

TWENTYTHIRD REPORT - PART I

on the implementation of **Articles 5, 6, 16 and 19**
of the EUROPEAN SOCIAL CHARTER
(Reporting period: 1 January 2003 to 31 December 2004)

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 5
THE RIGHT TO ORGANISE

Ad A, B and C:

No relevant changes

Supplementary questions of the Committee of Social Rights (ECSR) on Article 5 in Conclusions XVII-1

The Associations Act 2002 and its implementation with regard to trade unions:

The Associations Act 2002 applies to all (non-profit) associations in Austria (**Annex 1**). That means that there are no separate regulations in this matter for trade unions that are established in the legal form of Associations.

Workers' representation is not regulated by the Associations Act.

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

With regard to the right of non-EU/EEA citizens to stand for election to works councils (and to the general meetings of the Chambers of Labour), political talks were held in Austria, and have now been concluded, for the implementation of the judgment of the European Court of Justice of 16 September 2004 in the case RS-C-465/01 (Treaty Infringement Proceedings 1999/4115), in which the Court ruled that the relevant provisions of the Collective Labour Relations Act and the Chamber of Labour Act were in conflict with Community law.

As the result of these talks, an initiative was launched providing for the extension of the right to stand for election to works council in the Collective Labour Relations Act (and to the general meetings of the Chamber of Labour in the Chamber of Labour Act)..

ARTICLE 6
THE RIGHT TO BARGAIN COLLECTIVELY

Article 6 paragraph 1

No relevant changes.

Article 6 paragraph 2

Ad A and B:

Reference is made to previous reporting.

The decision of the Federal Conciliation Board on the award of the capacity to conclude collective agreements is required to be published in the "Amtsblatt zur Wiener Zeitung". As of 31 December 2004, 54 such institutions had the capacity to conclude collective agreements, on the basis of a ruling by the Federal Conciliation Board.

The collective agreements deposited with the Federal Ministry of Economic Affairs and Labour numbered 413 in the year 2003 and 464 in the year 2004.

Ad C:

No relevant changes.

Article 6 paragraph 3

Ad A, B and C:

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

Ad A:

The previous reporting should be updated as follows:

Mediation:

A model project – "Mediation in cases of divorce or separation" – restricted to the catchment areas of some 40 district courts – was expanded into a service available throughout the Republic. "Guidelines for the promotion of mediation" were issued, and funds for promotion activity were made available, under § 39 c FLAG, BGBl. No. 376/1967, as amended. The aim of promoting mediation in conflicts involving family and child law is to support the parties immediately involved by giving appropriate expert guidance, in the effort to obtain solutions on the basis of their increased responsibility in conflicts related to divorce, separation, custody and visiting rights, maintenance payments and the division of the joint property. Subsidised mediation is always offered by two mediators – preferably one female and one male – who must meet prescribed qualification standards. Couples wishing to divorce or separate can receive a grant towards the cost of mediation, depending on the amount of their joint income and the number of dependent children. €600,000 is available for that purpose in both 2005 and 2006.

A promotion instrument for projects of "Ongoing assistance to parents and children in divorce and separation situations" was also created under § 39 c FLAG, BGBl. No. 376/1967, as amended. Parents and children affected by separation or divorce are offered psychological help through the promotion of such projects. Preventive measures to avoid the negative consequences of separation and positive measures to help in coping constructively with separation or divorce are worked out in educational or therapeutic children's groups, in individual interviews with parents and children or in parent groups and seminars. €600,000 is available for that purpose in both 2005 and 2006.

Ad B:

The previous reporting should be updated as follows:

Family allowance:

The following payments were made out of the Family Allowances Equalisation Fund in the year 2004:

	2004	2002
Expenditure on family allowances -	€ 2,908,567,391	€ 2,738,372,407
Expenditure on family leave benefit, grants, supplements, part time allowance, part- time parental leave allowance 1st – 3rd year (expiring)	€ 61,331,066	€ 510,963,262
Expenditure on childcare benefit, supplement	€ 921,611,896	€ 152,236,550
Pension contributions for child rearing	€ 196,217,000	€ 123,544,000
Health insurance contributions	€ 72,673,000	€ 72,673,000
Mother-and-child passport bonus, infants' allowance	€ 314,653	€ 8,025,739
Contribution to company staff benefits	€ 234,686	€ 0
Re-employment assistance	€ 134,174	€ 432,438
Expenditure on other family benefits		
School travel, apprentices' travel allowances	€ 8,982,915	€ 2,047,893
Free travel for schoolchildren	€ 318,610,984	€ 305,784,769
Text books	€ 99,950,892	€ 95,065,429
Free travel for apprentices	€ 16,676,026	€ 15,923,878
Family hardship payments	€ 1,107,528	€ 1,121,590
Family Counselling Centres, subsidies	€ 10,898,251	€ 10,879,306
Other family subsidies (mediation, etc.)	€ 2,968,475	€ 2,162,414
Other family policy benefits (maternity allowance, enterprise assistance, Mother-and- child passport, pension contributions for persons providing long-term care for seriously disabled persons, pension contributions for adopted or foster children, accident insurance contributions for schoolchildren, contribution towards in vitro fertilisation, etc	€ 334,376,021	€ 358,958,018
Advances against maintenance payments	€ 98,356,611	€ 88,008,019
Total	€ 5,053,011,569	€ 4,486,198,712
Total income	€ 4,645,717,362	€ 4,519,461,461

Childcare benefit:

Since 1 January 2004, the childcare benefit for multiple births has been raised by 50% for the second and every further child.

In order to provide women drawing the childcare benefit with social insurance cover, they have health insurance while drawing the allowance.

Under the pension harmonisation reform, the acquisition of contributory periods in pension insurance was dissociated from take-up of the childcare benefit.

The present regulation is that, as from 1 January 2005, parents who had not yet reached the age of 50 on 31 December 2004 have compulsory pension insurance covering the first four (and, for multiple births, the first five) years after the birth. In this way, they acquire contributory periods.

As of the end of December 2004, 170,464 persons were drawing a childcare benefit.

Of that number, 28,410 persons (approximately 16.6%) were also drawing a supplement as of the end of December 2004, while 2,700 (approximately 1.6%) were drawing an increased childcare benefit on the basis of multiple births.

Family Hospice Leave – hardship allowance:

Persons who take up release from work, coupled with protection under labour and social insurance law, for the purpose of providing care and support to dying relatives or children suffering from severe illness (Family Hospice Leave) can receive an allowance out of the Family Hospice Leave Hardship Fund in the event of a resultant financial emergency.

In that context, the monthly income of the household (excluding family allowance, housing allowance, long-term care and childcare benefits) may not exceed €500.00 per person.

The monthly allowance is limited to the loss of income caused by take-up of Family Hospice Leave.

