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EUROPEAN SOCIAL CHARTER

5th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

- Article 3, 11, 12, 13, 14 for the period 01/01/2012 – 31/12/2015
- Complementary information on Article 7§10 (Conclusions 2015)

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CYCLE 2017

REVISED EUROPEAN SOCIAL CHARTER

5th NATIONAL REPORT

in accordance with Article C of the Revised European Social Charter
and Article 21 of the European Social Charter

on measures taken to give effect to

Articles 3, 11, 12, 13 and 14

for the period from 1 January 2012 to 31 December 2015

and on the conclusion of non-conformity for lack of information concerning

Article 7 § 10

for the period from 1 January 2014 to 31 December 2015

submitted by

THE FEDERAL GOVERNMENT OF AUSTRIA

The ratification instrument of the Revised European Social Charter was deposited on
20 May 2011

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this report have been communicated to:

the Austrian Trade Union Federation,
the Austrian Federal Chamber of Labour,
the Austrian Federal Economic Chamber,
the Federation of Austrian Industry,
the Presidential Conference of Austrian Chambers of Agriculture,
and
the Council of Austrian Chambers of Agricultural Labour

At the outset it should be noted that the report attempts to cover all of the roughly 45 additional questions that the European Committee of Social Rights had raised on the specific articles. In the text, express mention is made of a specific additional question only in the exceptional case.

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ARTICLE 3

THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

ARTICLE 3§1

Questions 1, 2 and 3

Reference is made to the previous reporting which is updated as follows:

Occupational safety and health in Austria

Distribution of competence for passing and enforcing legislation

In general terms, legislative competence for workers' health and safety regulations as well as responsibility for the monitoring of their observance are assigned as follows:

Federal bodies have competence for workers' protection generally for all employees in the private economy, for public federal employees and for employees working in operations run by the federal, state and local governments.

Laender (state) bodies are competent to pass implementing statutes and to monitor their observance with regard to workers' protection in agriculture and forestry; and to pass laws and monitor their observance with regard to protecting the health and safety of state and local government employees.

Labour monitoring bodies:

Monitoring within the federal sphere (private businesses, federal employees, federal state and local government operations, with the exception of farming and forestry operations) is performed by the Labour Inspectorate. This body is governed by the Federal Labour Inspectorate Act (*Bundesgesetz über die Arbeitsinspektion, ArbIG*) 1993, Federal Law Gazette no. 27/1993; as last amended.

Farming and forestry operations are the responsibility of altogether nine Farming and Forestry Inspectorates, one of which is assigned to each state. The inspectorates' activities are regulated by state laws.

State and local government employees are covered by separate bodies responsible to monitor workers' health and safety regulations.

General objective and the policy

Austrian Employee Safety and Health Strategy 2013-2020 (ÖAS)

As part of the Occupational Safety and Health Strategy 2007-2012, more than 100 projects were launched and either successfully completed or are being continued under the Austrian Employee Safety and Health Strategy 2013-2020.

Over 40 documents were published and numerous specialised presentations dealing with the purpose and goals of the Occupational Safety and Health Strategy were held, to the end of raising awareness of the issue of 'safety and health protection at work'. This entailed interdisciplinary efforts that proved highly productive, while a previously unseen level of networking was achieved.

One of the objectives of the Occupational Safety and Health Strategy 2007-2012 was to contribute towards a further reduction in the number of accidents at work. An analysis of the data for 2007-2012 confirms that this objective has been achieved.

The number of accidents at work fell by 9.5% and the number of fatalities in this context dropped by 9% from 2007 to 2012.

The overall decrease by 13% in the occupational accident rate underscores the positive impact that the Occupational Safety and Health Strategy as well activities by other institutions and groups in this area have had.

Experience gathered up to now clearly reveals how effectiveness hinges on joint efforts on the part of all those actively involved in health and safety. Building on these lessons learned, the Austrian Employee Safety and Health Strategy 2013-2020 will not only continue on this course but expand and intensify efforts even further.

The major change planned for the Austrian Employee Safety and Health Strategy 2013-2020 is to coordinate project goals and schedules at overall level as well as to complete joint projects within the framework of a Strategic Platform which includes representatives of the social partners, the Austrian Workers' Compensation Board (AUVA) and the Central Labour Inspectorate.

A Joint Resolution on the Austrian Employee Safety and Health Strategy 2013-2020 has been signed by all federal ministries involved in occupational health and safety, by accident insurers, social partners and interest groups. The Resolution is aimed at consistently improving the safety and health of Austrian employees, particularly with regard to these areas:

- Muscular and skeletal strain
- Psychological stress
- Risks posed by carcinogens
- Workplace evaluation and support by prevention experts
- accommodation of older people in the workplace
- Secondary and university education and continued training in occupational health and safety

A strategy document describes the structures, processes and responsibilities defined for the Austrian Employee Safety and Health Strategy (ÖAS). Focused networking on specific issues takes place in the Strategic Platform and in four working parties, while industry platforms support networking within specific industries.

An evaluation plan has also been specified for the ÖAS, which comprises:

- overall evaluation of the ÖAS in comparison with the planned strategy to determine how well suited the structures and processes of the ÖAS are for achieving the goals of the strategy;
- a process-level evaluation of the activities of the Strategic Platform and the working parties as well as cooperation and communication among these groups; in detail this entails analysing the processes followed to implement the objectives of the ÖAS as well as providing feedback as a means of consistently improving cooperation and communication;
- evaluation of the effectiveness of at least one project to be designated by the Strategic Platform and analysis of that project with regard to goal achievement.

Details on the Austrian Employee Safety and Health Strategy 2013-2020, the institutions involved and on related projects/publications are presented (in German) on the website of the Labour Inspectorate: www.arbeitsinspektion.gv.at

Activities within the framework of the Occupational Safety and Health Strategy 2007-2012 (2012 reference period) and the Employee Safety and Health Strategy 2013-2020 (2013-2015 reference period)

All activities are listed on the website of the Labour Inspectorate: www.arbeitsinspektion.gv.at

- 14 fact sheets/guidelines: Barrier-free businesses, Work organisation for ageing employees, FAQs on labour inspectorate monitoring, Basics of risk prevention – series of measures – the ‘STOP’ principle, Evaluation of safety and occupational footwear, Evaluation of PPE for fall protection, Guidelines and plan for working with asbestos cement in roofing and facades, Field of view with earthworks machinery, Assessment of electromagnetic field stress at office workplaces, Changing workplaces – effective arrangements for ensuring health and safety, Evaluation of psychological stress in construction-related trades, Evaluation of biological hazards from lamps and lasers, Working time at hotels and restaurants
- 8 focused inspections, campaigns and projects (national/regional): accident prevention among youth – hand injuries, evaluation of maternity protection at large businesses, focused campaigns in the chimney sweep trade, hotels and restaurants, wholesale and retail businesses, in servicing, maintenance and repairs, scaffolding and roof work, youth protection, accidents in the metal industry and evaluation
- Website and podcasts: Asbestos – by no means a thing of the past, Managing stress at work, 5 steps for effective workplace evaluation of psychological stress

National Network for Occupational Safety and Health

The Central Labour Inspectorate convenes meetings of the National Network for Occupational Safety and Health twice a year. The meetings are attended by representatives of the major organisations involved in occupational health and safety, including labour supervisory bodies, federal ministries, social partners, social security institutions, interest groups of experts for the prevention of occupational accidents and diseases, universities, prevention centres and others.

Such meetings have been taking place since 2000. The most important task is to support the campaigns by the European Agency for Safety and Health at Work. At past meetings, joint expert conferences were planned and advertising activities for occupational safety and health coordinated. Another purpose of the meetings is to clarify the position of the national stakeholders in order to be able to take an active role in planning initiatives at the European level.

Stateless persons

With regard to the scope of application of Article 3, persons who are (de jure and de facto) stateless enjoy equal treatment with Austrian citizens. Austrian worker protection legislation is aimed at protecting occupational safety and health, and Austria pursues this goal without regard to an individual’s status, whether it be citizen or stateless person.

Risk assessment, work related stress, aggression, violence, psychological risks

The Austrian Workers Protection Act (*ASchG*) constitutes the basis for health and safety at work for employees in Austria.

[http://www.bmask.gv.at/siteEN/ Labour/Occupational Safety and Health/](http://www.bmask.gv.at/siteEN/Labour/Occupational_Safety_and_Health/)

Targeted health and safety measures aim to avoid the danger of accidents, occupational diseases, work-related illness and permanent damage.

Employers have to implement the general measures to prevent dangers listed in the law when designing workplaces, work processes, when selecting and using working aids and materials, when deploying workers, and in all measures to protect employees.

Employers are obliged to ensure occupational safety and health regarding all aspects at work and to prevent occupational risks. Occupational risks are defined as physical and mental risks (including work-related stress, aggression and violence); occupational health now also encompasses by definition mental health (amendment of 2012).

At the beginning of the year 2013 an amendment of the Workers Protection Act came into force in Austria which emphasises the fact that employers have to do a risk assessment not only according to physical hazards but also according to psychosocial hazards. Psychosocial hazards are now defined in the law as those aspects of work design and work organisation, task design and job content, social climate, work schedule and work environment, which have the potential of causing psychological harm. Now it is more obvious that employers also have to assess psychosocial risks and make an action plan and take measures to prevent psychosocial risks as well as physical risks. Also new in the law: Health is now defined more precisely as physical and mental health and the work should be arranged to preserve employees' integrity and dignity.

The risk assessment has to be updated after incidences of work-related psychological stress (amendment of 2012).

To carry out risk assessment employers should seek the help of experts. Here occupational psychologists are named alongside safety technicians and occupational physicians (and other experts).

As part of the national strategy on occupational safety and health a working group consisting of the Ministry, labour inspectors, social partners, social insurance and other experts has developed guidelines on how to carry out the assessment of psychosocial risks. These guidelines can be downloaded from the website of the Labour Inspectorate.

For labour inspectors other guidelines have been developed to assess the risk assessment on psychosocial risks in a company. This document is also available on the website.

A whole subpage of the website is dedicated to psychosocial risks with frequently asked questions.

The 2013 amendment to the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*) clearly defines the requirement to protect both the physical and psychological health of workers. Since then the Labour Inspectorate, which is established under the Ministry of Social Affairs, has stepped up efforts and launched a focused initiative for advice and monitoring.

The Labour Inspectorate carried out inspections at 3,040 businesses and workplaces in 2012 to verify that workplace evaluations of psychological stress were being performed. The number of inspected businesses had risen to 4,973 by 2014 and even to roughly 7,680 by 2015.

Large companies have generally made more progress than medium-sized and small businesses. About 30 to 50 percent of the businesses inspected by the Labour Inspectorate had already begun evaluation of psychological stress or intended to improve such evaluations, with the results varying strongly from region to region and among industries.

Where, in spite of the counselling initiative and the many avenues of support offered by the Labour Inspectorate, businesses do not meet legal requirements, applications to initiate penal proceedings are submitted to the administrative penal authorities. Such a request has been

filed in about 15 cases since 2013. The amount of the fine specified in such cases varies around an average of EUR 1,600.

Roughly 310 Labour Inspectorate staff members support companies throughout Austria in on-site implementation of the legal requirements. Support is also provided in printed form. The materials available at the website <http://www.arbeitsinspektion.gv.at/inspektorat/> include guidelines, fact sheets and FAQs specifically on this topic.

Organisation of occupational risk prevention

In response to the Committee's question of whether the organisation of occupational risk prevention was affected by the amendments to Act No. 450/1994 which were adopted during the last reference period we would like to inform the Committee that these amendments did not affect the organisation of occupational risk prevention.

Organisation of occupational risk prevention for workers by *Laender* and municipal government departments

The same level and standard of protection exists for public-service employees of *Laender* authorities and municipalities as for those under the Federal Government.

By way of an example for the situation in all nine *Laender*, reference is made in the following to the statement submitted by Lower Austria:

The Lower Austria Public Worker Protection Act (*NÖ Bediensteten-Schutzgesetz*, *NÖ BSG*) 1998 was amended in 2014 to include psychological stress and to introduce the deployment of occupational psychologists in the field of worker safety and health.

As part of risk evaluation employers are bound to identify and assess existing risks and stresses for the safety and health of employees and to take appropriate risk prevention measures. Work-related risks and stress of both a physical and psychological nature now fall under this obligation. Employers are additionally required to ensure the availability of an adequate number of prevention experts (occupational health and safety officers and occupational physicians) as well as other qualified experts, such as chemists, toxicologists, ergonomists and above all occupational psychologists. These specialists are to be provided with the time and resources required to fulfil their responsibilities. Only individuals who are entitled to refer to themselves professionally as 'psychologists' and have adequate training in the theory and practice of occupational psychology are permitted to serve as occupational psychologists; the eligibility requirements for the title of 'psychologist' are specified in Section 1 of the Psychologists Act (*Psychologengesetz*, *PG*), Federal Law Gazette no. 360/1990, and in Section 4 of the 2013 Psychologists Act, Federal Law Gazette I no. 182/2013. Appointing prevention experts and other experts does not release the employer from the responsibility to comply with worker health and safety regulations.

Matters related to the protection of municipal employees fall within the competence of each municipality. Thus, the *Land* (Lower Austria) has only supervisory powers in this situation. The *NÖ BSG 1998* consequently requires the mayor, in the role of administrative authority, to comply with the provisions governing employee protection and to remedy any non-conformity, while on the other hand specifying the right of employees and staff representatives to lodge complaints with the supervisory authority. Employers are required pursuant to the provisions of the *NÖ BSG* to ensure the availability of an adequate number of prevention experts (occupational health and safety officers and occupational physicians) as well as other qualified experts, such as chemists, toxicologists, ergonomists and above all occupational psychologists. The prevention experts are to be provided with all information and documents required to meet their

responsibilities, specifically safety and health documents, documentation and reports of accidents at work, the results of measurements relating to hazardous agents and noise as well as the results of other measurements, studies and observations that are relevant for health and safety.

The prevention experts are to be consulted as necessary in the following situations:

- Workplace planning
- Procuring or modifying work equipment
- Introducing or modifying work processes and introducing new agents or substances
- Testing and selecting personal protective equipment
- In issues relating to occupational physiology, occupational psychology and other aspects of ergonomics and occupational hygiene and particularly when planning workplaces and work processes
- Identifying and assessing risks
- Defining measures for avoiding hazards
- Organising the instruction of employees

In addition, occupational health and safety officers are to be consulted as necessary in all issues relating to safety at work, including accident prevention and when planning fire safety and evacuation procedures.

Occupational physicians are to be consulted as necessary in all issues relating to maintaining and promoting workplace health, when planning first aid, and in job changes as well as integration and reintegration in employment involving individuals with disabilities or chronic illnesses.

The *NÖ BSG 1998* requires prevention experts to report any non-conformity they identify while fulfilling their responsibilities to the head of the respective administrative office and to the staff representation body. Where, in the course of fulfilling their responsibilities, prevention experts identify a serious and immediate risk to the health and safety of municipal employees, they are required to inform the municipal employees, the head of the respective administrative office and the staff representation body of the municipality concerned and propose measures to eliminate the risk.

Pursuant to the provisions of the *NÖ BSG 1998*, employers are obliged to identify and assess existing risks to the safety and health of employees. Work-related risks and stress of both a physical and psychological nature fall under this obligation. Based on the identified and assessed risks, employers are required to define the necessary risk prevention measures. Arrangements for any expected disruptions of operations and for emergency and rescue action are also to be defined as part of these measures.

The employer is responsible for reviewing and adapting the defined measures as necessary, with the aim of improving working conditions. A review or an adaptation has to take place in particular:

- following accidents;
- on the occurrence of any illness, if there are reasons for suspecting it to be related to work;
- in other events or circumstances indicating a risk for the health and safety of the employees;
- upon introduction of new work equipment, agents or work processes;
- when progress in technology gives rise to new findings;

- on the justified request of the monitoring commission (Section 27 *NÖ BSG 1998*), the prevention experts or the staff representation body.

Pursuant to the *NÖ BSG 1998*, the employer is obliged to record, in written form and in an appropriate manner considering the number of employees and the risks, the results arising from risk identification and assessment as well as the required risk prevention measures (safety and health documents) and allow employees to examine the documents pertaining to them.

The employer is additionally required to keep records of every accident at work that resulted in an employee's death or in an injury leading to absence from work for more than three calendar days. Such records must be retained for five years and made available to the prevention experts on request.

Agriculture and Forestry

The Agricultural Labour Act (*Landarbeitsgesetz, LAG*), which represents a fundamental law originally published in Federal Law Gazette no. 287/1984, has been enacted – with an almost identical wording with respect to health and safety at work – in the legislation of the individual *Laender* as listed below:

- Burgenland: Burgenland Farming Work Code (*Burgenländische Landarbeitsordnung*), State Law Gazette no. 37/1977 as amended by State Law Gazette no. 26/2016
- Carinthia: Carinthia Farming Work Code of 1995 (*Kärntner Landarbeitsordnung 1995, K-LAO 1995*) as amended by State Law Gazette no. 13/2016
- Lower Austria: Lower Austria Farming Work Code of 1973 (*NÖ Landarbeitsordnung 1973, NÖ LAO*), State Law Gazette no. 185/1973 as amended by State Law Gazette no. 2/2016
- Upper Austria: Upper Austria Farming Work Code of 1989 (*OÖ Landarbeitsordnung 1989*), State Law Gazette no. 25/1989 as amended by State Law Gazette no. 149/2015
- Salzburg: Salzburg Farming Work Code of 1995 (*Salzburger Landarbeitsordnung 1995, LArbO 1995*), State Law Gazette no. 7/1996 as amended by State Law Gazette no. 60/2015
- Styria: Styria Farming Work Code of 2001 (*Steiermärkische Landarbeitsordnung 2001, STLAO 2001*), State Law Gazette no. 39/2002 as amended by State Law Gazette no. 117/2015
- Tyrol: Tyrol Farming Work Code of 2000 (*Tiroler Landarbeitsordnung 2000*), State Law Gazette no. 23/2001 as amended by State Law Gazette no. 106/2015
- Vorarlberg: Farming and Forestry Work Act (*Land- und Forstarbeitsgesetz*), State Law Gazette no. 28/1997 as amended by State Law Gazette no. 56/2016
- Vienna: Vienna Farming Work Code of 1990 (*Wiener Landarbeitsordnung 1990*), State Law Gazette no. 33/1990 as amended by State Law Gazette no. 13/2016

The *LAG* lays down principles of risk prevention for the health and safety of agriculture and forestry workers; these include:

- Section 76a – General obligations of employers
- Section 77 – Identifying and assessing risks, defining measures
- Section 78 – Safety and health documents
- Section 79 – Deployment of employees
- Section 80 – Principles of risk prevention
- Sections 83, 83a – Safety representatives

- Sections 84, 84a, 84b – Information, consultation, participation, instruction of employees by employers
- Section 85 – Obligations of employees
- Section 86 – Records and reports of accidents at work

All of these principles have been enacted in the individual Farming Work Codes of the *Laender* (see above) with identical wording in most cases, specifically:

- By Burgenland in Sections 76a to 86
- By Lower Austria in Sections 72 to 76g
- By Upper Austria in Sections 76 to 86
- By Salzburg in Sections 87 to 97
- By Styria in Sections 98a to 111
- By Tyrol in Sections 91 to 103
- By Vorarlberg in Sections 96a to 105
- By Carinthia in Sections 100 to 112
- By Vienna in Sections 73a to 83

All provisions of law can be viewed online (in German) on the website of the Legal Information System (*RIS*) provided by the Austrian Federal Chancellery:

<https://www.ris.bka.gv.at/Land/>

Measures taken by the labour inspectorate to develop an occupational health and safety culture among employers and employees and share its experience in implementing instructions, prevention and consultations

The activities of the Labour Inspectorate towards continued development of a health and safety culture among businesses are specified in general in Section 3 of the Labour Inspectorate Act (*Arbeitsinspektionsgesetz, ArbIG*); such activities are a general part of the regular work of labour inspectors when monitoring and inspecting businesses and advising employers. No uniform metrics exist for recognising a ‘sound’ corporate culture.

