------|------------------|
|                | 8.11       | 8.76            | 9.87             |
| After 5 years  | 8.45       | 9.14            | 10.25            |
| After 10 years | 8.72       | 9.45            | 10.63            |

**Agricultural workers**

| Apprentices |     | Young persons and unskilled workers |            |
|-------------|-----|-------------------------------------|------------|
| 1st year    | 621 | 1,060                               | Aged 15    |
| 2nd year    | 681 | 1,139                               | Aged 16-17 |
| 3rd year    | 777 | 1,179                               | Aged 18+   |

|                  | Master craftsmen | Skilled workers | Other |
|------------------|------------------|-----------------|-------|
| House and field  | 1,451            | 1,426           | 1,286 |
| Estate and field | 1,586            | 1,567           | 1,361 |
| Milkers          | 1,779            | 1,735           | 1,541 |
| Overseers        | 1,901            | 1,856           | 1,610 |

**Horticulture**

|                       |     |
|-----------------------|-----|
| Vacation workers      | 279 |
| Apprentices, 1st year | 310 |
| Apprentices, 2nd year | 369 |
| Apprentices, 3rd year | 449 |

|                                          |             |
|------------------------------------------|-------------|
| Horticultural workers                    | 4.85 – 5.82 |
| Journeymen/skilled workers, 1st year     | 6.25        |
| Journeymen/skilled workers, 2nd year     | 6.71        |
| Journeymen/skilled workers, 3rd year     | 7.19        |
| Master gardeners                         | 8.10        |
| Head gardeners with master's certificate | 8.83        |



**Professional gamekeepers**

|                                      |       |
|--------------------------------------|-------|
| 1st year apprentices                 | 479   |
| 2nd year apprentices                 | 643   |
| 1st year after qualification         | 1,228 |
| 2nd and 3rd year after qualification | 1,271 |
| 4th and 5th year after qualification | 1,312 |

**Cheese-making operations**

|                      |       |
|----------------------|-------|
| 1st year apprentices | 358   |
| 2nd year apprentices | 478   |
| 3rd year apprentices | 656   |
| Unskilled workers    | 1,388 |
| Drivers              | 1,533 |
| Journeyman           | 1,657 |
| Master craftsmen     | 1,844 |

**Cooperatives**

|                      | Blue-collar workers | White-collar workers |
|----------------------|---------------------|----------------------|
| 1st year apprentices | 404                 | 367                  |
| 2nd year apprentices | 541                 | 468                  |
| 3rd year apprentices | 728                 | 674                  |
| 4th year apprentices | 978                 | 696                  |

**Supplementary questions in Conclusions XV-2 on Article 7 paragraph 5:****General comments:**

Statistics on the net wages of persons under 18 and on the lowest net wages of adult workers are not available. With regard to gross wages, it is again pointed out that the collective agreement rates are minimum rates. Payment of higher rates by the employers (so-called overpayment) is of course permissible and indeed occurs frequently in practice.

Since the last report, there have been no relevant changes in the difference between the gross wages of apprentices and those of skilled workers with a completed apprenticeship in the branches mentioned. However, it is again pointed out that collective agreement policy is in the autonomous sphere of the workers' and employers' associations. Intervention by the Government into collective agreement negotiations would constitute interference with the traditional system of collective agreement autonomy in Austria.

The relevant comments of the Committee of Social Rights have been communicated to the workers' and employers' associations.

**Minimum wages of juvenile workers in agriculture and forestry**

The **Presidential Conference of Austrian Chambers of Agriculture** has confirmed that the requirements of the European Social Charter regarding the level of minimum wages of persons under 16 in agriculture and forestry are complied with. In particular, the following was pointed out:

"The collective agreement wage of an adult estate worker employed as an unskilled worker (= the lowest comparable wage of an adult) – for example in the *Laender* of

Vienna, Lower Austria and Burgenland – is €6.66 per hour, and that of a person under 18 is €6.17, a difference of roughly 7.4%. There is no further difference for persons under 16. In the lowest wage in any branch (seasonal workers in horticulture), the difference between those under and over 18 is roughly 10.6%. In forestry, there is no difference, since young persons receive the same wages as adults according to the collective agreement.

The examples quoted in Conclusions XV-2 do not reflect actual conditions, since the wages of workers used as a comparison as from the third year are not the lowest wages for adults.

Apprentices in commerce, trade and industry:

The **Austrian Economic Chamber** has given the following comments:

“In principle it should be remembered that, typically, the level of apprenticeship pay in Austria – particularly in the sectors mentioned, namely, mining, paper and paperboard and garment-making – is regulated by collective agreement. The regulations on apprenticeship pay and its level are in the autonomous sphere of the collective agreement parties in question and are a compromise reflecting an acceptable level of remuneration and the financial capacity of the branch in question.

With regard to the acceptable level of apprenticeship pay, the Committee of Social Rights emphasises that the lowest net wage of an adult in the economy as a whole should be taken as a yardstick. However, even comparing the level of (gross) apprenticeship pay with pay in the lowest wage groups (gross wages) within the collective agreement for the branch in question, the requirements of Article 7 paragraph 5 of the European Social Charter are met in principle, and even more so by comparison with net wages, since taxes and social insurance contributions further reduce the differences.”

**Article 7 paragraph 7**

**Ad A to E:**

No relevant changes.

**Article 7 paragraph 8**

**Ad A to E:**

No relevant changes.

**Ad F:**

Monitoring of compliance with the relevant regulations is the duty of the Labour Inspectorate or the Agriculture and Forestry Inspectorate.

**Supplementary questions in Conclusions XV-2 on Article 7 paragraph 8:**

In order to be able to make concrete statements on the practical efficiency of monitoring the KJBG, it would be necessary to conduct follow-up or longitudinal studies on the development of infringements in establishments that have already been monitored. Such studies are not being carried out at present, since they are very labour-intensive and other important activities would have to be cut back for their sake.

However, the development of the total number of infringements per inspection and of the ratio of infringements per establishment (establishments reported for

infringements by reference to the total number of establishments inspected x 100) can give an approximate description of the efficiency of KJBG monitoring. For 1999-2002, the picture was as follows:

| Year | Infringe-<br>ments<br>noted in<br>inspections<br>(A) | No. of<br>inspections<br>(B) | Ratio<br>A/B | Establishments<br>reported for<br>infringements | Establishments<br>inspected | Specific<br>ratio of<br>establishments<br>reported for<br>infringements (%) |
|------|------------------------------------------------------|------------------------------|--------------|-------------------------------------------------|-----------------------------|-----------------------------------------------------------------------------|
| 1999 | 1,448                                                | 3,365                        | 0.43         | 678                                             | 3,275                       | 20.7                                                                        |
| 2000 | 999                                                  | 2,957                        | 0.34         | 542                                             | 2,887                       | 18.8                                                                        |
| 2001 | 1,172                                                | 3,061                        | 0.38         | 546                                             | 2,967                       | 18.4                                                                        |
| 2002 | 825                                                  | 3,185                        | 0.26         | 391                                             | 2,952                       | 13.2                                                                        |

Source: BMWA, Central Labour Inspectorate

The above figures show that both the total number of infringements noted per inspection and also the proportion of establishments inspected in which infringements were detected distinctly declined from 1999 to 2002. Although the legal bases for the employment of young persons were partly relaxed in this period (by an amendment of the KJBG in the year 2000, the employment of young persons over 16 in the catering trade was permitted up to 11.00 p.m.), the decline in both indicators shows that inspection of establishments in this area is important and effective since it clearly leads to a decline in the infringements noted. Seen in this light, the effectiveness of KJBG actions has distinctly increased in recent years.

There are no new developments in connection with the monitoring of private households by the Labour Inspectorate.

### **Article 7 paragraph 9**

#### **Ad A to C:**

The previous reporting should be updated as follows:

The provisions of Division 5 “Health Monitoring” of the Federal Act on Safety and Health Protection at Work (Workers’ Protection Act – ASchG) BGBl. No. 450/1994 as amended by BGBl. I No. 159/2001, as well as the Order of the Federal Minister for Labour and Social Affairs issued thereunder regarding health monitoring at the workplace (VGÜ), BGBl. II No. 27/1997, as amended by BGBl. II No. 343/2002, apply to young persons in the same way as to adult workers,.

Pursuant to § 3a VGÜ, BGBl. II No. 27/1997, as amended by BGBl. II No. 343/2002, workers under the age of 21 may be employed in underground workings in mines only if aptitude examinations are carried out before commencing the activity and follow-up examinations are conducted at yearly intervals if the activity is continued.

The amendment to the Order on the monitoring of health at the workplace (VGÜ), BGBl. II No. 343/2002 is transmitted in **Annex 2**.

In its §§ 92, 109a (4) and (5), the Agricultural Labour Act 1984 (LAG), BGBl. No. 287, as amended, enunciates the principles of health monitoring by analogy with the ASchG. The Agricultural Labour Orders of the *Laender* specify these principles in detail.

**Article 7 paragraph 10**

**Ad A and B:**

No relevant changes:

**Ad C:**

Children are protected within the family because the court can withdraw the right of custody from the parents if they endanger the welfare of the child. In the event of imminent danger, the youth welfare institution can itself temporarily take the action necessary for care and education of the child, but it must immediately apply to the court for its assent, and in any case within eight days.

With regard to other measures for the protection of children and young persons against physical or moral dangers outside the workplace, reference is made to the previous reporting on police protection of youth, which lies within the independent competence of the Federal *Laender*.

In this context, for example, the *Land* of **Tyrol** has submitted the following comments:

The protection of children and young persons against physical and moral dangers outside the workplace is to be ensured among other things by the new Tyrolean Youth Protection Act. It contains comprehensive regulations on frequenting public places, catering establishments and hotels and lodging houses, and admission to public performances (see also the Tyrolean Act on public performances) and film shows (see also the Tyrolean Cinema Act), as well as concerning alcohol and nicotine.

Since the entry into force of the new Youth Protection Act, the *Land* of Tyrol, with the Youth Section as the lead agency, has established a comprehensive package of measures intended to give greater force to youth protection measures once again. The chief task of the Ombudsperson for Children and Youth is to inform children and young persons, parents and also self-employed persons in commerce, trade and industry of the new statutory provisions. There is also good co-operation with the Economic Chamber. The aim is to inform self-employed persons in commerce, trade and industry of the prohibition against providing young persons under 16 with alcohol and nicotine and to motivate them to comply with the statutory provisions (see also the regulation in the Industrial Code). The District Administrative Authorities are entrusted with enforcement of the Act. However, youth protection inspections by the police or gendarmerie are somewhat sporadic, particularly with regard to serving alcohol to young persons under 16. The *Land* Addiction Prevention Unit coordinates preventive measures against the misuse of alcohol, nicotine and drugs.

**Ad D:**

Reference is made to the previous reporting on Article 17, question H. Those comments should be updated as follows:

A child is protected within the family against acts of violence on the part of the parents, adoptive or foster parents by the Violence Protection Act. The court can expel the parent in question from the family dwelling and exclude him or her from entering it if continuation of family life is unacceptable to the child owing to a physical attack, the threat of a physical attack or other conduct that substantially impairs the child's mental health. An application for the issue of such an interim injunction (expulsion and exclusion order) can also be made by the youth welfare authority as the child's representative.

The number of criminal charges for sexual abuse brought throughout Austria (§ 206 Serious Sexual Abuse of Under-age Persons and § 207 Sexual Abuse of Under-age Persons) is at the moment slightly on the decline (from 722 in the year 2000 to 576 in the year 2001 and 558 in the year 2002; Source: Crime Report of the Federal Ministry of the Interior).

The number of criminal charges brought under § 92 of the Criminal Code (cruelty to or neglect of Under-age persons) is also declining (148 in the year 2002, 190 in the year 2001, 245 in the year 2000). The figures apply only to children and young persons under 14 (Source: Crime Report of the Federal Ministry of the Interior).

43 of the some 358 family counselling centres promoted by the Federal Ministry for Social Security, Generations, and Consumer Protection offer not only counselling on a wide variety of problems but also support in the event of violence in the family.

For example, in the context of subsidising family counselling centres, 17 Austrian child protection centres are at present being supported as family counselling centres, in order to be able to offer targeted counselling to the family members of children affected by violence. In Vienna, there are two centres focusing on counselling for girl victims of sexual abuse; also, five of the nine counselling centres for men are subsidised as family counselling centres.

Following a model project carried out from 1998 to 2000, the systematic development of psychosocial and legal support in court proceedings was launched throughout Austria. The purpose of this additional facility for the victims of violence (in the family) is to prevent them from experiencing further distress in bringing a criminal charge and in the court proceedings and from suffering secondary trauma. Support in court proceedings is carried out on the basis of standards worked out by an inter-ministerial working group. In order to ensure consistent quality, seminars for psychosocial and legal support officers and the development of regional co-operation structures have been initiated throughout Austria. The report on the implementation of support in court proceedings was published in September 2002.

Psychosocial and legal support in court proceedings is incorporated in Austria into the existing facilities for victims – support by family counselling and intervention centres, targeted youth welfare action, expulsion and exclusion orders by the police and gendarmerie in the context of the Violence Protection Act, interim injunctions by the civil courts, and psychotherapy, which is partly financed under the Crime Victims Act, in order to enable victims to come to terms with the experience of violence. By now, throughout Austria, approximately 70 counselling centres are offering free psychosocial and legal support in court proceedings for all victims of violence (in the family). In the year 2002, free support in court proceedings was provided in some 100 of the 123 cases in Vienna in which criminal charges were brought on grounds of sexual abuse and serious sexual abuse of under-age persons (§§ 206, 207).

It has been demonstrated by a large number of scientific studies that the rate of recidivism is reduced by work with persons committing acts of violence and that further violence is thereby prevented. Work with such persons is increasingly regarded as an important component of victim protection.

The Social Ministry has recently introduced important innovations. In the year 2002, the results of a model project for work with adult male sexual offenders carried out from 1998 to 2001 were published in the study “The Viennese socio-therapeutic programme for male sexual offenders”. Also, a research project for the diagnosis of

recidivism (formulation of diagnostic bases and assessment standards) was awarded to the Institute for Psychology of the University of Vienna and is to be concluded in the year 2004. The Viennese counselling centre for men is shortly to be commissioned to prepare a working manual for intra- and extramural work with offenders, focusing on the protection of victims in Austria (in preparation).

An international survey "Work with juvenile and adult sexual offenders" is planned for October 2004.