Supplementary questions on Article 16 in Conclusions XVII-1:

Childcare benefit:

The childcare benefit is in principle payable if there is also an entitlement to the family allowance. Reference is therefore made to the remarks on the family allowance with regard to the three-month minimum employment period. In addition, it is pointed out that the following regulation applies in cases where there is no entitlement to a family allowance:

Before the birth of the child, the parent wishing to draw the childcare benefit must have been in employment on the basis of which (births up to 31 December 2001 under the previous legal situation) there was an entitlement to the parental leave allowance or the part-time allowance.

This means either:

- (On initial claims) an employment period of at least 52 weeks subject to unemployment insurance within the last 24 months (reference period) before making the claim (in which context, compulsory insurance periods on the basis of self-employed activity have equal status), or
- Employment with a resultant entitlement to maternity allowance before the beginning of the maternity protection period, or
- Compulsory insurance under the Self-Employed Persons' Social Insurance Act or the Farmers' Social Insurance Act with resultant entitlement to a maternity allowance.

Ad point 1: In the case of a (fictitious) further claim, 26 weeks of employment within the last 12 months are sufficient. The reference period can be extended by at most three years.

This regulation was made on the introduction of the childcare benefit, in order to avoid any disadvantage in individual cases arising out of the new regulations regarding entitlement requirements. In practice, this regulation has proved to be scarcely necessary, chiefly owing to the EU enlargement, and will become less and less important.

New provisions in individual provinces:

Burgenland:

The Burgenland Family Assistance Act, LGBl. No. 20/1992, as amended, enables financial assistance to be given to the section of the population in Burgenland which has to bear the cost of caring for dependent children, special account being taken of the social aspect.

Under this Act, the Provincial authorities give financial support to families by granting

- A Family Bonus
- A school beginners' grant and
- Assistance in the event of multiple births.

There is no statutory entitlement to the grant of such assistance.

Eligible applicants for assistance:

Persons who are living together in a marriage or partnership or who are caring for at least one dependent child as lone parents, if they are entitled to family allowance for that child.

The applicant and the child living in the joint household must have their principal residence in Burgenland. The weighted per capita income or the maximum monthly income may not be exceeded.

Family bonus:

The family bonus is a monthly financial payment granted for a period of at most 12 months, as from the date of application, for children who have reached the age of 2 (after childcare benefit has been drawn) until the age of 7. The amount of the grant depends on the family weighted per capita income. The weighted per capita income is calculated from the applicable family income divided by the weighting factor. The weighting factor is calculated by adding the individual weightings of the individual family members, as follows:

Dependent adult	1.0 (€660)
Second adult	0.8 (€528)
Each dependent child	0.5 (€330)
Lone parents	1.2 (€792)

The family bonus is granted only if:

- Payments for similar purposes are not made by another local or Federal authority, a social insurance institution or any other body under public law,
- The weighted per capita income does not exceed €660.00. The amount of the bonus is at least €66.00, and at most €217.00 per month.

School beginners' grants:

Every child subject to compulsory school attendance receives a one-off assistance grant of €100.00 in the first year of primary school, subject to the following net monthly income limits:

€1,526.00 – marriages or partnerships with one child,
€800.00 – lone parents with one child.

As from the second child, the income limits are raised by €200.00 per child.

Multiple births:

A one-off grant is made as a contribution to offset the extra expenditure entailed by multiple births, as follows:

Twins	€700.00
Triplets	€1,000.00

Rising by €300.00 for each further child in multiple births.

Payment is made on application, against production of documentary evidence of the births.

Family car scheme:

The "family car scheme" was created in the year 2000, with retroactive effect to 1 January 1999. The purpose of this scheme is to grant families with more than four children a financial contribution from the Provincial authorities, amounting to €1,500.00, for the purchase of an appropriate automobile. Families or lone parents with at least four dependent children are eligible for the grant, provided that the net annual family income does not exceed €35,112.00. The grant is

made in respect of new, second-hand or leased vehicles that are licensed to carry at least six persons. The initial vehicle licence may not be older than four years on the date of purchase.

Family passport:

The Burgenland family passport for families and lone parents was introduced in September 2001. This free benefit and service card can be used to obtain special rates from approximately 400 partner enterprises in the leisure, cultural, commercial, trades, tourism and catering fields. Since January 2002, holders of family passports have had access to reductions in other Federal Provinces as well.

Document folder:

The document folder is intended for expectant parents and its purpose is to provide important information for families in all fields of life. Applications for the document folder can be made by means of vouchers available in the surgeries of Burgenland general practitioners and gynaecologists and from the Family Sections of local and regional government offices.

Assistance to families:

2003	Applications received	Applications granted	Total expenditure	No. issued
Family bonus	584	308	€ 800,102.00	
School beginners	333	227	€ 22,700.00	
Multiple births	16	15	€ 10,800.00	
Family cars	16	5	€ 7,500.00	
Document folder				904
Family passports				1,152
2004				
Family bonus	523	349	€ 862,900.00	
School beginners	306	178	€ 18,500.00	
Multiple births	37	33	€ 23,700.00	
Family cars	16	11	€ 16,500.00	
Document folder				934
Family passports				1,900

Carinthia:

Assistance to families:

This is granted under a voluntary assistance scheme of the Provincial Government of Carinthia for low-income families, to which there is no statutory entitlement. Whether or not a family supplement (FZ) is granted, is decided by the Family Fund Board according to the provisions of the Carinthian Family Assistance Act (K-FFG), LGBl. No. 10/1991, as amended.

According to § 7 (1) of that Act, the basis for calculating the amount of the family supplement is the weighted per capita income of the applicant and those persons who live in the joint household with the applicant.

The FZ can be granted up to the child's 10th birthday.

The weighted monthly per capita income was set at €510.00 for the 2003 calendar year and €528.00 for the 2004 calendar year. The amount of the family supplement is staggered according to the monthly income, which is calculated on the basis of the weighted per capita income, the following weighting factors being applied:

- 1.0 weighting units for a dependent adult
- 0.8 weighting units for a second adult
- 0.6 weighting units for each dependent child
- 1.2 units for lone parents.

In the event of an alteration in the living costs (consumer price index), the Provincial Government can set new income limits, by means of an Order.

The Carinthian childcare benefit

The purpose of introducing the benefit in the context of the pilot project for the Federal Province of Carinthia was to create a family- and child-friendly climate in Carinthia. In order to protect child rearing and childcare as important benefits for society and the future social and economic development of Carinthia, the Provincial Government declared its willingness to pay a voluntary grant for children.

The aim of the public authorities through the benefit was to support childcare. Every woman (every man) was to have the option of caring for the child himself/herself or of re-entering employment and financing suitable childcare with the childcare benefit.

The childcare benefit was granted to Austrian and EU citizens. It was payable for children up to the age of 3 and amounted to a maximum of €436.00.

Regulations for the allowance were contained in the "Guidelines on the Carinthian childcare benefit", which were adopted by Carinthian Provincial Government.

The pilot project began on 1 January 2001 and ran until 31 December 2004.

See also **Annex 2**.

