

ARTICLE 1

THE RIGHT TO WORK

Article 1, paragraph 1

Basic remarks:

Reference is made to the following reports, which contain extensive information on the questions raised.

- 2005 Economic Report and 2004 Economic Report (pdf format)
<http://www.bmwa.gv.at/BMWA/Themen/Wirtschaftspolitik/AllgemeineWirtschaftspolitik/Wirtschaftsbericht/default.htm>
Chapter IV (The Labour Market) contains among other things accounts of the development of the labour market, the formulation of labour market policy including target architecture, use of resources and labour market promotion:
English version of Chapter IV see Annex 1
- The report "Labour Market Policy in Austria 2003" (English).
<http://www.bmwa.gv.at/BMWA/Themen/Arbeitsmarkt/Arbeitsmarktpolitik/default.htm>:
The English version of the 2005 report will be forwarded as soon as it has been cleared
- Extensive information from the Federal Ministry of Economics on the economic and labour market system is available under:
<http://www.bmwa.gv.at/BMWA/Themen/Arbeitsmarkt/default.htm> and under
<http://www.dnet.at/elis/>
Annual reports on the labour market situation are contained in:
<http://www.bmwa.gv.at/BMWA/Themen/Arbeitsmarkt/Arbeitsmarktinformationen/default.htm>
- Not least, reference is made to the business reports of the PES (the abbreviated version of the most recent report, for 2004 is available in English under
http://www.ams.at/neu/001_GB_Kurzversion_engl_2004.pdf

Main features, functions, and tasks of Austrian labour market policy

In accordance with the Labour Market Service Act (AMSG) labour market policies are expected to achieve the most comprehensive possible, economically reasonable and sustainable matching of demand and supply on the labour market, with a view to preventing and remedying unemployment and to upholding social and economic principles. The aim is to ensure the availability of labour for industry and the employment of all persons available to the Austrian labour market. This overall goal is expressed in concrete form in the labour market policy targets formulated by the Federal Minister of Economics and Labour, maintaining in particular the emphasis on the use of labour market policy instruments in favour of certain defined groups of persons.

The labour market policy to be implemented by the Public Employment Service concentrates on the following activities:

- Placement of suitable labour where required on the market;
- Assistance in eliminating obstacles (childcare grants permit the financing of suitable care places);
- Measures to enhance transparency in the labour market (labour market analyses, correlation of job requests/offers on the Internet page of the Public Employment Service job room (<http://www.ams.or.at/neu/983.htm>));
- Reducing the imbalance between job supply and demand (the Service for Enterprises assesses the demand of the latter for the training of the unemployed to meet employment profiles);
- Assistance with a view to maintaining jobs (e.g. subsidies for reduced working hours);
- Safeguarding the economic existence of the unemployed in the framework of unemployment insurance (unemployment benefit, emergency assistance, etc.).

Placement (and, consequently, filling vacancies), on the one hand, and safeguarding economic existence by granting unemployment benefit and emergency assistance on the other hand represent a functional and institutional unit, which in turn guarantees that the principle of “activation prior to passive benefit distribution” is successfully applied.

Targets set by the Federal Minister of Economics and Labour to implement labour market policy

Pursuant to the Public Employment Service Act (§ 59.2), the Federal Minister of Economics and Labour issues labour market policy directives for the Public Employment Service (PES) in which, as the supervisory authority of the PES, he defines general objectives.

The current objectives to be met by the PES were issued in February 2000. In general terms, labour market policy is designed

- to help achieve and maintain full employment through placement and skills training, foster equal opportunities, and enhance labour market transparency;
- to support economic activity through skills training, give priority to activation over passive income support, and combat long-term unemployment and social exclusion;
- to offer programmes to young people (prior to reaching six months of unemployment) and to adults (prior to reaching twelve months of unemployment), halve the flow into long-term unemployment, and raise the rate of participation in programmes to 20% (target set under the National Action Plan for Employment).

The general mission of the PES is to monitor closely those groups of persons who are specially disadvantaged on the labour market, and to take appropriate measures immediately if required. Those target groups include women, persons with disabilities, the elderly, young people, unskilled workers, etc. In quantitative terms, the objectives are as follows:

- to continue programmes for young people at the 2000 level, keep the labour market position of older workers at the same level, and use 50% of active labour market spending on women;
- to allocate two-thirds of the budget available for active labour market policies to skills training measures and programmes.