In addition to the support of victims and the reduction of the rate of recidivism, prevention of violence in the emerging phase is an important concern.

The work of the Platform against Violence in the Family, which is supported by the Social Ministry, is incorporated in this area. The Platform is the only Austrian network in which 32 specialised institutions such as child protection centres, women's counselling units, youth facilities, counselling units for men, senior citizens' associations etc. are at the moment engaged in interdisciplinary cooperation. So far, over 100 projects and schemes for the prevention of violence have been developed and have since November 2003 been offered to a broad target public through a new home page. To mark the tenth anniversary of the Platform, a ceremony and a multimedia presentation took place on 27 November 2003, in which the work and services of the Platform were presented and new ways for the prevention of violence were discussed.

#### **Ad E:**

Reference is made to the previous reporting on questions C and D.

Monitoring of compliance with the relevant regulations of the KJBG and the KJBG-VO is the duty of the Labour Inspectorate. In carrying out its tasks, the Labour Inspectorate must proceed according to the principles of the Labour Inspection Act, BGBl. No. 27/1993.

The Labour Inspection Act, BGBl. No. 27/1993, as amended, is transmitted in **Annex 3**.

#### **Supplementary questions in Conclusions XV-2 on Article 7 paragraph 10:**

Information on the legislative provisions prohibiting the employment of children in the sex industry, on the monitoring system and the relevant sanctions:

Pursuant to § 2 of the Order on the Prohibition and Restriction of the Employment of Young Persons (KJBG-VO) BGBl. II No. 436/1998, the employment of young persons in the following establishments is prohibited:

1. In sex shops, sex cinemas, striptease bars, table dance bars, go-go bars, peepshows and premises with peepshows;
2. In the production, distribution and screening of pornographic products, irrespective of the medium (data carrier) used.

Monitoring of compliance with the KJBG-VO regulations is the duty of the Labour Inspectorate. In carrying out its tasks, the Labour Inspectorate must proceed according to the principles of the Labour Inspection Act.

Child pornography:

Reference is made to the previous reporting on Article 17, question H, indents c and d, which correctly reflect the present state of legislation on child pornography.

In this context, reference can also be made to § 207b (3) of the Penal Code, which was incorporated into the Code under the Criminal Law Amendment Act 2002, BGBI. I No. 134, and entered into force on 14 August 2002. § 207b (3) deals generally with the sexual abuse of young persons, and paragraph (3) provides for a penalty of up to three years of imprisonment for persons who directly induce by payment persons who have not yet reached the age of 18 to perform a sexual act with him/her or a third person or to allow a sexual act to be performed on him/her by a third person. Thus, customers of young prostitutes are in principle punishable.

Finally, in the light of recent developments, though this is outside the actual reporting period, it is pointed out that on 4 November 2003 the Council of Ministers adopted a government bill for a Criminal Law Amendment Act 2003 by which among other things the penal provision of § 207a StGB (“Pornographic productions with under-age persons” – in future “Pornographic productions with minors”) is to be made more severe, in implementation of the Council of Europe Convention on Cybercrime as well as of guidelines from the European Union and the United Nations.

## **ARTICLE 8**

### **THE RIGHT OF EMPLOYED WOMEN TO PROTECTION**

#### **Article 8 paragraph 1**

##### **Ad A to C and F:**

No relevant changes

Further to previous reporting, it should be noted that, under the amendment BGBl. I No. 103/2001, the title of the Parental Leave Act was changed to “Paternal Leave Act”. Also, among other things, the designation of release from work following mandatory maternity leave before and after birth (protection period of the mother) was altered in the Maternity Protection Act and in the Paternal Leave Act. The expression “parental leave” was replaced by the expression “release from work (unpaid)” in the relevant provisions.

For more detailed information, the Maternity Protection Act (MSchG) 1979, BGBl. No. 221, as amended, and the Paternal Leave Act (VKG) BGBl. No. 651/1989, as amended, are transmitted herewith (**Annex 4**).

With regard to financial benefits during unpaid release from work, reference is made to the remarks on Article 17 (child-care benefit).

##### **Ad D:**

Pursuant to § 162 (1) of the General Social Insurance Act (ASVG), BGBl. No. 189/1955, as amended, the majority of women concerned are entitled to a daily confinement benefit (**Annex 5**) for the last eight weeks before the expected delivery, the day of delivery and the first eight weeks after delivery. After premature or multiple births or delivery by Caesarean section, mothers receive the confinement benefit for 12 weeks after delivery. Pursuant to § 152 ASVG, the family benefit and daily benefit may also be payable.

Women civil servants, that is to say, persons employed under public law contracts, are entitled to full remuneration during the protection period. Female contract employees receive confinement benefit and, if applicable, family benefit and a daily benefit from the competent social insurance institution (§ 162 ASVG). For the period during which employment is prohibited, they receive no remuneration if the above-mentioned cash benefits from the social insurance institution are equal to the full remuneration. If that is not the case, they are entitled to a supplement to make up the difference (§ 24 (8) VBG 1948, BGBl. No. 86, as amended by the VBG amendment BGBl. No. 165/1961).

##### **Supplementary questions in Conclusions XV-2 on Article 8 paragraph 1:**

The decisive factor with regard to the applicability of the Maternity Protection Act is whether there is an employment relationship or not. The Act applies only to employed women.

Male and female pupils of a school for health- and sickness care are always in a pure training relationship (except in the case of the shorter training which can take place within an employment contract). The law on employment contracts is therefore never applied. However, some worker protection regulations apply to male and female pupils.



In the event of pregnancy, the legal situation with regard to the pupils concerned is as follows: the statutory provisions of the MSchG linked to employment contracts are not applied. Pursuant to § 13 (2) of the Order on the training of nurses in health- and sickness care, the training of female pupils can be interrupted on the grounds for the prohibition of employment that are contained in the Maternity Protection Act, under § 3 (1) to (3) and § 5 (1) and (2) unpaid release from work under the Maternity Protection Act or the Paternal Leave Act, BGBl. 651/1989. The training institutions regularly pay pocket money during the maternity protection period.

Women who are being trained as dentists fall within the scope of the MSchG if such training is provided in the context of an employment contract. In the case of medical students who had completed a dentistry course under the Federal Act of 23 January 1986, amending the Order regulating training as dentists, BGBl. 1986/184, it was previously provided that, pursuant to § 18 (1) of that Federal Act, participation in such a course did not establish an employment relationship. However, pursuant to § 18 (13) of the Act, §§ 3-9 of the MSchG as well as § 15 (1) and (2), first sentence, apply *mutatis mutandis*. Since the adoption of BGBl. I 2002/91, new admission to the dental course is no longer permissible, since dental training is now a separate course of study. In the context of that course of study, maternity or childcare leave is permissible pursuant to § 38a of the University Studies Act.

#### Marginal part-timers:

The relevant regulations for marginal part-timers are still applicable. In the year 2002, the entitlement to confinement benefit of marginal part-timers who had opted for compulsory insurance (de facto “self insurance”), amounted to €6.83 per day. Under the Social Assistance Acts of the *Laender*, there is an unchanged entitlement to subsidiary maternity benefits, which are intended to reimburse the costs of hospitalisation for delivery and to replace the confinement benefit. They are regularly capped according to the equalisation supplement reference rate.

### **Article 8 paragraph 2**

#### **Ad A:**

Reference is made to the previous reporting on Article 8 paragraph 2.

#### **Ad B:**

There is no provision for sanctions in the strict sense. However, employed women can sue against an illegal notice of dismissal.

#### **Ad C:**

If an employed woman sues before the courts against such an illegal notice of dismissal or summary dismissal, she can either plead its legal invalidity, and thus claim the continuation of the employment relationship, or allow the illegal notice of dismissal or summary dismissal to be effective against her, while, however, claiming damages. This option is granted to employed women since continuation of the working relationship is no longer possible on a tolerable basis in such cases.

**Ad D:**

§ 10a (1) MSchG provides that fixed-term employment contracts are suspended if notification of pregnancy is made by the beginning of the employment prohibition period pursuant to § 3 (1) MSchG or of a permanent employment ban pursuant to § 3 (3) MSchG.

The only exceptions to such suspension are employment contracts that are limited in time for objectively justified reasons or as provided by law. Suspension does not extend the fixed-term contract but suspends its expiration and leaves the employment contract intact at least until the dates mentioned in the Act (up to the beginning of the normal or advanced protection period).

If there is a permanent individual prohibition of employment pursuant to § 3 (3) MSchG because of a risk to the life and health of the mother or child, the fixed-term contract ends at the earliest at the beginning of the advanced protection period. The employee is then entitled to advance payment of the confinement benefit pursuant to the General Social Insurance Act.

On the other hand, in the case of a temporary release pursuant to § 3 (3) MSchG, the fixed-term contract does not end. After the reason for release from work ceases to apply, employment must be resumed. The fixed-term contract ends at the earliest only at the beginning of the normal protection period.

The individual permanent employment prohibition or a temporary release begins with the submission of the relevant medical certificate.

The list of reasons for an objectively justified time limitation contained in § 10a (2) MSchG is not exhaustive. § 10a (2) MSchG contains a demonstrative list of objectively justified time limitations.

There is an objectively justified limitation, for example,

- If it is in the interests of the employee; this applies if the employee herself has requested such limitation since she wished to conclude an employment contract only for a certain period;
- If the employment contract was concluded merely for the period of replacing an employee prevented from performing the work;
- If the employment contract was concluded for training purposes, for example, a practical course as part of training;
- If the employment contract was concluded for the duration of the season;
- If the employment contract was concluded on grounds of an increased volume of work;
- If the necessary qualifications for the intended assignment make necessary a longer probation period than that required by law or a collective agreement

Moreover, reference is made to the reply to the supplementary questions in Article 8 paragraph 2 of the 18th Report.

### **Supplementary questions in Conclusions XV-2 on Article 8 paragraph 2:**

#### **Cash payments in the case covered by § 3 (3) MSchG:**

For the period of release from work pursuant to § 3 (3), MSchG, the employee receives an advance confinement benefit from the social insurance institution (§ 162 (1), ASVG).

#### **Consequences of an unlawful notice of dismissal:**

With regard to this supplementary question, it is expressly pointed out that the passage in the textbook quoted by the European Committee of Social Rights (see English text) “Schwarz-Löschnigg 1997, p. 629” refers to special protection against summary dismissal but not to protection against notice of dismissal. If the female worker allows an (unlawful) summary dismissal pronounced before obtaining the consent of the court to stand against her, she waives the special protection of vested rights provided for in the MSchG. However, instead of pleading the legal invalidity of the pronouncement of summary dismissal, she can claim damages (this is generally referred to as compensation for notice of dismissal) on grounds of unlawful summary dismissal (OHG 7.7.1981, 4 Ob 134/80). For the award of such damages, it should be assumed that the employed woman’s situation is the same as if she had been given notice of dismissal in due time at the earliest possible date, with observance of the special protection of vested rights.

Compensation for notice of dismissal – as was mentioned above with regard to summary dismissal – is possible only if notice was pronounced unlawfully. That will not be the case with notice of dismissal corresponding to § 10 (3) MSchG.

### **Article 8 paragraph 3**

No relevant changes.

### **Article 8 paragraph 4**

#### **Ad A:**

The Night Work (EU Adaptation) Act entered into force on 1 August 2002.

At the same time, the Act on Night Work by Women was repealed, so that there is no longer any statutory prohibition of night work by women. Henceforth, gender-neutral night work regulations apply – to men and women equally. In this way, Austrian legal provisions have been adapted to the EU Equality of Treatment Directive.

The new regulation was necessary with regard to the following Acts:

- The Hours of Work Act (AZG), BGBl. No. 461/1969, as amended by BGBl. I No. 122/2002;
- The Hospital Working Hours Act (KA-AZG) BGBl. I No. 8/1997, as amended by BGBl. I No. 169/2002;
- The Bakery Workers Act (BäckAG), BGBl. No. 410/1996, as amended by BGBl. I No. 122/2002.

This new regulation does not affect any other workers.

Night is defined as the period from 10.00 p.m. to 5.00 a.m.

The limits of night work in other Acts (Service regulations, Heavy Night Work Act, Maternity Protection Act, Children and Young Persons Employment Act) are not affected.

Night workers are defined as persons who work for at least three hours during the night regularly or on at least 48 nights in a calendar year (§12a AZG). In principle, the normal daily and weekly working hours and rest periods also apply to night workers, unless they are on standby duty, are performing heavy night work, or unless a collective agreement provides otherwise.

Night workers on standby duty are entitled to additional compensatory rest periods if their average daily normal working time exceeds eight hours over a calculation period of 26 weeks. The total additional rest periods to be granted equal two-thirds of the sum of all hours worked in excess of the normal eight-hour working day over the calculation period less the sum of all shortfalls (§ 12a AZG).

The prerequisites for consideration as heavy night work continue to depend on the existence of the conditions mentioned in the Heavy Night Work Act, BGBl. No. 354/1981, as amended by BGBl. I No. 158/2002 (NSchG). In the case of heavy night workers, the average working time, including overtime, on days on which night work is performed within a calculation period of 26 weeks may exceed eight hours only if that is permitted by a collective agreement or a works agreement. In such cases, also, workers are entitled to additional rest periods totalling all hours worked in excess of the normal eight-hour working day on days on which night work is performed in the calculation period less the total of all shortfalls (§ 12a AZG). The definitions and prerequisites mentioned in that Act (additional leave, special pensions, etc.) for entitlements under the Act still apply; in particular, the period of night work is still defined as 10.00 p.m. to 6.00 a.m. (Article 7 NSchG).

Night workers are entitled to a free medical examination on first taking up night work and at two-year intervals thereafter. After the worker reaches the age of 50, or after 10 years of night work, the examinations must be carried out at yearly intervals (§12b AZG).

Workers are entitled to transfer to a suitable daytime assignment in two cases:

- On health grounds, that is to say if the further performance of night work would lead to health problems;
- In cases of responsibility for the care of children up to the age of 12 years, but only temporarily for the duration of such responsibility.

However, the exercise of that right depends on the existence of facilities in the works for implementing such a transfer (§12c AZG).

Furthermore, night workers have been given the right to be informed of any important events in the works that affect their interests (§12d AZG).

If a worker is employed on a daytime job, he/she may not be transferred to a night-time job without formality; on the contrary, an agreement between the employer and the worker is necessary. Furthermore, such a transfer (particularly for women with family responsibilities) usually entails a substantial change and in certain circumstances even a deterioration in working conditions. In establishments in which a works council has been set up, the consent of the works council is also necessary in such cases.