Improvement of occupational safety and health

Involvement of complementary bodies such as Humanware along with authorities

Humanware is a management consulting firm specialised in advising businesses in implementing risk assessment for psychological stress. The firm has developed a proprietary instrument for this purpose called IMPULS-Test 2 Professional. The results of evaluations done using this instrument are made available within the framework of the Austrian Employee Safety and Health Strategy.

Together with the Austrian Network for Workplace Health Promotion (*Österreichisches Netzwerk für betriebliche Gesundheitsförderung*), a related guide has been prepared and made available; the title of the publication roughly translates as “Psychological health – combined implementation of the Workers Protection Act/Federal Employees Protection Act and workplace health promotion principles in the workplace evaluation of psychological stress”.

<https://www.sozialversicherung.at/portal27/sec/portal/bgfportal/content/contentWindow?contentid=10007.752781&action=2>

Consultation with employers' and workers' organisations

As concerns the organisation and composition of the Occupational Safety and Health Advisory Board (*Arbeitnehmerschutzbeirat*) reference is made to the 1st Austrian report on the Revised Charter.

The activities of the Occupational Safety and Health Advisory Board pursuant to Section 91 ASchG during the period under review from 1 January 2012 to 31 December 2015 are listed in the following:

Four meetings of the Occupational Safety and Health Advisory Board were held during this period. The following items were repeatedly included on meeting agendas:

- Reports on the activities of the accident insurers' prevention centres
- Occupational safety and health schemes at EU level: proposed legislation, EU strategy, campaigns, political developments
- Recent and current activities and initiatives by the Ministry of Social Affairs (labour law and labour inspection): previously adopted amendments to laws and ordinances, proposed legislation, targeted schemes and campaigns

Various expert committees (working groups) of the Occupational Safety and Health Advisory Board also held meetings between 2012 and 2015.

Consultations within the Labour Inspectorate's sphere of competence

In fulfilling its responsibilities, the Labour Inspectorate is mandated with collaborating with the legal representation bodies of employers and of employees to the extent required in the interests of health and safety at work. To meet this objective, the Labour Inspectorates are to hold consultations with these interest groups at least a twice year in each *Land* to discuss issues within the Inspectorates' scope of competence. Representatives of accident insurers as well as occupational safety and health authorities can also be invited to these consultations (Section 3 Para. 5 *ArbIG*).

Works councils' right to participate

The legal provisions governing works councils' rights to participate in health and safety matters remained unchanged during the reference period. It should be noted, however, that the term 'health' as defined in these provisions refers to both psychological and physical health. Therefore, the right of works councils to participate in this area refers to both psychological and physical health, i.e. the psychological and physical effects of work on employees.

Laender level

As concerns the Committee's question on the means of consulting employers' and employees' organisations in the public sector or in agriculture and forestry at *Laender* level, it has to be pointed out that the legislation at *Laender* level corresponds to the legislation at federal level and therefore guarantees similar provisions for the respective employees in the laws for the protection of Land and municipal employees, in the individual *Laender* laws on staff representation bodies and in the Farming Work Codes.

By way of an example for the situation in all nine *Laender*, reference is again made in the following to the statement submitted by Lower Austria:

As at federal level, professional representatives of employers and of employees are also actively involved at the level of the *Land*. The provisions ensuring the right to safe and healthy work-

ing conditions are mainly specified in the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*) and are implemented by businesses even in the planning stage through consultation with the Labour Inspectorates. Where businesses or administrative offices of the *Laender* do not fall within the sphere of competence of the Labour Inspectorates, separate departments exist at *Laender* level to safeguard the health and safety of workers employed by the *Land* and by its municipalities. There are special labour inspectors at *Laender* level for farming and forestry.

When legislation pertaining to the right to safe and healthy working conditions is drafted, representatives of employers and of employees are expressly invited to submit statements within the review process.

The particular staff representation body is the legal representation of the public-service employees of the *Land* and its municipalities. The staff representation body is mandated with safeguarding and promoting the professional, economic, social, cultural and health interests of public-service employees. In fulfilling this mandate, it is charged with actively ensuring compliance with and implementation of those laws, regulations, agreements, employment codes, decrees and ordinances that have been enacted or stipulated for the benefit of public-service employees.

Pursuant to the Lower Austria Public Worker Protection Act (*NÖ Bediensteten-Schutzgesetz, NÖ BSG*) 1998, State Law Gazette 2015-3, employers are required to define those risk prevention measures that are recognised as necessary based on the identified and assessed risks. The employer is responsible for reviewing and adapting the defined measures as necessary, with the aim of improving working conditions. A review or an adaptation has to take place in particular on the substantiated request of the staff representation body.

The employer is also obliged to hear the public-service employees, through the staff representation body, on all issues related to safety, health and ethics at work. In addition, the mayor is required to confer with the staff representation body on at least a quarterly basis to discuss matters falling within the staff representation body's scope of responsibility. The staff representation body is also entitled to submit petitions to the employer for general measures to implement legislation related to occupational safety and health.

The prevention experts have the additional responsibility of advising the staff representation bodies in question of worker protection and ensuring humane working conditions, health protection, and health promotion as related to working conditions. These experts are to report to the staff representation body any non-conformity they identify while fulfilling their responsibilities. Where, in the course of fulfilling their responsibilities, prevention experts identify a serious and immediate risk to the health and safety of public-service employees, they are required to inform the staff representation body and propose measures to eliminate the risk.

The staff representation body can lodge a complaint with the mayor concerning alleged non-conformity with worker protection regulations. In the event of a non-conformity, if the mayor is unable to correct it personally, the mayor has the duty to request the municipal body responsible to do so, and to inform the staff representation body of the measures taken. The staff representation body can subsequently also inform the supervisory body of the alleged non-conformity. If the staff representation body claims a breach of the rights defined in the Lower Austria Municipal Staff Representation Act (*NÖ Gemeinde-Personalvertretungsgesetz*), State Law Gazette 2002-11, it can also call upon the *Land* government in its capacity as supervisory body.

With regard to consultations in the agricultural and forestry sectors, Section 121 Para. 2 (Cooperation with social security institutions and the groups representing the interests of employees) of the Agricultural Labour Act (*Landarbeitsgesetz, LAG*), Federal Law Gazette no. 287/1984 as amended, is implemented for the most part with identical wording in the corresponding *Laender* provisions indicated below in brackets:

- Burgenland (Section 119)
- Carinthia (Section 149)
- Lower Austria (Section 120)
- Upper Austria (Section 145)
- Salzburg (Section 145)
- Styria (Section 176)
- Tyrol (Section 163)
- Vorarlberg (Section 141)
- Vienna (Section 119)

The provisions of the *LAG* governing the rights and obligations of the works council in participating in and supervising the protection of employees (Section 197a *LAG*) are implemented for the most part with identical wording in the corresponding *Laender* provisions indicated below in brackets:

- Burgenland (Section 194a)
- Carinthia (Section 221)
- Lower Austria (Section 195a)
- Upper Austria (Section 200a)
- Salzburg (Section 219a)
- Styria (Section 252)
- Tyrol (Section 237)
- Vorarlberg (Section 216a)
- Vienna (Section 196a)

By way of a supplement and as an example for the situation in all nine *Laender*, reference is again made in the following to the statement submitted by Lower Austria:

With regard to cooperation between the Agriculture and Forestry Inspection, the social insurance institutions and the groups representing employees' interests, reference is made to Section 120 of the Lower Austria Farming Work Code (*NÖ Landarbeitsordnung, NÖ LAO*) 1973, State Law Gazette 9020. This provision requires the Agriculture and Forestry Inspection to invite groups representing the interests of employees to a meeting at least twice a year, to which representatives of the social insurance institutions affected and of occupational health and safety authorities can also be invited.

Pursuant to Section 239 Para. 1 *NÖ LAO*, the *Land* government is to issue an ordinance containing detailed provisions for implementing Chapter 5 (occupational health and safety) while taking into consideration the Directives of the European Union listed in Section 292 of the cited law. Prior to issuing any such ordinance, the *Land* government must hear the statutory interest groups representing employers in the agriculture and forestry sector as well as the Austrian Workers' Compensation Board.

In accordance with this obligation, draft ordinances and amendments are discussed by a working party consisting of representatives, from Lower Austria, of employers and of employees, of the competent accident insurers (AUVA and SVB), an occupational physician as well as the competent specialised departments of the Office of the *Land* Government of Lower Austria, with agreement to be reached on any draft statement issued in response to such legislation.

With regard to the rights and powers of the works council to supervise compliance with employee regulations, reference is made to Sections 192 et seq. *NÖ LAO* and in particular to the provisions specified in Sections 192 no. 3, 193 no. 2 and 195a of the cited law.

The appointment of safety representatives is specified in Sections 75a and 75b *NÖ LAO*.

All provisions of law can be viewed online (in German) on the website of the Legal Information System (*RIS*) provided by the Austrian Federal Chancellery:

<https://www.ris.bka.gv.at/Land/>

ARTICLE 3§2

Questions 1 and 2

Legislation issued during the period under review (from 1 January 2012 to 31 December 2015)

Provisions within the competence of the Labour Inspectorate

Amendment to the Workers Protection Act (ASchG)

The Act Amending Labour and Social Law (*Arbeits- und Sozialrechts-Änderungsgesetz, ASRÄG*) published in Federal Law Gazette I no. 94/2014 on 16 December 2014 included amendments to the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*).

- One of the changes concerned the additional possibility of requiring a fire protection group as specified in Section 25 Para. 5 *ASchG* and Section 44 of the Ordinance governing workplaces (*Arbeitsstättenverordnung, AStV*; this latter provision specifies in detail the organisation and responsibilities of the fire protection group and the qualifications of team members). This requirement, considered excessive in view of the abundance of *Laender* level provisions needing to be observed, was eliminated completely.
- Another change was to require the health and safety committee (*Arbeitsschutzausschuss, ASA*) as specified in Section 88 *ASchG* to convene only once a year, since corresponding obligations relating to communication and information are defined for the actors involved in addition to the annual meeting of the *ASA* (e.g. Section 85 *ASchG*, Section 11 Paras. 3 to 5 *ASchG*, Section 84 Para. 3 *ASchG*).
- An amendment was also made to Section 10 Para. 10 *ASchG* to clarify that the role of prevention expert (occupational health and safety officer and occupational physician) is compatible with the role of safety representative.

The amendments entered into force as of 1 January 2015.

Amendment to the Ordinance governing workplaces and of the Ordinance governing safety representatives

As a consequence of amending the *ASchG* through the *ASRÄG 2014*, Federal Law Gazette I no. 94/2014, the specific provisions on fire protection groups and safety representatives in the implementing ordinances – the *AStV* and the Ordinance governing safety representatives (*Verordnung über die Sicherheitsvertrauenspersonen, SVP-VO*) – were also modified.

- With the omission of the legal basis for establishing fire protection groups that had been specified in the *ASchG*, it was also necessary to revoke Section 44 *AStV* on establishing a fire protection group.
- Similarly, modifying the conditions for appointing a safety representative as specified in the *ASchG* also required specific changes to the *SVP-VO*. The new provision of the *SVP-VO*, inserted as Para. 2a of Section 4, now makes it clear that the necessary prerequisites for serving as safety representative are also met by persons who have successfully completed specialised training as occupational health and safety officers (Section 74 *ASchG*) or as occupational physicians (Section 79 Para. 2 *ASchG*).

The amendments were published in Federal Law Gazette II no. 324/2014 and entered into force as of 1 January 2015.

Ordinance governing driver exceptions (L-AVO)

The Ordinance governing driver exceptions (*Lenker/innen-Ausnahmereordnung, L-AVO*) was published in Federal Law Gazette II no. 280/2014 of 7 November 2014. One of the items of the amendment was to adapt existing provisions to the amended Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport. These amendments entered into force as of 2 March 2015. In addition, new rules applying to the previous exception for regional passenger service, which had been specified for a limited period, were introduced. The amendment entered into force as of 1 January 2015.

Amendment to the Workers Protection Act and the Labour Inspection Act

A new two-tier system of administrative court jurisdiction was introduced as a result of the 2012 administrative judiciary reform published in Federal Law Gazette I no. 51. Effective as of 1 January 2014, the reform provides for a first-instance administrative court in each of the *Laender*, along with two first-instance administrative courts at federal level. This comprehensive modification of the Austrian system of legal protection also made it necessary to amend provisions of administrative law in the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*) and in the 1993 Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*). The legislative changes, introduced with the amendment published in Federal Law Gazette I no. 71/2013, entered into force as of 1 January 2014.

Amendment to the Ordinance governing occupational medical centres and to the Ordinance governing safety centres, repeal of the Ordinance governing equal treatment of approval procedures

An amendment to the *ASchG* as published in Federal Law Gazette I no. 118/2012 made it necessary to modify the Ordinance governing occupational medical centres (*Verordnung über arbeitsmedizinische Zentren, AMZ-VO*) as well as the identically worded passage in the Ordinance governing safety centres (*Verordnung über sicherheitstechnische Zentren, STZ-VO*). Accordingly, directors of occupational medical centres or safety centres can now work part-time if this is

their main job. At the same time, the Ordinance governing equal treatment of approval procedures (*Verordnung über die Gleichstellung von Bewilligungsverfahren*) as published in Federal Law Gazette II no. 43/2005, having become void, was repealed.

The amendments were published in Federal Law Gazette II no. 210/2013 and entered into force as of 1 August 2013.

Amendment to the Ordinance governing health surveillance at work

The Ordinance, issued in early 2014, amends the Ordinance governing health surveillance at work (*Verordnung über die Gesundheitsüberwachung am Arbeitsplatz*), to put a greater stress on the evaluation requirement; specifically, it had come to be recognised that it was not possible to assess the applicability of the inspection requirement without determining and evaluating the use of agents and any exposure to them at the workplace. The requirements relating to verifying and adapting workplace evaluation were also defined. The examination intervals were combined to reduce the burden on employees and the administrative effort required from authorised physicians, while a time frame for follow-up examinations was defined instead of a specific date, as had previously applied. Annex 1 contains the amended examination intervals, and in Annex 2 more stress in general is placed on the medical workplace history, with specific examination guidelines being modified to reflect recent findings in occupational medicine. The Ordinance was published in Federal Law Gazette II no. 26/2014 and entered into force as of 1 March 2014.

Amendments to the Ordinance governing the documentation of skills, Ordinance governing documentation of skills in the preparation and organisation of stage and lighting works, and the Ordinance governing the training of safety officers

The amendment entered into force as of 1 March 2014 and was published in Federal Law Gazette II no. 26/2014. The amendment specifies expiry of the authorisation as trainer by virtue of law if no training is provided for five years. At the same time, eased provisions governing the composition of the examination board were introduced: examination boards are now composed of two training staff members, or three in the case of stage and lighting works, instead of the head trainer and one training staff member as previously specified.

With Federal Law Gazette II no. 210/2013, these ordinances were amended, as well as the Ordinance governing the training of safety officers and specifying special requirements for safety support in underground mining (*SFK-VO*), in order to reflect the changes introduced by the administrative judiciary reform that entered into force as of 1 January 2014.

Ordinance governing worker protection by means of personal protective equipment

This Ordinance (*Verordnung über den Schutz der Arbeitnehmer/innen durch persönliche Schutzausrüstung, PSA-VO*) is intended as a revision of the previous regulations on personal protective equipment, which for the most part no longer reflected advances in technology and findings in the area of work organisation. As a result of the *PSA-VO*, obsolete provisions have been eliminated by repealing the former legislation governing PPE, which had been preliminarily subsumed within the General Ordinance governing worker protection and the Ordinance governing the protection of construction workers, and by replacing it with a new set of provisions corresponding to the structure of the *ASchG* and reflecting the current state of technology and the labour sciences. The Ordinance was prepared in 2013 and subsequently published in Federal Law Gazette II no. 77/2014 to enter into force as of 1 May 2014.

Reform of the Labour Inspectorate organisation

A reform of the Labour Inspectorate organisation became effective with Federal Law Gazette I no. 35/2012 as of 1 July 2012. As the last existing special labour inspectorate under federal jurisdiction, the Transport Labour Inspectorate under the Federal Ministry of Transport, Innovation and Technology was incorporated in the Labour Inspectorate Unit of the Federal Ministry of Labour, Social Affairs and Consumer Protection. This resulted in a single supervisory authority that is active throughout Austria and holds all specialised competence in health and safety at work.

Amendment to the Workers Protection Act – inclusion of psychological stress and improvements for temporary agency workers

The amendment to the *ASchG* introduced in Federal Law Gazette I no. 118/2012 is aimed at more effective prevention of stress and risks of a psychological nature that lead to inappropriate physical strain on workers. It has now been clearly specified that risks potentially resulting in psychological stress are also required to be examined and assessed as part of risk assessment. Such risks may for example be related to work procedures or work organisation. Subsequently, appropriate measures have to be taken to prevent any psychological stress at work. In this context, explicit mention is made of occupational psychologists as experts to be consulted when identifying and assessing risks.

Other changes included in the amendment relate to consideration of the EU CLP Regulation in the rules applying to agents. The changes were published on 28 December 2012 and entered into force as of 1 January 2013.

The amendment in Federal Law Gazette I no. 98/2012 specifies the written form for information passing between the undertaking using hired-out workers and the temporary work agency on the one hand and between the temporary work agency and hired-out workers on the other, with the aim of improved worker protection for temporary agency workers. The amendment entered into force as of 1 January 2013.

2012 Ordinance governing electrical protection

The Ordinance governing protection of workers against risks arising from electrical power (*Elektronenschutzverordnung 2012, ESV 2012*) contains provisions relating to electrical systems and equipment, to working on or near electrical systems and to lightning protection. The Ordinance entered into force as of 1 March 2012 (Federal Law Gazette II no. 33/2012).

Ordinance governing needle-stick injuries

The Ordinance governing needle-stick injuries (*Nadelstichverordnung*), which took effect in early 2013, implements EU Directive 2010/32/EU on prevention from sharp injuries in the hospital and healthcare sector (based on an agreement concluded by European social partners in this sector). The Ordinance specifically bans in general any recapping, i.e. replacing the protective caps onto used injection needles, and requires employees to be supplied with needles having an integrated protection mechanism, except where, as a result of risk identification and assessment for a specific activity, no medical devices incorporating safety-engineered protection mechanisms are identified that would allow the work to be performed with equal effectiveness. The Ordinance entered into force as of 11 May 2013 (Federal Law Gazette II no. 16/2013).

Implementation of Directive 2014/27/EU to align with the CLP Regulation (EU) No 1272/2008 Amendments to the Workers Protection Act, the Maternity Protection Act, the Ordinance governing labelling and the Ordinance governing prohibitions and restrictions of employment for young people

Amendments were introduced to the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*), the Maternity Protection Act (*Mutterschutzgesetz, MSchG*), the Ordinance governing labelling (*Kennzeichnungsverordnung, KennV*) and the Ordinance governing prohibitions and restrictions of employment for young people (*Verordnung über Beschäftigungsverbote und – beschränkungen für Jugendliche, KJBG-VO*); the purpose was to transpose EU legislation, specifically: Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP Regulation).

These changes were required due to the CLP Regulation on chemicals, which established a new system for the classification and labelling of substances and mixtures within the Union, based on the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) at international level, within the framework of the United Nations Economic Commission for Europe. As it had previously referred to the former system of classifying and labelling chemicals, Austrian worker protection legislation also required amendment. The amendments were also the occasion for harmonising the terminology for hazardous chemical agents used in worker protection legislation and in legislation governing chemicals, while uniform labelling of containers and storage areas for hazardous chemical agents was also introduced based on the CLP Regulation No 1272/2008. This required changes to the Workers Protection Act, the Maternity Protection Act, the Ordinance governing health and safety labelling and the Ordinance governing prohibitions and restrictions of employment for young people.