Lower Austria:

School beginners' grant:

Since the autumn of 2004, families with two or more children, one of whom is attending the first grade of primary school, have received a grant towards school costs amounting to €100.00 (in the year 2004, over 12,000 families received such grants).

Multiple births grant:

The multiple births grant was also introduced in 2004. Under this scheme, families receive a one-off payment of €500.00 for twins, €1,000.00 for triplets, etc. (In the year 2004, the grant was paid in respect of 72 twin births and 13 triplet births).

The family car scheme:

The family car scheme supports families with four or more children. Jointly with special discounts from the automobile trade, the Lower Austrian Provincial Government pays a grant of €1,800.00 for new cars and €730.00 for second-hand cars.

Vorarlberg:

The principles and implementation of family assistance in Vorarlberg are regulated in the Family Assistance Act, LGBl. No. 32/1989. The benefits granted on the basis of the Act include the family supplement, the family passport, family weeks, and family-friendly communities, etc.

The Vorarlberg family supplement is intended to bring about better general conditions for families: the child's sense of security in the family is promoted by ensuring that his/her education and care are provided by a parent. In addition, a socially balanced system of grants ensures relief of the financial burden on families, particularly on lone parents. Overall, the system is an expression of the greater value attached to the family as an important basic unit of human society. In the year 2004, 1,119 persons drew family supplements totalling approximately €2.15 million.

Ad C:

Family Counselling Centres:

Overall, some 344,000 hours of counselling were provided in the subsidised Family Counselling Centres in 2003, including some 183,000 hours by social workers or marriage and family counsellors, some 68,000 hours by psychologists, 43,000 hours by educationalists and 26,000 hours by lawyers.

Expenditure on assistance under the Family Counselling Promotion Act has risen since 2000 from approximately €9.3 million to the present level of some €11 million (end of 2004). This increase in funds made it possible to fund 52 new Counselling Centres in regions some of which had previously been under-provided.

Financing:

Personnel costs in the subsidised family counselling centres accounted for the following disbursements from the Family Allowances Equalisation Fund (covering the whole of Austria):

	€ million	ATS million
2000	9.3	127.49
2001	10.3	141.07
2002	10.9	
2003	10.9	
2004	10.9	

In 2003, 225,000 persons attended Family Counselling Centres and 465,000 counselling contacts were made. Owing to the anonymity of the clients, duplication cannot be ruled out.

Some 443,000 of the counselling contacts (i.e. 95% of total counselling sessions), with 212,000 persons, took place in the subsidised Counselling Centres of private and religious organisations.

Socio-demographic breakdown of family counselling clientele in 2003

Gender

Male	30.8%
Female	69.2%

Age

0-6	2.4%
7-14	5.3%
15-19	5.9%
20-29	16.5%
30-39	28.2%
40-49	21.0%
50-59	8.8%
Over 60	3.9%
Not known	8.1%

Country of origin

Austria	8.8%
EU	2.3%
Other neighbouring country	3.4%
Other European country	4.5%
Non-European country	4.2%
Not known	6.8%

Number of children (couples' own children)

None	29.1%
One	20.0%
Two	24.4%
Three	10.0%
Four	3.0%
Five	0.9%
Six	0.3%
More than six	0.2%
Not known	12.2%

Number of children in the joint household

None	33.7%
One	21.0%
Two	21.4%
Three	7.4%
Four	2.0%
Five	0.5%
Six	0.1%
More than six	0.2%
Not known	13.7%

Marital status

Single	30.7%
Married	43.1%
Divorced	13.2%
Widowed	1.8%
Not known	11.2%

Highest completed educational level

Primary school	4.4%
Compulsory education	12.5%
Apprenticeship/Lower secondary	24.9%
Upper secondary/vocational school	14.6%
Higher education	9.5%
None	4.5%
Not known	29.7%

Present employment status

Gainfully employed – full-time	30.4%
Gainfully employed – part-time	14.3%
Unemployed/emergency situation	10.9%
Parental leave	5.1%
Trainee	11.1%
Housewife/house husband	7.6%
Pensioner	5.7%
Not known	14.8%

Counselling recommended by:

Individual, e.g. partner, relative, supervisor	26.4%
Another client, based on personal experience	15.3%
Media/PR, e.g. press, radio, TV, posters – client's own initiative	13.7%
Therapeutic establishment, e.g. hospital, doctor, advisory unit, psychotherapist	10.7%
Educational establishment, e.g. kindergarten, school, adult education establishment	5.0%
Legal establishment, e.g. lawyer, court, probation officer	3.5%
Other offices and institutions. e.g. Youth office, Health office, Labour office, Social office, religious bodies	9.6%
Not known	15.8%

Special focal points:

In principle, the aim is to ensure that comprehensive counselling on all the subjects mentioned in the Family Counselling Subsidisation Act is available from interdisciplinary teams.

In urban areas in which the provision of family counselling centres is already relatively satisfactory, counselling centres dealing with special topics have also been established.

With regard to the focal point "Violence in the family", 17 child-protection centres are being subsidised that offer specialised counselling in such cases. Vienna also has two counselling centres dealing with cases of sexual abuse.

Furthermore, 21 Family Counselling Centres are at present specialising in the family problems of disabled people and their relatives.

Under the project on "Mediation – Support Services in Divorces", 65 Family Counselling Centres have now set up outlying units attached directly to the district courts, so as to be able to offer psychosocial and legal counselling when the courts are in session.

Vienna, Graz, Linz, Innsbruck and Tulln have Family Counselling Centres specialising in counselling for foster and adoptive parents and their special family situations.

Vienna has a specialised family counselling centre for relatives of the mentally ill and drug-dependent persons and a counselling centre focusing on same-sex and transgender lifestyles.

Problems dealt with in the 465,000 counselling contacts in 2003, by category:

Problem category	
Separation/divorce – visiting rights – maintenance	15.6%
Education – childcare – school – emotional breakaway of children	15.5%
Marital conflicts – communication – role allocation – sexuality	15.5%
Psychological problems	10.8%
Violence in the family – abuse – maltreatment	8.8%
Pregnancy – contraception – family planning	6.5%
Financial – economic – housing problems	4.1%
Other family conflicts	4.1%
Medical problems	3.9%
Occupational problems – unemployment – re-employment	3.0%
Disablement	2.8%
Legal problems	2.6%
Traumatic experiences	2.1%
Migrants – psychological – legal – financial problems	2.1%
Alcohol – drugs – other addiction	2.0%
Sects – ideological questions	0.6%

Childcare facilities:

Highly varied childcare facilities are available in Austria, including the following services for families:

Alternatives to institutional care:

Au pairs (care in the home)
 Flying nannies
 Rent-a-Grandma/Rent-a-Grandpa
 Childminders (m/f)

Crèches:

Toddlers' groups, crèches for infants

Childcare centres:

Kindergartens
 Works kindergartens
 Day-care centres for children (Status/Operators: public, private, Federal, Provincial, local authority, works, associations, Catholic, Protestant, private persons)
 Childcare facilities (e.g. day-care centres, children's groups)
 Playgroups (e.g. children's groups managed by parents)

After-school care:

Schoolchildren's groups
 Childminders (m/f)

Combined school + day-care (lessons in the forenoon, lunch and afternoon care – not operating on non-school days)

All-day schools (alternating lessons and care periods; not operating during school vacations)

After-school centres

Care during school vacations:

Seasonal facilities (operating during school vacations)

After-school centres (sometimes open all year round)

Crèches, children's groups and other facilities are intended for the care during the day or part of the day of children not yet subject to compulsory education. As a rule they may be operated only with the consent of the district administrative authority; licences are granted only if the equipment and management of the facility guarantee appropriate and responsible care for the children.