Content of the “Labour Market Policy Austria 2003” Report:

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

- 1) Development of the Austrian labour market in 2003
- 2) Principles, functions and responsibilities of Austrian labour market policy (including “Targets for the PES”)
- 3) Labour market policy spending 2000-2003
- 4) Performance data 1995-2003 (4.4. Spending broken down by socioeconomic groups 2001-2003)
- 5) Effects of labour market policy tools and programmes (incl. NAP employment 1998-2002)
- 6) Organisational development of the PES
- 7) Private recruitment agencies
- 8) Temporary work 1996-2003

In detail:

Ad A and B:

In reply to these questions, reference is made to the above reports and links (especially to <http://www.dnet.at/elis/>).

Ad C:

In reply to this question, reference is made to the following link: <http://www.dnet.at/elis/> (document “zeitreih_OS.xls”).

Replies to the supplementary questions on Article 1, paragraph 1 in Conclusions XVII-1:

The development of youth unemployment:

After a relatively vigorous and above-average decline in youth unemployment in the years 1999 and 2000 (by a cumulative -23%), Austria has also suffered a resurgence of both overall unemployment and youth unemployment since the beginning of the decade, in the wake of the international cyclical decline. Economically conditioned causes were accompanied, among other things, by demographic development following years with rising birth rates. In spite of the weaker cycle, a further factor was that total employment rose

further in those two years. However, labour supply has also increased more strongly since 2001. As a result, inflows of young workers into employment have been made more difficult. Austrian labour market policy has reacted appropriately to these changes and has intensified action for youth. Not least for that reason, the increase in youth unemployment has now distinctly dropped since 2003, namely, from +18.4% (2002) to +7.5% on the annual average for 2003. In 2004, youth unemployment was again on the decline (-619 or -1.6% to 38,747). In contrast to the overall rate, on the basis of registration figures, the rate of unemployment among young persons again dropped by 0.2 percentage points to 7.2% in 2004.

Unemployment among disabled persons and foreign workers

The unemployment rate among disabled persons was 8.2% in 2003; in 2004, it was below the previous year's figure, at 7.9%.

In the year 2003, the unemployment rate among foreign workers was 9.8% or distinctly above the average because of the high seasonal element of unemployment (construction, tourism); in 2004, the figure was 10%.

Participation in labour market policy action:

The average number of participants in active labour market policy action was 74,342 in the year 2003. In the year 2004, the number of participants rose to 76,270.

Article 1, paragraph 2

The previous reporting should be updated as follows:

Elimination of discrimination in employment:

Austrian equal treatment law was amended with effect from 1 July 2004. The new equal treatment law serves above all to implement the two anti-discrimination Directives adopted by the EU pursuant to Article 13 of the Treaty establishing the European Community, namely, Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Anti-Racism Directive) and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (Framework Equal Treatment Directive), which prohibits discrimination based on religion or belief, disability, age or sexual orientation, as well as Directive 2002/73/EC of the European Parliament and of the Council amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, as well as working conditions (Equal Treatment Directive).

The Antiracism Directive covers not only the areas of employment and occupation but also social protection, social advantages, education and the access to and supply of goods and services; the Framework Equal Treatment Directive and the amended Equal Treatment Directive cover only the area of employment and occupation. All Directives apply to both the private and the public sector.

Implementation of the Directives was mainly achieved through the Federal Act promulgating a Federal Act on Equal Treatment (Equal Treatment Act - GIBG) and amending the Federal

Act on the Equal Treatment of Women and Men in Labour Matters (Equal Treatment Act) (BGBl. I No. 66/2004).

The previous Equal Treatment Act was renamed the Federal Act on the Equal Treatment Commission and the Office of Equal Treatment Ombudsman - GBK/GAW Act - and was so amended that it now regulate the institutions (Equal Treatment Commission and the Office of Equal Treatment Ombudsman) as well as the procedure. The new Equal Treatment Act - GIBG - incorporates the substantive provisions of the previous Equal Treatment Act and was expanded to include regulations resulting from the requirement to implement the Directives.

Exceptions are the offence of discrimination based on disability, because that is to be implemented in a special Act on the equal status of the disabled, the area of Federal Civil Service regulations, which is provided for in the Federal Equal Treatment Act, and matters that fall within the competence of the Provinces.