The amendments to the *ASchG* and the *MSchG* were published in Federal Law Gazette I no. 60/2015 and entered into force as of 1 June 2015. The amendments to the *KennV* and the *KJBG-VO* were published in Federal Law Gazette I no. 184/2015 and Federal Law Gazette II no. 185/2015 and entered into force as of 1 July 2015.

Repeal of the Ordinance governing prohibitions and restrictions of employment for women

The reason for repealing the Ordinance governing prohibitions and restrictions of employment for women (*Verordnung über Beschäftigungsverbote und -beschränkungen für Frauen*) was Austria's withdrawal, effective as of 10 June 2015 (Federal Law Gazette III no. 82/2015), of its proviso to Article 11 of the Convention on the Elimination of Discrimination Against Women, in response to the corresponding request of the CEDAW Committee in 2013.

The Ordinance had prohibited employment under exposure to a lead concentration exceeding 0.02 mg/m³ as well as a ban on activities involving exceptional physical strain. Due to progress in technology and the widespread introduction of substitutes for lead in production, such distinctions along gender lines to protect women working involved in certain activities are to be regarded as obsolete.

The provisions of the Workers Protection Act (*ASchG*) are adequate for protecting the health and safety of women, both with regard to avoiding harmful exposure to lead at work as well as to preventing exceptional physical strain when manually handling heavy objects; reference is made here to the provisions of the *ASchG* relating to prevention in health and safety at work, in particular risk evaluation and defining protective measures for both female and male employees, evaluation of agents, exposure limits, health surveillance, and rules governing the deployment of especially vulnerable employees and the planning of work processes. The Ordinance was repealed in Federal Law Gazette II no. 230/2015.

Amendment to the Ordinance concerning the supervisory districts and competence of the Labour Inspectorates – transfer of competence for postal service and telecommunications

As of 1 July 2012 the Transport Labour Inspectorate was incorporated in the Labour Inspectorate Unit of the Federal Ministry of Labour, Social Affairs and Consumer Protection (Reform of Labour Inspectorate Organisation, Chapter 4 of Federal Law Gazette I no. 35/2012) and subsequently consisted of two departments in the Central Labour Inspectorate, subsumed under one competence centre for transport labour inspection. The previously existing distribution of responsibilities between the Transport Labour Inspectorate and the regional labour inspectorates was retained based on the transitional provision defined in Section 26 Para. 8 of the Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*). Under this provision, as part of the Central Labour Inspectorate, the Transport Labour Inspectorate continued to be responsible for such areas as monitoring worker health and safety at companies in the postal services and telecommunications sectors. To avoid parallel structures and better utilise synergy effects, competence for postal services and telecommunications companies was later transferred to the regional labour inspectorates. The amendment was published in Federal Law Gazette II no. 269/2015 and entered into force as of 1 October 2015.

Ordinance of the Federal Minister for Transport, Innovation and Technology governing observance of workers' protection requirements and proof of compliance in transport approval procedures (*AVO Verkehr 2011*), Federal Law Gazette II no. 17/2012.

The current version of the *AVO Verkehr* was republished for improved user readability.

As laid down in the Second Stability Act (2. *Stabilitätsgesetz*), Federal Law Gazette I no. 35/2012, the Transport Labour Inspectorate under the Federal Ministry of Transport, Innovation and Technology was transferred to the Federal Ministry of Labour, Social Affairs and Consumer Protection as of 1 July 2012. The Transport Labour Inspectorate continues to fulfil its previous special responsibilities in the area of worker health and safety at transport companies (railway, cableway, shipping and aviation industries; Section 26 Para. 8 *ArbIG 1993*). The additional provisions governing the health and safety of workers in the transport sector accordingly became ordinances issued by the Minister of Social Affairs; this legislation includes the Ordinance governing protection of railway workers (*Eisenbahn-ArbeitnehmerInnenschutzverordnung, EisbAV*), the Ordinance governing protection of workers in inland navigation (*Schifffahrt-ArbeitnehmerInnenschutzverordnung, SchiffAV*) and the Ordinance governing the protection of transport workers (*Arbeitnehmerschutzverordnung Verkehr, AVO Verkehr*).

Public service

The terms 'risk prevention' (*Gefahrenverhütung*) and 'risks' (*Gefahren*) are defined in Section 2 Para. 11 of the Federal Employees Protection Act (*Bundes-Bedienstetenschutzgesetz, B-BSG*), Federal Law Gazette I no. 70/1999 as amended. 'Risk prevention' as defined in that Federal Act refers to all rules and measures specified for the purpose of avoiding or minimising work-related risks. 'Risks' as defined in that Federal Act refer to physical and psychological stress factors at work that lead to inappropriate strain.

Section 2 Para. 11a *B-BSG* defines 'health' for the scope of that Federal Act as physical and psychological health. Section 4 *B-BSG* contains the applicable provisions for identifying and assessing risks and defining measures (workplace evaluation). A review and any necessary adaptation as specified in Section 4 *B-BSG* are required in particular pursuant to Section 4 Para. 5 no. 2a *B-BSG* following incidents involving heightened, inordinate psychological stress at work.

With regard to work processes and workplaces, Section 60 *B-BSG* specifies the general provisions applying to work processes. According to these provisions, the employer is responsible for ensuring that work processes are prepared, planned and performed so as to achieve effective protection of the lives and health of public workers. Work processes are to be planned so as to avoid subjecting workers to strained positions as far as possible, and to subject workers as little as possible to stress resulting from monotonous work processes, one-sided stress, stress from working in clocked cycles and from time pressure, as well as to other psychological stress factors, and to mitigate the harmful effects of such stress factors. In addition, work processes are to be planned to allow work to be performed completely or in part while seated where possible.

Section 68 *B-BSG* defines special steps to be taken when working at display screen equipment. Section 68 Para. 1 *B-BSG* requires that special consideration be given to potential impairments to eyesight as well as to physical and psychological stress factors when identifying and assessing risks. Based on this evaluation, specifically targeted measures are to be taken to eliminate the identified risks while considering any possible combined effects of those risks.

Chapter 7 *B-BSG* (Sections 73-85 *B-BSG*) contains additional provisions on preventive services, including occupational health and safety officers and occupational physicians, and Chapter 8 *B-BSG* (Sections 86-92 *B-BSG*) specifies provisions for implementing and monitoring health and safety measures for public-service employees.

Pursuant to Section 1 of the Ordinance governing hazardous class categorisation (*Gefahrenklassen-Verordnung*), Federal Law Gazette no. 239/2002, the administrative offices (departments or sub-units) falling within the scope of the *B-BSG* are classified and assigned to the classes I to III according to the criteria listed below, depending on the hazards posed to employees' health (hazard potential). Hazard Class I stands for high hazard potential, Class II for medium potential and Class III for low potential.

Further reference is made here to the Ordinance of the Federal Government on health surveillance at work (*Bundesverordnung über die Gesundheitsüberwachung am Arbeitsplatz, B-VGÜ*), Federal Law Gazette II no. 15/2000 as amended, which in turn refers to the 2014 Ordinance governing health surveillance at work (*Verordnung über die Gesundheitsüberwachung am Arbeitsplatz 2014, VGÜ 2014*), Federal Law Gazette II no. 27/1997 as amended. These ordinances contain specific provisions governing items including examinations for suitability and follow-up examinations.

The same standards of protection are ensured in public service as in the private sector.

The following amendments are to be mentioned in particular for the period of 2012 to 2015.

Federal Employees Protection Act (*Bundes-Bedienstetenschutzgesetz, B-BSG*), Federal Law Gazette I no. 70/1999:

- Federal Law Gazette I no. 35/2012: no significant implementation of EU legislation
- Federal Law Gazette I no. 120/2012: implementation of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC), and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

- Federal Law Gazette I no. 210/2013: adaptations to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (CLP Regulation)
- Federal Law Gazette I no. 32/2015: no significant implementation of EU legislation
- Federal Law Gazette I no. 101/2015: no significant implementation of EU legislation
- Federal Law Gazette I no. 164/2015: implementation of Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures
- Ordinance of the Federal Government on protection of workers against injuries due to sharp medical instruments (*Nadelstichverordnung Bund, B-NastV*), Federal Law Gazette II no. 50/2015:
- implementation of Council Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU
- Ordinance of the Federal Government defining the requirements for workplaces at federal administrative offices (*Bundes-Arbeitsstättenverordnung, B-AStV*), Federal Law Gazette II no. 352/2002:
- Federal Law Gazette II no. 356/2013: implementation of Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace

The Federal Government is planning an additional ordinance to amend health and safety labelling as well as the Ordinance governing biological agents and the Ordinance on protection of workers against explosive atmospheres. This will be done to implement Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Similar regulations exist at *Laender* level for public-service employees working for an Austrian state (*Land*) or a municipality.

By way of a representative example of action taken by the nine *Laender* to implement EU Directives, reference is made in the following to the statement submitted by Tyrol:

With effect for public-service employees working in the administrative offices of Tyrol, the Ordinance published in State Law Gazette no. 111/2012 adapted provisions in the Ordinance governing working substances, State Law Gazette no. 136/2003, the Ordinance governing health surveillance, State Law Gazette no. 131/2003, and the Ordinance governing the protection of construction workers, State Law Gazette no. 141/2003. The adaptations were made to implement EU and corresponding national legislation in public-service law in Tyrol, specifically Directive 2009/161/EU and the related Ordinance of the Federal Minister of Labour, Social Affairs and Consumer Protection amending the Ordinance governing exposure limit values 2007 as issued in Federal Law Gazette II no. 429/2011 of 19 December 2011.

The Ordinance governing needle-stick injuries (*Nadelstichverordnung, Nast-V*), State Law Gazette no. 5/2014, was enacted to implement Directive 2010/32/EU, thereby defining various measures for the protection of public-service employees against injuries due to sharp medical instruments. The Ordinance applies to workplaces as defined in the Tyrol Public Employees Protection Act (*Bedienstetenschutzgesetz*) 2003 within the human and veterinary healthcare systems and at laboratories, where public-service employees are exposed to the risk of injury due to sharp medical instruments.

The Act published in State Law Gazette no. 105/2015 introduced adapted provisions to the Tyrol Public Employees Protection Act (State Law Gazette no. 75/2003 as last amended by State Law Gazette no. 105/2015) 2003 in order to more easily trace back the changes resulting from Directive 2014/27/EU, which amends five Directives previously implemented in the Tyrol Public Employees Protection Act. In particular, the definitions applying to hazardous agents were modified in accordance with Regulation (EC) no. 1272/2008 (CLP Regulation).

Apart from that, the amendments to the Tyrol Public Employees Protection Act 2003 mentioned above also adapted provisions on workers responsible for first aid and fire prevention in order to respond to the ruling handed down by the ECJ in case C-428/04 on 6 April 2006; in detail it was specified that the obligation to designate workers responsible for first aid and fire prevention is not contingent on the size of the administrative office.

The ordinances listed below, which had been issued based on the Tyrol Public Employees Protection Act 2003, State Law Gazette no. 105/2015, were correspondingly adapted to the amendment of the underlying Act through the Ordinance issued in State Law Gazette no. 130/2015. The changes primarily involved the adaptation of references which were necessitated by the new version of Section 2 of the Tyrol Public Employees Protection Act 2003: specifically, the definitions of hazardous agents were adapted to Regulation (EC) no. 1272/2008 (CLP Regulation) and the assignment to specific hazard classes was defined in detail, while other adaptations concerned the storage of protective equipment used by public-service employees as well as the deployment of external prevention experts, the latter in response to the ECJ ruling of 6 April 2006 in Case C-428/04.

- Ordinance on the protection of public-service employees when using work equipment (*Verordnung über den Schutz der Bediensteten bei der Benutzung von Arbeitsmitteln*), State Law Gazette no. 135/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance on the protection of public-service employees when using hazardous agents and on exposure limit values of hazardous agents (*Verordnung über den Schutz der Bediensteten bei der Verwendung gefährlicher Arbeitsstoffe und über Grenzwerte für gefährliche Arbeitsstoffe*), State Law Gazette no. 136/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance on the protection of public-service employees carrying out construction work (*Verordnung über den Schutz der Bediensteten bei der Ausführung von Bauarbeiten*), State Law Gazette no. 141/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance on the protection of public-service employees when working with display screen equipment and when handling loads (*Verordnung über den Schutz der Bediensteten bei der Bildschirmarbeit und der Handhabung von Lasten*), State Law Gazette no. 137/2003, as amended by the Ordinance in State Law Gazette no. 130/2015.

- Ordinance governing safety and health documents and other documentation obligations (*Verordnung über die Sicherheits- und Gesundheitsschutzdokumente und sonstige Dokumentationspflichten*), State Law Gazette no. 132/2003, as amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance requiring special skills and documentation of such skills for certain activities (*Verordnung über besondere Fachkenntnisse für bestimmte Tätigkeiten und ihren Nachweis*), State Law Gazette no. 134/2003, amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance governing health surveillance at work (*Verordnung über die Gesundheitsüberwachung am Arbeitsplatz*), State Law Gazette no. 131/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance governing the protection of young public-service employees (*Verordnung über den Schutz jugendlicher Bediensteter*), State Law Gazette no. 140/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance governing safety and health labelling (*Verordnung über die Sicherheits- und Gesundheitsschutzkennzeichnung*), State Law Gazette no. 133/2003, as amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance governing personal protective equipment and clothing at work (*Verordnung über persönliche Schutzausrüstungen und Dienstbekleidung*), State Law Gazette no. 139/2003, as amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance on prevention experts, safety representatives, first-aid and fire prevention officers (*Verordnung über die Präventivfachkräfte, Sicherheitsvertrauenspersonen, Erst-Helfer und Brandschutzbeauftragten*), State Law Gazette no. 130/2003, as amended by the Ordinance in State Law Gazette no. 130/2015.
- Ordinance governing the protection of public-service employees against the hazards posed by certain physical forces at work (*Verordnung über den Schutz der Bediensteten vor Gefährdung durch bestimmte physikalische Einwirkungen am Arbeitsplatz*), State Law Gazette no. 138/2003, last amended by the Ordinance in State Law Gazette no. 130/2015.

Provisions for farming and forestry

As a result of the amendment to the Agricultural Labour Act (*Landarbeitsgesetz, LAG*) published in Federal Law Gazette I no. 98/2012, Directive 2008/104/EC on temporary agency work was additionally implemented to cover farming and forestry workers; this Directive, published in OJ L 327 of 5 December 2008, p. 9, is referred to in the following as the Temporary Agency Work Directive.

This Directive lays down the principle of equal treatment for temporary agency workers as compared with the workers employed directly by the user undertaking. In addition, more detailed information requirements were introduced for temporary work agencies and user undertakings with the aim of improved protection for temporary agency workers.

It should be noted at the outset that constitutional provisions principally allow farming and forestry workers to be hired out only where this does not fall under the trade of temporary agency work as specified in Section 135 Para. 2 no. 1 of the Industrial Code (*Gewerbeordnung, GeWo*).

Employees are consequently permitted to be hired out (i.e. provide temporary agency work) temporarily only for a maximum of six months of any calendar year to user undertakings active in the same trade as the undertaking hiring out the workers and provided that the nature of the latter undertaking's business remains unchanged. The current rules do not relax these restrictions that allow businesses in the farming and forestry industries to hire out workers.

The previously applying definition of temporary agency work that had been contained in Section 82 Paras. 1 and 2 *LAG* was transferred to Section 5a *LAG*, thereby broadening the scope of application to include other legislation as well.

The information requirements specified in Section 82 Para. 3 *LAG*, which already existed and apply to user undertakings towards the undertaking hiring out workers, are to be met from now on by providing evidence in writing (refer to the new version of Section 82 Para. 1 *LAG*). This information now also has to be provided not only prior to when the workers are hired out but also later, when hired-out workers are to be deployed at other activities or at other workplaces than originally stipulated with the undertaking hiring out the workers.

The same applies accordingly in the case of the information requirements that the undertaking hiring out workers has towards those workers (Section 82 Para. 4 *LAG*).

The works council is to be informed in advance of the intention to employ hired-out workers; consultations must be held if requested. The works council is to be informed without delay of the beginning of such employment.

Establishment, alteration and retention of workplaces

As a consequence of amending the *ASchG* through the *ASRÄG 2014*, Federal Law Gazette I no. 94/2014, the specific provisions on fire protection groups and safety representatives in the implementing ordinances – the Ordinance governing workplaces (*Arbeitsstättenverordnung, AStV*) and the Ordinance governing safety representatives (*Verordnung über die Sicherheitsvertrauenspersonen, SVP-VO*) – were also modified.

- With the omission of the legal basis for establishing fire protection groups that had been specified in the *ASchG*, it was also necessary to revoke Section 44 *AStV* on establishing a fire protection group.
- Similarly, modifying the conditions for appointing a safety representative as specified in the *ASchG* also required specific changes to the *SVP-VO*. The new provision of the *SVP-VO*, inserted as Para. 2a of Section 4, now makes it clear that the necessary prerequisites for serving as safety representative are also met by persons who have successfully completed specialised training as occupational health and safety officers (Section 74 *ASchG*) or as occupational physicians (Section 79 Para. 2 *ASchG*).

The amendments were published in Federal Law Gazette II no. 324/2014 and became effective as of 1 January 2015.

Protection against hazardous substances and agents

Amendments to the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*) and the Maternity Protection Act (*Mutterschutzgesetz, MSchG*) entered into force as of 1 June 2015 in an effort to transpose Directive 2014/27/EU; this Directive aligned five Directives in the area of worker health and safety to the CLP Regulation, i.e. Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Amendments to the Ordinance governing prohibitions and restrictions of employment for young people (*Verordnung über Beschäftigungsverbote und –beschränkungen für Jugendliche, KJBG-VO*) and the Ordinance governing labelling (*Kennzeichnungsverordnung, KennV*) became effective later. These amendments were introduced mainly to implement EU Directive 2014/27/EU, which adapted five Directives in the area of worker health and safety (Directive on safety and/or health signs at work, Directive on the safety and health of pregnant workers, Directive on the protection of young people at work, Directive on chemical agents at work, Directive on exposure to carcinogens at work) to the new system of classification and labelling of substances and mixtures (CLP Regulation).

Prior to this, chemical agents had been classified in Section 40 *ASchG* according to their hazardous properties as defined in the Austrian Chemicals Act (*Chemikaliengesetz, ChemG*) 1996. This system has now been replaced by the classification of chemical agents according to hazard classes (and to categories within those hazard classes) using the specification in the CLP Regulation.

Asbestos

As part of the Austrian Employee Safety and Health Strategy 2013-2020, a working party dealt with asbestos as a carcinogenic agent.

Austrian legislation applying to working with asbestos includes, firstly, the general provisions of the *ASchG*, then the Ordinance governing personal protective equipment (*Verordnung Persönliche Schutzausrüstung, PSA-V*) and the Ordinance governing limit values (*Grenzwertverordnung, GKV*) 2011, which specifies the exposure limit values and special provisions for asbestos. The Ordinance governing health surveillance at work (*Verordnung über die Gesundheitsüberwachung am Arbeitsplatz, VGÜ*) 2014 requires examinations for suitability and follow-up examinations in the case of workers exposed to asbestos. The Ordinance governing labelling (*Kennzeichnungsverordnung, KennV*) specifies the labelling of asbestos at workplaces.

For working with asbestos, special regulations apply in addition to the general regulations in effect for protecting the lives and health of workers in Austria.

When agents identified as carcinogens are used, which include asbestos fibres, Section 14 *GKV 2011* requires suitable work garments or protective clothing to be made available. Specific rules are set forth in the Ordinance governing personal protective equipment (*PSA-V*).

Notification of working with asbestos:

Pursuant to Section 22 *GKV*, employers are required to notify the competent Labour Inspectorate prior to the beginning of any work with asbestos, duly providing the information listed in Section 13 *GKV* as well as the following details: the location (address), beginning and duration of work, and the name of the designated supervisor of any construction works carried out in accordance with the Ordinance governing the protection of construction workers (*Bauarbeiter-schutzverordnung, BauV*).

Section 22 Para. 2 *GKV* provides for an exemption from the notification requirement for asbestos in the case of “occasional work under negligible exposure levels”.