One of the most important purposes of these childcare facilities, and of the kindergartens and after-school centres, is to make it possible to reconcile family responsibilities and employment.

Crèches are intended for the day-care of children up to the age of 3, if care cannot be provided within the family.

After the age of 3 and until reaching school age, children can be cared for in public and private kindergartens.

As from 1 January 2005, €700,000.00 from the Family Burdens Equalisation Fund has been at the disposal of the Federal Ministry of Social Security, Generations and Consumer Protection for promoting the reconciliation of family responsibilities and employment by expanding childcare facilities. The aim of promoting childcare facilities is to improve childcare places by means of one-off subsidies for innovative childcare, taking special account of the need for flexibility in response to demand for such facilities.

The numbers of crèches and infants cared for have risen steadily in recent years:

Year	Number of crèches	Number of infants
1990/91	296	6,617
1991/92	293	6,392
1992/93	316	6,751
1993/94	337	7,110
1994/95	355	7,260
1995/96	374	7,627
1996/97	403	8,145
1997/98	434	8,595
1998/99	499	9,699
1999/2000	548	10,489
2000/01	590	11,027
2001/02	680	12,092
2002/03	752	12,414
2003/04	753	13,141

The number of kindergartens has steadily increased in recent years also. However, for the first time, there has been a decrease in the number of children cared for owing to the declining birth rate.

Year	Number of kindergartens	Number of children
1990/91	3,915	185,247
1991/92	3,983	187,031
1992/93	4,084	192,719
1993/94	4,212	199,928
1994/95	4,308	205,831
1995/96	4,378	210,940
1996/97	4,467	215,837
1997/98	4,610	218,935
1998/99	4,675	219,904
1999/2000	4,773	219,377
2000/01	4,801	219,309
2001/02	4,849	218,439
2002/03	4,891	216,571
2003/04	4,892	210,848

In terms of the total population (2003/04), the attendance rate was 65.6% for 3-year-olds, 90.4% for 4-year-olds, and 94.6% for 5-year-olds.

Parenting instruction:

Parenting instruction is a valuable instrument of further education for mothers and fathers to support them in day-to-day questions of child rearing. The Federal Ministry of Social Security, Generations and Consumer Protection has been subsidising high-quality parenting instruction projects since the creation of the statutory basis for such subsidies under the Family Burdens Equalisation Act in the year 2000. As a result, the provision of affordable parenting instruction has been substantially expanded throughout Austria.

The continuous take-up of the facilities is ensured through targeted public relations work. The www.eltern-bildung.at website will be continued as the follow-up of an awareness creation campaign conducted in the year 2002. The site gives information on the significance of parenting instruction, offers the possibility of pooling experience with other parents and experts in chats and Internet forums. In addition, weekly news-sheets, monthly focal point programmes and tips on literature and links stimulate further reading. However, above all, fathers and mothers are motivated to take up the comprehensive offers presented in an continuously updated calendar of events.

These activities are closely linked to a sharply rising demand for parenting instructors who have received comprehensive basic and further training on educational methods in line with the latest scientific findings. On the instructions of the Ministry, experts in adult education prepared a curriculum for the training of parenting instructors. Institutions that carry out parenting instruction according to the quality standards laid down in the curriculum are awarded a quality seal for their courses.

The award of a certificate with a quality seal positively identifies persons who have received such comprehensive training. Parenting instructors who have been working in the field for many years will be offered the award of a certificate with a quality seal through further training. Such basic and further training programmes are co-financed under parenting instruction subsidisation measures.

In order to satisfy a wide variety of needs for access to courses for mothers and fathers, the Ministry issues Parents' Non-Violent Education Newsletters. Their purpose is to contribute towards improving the quality of life and relationships for children and parents. They appear in the following publications, corresponding to children's development phases:

- The first 8 weeks
- The first year of life
- From the first to the third birthday
- 3 to 6 years
- 6 to 10 years
- 10 years upward

In addition, work is proceeding on the issue of parenting instruction in digital form. CD-ROMs for prospective parents and parents of children up to the third birthday are to be issued in the year 2005.

The following innovations have been announced by the Federal Provinces:

Childcare facilities:

Lower Austria:

Childcare assistance for working parents:

Since 1982, under the "Lower Austrian Childminder Promotion Scheme", the Province of Lower Austria has been assisting organisations that offer working parents help in childcare. This assistance can be awarded to parents according to the so-called "weighted per capita income", that is to say, dependent on income, family size and the age of the children.

Grant of a contribution towards the costs of children's travel to a kindergarten:

The Lower Austrian Government grants parents and local authorities a contribution towards the travel costs of children attending kindergartens.

Financial assistance by Lower Austria for day-care and after-school centres:

Under § 6 (3) of the Lower Austrian Childcare Act, LGBl. No. 5065-0, the Lower Austrian Provincial Government provides financial assistance to parents whose children are accommodated in day-care facilities (children's groups, crèches or after-school centres). On application, families in Lower Austria can receive supplements to the care allowance for each child accommodated in a day-care facility. The amount of this supplement is calculated according to the so-called "weighted per capita income", that is to say, depending on income, family size and age of the children.

In addition, the Lower Austrian Provincial Government and the local authorities provide bodies organising childminder services and the operators of day-care facilities and after-school centres with financial support on the basis of the Lower Austrian Childcare Act 1996, by means of grants towards personnel and training expenditure, if there is need within the meaning of the Act.

Mobile mums

These childminders look after children up to the age of 15 in the homes of their families. At the moment, some 50 mobile mums are providing such services, and further expansion is planned.

Grandma/Grandpa exchange

This plan was also launched in the year 2004 to provide care by the hour for children. Five partner organisations make available the services of senior citizens and also offer initial training.

Afternoon care action team

Since January 2004, an advisory team has been available for local authorities and school head teachers.

In addition, a new scheme was introduced which makes available up to €10,000.00 for each local authority towards the personnel costs of educators in full-day schools, for new care facilities.

Vorarlberg:

In playgroups, families are offered supplementary care for infants in social learning through playing with children in their own age groups. In the year 2004, a total of 77 playgroup initiatives applied for a Provincial subsidy. 1,531 children were cared for in these playgroups. The groups are subsidised to the amount of €156,700.00 out of Provincial funds.