Collective agreements can make other arrangements in favour of the workers. Almost all collective agreements already provide for a cash supplement for night work, and certain collective agreements already incorporate further measures in connection with night work.

Austria denounced ILO Convention (No. 4) on night work by women and ILO Convention (No 89) Night Work (Women) in due time.

§ 6 of the Maternity Protection Act 1979, BGBl. II21 as amended by BGBl. I No. 100/2002, provides:

#### Prohibition of night work

§ 6. (1) Expectant and nursing mothers – except in the cases permitted under paragraphs (2) and (3) – may not be employed between 8.00 p.m. and 6.00 a.m.

(2) Expectant and nursing mothers who are employed in transport, musical performances, theatrical performances, variety acts, sideshows, entertainments, film shooting and in cinemas, or as nursing staff in hospitals, curative, nursing or welfare institutions, or in multiple-shift establishments may be employed up to 10.00 p.m. provided that an uninterrupted rest period of at least 11 hours immediately following the period of night work is granted.

(3) On application by the employer, the Labour Inspectorate may in individual cases authorise the employment of expectant and nursing mothers in the catering trade up to 10.00 p.m. and in musical performances, theatrical performances, variety acts, sideshows, entertainments and cinemas up to 11.00 p.m. if that is necessary for reasons of the establishment and if the woman's state of health so permits. Such consent may be granted only if the employee is guaranteed an uninterrupted rest period of at least 11 hours immediately following night work.

(4) The exceptions under paragraphs (2) and (3) apply only provided that night working by employed women is not prohibited on the basis of other regulations.

With regard to paragraph (4), it is pointed out that, for example on the basis of § 17 KJBG, the exceptions to the provisions of paragraphs (2) and (3) do not apply to young women employed in the catering trade or in multi-shift establishments, if they are not older than 16.

The prohibition of night work by pregnant women applies to employed women and home workers pursuant to § 1 (1) of the Maternity Protection Act. Exceptions are employed women who are subject to the Agricultural Labour Act or are employed by a *Land* or local authority. However, those bodies have comparable regulations.

#### **Ad B and C:**

Pursuant to § 2 (1) of the Order of the Federal Minister of Economics and Labour regarding employment prohibitions and restrictions for women, BGBl. II No. 356/2001, women may not be employed in underground mine workings (**Annex 6**).

Paragraph (1) does not apply to:

1. Women who are in responsible positions of a managerial or technical nature and do not perform heavy physical work;
2. Women working in health or social services;
3. Women who have to undergo practical professional training in a course of study or comparable training, for the duration of such training;
4. Women who are employed only occasionally in underground mine workings in an occupation that does not require heavy physical work.

Under § 3 of that Order, women may not be employed on tasks in which there is such exposure to the effects of lead that aptitude and follow-up examinations pursuant to § 49 (1) ASchG are necessary. § 49 (1) does not apply if it is certified by measurement at the workplace that exposure to lead at the workplace is less than 0.02 mg/m<sup>3</sup>.

Pursuant to § 4 of the Order, women may not be employed on tasks in which they are exposed to special physical stress by lifting, carrying, pushing, rolling or other transportation of loads entailing an intolerable strain on the organism. In the assessment of tasks under paragraph (1), the decisive strain and stress factors must be taken into consideration: these are chiefly the weight, nature and shape of the load, the distance over which it is to be transported and the operating speed, duration and frequency of the work, as well as the physical capacity of the women. Paragraph (1) is not applicable to work in which women are employed for only a short time or otherwise in such a manner that danger to the life and health of the women is not to be expected.

**Ad D:**

Reference is made to the previous reporting on question E.

**Supplementary questions in Conclusions XV-2 on Article 8 paragraph 4:**

With regard to the effects that the implementation of Directive 92/85/EEC has had on night work regulations, it is pointed out that the MSchG has for a considerable time contained a prohibition in principle on night work by expectant and nursing mothers. The regulations under § 6 MSchG are not affected by the above-mentioned night work regulations.

On the question of the protection of expectant and nursing mothers against ionising radiation and asbestos it should be pointed out that the employment prohibitions and restrictions become effective on the notification of pregnancy to the employer. § 4 (2) 4 MSchG also mentions radiation injurious to health.

Furthermore, the Radiation Protection Act BGBl. No. 227/1969, as amended, provides that pregnant women may not work in radiation areas and that nursing mothers may not perform any working operations with radioactive materials subject to special authorisation requirements in which the danger of contamination exists.

Protection against asbestos must be subsumed under the general clause of § 4 (1) MSchG, according to which expectant mothers may under no circumstances be employed on work or in working processes which, by the nature of the working process or the working materials or equipment used, are injurious to their organism or to the unborn child.

Shortly before and after confinement (a period totalling 16 weeks), women are subject to an absolute ban on employment. The employment prohibitions under § 4a MSchG apply to nursing mothers who resume employment.

## ARTICLE 11

### THE RIGHT TO PROTECTION OF HEALTH

#### General aspects

##### Ad A:

A breakdown of mortality by main groups of causes of death shows that diseases of the cardiovascular system have the greatest frequency: 57% of women and 46% of men die of these diseases. Next, but far less frequent, is cancer: women 22%, men 27%. Relatively few people die from “other diseases”, which include communicable and parasitic, nutritional and metabolic diseases (particularly, diabetes mellitus), diseases of the urinary and sexual organs as well as so-called “senile decay”: women 8%, men 7%. Next come injuries and poisoning: women 3%, men 8%; diseases of the respiratory organs: women 5%, men 6%; and of the digestive organs: women 4%, men 5%.

Colds are by far the commonest diseases among both sexes. Also, ear, nose and throat diseases, spondylopathies or arthropathies of the hip and leg joints lead to other more serious conditions.

Among cancers, breast cancer is the commonest among women, namely, 27%. Second is intestinal cancer with 14%, followed by the lung cancer with 6%, stomach cancer and cancer of the ovaries and other appendages with some 5% each.

The most frequent form of cancer in men is prostate carcinoma. Nearly one-quarter of all cases of cancer are due to that tumour. Then follow lung cancer with 15%, intestinal cancer with 14%, cancer of the bladder with 7%, and stomach cancer with 5%.

##### Ad B:

Take-up of the various health services provided by the *Laender* and local government authorities is usually free of charge. However, many bodies levy contributions for their services. Most health services of the social insurance institutions are available to insured persons free of charge; in some cases, however, insured persons pay a small charge.

Not all “privately” run hospitals in Austria are profit-oriented. Some are non-profit institutions (for example, the hospitals of religious bodies) and are to a large extent financed out of public funds. Sometimes, the social insurance institutions themselves also operate non-public hospitals (e.g. rehabilitation centres).

In Austria, special treatment is often provided in general hospitals that have specialised in certain areas. That applies particularly to the treatment of cancer but also to pulmonary diseases and psychiatry. In the context of psychiatric reform, acute psychiatric treatment has since 1999 been decentralised and integrated into general treatment. Also, general hospitals often provide after-care, particularly in the field of neurology.

In view of the distribution of authority, the many financing agencies and the mixed financing system (social insurance contributions and tax revenue), the Federal and *Laender* Governments conclude agreements under Article 15a B-VG at regular intervals. Those agreements cover decisions on both the financing of hospitals and their structural development. For that purpose, the so-called Austrian Hospital and

Major Equipment Plan (ÖKAP/GGP) has been in force since 1997. The health policy aims of the Plan are, firstly, to ensure high-quality services and an appropriate hospital structure to meet future challenges (principles: appropriate regional distribution according to quantitative and qualitative needs, medical quality assurance, guarantee of structural quality), and, secondly, to improve the cost-effectiveness of the hospital sector by streamlining structures, subject to the primacy of cost-effectiveness between qualitatively equal structural options.

### **Ad C:**

The previous reporting should be updated as follows:

#### **Ad a.:**

The district administrative authorities and the authorities in cities and other major population centres operate maternity counselling centres, family counselling centres, tuberculosis care centres, school dental clinics, preventive medicine centres, counselling centres on sexually transmitted diseases, facilities for persons with physical and sensory impairment, for the mentally ill and mentally impaired persons, for alcoholics, and for persons with geriatric conditions, as well as drug counselling centres. In addition, there are examination centres for sports medicine, cancer screening centres, advisory centres for pregnant women, facilities of the Schools Medical Service, and disinfection institutions.

In the drugs area, 34 legal entities that operate care institutions received financial support from the Ministry of Health during the reporting period. Also, 10 addiction prevention centres were financially supported.

Austria has a well-developed network of hospital facilities for the treatment and care of psychiatric patients. There are psychiatric university clinics in Vienna, Graz and Innsbruck; elsewhere there are eight psychiatric hospitals as well as psychiatric care facilities in 12 general hospitals (as of 2001). In the context of psychiatric treatment reform, the number of large psychiatric hospitals has been reduced and acute general psychiatric treatment has been increasingly integrated into general care. In that context, general psychiatric departments are planned and have to some extent already been established in 14 other hospitals for acute treatment under the Austrian Hospital and Major Equipment Plan (ÖKAP/GGP). Almost all intramural psychiatric institutions offer halfway or day-clinic care.

#### **Ad b.:**

The Austrian population are making greater and greater use of the screening facility. Insured persons who have reached the age of 19 can be given a free screening examination once a year by a social insurance institution or the doctor of their choice.

The basic screening programme comprises blood tests; urine tests; stool tests for traces of blood (from the 40th year of life); review of previous and any current complaints; clinical examination of the body (including breasts/prostate); blood pressure; and final consultation.

The gynaecological programme consists of a review of the gynaecological case history as well as a gynaecological examination, including a smear test. A mammography of both breasts is also scheduled at two-year intervals from the 40th year of life.



In the year 1990, 427,671 persons (64% women and 36% men) took part in the screening programme, in the year 2000, 763,223 persons were examined (60% women and 40% men). According to current figures, the overall rate of participation in screening is 13%.

**Ad c.:**

Current situation:

|                                                            | <b>Number of hospitals</b> | <b>Number of beds</b> |
|------------------------------------------------------------|----------------------------|-----------------------|
| <b>Hospitals – total</b>                                   | <b>278</b>                 | <b>67,997</b>         |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 138                        | 48,219                |
| Private <sup>1)</sup>                                      | 140                        | 19,778                |
| <i>Thereof:</i>                                            |                            |                       |
| <b>General Hospitals:</b>                                  | <b>117</b>                 | <b>42,771</b>         |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 101                        | 40,026                |
| Private <sup>1)</sup>                                      | 16                         | 2,745                 |
| <b>Special hospitals <sup>2)</sup></b>                     | <b>97</b>                  | <b>14,577</b>         |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 31                         | 7,445                 |
| Private <sup>1)</sup>                                      | 66                         | 7,132                 |
| <b>Hospitals for the chronically sick</b>                  | <b>25</b>                  | <b>7,412</b>          |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 6                          | 748                   |
| Private <sup>1)</sup>                                      | 19                         | 6,664                 |
| <b>Hospitals specialising in psychiatry <sup>3)</sup></b>  | <b>18</b>                  | <b>5,488</b>          |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 13                         | 5,053                 |
| Private <sup>1)</sup>                                      | 5                          | 453                   |
| <b>Hospitals specialising in pulmonology <sup>4)</sup></b> | <b>5</b>                   | <b>704</b>            |
| <i>Thereof:</i>                                            |                            |                       |
| Public                                                     | 4                          | 572                   |
| Private <sup>1)</sup>                                      | 1                          | 132                   |
| <b>Rehabilitation centres <sup>5)</sup></b>                | <b>44</b>                  | <b>1,117</b>          |

1) Including private non-profit hospitals

2) This category includes in particular special hospitals for children and youth, orthopaedics, psychiatry, pulmonology, rehabilitation

3) However, psychiatric treatment is also given in general hospitals

4) However, pulmonological treatment is also given in general hospitals

5) Rehabilitation centres of the social insurance institutions and private convalescent homes

**Ad d.:**

The distribution per 1,000 persons is as follows (as of 2001)

|                                               |                       |      |
|-----------------------------------------------|-----------------------|------|
| Total doctors in practice                     |                       | 4.47 |
|                                               |                       |      |
| Thereof:                                      | General practitioners | 1.38 |
|                                               | Specialists           | 1.90 |
|                                               | Dentists              | 0.46 |
|                                               | Doctors in training   | 0.73 |
|                                               |                       |      |
| Total certified health care and nursing staff |                       | 6.96 |
|                                               |                       |      |
|                                               | In urban areas        | 9.11 |
|                                               | In rural areas        | 4.16 |
|                                               |                       |      |
| Total number of midwives per 1,000 persons    |                       | 0.14 |
|                                               |                       |      |
|                                               | In urban areas        | 0.14 |
|                                               | In rural areas        | 0.11 |
|                                               |                       |      |
| Total number of paramedics per 1,000 persons  |                       | 2.51 |
|                                               |                       |      |
|                                               | In urban areas        | 2.65 |
|                                               | In rural areas        | 1.51 |

**Ad e.:**

In December 2002, Austria had 1,141 public pharmacies, 993 pharmacies in private medical practices, and 51 pharmacies operated by hospitals for their own requirements (a total of some 0.27 pharmacies per 1,000 persons).

**Ad f.:**

According to data from Statistik Austria, total health care expenditure in 2002 amounted to 7.9% of GDP.

### **Article 11 paragraph 1**

**Ad A:**

Infant mortality in the year 2002 stood at 0.48%.

In 2002, the life expectancy of women was 81.7 years and that of men 75.9 years. Life expectancy is thus nearly six years higher among women than among men.

**Ad B:****Ad a.:**

A large number of measures are in force to protect the health of mothers and young children (employment prohibition pursuant to the Maternity Protection Act 1979, as amended, health and accident insurance, child-care benefit, family allowance, etc.).

A programme of medical examinations linked to the mother-child card was introduced in 1974 to improve health care for mothers and children. The prescribed examinations give an opportunity for the early recognition and timely treatment of disease as well as for monitoring the development of the child. As a result, infant and maternal mortality have been substantially reduced.

Five gynaecological examinations, one internal examination and two laboratory tests during pregnancy, as well as five examinations during the first 14 months of the child's life, are prescribed on a compulsory basis (including an orthopaedic examination, an ear, nose and throat examination and an eye test). The performance of these examinations is a prerequisite for the continued payment of the full child-care benefit as from the 21st month of the child's life.