Work plan:

Section 23 *GKV* requires a written work plan to always be prepared prior to beginning any demolition works involving asbestos or removing materials containing asbestos; the work plan is to be attached to the safety and health document.

Measurements:

The evaluation is also required to determine whether “occasional work under negligible” levels of exposure to asbestos is involved (Section 22 Para. 2 *GKV*) or whether higher levels that might possibly even exceed limit values have to be expected, as is the case with remediation works.

Section 24 *GKV* specifies detailed provisions governing the measurement of asbestos concentrations. Chapter 5 of the *GKV* contains general regulations on measurement. The currently valid concentration level (technical reference concentration or *technische Richtkonzentration, TRK*) for asbestos is 100,000 fibres/m³; this limit applies to chrysotile and amphibole asbestos, specifically actonolite, amosite, anthophyllite, crocidolite and tremolite.

Information and instruction:

Section 25 *GKV* requires employers to provide employees with general information about the risks of asbestos as well as suitable protective measures. Workers are also required to be given specific instructions in view of their particular activities.

Keeping exposure to a minimum:

Section 26 *GKV* requires employers to ensure that when working with asbestos every measure is taken to keep to a minimum any exposure to asbestos at the workplace.

Special works (demolition, remediation, repair or maintenance works):

Section 27 *GKV* requires information concerning any possible asbestos contamination to be gathered prior to beginning work, if necessary from the property owner. In the event that, even after making use of every available precaution, exceeding limit values is unavoidable, additional protective measures such as designating and sealing off exposure areas are to be taken.

Manufacturing and marketing:

The Asbestos Ordinance of 1990 generally banned the production and marketing of asbestos and asbestos-containing goods. Time-limited exceptions were made for some products, and the use of old goods and products containing asbestos was not restricted.

On 1 January 2004, the provisions of the 2003 Ordinance governing chemicals and the 2003 Ordinance on asbestos entered into force. Under Section 3 (2) of the former, the marketing and use of asbestos fibres is banned. The continued use of asbestos-containing substances used prior to 1 January 2004 is permitted. This ordinance transposes Directive 1999/77/EC.

In actual practice, the provisions covering the marketing of asbestos-containing substances and preparations are applied so that any marketing of asbestos (also in preparations and finished products) is banned.

This is checked by administrative police monitoring which acts as a market supervisory body.

Public service

Pursuant to Section 1 Para. 1 of the Federal Ordinance governing limit values (*Bundes-Grenzwerteverordnung, B-GKV*), Federal Law Gazette II no. 393/2002 as amended, in particular Chapter 4 of the Ordinance governing limit values (*Grenzwerteverordnung, GKV*) 2011, Federal Law Gazette II no. 253/2001 as amended, applies to Federal administrative offices with the exception of those Federal organisations to which general protection legislation applies. Chapter 4 of the *GKV 2011*, which comprises Sections 21 to 27 of the Ordinance, refers to works entailing known or potential exposure of workers to asbestos dust or to dust from asbestos-containing materials.

At *Laender* level, the legislation of the particular *Land* contains provisions governing the protection of public-service employees (in employment relationships with the *Laender*, municipalities or local authorities associations) against hazardous agents such as asbestos.

The same level and standard of protection exists for public-service employees of *Laender* and municipalities as for those under the Federal Government.

Farming and forestry

Working under exposure to asbestos is extremely rare among farming and forestry employees. Despite this fact, the ordinances issued by the individual *Laender* to define limit values for agents include special provisions on handling asbestos, or the federal ordinance for limit values is declared applicable in that *Land*. Refer to the following list of examples of *Laender*-level legislation:

Upper Austria Ordinance governing limit values for agents – farming and forestry (*OÖ. Arbeitsstoffe-Grenzwerteverordnung – Land- und Forstwirtschaft*), State Law Gazette no. 106/2002

Burgenland Ordinance governing limit values in farming and forestry (*Burgenländische Grenzwerteverordnung in der Land- und Forstwirtschaft*), State Law Gazette no. 28/2004

Vienna Ordinance governing limit values in farming and forestry (*Wiener Grenzwerteverordnung in der Land- und Forstwirtschaft*), State Law Gazette no. 29/2002

Ordinance governing limit values for agents and carcinogenic agents in farming and forestry in Lower Austria (*Verordnung über Grenzwerte für Arbeitsstoffe und über krebserzeugende Arbeitsstoffe in der Land- und Forstwirtschaft in Niederösterreich, NÖ LFW GK-VO*), State Law Gazette 9020/10-0

Ordinance of the Styrian *Land* Government of 26 September 2005 governing health and safety at work in farming and forestry (*Land- und forstwirtschaftliche Sicherheits- und Gesundheitsschutzverordnung, LFSG-VO 2005*), declaring the applicability of the Ordinance governing limit values, State Law Gazette no. 100/2005

Ordinance of the Carinthian *Land* Government on limit values for agents and on carcinogenic agents and agents toxic for reproduction (*Verordnung der Kärntner Landesregierung über Grenzwerte für Arbeitsstoffe sowie über krebserzeugende und fortpflanzungsgefährdende (reproduktionstoxische) Arbeitsstoffe*), State Law Gazette no. 22/2003

Ordinance of the Salzburg *Land* Government of 26 August 2002 on protection of public-service employees under the *Land* and the municipalities and of farming and forestry workers against risks due to chemical or carcinogenic agents (*Chemische Arbeitsstoffe-Verordnung, CAV*), State Law Gazette no. 83/2002 – the Federal Ordinance governing limit values, Federal Law Gazette II no. 253/2001 is declared applicable.

All provisions of law can be viewed online (in German) on the website of the Legal Information System (*RIS*) provided by the Austrian Federal Chancellery:

<https://www.ris.bka.gv.at/Land/>

Directive 2006/117/EURATOM

Directive 2006/117/EURATOM on the supervision and control of shipments of radioactive waste and spent fuel has been implemented in the Ordinance governing the shipment of radioactive wastes (*Radioaktive Abfälle-Verbringungsverordnung, RAbf-VV*) 2009, Federal Law Gazette II no. 47/2009 as amended by Federal Law Gazette II no. 22/2015.

Temporary agency workers

The Austrian Workers Protection Act (*ASchG*) applies to the employment of persons as employees. This group includes all persons who work within the framework of an employment or training relationship. Temporary agency workers also fall under this category.

The general rules set forth in the *ASchG* apply in every case. According to this Act, employers or user undertakings are specifically required to ensure that employees are adequately informed of the health and safety risks and of risk-prevention measures (Section 12 *ASchG*). They are also required to ensure adequate instruction in health and safety at work (Section 14 *ASchG*).

The provisions of the *ASchG* aimed at worker protection also apply to monitoring the health of temporary workers; examinations for suitability and follow-up examinations are accordingly required for certain work activities.

The special obligations listed below are specified for temporary work agencies.

All employer obligations related to any risks arising from working on the employer's premises also apply to user undertakings; examples of such obligations include risk prevention, information and instruction, evaluation, occupational medical care and safety advice, and provision of personal protective equipment.

As defined in Section 9 *ASchG*, temporary agency work exists where employees are made available to work for a third party under the control of that party. A temporary work agency is an employer who obliges employees to perform work for a third party. The user undertaking is the party deploying such employees to perform work. A user undertaking is considered an employer as defined in the *ASchG* for the duration of the temporary work contract.

User undertakings are always obliged to inform the temporary work agency of the suitability required for the work activity and make the health and safety documents available to the temporary work agency to the necessary extent. Temporary work agencies are obliged, prior to hiring out workers, to inform them of any risks they may be exposed to while working in the position to be filled, of the suitability required for the workplace or activity, and of the required examination for suitability and follow-up examinations (Section 9 Para. 3 nos. 1 and 3 *ASchG*). Temporary work agencies are required to maintain records of the examinations for suitability and follow-up examinations (Section 9 Para. 5 *ASchG*).

In the case of activities for which examinations for suitability and follow-up examinations are required, a worker may be hired out only if these examinations have been performed and no official decision ascertaining the worker's medical unfitness was issued. User undertakings are obliged to demonstrably make sure that the examinations were performed and no official decision ascertaining the worker's medical unfitness was issued.

Section 6 Para. 4 of the Temporary Agency Work Act (*Arbeitskräfteüberlassungsgesetz, AÜG*) requires the temporary work agency to terminate the temporary work immediately, where the agency becomes aware or should have become aware of the user undertaking's failure to comply with the requirement to ensure workers' health and safety or with the duty of care, despite being called upon to do so.

In the context of defining the responsibilities of occupational health and safety officers as well as the information to be provided them and the occasions for consultation, Section 76 *ASchG* requires that such officers are to be separately informed whenever hired-out workers are employed, to the extent necessary in order for the officers to meet their responsibilities. Occupational health and safety officers, like occupational physicians, have the responsibility of advising employers, employees, safety representatives and staff representation bodies, and of supporting employers in the implementation of worker protection regulations.

In the context of defining the responsibilities of occupational physicians as well as the information to be provided them and the occasions for consultation, Section 81 *ASchG* similarly requires that they are to be separately informed whenever hired-out workers are employed, to the extent necessary in order for the physicians to meet their responsibilities.

In matters related to worker protection at the individual level (e.g. working time), the Temporary Agency Work Act (*Arbeitskräfteüberlassungsgesetz, AÜG*), Federal Law Gazette no. 196/1988 as amended, applies to hired-out workers falling within the scope of that Act.

Neither the *ASchG* nor the *AÜG* make any distinction between temporary and permanent employment relationships, rather both refer without exception to the 'employment' of workers or employees; therefore, temporary employment relationships are included within the scope of application of each of these two acts.

The Labour Inspectorate is not currently planning any special activities related to hired-out workers. No distinction is made based on the type of employment during inspections of businesses.

Safety and health regulations for the self-employed

It is apparent from the Conclusions by the Committee on Social Rights as well as from the additional questions that the Committee views Austria as not complying with the requirements of Art. 3 § 1 (now Art. 3 Para. 2) of the European Social Charter with regard to safety and health regulations for the self-employed.

The ECSR basically concluded that, although the protection of self-employed workers by occupational safety and health regulations may be better in industrial or commercial production or on construction sites, it still does not cover all workers, all workplaces and all sectors, as required.

As concerns this criticism, both the Austrian authorities and the Austrian social partners do not recognise the need for additional legislative measures.

The large majority of businesses and self-employed persons in Austria are subject to industrial and trade laws.

The Austrian Industrial Code (*GewO*) includes specific regulations that protect business license holders. Special provisions to protect self-employed workers also exist for mining and for the construction sector.

The Workers Protection Act, which regulates safety and protection for employees, also applies to self-employed persons whenever they work side by side with the workers they employ.

Apart from these regulations and circumstances it would contradict the nature of self-employment to make it subject to the same legal regulations as dependent employment.

Self-employed individuals normally structure their working conditions autonomously and are not dependent on others.

This also raises the question as to whether applying strict regulations would be consistent with the freedom of trades and crafts as set forth in the Austrian constitution.

The Austrian Federal Economic Chamber and the Chambers of Agriculture, as the bodies representing the interests of Austrian businesspeople and farmers, and the social insurance institutions responsible for the self-employed and farmers correspondingly offer a broad selection of opportunities for further education/training and counselling, which enable the self-employed to take care of their own safety and health needs.

The previous Austrian report included a list of the abundance of programmes, initiatives, workshops and courses, which do not have to be repeated in detail.

One example is the initiative launched in 2011 to introduce measures for promoting health at small and medium-sized companies and one-person companies especially. As part of the programme, a health portal was set up to provide an overview of all campaigns, information and activities designed to promote health at work.

The project “Healthy and able to work from the start”, successfully completed in 2014, served to further enhance the health-consciousness specifically of one-person companies. Through coaching sessions and workshops, participants developed skills that help them to continue to take care of their own health during daily work.

Finally, a study by the University of Bremen published in December 2013 is worth mentioning, which revealed that self-employed individuals in Austria enjoy a very high standard of social protection.

The study authors compared a total of 18 OECD countries on programmes to protect the self-employed from risks such as illness, disability, unemployment, income loss as a result of leaving the job market or becoming a parent, and especially with regard to measures for promoting the health of the self-employed and preventing illness in this group.

Austria ranked first in this study.

In addition, the instruments listed below, which are implemented within the Social Insurance Institution for Trade and Industry (*Sozialversicherungsanstalt der gewerblichen Wirtschaft* (SVA), also contribute to maintaining and improving the health of the self-employed.

For several years, the SVA has been committed to the goal of promoting the health and quality of life of those insured under its scheme and not just assisting them once they fall ill – wholly in line with the saying that ‘prevention is better than cure’.

Independently employed – independently healthy (*Selbstständig Gesund*):

Insured persons who take an active role in maintaining their health pay only half the deductible, i.e. 10 instead of 20 per cent, for medical and dental treatments. At the core of this programme are five factors that anybody can influence through lifestyle:

- Blood pressure
- Weight
- Exercise
- Tobacco
- Alcohol

The insured individual visits his or her general practitioner for a health check and together they define individual health goals in terms of these five factors. If the level of all of these factors is considered acceptable, the health goal is simply to 'stay healthy'. If the results show a need for action, the goal is 'improved health'. Where this is the case, the individual and the physician agree on steps for improving one or the other of these factors. They also agree on a date by which successful action can be taken. Examples of action that can be taken to improve individual factors include more exercise, smoking cessation training and lifestyle changes to reduce blood pressure. The SVA offers health and prevention programmes that can help people reach their goals in individual areas. At the end of the agreed period (a minimum of six months), the individual again consults with the physician. At this 'evaluation appointment', they review whether the health goals have been reached. Individuals successfully meeting their personal health goals are eligible for the 50 per cent reduction in deductible. They subsequently pay a deductible of only 10 instead of 20 per cent for any medical or dental services. As part of this appointment, new health goals are defined.

Hundred euro health bonus (*Gesundheitshunderter*):

The SVA supports self-employed individuals with a hundred euro bonus, which can be used towards activities to promote health in these areas:

- Exercise (e.g. strength training, back strengthening, personal training, Pilates)
- Nutrition (e.g. weight loss, diets for athletes and the elderly, support in case of food intolerance)
- Stress/burnout (e.g. coaching and counselling, stress diagnosis)
- Relaxation/bodywork (e.g. yoga, Tai Chi, massage, Shiatsu)
- Becoming smoke-free – counselling and support during smoking withdrawal

Individuals participate in one of the related, quality assured programmes (such as a smoking cessation camp) or in an individual programme (Independently employed – independently healthy, including a health workshop or course valued at a minimum of EUR 150) and successfully complete such a seminar can apply to their SVA regional office for the hundred euro health bonus. Up to four one-hundred euro bonuses can be claimed each year.

SVA links:

<http://svagw.at/portal27/portal/svaportal/content/contentWindow?contentid=10008.586901&action=b&cacheability=PAGE&version=1455004670>

<http://esv-sva.sozvers.at/portal27/portal/svaportal/content/contentWindow?contentid=10007.751244&action=2>

The Farmers' Social Security Authority wishes to add the following:

The Farmers' Social Security Authority (*Sozialversicherungsanstalt der Bauern, SVB*) has in recent years provided safety advice and health promotion as required by law. The situation at the SVB is unique among Austrian social insurance institutions inasmuch as the responsibilities of health promotion, as part of health insurance (Section 96b Farmers Social Insurance Act, *Bauern-Sozialversicherungsgesetz, BSVG*, 16th amendment), and safety advice, which falls within accident insurance (Section 148 I *BSVG*, 22nd Amendment), are combined within one and the

same organisational unit, 'Safety and Health'. This structure leads to advantages through synergy effects.

An example is 'Fit4life – get involved' (*Fit 4life – sei dabei*), a campaign targeted at children and young people that was carried out jointly between 2011 and 2015. Based on a study of children and young people in farmers' families, existing initiatives were improved and attractive programmes were introduced to further enhance the health and safety of farmers' families.

The new joint campaign focused on 'fall prevention' was launched in 2016, after the plans had been developed in 2015.

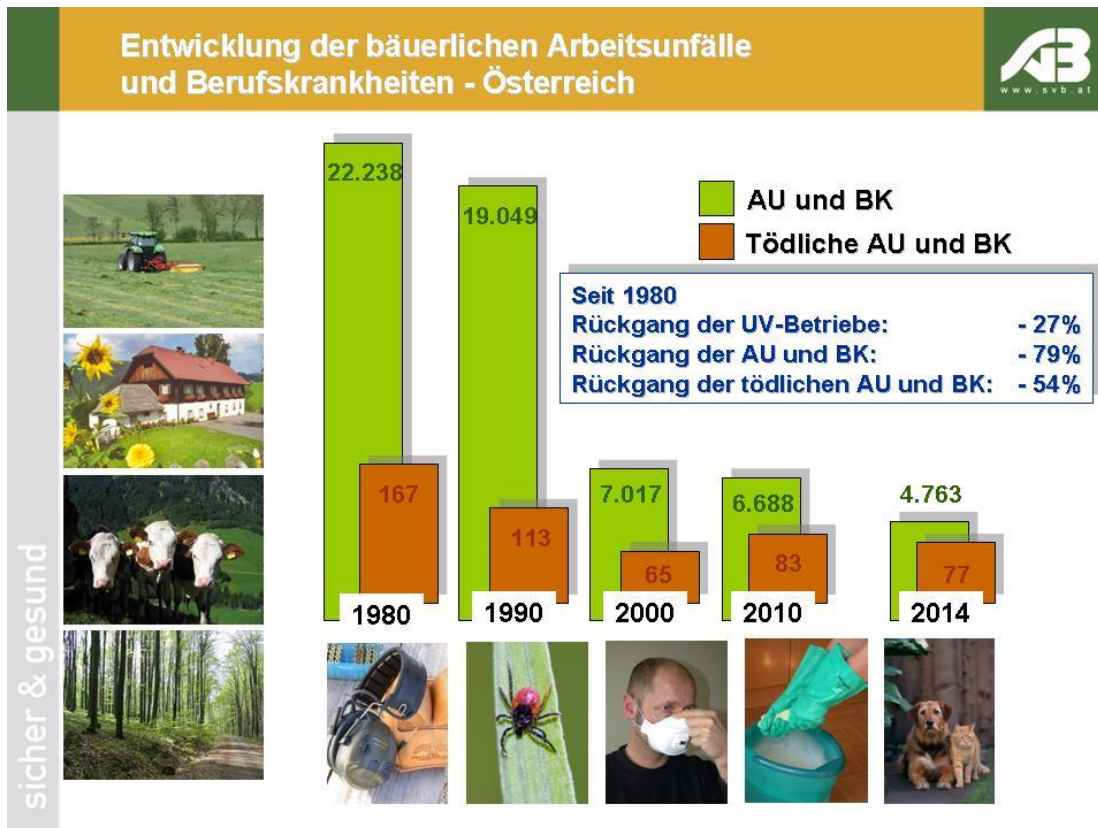
The campaign is aimed at helping people to manage their daily lives safely and without risk of falling, through reinforcing personal resources and optimising overall conditions. The specific goals are to permanently reduce the number of fall accidents, to minimise the after-effects of such accidents, to reduce the risk of fall accidents through structural and technical measures, and to help individuals in specific target groups improve their balance and coordination. Prohibiting activities associated with a risk of falling is not regarded as a goal.

Emphasis is placed on action in these areas:

- 'falls occurring on level ground' and
- 'falls from heights' (especially from ladders)
- as well as among these target groups:
 - Insured persons under age 25 (highest potential for prevention)
 - Insured women age 55 and above (bone fractures)
 - Insured persons over age 45 (frequent accidents)

The campaign will continue until 2019.

The effectiveness of safety advice is evidenced especially in the reduction of the number of insurance claims (due to accidents at work and occupational diseases) as shown in the chart.



The statistics for farming accidents reveal that, while the number of farming operations covered by accident insurance dropped by 27% since 1980, insurance claims decreased by 79% and the number of fatal accidents fell by 54%.

In other words: the number of insurance claims by farmers decreased much more sharply than the number of insured operations.