As of 31 December 2004, 273 children were being cared for by a female childminder from the Day-Care Association. As of the end of 2004, in all, 3,928 children were accommodated in 44 childcare facilities, 10 care facilities for schoolchildren, 34 care facilities attached to schools and 4 half-day facilities – (children cared for in kindergartens are not included in that number). Of these, 2,572 children were of school age.

Most childcare facilities are operated by private legal entities. However, facilities for the care of schoolchildren are almost exclusively operated by local authorities. The Provincial authorities subsidise childminder services, care facilities for pre-school and schoolchildren - including facilities attached to schools - and vacation homes. Childminder services, facilities for the care of pre-school and schoolchildren offer care all the year round (except for a vacation period of five weeks). Childcare during the holidays is possible with the help of childminders. Seven vacation hostels in Vorarlberg offer recreational weeks in the summer holidays for children aged approximately 5 to 12. Apart from that, the local authorities are continuously expanding their vacation services.

In addition to these services, Vorarlberg has 16 parent-and-child centres, which received financial assistance of €35,512 in 2004.

Further childcare services in Vorarlberg are a regional wide network of kindergartens, baby sitter services, the Rent-a-Grandma service, etc.

The availability of childcare outside the family has been further expanded. In addition to the creation of new places for the care of infants and the whole-day care of pre-school children, facilities were expanded especially with regard to the care of schoolchildren.

In order to facilitate access by parents to these forms of care and also to family-related services, a special Information and Service Office was set up in the Province. In addition to these advisory services, that unit also has the task of supporting local authorities, enterprises, schools, etc. in setting up care facilities for pre-school and schoolchildren.

Supplementary questions on Article 16 in Conclusions XVII-1:

Childcare services:

Within the framework of the “kindergarten billion” scheme (1997-2000), the provision of childcare facilities was expanded as follows. From 1997 to 1998,

18,799 additional places were created for pre-school children. From 1999 to 2000, 13,389 additional places were made available, including 1,112 places in works kindergartens. Thus, in total, 32,188 places were created.

Thereafter as well, the number of childcare places increased continuously. From 2001 to 2003 the number of crèches rose by just under 11% and the number of children cared for rose by 8.6%.

The number of kindergartens rose by 0.9%, but there was a distinct decrease in the number of children cared for (7,591), because of the declining birth rate.

The number of after-school centres rose by 16.4% from 2001 to 2003, and the number of children cared for rose by 11.2%.

At present, the proportion of children cared for is 11% for children up to the age of 3, 85.2% for children in the 3-6 age group, and 17.5% in the 6-10 age group. (Position: August 2004, Report: "Future Take-up of Childcare Facilities 2004").

According to the statistical survey "Future Take-up of Childcare Facilities 2004" there is at the moment a need for a further 18,154 care places for children and young people under the age of 14 in Austria.

Ad D:

No relevant changes.

Ad E:

Construction Activity in 2002:

Following to a systematic change in the system of recording data concerning the construction activity we had to accept that for the year 2003 the data could not be collected as needed. In future the data will not be collected by direct interviews of the builders but by collecting data through the communities with a register for the addresses, the buildings and the dwellings. This means that the most recent figures of the construction activity date from the year 2002.

In the year of 2002 41,914 dwellings have been completed in Austria. 34,221 of these dwellings are newly built dwellings, whereas 7,693 dwellings were completed by enlargements or transformation of existing dwellings. The dwellings completed per 1,000 inhabitants amounted in 2002 to 5.2 (average of Austria).

A comparison of the dwellings completed per 1,000 inhabitants according to the federal provinces gives the following table:

Burgenland	6.5
Carinthia	6.1
Lower Austria	5.5
Upper Austria	4.2
Salzburg	5.3
Styria	5.4
Tyrol	8.3
Vorarlberg	6.1
Vienna	3.6

A classification of the completed dwellings according to residential developers shows, that in 2002 49 % of the newly completed dwellings were built by private persons, 32 % by non profit building societies, 18 % by other legal entities and 1 % were built by territorial authorities.

A classification of the above-mentioned 41,914 dwellings completed according to the type of tenure shows, that 20,317 (48 %) of the dwellings were completed by the house owner, the share of the owner-occupied dwellings amounted to 7,590 (18 %), the share of rented dwellings amounted to 12,106 dwellings (29 %) and finally the share of dwellings with other legal entities amounted to 1,901 dwellings (5 %).

The average usable floor area of the dwellings completed in 2002 amounted to 103 m². It is remarkable that dwellings completed by private persons have a usable floor area of 122 m², whereas the usable floor area of dwellings completed by territorial authorities amounted only to 66 m² on average. Dwellings completed by non profit building societies had on average a usable floor area of 74 m².

Classification of the existing housing stock according to the federal provinces:

The following table illustrates, that within the Census of Houses and dwellings 2001 was registered a total of 3.9 million dwellings.

	Census of houses and dwellings 2001
Burgenland	126,269
Carinthia	260,541
Lower Austria	738,235
Upper Austria	604,299
Salzburg	238,480
Styria	532,470
Tyrol	303,632
Vorarlberg	148,591
Vienna	910,745
Austria	3,863,262

Technical equipment of dwellings in Austria:

Within the microcensus takes place a classification of the **inhabited dwellings** (main residences) in the following categories:

- Category A: dwellings with bathroom, WC and central heating
- Category B: dwellings with bathroom, WC and individual firing
- Category C: dwellings with WC and water supply within the dwelling
- Category D: dwellings without WC

In the annual average of 2003 2,877,200 or 88.3 % of the inhabited dwellings (main residences) in relation to the total sum of 3,258,600 dwellings belong to the category A, this means to the best equipment category. The following table illustrates the classification of the inhabited dwellings (main residences) according to the equipment category and to the federal provinces for the annual average of 2003:

Federal Province	Dwellings (main resi- dence) total	Category			
		A	B	C	D
	in 1.000				
Burgenland	103.0	92.9	8.5	0.4	1.2
Carinthia	213.4	188.4	22.6	1.3	1.1
Lower Austria	590.6	523.2	50.7	5.1	11.6
Upper Austria	533.0	489.8	35.1	4.5	3.6
Salzburg	205.2	183.1	19.3	1.4	1.3
Styria	442.7	401.0	33.3	3.5	5.0
Tyrol	259.2	214.2	41.2	2.1	1.7
Vorarlberg	132.0	117.0	13.8	0.9	0.3
Vienna	779.6	667.6	38.7	9.5	63.8
Austria	3,258.6	2,877.2	263.2	28.6	89.6

	%				
Burgenland	100.0	90.2	8.2	0.4	1.2
Carinthia	100.0	88.3	10.6	0.6	0.5
Lower Austria	100.0	88.6	8.6	0.9	2.0
Upper Austria	100.0	91.9	6.6	0.8	0.7
Salzburg	100.0	89.2	9.4	0.7	0.6
Styria	100.0	90.6	7.5	0.8	1.1
Tyrol	100.0	82.6	15.9	0.8	0.7
Vorarlberg	100.0	88.6	10.5	0.7	0.2
Vienna	100.0	85.6	5.0	1.2	8.2
Austria	100.0	88.3	8.1	0.9	2.7