The Act contains the following focal points:

No one may henceforth be discriminated against directly or indirectly on the basis of gender, ethnic origin, religion or belief, age or sexual orientation in connection with a work contract, in particular

- on the establishment of the work contract,
- in the determination of remuneration,
- in the grant of voluntary social benefits that do not constitute remuneration,
- in basic and further training and retraining,
- in career development, particularly in promotions,
- in other working conditions,
- on termination of the work contract;

as well as in other matters related to work, namely

- in access to vocational guidance, vocational training, vocational further training and retraining outside of a work contract,
- in participation in an organisation of employees or employers,
- in conditions for access to independent gainful activity.

The Act covers not only employees but also home workers and persons with a similar status to employees.

Furthermore, no one may be directly or indirectly discriminated against on the basis of ethnic origin in other areas, namely,

- in social protection, including social security and health services,
- in social advantages,
- in education,

- in the access to and supply of goods and services available to the public, including housing.

In addition to the prohibition of sexual harassment contained in the previous Equal Treatment Act, henceforth gender-related harassment as well as harassment on the basis of one of the forms of discrimination listed above are also regarded as discrimination.

A further innovation is the inclusion of a requirement for the active equal treatment of men and women, expressed as a target. This target must be taken into account in the drafting and implementation of legal and administrative regulations, policies and activities. In addition, positive action can be taken in all the areas listed above.

In contrast to the previous legal situation, which provided for administrative penalties against private recruitment agencies as well as the Public Employment Service for infringement of the requirement for the gender-neutral advertising of posts, such sanctions now also apply to employers. In order to avoid hardship, especially in the case of small businesses, only a warning is provided for on the first offence. Also, the requirement of non-discriminatory advertising of posts with regard to the other new discrimination offences has been introduced, including sanctions. In addition, new regulations on damages were introduced (see remarks on "Sanctions and legal remedies").

The regulation on the burden of proof has been taken from the previous Equal Treatment Act and has been even more strongly accentuated, in line with the relevant regulation laid down in the EU Directives. Accordingly, although the complainant must give credible evidence of discrimination, the complaint can be rejected by the court only if the defendant successfully proves that, considering all circumstances, it is more probable that the motives credibly advanced by the defendant were the crucial factor with regard to the unequal treatment or are borne out by the facts, that is to say, that the defendant was successfully exonerated.

Certain time-limits must be observed for the submission to the court of claims under the Equal Treatment Act:

Claims regarding discrimination on the establishment of the work contract, career development and harassment must be made within six months. The time-limit for sexual harassment claims is one year. Discriminatory notice of dismissal or summary dismissal must be disputed within 14 days. A three-year period of limitation applies to other claims.

As a measure to reinforce protection against discrimination, a new prohibition of discrimination has been introduced, covering not only the employee lodging the complaint but also other employees as witnesses or colleagues supporting the complaint.

The task of the existing Equal Treatment Commission, which has so far been competent regarding equal treatment of the sexes, was expanded to include all the discrimination offences listed above. The Equal Treatment Commission must deal with all questions related to discrimination and can in particular draft expert opinions and conduct investigations in individual cases. However, it cannot receive claims for compensation or performance, because only the court is competent in such matters. The decisions of the Equal Treatment Commission are not binding. Infringement of the equal treatment requirement can also be asserted directly before the courts, and application can be made to the Equal Treatment Commission and the court independently of one another.

Interpretation costs in proceedings before the Equal Treatment Commission are borne by the authorities.

Expert opinions of the Equal Treatment Commission are published in full, but in anonymous form, on the homepage of the Federal Ministry of Health and Women.

The court is required to deal with an expert opinion of the Equal Treatment Commission or the result of an investigation by that body. If the judgment differs from such opinion or result, the court must state its grounds.

The tasks of the Equal Treatment Ombudsman' Office, which is competent for the counselling and support of persons believing themselves to be discriminated against, are expanded in an analogous manner.

The participation in proceedings before the Equal Treatment Commission by non-governmental organisations that consider themselves as representing the interests of certain groups affected by discrimination is regulated as follows:

- on the one hand, a person affected by discrimination can be represented by a representative of such a non-governmental organisation in the proceedings and
- on the other hand, the person affected can apply for the co-option of a representative of such a non-governmental organisation as a technical expert in the proceedings.

Provision is made for the involvement of non-governmental organisations in the court proceedings in the form of third-party intervention. The intervening party is a person who, without being a party to the proceedings, participates in a legal dispute between other persons in support of one party. The rule provides that the joinder of parties can participate in the court proceedings as an intervening party in support of victims of discrimination in order to assert the latter's rights.