In the past 15 years insurance claims have been falling at a rate of 33% (2000: 7,017 claims; 2014: 4,763 claims).

In addition, significant progress could be made in raising levels of risk and safety awareness among the farming population.

The perspective of the mining sector (mining-related activities)

The Mineral Resources Act (*Mineralrohstoffgesetz, MinroG*), Federal Law Gazette I no. 38/1999 as amended by the Federal Act published in Federal Law Gazette I no. 125/2013, provides for the adequate protection of the lives and health of individuals, including natural persons who carry out mining activities themselves while holding mining rights:

Pursuant to Section 116 Para. 1 *MinroG*, one of the conditions for approving an extraction plan (*Gewinnbetriebsplan*, i.e. the basis for any mining activity) is that no hazard to the lives or health of individuals and no unreasonable nuisance to individuals are to be expected as based on the most recent advances in medicine and other sciences that come into consideration.

As part of procedures for approving the extraction plan, the authorising authority must therefore also require where necessary such measures as can be expected to prevent any risk to the life and health of the holder of the mining rights. The specifically applicable worker protection regulations serve as 'technical rules' in this context.

If, however, such measures cannot assure protection of the life and health of the rights holder, the legal consequence must be to refuse approval for the extraction plan.

The legal provisions governing the approval of mining operations are very similar (refer to Section 119 Para. 3 no. 3 *MinroG*). A number of ordinances issued based on the *MinroG* are intended to serve purposes including the 'protection of persons', which also includes persons holding mining rights who carry out mining activities themselves; refer to Section 1 no. 1 of the Ordinance governing outdoor solution mining (*Bohrlochbergbau-Verordnung*) and Section 1 no. 1 of the Ordinance governing the storage of mining explosives (*Bergbau- Sprengmittellagerungsverordnung*).

ARTICLE 3§3

Questions 1 and 2

As of 1 July 2012 the scope of competence of the Labour Inspectorate was broadened to additionally cover the workplaces and work sites previously falling under the Transport Labour Inspectorate. Separate statistics continued to be kept in 2012 and 2013, while combined data is reported as of 2014.

Supervision in public service:

A separate supervision arrangement exists for the public service; this situation results from the provisions of the Federal Employees Protection Act (*Bundes-Bedienstetenschutzgesetz, B-BSG*), Federal Law Gazette I no. 70/1999, and Section 1 of the 1974 Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*), Federal Law Gazette no. 143. On the other hand, Section 9 Para. 1 lit. a of the Federal Staff Representation Act (*Bundes-Personalvertretungsgesetz*), Federal Law Gazette no. 133/1967, accords to the staff representation body the right to participate in the enforcement and supervision of compliance with regulations and orders related to employee protection, and thus the right to address the competent supervisory authority where necessary. In order to allow employee representatives to correspondingly exercise this right to participate, the committee representing the administrative office can request to examine all documents at that office which relate to accident prevention and safety regulations for the operation of machinery and equipment, as well as to social insurance matters.

The bodies of legislation of the individual *Laender* specify varying authorities or commissions (public-service employee protection committees) which are responsible for the employees with the administrative offices of the particular *Land*. The provisions are set forth in the laws for the protection of *Land* and municipal employees and in the accompanying ordinances that have been enacted or issued at *Laender* level.

All related provisions of law can be viewed online (in German) on the website of the Legal Information System (RIS) provided by the Austrian Federal Chancellery:

<https://www.ris.bka.gv.at/Land/>

Inspection for workers employed by „religious institutions“:

Section 1 Para. 2 no. 5 of the Labour Inspectorate Act (*Arbeitsinspektionsgesetz, ArbIG*) 1993 lays down that the Labour Inspectorate is not competent to inspect houses of prayer (*Kultustalten*) affiliated with the churches and religious communities recognised by law; those are not subject to governmental labour supervision.

Houses of prayer are defined as institutions where the proclamation of the faith and the related pastoral care take place, e.g. mosques.

Administrative institutions, welfare or charitable institutions as well as educational facilities, however, do fall under the remit of the Labour Inspectorate. So do licensed trade operations and agricultural and forestry businesses operated by churches and religious communities recognised by law.

Houses of prayer are not exempt from the scope of the Workers Protection Act (*Arbeitnehmer-Innenschutzgesetz, ASchG*). Consequently, the protection provisions for workers apply to persons employed at such *Kultusanstalten* (except for regulations governing workplaces). Spiritual dignitaries of churches and religious communities recognised by law are not considered employees as defined by Section 2 Para. 1 *ASchG*.

Domestic workers:

On 16 June 2011, the General Conference of the International Labour Organization (ILO) adopted the Domestic Workers Convention (No. 189). This Convention obliges each ratifying member state to take measures ensuring the effective implementation of the provisions of the Convention covering all aspects of the employment of domestic workers. The Convention concerns individuals who perform domestic work in or for a household or households, excluding those who perform domestic work only occasionally or sporadically and not on an occupational basis.

The obligations in the Convention concern matters ranging from the provision of information on terms and conditions of employment and protection for migrant domestic workers to the fundamental principles and rights at work. It covers regulatory areas ranging from protection against abuse, harassment and violence to protection against discrimination. It also contains rules on working time and provisions regarding the protection of wages, health protection and social security protection. Finally, it lays down provisions regarding employment agencies and access to dispute resolution mechanisms and includes a request for adequate means for ensuring compliance, including labour inspection measures.

An assessment of the legal situation in Austria has shown that while Austria is already largely compliant with the Convention, amendments are required in relation to the following provisions:

- Article 8 paragraph 1 (recruitment from abroad):
The Convention requires that domestic workers receive a binding offer of terms and conditions of work before crossing national borders, i.e. the terms and conditions must be enforceable in Austria before domestic workers take up work. This is not currently the case.
- Article 8 paragraph 4 (travel costs):
Currently there are no provisions regarding payment of costs for repatriation of domestic workers to their home country following expiry or termination of the employment contract.
- Article 10 paragraphs 1 and 2 (working time):
Weekly working hours need to be reduced and the weekly rest period needs to be extended. To avoid significant reductions in wages, the intention is to reduce working time in three stages.
- Article 17 paragraphs 2 and 3 (inspection):
Ensuring adequate supervision of working conditions by establishment of measures for labour inspection.

Section 119 Para. 1 StPO sets forth that flats and other places protected by a householder's rights may be searched if certain facts give rise to the assumption that a person suspected of a criminal offence is hiding there, or that objects or traces may be found there that need to be seized or analysed. Criminal acts relevant in this context may be in particular those specified in Section 104 *StGB* (slavery) and Section 104a *StGB* (human trafficking). Such house search must be ordered by the public prosecutor following a court's approval (Section 120 Para. 1 *StPO*).

Aside from this, the law as it stands does not permit inspections relating to observance of the rights of workers to be carried out in the homes of private individuals who employ domestic workers.

While these labour inspection measures will not be as extensive as those applicable to companies, given the qualification in the Convention ("with due regard for the special characteristics of domestic work"), it is not felt that they need to be.

Over the course of a number of meetings with the social partners beginning in autumn 2012, a bill which eliminates all of the obstacles to ratification was produced in spring 2015.

There is now broad consensus among the social partners, but it has not yet been possible to resolve all disagreements. It would appear to be realistic to expect the legislation to be adopted during 2017, however.

Occupational accidents and diseases

General Labour Inspectorate

The following table indicates the short- to medium-term development of accidents at work and cases of occupational disease suffered by dependently employed persons as registered by Allgemeine Unfallversicherungsanstalt (AUVA):

	2012	2013	2014	2015
Recognised accidents at work (excluding accidents to or from work)	93,152	90,419	89,502	Not yet available
Of which fatal	100	98	65	Not yet available
Rate of accidents at work 1)	313.5	305.2	300.3	Not yet available
Recognised cases of occupational disease	1,189	1,274	1,175	Not yet available
Of which fatal	91	90	99	Not yet available

1) Recognised accidents at work in terms of the annual average of persons covered by accident insurance (x 10,000).

Source: AUVA.

The highest accident rates (per 10,000 employees) in 2014 were seen in construction (696), water supply, sewerage, waste management and remediation activities (559), and administrative and support service activities (441).

The highest absolute numbers of occupational diseases in 2014 were seen in manufacturing (504), construction (194), and in wholesale and retail trade, maintenance and repair of motor vehicles and motorcycles (80).

Transport Labour Inspectorate

This includes the number of accident reports received by the Transport Labour Inspectorate; this number does not indicate the actual recognition of accidents at work by the social insurance institutions.

	Accident reports received	Of which fatal accidents at work
2012	2,964	0
2013	3,667	8

As of 2014 the accidents reported to the Transport Labour Inspectorate are included in the statistical summaries published by the Labour Inspectorate.

Agriculture and Forestry

For more detailed information on **accidents and occupational diseases** reference is made to the records and statistics of the competent accident insurers (*AUVA* and *SVB*). To the extent that such data have already been sent to the Agriculture and Forestry Inspectorates, they are indicated in the following table:

Year	Employed family members			Employees		
	Accident at work	Occupational disease	Fatal	Accident at work	Occupational disease	Fatal
2011	5,399	117	60	817	10	8
2012	4,485	64	56	776	6	4
2013	3,900	95	72	914	16	5
2014	4,763	131	84	914	13	8

Immigrant workers

Pursuant to the Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*), immigrant workers are regarded as normal employees. No separate statistics are compiled for this group.

In reply to the additional question concerning the increased accident rate among temporary workers, no specific measures were taken during the period under review. Future activities to address this issue are possible, however.

Activities of the Labour Inspectorates

General Labour Inspectorate

Workplaces, construction sites and external work sites visited

Between 2012 and 2015, the number of visits to workplaces (including federal offices) and businesses at construction sites and external work sites increased from 57,971 to 61,204.

Staff size of the Labour Inspectorate:

Year	Total employees	Management staff	Field staff excluding management	Administrative staff
2012	418	20	292	106
2013	416	20	289	107
2014	414	20	287	107
2015	413	20	286	107

As of 1 July 2012, the Transport Labour Inspectorate became part of the Central Labour Inspectorate within the Federal Ministry of Labour, Social Affairs and Consumer Protection. This unit consists of two departments with a staff of 28.

In the table below, as of 2014 the statistics from the Transport Labour Inspectorate have been included and calculated into the Labour Inspectorate statistics. The statistics for the Transport Labour Inspectorate in the years 2012 and 2013 are listed separately farther below.

Inspection visits made in 2012-2015:

Year	Workplaces visited	Enterprises visited at construction sites and external work sites	Total	Percentage of workplaces visited (%)*
2012	46,213	11,758	57,971	13,4
2013	47,975	12,147	60,122	13,8
2014	48,244	12,985	61,229	13,8
2015	46,904	14,300	61,204	14.5

* Percentage of employees working at workplaces within the sphere of competence of the Labour Inspectorate.

Inspection visits carried out

The number of inspection visits carried out increased from 60,268 to 67,855 within the 2012-2015 period. The number of cases in which advice was provided decreased slightly during that period, from 30,118 to 29,454.

Year	Inspection visits to workplaces	Inspection of construction sites and external work sites	Total*)
2012	45,926	14,342	60,268
2013	48,310	14,891	63,201
2014	51,185	15,742	66,927
2015	51,185	16,670	67,855

*) Excluding checks of drivers.

Percentage of employees covered

During 2012-2015, the number of employees at the workplaces, construction sites and external work sites inspected increased by 5.5%, as shown in the table below. The percentage of employees working at inspected sites increased significantly during the final year of the period under consideration.

Employees at the workplaces, work sites and construction sites visited				
Year	Workplaces	Construction sites and external work sites	Total	Percentage of employees at the inspected workplaces * (%)
2012	1,252,959	35,796	1,288,755	42.9%
2013	1,250,434	37,619	1,288,053	42.2%
2014	1,321,386	43,202	1,364,588	43.5%
2015	1,323,925	35,568	1,359,493	56.1%

* Percentage of employees working at workplaces within the sphere of competence of the Labour Inspectorate.

Complaints

The following table shows that the number of breaches or infringements increased significantly between 2012 and 2015.

Year	Infringements *)
2012	94,872
2013	106,186
2014	102,421
2015	116,481

*) Including persons enjoying special job placement protection, excluding checks of drivers.

Sectors in which infringements were found

During 2012-2015 most infringements and violations were found in the following sectors (listed in descending order according to infringements in 2015):

Economic sector	2012	2013	2014	2015
Construction	20,237	21,292	22,292	28,709
Wholesale and retail trade, repair of motor	19,285	24,064	25,181	28,199

vehicles and motorcycles				
Manufacturing	22,770	25,120	15,223	17,834
Accommodation and food service activities	12,957	14,040	15,556	15,412

Measures

Apart from according priority to advising operations on how to eliminate abuses, the Labour Inspectorate sent the operations and businesses written requests to remedy non-conformities and, where necessary, filed a report on the offence with the administrative authorities. Similar to the number of infringements, written requests increased between 2012 and 2015, whereas the level of offence reports remained relatively unchanged:

Year	Requests *)	Offence reports *)
2012	23,164	2,055
2013	26,219	2,060
2014	27,519	2,058
2015	29,582	1,995

*) Including persons enjoying protection regulating the employment of particular groups (*Verwendungsschutz*),

Year	Amount of penalty requested in EUR *)	Amount of penalty imposed in EUR *)
2012	3,965,746	2,580,862
2013	3,780,336	2,519,239
2014	4,255,970	2.573.304
2015	Not yet available	Not yet available

*) Including persons enjoying protection regulating the employment of particular groups (*Verwendungsschutz*),

Transport Labour Inspectorate

Workplaces and plants checked and inspections carried out

	Total inspections	Plants and workplaces inspected
2012	1,108	484
2013	1,309	637

As of 2014 the activities of the Transport Labour Inspectorate and the figures relating to its work are included in the statistical summaries published by the Labour Inspectorate.

Employees covered by inspections

	Employees covered by inspections	Percentage of employees covered by inspections
2012	33,550	28%
2013	34,668	29%

As of 2014 the activities of the Transport Labour Inspectorate and the figures relating to its work are included in the statistical summaries published by the Labour Inspectorate.

Complaints, broken down by enterprises/transport sector

	Complaints			
	2012	2013	2014	2015
Primary and secondary railways	1,358	1,130		
Streetcars	24	57		
Cableways	1,228	1,725		
Non-public railways	117	66		
Sleeping and dining car operators	161	136		
Post office	102	106		
Telecoms	209	172		
Navigation	216	164		
Aviation	256	265		
Total (of all transport sectors)	3,671	3,821		

As of 2014 the activities of the Transport Labour Inspectorate and the figures relating to its work are included in the statistical summaries published by the Labour Inspectorate.

Measures taken, including recourse to courts

Written requests sent to enterprises and offence reports filed during the reporting period:

	Requests	Offences reported
2012	247	0
2013	530	2

As of 2014 the activities of the Transport Labour Inspectorate and the figures relating to its work are included in the statistical summaries published by the Labour Inspectorate.

Agriculture and Forestry Inspectorate

During the reference period, there were no changes in supervisory activities among farming and forestry operations, or in measures taken against infringements or with regard to activities to maintain the skills level of inspectors working under the Agriculture and Forestry Inspectorates.

The Agriculture and Forestry Inspectorates established at the offices of the *Land* governments had 16 inspectors on their rolls in the period of 2011 to 2014. On average, approximately 15,000 businesses with employees were scheduled for inspections. The inspections covered nearly 60,000 employees each year.

Year	Inspectors	Full-time equivalent	Scheduled operations	Employees covered
2011	18	10.95	16,234	63,234
2012	16	10.20	16,092	63,753
2013	16	10.65	14,533	58,783
2014	16	11.35	14,141	59,407

On average, 2,210 inspections were carried out each year throughout the country during the same period. In an average of 1,441 cases each year, written remedial instructions were issued.

Year	Inspections	Requests	Complaint filed	Immediate measures
2011	2,401	1,542	5	0
2012	1,964	1,344	11	1
2013	2,149	1,421	9	1
2014	2,329	1,457	14	0

ARTICLE 3§4

Questions 1, 2 and 3

In respect of this paragraph the Government refers to its 1st report on the implementation of Article 3§4 of the Revised Charter.

In addition and in response to the Committee's additional questions, the following information is provided:

As a result of an amendment to the Workers Protection Act (*ArbeitnehmerInneschutzgesetz, ASchG*) that entered into force as of 1 January 2013, Section 4 Para. 6 *ASchG* specifies that, in addition to occupational health and safety officers and occupational physicians, other qualified experts can be engaged to perform workplace evaluations; such experts include chemists, toxicologists, ergonomists and above all occupational psychologists.

This new provision, which parallels the previously applicable provision specified in the last sentence of Section 82a Para. 5 *ArbSchG*, similarly lists examples of the experts to be engaged, while special consideration should be given to occupational psychologists when psychological stress is to be evaluated.

Even under the amendment to the *ASchG*, occupational psychologists are not considered prevention experts (only occupational health and safety officers and occupational physicians are regarded as such). As prior to the amendment, occupational psychologists continue to fall under 'other experts' (Section 82a Para. 5 *ASchG*). The provisions under Section 82b *ASchG* apply to 'other experts'.

Employers can consult occupational psychologists (as 'other experts') under these specific circumstances:

- 'where necessary' during evaluations, and employers can also engage occupational psychologists to perform evaluations (Section 4 Para. 6 *ASchG*);
- 'where necessary' for instruction (Section 14 Para. 1 *ASchG*);
- 'where necessary' in the matters referred to in Section 76 Para. 3 and Section 81 Para 3, and employers can also employ occupational psychologists for a maximum of 25% of the prevention time.

'Where necessary' (*erforderlichenfalls*) means that employers judge and decide, in view of the risk and stress situation existing at the specific place of work, whether the professional qualifications of the occupational health and safety officer and of the occupational physician are adequate for addressing a given problem or whether other expertise is required. An occupational physician might suffice, considering for instance that as of 1 January 2013 training for this role now also includes more detailed instruction in occupational and organisational psychology and in the evaluation of psychological stress (an amendment to this effect was made to the Ordinance governing the training of occupational physicians, as published in Federal Law Gazette II no. 463/2012).

Training of occupational physicians

Occupational physicians must complete medical studies and be authorised to practise the medical profession independently. Afterwards they must complete a specialised course lasting thirteen weeks. This training must be courses recognised by the Federal Ministry of Health. Three training institutions are currently authorised to provide this training leading to a diploma.

A training programme for physicians specialising in occupational medicine, lasting several years, also exists.

The programme and its content and curriculum are specified in the laws governing the medical profession.

Agriculture and Forestry

Pursuant to Section 94 of the Agricultural Labour Act (*Landarbeitsgesetz, LAG*), employers are to appoint occupational physicians by either:

- employing qualified physicians within the framework of an employment relationship (in-house occupational physicians);
- utilising the services of an external occupational physician;
- or utilising the services of an occupational medical centre.

Employers are obliged to furnish occupational physicians with any staff they require to assist them in meeting their responsibilities as well as with the necessary space, equipment and resources.

Section 94a *LAG* specifies the responsibilities of occupational physicians as follows:

- to advise employers, employees, safety representatives and works councils in the areas of: health protection, health promotion as related to working conditions, and ensuring humane working conditions;
- to support employers in meeting their obligations in these areas.

Occupational physicians are to be consulted in issues involving maintaining and promoting health at work, in particular when planning workplaces, and when procuring or introducing and modifying work equipment and work processes. All employees can request regular health checks by the occupational physician to examine the specific safety and health risks at their place of work (this is independent of any other examinations).

Employers are required to make available to occupational physicians all of the information and documents they require to meet their responsibilities, and to inform them as necessary of any new employees or temporary agency workers.

Occupational health and safety officers and occupational physicians are to be employed during prevention time, which is specified as 1.2 hours per employee for employees working in offices and 1.5 hours for all other employees.

Within each calendar year, occupational health and safety officers must be employed for at least 40 per cent of the prevention time and occupational physicians for at least 35 per cent of that time. For the remaining 25 per cent of the annual prevention time, other qualified experts or the occupational health and safety officers and/or occupational physicians are to be employed, depending on the risk and stress situation (Section 94f *LAG*).