**Dwellings used against payment according
to federal provinces
and housing expenses**

Annual average 2003

	Number dwellings (x 1,000)	of Average housing expenses per dwelling in €	Average housing expenses per m ² useful floor area, in €
Burgenland	13.6	285	3.45
Carinthia	79.3	288	3.94
Lower Austria	169.6	298	4.21
Upper Austria	220.4	313	4.45
Salzburg	106.5	367	5.46
Styria	191.2	325	4.57
Tyrol	122.7	362	4.91
Vorarlberg	57.9	444	5.87
Vienna	711.1	315	4.62
Austria	1,672.3	324	4.63
of it:			
owner occupied	338.8	312	3.83
rented dwellings	1,254.2	329	4.89

Source: Microcensus, results of the year 2003, Statistik Austria

Households and families in the year 2003

(x 1,000)

Total of residential population	8,067.3
dwellings with main residences	3,258.6
Total of households	3,278
of it: households with single persons	1,035
multiperson households	2,243
Persons in households	7,932
average size of households	2.42
Total of families	2,262
of it: without children	839
with children	1,422
of it: with children under 15 years	833
Total of parts of families	287
of it: with children under 15 years	128
single-educating mothers	244
of it: with children under 15 years	115
single-educating fathers	45
of it: with children under 15 years	13

Source: Microcensus, results of the year 2003, Statistik Austria

Comments of individual Federal Provinces:

Lower Austria (NÖ.):

Lower Austria has the Lower Austrian Housing Subsidisation Act (NÖ. WFG), LGBl. 8304 of 1989, which was most recently amended in 1994.

Subsidies are granted for:

1. The construction and refurbishment of houses, dwellings and hostels and

2. The purchase of houses and dwellings by means of loans, grants and housing allowances. Housing allowances can also be granted to tenants or authorised occupants of a dwelling (house).

Subsidisation of new construction (2004) in €

Rounded to nearest € 10,000

Owner-occupied dwellings

Awarded in	7 government meetings
Applications (submitted)	2,270
Dwelling units (authorised)	4,511
Authorisation - loans	€ 144,400,000
Disbursement	€ 153,310,000

Multiple dwellings:

New construction

Awarded in	5 government meetings
Thereof: new applications	290
(Follow-up subsidies)	299
Dwelling units	4,153
	3 doctors' surgeries
Authorisation	
Annual grants	€ 11,330,000
Loans	€ 127,470,000
Disbursement	
Annual grants	€ 97,920,000
Special Federal Housing Construction Act 1983	€ 5,420,000
Loans	€ 235,990,000

Refurbishment subsidies (2004) in €

Small houses (old housing stock):

Applications (submitted)	6,850
Dwelling units (authorised)	8,788
Authorisation – annual grants	€ 6,830,000
Grants – disbursement	€ 30,920,000

Multiple dwellings

Refurbishment of old housing stock:

Awarded in	10 government meetings
Applications	171
Dwelling units	4,122
	9 doctors' surgeries, 3 homes and misc. follow-up subsidies
Authorisations	
Annual grants	€ 2,140,000
Loans	€ 5,040,000
Disbursement	
Annual grants	€ 13,830,000
Loans	€ 9,160,000

Subsidies for individuals: housing allowance and supersubsidies:

Housing allowance:

Applications	7,191
Authorisations	5,568
Amounts authorised (official notices)	€ 6,850,000
Disbursement	€ 7,480,000
Total official notices	7,723

Supersubsidies:

Applications	18,291
Authorisations	15,886
Amounts authorised	€ 26,660,000
Disbursement	€ 26,230,000

Supplementary questions on Article 16 in Conclusions XVII-1:Export of the family allowance:

In essentials, Austria agrees with the argumentation of Professor Mikkola. In this context, the Committee of Social Rights takes as the basis for its conclusion EU Regulation 1408/71, which is closely connected with the principle of the free movement of persons applicable in the EU. However, the European Social Charter does not guarantee that principle. It should also be considered that the interpretation of the Committee of Social Rights cannot be regarded as being restricted to the family allowance. The concept of indirect discrimination would call in question the place of residence systems in general. In particular, it would also affect health systems. Under the residence system, the grant of benefits in

kind in the event of sickness is possible only for family members who reside in the State in question. The grant of benefits in kind to family members in the home State is made possible only by appropriate bilateral or multilateral agreements.

In addition, it should be pointed out in this context that the Austrian Administrative Court ruled – in brief – in its judgment B2366/00-10 of 4 December 2001, that the refusal of a family allowance for a child living in Turkey did not constitute an infringement of constitutionally guaranteed rights. In its view, owing to the possibility of income tax benefits in respect of a maintenance obligation towards under-age children, there was no objection to a regulation under the Family Burdens Equalisation Act 1967 excluding payment of a family allowance for children permanently resident abroad.

Entitlement of non-EU/EEA citizens to the family allowance:

The criticism of the Committee of Social Rights was forwarded to and noted by the competent departments.

With regard to the childcare benefit, reference is made to the comments on question B.

With regard to the large family supplement, it should be pointed out that the law does not stipulate a minimum residence requirement. According to §§ 9 ff of the Family Burdens Equalisation Act 1967, the grant of a large family supplement depends on an entitlement to a family allowance and is paid for every third and further child, provided that a certain level of family income is not exceeded.

Provincial housing subsidies:

Some of the time subsidies for housing construction and refurbishment and housing allowance are restricted to Austrian nationals or EU/EEA nationals, but the partner of the applicant for a promotion need **not** be Austrian national (*Burgenland*) or they are subject to length of residence's conditions (*Vienna*).

In the federal province of **Lower Austria** there will be done no distinction of nationality of foreigners to get promotion measures in the following sectors: renovation measures; purchase of a promoted dwelling which will be renovated within the framework of renovation of the existing building stock; to rent an existing and promoted dwelling; promotion of boilers or of district heating; promotion of the construction of solar plants and of heating pumps.

In the federal province of **Tyrol** there is a minimum length of five years residence's conditions only if housing allowances are granted according to article 17 para. 4 TWFG (Housing Promotion Act of Tyrol). But in special cases of need exceptions of these residence's conditions are possible.

In the federal province of **Vorarlberg** exists also a minimum length of residence's conditions but this concerns both nationals of other countries and also Austrian citizens. In this case a discrimination is not given.