In addition, there is the possibility of undergoing two ultrasound examinations during pregnancy, two ultrasound examinations of the child's hips, and four further examinations up to the 62nd month of the child's life.

**Ad b.:**

Special action to protect the health of schoolchildren and students is taken by the Schools Health Service and the health service of the Austrian Students' Association.

**Ad c.:**

Access of the elderly to appropriate medical care is fully guaranteed under social insurance. Persons in need of long-term care have an additional entitlement to a graded long-term care allowance (up to €1,500.00/month).

In the area of health planning, the needs of the increasing number of older people are taken into account in particular by the intensified development of acute geriatric care/remobilisation and palliative medicine units, distributed as evenly as possible throughout Austria.

Increasingly, various organisational forms of home nursing are being used as an alternative to in-patient facilities. One relevant innovation is hospice leave for the care of family members.

**Ad d:**

As a rule, the above-mentioned groups of persons are protected under social insurance, and access to appropriate medical care is fully guaranteed. The *Laender* and local authorities provide social support measures in the form of social assistance. Non-profit welfare organisations are also active in this area.

### **Supplementary questions in Conclusions XV-2 on Article 11 paragraph 1:**

#### **Deaths from AIDS:**

The first cases of AIDS surfaced in Austria some 20 years ago, in 1983. Since then, the cumulative total of persons contracting this immune-deficiency disease has reached 2,246; 1,333 persons have died to date, so that at present Austria still has some 913 persons living with AIDS.

The AIDS epidemic in Austria peaked in 1993, with 236 new cases and 156 deaths. Since highly effective antiretroviral therapies have become available, as from the year 1998, the number of infections has continuously declined in Austria. The number of new infections has levelled out at approximately 400 cases per year.

The number of HIV-positive persons living in Austria is estimated to be at most 8,000. The number of HIV-positive persons is rising slightly, as a result of substantially longer survival times. Whereas those affected at the beginning and climax of the epidemic were chiefly homosexual men and drug addicts using intravenous injection, the condition has increasingly become transmissible heterosexually.

In Europe as a whole, Austria is among the countries with very low incidence and prevalence.

It has been possible to control the HIV/AIDS situation in Austria because drastic action has been taken since the early 1980s. Pioneering advances were achieved in Austria with regard to the safety of blood products and of transfusion and the prevention of vertical transmission from mother to child.

Epidemiological monitoring, which is updated monthly or quarterly, enables the competent Ministry to respond rapidly to new developments and trends.

#### **Costs of hospitalisation:**

Children under 15 as well as severely handicapped persons are in general exempted from payment of a patient's contribution to the costs of hospitalisation. Furthermore, other exceptions are granted, for example, to persons in need of social protection (low income), who are exempted from payment of the prescription charge, and to the chronically sick. The relevant income limit for exemption from the prescription charge depends in principle on the level of the relevant equalisation supplement reference rate, which is reset every year.

### **Article 11 paragraph 2**

#### **Ad A:**

##### **Ad a. and b.:**

Reference is made to the previous reporting on question B of the old questionnaire.

#### **Ad B:**

For years, it has been one of the most important targets of Austrian health policy to improve health awareness of the population by education and information. In that context, health promotion focuses not only on particular topics (certain diseases or risk factors), but also, increasingly, on the life-style – the “setting” – of the individual. Model health promotion projects and co-operation structures have been launched on the initiative of the Ministry of Health in the most important social environments, namely, cities, schools, hospitals and work. The relevant networks have been

developed partly in co-operation with WHO, the EU and the Council of Europe; health promotion measures are coordinated at the national and international levels.

The Healthy Austria Fund has been entrusted with implementing the Federal Act on Measures and Initiatives for Health Promotion, Health Education and Information, which entered into force in March 1998. The Austrian Federal Government provides additional funds of €7.27 million annually for this initiative.

An important component of health education, which begins at kindergarten age, is the provision of health information. A special series of publications deals with topics related to various aspects of health promotion and disease prevention. Campaigns are carried out on various health education topics, with changing emphasis, for example, education regarding the misuse of legal and illegal drugs, nutrition, sports and exercise, cancer, AIDS, communicable diseases, and campaigns for promoting participation in immunisation drives.

### **Supplementary questions in Conclusions XV-2 on Article 11 paragraph 2:**

#### **Act on Measures and Initiatives for Health Promotion, Health Education and Information:**

The Healthy Austria Fund has been entrusted with implementation of this Act. The action of the Healthy Austria Fund focuses first of all on the initiation and promotion of health promotion and primary prevention projects. Among the other focal points are efficient networks in the health area, basic and further training in health promotion as well as the organisation of conferences on specific subjects. In addition, a number of successful awareness campaigns are being carried out under the motto “Health awareness for a better life”, directed particularly at the factors of nutrition, exercise, and mental health, as well as stress-control.

#### **Health education in schools:**

An example:

The GIVE Service Centre for Health Education of the Austrian Youth Red Cross (ÖJRK) operates a nationwide programme of information on “model” projects and current health promotion initiatives and activities for schools and serves as a clearing house for information and documentation. GIVE is a joint initiative of the Federal Ministry of Education, Science and Culture (BMBWK), the Federal Ministry for Health and Women (BMGF) and the Austrian Youth Red Cross (ÖRJRK).

#### **Publicity campaigns:**

In the reporting period, the existing general public information campaign on topics relevant to health, such as screening, AIDS, immunisation, drugs, addiction or nutrition, was continued, emphasising the preventive aspect. In that context, the following areas should be emphasised:

#### **Lifestyle:**

In the years 1999 to 2001, nutrition, exercise and mental health were addressed as factors of equal value and important elements for a healthy lifestyle. Since unfavourable nutritional behaviour with an unbalanced diet is an important risk factor in various civilisation diseases, especially overweight, diabetes and cardiovascular conditions, nutrition was the focal point of work in 2002, building on the media campaigns of previous years. Under the slogan “Health awareness for a better life”, the aim was to put across the message that a wholesome, varied and balanced diet is

the prerequisite for health and full working capacity. The purpose was to motivate individuals to think over their eating habits and to improve their chosen diet accordingly. In addition, a competition focusing on healthy food was organised for works and institutional canteens.

#### Smoking:

In this area, the “I don’t need it” campaign concentrated on arousing awareness among youth. Various other projects were also initiated. The “smoke-free schools” project is currently in hand. It follows up a study: “The role of national policy for the control of smoking among young people and the influence of the school and the parental home” undertaken in the year 2001.

#### Operation “Skunk”:

The aim of this campaign is the gentle preparation of children for operations; it was carried out in children’s hospitals, adapted to the needs of various target groups.

#### Medical examinations in schools:

The Schools Medical Service is regulated by the Schools Education Act. Pursuant to § 66, schoolchildren are required to undergo an examination by the Schools Medical Officer once in every school year, apart from any examination on first admission to school. These examinations have a standard format, concentrating on sight and hearing as well as the locomotor and skeletal systems. Other examinations are also possible, with the consent of the child. The local Schools Authority is competent for appointing the Schools Medical Officer.

With regard to the centres for pregnant women and the childcare centres, reference is made to the reporting on Article 13 paragraph 3 and Article 14.

### **Article 11 paragraph 3**

#### **Ad A:**

The previous reporting on question D of the old questionnaire should be updated as follows:

#### The immunisation system in Austria:

There is no special legislation in Austria for the control of communicable diseases that can be prevented by immunisation. General legislative provisions exist only for public protective immunisation against infective poliomyelitis. Protective immunisation is now one of the most effective forms of prophylaxis. Participation in all immunisation campaigns is voluntary, without exception.

At the beginning of the year 1998, a new immunisation plan was introduced in order to provide all Austrian children with free access to the immunisations generally recommended by the Supreme Health Council and to raise the general rate of immunisation.

The target group of the new immunisation programme is children from birth to the end of compulsory schooling. The Federal authorities meet 2/3 of the costs of the vaccines, including distribution, the *Laender* 1/6, and the health insurance institutions 1/6. The Federation of Austrian Social Insurance Institutions places orders for the purchase of the necessary vaccines (and is responsible for price negotiations and settlement). The *Laender* also pay the fees of the doctors carrying out the immunisations.

Apart from the plan for closing gaps in immunisation operated by the Federal Ministry, the *Laender* and the Federation of Austrian Social Insurance Institutions, the MMR vaccine is also available. Similarly, the rubella vaccine is made available free of charge to newly delivered women who have no adequate antibody titre against rubella. The recently revised immunisation recommendations include the following important innovations:

Introduction of the sextuple vaccine for all immunisations of children:

Introduction of the first or bringing forward of a second measles immunisation in the second year of life;

Introduction of the new quadruple immunisation against diphtheria, tetanus, acellular pertussis and polio.

The new diphtheria-tetanus-acellular pertussis vaccine is used for children who have already had four polio immunisations by the time of commencing school.

A further innovation in the immunisation plan is the general recommendation of pneumococcal immunisation. This immunisation is, however, offered free of charge only to special risk groups.

Since the beginning of the immunisation plan, the general immunisation rates against the most important childhood diseases have been considerably raised. This was achieved in particular by the introduction of the sextuple vaccine and by bringing forward the second measles immunisation. The coverage of sextuple immunisation among children born in the years relevant to the reporting period reached over 95%. Also, the rate of measles-mumps-rubella immunisation was raised to 85-95% in most of the *Laender*. The introduction of an immunisation plan with a pertussis component for immunisations carried out in schools is the response to the observed fact that the incidence of pertussis among young adults has been increasing in recent years.

## General immunisation calendar for babies and infants

|                                                                                                     | 3rd month                       | 4th month                       | 5th month                       | 2nd year of life                |
|-----------------------------------------------------------------------------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Diphtheria (D)<br>Tetanus<br>Pertussis (PEA)<br>Poliomyelitis<br>Haemophilus infl. B<br>Hepatitis B | 1st<br>sextuple<br>immunisation | 2nd<br>sextuple<br>immunisation | 3rd<br>sextuple<br>immunisation | 4th<br>sextuple<br>immunisation |
| Conjugate multiple<br>pneumococcal<br>immunisation<br>(PNC)                                         | 1st<br>PNC<br>immunisation      | 2nd<br>PNC<br>immunisation      | 3rd<br>PNC<br>immunisation      | 4th<br>PNC<br>immunisation      |
| Measles<br>Mumps<br>Rubella                                                                         |                                 |                                 |                                 | 2x<br>MMR<br>immunisation       |

**Additional immunisation recommended, subject to indication:**

- From end of 2nd month of life, meningococcal C immunisation
- From end of 6th month of life, influenza immunisation
- From end of 9th month of life, varicella (chicken pox) immunisation
- From end of 12th month of life, basic immunisation against Central European (tick-borne) encephalitis
- From end of 12th month of life, basic hepatitis A immunisation

## General immunisation calendar for school-age children

|                                                               | 7th year of life                       | 13th year of life                | 14th/15th year of life                  |
|---------------------------------------------------------------|----------------------------------------|----------------------------------|-----------------------------------------|
| Diphtheria (d)<br>Tetanus<br>Pertussis (PEA)<br>Poliomyelitis | Quadruple<br>booster<br>immunisation * |                                  | Quadruple<br>booster<br>immunisation ** |
| Hepatitis B                                                   |                                        | Basic or booster<br>immunisation |                                         |
| Measles<br>Mumps<br>Rubella                                   | Perform if omitted earlier             |                                  |                                         |

\* Triple dT-PEA immunisation in the 7th year of life is recommended for children who have already received four doses of poliomyelitis vaccine.

\*\* If quadruple vaccine is not available, dT-PEA plus IPV immunisation is recommended.

**Additional immunisation recommended, subject to indication:**

- Central European (tick-borne) encephalitis immunisation
- Hepatitis A immunisation
- Influenza immunisation



- Meningococcus C immunisation before taking up accommodation in a boarding school or hostel and before undertaking (school) group travel in countries with a higher risk of infection
- Varicella immunisation for seronegative girls

In addition, special immunisation against Central European (tick-borne) encephalitis, influenza, hepatitis A, pneumococcal disease, tuberculosis and rabies is recommended for certain risk groups or persons at increased risk of infection.

**Ad B:**

The previous reporting on Article 11 paragraph 1, question D, of the old questionnaire should be updated as follows:

**Ad a.: Prevention of aerial, water and soil pollution:**

The Federal environmental promotion programmes make an important contribution to avoiding and reducing aerial, water and soil pollution in Austria. Here, a distinction is made between environmental promotion inside and outside Austria, promotion of communal water supply and sewage disposal schemes for housing estates (housing estate schemes), the promotion of industrial effluent treatment and the containment and clean-up of contaminated areas. The legal basis for environmental promotion by the Federal authorities is the Environmental Subsidies Act (UFG), BGBl. No. 185/1993, as amended

**(Annex 7).**

The subsidisation procedure (§ 12 UFG) is very similar in all areas: applications must be submitted to the processing unit (§ 11 UFG) or to a unit authorised by the Federal Minister for Agriculture and Forestry, the Environment and Water Resources to accept applications as his representative. The processing unit scrutinises the applications in accordance with the provisions of the UFG and the relevant guidelines and subsequently submits its assessment to a Commission (§ 7 UFG), which in turn submits a subsidisation recommendation to the Minister. The Minister then makes the final decision on the award of the subsidy.

Subsidies are awarded as financing and capital investment grants (§ 5 UFG). In the case of ongoing operations for the clean-up and containment of contaminated sites pursuant to § 30, 1 and 3 UFG, other grants can also be awarded.

Environmental promotion inside Austria:

The aim of environmental promotion in Austria is to protect the environment by the avoidance or reduction of aerial pollution, greenhouse gases, and noise and garbage pollution. The focal point of environmental promotion inside Austria is clearly in the area of climate protection.

The ceiling for environmental subsidies inside and outside Austria is set in the framework of the Federal Finance Act (§ 6 (1) 2 UFG). The 2002 ceiling was €47.2 million. In the framework of an economic promotion package, that amount was then increased by a further €10 million. In 2002, the average proportion of subsidisation was 23.2% of the costs of environmentally relevant capital investment.