Section 94e *LAG* specifies that employers are to make available the necessary information and documents to the other qualified experts employed during the prevention time, i.e. chemists, toxicologists or occupational psychologists. These experts are to submit a report of their activities including suggestions for improvement.

At workplaces with up to 50 employees, safety advice and occupational medical care is to be provided in the form of – preferably joint – inspections by an occupational health and safety officer and an occupational physician. Regular inspections must be held at least once every two calendar years in workplaces with up to 10 employees and at least once every calendar year in workplaces with between 11 and 50 employees. Additional inspections are to be scheduled as required.

The employer and the works council are required to be notified of any non-conformity with health and safety regulations that is identified. Where the prevention experts identify a serious and immediate risk to the health and safety of employees, the experts are required to inform the employees and employers and the works council concerned, and to propose measures to eliminate the risk.

As mentioned above, in the case of workplaces with up to 50 employees, safety advice and occupational medical care can also be obtained from a prevention centre of the competent accident insurer, provided that no more than 250 workers are employed there and that the employer does not have appropriately qualified staff to employ occupational health and safety officers or occupational physicians especially for that function (Section 93b *LAG*). For this case, employers as defined in the *LAG* also have access to the prevention centre of the competent accident insurer, which is to be established pursuant to the *ASchG*.

For workplaces with up to 50 employees that fall within their sphere of competence, the Agriculture and Forestry Inspectorates are required at least once every calendar year to submit to the competent accident insurer the names of the employers and the addresses of the workplaces.

The prevention centres are obliged to respond to employers' requests for inspections and support as quickly as possible, while considering the urgency, and without delay where imminent danger exists; they are also obliged on their own initiative to offer safety and occupational

medical counselling to employers for workplaces with up to 50 employees. Prevention centres are under obligation to inform the Agriculture and Forestry Inspectorates where employers refuse inspections. Prevention centres are required to disclose to the employers in writing the results of every inspection and any proposals for improving working conditions.

The provisions of the *LAG* cited above are implemented for the most part with identical wording in the provisions of the corresponding *Laender*-level Farming Work Code indicated below in brackets:

- Burgenland (Sections 93b to 94f)
- Carinthia (Sections 116t to 116z)
- Lower Austria (Sections 92c to 92j)
- Upper Austria (Sections 93b to 94f)
- Salzburg (Sections 104b to 105f)
- Styria (Sections 136 to 141b)
- Tyrol (Sections 126a to 131b)
- Vorarlberg (Sections 112b to 113g)
- Vienna (Section 91c to 93d)

Public service

The corresponding provisions on occupational medical care have been specified for public-service employees at federal and *Laender* levels in the Federal Employees Protection Act (*Bundes-Bedienstetenschutzgesetz, B-BSG*) or in the acts of the individual *Laender* that govern the protection of public-service employees.

The same standards of protection apply in both the public and private sectors.

All provisions of law can be viewed online (in German) on the website of the Legal Information System (*RIS*) provided by the Austrian Federal Chancellery:

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10009158>

<https://www.ris.bka.gv.at/Land/>

By way of example, Vorarlberg has reported additional details relating to how occupational medical services continued to be provided in the following focus areas during the reference period:

- Ergonomic advice for working with display screen equipment; On-site assessments of the positions of displays and chairs, desk height, etc. as required
- Advice on the purchase of height adjustable desks
- Advice on neck, shoulder and back complaints caused by mostly sitting at work
- Advice on glasses for working at display screens
- Counselling for problems involving work stress, bullying, job atmosphere, psychological stress, etc.
- Vaccinations, review of personal vaccination records and vaccination counselling

Occupational health services for temporary and agency workers as well as workers on fixed-

term contracts

Section 2 Para. 1 of the Workers Protection Act (*ArbeitnehmerInneschutzgesetz, ASchG*) defines employees as all persons who work within the framework of an employment or training relationship. Each and every provision governing occupational safety and health applies to every employee regardless of the type of employment relationship (permanent, temporary, temporary agency work).

Employers are under obligation to ensure the protection of the health and safety of their employees in every respect relating to work. Employees must never be made to bear the associated expense. Employees are required to take the necessary measures to protect the lives and health of workers and to safeguard their integrity and dignity, including measures to prevent work-related risks and to provide information and instruction, as well as a suitable organisation and the necessary resources (Section 3 Para. 1 *ASchG*).

Employers are required to ensure that employees are adequately informed of the health and safety risks and of risk-prevention measures. This information must put employees in a position to verify, based on appropriate participation, whether the necessary protective measures have been taken. This information must be provided during working hours (Section 12 Para. 1 *ASchG*).

In the case of activities for which examinations for suitability and follow-up examinations are required, a worker may be hired out for such work only if these examinations have been performed and no decision ascertaining the worker's medical unfitness as referred to in Section 54 *ASchG* was issued. User undertakings are obliged to demonstrably make sure that the examinations were performed and no decision ascertaining the worker's medical unfitness as referred to in Section 54 was issued. The temporary work agency is obliged to fulfil the requirements specified in Section 57 Para. 1 and in Section 58 Paras. 4 to 7, while the user undertaking is required to make the necessary information and documents available to the temporary work agency (Section 9 Para. 5 *ASchG*).

The employer is required to bear the expense of the examination for suitability and of the follow-up examinations (Section 57 Para. 1 *ASchG*).

Employers are obliged to maintain records of every employee for whom an examination for suitability and follow-up examinations is required. These records are to include all assessments by the examining physicians of the employee's medical fitness as well as any decisions issued by the Labour Inspectorate and any rulings handed down by an administrative court. These documents are to be retained until the employee leaves the business. Afterwards they are to be submitted to the competent accident insurer. The insurer is obliged to retain the documents for at least 40 years. Employers are required to allow every employee access to the records and documents which concern that employee and to provide copies on request (Section 58 Paras. 4-7 *ASchG*).

In response to the Committee's question, whether the initial medical examination is also carried out when rehiring temporary workers, agency workers or workers on fixed-term contracts, the following information is provided:

For work activities that entail the risk of an occupational disease - and where the occupational medical examination is for the purpose of prevention due to the specific health risks associated with that activity - workers are permitted to be employed only when such an examination takes place prior to beginning work (examination for suitability) and when such examinations are performed in regular intervals as the employee continues to work at that activity (follow-up exam-

inations).

In an individual case of a work activity not listed in an implementing ordinance, the Labour Inspectorate is required nonetheless to issue a decision requiring an examination for suitability and follow-up examinations where an activity is concerned which, based on empirical occupational medicine, poses a potential risk to health and where the occupational medical examination is for the purpose of prevention due to the specific health risks associated with that activity (Section 49 ASchG).

Administrative decisions issued pursuant to Section 49 Para. 3 ASchG are to define the type, scope and intervals of examinations. The decision must also specify the requirements to be met by examining physicians. Administrative decisions issued pursuant to Para. 3 are to be withdrawn ex officio if the conditions requiring the examinations no longer exist.

In the case of activities for which examinations for suitability and follow-up examinations are required, a worker may be hired out for such work only if these examinations have been performed and no decision ascertaining the worker's medical unfitness as referred to in Section 54 ASchG was issued. User undertakings are obliged to demonstrably make sure that the examinations were performed and no decision ascertaining the worker's medical unfitness as referred to in Section 54 was issued. The temporary work agency is obliged to fulfil the requirements specified in Section 57 Para. 1 and in Section 58 Paras. 4 to 7, while the user undertaking is required to make the necessary information and documents available to the temporary work agency (Section 9 Para. 5 ASchG).

Where examinations for suitability and follow-up examinations are required for an activity, an examination time interval is specified for that particular type of work. Depending on the particular examination interval, the examination has to be repeated if the time interval is exceeded. This also applies in the case of temporary and agency workers according to the legal provisions for the particular case as described above. If employment of such a worker is terminated during an interval between examinations and the employee is rehired during the same interval, the examination results are considered to be valid until the next scheduled examination. If a temporary or agency worker is rehired after the examination interval has expired, a renewed examination for suitability or follow-up examination has to be performed.

Public service

Reference is made here to the Ordinance of the Federal Government on health surveillance at work (*Bundesverordnung über die Gesundheitsüberwachung am Arbeitsplatz, B-VGÜ*), Federal Law Gazette II no. 15/2000 as amended, which in turn refers to the 2014 Ordinance governing health surveillance at work (*Verordnung über die Gesundheitsüberwachung am Arbeitsplatz 2014, VGÜ 2014*), Federal Law Gazette II no. 27/1997 as amended. These ordinances contain specific provisions governing examinations for suitability and follow-up examinations.

The same standards of protection are ensured in public service as in the private sector.

The Committee further asked how many workers are monitored by the occupational health services and what the care rate by occupational health services is among employers:

AUVAsicher provides care services for employees at businesses with up to 50 employees.

The table below indicates the number of potential recipients of such services and the actual number of recipients among employees. The share of employees actually covered by the AUVA in relation to the market potentially covered is also given for all of Austria.

Year	Potential care recipients among employees	Employees receiving care from AUVA	Market share of employees [%]
2012	1,521,530	891,032	58.6
2013	1,567,930	905,750	57.8
2014	1,594,764	920,839	57,7
2015	Not yet available	Not yet available	Not yet available

No statistics on the individual employee categories are collected for other businesses.

ARTICLE 11
THE RIGHT TO PROTECTION OF HEALTH

ARTICLE 11§1**Questions 1, 2 and 3**

Previous reporting is updated as follows, taking into account the additional questions by the Committee of Social Rights in the Conclusions 2013:

Right to the highest possible standard of health

Life expectancy at birth in 2014 (average for both sexes) was 81.3.

The death rate (deaths/1 000 population) was 9.2 in 2014, this indicator remaining quite stable during the reference period.

Deceased persons¹⁾ by selected characteristics, life expectancy and infant mortality since 2004

Characteristics	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Total deceased persons	74,292	75,189	74,295	74,625	75,083	77,381	77,199	76,479	79,436	79,526	78,252
per 1,000 population	9.1	9.1	9.0	9.0	9.0	9.3	9.2	9.1	9.4	9.4	9.2
In hospitals and nursing homes (%)	67.4	67.6	67.3	67.6	68.4	67.5	67.2	67.4	67.8	67.9	67.2
Sex											
Men	34,616	34,986	34,757	34,978	35,156	36,630	36,692	36,539	37,447	37,958	37,424
Women	39,676	40,203	39,538	39,647	39,927	40,751	40,507	39,940	41,989	41,568	40,828
Nationality											
Austria	72,473	73,356	72,523	72,747	72,968	74,510	74,232	73,514	76,337	76,061	74,455
Non-Austrian	1,819	1,833	1,772	1,878	2,115	2,871	2,967	2,965	3,099	3,465	3,797
Age groups											
Younger than 15 years	520	507	447	418	421	452	440	408	383	382	376
15 to 59 years	9,360	9,380	9,039	9,060	8,726	9,023	8,877	8,677	8,469	8,415	8,364
60 years and over	64,412	65,302	64,809	65,147	65,936	67,906	67,882	67,394	70,584	70,729	69,512
Marital status²⁾											
Unmarried	9,467	9,586	9,367	9,257	9,111	9,740	9,531	9,430	9,576	9,482	9,573
Married	28,051	28,109	27,946	28,078	28,283	29,114	28,882	28,977	29,647	29,773	29,699
Widowed	30,880	31,335	30,933	30,876	31,207	31,532	31,483	30,970	32,491	32,540	31,316
Divorced	5,894	6,159	6,049	6,414	6,482	6,995	7,303	7,102	7,722	7,731	7,664
Austrian state											
Burgenland	2,881	2,955	3,018	3,035	3,067	2,962	3,048	3,034	3,302	3,220	3,191
Carinthia	5,213	5,466	5,358	5,308	5,385	5,546	5,577	5,465	5,731	5,718	5,646
Lower Austria	15,360	15,547	15,190	15,332	15,616	15,958	15,796	15,855	16,734	16,480	16,237
Upper Austria	11,870	11,987	11,906	12,024	11,966	12,349	12,427	12,339	12,698	13,158	12,625
Salzburg	4,008	4,155	4,047	4,025	3,930	4,174	4,162	4,281	4,221	4,414	4,316
Styria	11,484	11,453	11,473	11,395	11,725	12,093	11,852	11,668	11,990	11,760	11,867
Tyrol	5,051	5,153	4,993	5,157	5,191	5,375	5,449	5,328	5,606	5,643	5,624
Vorarlberg	2,442	2,446	2,514	2,524	2,501	2,592	2,601	2,591	2,750	2,801	2,732
Vienna	15,983	16,027	15,796	15,825	15,702	16,332	16,287	15,918	16,404	16,332	16,014
Life expectancy at birth in years											
Men	76.40	76.62	77.08	77.29	77.59	77.39	77.66	78.08	78.26	78.45	78.91
Women	82.11	82.21	82.65	82.83	82.96	82.84	83.13	83.43	83.29	83.56	83.74
Total deceased infants	353	327	281	280	287	289	307	281	252	245	249
per 1,000 live births	4.5	4.2	3.6	3.7	3.7	3.8	3.9	3.6	3.2	3.1	3.0
Perinatal mortality rate ³⁾	6.1	5.9	6.0	5.9	5.4	5.6	5.9	5.7	5.1	5.4	5.3

Source: STATISTICS AUSTRIA, Statistics on natural demographic changes. Compiled on: 11 June 2015 1) From 2009, the approach in data collection of Austrian residents who died abroad was optimised to be more all-embracing. - 2) From 2010: married including registered partnerships, widowed including partnerships dissolved by death, divorced including dissolved partnerships. - 3) Deceased in the first week of life and stillborn per 1,000 live births.

Austrian health statistics

German:

http://www.statistik.at/web_de/statistiken/gesundheit/index.html

Condensed English version

http://www.statistik.at/web_en/statistics/PeopleSociety/health/index.html

Diseases and causes of death

German:

http://www.statistik.at/web_de/statistiken/gesundheit/todesursachen/todesursachen_im_ueberblick/index.html

Condensed English version

http://www.statistik.at/web_en/statistics/PeopleSociety/health/causes_of_death/causes_of_death_at_a_glance/index.html

Annual and monthly statistics of notifiable infectious diseases (<http://bmg.gv.at/home/Schwerpunkte/Krankheiten/Epidemiologie/>) (in German)

Infant and maternal mortality

Infant mortality in 2014 was 3.0 per thousand.

Maternal mortality in the same year was 1.2 for 100,000 live births.

2.7 Infant mortality since 1997 by causes of death

Infant mortality since 1997 by causes of death

Year	Total deceased infants	Infectious diseases (A00-B99)	Diseases of the respiratory system (J00-J99)	Diseases of the digestive system (K00-K93)	Multiple pregnancy (P01.5)	Short gestation not elsewhere classified (P07)	Congenital malformations (Q00-Q99)	Sudden infant death syndrome (R95)	Birth trauma ¹⁾	Other perinatal causes of death ²⁾	Injuries and poisoning (V01-Y89)	All other causes of death
Basic numbers												
1997	398	2		1	/1	103	143	49	15	59	6	19
1998	400	3	1			105	150	44	4	66	5	22
1999	341	1	6	2	3	71	132	35	14	56	7	14
2000	378		6	4		90	128	39	12	61	14	24
2001	365		2	1		93	115	23	7	89	7	28
2002	318		1	1		155	83	32		24	7	15
2003	343	1	2			166	85	26		41	9	13
2004	353	5	8			170	88	16		38	4	24
2005	327	1	1	1		153	87	30		31	10	13
2006	281	3		1		144	59	25		24	8	17
2007	280	3	2	1		94	69	22		59	7	23
2008	287	7	1	1		73	83	22		77	5	18
2009	289	6	1			47	92	19		96	7	21
2010	307		2		1	60	90	24		107	5	18
2011	281	4	4			31	100	15		98	1	28
2012	252	4	3			34	78	14		91	9	19
2013	245	3	2	3		35	83	13		87	2	17
2014	249		1	1	1	29	84	11		102		20
Per 10,000 live births												
1997	47.4	0.2		0.1	0.1	11.6	16.1	5.5	1.7	6.6	0.7	2.1
1998	49.2	0.3	0.1			11.8	16.9	5.0	0.5	7.4	0.6	2.5
1999	43.6	0.1	0.7	0.2 0.3		8.0	14.9	3.9	1.6	6.3	0.8	1.6
2000	48.3		0.7	0.5		10.1	14.4	4.4	1.4	6.9	1.6	2.7
2001	48.4		0.2	0.1		10.5	12.9	2.6	0.8	10.0	0.8	3.2
2002	40.6		0.1	0.1		17.5	9.3	3.6		2.7	0.8	1.7
2003	44.6	0.1	0.2			18.7	9.6	2.9		4.6	1.0	1.5
2004	44.7	0.6	0.9			19.1	9.9	1.8		4.3	0.5	2.7
2005	41.8	0.1	0.1	0.1		17.2	9.8	3.4		3.5	1.1	1.5
2006	36.1	0.3		0.1		16.2	6.6	2.8		2.7	0.9	1.9
2007	36.7	0.3	0.2	0.1		10.6	7.8	2.5		6.6	0.8	2.6
2008	36.9	0.8	0.1	0.1		8.2	9.3	2.5		8.7	0.6	2.0
2009	37.9	0.7	0.1			5.3	10.4	2.1		10.8	0.8	2.4
2010	39.0		0.2		0.1	6.8	10.1	2.7		12.0	0.6	2.0
2011	36.0	0.5	0.5			3.5	11.3	1.7		11.0	0.1	3.2
2012	31.9	0.5	0.3			3.8	8.8	1.6		10.2	1.0	2.1
2013	30.9	0.3	0.2	0.3		3.9	9.3	1.5		9.8	0.2	1.9
2014	30.5		0.1	0.1	0.1	3.5	10.3	1.3		12.5		2.4
% of total deceased infants												
1997	100.0	0.5		0.3	0.3	25.9	35.9	12.3	3.8	14.8	1.5	4.8
1998	100.0	0.7	0.2			26.2	37.5	11.0	1.0	16.5	1.2	5.5
1999	100.0	0.3	1.8	0.6	0.9	20.8	38.7	10.3	4.1	16.4	2.1	4.1
2000	100.0		1.6	1.1		23.8	33.9	10.3	3.2	16.1	3.7	6.3
2001	100.0		0.5	0.3		25.5	31.5	6.3	1.9	24.4	1.9	7.7
2002	100.0		0.3	0.3		48.7	26.1	10.1		7.5	0.6	6.3
2003	100.0	0.3	0.6			48.4	24.8	7.6		12.0	0.6	5.8
2004	100.0	1.4	2.3			48.2	24.9	4.5		10.8		7.9
2005	100.0	0.3	0.3	0.3		46.8	26.6	9.2		9.5	0.6	6.4
2006	100.0	1.1		0.4		51.2	21.0	8.9		8.5	0.7	8.2
2007	100.0	1.1	0.7	0.4		33.6	24.6	7.9		21.1	0.4	10.4
2008	100.0	2.4	0.3	0.3		25.4	28.9	7.7		26.8	0.3	7.7
2009	100.0	2.1	0.3			16.3	31.8	6.6		33.2	0.3	9.3
2010	100.0		0.7		0.3	19.5	29.3	7.8		34.9	0.7	6.8
2011	100.0	1.4	1.4			11.0	35.6	5.3		34.9		10.3
2012	100.0	1.6	1.2			13.5	31.0	5.6		36.1	1.6	9.5
2013	100.0	1.2	0.8	1.2		14.3	33.9	5.3		35.5	0.8	6.9
2014	100.0		0.4	0.4 0.4		11.6	33.7	4.4		41.0		8.0

Source: STATISTICS AUSTRIA, Statistics on natural demographic changes.