The new law on equal treatment entered into force on 1 July 2004.

The new Equal Treatment Act - GIBG and the GBK/GAW Act are attached in **Annex 2**

The following information is given on sanctions and legal remedies:

The Equal Treatment Act, as amended, provides for the following sanctions for the individual discrimination offences:

- Restitution of the pecuniary loss, i.e. positive damage and loss of profits or
- Restoration of the non-discriminatory situation and - in both cases - in addition
- Restitution in respect of incorporeal damage for the personal impairment suffered.

In particular, the following concrete entitlements exist:

- Discrimination on the establishment of the work contract: Damages amounting to at least one month's remuneration if the applicant would have received the post had there been no discrimination in the selection process, that is to say, that the applicant was the person best qualified for the post; damages up to €500.00 if the employer did not consider the application but the applicant was not the best qualified person.
- Discrimination in the determination of remuneration: The difference up to the higher remuneration due,

- Discrimination in promotion: Damages amounting to at least three months' remuneration, if the person would have been promoted had there been non-discriminatory selection; damages of up to €500.00 if the employer did not consider the application but the applicant was not the best qualified person,
- Discrimination on severance of the work contract: Possible challenge of notice of dismissal or summary dismissal before the court,
- Discrimination by harassment: Damages of at least €400.00,
- Discrimination by sexual harassment: Damages of at least €720.00.

Reply to the supplementary questions on Article 1, paragraph 2 in Conclusions XVII-1:

With regard to the supplementary question on gender-based discrimination, reference is made to the above remarks on the new equal treatment law. Under the new Equal Treatment Act and the GBK/GAW Act, as already mentioned, not only the Article 13 Directives but also the amended Equal Treatment Directive regarding the equal treatment of women and men were implemented.

The rule on the burden of proof is taken from the previous Equal Treatment Act and, is even more strongly accentuated, in keeping with the rule on the burden of proof laid down in the EU Directives.

With regard to the question of sanctions against discriminating employers, reference is made to the remarks on "Sanctions and legal remedies".

As regards the implementation of Directives 2000/43/EC and 2000/78/EC, reference is also made to the remarks on the compiled report concerning the new law on equal treatment.

With regard to the offence of discrimination based on disability, it is pointed out that Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation for persons with disabilities has not yet been implemented. The Republic of Austria is aware of the delay in implementation, but the delay is also due to the fact that, in an ambitious legislative project, it is intended to embody in Austrian law the equal treatment and equal status of persons with disabilities to an extent that goes beyond the framework directives, that is to say, not only in labour law and in other labour matters but in the most important legal areas of Federal competence.

By a unanimous resolution of Parliament of 9 July 2003, the Federal Government was requested to transmit the draft of an Act on the equal treatment of disabled persons to Parliament as soon as possible. In the formulation of this draft, in line with the demands of grass-roots involvement in the legislative process, representatives of the disabled persons' organisations were included in a Federal Government working group.

As an interim result of the consultations, a draft of the Act of the Federal Ministry for Social Security, Generations and Consumer Protection was circulated for consultation in the summer of 2004. This draft contains several Acts, and the amendment to the Disabled Persons Recruitment Act implements the content of the Directive, while the Federal Act on the Equal Status of Disabled Persons contains the provisions for the other legal areas. At

present, fine adjustments are still being made, and submission to Parliament is shortly to be expected.

Under the new Equal Treatment Act, differential treatment based on nationality is not prohibited only if it is made for substantive reasons and not, for example, to pursue a racist policy. The prohibition of discrimination also applies to third-State nationals.

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

Termination of work contracts of foreign workers on the basis of the rule in § 8 (2) of the Aliens' Employment Act does not occur in practice. With the amendment of the corresponding legal provision (decision of Parliament of 6 July 2005), the scope of this provision is restricted to alien workers on initial access to the labour market.

Implementation of Council Directives 2000/43/EC and 2000/78/EC for disabled persons:

Council Directive 2000/78/EC is being implemented for the category of persons with disabilities by means of an amendment to the Disabled Persons' Employment Act. This amendment covers the jurisdiction of the Federal State in this field (and partly has to be implemented in Provincial Acts) and was adopted by the second chamber of the Federal parliament on 21 July 2005. It will enter into force on 1 January 2006 and will be accompanied by a Federal Government information campaign. Additionally, there is a new Act on Equal Opportunities for Persons with Disabilities that is wider in scope than the Council Directive and covers the field of consumer rights - similar to Council Directive 2000/43/EC Art. 3 (1) (e-h) - entering into force by the same date.