The priorities of environmental promotion inside Austria are:

- Subsidies for the intensified use of renewable energy;
- Subsidies to increase energy efficiency;
- Subsidisation of measures to avoid and decrease aerial pollution, noise and toxic waste;

- Subsidisation of conversion measures to reduce CO<sub>2</sub> emissions by transport systems and vehicle fleets as well as industrial investments for promoting public transport as well as cycling and foot paths;
- Subsidisation of conversion to refrigerating plants using alternative refrigerants;
- Amendment of the Environmental Promotion Act to make it possible to set new priorities in environmental promotion research;
- Promotion of the development of an environmental management system according to the EMAS.

Applications for subsidisation are assessed according to the 2002 environmental subsidisation guidelines (**Annex 8**).

Subsidisation of housing estate schemes:

Measures to avoid dangerous water pollution are supported by the Federal authorities by the subsidisation of housing estate and industrial effluent treatment schemes. The primary purpose of promoting housing estate schemes is to ensure proper sewage disposal and also an adequate supply of high-quality water.

According to § 6 (2) 2 of the Environmental Subsidies Act (UFG), the Federal Ministry for Agriculture and Forestry, the Environment and Water Resources can award subsidies and place orders for housing estate schemes (§§ 16 ff) under paragraph (1), the relevant total maximum cash values being €254.355 m in the year 2001 and €218.019 m in each of the years 2002 to 2004.

Applications for the subsidisation of housing estate schemes are assessed according to the “1999 subsidisation guidelines (in the 2001 version), for communal water supply and sewage disposal schemes for housing estates”. (**Annex 9**). Here the rate of subsidisation lies between 8% and 50% of the environmentally relevant capital investment costs. In certain cases, there is a further additional lump-sum subsidy.

Applications for subsidies for industrial effluent treatment are assessed in the light of the “2002 version of the 1996 subsidisation guidelines for industrial effluent treatment” (**Annex 10**). In this case, the rates of subsidies lie between 15% and 35% of the environmentally relevant capital investment costs.

In order to minimise pollution loads, sewage collection and treatment have been further developed in Austria in recent years, as before. At the moment, connection to public sewage treatment plants, in which the sewage is in any case biologically treated, covers over 86% of the population, while 90% of the pollution load is subjected to further treatment (nutrient removal). However, that does not mean that sewage from the remaining percentage of the population is not treated according to state-of-the-art methods. In that case, sewage is treated in suitable decentralised installations such as house clarification installations and cesspits, and not in central communal plants. With the present degree of connection to networks, the maximum of 85% forecast as an upper limit for Austria on the basis of the structure of settlements (numerous open-plan settlements) has been achieved and even slightly exceeded. A further distinct increase in the percentage of connection to networks is no longer realistic in view of the prevalence of open-plan settlements.

Chemical oxygen demand (COD) was used as one criterion for the toxicity of waqste in the preparation of a general waste balance. Accordingly, a total of approximately 834,000 tonnes COD was measured from households, commerce, trade and industry

in 2001; after appropriate clarification, the load on lakes and rivers was approximately 84,000 tonnes COD.

A survey of the sewage sludge generated in communal sewage clarification farms showed that 15% was used in agriculture, 32% was treated thermally, and 53% was put into intermediate storage, composted or dumped.

For the quantitative protection of water resources, it has for many decades been the central task of the Hydrographical Service to survey the water cycle and to carry out all the statutorily required measurements and observations.

In order to protect water quality, the nationwide uniform immission survey of groundwater and watercourses has since 1991 been statutorily regulated under the Water Quality Survey Order (WGEV). The observation network comprises 244 measurement points in watercourses and approximately 2,000 groundwater measurement points.

Concrete quality standards for groundwater were laid down in the Groundwater Threshold Values Order. Concrete regulations were also determined under the Fishery Waters Order according to the EU Freshwater Fish Directive. Work is in hand to determine quality targets for hazardous substances in surface waters that conform to WRRI standards.

The water quality of Austrian lakes and rivers can on the whole be rated as satisfactory.

Subsidies for the containment and clean-up of contaminated sites:

The purpose of promoting the containment and clean-up of contaminated sites is to remove the substantial dangers to the population and the environment from contaminated soil and groundwater. At the moment, approximately 200 sites have been defined as contaminated, and about 40 of these as contained or cleaned up.

The subsidisation funds are raised by means of pollution levies – earmarked Federal levies – (§ 6 (1) 3 UFG). Subsidies amounting to some €16 million were authorised in 2002. Up to 95% of environmentally relevant capital investment costs can be subsidised.

Subsidisation applications are assessed in the light of the “2002 subsidisation guidelines for the containment and clean-up of contaminated sites” (**Annex 11**).

#### **Ad b .: Protection against radioactive contamination:**

The Federal Constitutional Act for a Nuclear-free Austria of 13 August 1999, BGBl. I No. 149/1999, prohibits the construction and operation of plants for the generation of energy by nuclear fission.

Radiation protection provisions are laid down in the Radiation Protection Act, BGBl. No. 227/1969, which entered into force on 1 January 1971. These statutory provisions are supplemented by the Order for the Protection of the Population and their Descendants against Injury by Ionising Radiation (Radiation Protection Order, BGBl. I No. 47/1972). Austrian legislation was adapted to Council Directives 96/29/EURATOM (Basic Safety Standards Directive) and 97/43/EURATOM (Medical exposure) by means of an amendment to the Radiation Protection Act, BGBl. I No. 146/2002 (“Radiation Protection (EU Adaptation) Act”), as well as by decrees of the competent Federal Ministries. Further Orders under the Radiation Protection Act will follow.

The compulsory monitoring of the environment for radioactive contamination laid down in the Radiation Protection Act proved to be of great value in the implementation of emergency measures related to the Chernobyl nuclear power station accident. Both the automatic radiation early warning system with its 336 measurement stations and the laboratory-based monitoring system made possible the rapid gathering of the necessary data on exposure or contamination as the basis for decisions.

The automatic radiation early warning system is kept up to date scientifically and technologically by ongoing modernisation of the hardware and software. In recent years, it has been supplemented by automatic aerosol measurement installations on the borders to neighbouring States. Furthermore, the exchange of early warning radiation data has been agreed with Slovakia, Slovenia, Hungary and the Czech Republic. An agreement has also been made with those States concerning the installation of aerosol monitors and the exchange of the data collected.

In the immediate future, co-operation with neighbouring States in the field of emergency planning and the exchange of the data essential for decision-making is to be substantially intensified.

#### **Ad c.: Protection against noise pollution:**

The previous reporting should be updated as follows:

The subsidisation of measures for protection against noise pollution is one focal point of environmental promotion in Austria (see § 1 (1) g of the 2002 Subsidisation Guidelines for environmental promotion inside Austria).

The Environmental Compatibility Verification Act 2000 (applicable to projects that could potentially have substantial effects on the environment) stipulates the requirement of the general minimisation of immission loads. In the event of possible danger to life and health or unacceptable nuisance for neighbours, further immissions are prohibited. A medical expert is co-opted in relevant proceedings to ensure that requirements with regard to human health are met.

#### **Ad d.: Food hygiene**

Food quality control in Austria is based on the Food Act (LMG), BGBl. No. 86/1975, as amended.

Supervision of the sale of goods subject to the Food Act is the responsibility of the *Land* Governor. He/she must employ specially trained staff as inspectors for the performance of the relevant tasks.

The rights of the food inspectors, namely, to examine goods and take samples, are also enshrined in the new Food Act. Pursuant to § 37 (1) LMG, the inspectors (§ 35 LMG) are entitled to check any premises in which goods subject to the Act are on sale. This power also covers premises and areas used for animal husbandry and the cultivation of plants.

Inspections are carried out continuously on a routine basis according to a fixed inspection and sampling plan. The samples taken by the inspectors on the basis of suspicion or by random sampling are transmitted to the competent State Food Testing Institute for expert testing and assessment.

The testing of the goods covered by LMG 1975 will henceforth be the responsibility of the new **Österreichische Agentur für Gesundheit und Ernährungssicherheit**

**GmbH** (Austrian Agency for Health and Food Safety), which was set up under BGBl. I No. 63/2002 (**Annex 12**) – and of the three *Laender* institutes in Bregenz, Klagenfurt and Vienna, as well as authorised private-sector experts.

This Agency is also responsible for advising the Federal Minister for Health and Women and the Federal Minister for Agriculture and Forestry, the Environment and Water Resources, particularly on the assessment of risks, and for presenting risk management proposals.

The Austrian Food Code (*Codex Alimentarius Austriacus*) is used for the publication of terminology, definitions, test methods and assessment principles as well as directives for the marketing of goods subject to the LMG. It is neither an act of parliament nor an Order, but an “Objective expert opinion”.

The Food Code gives all persons dealing with the sale of food access to information on the assessment principles and guidelines according to which the Agency inspectors must proceed and the testing institutions must judge the samples submitted, in order to avoid infringements and penalties.

**Ad e.: Minimum requirements for dwellings:**

No relevant changes.

**Ad f.: Measures to control smoking, alcohol and drug misuse as well as sexually transmitted diseases**

**Smoking:**

Restrictions on tobacco consumption, especially among young persons, are found in the Youth Protection Acts of the *Laender*. In all the *Laender*, children and young persons up to the age of 16 are now prohibited from smoking or consuming tobacco products (in six of the nine *Laender*, the prohibition applies in public places).

A minimum age for the purchase of tobacco products is not explicitly laid down in any of the Federal *Laender*. The sale of tobacco products to persons under 16 is prohibited – or at least restricted – in five *Laender*.

Reference is also made to the relevant remarks in the 18th Report.

**Alcohol:**

Restrictive measures to combat alcoholism are contained above all in the Youth Protection Acts of the *Laender*, which prohibit either alcohol consumption in general, public consumption of alcohol or the supply of alcohol for the private use of children and young persons under 15 or 16. Nationwide, the Federal Act on the Employment of Children and Young Persons 1987 prohibits the use of spirits as a means of wage payment and serving spirits to children. Furthermore, the Schools Order contains a general prohibition of alcohol consumption by schoolchildren. Under the Industrial Code 1994, operators of catering establishments may neither themselves serve alcoholic drinks to young persons nor have them served by persons employed in the establishment, if alcohol consumption by young persons is prohibited under *Land* youth protection provisions; in the latter case, a notice clearly drawing attention to this prohibition must be posted in a suitable place in the catering establishment.

In general, under the Industrial Code 1994, operators of catering establishments are required not to serve any further alcoholic beverages to persons who commit breaches of the peace in the establishment by drunkenness, other behaviour or their condition. Operators of catering establishments who serve alcoholic beverages and sell such

beverages in open containers are furthermore required to serve cold non-alcoholic beverages on request. The operator of the establishment must serve at least two types of cold non-alcoholic beverages at a price not higher than that of the cheapest alcoholic beverage served (other than fruit wine).

### **Drug consumption:**

In the field of drug misuse control, the following legal provisions apply, in essentials: the Addictive Substances Act, BGBl. I 112/1997, as well as relevant Orders (Addictive Substances Order and Psychotropic Substances Order).

The manufacture, processing and the purchase and possession of addictive substances (substances within the meaning of the Single Convention on Narcotic Drugs and also substances within the meaning of the Convention on Psychotropic Substances 1971) are subject to licensing in the framework of commerce, trade and industry licences for the manufacture of and wholesale dealings in medicines. An application to the Ministry of Health for that purpose must be renewed year by year. Medicines containing addictive substances may be prescribed only in very special cases. The prescription may be made only on the official forms provided for that purpose; in addition, special formal requirements must be met. The prescription of certain addictive substances, for example, heroin and cannabis, is subject to a blanket prohibition.

The new Addictive Substances Act has introduced various improvements in the counselling, treatment and care of drug-dependent persons. The Act assumes that the problems frequently arising among persons who occasionally consume addictive substances (sometimes also among persons who regularly take addictive substances and are thus accustomed to them) are mental or social rather than medical. Therefore, the Act expands the range of possible intervention and introduces the concept of “health-related measures”. Henceforth, such health-related measures will comprise medical supervision of the state of health, medical treatment, including withdrawal and substitution treatment, clinical-psychological counselling and care, and psychotherapy as well as psychosocial counselling and care. Furthermore, the principle of “therapy rather than punishment” for dependent persons willing to undergo treatment has been further developed in the Act.

It is the task of the Ministry of Health to arrange for the provision of facilities for health-related measures that are adequate in quantity and meet qualitative and regional requirements and to provide the population with the necessary information in the field of addiction prevention. The Ministry of Health and the *Laender* provide financial support for drug counselling and care facilities. A total of €7 million was made available in the reporting period for preventive measures in the drugs area.

In order to stem demand for psychoactive substances (alcohol, tobacco, drugs) and also the emergence of non-substance-related forms of addiction (gambling, eating disturbances, etc.), Austrian addiction and drugs policy concentrates chiefly on primary addiction prevention (strengthening of personal protection factors, the “setting” approach, etc.). Technical addiction prevention centres are being set up throughout Austria, and in particular numerous and varied activities are being organised in schools.

Secondary prevention has also been increasingly developed in recent years and is directed at persons, especially young persons, with existing or emerging patterns of misuse behaviour.

The Health Ministry also issues various publications such as the “About Addiction” brochures, which are always kept up to date, one brochure being specially designed for young persons and youth care personnel, while another targets persons affected and their family members. Not least, monitoring of the epidemiological situation in the drugs area is an important task of the Health Ministry and provides information regarding current trends and problems as the prerequisite for preventive action.

#### Sexually transmitted diseases

Information and educational work is increasingly being undertaken in this area in order to strengthen general preventive awareness. The requirement for the notification of certain diseases (gonorrhoea, syphilis, soft chancre, lymphogranuloma inguinale) also enables a rapid response to possible danger.

#### **Supplementary questions in Conclusions XV-2 on Article 11 paragraph 3:**

Share of the budget used for the main preventive measures in the field of public health:

In view of the complex situation regarding the allocation of legal competence, a reply to this question does not seem possible: information on the total budget at the disposal of the various Federal, *Land* and local authorities for the main public health preventive measures is not available. Individual totals are, however, mentioned in the above remarks on the various measures taken.

#### Clean air:

The Immission Protection Act (Air) (IG-L), BGBl. I No. 115/1997, as amended by BGBl. I No. 65/2002, lays down limit values and in some cases alarm values for various aerial pollutants, which are based on the relevant EU Directives and in some cases go further than those Directives. Limit values exist for the immission concentration of the following aerial pollutants: sulphur dioxide, carbon monoxide, nitrogen dioxide, airborne particles in PM<sub>10</sub>, lead in PM<sub>10</sub>, and benzol. Immission limit values for deposition exist for the following pollutants: dustfall, lead, and cadmium. Alarm thresholds have been laid down for sulphur dioxide and nitrogen dioxide; if those values are exceeded, the public must be warned and immediate action must be taken to reduce the pollution. Provisions on monitoring air quality with regard to the number of measurement points, measurement methods, quality assurance and the publication of information were made in an Order under the IG-L.