1) Until and incl. 2001 according to ICD-9: codes 763, 767, 772.1, 13 and 772.2 - 2) Until and incl. 2001 according to ICD-9: codes 760, 761.0-761.4, 761.6-761.9, 762, 764, 766, 768-771, 772.0, 772.3-772.9, 773-779; from 2002 summarised: "birth trauma" and "other perinatal causes of death" according to ICD-10: codes P00-P01.4, P01.6-P06, P08-P96. - category of injuries and poisoning revised as of the reporting year 2002.

2.10 Maternal mortality in Austria since 1946 by cause of death and age (ICD-9, codes 630-676)

Maternal mortality since 1946 by causes and age

Year	Total deaths		Causes of deaths					Age						
	Basic numbers	Per 100,000 live births	Eclampsia ¹⁾	Hemorrhage ²⁾	Pregnancy with abortive outcome ³⁾	Sepsis ⁴⁾	Other complications ⁵⁾	Younger than 20 years	20 to 24 years	25 to 29 years	30 to 34 years	35 to 39 years	40 to 44 years	45 years and older
1946	365	327.9	40	36	161	63	65	19		314*)			32**)	
1947	324	251.3	45	44	120	41	74	9		279*)			36**)	
1948	282	228.9	29	42	100	34	77	12		225*)			45**)	
1949	224	197.6	29	28	62	33	72	6		187*)			31**)	
1950	188	174.3	34	24	59	23	48	7		162*)			19**)	
1951	165	160.6	32	23	41	26	43	2		145*)			18**)	
1952	153	148.5	35	14	36	22	46	3	21	33	38	33	24	1
1953	135	131.2	30	21	22	22	40	4	18	31	33	27	21	1
1954	115	110.6	22	18	26	21	28	5	17	22	38	16	14	3
1955	115	105.9	22	21	19	25	28	3	15	26	41	11	17	2
1956	141	121.7	25	28	17	33	38	6	18	31	39	29	13	5
1957	107	90.1	17	15	20	20	35	5	7	24	37	21	10	3
1958	99	82.7	12	19	12	17	39	5	13	21	23	27	9	1
1959	121	97.3	22	22	20	15	42	5	14	26	33	32	9	2
1960	110	87.3	20	11	24	14	41	5	17	21	17	33	12	5
1961	85	64.6	15	18	14	10	28	1	9	14	26	23	12	
1962	92	69.0	15	13	14	11	39	1	13	17	17	31	13	
1963	81	60.1	11	12	10	15	33	5	7	9	14	27	19	
1964	65	48.6	12	8	13	11	21	3	18	15	8	13	8	
1965	55	42.3	17	5	10	6	17	3	7	11	10	16	7	1
1966	53	41.2	9	7	12	9	16	1	13	12	7	15	5	
1967	51	40.0	9	10	7	4	21	3	6	13	12	8	9	
1968	46	36.5	9	2	4	7	24	3	10	8	14	6	5	
1969	40	33.0	8	6	7	5	14	2	5	5	5	15	7	1
1970	29	25.8	6	7	3	3	10	5	6	6	6	4	2	
1971	33	30.4	8	4	5	7	9	1	6	8	5	9	4	
1972	26	25.0	5	5	3	4	9	5	7	2	4	4	4	
1973	22	22.4	4	1	12	1	4	3	3	6	3	5	2	
1974	19	19.5	3	5	1	5	5	1	4	1	5	4	4	
1975	16	17.1	3	7	1	2	3	1	1	3	5	2	3	1
1976	19	21.7	4	3	4	3	5	2	3	4	4	4	2	
1977	16	18.7		1	3	3	9	2	1	5	2	2		1
1978	13	15.2	3	4	2		4	4	1	1	3	3	1	
1979	11	12.7	4	1			1	5	1	2		3	5	
1980	7	7.7	1	3			3	2		1		1		
1981	13	13.8	1	3			2	7	1	5	3	2	1	1
1982	16	16.9	1		6	7	2		3		5	5	3	
1983	10	11.1	2	1	3	2	2	1	5	2	2			
1984	4	4.5	1	1	1		1		1		2		1	
1985	6	6.9		1	2		3		1	2	2		1	
1986	6	6.9	2	1	1	1	1		2	1	1		2	
1987	4	4.6				3	1		2	1	1			
1988	5	5.7	1	3			1	1		2	1	1		
1989	7	7.9	2	2	1		2	1	2		4			
1990	6	6.6	1	1	1	2	1		1	3		2		
1991	7	7.4	3	1			3		2	2	1	1	1	
1992	4	4.2		1	1	1	1		2	1	1			
1993	4	4.2		1	2		1			2	1		1	
1994	8	8.7	2			3	3		1	5	1	1		
1995	1	1.1					1			1				
1996	4	4.5		1	1	1	1	1		2	1			
1997	2	2.4		1	1					1	1			
1998	4	4.9	1		1	1	1		1		2	1		
1999	1	1.3			1				1					
2000	2	2.6		1			1	1					1	
2001	5	6.6	2			1	2			1		3	1	

Source: STATISTICS AUSTRIA)

1) ICD-9, codes 642.4-642.9, 643. - 2) ICD-9, codes 640, 641, 666. - 3) ICD-9, codes 630-639. - 4) ICD-9, codes 670-673. - 5) ICD-9, codes 642.0-642.3, 644-648, 650, 651-665, 667-669, 674-676

Note: For the period from 1946 to 1951, the following age-specific cohorts were used: younger than 20 years. - *) = 20 to 39 years. - **) = 40 years and older.

2.11 Maternal mortality since 2006 as well as obstetric deaths and deaths after delivery, abortion or miscarriage 2014 in Austria by cause of death (ICD-10 codes) and age

Maternal mortality since 2006, obstetric death and late maternal death 2014 by causes and age

Year	Cause of death	Total deaths		Age (in years)						
		Absolute	Per 100,000 life births	younger than 20	20 to 24	25 to 29	30 to 34	35 to 39	40 to 44	45 and older
Maternal mortality (O00-O99)										
2006	Total <O00-O99>	2	2.6				2			
	O14.1	1	1.3				1			
	O72.0	1	1.3				1			
2007	Total <O00-O99>	3	3.9			1	2			
	O72.0	1	1.3				1			
	O14.1	2	2.6			1	1			
2008	Total <O00-O99>	2	2.6					1	1	
	O71.1	1	1.3						1	
	O87.1	1	1.3					1		
2009*)	Total <O00-O99>	2	2.6			1	1			
	O72.3	1	1.3				1			
	O88.2	1	1.3			1				
2010	Total <O00-O99>	1	1.3				1			
	O15.9	1	1.3				1			
2011	Total <O00-O99>	2	2.6			1		1		
	O45.9	1	1.3			1				
	O88.1	1	1.3					1		
2012	Total <O00-O99>	1	1.3				1			
	O88.1	1	1.3				1			
2013	Total <O00-O99>	1	1.3					1		
	O67.0	1	1.3					1		
2014	Total <O00-O99>	7	8.6			4	2	1		
	O14.1	1	1.2			1				
	O22.3	1	1.2				1			
	O87.1	1	1.2					1		
	O88.2	1	1.2			1				
	O24.1	1	1.2				1			
	O88.2	1	1.2			1				
	O99.8	1	1.2			1				
Deaths during pregnancy (A00-Y89)										
2014	Total <A00-Y89>	6	7.3			3	2	1		
	I46.1	1	1.2				1			
	O14.1	1	1.2			1				
	O22.3	1	1.2				1			
	O87.1	1	1.2					1		
	O88.2	1	1.2			1				
	W17.8	1	1.2			1				
Deaths within 6 weeks after delivery, abortion or miscarriage (A00-Y89)										
2014	Total <A00-Y89>	5	6.1			2	1	1	1	
	I60.9	1	1.2						1	
	I61.9	1	1.2					1		
	O24.1	1	1.2				1			
	O88.2	1	1.2			1				
	O99.8	1	1.2			1				
Deaths within 6 weeks and one year after delivery, abortion or miscarriage (A00-Y89)										
2014	Total <A00-Y89>	1	1.2					1		
	I61.9	1	1.2					1		

Source: STATISTICS AUSTRIA, cause of death statistics. - *) Break in time series due to improved completeness (deceased abroad).

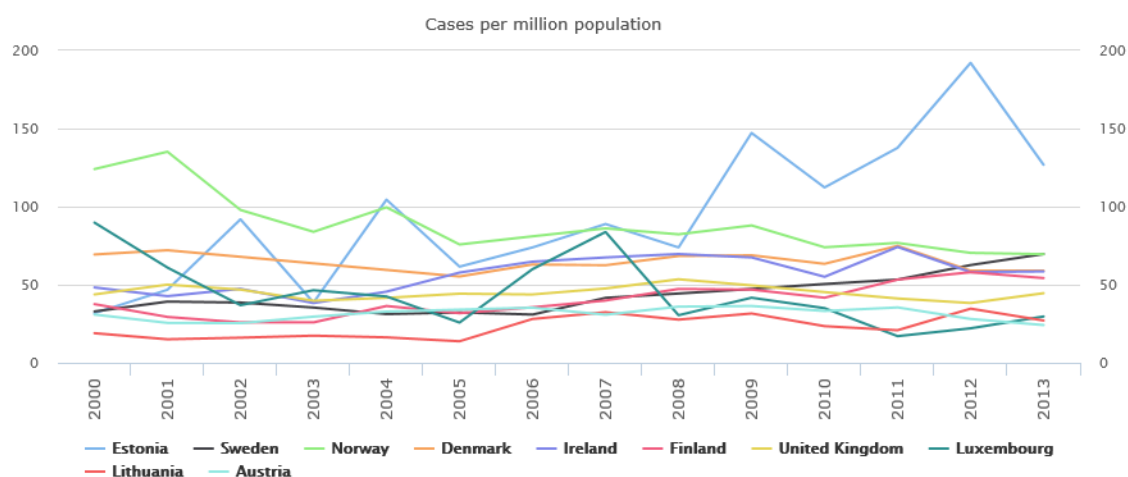
ICD-10 codes:

I46.1 Sudden cardiac death, so described
I60.9 Subarachnoid haemorrhage, unspecified
I61.9 Intracerebral haemorrhage, unspecified
O14.1 Severe pre-eclampsia
O15.9 Eclampsia, unspecified as to time period
O22.3 Deep phlebothrombosis in pregnancy
I24.1 Postmyocardial infarction syndrome
O45.9 Premature separation of placenta, unspecified
O71.1 Rupture of uterus during labour
O67.0 Intrapartum haemorrhage with coagulation defect
O72.0 Third-stage haemorrhage
O72.3 Postpartum coagulation defects
O87.1 Deep phlebothrombosis in the puerperium
O88.1 Amniotic fluid embolism
O88.2 Obstetric blood-clot embolism
O99.8 Other unspecified diseases and conditions complicating pregnancy, childbirth and the puerperium
W18 Other falls on same level

Drug-related deaths

During recent years data show a further decline of drug-related deaths in Austria.

Mortality rates per million among all adults (15 to 64 years) due to drug-related deaths



Source: EMCDDA European Drug Report 2015: Trends and Developments

Number of hospitals in 2014

	Number of hospitals	Number of actual-ly provided beds
Total hospitals	279	64,815
Of which:		
in public ownership, of which:	154	44,823
of public status (non-profit)	96	37,287
of non-public status, not-for-profit	18	2,552
for profit	40	4,984
general medical services	71	31,397
special medical services (short-term)	30	6,476
rehabilitation	36	4,613
long-term medical services	17	2,337
in private ownership, of which:	125	19,992
of public status (non-profit)	24	7,099
of non-public status, not-for-profit	18	4,164
for profit	83	8,729
general medical services	51	10,620
special medical services (short-term)	17	1,213
rehabilitation	45	6,032
long-term medical services	12	2,127

Source: Federal Ministry of Health, hospital statistics

Number of pharmacies

Austria has a total of 1,340 community pharmacies (as at 31 December 2015), all of which are operated by pharmacists as private, independent companies. An additional 28 subsidiary pharmacies also serve the population (each community pharmacy may operate no more than one subsidiary pharmacy). 46 hospital pharmacies serve the hospital sector. Improvement in the supply of medicines to the Austrian population is seen in the consistent increase in the number of pharmacies.

A total of 157 new community pharmacies have opened within the past 10 years. The largest increase was seen among small towns previously without a pharmacy, where 75 new ones opened. In towns and cities already having pharmacies (with the exception of Laender capitals), 39 new pharmacies were established. 43 new community pharmacies have opened in the Laender capitals during the past 10 years.

Changes in the number of community pharmacies and subsidiary pharmacies

Community pharmacies	Subsidiary pharmacies
2006 1,200	7
2007 1,217	18
2008 1,233	18
2009 1,252	23
2010 1,276	23
2011 1,292	24
2012 1,303	26
2013 1,317	27
2014 1,328	28
2015 1,340	28

Geographical distribution:



[Apothekenverteilung
_in_Österreich_1805:](#)

Employees in healthcare

http://www.statistik.at/web_de/statistiken/gesundheit/gesundheitsversorgung/personal_im_gesundheitswesen/index.html

Physicians: absolute number and per 100,000 inhabitants by Laender (as of January 2014)



[aerzte_und_aerztinn
en_2014_absolut_un](#)

Hospital employees in 2014 according to specialisation, gender and Laender (as at 31 December)



personal_in_kranken
anstalten_2014_nach

Midwives



hebammen_2014_in_
berufsausuebung.pdf

Expenditure on healthcare (percentage of GDP)

The table “Health expenditure in Austria according to the System of Health Accounts” (SHA) lists the changes in health care expenditure in Austria for the period 1990 to 2014. Healthcare expenditure according to the SHA consists of the ongoing health care expenditure plus investments in the healthcare sector.

A total of EUR 36.253 billion, or 11.0% of the BIP, were spent on health care in Austria in 2014, according to the SHA. Of that amount, EUR 33.795 billion was attributed to ongoing healthcare expenditure and EUR 2.458 billion was spent on investments in the healthcare sector. Healthcare expenditure rose by an average of 5.0% per year during the period from 1990 to 2014.

Between 2013 and 2014 healthcare expenditure increased by EUR 1.119 billion, from EUR 35.134 billion to EUR 36.253 billion, which equals a 3.2% increase. The gross domestic product (GDP) rose by 2.0% from 2013 to 2014.

In accordance with the European Commission's implementing regulation (EU 2015/359), in 2016, Austria's expenditure on healthcare was for the first time calculated on the basis of the revised manual (2011). Additionally, expenditure on healthcare in the period from 2011 to 2013 was calculated retroactively according to the revised SHA manual under a gentlemen's agreement. As a result, data on Austria's expenditure on healthcare consistent with the SHA are currently available on the basis of the original OECD manual (2000) for the period from 1990 to 2010, and on the basis of the revised version of the manual of OECD, Eurostat and WHO (2011) for the period from 2011 to 2014.

Source: Statistics Austria, www.statistik.at.

More detailed information is available directly from Statistics Austria at:

German:

http://www.statistik.at/web_de/statistiken/gesundheit/gesundheitsausgaben/index.html

English

http://statistik.at/web_en/statistics/PeopleSociety/health/health_expenditure/index.html

Right to access to health care

Stateless persons

Austria ratified and implemented the UN Conventions on statelessness.

Citizenship is not a relevant criterion when it comes to entitlement to receiving statutory social security benefits. Accordingly, stateless persons are treated the same way as Austrian citizens.

In civil proceedings (and consequently also in proceedings under Labour and Social Law), the relevant provisions of the Austrian Code of Civil Procedure (Zivilprozessordnung, ZPO), the Non-Contentious Proceedings Act (Außerstreitgesetz, AußStrG) and the Labour and Social Court Act (Arbeits- und Sozialgerichtsgesetz, ASGG) ensure that everyone, regardless of their nationality, has equal access to the courts. This includes entitlement to procedural assistance such as, for example, legal aid, or exemptions from procedural costs, or their reimbursement.

The Code of Criminal Procedure (Strafprozessordnung, StPO) ensures general access to the courts as well as the entitlement to legal aid, victims' rights such as psychosocial and legal assistance in court proceedings as well as translation support regardless of whether the eligible person is stateless or not.

In response to the Committee's question, whether legal gender recognition for transgender persons requires (in law or in practice) that they undergo sterilisation or any other invasive medical treatment which could impair their health or physical integrity

Austrian legislation neither requires sterilisation nor any other invasive medical treatment in order for a change of gender identity to be recognised.

Organisation

Due to the allocation of competences set forth in the constitution and the resulting distribution of financial competences (social security contributions and tax revenues), the Federal Government periodically concludes agreements with all of the Laender governments on a regular basis as specified in Art. 15a B-VG. The currently applicable provisions of Art. 15a B-VG, governing the organisation and funding of healthcare, were stipulated to cover the period until and including 2013. At present, a new agreement scheduled to enter into force in early 2017 is being developed and negotiated.

The preamble to the agreement effective since 2013 contains a clear commitment to comprehensive medical care for all persons, regardless of age and income, as well as to equal and low-threshold access to services.

General health objectives for Austria

In spring 2011, a comprehensive coordinated process was launched in Austria with a view to developing health targets by way of inviting numerous stakeholders and the civic society to contribute to active inter-sectoral cooperation. The health targets were adopted by the Federal Health Commission and the Council of Ministers in 2012. They provide guidance for the overall Austrian promotion strategy defined in 2014 within the scope of health objectives management and are enshrined in the current government programme (2013 to 2018).

The health targets are designed to provide a basis for an overall policy framework that is conducive to health promotion, and to contribute to an increase in the number of healthy life years of the Austrian population, regardless of their level of education, income situation or general living conditions. Thus a focus is placed on the factors having a major impact on health, i.e. the environment we live, work, learn and play in. The health targets are based on jointly adopted

fundamental principles such as "Health in All Policies", the promotion of equal opportunities, or aligning health policy with impact factors.

The general health objectives are intended to focus on health rather than on disease (or individual diseases). Apart from that, the general health objectives for Austria are to be stated in broad terms, so as to allow policy areas such as social affairs or youth policy, which lie outside the healthcare system, to contribute towards realising these objectives, e.g. through measures aimed at reducing poverty or through support programmes offered as a part of open youth work.

Within the course of developing a detailed concept on strategies and measures, working groups staffed with representatives from various sectors have been set up to work on five of the health targets so far, and reports containing specific impact goals, interdisciplinary measures and indicators have been completed. In 2016, working groups tackling one or two other health targets will be established.

Funds earmarked for prevention

The Federal Health Agency (BGA) funds supra-regional prevention programmes and treatment measures with respect to issues related to national concepts and strategies such as the health targets, a health strategy for children and youth, and National Action Plans (health, physical exercise). The projects implemented must comply with pre-defined principles in order to achieve long-term changes within the scope of health promotion.

In the period from 2011 to 2014, the Federal Health Agency spent EUR 11.4 million on nutrition-related campaigns.

Funds earmarked for such campaigns were used for initiatives like "Our school buffet" (*Unser Schulbuffet*) and the "Eating right from the outset" (*Richtig essen von Anfang an* - REVAN) project, which has meanwhile evolved into a fully-fledged programme. The "Our school buffet" campaign was funded with EUR 1.3 million. This project is designed to improve the offering at school buffets by altering the contents of the basket of goods in accordance with the school buffet guideline. This school buffet guideline lays down the first nationwide standard for healthy snacks available in school cafeterias.

Dieticians assist the cafeterias in changing their offering and provide individual advice and support. In the period from 2011 to 2014, approximately 350 of Austria's 1350 school buffets were upgraded.

From the very beginning, the "Our school buffet" campaign was designed in a way to ensure integration into health organisations at a regional level. A large part of the funds was therefore invested in setting up the required structures.

After the nutrition-related funds have been used up, the "Our school buffet" campaign is perpetuated in Burgenland, Carinthia, Lower Austria and Styria. The respective partners are the Burgenland Regional Health Insurance Fund (*Burgenländische Gebietskrankenkasse*), the Lower Austrian Health and Social Fund (*Gesundheits- und Sozialfonds Steiermark*), the Styrian Health Fund (*Gesundheitsfonds Steiermark*) and the *Land* of Carinthia.

They pay the staff costs for the mobile counsellors (the campaign is based on a relationship of trust between counsellors and cafeterias) while the Federal Ministry of Health provides coordinating services, the website and the well-established material for re-printing.