Access of non-EEA citizens to certain occupations:

Acts under labour law are applicable to all workers in Austria, irrespective of nationality.

Furthermore, the Aliens' Employment Act does not contain any rule that excludes foreign workers *a priori* from access to certain categories of occupations.

Ad B:

The previous presentation should be updated as follows:

The participation of workers and workers' organisations is provided for both in proceedings before the Equal Treatment Commission and also in labour court proceedings.

The Equal Treatment Commission under GBK/GAW is composed of equal representation based on social criteria. The Equal Treatment Commission, which was competent only for the equal treatment of the sexes up to 1 July 2004, was divided into three senates on the basis of the expanded scope of the Equal Treatment Act and is competent for further discrimination offences (see question A):

Senate I: For the equal treatment of men and women in labour matters,

Senate II: For equal treatment in labour matters without differentiation based on ethnic origin, religion or belief, age or sexual orientation and

Senate III: For equal treatment without differentiation based on ethnic origin in other areas.

Senates I and II, which are competent for equal treatment in labour matters, each consist of a Chairman (a civil servant) and other members, namely, two members each delegated by the Federal Chamber of Labour, the Austrian Federal Economic Chamber, the Austrian

Trade Union Federation and the Federation of Austrian Industry; the remaining three (Senate I) or two (Senate II) members are delegated by Ministries.

In proceedings before the labour and social courts, jurisdiction is in principle exercised in senates consisting of judges and expert lay assessors from the ranks of the workers and the employers, in which the presiding officer must be a judge.

Ad C:

No relevant changes.

Prohibition of forced labour:

Ad D to F:

No relevant changes.

Ad G:

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

Work in prisons:

In principle, prisoners and detainees capable of work are required to perform work. Processes that entail danger to life or the risk of severe damage to health are excluded. Occupation with meaningful and useful work has proved to be valuable in making longer imprisonment tolerable. Furthermore, skills should be imparted that will make it easier to build up an honest livelihood after release.

Overall, work during imprisonment is of great value. From the point of view of the prisoners, work is an essential factor for participation in the social contacts of a prison and at the same time offers the inmates the only possibility of earning money during imprisonment. A further important aspect of work is that it maintains or improves the vocational qualifications of the inmates as well as offering them a meaningful occupation. Work is a determining prerequisite for the ability to exercise a positive influence on the inmates and is an important re-socialisation factor.

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

In the 28 prisons, there are approximately 50 different types of manual and business operations (joinery, metalworking, bookbinding, printing, manufacture of articles in concrete and even agriculture [arable farming and/or animal husbandry]). The worker protection provisions applicable to private enterprises are also valid for work in prisons.

The average working day lasts approximately six hours.

The amount of remuneration for inmates is index-linked according to the tariff wage index prepared by Statistik Österreich and, at the moment, is as follows per hour worked

Light unskilled work	€4.36
Heavy unskilled work	€4.91
Skilled manual work	€5.45
Highly skilled manual work	€6.00

Work as a foreman

€6.54

The most frequent forms of work by prison inmates:

1. The inmates work in a shop belonging to the prison (metal-working, joinery, bookbinding, etc.). For this purpose, the prison takes on corresponding work orders, for example from outside plants, or private enterprises relocate workshops into the prison area, where the inmates work.
2. Prisoners are employed outside a prison. The prison finds jobs for the inmates and concludes gratuitous hire contracts with the owners of the external plants, or the previous employer requests the services of his former employee (who is in prison) and concludes a gratuitous hire contract with the prison.

The working hours must be as close as possible to those prevailing in trade and industry or, if appropriate, agriculture and forestry. The maximum legal working hours permissible by law may not be exceeded (§ 50 (1) StVG). Sundays and public holidays must be observed as days of rest, unless work is necessary for the operation of the prison or in other cases of prison needs that cannot be deferred or because, by the nature of the work, it cannot be interrupted. By virtue of the same restriction, prisoners may not be employed at other times at which their religion prescribes days of rest (§ 50 (3) StVG).

The prisoners' wages are paid to the Federal authorities (§ 51 (1) StVG); prisoners who perform satisfactory work must receive pay for the work that they do (§ 51 (2) StVG). Pursuant to § 45 (2) StVG, the employment of prisoners for the account of enterprises in trade and industry or for other private businesses is possible. The prisons are permitted to conclude contracts on work by prisoners for enterprises in trade and industry (§ 46 (3) StVG).