#### Asbestos:

The current Asbestos Order is transmitted in **Annex 13**.

With effect from 1 January 2004 – one year before obligatory implementation – Commission Directive 1999/77/EC of 26 July 1999 adapting for the sixth time Annex 1 of Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos), OJ L 207 of 6 August 1999, has been incorporated into national law with the adoption of the Chemicals Prohibition Order 2003, § 2 (ChemVerbotsV 2003 – **Annex 14**).

#### Ionising radiation:

Austrian radiation protection regulations take into account the recommendations of the International Radiation Protection Commission, the Basic Safety Standards of

IAEA, WHO and ILO, and Directive 96/29/EURATOM, as well as other EU regulations.

#### Noise:

The promotion of measures for protection against noise pollution is a focal point of environmental promotion inside Austria (see § 3 (1) g of the 2002 Guidelines for Environmental Promotion inside Austria).

§ 181a of the Criminal Code provides for the judicial punishment of serious cases of deliberate noise creation. Noise nuisance is punishable if it occurs in contravention of a legal regulation or an official instruction in such a manner or to such an extent as to result in a sustained and severe impairment of the physical condition of a large number of people. In that case, the penalty is imprisonment of up to six months or a fine of up to 360 daily rates of income-based fines.

The Environmental Compatibility Act 2000 (applicable to projects that can potentially have substantial effects on the environment) requires the general minimisation of immission loads. In the event of possible danger to life and health or unacceptable nuisance to neighbours, a prohibition of additional immissions applies. A medical expert is co-opted in relevant proceedings to ensure that requirements with regard to human health are met.

Other important provisions on combating noise are also contained in individual special Acts relevant to environmental protection, for example, in the Lake Navigation Order, the Air Traffic Regulations, the Highway Code and the Motor Vehicles Act.

Under the Federal Roads Act, appropriate structural measures for the protection of occupants of adjacent land against traffic noise (noise barriers, sound-insulated windows, etc.) can be taken in the case of newly constructed Federal roads. In particularly serious cases, it is even possible to purchase sites or parts of sites with the consent of the owner, if satisfactory results cannot be achieved by other measures at an economically acceptable cost.

In the light of studies that have shown that the volume of transit traffic is far greater in Austria than in any other European country, the Federal Ministry for the Public Economy and Transport is studying possible measures for checking a further escalation of goods traffic by road. Pollutant emissions can be substantially avoided by shifting to rail traffic (transit corridors using piggyback transport).

The limit values for permissible noise pollution contained in Directive No. 5 worked out by the Scientific Advisory Committee on Environmental Hygiene and/or its working groups are non-binding guidelines. However, they are recognised in practice as an essential basis for decisions in all proceedings by the bodies dealing with the assessment of environmentally relevant offences. They constitute a decisive step towards establishing uniform standards for permissible noise pollution throughout Austria.

With regard to the licensing of mining enterprise plans and the construction of mining installations, the Mineral Raw Materials Act provides that emissions avoidable in the concrete case by the use of state-of-the-art methods must be avoided.



Food safety:

In the Austrian Inspection and Sampling Plan, the Federal Minister for Health and Women fixes annual guidelines for supervising the marketing of foodstuffs (§ 36 of the Austrian Food Act) in order to ensure expedient and effective surveillance. In addition, all obligatory EU monitoring requirements are met.

The labelling of foods has been harmonised within the internal market, and the labelling Directives of the European Parliament and the Council have been incorporated into national legislation.

That also applies to the system for the identification and registration of bovine animals and the labelling of beef and beef products.

In application of Article 50 of “Regulation (EC) No. 178/2002 ... laying down the general principles and requirements of food law ... and laying down procedures in the matter of food safety”, a rapid alert system that provides for emergency food safety measures has been established for the notification of any direct or indirect risk to human health deriving from food or feed.

One of the main tasks of the Austrian Agency for Health and Food Safety, established in the year 2002, is to make an independent scientific risk assessment, taking into account scientific data, working in co-operation with international organisations, and to elaborate suggestions for risk-management measures.

Smoking:

See Article 11 paragraph 3, B, f

Alcohol:

See Article 11 paragraph 3, Ad B, ad f. (Regulations under the Industrial Code, Schools Order, etc.).

In addition, the blood-alcohol limit for driving motor vehicles in Austria is 0.5 per thousand (in special cases, even 0.0 per thousand).

Prophylactic measures:

Epidemiological monitoring:

Notification of the most important infectious diseases is required by law in Austria. In addition, Austria participates in all EU networks relevant to the monitoring and control of communicable diseases. Austria participates fully in operating the EU early warning and response system.

Immunisation:

With the conversion to the sextuple vaccine for all immunisations of children (see also Article 11 paragraph 3, Ad B), participation in immunisation against hepatitis B has been raised from approximately 60% to over 95% among children born in or after the year 2000.

Tuberculosis immunisation is no longer recommended in Austria in view of the low incidence of the disease and the substantial side effects of immunisation.

## TWENTY-SECOND REPORT - PART II

on the implementation of Article 14

EUROPEAN SOCIAL CHARTER

**(Reporting period 1 January 1999 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 14**  
**THE RIGHT TO BENEFIT FROM SOCIAL WELFARE  
 SERVICES**

Article 14 paragraph 1

**Ad A to C:**

In this context, reference is made to the detailed reporting on **Article 13 paragraph 3**.

In addition, **the previous reporting on Article 14 paragraph 1** should be **updated** as follows:

Subsidisation of family counselling centres under the Family Counselling Subsidisation Act, BGBI. 80/1974, as amended.

The subsidisation of family counselling centres by the Federal authorities was introduced in 1974 as a support measure for the decriminalisation of pregnancy termination (time limit on abortions). Since that date, the Federal authorities have been able to subsidise family counselling carried out by the *Laender*, local authorities, other legal entities under public law, and juristic persons under private law.

The counselling centres have meanwhile developed into general contact points for family and partnership questions. They concentrate mainly on counselling parents on questions of child education and partners in the event of relationship conflicts, as well as on divorce and separation questions, mental problems and violence in the family, and subjects related to pregnancy and family planning.

At least one social worker or marriage and family counsellor must be available in every centre operated by a legal entity. Other specialists can also be called in.

A subsidised counselling centre must be accessible to any person seeking advice. The counselling times must be determined according to the needs of persons seeking advice, and special consideration must be given to employed persons. Counselling must be offered free of charge and be carried out on an objective basis, preserving the anonymity of the persons seeking advice. Voluntary contributions to costs can be accepted.

The persons employed in the counselling centre are bound to secrecy regarding all facts made known to them exclusively in their work.

There is no statutory entitlement to the subsidisation of counselling centres under the Family Counselling Subsidisation Act.

The *Laender* or local authorities operate slightly more than 10% (i.e. 40) of the 358 counselling centres now being subsidised.

Religious organisations operate one in four of the centres (93 centres), while private non-profit organisations (associations, non-profit limited liability companies – GmbH) run 62%.

It is the duty of the counselling centres to offer non-directive counselling in the form of “help for self-help” and to enable their clients to come to their own free decisions.

Since the Federal authorities do not have exclusive competence on the questions dealt with by the counselling centres, financing of the centres is not entirely their concern. As a result, Federal financing does not cover full costs but only personnel costs.

As to training requirements, the Act defines the courses that must be attended for recognition as a qualified counsellor in subsidised family counselling. Refunding of costs by the Federal authorities is possible only for recognised counsellors. Recognised training institutions and courses are: the Social Work Academy, training institutions for marriage and family counsellors, university training courses for lawyers, psychologists, sociologists and doctors. Doctors employed as counsellors must also be entitled to engage in the independent practice of their profession. With regard to educational counselling, all courses are recognised that entitle the holder to hold teaching posts (teachers, kindergarten teachers, educators).

Interdisciplinary teams consisting of doctors, social workers, lawyers, and psychologists are available in almost 95% of the centres.

Since 1999, resources for subsidisation under the Family Counselling Subsidisation Act have been raised from some €8 million to some €11 million. With this increase in funds, 52 new counselling centres have been subsidised since 1999, chiefly in regions that were previously under-provided.

In principle, counselling services under the Family Counselling Subsidisation Act can be used free of charge and anonymously.

If the subsidies made available do not suffice to cover counselling needs, persons seeking advice may have to be turned away because the financial capacities and thus the personnel resources of the operating organisations have been exhausted. Since the organisations have no statutory entitlement to subsidies, the individual client has in this case no right to appeal in the event of inability to provide counselling services.

## **Carinthia:**

### **Youth welfare:**

Pursuant to § 7 (1) of the Carinthian Youth Welfare Act, social services are defined as help in meeting typical personal, family and social needs of expectant mothers and fathers, minors and their parents or guardians. § 8 of the Act lists examples of the social services available.

It is the duty of the Land authorities to ensure that the necessary social services for the performance of youth welfare tasks (§ 1) are provided. Regional conditions and the population structure must be taken into account.

Accordingly, a number of social welfare services have been set up, for example, the Hermann Gmeiner Sozialzentrum (Hermann Gmeiner social centre). That institution targets children and young persons who are receiving youth welfare services, their parents or guardians and their original environment, their foster-parents as well as the population of the region, and provides them with counselling, aid and therapy.

Sheltered mother-and-child accommodation: Expectant mothers and women with babies and infants in crisis situations, who lack skills in caring for babies, have social deficits, separation problems, come from a violent environment etc. receive this form of care. They are given expert support and in particular are trained in practical skills (caring for the child, tidying the apartment, cooking, regulating babies' sleeping times, visits to doctors, budget planning, etc.

Further social welfare services, for example, are the Psychological-Psychotherapeutic Service, the Youth Holiday Schemes, and the Child Protection Centre, the Centre for Girls, and streetwork, etc.

The public sector youth welfare institution provides practically full regional coverage of prenatal exercise programmes, birth preparation courses as well as counselling for mothers/parents.

Services available:

- Counselling for mothers and parents: Counselling of mothers/parents with their babies and infants on the subjects of child development, care and education of their children
- Preparation for prenatal exercises and childbirth
- The family holiday scheme: A one-week holiday for low-income or socially weak families, especially for families of lone parents
- Preventive health care for Carinthian children: Holidays for children with respiratory illnesses

- Mother-and-child housing: Extramural support in housing for expectant mothers and mothers in crisis situations
- Psychological-Psychotherapeutical Service: Counselling for children, young persons, parents and guardians on mental, educational and social matters; counselling for the early recognition of maladjustment in minors; preparation of expert opinions: psychotherapy
- Family, partner and youth counselling centres: Counselling and help from doctors, lawyers, psychologists and certified social workers
- Sheltered accommodation as refuges for women and their children

Pursuant to § 37 of the Carinthian Youth Welfare Act, it is the duty of the authorities, on application, to issue rulings to decide whether a voluntary youth welfare institution is qualified to perform particular non-governmental tasks, and whether it is suitable for that purpose in view of its aims and facilities. In particular, it must have the suitably qualified staff necessary for fulfilling its tasks.

Accordingly, the legal entity can be a natural or a juristic person. The necessary facilities and personnel for implementation of its strategy must be available. An expert (psychologist) decides whether the necessary professional staff are available for implementation of the strategy.

As a rule, financing is arranged by means of subsidies from youth welfare (*Land*) resources.

Pursuant to § 9 (2) of the Carinthian Youth Welfare Act, there is no statutory entitlement to benefit from social welfare services. There is no provision for a right of appeal against decisions to grant or refuse social welfare services under the Act.

Access and entitlement requirements with regard to a social welfare service usually follow from the socio-educational strategy, which in each case also constitutes an integral element in the relevant ruling on the qualifications of the voluntary institution (for example, with regard to regulations concerning its target group, allocation of tasks by the official youth welfare institution, etc.).

### **Upper Austria:**

The following social welfare services are offered in Upper Austria: mobile care and assistance, social home nursing, short-term care (including care for rehabilitation after hospitalisation), day and night nursing services, hiring out of appliances, physiotherapy and other therapeutic services, meals services, measures for assistance to care providers, day-care facilities and assistance in the organisation of the daily routine, help for continued running of the household, counselling

services for persons with debt problems (debtor counselling) as well as ongoing support services for the dying and their family members.

Social services in Upper Austria are provided by the district administrative authorities, the *Land* authorities, the social assistance associations, cities with independent status and voluntary youth welfare bodies.

Accordingly, social services are provided by public sector entities and by private entities partly subsidised out of public funds.

The take-up of social services can be made conditional on the payment of a reasonable charge by the recipient (or the person responsible for his/her maintenance); in determining the amount of such charges, the type and extent of the services as well as the personal and financial situation of the persons taking up the social services must be appropriately considered. Counselling is in any case free of charge.

There is no statutory entitlement to benefit from social services.

In particular, the following services are offered in Upper Austria:

- a) Family counselling centres: Psychological, social work, medical and legal counselling can be obtained in the family counselling centres – with regional differences. Four family counselling centres are exclusively subsidised by the *Land* of Upper Austria and three centres are subsidised jointly by the *Land* and the Federal authorities.
- b) Parenting instruction: The purpose is to provide information in the form of talks on specific subjects, workshops and seminars in order to help parents with regard to the many questions of child education and child health care. The events are organised by associations, with specialist co-operation and financial subsidies from the *Land* of Upper Austria.
- c) Infant care counselling: In addition to numerous Parents/Mothers Counselling Units, five IGLU project centres are operated in Upper Austria. Their speciality is integrative medical, social work and psychological support and counselling services for prospective parents and individual parents or persons to whom children can relate, together with children up to the age of three.
- d) Streetwork: 15 streetwork project units are operated in Upper Austria by voluntary youth welfare bodies or a municipal department and are financed by the *Land* of Upper Austria and the social assistance associations. This is a low-threshold service for the care of minors.
- e) Children's holiday schemes, kids' schemes: The aim is to give children, chiefly from socially disadvantaged families, a holiday that

promotes recreational and socio-educational aims. Child holiday schemes and kids' schemes are organised in Upper Austria by two associations, each organising two child holiday schemes and one kids' scheme every year (for two weeks in each case). In the year 2002, a total of 295 children and young persons participated in such schemes.