Housing conditions of the elderly:

New developments:

The federal authorities recently took important steps towards improving the legal position of the inmates of old people's and nursing homes and comparable facilities under two projects. By alterations to the Consumer Protection Act stipulating provisions on contracts with such homes, standard nationwide guidelines on contractual provisions in this area were introduced. The purpose is to make contracts with homes transparent and comprehensible, to improve the position of the inmates under contract law and to ensure their social protection. The new provisions entered into force as of 1 July 2004. The Home Residence Act, which for the first time regulates the thorny question of the permissibility of restrictions on freedom in old people's and nursing homes and comparable facilities should also be mentioned. Residents in such facilities are provided by law with a representative who can protect their interests vis-à-vis the home, if necessary, in court proceedings. At the same time, the Act creates the possibility of subjecting restrictions of freedom to monitoring by the courts. The new Act will enter into force on 1 July 2005.

Developments in the Federal Provinces:

Tyrol:

Old people's and nursing homes in Tyrol are managed almost exclusively by local authorities/associations of local authorities under private law, and by charitable organisations (religious orders, foundations, funds).

At present (2003/2004/2005) the Provincial authorities of Tyrol have concluded a so-called framework contract with 74 such operators of old people's and nursing homes (long-term care institutions under the Tyrolean Social Assistance Act). In addition, Tyrol has a small number of private, profit-oriented institutions (approximately 8) that have no framework contract with the Province.

In the year 2004, the 74 institutions with a framework agreement had available approximately 4,730 residential/care places (residential and care places approximately in the ratio of 25:75) with an average take-up level of about 95%.

In the year 2004, the Tyrolean old people's and nursing homes with framework agreements had approximately 3,037 staff, two-thirds in the care sector and one-third in the operational sector (management/administration, kitchen, cleaning, etc.).

The efforts to create long-term care places, which have been more intensively pursued in recent years, will be further strengthened in Tyrol, especially in view of the increased demand for such institutions.

With regard to innovations affecting old people's and nursing homes in Tyrol, reference is made in **Annex 3** to the Tyrolean Homes Act 2005. The purpose of the new Act is to protect the rights and interests of home inmates and of persons who wish to be admitted to a home in the foreseeable future, to safeguard their human dignity, safeguard and promote their independence, self-determination and individual responsibility as well as to guarantee the quality of care and

provide a network of intramural services appropriate to the level of needs that will ensure that persons requiring help, short- or long-term care, in particular the elderly, can lead a life worthy of human dignity.

The social assistance system in Tyrol is also to be regulated by a new statute in the foreseeable future.

Ad F:

Reference is made to the comments on question C.

Ad G:

No relevant changes.

ARTICLE 19
**THE RIGHT OF MIGRANT WORKERS AND THEIR FAMILIES TO
PROTECTION AND ASSISTANCE**

Article 19 paragraph 1

Ad A:

The previous reporting should be updated as follows:

Foreign workers can apply at any time for labour market information to the offices of the Public Employment Service (PES), in some of which interpreters are available.

For assistance to the Public Employment Service offices, private law institutions throughout Austria have been commissioned to organise counselling services for migrants. The counselling and service staff financed by the Public Employment Service are mainly engaged in solving the labour market problems of these groups of persons, intensive attention being devoted to the problems of the second and third generations of migrants living in Austria. Counselling is also offered in the mother tongue to migrants newly entering the labour market and to persons with very poor knowledge of German; as an alternative, the services of interpreters can be used. Co-financing of the counselling services by other public sector institutions makes possible more comprehensive counselling and facilitates integration efforts.

Throughout Austria, In the year 2003, 16 counselling offices for migrants and a counselling office for the Roma ethnic group were subsidised by the Public Employment Service to a total amount of €3.185 million. That made it possible to employ 91 labour market counsellors (including 6 persons in the service for the Roma ethnic group).

In the year 2004, Public Employment Service subsidies to the 14 counselling offices for migrants and the Roma ethnic group service (including 6 counsellors in the Roma ethnic group service) totalled €3.056 million. Merging individual counselling services in Styria and Vorarlberg led to a slight reduction in Public Employment Service subsidies as compared with 2003.

Ad B:

No relevant changes.

Ad C:

No relevant changes.

Supplementary question on Article 19 paragraph 1 in Conclusions XVII-1:

Action against racism and xenophobia:

It should be pointed out that great importance is attached within the sphere of competence of the Federal Ministry of the Interior (BM-I) to the subjects of racism, xenophobia and action against discrimination in the basic and continuous further training of police officers.

Since 2001, the Anti-Defamation League (ADL) seminar programme "A World of Difference" has been organised jointly with ADL within the area of the BM-I in the context of further training. The participants are drawn from all departments and are assigned according to a rota system, so that all organisational units are covered. Since 2004, implementation has also been mandatory in the framework of basic training.

External experts are intensively involved in the above-mentioned "A World of Difference" seminars, in order to provide as varied an access to these subjects as possible. The Austrian Human Rights Advisory Council has been and is involved in the planning of these seminars.

The programme is continuously evaluated to ensure quality and optimisation of the content of the seminars – again consulting external experts. The instructors (internal and external) are kept up to date through mandatory refresher training, so that there is also permanent evaluation of the conduct of the courses and the material taught.

External experts are also involved in all the basic and further training courses in human rights and most of them are also active as trainers.

In the area of the basic and further training for the police, numerous courses and activities are offered by the Sicherheitsakademie (Security Academy) (SIAK) to create awareness among male and female police officers with regard to respect for human rights.

Examples of seminars offered:

- Police and African men and women
- Police action in a multicultural society
- Foreigners in our country
- Intercultural pilots

The topic of "Human Rights, Ethics and Police Action", defined as the central theme for the years 2003 and 2004, comprises the broadest possible base of subjects that have in past years been incorporated again and again as focal points in basic and further training. Many varied activities are devoted to "temporary focal point targets", which have special significance in further training.

The tension often observed between human rights and police action is dealt with comprehensively through the focal point approach, covering both racism in general and racism within the police.

Article 19 paragraph 2

Ad A and B:

Reference is made to previous reporting.

Since the reform of 1 January 2003, the Act Governing Employment of Foreign Nationals provides in principle for two procedures for the initial admission of workers who are nationals of third States:

The new key personnel admission procedure for highly qualified workers with special knowledge and skills in the framework of a separate quota in the annual establishment Order:

After submission of applications by the potential employers and an interdepartmental verification procedure with the Public Employment Service (one-stop-shop principle) regarding their qualifications as key personnel and the satisfaction of other requirements under labour market law, such key personnel receive from the aliens authority an establishment permit (as key personnel), which entitles them, without any further legal formalities, to engage in the authorized occupation with a particular employer for a maximum of one year.

The conditional assurance or employment permit procedure for the initial admission of workers employed for a fixed-term and for integrated aliens without entitlement to a permanent work permit or establishment permit:

With the conditional assurance, which is issued to the employer by the Public Employment Service provided that the requirements under labour market law are met, the foreign worker as a rule receives a residence permit from the Austrian mission abroad or from the aliens authority, subject to meeting the requirements under aliens law. On submission of the two documents, the employer receives an employment permit from the Public Employment Service (PES) and may then recruit the foreign worker. In the case of integrated aliens, an employment permit is awarded on principle if the requirements under labour market law are met and given special socio-humanitarian considerations.