Also, in respect of work carried out *de facto* for private enterprises, § 49 (3), according to which the equipment to be used by prisoners and the processes to be performed are subject in principle to the general regulations for the protection of the life, health and physical safety of workers, applies *mutatis mutandis*. It may occur that employees of the enterprise exercise technical supervision, but they have no kind of disciplinary authority over the prisoners and in particular may not exercise any indirect or direct compulsion. Accordingly, the enterprise has no control over the prisoners. Supervision is carried out by the prison officers.

Orders for the employment of a prisoner on work outside of prison and not under guard and not for an enterprise belonging to the prison, may be issued only with the consent of the prisoner (§ 126 (3) StVG).

On the question of the necessary consent of the inmate, reference is made to the above remarks.

With regard to the entitlement to social insurance benefits, working prisoners are covered by unemployment insurance and must be given medical treatment at the expense of the Republic of Austria. The commitment to provide medical care replaces sickness insurance. Working prisoners can acquire entitlements to pension insurance benefits during imprisonment only by means of voluntary self-insurance.

Article 1, paragraph 3

Ad A:

In addition to the Public Employment Service (PES), private recruitment agencies have existed since 1994. Since 2002, private firms have been able to provide recruitment and temporary work services simultaneously; no differentiation is possible on the part of the PES. The Federal Ministry of Economics and Labour has merely kept statistics on temporary work operations since 1 July 2002, but not on private recruitment operations.

The Labour Market Promotion Act (AMFG) differentiates between various forms of entitlement to provide recruitment services.

- Placement by the Public Employment Service (PES):
- At present, the PES is a service enterprise under public law; the labour market partners are not charged for placement services.
- “Gratis” placement services:
 - * by charitable organisations, statutory representative bodies and corporations with capacity to conclude collective agreements (§ 4 (1) (2) AMFG),
 - * by non-profit organisations (§ 4 (1) (3) AMFG);
 - are also without charge to both labour market partners.
- Recruitment agency services (private recruitment services):
may be provided by holders of trading licences for the occupation and can also include the placement of management staff, au pairs and artists. No charge is made for the services of private recruitment agencies, except in the case of artists.

With regard to the general conditions for the activity of private recruitment agencies, reference is made to the “2005 Economic Report” (p. 210).

The following description of activities and all following data refer exclusively to the PES:

Tasks and activities of the Public Employment Service

The Public Employment Service (PES) is a corporation under public law. The activities of the PES are regulated by the **Public Employment Service Act** and are directed at different groups of clients:

- Assistance to workers in obtaining jobs
- Assistance to enterprises in the search for suitable staff
- Labour market Information for persons, institutions and the public.

The central activities of the PES for workers and enterprises are:

- **Making available information and data** concerning the labour market in general, vacancies, job-seekers, training for job-seekers, action to support placement and the legal background conditions for the placement of workers.
- **Placement** of job-seekers in suitable vacancies by matching data on registered job-seekers and on vacancies.
- **Advisory services** for the evaluation of suitable solutions for finding jobs or suitable staff by pointing out alternative courses of action and options.

- **Client services** by gradual planned activities during the process of job-seeking or the filling of vacancies according to the agreed service plan (job-seekers) or the agreed job-filling strategy (enterprises).
- **Promotion** by offering skills-enhancement courses, support of employment (for example, action groups for job-seeking, vocational guidance, childcare, enterprise establishment support, individual coaching), and by financial assistance for the integration of the unemployed into the labour market in the event of personal problems (the elimination of training deficits, social competences) and structural problems (support for structural change or reduction of discrepancies between demand and supply in the labour market). The PES organises the courses, which are carried out by means of outsourcing in the free supplier market.
- The processing of applications for **permits for the employment** of foreign employees from outside the EU area, under the Aliens' Employment Act.

An activity that is exclusively intended for workers is:

- **subsistence** support during the period of job-seeking, in accordance with the entitlement requirements under the Unemployment Insurance Act.

Central activities of the PES in the political field and for the general public

- Information on the current and projected development in the labour market,
- Information on basic and further training.

Self-service in the PES:

The activities of "provision of information and data" and "placement of jobseekers in vacancies" are carried out both actively by the staff of the PES and also as self-service operations.

The central element in this process is the **Internet**, as an information platform. It gives access to a multitude of information not only on labour market statistics and information regarding training but also on vacancies registered with the PES.