- f) The family holiday grant: The family holiday grant subsidises families that could not afford a joint holiday of the parents and children without a grant or could afford it only with difficulty. There is no statutory entitlement to the award of such grants from the *Land* of Upper Austria.
- g) Male/female childminders: There are seven childminder associations (voluntary youth welfare bodies) in Upper Austria, which train, operate placement services for, and give professional support to childminders. At the end of 2002, a total of 245 childminders were regularly looking after 1,380 children. The childminder training course comprises 100 teaching units and covers in particular basic family educational concepts, basic family sociology, (developmental) psychology, basic legal information, educational games, communication and conflict-solving, as well as child-rearing and basic medical knowledge, and is organised either by the childminder associations or the Vocational Promotion Institute. Every active childminder must give evidence of at least 15 hours of refresher training per year.
- h) Childcare facilities (toddlers' groups, crèches, mixed-age groups): Upper Austria has 80 childcare institutions, in which 563 children are given whole-day care and 1,065 half-day care. There are also 13 mixed-age groups (care for children under three in normal kindergartens).



### **Tyrol:**

Social services are provided in Tyrol by the public sector and by private sector bodies partly subsidised out of public funds. For example, there are special social welfare institutions for the care of the elderly in Tyrol (such as old people's residential and nursing homes, day-care facilities, and extramural services), social welfare institutions for the disabled (such as assistance institutions for disabled children, preparatory vocational courses for the disabled, workshops, residential homes, extramural services), social welfare facilities for women (such as counselling for expectant mothers, dwellings and residential homes for women, centres for general counselling on questions affecting women) as well as facilities for men, the homeless, discharged prisoners, the sick, counselling facilities for mothers and parents, family counselling, educational counselling, crisis intervention centres, streetwork and facilities for homeless youth.

The *Land* of Tyrol, as a youth welfare body, operates a public social welfare service (educational counselling) in every administrative district. In urban areas the "Chill out" dormitory for homeless youth and a crisis intervention centre for assistance to children and youth in family crises are provided as social welfare services.

Social welfare services can be used free of charge by any person, irrespective of nationality. In 2002, subsidies for the social welfare services totalled some €1,399,000.00 (not including financing of the *Land* educational counselling centres).

Contacts in the social welfare institutions in Tyrol numbered some 17,900 in 2002.

Rehabilitation and assistance to the disabled

Comprehensive and statutorily regulated access to a wide variety of social welfare services is guaranteed in Tyrol. That is true of rehabilitation and assistance to the disabled, socio-economic enterprises, old people's residential and nursing homes, as well as extramural services and youth welfare institutions.

Education and schools:

Given a relevant diagnosis, so-called early assistance measures (e.g. speech therapy, early assistance by the Association for the Blind) are provided for children from infancy.

At kindergarten age, in addition to special kindergartens (e.g. the orthopedagogical kindergarten of Caritas), integrative kindergartens are becoming more common.

Special schools are available for educational support; however, home tuition can be provided in exceptional cases, when justified.

At the further educational level, pupils can attend the Higher Technical Institute in Vienna or the Federal Technical and Commercial College.

Vocational integration:

Vocational integration measures are primarily geared to a disabled person's individual capabilities. The services offered include vocational training and on-the-job training (e.g. the *Aufbauwerk der Jugend* (vocational promotion for disabled youth), *Berufsvorbereitung St. Gilgen und Unken* (vocational preparation), induction training, retraining and further training in enterprises, job trials in the free economy, placement in a protected environment (e.g. a protected workshop) and also job coaching.

Vocational integration and training are provided for the mentally ill, for example, by the Society for Mental Health through the ARTIS enterprises and also by the Psychosocial Care Service.

Medical services:

These include curative treatment, for example, physiotherapy, occupational therapy or speech therapy, the costs of which are borne by the *Land* when they are related to a disability and are not financed by another agency (e.g. social insurance). Various institutions, schools and therapists in private practice offer such treatment.

The costs of purchasing therapeutic aids are shared with the social insurance institutions, the Federal social welfare authority and – to a by no means negligible extent – with the War Victims and Disabled Persons Fund. The term “therapeutic aids” includes wheelchairs, hearing aids, bathroom lifts, corsets, etc.

Socio-economic enterprises:

So-called “transit jobs” are offered by individual companies under the socio-economic enterprise scheme. They provide training in a wide variety of skills, educational counselling and continuous support services in the social and vocational fields. Thereby, the chances of finding a job in the regular labour market for individuals who have undergone such training are substantially improved. Although the temporary employment of people who are difficult to place in the primary labour market is essentially a labour market policy task, the *Land* has for years supported the various socio-economic enterprises in recognition of the social component of their work. Unemployed people who have difficulty in finding work owing to a number of negative factors and personal

problems, some of whom can perform only simple semi-skilled tasks, are at risk not only of long-term but also permanent unemployment. The “secondary labour market”, of which the socio-economic enterprises are a part, is therefore an important factor in social planning.

#### Extramural services:

The social and health district authorities form a complex social care network at local authority level in Tyrol and are unique in Austria in this form. With 64 authorities they now provide full regional coverage.

Benefit standards are laid down in new guidelines and each district authority is required to provide its own staff for home nursing as well as care for the elderly and home help. The purpose is to ensure that the patient/client receives coordinated essential services from a single point. In addition to home nursing – which accounts for about 60% of the total services rendered by these authorities in Tyrol – and home help, family help, meals-on-wheels, and services for relatives providing care and the hiring out of therapeutic aids are available.

#### Old people’s residential and nursing homes:

In recent years, some 4,800 persons annually have received services and care in 74 old people’s residential and nursing homes that had concluded a general agreement with the *Land* authorities of Tyrol. The majority of these homes are owned by the local authorities and a smaller number are run by religious orders. It should be especially emphasised that both the ARGE-Pflegedienstleistungen (Nursing Services Working Group) and the ARGE HeimleiterInnen (Home Superintendents’ Working Group) have for years promoted activating care, the purpose of which is to preserve the capabilities of the individual inmates for as long as possible.

It is a top priority of the *Land* authorities to improve the personnel structure of the old people’s residential and nursing homes. By the end of 2002, the staffs of the homes included 362 qualified male and female health care and nursing staff as well as 1,090 paramedics, specialised geriatric nurses and family helps.

**Vienna:**

The City of Vienna provides a differentiated network of counselling and therapeutic services for dealing with family problems and crises. There is no charge for such services, but contributions, reduced for low-income families, are sometimes levied for therapeutic aids. In particular, the following services are available:

Marriage and family counselling  
 The Marriage and Family Therapy Institute  
 Partner, family and sexual counselling  
 Psychosomatics and family counselling  
 Counselling for migrants  
 Psychological counselling centres on divorce questions  
 Educational Assistance Institutes  
 Child and youth psychology counselling centres  
 Special extramural educational clinics for disabled infants  
 The Social Therapy Institute  
 Social education counselling centres  
 Debtor counselling  
 Regional Legal Aid and Family Social Work Centres, including numerous regional services  
 The Ombudsperson for Children and Youth  
 Vocational assistance for youth  
 Special assistance for families of aliens  
 Intensive family care  
 Streetwork

The Specialised Housing Accommodation Protection Unit (FAWOS) is a central contact point for all occupants of private and co-operative apartments who are at risk of losing their housing. The focal points of action are:

- Contacting all those persons affected
- Information and counselling on tenancy law and social work matters
- Crisis intervention
- Mediation between landlords and tenants

The clientele of the Unit, which has received international awards, increased after the year 2000 tenancy law reform (more rapid notification by the courts).

In the event of crises or problems, the primary aim of action is to provide such support to families that they can themselves overcome the crises.

The social workers employed in the Regional Legal Aid and Family Social Work Centres were providing more intensive forms of social

welfare services or educational assistance to a total of 8,737 families as of the end of 2002.

Comprehensive counselling from the Legal Aid Centres is available for lone mothers on problems related to maintenance and paternity matters, and help is provided in enforcing relevant entitlements of children.

If necessary, legal representation is also undertaken for the determination of paternity and enforcement of the maintenance entitlements of children. As of the end of 2001, the legal aid centres had represented 28,511 children, and government maintenance advances had been awarded for 11,235 children.

A social counselling centre has been set up in the First District of Vienna, in which social administration officials give information and advice on social problems (social assistance, assistance to the disabled, etc.).

The task of the marriage and family counselling centres is to provide confidential counselling and therapeutic care free of charge on all marriage and family problems. For that purpose, they have specially trained teams comprising doctors (gynaecologists, psychiatrists), lawyers, psychologists and social workers. The “Marriage and Family Therapy Institute” can provide longer-term therapy in difficult cases. The counselling centres receive financial support from the Federal authorities.

As part of the activities of the Kuratorium Wiener Pensionistenwohnhäuser – KWP (Board of Viennese Pensioners’ Residential Homes), the City of Vienna operates pensioners’ clubs as meeting points for entertainment and social contacts. These clubs offer Viennese senior citizens leisure activities and a varied cultural programme. The events range from Viennese afternoon coffee parties, card and board games, concerts and parties, to creative activities, interesting talks, etc. The cost of admission to the clubs is borne by the City of Vienna.

The “Summer Holiday Resorts” programme runs from May to September. Certain guesthouses, boarding houses and hotels have specialised in services to senior citizens and also make special arrangements, such as a home pickup transportation service, diets, accommodation of pets, and special activities. Holiday catalogues are available at all pensioners’ clubs and in the management offices of the KWP Häuser zum Leben (Houses for Living).

In the summer months, escorted excursions are available for senior citizens. The “Excursions Programme” arranges whole-day trips to the Burgenland, Styria, and Lower and Upper Austria from May to September. The charge covers travel costs, a midday meal with one drink,

and afternoon coffee. The “Senior Citizens’ Outings” programme organises half-day trips to recreational areas in and around Vienna in July and August. The charge covers only the travel costs.

Holders of the social passport (obtainable from the local Social Welfare Unit or the Social Centre of Municipal Department 12) pay reduced charges under the Excursions Programme and receive grants under the “Summer Holiday Resorts Programme”.

A small charge is made for major house cleaning operations carried out on a case-by-case basis in the dwellings of persons in need of long-term care. Washing is collected and delivered and any necessary mending is done by the Laundry Service.

The Visitors Service has been set up for the benefit of persons who are lonely because of age or disability. The staff are available for chats and to provide help in visits to doctors, as well as assistance for walks and in dealing with official formalities.

The Contact Visitors Service is intended to inform the elderly of the assistance on offer from the City of Vienna.

The task of the Home Help Service is to perform necessary housekeeping duties for persons in need of assistance who are no longer able to do such work unaided.

The Home Nursing Service has certified health care and nursing staff and paramedics, who provide assistance to the sick and disabled and also to patients discharged from hospitals and in need of further medical care.

The Meals on Wheels Service was set up for persons in need of assistance who cannot prepare meals themselves and receive no help from relatives.

Persons with an increased need for long-term care who require occupational therapy and rehabilitation services as well as extramural care for guidance and help in the self-determination of an organised daily routine can use the services of seven City of Vienna geriatric day-care centres and 10 specialised geriatric day-care centres for Alzheimer and multiple-sclerosis patients, which are run by private organisations. These centres operate on behalf of and for the account of the City of Vienna and have a total of 580 places.

The staff of the Family Help Service act as substitutes for mothers of large families who are temporarily incapacitated, for example, through sickness or confinement.

The Psychological Service of Municipal Department 11 offers families clinical-psychological diagnosis and psychological counselling as well as treatment and psychotherapy in the context of youth welfare activities.

At present, there are 32 counselling centres on child and youth psychology, whose services can be used by parents, children and youth. They provide individual counselling in personal or family crises as well as assistance related to conflicts and educational problems. Psychologists are also available for the counselling of social workers of the Youth and Family Offices, ensuring an interdisciplinary approach. Psycho-diagnosis is the basis for determining the intelligence and talents of children and young persons and for the description of personality-variable and internal family relationship patterns. MA 11 psychologists act as consultants under the Youth Welfare Act and also as expert witnesses in that capacity.

Five psychological counselling centres are also integrated with Parent-and-Child Centres. In their psychological work they concentrate on prevention. Parents with babies and infants receive information in an informal setting on new findings of development psychology as well as psychological counselling on the upbringing of children. The psychologists respond to family needs and modify their advice accordingly.

Help in problems of separation, divorce, custody and visiting rights is available from the four special counselling centres for divorce and separation problems, mediation and conflict settlement.

The Psychological Service is also responsible for the special concerns and problems of adoptive and foster parents.

The 12 City of Vienna hospital out-patient departments for the special educational problems of infants and pre-school children are operated by Municipal Department 11 A. Kindergarten teachers, special kindergarten teachers, remedial speech therapists, a woman physiotherapist and a woman paediatrician co-operate under the guidance of a psychologist. The services on offer comprise individual assistance programmes, psychological treatment for mentally impaired or late-developing children or children with partial performance weaknesses.

Psychologists are also on duty in day-care centres for children, after-school centres and special day-care centres for children.

In a special children's day-care centre, psychological counselling, treatment and psychotherapy are offered for autistic children and their parents.

Psychological activity in the context of the Youth Welfare Act also comprises the area of accommodation of children and young persons away from their family environment.

The psychologists are responsible for a wide variety of tasks, focusing on:  
 Work as psychological experts and counsellors on questions of visiting rights, learning and behavioural difficulties as well as mental problems. The psychologist helps to clarify what internal and external intervention is necessary according to the problem of the child or young person, the questions raised by the social educators, and the target of returning the minor to his/her family of origin.

#### Intensive care:

Intensive care is a supplementary service to educational support, rendered over a limited period, when need has been determined by social workers of the Regional Family Social Work Centres. Its purpose is to avert danger to a child so that he/she can remain in the family, and to provide the family with ongoing services and support in the context of discharge from a crisis centre or in the phase during and after return from accommodation outside the family. Staff of the intensive care centres work with the entire family or individual family members, focusing on the welfare of the children, or with the child/young person, depending on the individual problem situation and subject to agreement with the family.

The intensive care team comprises a total of 74 social workers and social educators who have supplemented their professional qualifications by undergoing additional training or further training. The work is done both on the spot, for example, in the family dwelling or in the social environment of the young person, and also in a total of 21 centres that are located in three regions covering the entire area of Vienna.