Since 1 January 1998, a medical examination has no longer been required as a prerequisite for granting an employment permit.

Neither of these two procedures is necessary if the third-State national holds a work permit, an exemption certificate or a proof of establishment.

An alien receives a work permit on application to the Public Employment Service if he has been employed in the regular labour market for 52 weeks in the last 14 months. It is issued for two years and is valid only in the Federal Province of issue. An exemption certificate is awarded to foreigners who do not hold an establishment permit but have been employed in Austria for at least five years (in the last eight years), or have been married to an Austrian citizen for at least five years, or, in the case of young people, have attended the last year of their compulsory education in Austria, or have so far been exempted from application of the Aliens' Employment Act as favoured third-State family members of an Austrian or other EEA citizen and have been lawfully resident in Austria for at least two-and-a-half years in the previous five years. Permanent work permits are issued for five years in each case and entitle the holders to take up any work throughout Austria.

Subject to meeting certain requirements under the law concerning aliens (good behaviour, integration agreement, secure maintenance or income, etc.), foreigners are issued proof of establishment by the aliens authority (on application) after five years of lawful establishment or on the basis of their status as favoured family members of an EEA citizen or of an Austrian after two years of main residence in Austria. The proof of establishment combines an indefinite right of establishment with unrestricted access to the labour market in a single document.

In a slightly modified manner the above-mentioned rules for third-state national also apply - for the duration of the transitional provisions on the free movement of persons set down in the Accession Treaty of Athens of 16 th April 2003- to the initial labour market admission of nationals of the eight Central and East European countries which became Member states of the EU on 1st of May 2004. Since the right of establishment is not subject to the transitional provisions, the establishment quota (for third state nationals) is not applicable to the nationals of these new EU-member states, they therefore may enter and reside in Austria without a visa or residence or establishment permit. However, for their initial admission to the labour market the employer has to apply for an employment permit which may be issued if the requirements of labour market law are met - especially if he/she is a key worker. According to the Accession Treaty the principle of community preference provides that nationals of new EU member states enjoy priority against a third-state national who has no integration degree in Austria if a position cannot be filled by unemployed Austrian citizens or nationals of the EU-15 or integrated third-state nationals.

After having been admitted to the Austrian labour market uninterruptedly for one year or fulfilling the requirements for a work permit or an exemption certificate or a proof of establishment, the nationals from the new member states enjoy free access to the labour market in Austria. After they make a declaration to this effect to the Public Employment Service, they may be issued with a special document called confirmation certificate (according to Article 32a of the Act Governing

Employment of Foreign Nationals) which gives proof of their status. Family members of such integrated workers from the new Member states also have free access to the Austrian labour market provided they had been legally resident in Austria on 1st of May 2004 (day of accession) or as soon as they have been legally resident in Austria for 18 months or immediately after 1st of May 2006. They also may be issued with a confirmation certificate.

Article 19 paragraph 3

No relevant changes.

Article 19 paragraph 5

No relevant changes.

Article 19 paragraph 6

Ad A to C:

The previous presentation should be updated as follows:

Access to the labour market:

Under the 2002 amendment to the law concerning aliens, requirements for the access of family members to the labour market were substantially relaxed. In the authorisation procedure, special importance is attached to the criterion of “advanced integration”, as a result of which foreigners who are already established in Austria, particularly family members, are granted priority in access to employment. In addition, a proof of establishment was created, which any alien can receive after five years of lawful establishment and with which he/she has unrestricted access to the Austrian labour market. Young aliens who do not yet meet that requirement and have completed their last year of compulsory education in Austria, receive an exemption certificate and are thereby also equally treated with Austrians on the Austrian labour market. Additional relaxations in the granting of employment permits were also provided for in the case of young persons who join their families after the age of compulsory education and have not yet completed the 18th year of life, and for family members affected by violence in the family, in the context of the amendment to the Order on Exceeding the Maximum Federal Number.

After the transitional provisions on free movement of persons in the Accession Treaty of Athens became valid on 1st of May 2004, family members of integrated workers from the new Member states have free access to the Austrian labour market provided they had been legally resident in Austria on 1st of May 2004 (day of accession) or as soon as they have been legally resident in Austria for 18 months or immediately after 1st of May 2006. After they make a declaration to this effect to the Public Employment Service, they may be issued with a special document called confirmation certificate (according to Article 32a of the Act Governing Employment of Foreign Nationals) which gives proof of their status.

Supplementary questions on Article 19 paragraph 6 in Conclusions XVII-1:

Family reunification with children up to the age of 21 - request of the Governmental Committee for data and/or statistics:

In Austria, the age-limit for family reunification of third-State nationals is determined according to the age at which the person in question reaches adulthood under Austrian law, namely, the age of 18. This legal provision meets the requirements of the revised Charter, which also defines the age-limit as the end of minority under the law of the host State. The Austrian legal situation also corresponds to the EU Directive on the Right to Family Reunification, article 4 of which expressly defines under-age children as family members. Unfortunately, statistics on family reunification with children up to the age of 21 cannot be made available as no statistical records are kept on the subject.

State of health:

A health certificate (§ 8 (6) and (7) and § 10 (2) FrG 1997) must be submitted on application for an initial residence permit if the intended period of residence is more than six months and the application is made after 1 January 2003.

On the date of application, the health certificate may not be of more than 90 days' standing. The content of the health certificate is regulated by the Order of the Federal Minister of Social Security and Generations (FrG-GZV, BGBl. II No. 481 of 17 December 2002). The health certificate certifies the existence or non-existence of the following diseases:

- Tuberculosis (provided that medical care or supervision is necessary),
- Leprosy,
- Cholera,
- Infective poliomyelitis,
- Paratyphoid fever,
- Plague,
- Dysentery,
- Typhoid fever,
- Hepatitis A, B, C, D, G,
- Diphtheria,
- Pertussis (whooping cough).

Certification of the existence or non-existence of infective poliomyelitis, hepatitis A and B, diphtheria and pertussis can be replaced by a certificate of a currently valid protective immunisation.

The health certificate must have been issued by a doctor qualified to engage in independent practice. It can also be issued abroad - by a doctor qualified under

the national regulations in question for the independent exercise of his profession.

In cases in which the health certificate indicates a serious disease, the grant of a residence permit can be refused.

On the question of refusal of a residence permit, comments were obtained from all Provincial Government Offices.

All nine Federal Provinces informed us that not a single case was known to them in the reporting period in which an application for family reunification was rejected exclusively owing to the serious illness of the applicant.

Quota system - request of the Governmental Committee for data and/or statistics:

It should be pointed out that no application for an initial establishment permit was rejected on the grounds that the annually determined quota had already been filled. According to § 22 (1) FrG 1997, decisions on applications still pending at that date and concerning applications received thereafter that would have had to be granted if permits had still been available were to be deferred until they could be dealt with under a subsequent establishment Order. Therefore there are naturally no statistics on the subject.

Article 19 paragraph 9:

No relevant changes.