The gratis PES **e-jobroom** goes one step further. It enables persons and enterprises to post their data and profiles independently on the Internet, to choose among the offers available and to communicate with job-seekers or enterprises without the intervention of the PES.

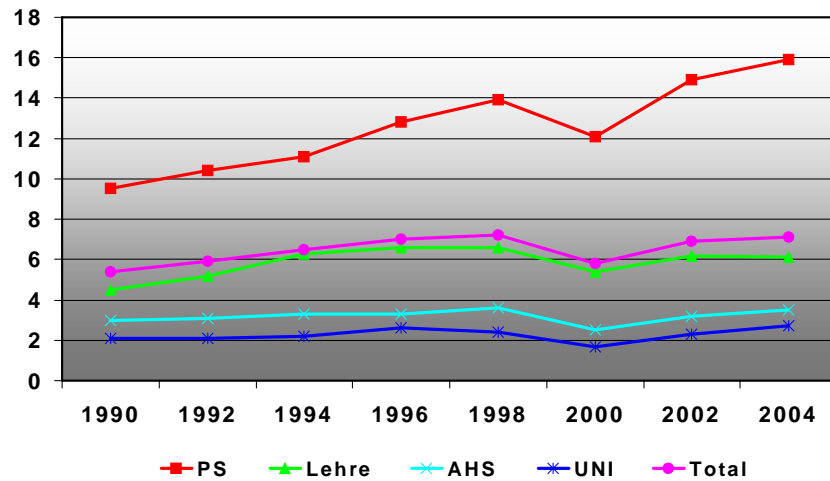
PES data on jobseekers and vacancies
Unemployment 2004 (Annual averages)

	2004	Change from 2003 absolute	Change from 2003 relative
Total unemployed persons	243,880	+3,801	+1.6%
Youth (15-24)	38,748	-618	-1.6%
Older workers (50-64)	46,099	-3,476	-7.0%
Men	140,262	+545	+0.4%
Women	103,618	+3,256	+3.2%
Unemployment rate (national)	7.1%	+0.1	
Unemployment rate, women	6.6%	+0.1	
Unemployment rate, men	7.5%	0.0	
Inflows into unemployment	864,170	+16,728	+2.0%
Outflows from unemployment	955,893	+39,347	+4.3%
Duration of unemployment	108 days	+7	+6.4%
Long-term unemployed >12 months	20,405	+1,140	+7.6%
Disabled persons	28,860	-1,685	-5.5%

Source: Central Association, PES

Unemployment rates by level of qualifications 1990 – 2004

Source: PES



Legend: PS = Compulsory education; Lehre = Apprenticeship; AHS = Secondary education; UNI = University

Canvassing for vacancies 2004

	2004	Change from 2003 absolute	Change from 2003 relative
Inflows of vacancies	277,038	-3,700	-1.3%
Agriculture and forestry	10,455	-10,271	-49.6%
Production sector	53,044	+561	+1.1%
Services sector	213,539	+6,010	+2.8%
Inflows of apprenticeships	25,652	+1,416	+5.8%
TOTAL	302,690	-2,284	-0.7%%

Source: PES

Vacancies filled, 2004

	Absolute	%	Change from 2003 absolute
Vacancies filled	254,081	100%	-1,927
within 1 month	170,677	67,2%	-13,328
within 3 months	62,881	24,7%	+6,803
within 3 to 6 months	15,729	6,2%	+4,091
in more than 6 months	4,794	1,9%	+507
Filling of vacant apprenticeships	23,180		+617
TOTAL	277,261		-1,310
Average duration of vacancies*	33 days		+4 days

Source: PES

*Not including apprenticeships

In reply to the question of the number of vacancies, the rate of placement of job-seekers and the duration of unemployment of persons placed in jobs, reference is made to the remarks on "Job placement" in the "2004 Business Report" of the PES:

- Short version: www.ams.at/neu/001_GB_Kurzversion_engl_20004.pdf (p 4ff.).
- Full version: http://www.ams.at/neu/001_GBLangversion2004.pdf

Ad B:

Organisation of the Public Employment Service (PES):

Within the Federal Provinces, the PES is divided at district level into regional organisations (a total of 98).

The organs of the PES at Federal level are the Board of Directors and the Administrative Board; at Provincial level, the Provincial Manager and the Provincial Directorate; and at the regional level the Head of the Regional Office and the Regional Advisory Board.