#### Socio-educational care:

The original strategy of the socio-educational counselling centres was modified in the context of the “Home 2000” reform. Extramural facilities such as the 17 Socio-Educational Counselling Centres were set up in the six Socio-Educational Regions of Vienna. The newly defined task for extramural institutions comprises socio-educational care and counselling:



- Prior to accommodation outside the family:  
The target of extramural counselling/care in this phase is to provide the child or young person and the family with appropriate help and support so as to ensure that accommodation in an intramural socio-educational institution does not become necessary.
- After crisis accommodation:  
Extramural counselling/care after crisis accommodation is intended to contribute to maintaining the stabilisation achieved in the crisis centre and to avert new crises.
- During accommodation in an intramural institution:  
During the stay of the child/young person in an intramural socio-educational institution (home or residential community), supplementary outpatient counselling/care has two primary functions:
  - a) Ongoing care of children/young persons who need special socio-educational help in addition to the intramural facilities available.
  - b) Support in preparation for discharge to the family of origin by means of timely contacts with the child/young person and the family in order to prepare for after-care.
- After intramural accommodation:  
Extramural counselling/care after discharge from an intramural institution is an important measure for the support of the child or young person and the family in order to enable them to cope better with the changed situation, and to avert crises and thus prevent further accommodation outside the family.
- Places in mother-and-child institutions:  
In these institutions of Municipal Department 11, young mothers with children receive continuous care and support (accommodation, provision of necessities and care).
- Unaccompanied minor refugees:  
Care in the context of social welfare services is outsourced to private bodies (Caritas, etc.) under individual contracts.

Municipal Department 11 operates 15 cafés for support in developing contacts between children and their parents or one of their parents. Social workers attend these meetings with the aim of enabling children whose parents are divorced or children living in foster families to regain good regular contacts with their parents.

In the 39 parents' counselling centres and nine Parent-and-Child Centres, social educators and social workers are available to the parents as contacts to help in dealing with the new daily routine with babies.

The Parent-and-Child Centres offer a platform to parents in which questions and concerns can be discussed before they develop into

problems and crises, and before parents feel overpowered and helpless and begin to take action on that basis. The purpose is to enable parents to cope with difficult situations and to work out solutions and ways out of crisis situations.

Young parents can talk to other parents, exchange information about their experience, forge contacts and receive information, expert counselling support and help from social workers, psychologists, and social educators.

As a rule, the Parent-and-Child Centres always offer parenting instruction, a parent counselling service, “baby-centred” counselling, a breast-feeding group, toddlers’ groups, a parent-and-child café and a parents’ group; additional services, for example, groups for twins or siblings, play and creative groups are also available.

### **Supplementary questions in Conclusions XV-2 on Article 14 paragraph 1:**

#### **Subsidisation of family counselling centres under the Family Counselling Subsidisation Act, BGBl. 80/1974, as amended.**

##### **Monitoring and quality:**

Standard software for the documentation of counselling benefits provided and for collecting background information on clients receiving counselling has been in place since the second half of 1999 in the family counselling centres subsidised by the Federal authorities. This constitutes a valuable first step in evaluation.

For quality control of their work, regular supervision of counselling staff is encouraged and financed by means of Federal subsidies (two hours of supervision per month and counsellor).

The Federal authorities spend some €70,000 annually (outside the counselling centres’ budget) on the further training of family counsellors in the centres. This finances seminar participation by counsellors. On the annual average, some 400 counsellors take part in further training courses (co-)financed by the Federal authorities.

Special counselling guidelines and further training curricula are developed on specific counselling topics. Extraordinary subsidisation of such specialised counselling centres depends on participation by the counsellors working in the centres in these additional training/further training courses (e.g. for psychosocial counselling in the context of prenatal diagnosis or an interview programme for identification of family competences acquired during an interruption of gainful employment).

Financing:

The following table shows family-counselling subsidies from the Family Burdens Equalisation Fund (whole of Austria) since 1999:

|      | € million |
|------|-----------|
| 1999 | 8.0       |
| 2000 | 9.3       |
| 2001 | 10.3      |
| 2002 | 10.9      |
| 2003 | 10.9      |

Carinthia:

**Youth welfare:**Monitoring and quality:

Pursuant to § 37 (2) of the Carinthian Youth Welfare Act, voluntary youth welfare institutions whose qualifications have been confirmed by means of an official ruling (paragraph (1)) are subject to professional monitoring by the authorities. The authorities must check compliance with the provisions of paragraph (1). The institutions must grant officials of the authorities access to their premises, enable them to inspect records and provide them with information, as necessary.

The number of staff in the individual social services is verified at the stage of verification of qualifications (§ 347 (1) of the Act) in order to establish whether the necessary professional staff is available in adequate numbers for the proper performance of the individual non-governmental tasks assigned. Monitoring by professionals (psychologists, lawyers, civil engineers, etc.) takes place if required in individual cases, or at regular intervals.

The quality of services is also monitored by checking the progress reports to be submitted annually; further information is requested, if necessary.

Special prominence is given to quality and quality assurance in the needs and development plan now being worked out.

Financing:

The total annual expenditure from *Land* resources on social welfare services for youth amounted to:

|      |            |
|------|------------|
| 1999 | €1,902,176 |
| 2000 | €1,918,197 |
| 2001 | €2,002,503 |
| 2002 | €2,790,581 |

The number of beneficiaries of social welfare services is on the rise. An example is the utilisation of the Psychological-Psychotherapeutic Service (diagnosis, counselling, treatment and psychotherapy are offered free of charge to clients).

|      |       |
|------|-------|
| 1999 | 3,984 |
| 2000 | 4,800 |
| 2001 | 5,468 |
| 2002 | 5,787 |

### **Lower Austria:**

The Lower Austrian Youth Welfare Service provides a number of benefits for families seeking help as well as for children whose development is known to be at risk. Although there is no statutory entitlement to a particular form of assistance, there is nevertheless a statutory entitlement to adequate professional youth welfare aid on the part of the child or children or the family affected.

In the reporting period, a number of private social welfare bodies developed in Lower Austria, whose services are used individually or generally for the provision of particular youth welfare benefits. Those bodies are subject to

monitoring by the Land Government, which takes particular care to ensure that the professional training of their staff is adequate. Since the number of employees fluctuates, no fixed order of magnitude can be stated. However, from the point of view of the Land, the number of staff available in the social welfare services is adequate.

The concrete youth welfare expenditure on social services was shown separately for the first time in 2001 and amounted to €3,608,939.00 in that year. The 2002 figure was €3,950,108.00.

### **Upper Austria:**

#### **Monitoring and quality:**

As of 31 December 2002, the number of persons employed on home nursing was 283. The staff employed in mobile care and assistance numbered 743.

The Office of the Upper Austrian *Land* Government recruited a qualified professional for monitoring the quality of mobile services.

#### **Financing:**

Owing to the differentiated structures, financing in Upper Austria can only be estimated. The figure is probably about €48 million.

### **Vienna:**

#### **Access to social welfare services:**

According to the Viennese Social Welfare Act – WSHG – LGBL. für Wien No. 11/1973, as amended, social welfare services are the responsibility of the social welfare institution as an entity vested with private law rights. There is no statutory entitlement to benefits.

Social welfare staff in Vienna number approximately 4,670.

With regard to the question of monitoring the quality of services, it is pointed out that extramural care and social welfare services are provided in Vienna by private welfare organisations commissioned for that purpose by the City of Vienna. The relevant agreements provide for monitoring rights of the City of Vienna. In addition, reference is made to the Act on the professional profile, the basic and further training of home helps and the practical provision of assistance (Viennese Home Help Act – WHHG), LGBL. für Wien No. 23/1997, as amended. That Act regulates the professional profile of home helps and the basic and further training for that profession, in order to guarantee the quality of professional care and support for persons in need of help and care. Under that Act, the

home help profession may be practised only in the context of an institution, and the legal entity operating that institution must take quality assurance measures commensurate with the responsibilities of the profession. The operation of such institutions is subject to monitoring by the *Land* Government. Similarly, under the Viennese Home Help Act, basic and further training institutions for the home help profession are also subject to official inspection by the *Land* Government. In connection with external quality control, reference is made to the Health and Sickness Nursing Act – GuKG, BGBl. I No. 65/2002, as amended.

The total expenditure on social welfare services in Vienna in the period 1999 to 2002 amounted to €110,953,356 gross (1999), €141,973,474 gross (2000), €123,851,675 gross (2001) and €127,896,939 gross (2002).

Article 14 paragraph 2

The previous reporting should be updated as follows:

**Subsidisation of family counselling centres under the Family Counselling Centres Subsidisation Act, BGBl. 80/1974, as amended.**

In developments over recent years, priority has been given to subsidising private centres rather than centres operating under public law. In a number of *Laender*, existing public counselling centres have been transferred to private entities. Thus, the number of counselling centres under public law has fallen by 22 since 1988 (most of these were transferred to private associations), while in the last 15 years 158 new counselling centres not subject to a local authority were subsidised (136 private and 22 religious institutions).

In addition to the major charitable and welfare associations, small regional associations have increasingly been operating counselling centres. In many cases these have developed from local initiatives of persons affected (self-help groups, parent-and-child centres, etc).

**Vienna:**

A number of associations were entrusted with providing home nursing and home help in Vienna. The National Federation provides basic and further training and quality assurance for private welfare organisations. For better coordination and quality assurance, an umbrella association of Viennese care and social welfare services was also established. The members of that umbrella association are the City of Vienna and also private welfare organisations that offer care and social welfare services in Vienna, irrespective of whether they have a direct contractual relationship with the City of Vienna in their work or not. By now, the umbrella association of Viennese care and social welfare services has more than 20 member organisations. It not only operates an occupational medical service for the private welfare organisations but also provides basic and further training and quality assurance services.

The City of Vienna reimburses its contractual partners for the costs of services by means of a cash payment for services rendered. Under a contribution system that has been in force since 1 January 1994, cash contributions are levied directly from the recipients of care and social welfare services. On the average, contributions cover 27% of the costs, and 73% must be raised from tax revenue. The social welfare services now being provided by private legal entities under the Viennese Social Assistance Act – WSHG – are: home help, the cleaning service, meals-on-wheels, visits to geriatric day-care centres, home nursing, the laundry service and the Visitors Service.

Medical home nursing under the Social Insurance Acts is provided by City of Vienna staff.

Supplementary questions in Conclusions XV-2 on Article 14 paragraph 2

Subsidisation of family counselling centres under the Family Counselling Subsidisation Act, BGBl. 80/1974, as amended:

Of the 358 counselling centres now being subsidised, 62% (223) are operated by private charitable organisations (associations, non-profit limited liability companies (GmbH)). One-quarter of the centres (93) are run by religious organisations.

These legal entities (religious and other private bodies) were promised a total of €10.5 million as subsidies in 2002, the share of private non-profit organisations being €7.3 million. These amounts of subsidies cover roughly one-third of the total budget of the family counselling centres operated by the religious and private organisations.

Overall, in 2002, some 320,000 hours of counselling were provided in the subsidised family counselling centres, and counselling contacts numbered 442,000. Social workers or marriage and family counsellors provided the majority of the counselling hours, with some 170,000 hours, followed by psychologists with some 65,000 hours, educators with 40,000 and lawyers with 23,000.

Owing to the anonymity of the clients, the number of persons represented by these counselling contacts cannot be stated exactly. In 2002, on a half-yearly basis, 226,000 persons were counted in family counselling. That figure can realistically be said to represent some 100,000 persons per year seeking advice in the subsidised family counselling centres, owing on the one hand to the half-yearly records of persons using the services for the first time and on the other hand to the fact that, on the basis of anonymity, some clients may be counted twice.

Some 375,000 counselling contacts (that is to say, representing 85% of total counselling sessions) with approximately 95,000 persons were accounted for by the subsidised counselling centres of private and religious organisations.

With regard to quality monitoring, reference is made to the reply to the supplementary question on Article 14 paragraph 1.



**Carinthia:**

**(Including replies to the supplementary questions in Conclusions XV-2 on Article 14 paragraph 2):**

**Youth welfare:**

The qualifications of voluntary youth welfare organisations are confirmed, on application, by an official ruling, if statutory requirements are met. The organisations are then supported financially, taking into account budgetary constraints, and subject to presentation of verifiable statements of expenditure. Financing agreements are concluded with a number of organisations in the interest of partnership relations and efficient budget planning. The public youth welfare institution assigns staff to some social welfare services.

Home and institutional care:

The social welfare services provided for home and institutional care are: home nursing, help for continued running of the household, and old people's residential and nursing homes.

These social welfare services are available for old people who are no longer able to look after themselves (completely) because of their age.

The services are provided partly by public sector entities (social welfare associations) and partly by private entities. They are financed predominantly out of *Land* resources, in which context the local authorities must reimburse the *Land* in the ratio 60:40.

The individual has a right to benefit from these services. In order to guarantee the effective exercise of that right, the *Land* of Carinthia prepares a so-called "Needs and Development Plan", which was last evaluated in the year 2003. Social welfare services are developed on the basis of the Needs and Development Plan.

With regard to legal status, 40.38% of the old people's residential and nursing homes are run by public sector entities. In the case of the remainder, 23.08% are operated by religious charitable entities and 36.54% by other entities under private law. The costs of accommodation in old people's residential homes amounted to ATS 44,184,688.00 for the budget year 2001.

Subsidisation of the construction of old people's residential and nursing homes amounted to ATS 23,183,677.00 for the year 2001.

It is reiterated that capital investment projects were mostly financed by means of long-term loans. Preferential loans are granted for at most 30 years at an interest rate of 0.5% per annum.

As to supervision, the Carinthian Homes Act, which entered into force on 1 February 1996, is the basis for the inspection of residential homes and nursing care institutions. Every institution is inspected at yearly intervals.

Any deficiencies noted are remedied in that process and step-by-step quality improvements are proposed and to a large extent implemented by the operators of the homes.

Inspection of the homes is carried out by home inspectors assigned to that task by the *Land* of Carinthia.

The social welfare services are staffed by certified professional nurses and paramedics.

**Vienna:**

Extramural care and social welfare services under the Vienna Social Assistance Act – WSHG are provided not by the City of Vienna itself but by private welfare organisations commissioned by the City of Vienna.

Medical home nursing under the Social Insurance Acts is provided by City of Vienna staff.

The number of beneficiaries is 21,750.

On the question of public financing, reference is made to the cost contribution system already mentioned, according to which contributions from clients cover about 27% of the costs of social welfare services.