These organs are supported at Federal level by the Federal Office (BGS), at Provincial level by the Provincial Offices (LGS) and at district level by the Regional Offices (RGS).

The collegial organs (Administrative Board, Regional Advisory Boards, Regional Directorate) include representatives of the social partners, who are delegated by the employers' and employees' representative bodies (one-third equal representation).

Concomitant measures for jobseekers, see question A “Activities of the PES”

Ad C:

The activities of private recruitment agencies are regulated by the Labour Market Promotion Act. Cooperation between the PES Austria and private suppliers is regulated in a Federal Directive of the PES. This provides, among other things, that requests for information on vacancies from a commercial recruitment agency must be accepted by a regional office of the PES if no costs are involved for the job-seekers and the agent can make detailed statements on the vacancy (name of employer, wages, workplace, duration and type of contract, application particulars).

Private recruitment and temporary work agencies are among the businesses that offer most of the vacancies to the PES and fill them via the PES:

Top Ten clients of the PES in 2004 (Ranking by number of vacancies filled):

Rank	Enterprise
1	Trenkwalder Personaldienste AG
2	ISS Facility Services
3	Spar Österreich Warenhandels AG
4	Billa, Mondo – REWE Austria
5	Steyr Daimler Puch – Magna Holding AG
6	Manpower GmbH
7	Volkshilfe
8	OTTIS Personalbereitstellungs GmbH
9	Merkur Warenhandels AG – REWE Austria
10	Espora

Source: PES

Ad D:

The collegial organs of the PES (Administrative Board at Federal level, Provincial Directorates at Provincial level and Regional Advisory Boards at local level) have one-third equal representation. In other words, the representatives of the workers' and the employers' organisations each make up one-third of the membership.

Federal Organisation of the PES (as of 12/2004)

1. ADMINISTRATIVE BOARD OF THE PES

Presidium:

Chairman: Dr. Günther Steinbach, Federal Ministry of Economics and Labour

Deputy: Rudolf Kaske, Hotel, Catering and Personal Services Trade Union
Dr. Wolfgang Tritremmel; Federation of Austrian Industry

Members:

Government representatives:

Dr. Günther Steinbach
Federal Ministry of Economics and Labour
Dr. Johannes Kopf
Federal Ministry of Economics and Labour
Mag. Richard Gauss
Federal Ministry of Finance

Workers' representatives:

Mag. Bernhard Achitz
Austrian Trade Union Federation
Rudolf Kaske
Hotel, Catering and Personal Services Trade Union
Josef Wallner
Federal Chamber of Labour

Employers' representatives:

Dr. Wolfgang Tritremmel
Federation of Austrian Industry
Prof. Ing. Peter Kotauczek, to 10/2004
Fa. Beko Ing. P. Kotauczek Ges.mbH.
Mag. Maria Kaun
Austrian Federal Economic Chamber
Dr. Josef Singer, from 11/2004

Central Works Council Representatives:

Heinz Rammel, Federal Office
Co-opted members:
Ingrid Weixlberger, Regional Office, Steyr
Silvia Krill, Provincial Office, Lower Austria

Deputies:

Government representatives:

Dr. Walter Sitek
Federal Ministry of Economics and Labour
Mag. Doris Landauer
Federal Ministry of Economics and Labour
Mag. Gerlinde Loibner
Federal Ministry of Finance

Workers' representatives:

Elisabeth Rolzhauser
Austrian Trade Union Federation
Mag. Ingrid Moritz
Federal Chamber of Labour
Mag. Silvia Hofbauer
Federal Chamber of Labour

Employers' representatives:

Mag. Veronika Kotzab
Federation of Austrian Industry
Dr. Josef Singer, to 11/2004
Dr. Helwig Aubauer
Austrian Federal Economic Chamber
Mag. Gabriele Straßegger, from 11/2004
Austrian Federal Economic Chamber

Central Works Council Representatives:

Georg Pirker, Regional Office, Klagenfurt
Co-opted substitute members:
Susanna Kamellor, Provincial Office, Vienna
Bernd Oberschmied, Provincial Office, Innsbruck

2. Board of Directors of the PES

Chairman:	Dr. Herbert Buchinger
Member of the Board:	Mag. Herbert Böhm

Ad E:

The Labour Market Service Act, BGBl. No. 313/1994 and the Labour Market Promotion Act, BGBl. No. 31/1969, as amended, provide for free access to all labour market services.

Article 1, paragraph 4

See remarks on Articles 9, 10 and 15.