The REVAN initiative contributes towards the goal of a higher number of children with a healthy bodyweight. To this end, maintaining a healthy dietary behaviour should be encouraged early

on. This can be accomplished through support and interventions as early as during pregnancy and in infant years. REVAN therefore hosts workshops for parents.

Since 2008, relevant know-how has been collected and prepared to cater to the target groups. This way, a uniform knowledge base for parents and experts has been created.

From 2011 to 2014, the Federal Ministry of Health spent EUR 192,000 on preventive measures while the *Laender* spent EUR 5.7 million.

For the period 2015/16, the Federal Health Agency made EUR 6.5 million available for prevention measures. Specific measures to implement the key topic of "*Equal health opportunities among children and young persons*" include the "*Early help*" and "*Health literacy among young persons*" initiatives.

In 2015, the Federal Ministry of Health carried out another project involving school buffets. The scheme is titled "The good choice" (*Die gute Wahl*) and is funded by resources of the Federal Health Agency earmarked for prevention. In the framework of this scheme, several labelling models for food products available at school buffets are to be introduced in order to identify a model that is suitable to inform children and young people about nutrients and health benefits of food products. Pupils and students are to be encouraged to recognise and prefer healthy food when making their daily food choices.

The target group are cafeterias which participate in the "Our school buffet" campaign. Interested entrepreneurs are given assistance in labelling the products they offer. Accompanying measures and marketing measures are also provided. At the end of the 2016 summer term, pupils of participating schools will be interviewed as to what extent the labelling model introduced at their school buffet contributed to their dietary knowledge and their daily purchase decisions. The most suitable model will thus be identified at the end of the campaign.

"The good choice" is designed to help determine whether and how different labelling models influence the eating habits of children and young people. In the long run, this measure might lead to the establishment of a particular model at school buffets. The setting of school buffets was chosen because here the food offering has already been improved and the good collaboration with buffet operators can be expected to be continued.

Participation in the project is free of charge and entrepreneurs do not incur any additional expenses.

Austrian Health Care Structure Plan (*Österreichischer Strukturplan Gesundheit, ÖSG*)

The Austrian Health Care Structure Plan (ÖSG) was initially agreed in 2006 as a framework programme for detailed regional planning. ÖSG 2012, the fourth revision of the plan, encompassing a planning horizon up to 2020, represents a further major step towards comprehensive planning of the entire healthcare system.

This plan is the mandatory basis for integrated planning of Austria's healthcare structure as defined in the agreement between the Federal Government and all *Laender* pursuant to Art. 15a of the Austrian Federal Constitutional Act (*Bundes-Verfassungsgesetz, B-VG*) concerning the organisation and funding of healthcare (Federal Law Gazette I no. 105/2008 as amended by no. 199/2013). It defines the national uniform framework for the Regional Health Care Structure Plans (*Regionale Strukturpläne Gesundheit, RSG*) at *Laender* level.

The ÖSG 2010 consistently evolved to become ÖSG 2012, which continues to be a plan offering services up to 2020. The major novelties and adaptations vis-à-vis ÖSG 2010 comprise the following items:

- integration of supra-regional healthcare planning in order to pool complex specialised offerings (such as reference centres for heart surgery, transplantation surgery, selected acute neurosurgical procedures, paediatric heart surgery, paediatric cardiology, paediatric hematological and oncological care);
- integration of "transformed" quality criteria for private for-profit acute hospitals (sanatoriums);
- minor updates and additions (e.g. concerning planning benchmarks and the fields of paediatric dialysis, vascular surgery and paediatric anaesthesia).

The Austrian Health Care Structure Plan is agreed on a partnership basis jointly between the Federal Government, all *Laender* and social insurance institutions, and adopted at a political level.

The most recent version of the full ÖSG plan can be viewed (in German) on the website of the Federal Ministry of Health (www.bmg.gv.at) by following this link:

http://www.bmg.gv.at/home/Schwerpunkte/Gesundheitssystem_Qualitaetssicherung/Planung_und_spezielle_Versorgungsbereiche/

The entire ÖSG is currently being revised and updated and further requirements regarding in particular outpatient treatment are incorporated. The revised version is scheduled to come into force in early 2017.

The ÖSG national framework plan and the RSGs, which are based on the ÖSG, cover planning specifications and reference values as well as quality criteria to ensure that healthcare is provided within a regionally balanced structure that is planned and realised (and later adapted) to meet the needs in each region. Examples include reference values for the proximity of institutional care facilities that depend on the level of care and ensure basic care near patients' place of residence and a certain concentration of more highly specialised services. The ÖSG 2012 also contains reference values for outpatient treatment for the first time. At the same time, specifications for the minimum size of care units and for the density of outpatient care services ensure sufficient numbers of patients, so that care services are provided to quality standards by staff experienced in these services. A forecast of the future need for medical services in each of the 32 care regions (according to source) is planned to ensure that the required care capacities are available in the future as well. Applying a large number of quality criteria ensures that services are provided to comparable quality standards everywhere, i.e. across all regions, in private and public facilities, and in the institutional and mobile service sectors alike. Implementation of the ÖSG is subject to ongoing monitoring. The ÖSG does not, therefore, immediately contribute to access to healthcare, which has been regulated by other means. Rather, the ÖSG contributes to ensuring that equal care of comparable quality is available to all patients. The ÖSG requirements are to be implemented at *Laender* level in the Regional Structural Plans for Health (Regionale Strukturpläne Gesundheit, RSG) and are subsequently to be made mandatory for third parties (i.e. health service providers) in the partners' respective spheres of influence by means of the respective laws and regulations available.

Psychiatry

As at the end of 2014 and 2015, Austria provided a highly varying range of bed capacities for administering emergency inpatient care (including places at day clinics), encompassing these psychiatric specialities:

- General psychiatry – adults (3,373 beds, end-2014)
- Treatment of patients with addictive disorders (874 beds, end-2014)
- Paediatric and adolescent psychiatry (389 beds, end-2015)

Inpatient psychiatric care facilities have been gradually decentralised in order to provide patients with care near their place of residence. Since efforts were launched in 1987 towards decentralising services (beginning with the KFJ-Spital hospital in Vienna), the plan has been implemented for 14 of the 20 specialised departments currently included in the regional health care structure plans (RSGs). Approximately one-third, i.e. a total of 34% of all places for psychiatric patients in general hospitals are currently being provided at the decentralised psychiatric departments, whereas the percentage (and the corresponding degree of decentralisation) varies greatly from one Land to another.

The measures towards decentralised services have largely reached completion in the Austrian Laender of Lower Austria, Upper Austria and Salzburg; in the other *Laender* the process is still ongoing. The remaining psychiatric hospitals display a high level of specialisation and provide care in line with concepts from social psychiatry.

In the future, psychosocial care will continue to pose major challenges in the following areas:

- The expansion of inpatient and outpatient services to provide psychiatric care for children and adolescents throughout the country is proceeding slowly, in particular due to a still insufficient number of specialists in psychiatric care for children and adolescents; an important measure implemented was to increase training capacity, with the situation being expected to ease in a few years' time.
- Connecting the various professionals and institutions providing inpatient care and services outside the ward in order to achieve an integrated healthcare structure is a lengthy adaptation and learning process which can only be accomplished in small steps.

Waiting time and waiting list management in the healthcare system

With regard to waiting list and waiting time management in the healthcare system, for elective surgery and invasive testing for diagnosis at hospitals, a waiting list management system has been established that is comprehensible and transparent for patients. The system is the result of an amendment to the Federal Hospitals and Sanatoriums Act (*Bundesgesetz über Kranken- und Kuranstalten, KAKuG*), specifically through the addition of Section 5a Paras. 2 and 3 as published in Federal Law Gazette I no. 69/2011.

Section 5a Para. 2 KAKuG specifies that legislation at the Laender level must require those bodies maintaining public and private hospitals in the non-profit sector that are affected, depending on the type of hospital and services provided there, to establish a transparent, anonymous waiting list system for elective operations and for cases of invasive testing for diagnosis, in the least for the specialities of ophthalmology and optometry, orthopaedics and orthopaedic surgery as well as neurosurgery, provided that the waiting time for the particular speciality exceeds four weeks. It is necessary to define in detail the specific, primarily medical criteria for determining the order within the waiting list system and it is not possible, within the Austrian system for allocating competences, to specify these criteria in a fundamental act of law (Art. 12 of the Federal Constitutional Act, *Bundes-Verfassungsgesetz, B-VG*). Yet, due to the necessity of achieving uniform transparency among waiting lists throughout the Laender, legislation at the Laender level is required to stipulate criteria pertaining to the procedures and organisation of the waiting list system.

In the meantime, all *Laender* have met the obligation pursuant to Section 5a *KAKuG* and adopted relevant enforcement provisions in their respective hospital acts (cf. Section 35 of the Burgenland Hospital Act (*Burgenländisches Krankenanstaltengesetz*) 2000; Section 23 Paras. 2 and 3 of the Carinthia Hospital Code (*Kärntner Krankenanstaltenordnung*) 1999; Section 16b Paras. 2 and 3 of the Lower Austria Hospital Act (*Niederösterreichisches Krankenanstaltengesetz*); Section 28a of the Upper Austria Hospital Act (*Oberösterreichisches Krankenanstaltengesetz*) 1997; Section 21a of the Salzburg Hospital Act (*Salzburger Krankenanstaltengesetz*) 2000; Section 20 of the Styria Hospital Act (*Steiermärkisches Krankenanstaltengesetz*) 2012; Section 9a Para. 2 of the Tyrol Hospital Act (*Tiroler Krankenanstaltengesetz*); Section 30a of the Vorarlberg Hospital Act (*Vorarlberger Spitalgesetz*); Section 17a Paras. 8 to 12 of the Vienna Hospital Act (*Wiener Krankenanstaltengesetz*) 1987.

Inclusion of recipients of social assistance in the statutory health insurance

Recipients of social assistance have been included in the statutory health insurance since 2010.

The table below provides an overview of the average number of persons eligible for benefits on the basis of means-tested minimum income in 2015, based on data provided by the social security institutions.

Persons eligible for means-tested minimum income

Annual average in 2015
(12-month average)

Health insurance fund	Men and women	Men	Women
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All persons eligible

All health insurance funds	54,632	27,705	26,927
GKK Vienna	30,415	15,844	14,571
GKK Lower Austria	5,430	2,528	2,902
GKK Burgenland	729	351	378
GKK Upper Austria	3,166	1,513	1,653
GKK Styria	5,191	2,444	2,747
GKK Carinthia	1,661	849	812
GKK Salzburg	2,210	1,189	1,021
GKK Tyrol	3,149	1,726	1,423
GKK Vorarlberg	2,681	1,261	1,420

Persons paying contributions

All health insurance funds	36,862	18,787	18,075
GKK Vienna	20,831	10,926	9,905
GKK Lower Austria	3,437	1,548	1,889
GKK Burgenland	515	243	272
GKK Upper Austria	2,112	1,005	1,107
GKK Styria	3,410	1,542	1,868
GKK Carinthia	1,412	729	683
GKK Salzburg	1,544	887	657
GKK Tyrol	2,116	1,206	910
GKK Vorarlberg	1,485	701	784

Family members

All health insurance funds	17,770	8,918	8,852
GKK Vienna	9,584	4,918	4,666
GKK Lower Austria	1,993	980	1,013
GKK Burgenland	214	108	106

GKK Upper Austria	1,054	508	546
GKK Styria	1,781	902	879
GKK Carinthia	249	120	129
GKK Salzburg	666	302	364
GKK Tyrol	1,033	520	513
GKK Vorarlberg	1,196	560	636

ARTICLE 11 § 2

Questions 1, 2 and 3

Education and awareness raising

Raising people's health awareness

A key goal of Austria's public health policy has for a long term been to improve health awareness among its citizens through the dissemination of information. Measures are taken not just in terms of subjects (specific illnesses or risk factors), but also, and increasingly, in terms of the individual's setting. Thus, the Health Ministry has over the past years initiated model projects and cooperation structures within the main social systems – urban, school, hospital and work environments – with a view to promoting public health. These networks have been established in collaboration with the WHO, EU and the Council of Europe respectively, and they combine health promoting measures at national and international levels.

These efforts have been reinforced by the first comparative European health literacy survey (HLS-EU) 2012, in which Austria fared below average. One of Austria's ten health targets has been dedicated to this very topic. Target 3 reads as follows: "to enhance health literacy in the population". In the report of the working group dealing with Target 3, implementing measures were defined for three areas: measures to improve health literacy within the healthcare system, to improve the health literacy of individuals (and of relatives of vulnerable groups in particular), and to improve health literacy awareness in the service sector and production sector.

Simultaneously, a structure was developed to ensure that this topic will be systematically pursued in the long run: In December 2014, the Federal Health Commission adopted the "Recommendations on establishing the Austrian Health Literacy Platform" (*Österreichische Plattform Gesundheitskompetenz, ÖPGK*); its co-ordinating office was set up in 2015 as part of the Fund for a Healthy Austria (*Fonds Gesundes Österreich, FGÖ*). A core team consisting of representatives of the Federal Ministry of Health, the social insurance institutions, the *Laender* and Health in All Policies (HiAP) partners acts as the steering committee. The platform's main goals are 1) to provide long-term support for the development and establishment of health literacy in Austria, 2) to promote networking, cooperation, the exchange of information and collaborative learning, 3) to facilitate and harmonise measures between politics and society, 4) to develop a common understanding, share knowledge and enable innovation, and 5) to build monitoring and reporting mechanisms and develop transparency and quality. In September 2015, the platform's first national conference took place, with the recruiting of member institutions starting at the same time. To become a member of the platform, measures as defined by health target 3 must be carried out; hence the members recruited will be encouraged to launch implementing measures to raise people's health literacy.

One of the ten targets concerns nutrition and is implemented within the strategic framework of the Austrian Nutrition Action Plan (*Nationaler Aktionsplan Ernährung, NAP.e*), which defines nutrition goals, pools nutrition policy measures and strategies and presents activities in the field of nutrition all over Austria in a transparent manner. The NAP.e is a strategy paper and set of periodical actions that is updated regularly. Its first version was adopted by the Council of Ministers in 2011, establishing a broad commitment to pursuing the goals and collaborating across various political areas.

The NAP.e is linked not only to the Austrian health targets but also to other nationwide strategies such as, for example, the health strategy for children and youth, the federal health promotion strategy, the National Action Plan for Physical Exercise (*Nationaler Aktionsplan Bewegung, NAP.b*), or health objectives management referred to as "health reform", which for the first time in Austria contains a nationally coordinated health promotion plan and also provides the corresponding funds (to be distributed by the *Laender*).

A National Nutrition Commission (*Nationale Ernährungskommission*) was established under the auspices of the Federal Ministry of Health to operate as a central advisory body in all matters concerning nutrition-related health policy. This body is staffed with members from various disciplines and sectors, drafts and adopts recommendations and also defines the priority goals in nutrition policy when updating the NAP.e for the respective subsequent NAP.e term (1 to 2 years).

For a few years now, the Federal Ministry of Health has been putting a focus on nutrition with a view to achieving the best possible supply of the population with energy and nutrients, to raise health and food literacy and to improve the framework conditions to make it easier for people to choose the healthy option when taking in food and beverages.

The Federal Ministry of Health's nutrition recommendations are summarised in the Austrian food pyramid (<http://www.bmgf.gv.at/home/Ernaehrungspyramide>, in German).

The pyramid illustrates how to eat healthy in an easily understandable way by mentioning types of food but also taking nutrients into account. The food pyramid is based on scientific evidence and recommendations on the supply of nutrients provided by the Austrian, German and Swiss nutritional expert institutions.

One of the NAP.e's main areas of action is the constant monitoring of the food situation and eating habits in Austria. The Austrian Nutrition Report (*Ernährungsbericht*) has covered these topics for close to 20 years and has meanwhile become an integral part of health reporting in Austria. It is published every four or five years (1998, 2003, 2008, 2012).

In the field of nutrition, the Federal Ministry of Health basically supports a balanced mixture of measures relating to habits and to conditions. It provides free information material that assists people in keeping a healthy diet (available at <http://www.bmgf.gv.at/home/Service/Broschueren/>, in German), on the one hand, and carries out measures that change conditions in such a way as to make the healthier choice the easier one, on the other hand. The Trans Fatty Acids Ordinance (*Transfettsäurenverordnung*) adopted in 2009, for example, introduced a statutory limit on harmful artificial trans fats in food products. The school buffet guideline of 2011, in turn, introduced the first national minimum standards in the field of nutrition physiology for food and beverages offered at school buffets in Austria. In the "Our school buffet" campaign conducted from 2011 to 2014, cafeterias received free advice and assistance in implementing the guideline and adapt their offering accordingly. Approx. 220,000 pupils, students and staff benefit from it in the long run. Since 2015, the cam-

paigned has been perpetuated in several *Laender* in accordance with the well-established concept, the cafeterias that have participated so far are supported further and new cafeterias are added (information available at

http://bmg.gv.at/home/Schwerpunkte/Ernaehrung/Unser_Schulbuffet).

The Fund for a Healthy Austria (*Fonds Gesundes Österreich, FGÖ*), today a segment of *Gesundheit Österreich GmbH*, was charged with implementing the Federal Act Governing Measures and Initiatives to Promote and Inform about Health (*Bundesgesetz über Maßnahmen und Initiativen zur Gesundheitsförderung, -aufklärung und -information*) which had entered into force in March 1998. The Austrian Federal Government dedicates additional means amounting to EUR 7.25 million annually to this initiative. Its measures are aimed, chiefly, towards initiating and fostering projects of health promotion and primary preventive health care. Other focal efforts are the provision of efficient networking in the health care sector, health care training measures and the organisation of specialised conferences.

The issue of "Awareness raising and information" is one of the two key goals specified in Article 1 of the Health Promotion Act (*Gesundheitsförderungsgesetz, GfG*), which is why target group-oriented dissemination of information on health promoting structures and habits is an important task of the FGÖ.

The FGÖ fulfils its mandate of improving people's health literacy by way of providing information and raising awareness, taking targeted communication measures in all key areas.

On the Ministry of Health's health platform www.gesundheit.gv.at, the FGÖ constantly adds high-quality information on a healthy living environment and healthy lifestyle.

In 2015, the FGÖ and the Federal Ministry of Health launched a joint tobacco prevention campaign for and with children and young people.

Public information and awareness-raising campaigns

In 2012, the "Our school buffet" campaign launched by the Federal Ministry of Health to improve the snack and lunch offerings for children at schools was accompanied by advertisements and PR measures.

In January 2014, the national campaign "Measles are no easy feat" (*Masern sind kein Kinderspiel*) was launched to point out the risks of measles and to increase the vaccination rate among the Austrian population.

Furthermore, advertisements and PR measures in June 2015 informed the public about the new regulations regarding on-line shipping of OTC drugs in Austria. At the same time, people were warned about the risks when purchasing prescription drugs from illegal providers on the internet.

The Federal Ministry of Health set up a Facebook page in April 2015 to share information through social media as well.

More detailed information is available on the Federal Ministry of Health's website and the communication platform on consumers' health (*Kommunikationsplattform VerbraucherInnen-gesundheit, KVG*).

2013 and 2015: new editions of the White Book on Alcohol in Austria (*Handbuch Alkohol - Österreich*)

The White Book on Alcohol in Austria contains a comprehensive overview of all data in Austria relevant to the topic of alcohol and makes an important contribution to discussions of this sen-

sitive issue. The White Book contributes significantly towards defining systematic measures for identifying and combating alcohol-related problems. The publication also plays a key role in implementing the EU Alcohol Strategy set forth in 2006 as well as the Global Strategy to Reduce the Harmful Use of Alcohol, which was adopted by the WHO in 2010.

Currently, Austria participates in the EU Joint Action „Reducing Alcohol Related Harm“ (RARHA) as an associated partner. The three-year joint action scheme (2014 - 2016) is funded by the European Union and involves 30 countries, represented by public institutions and networks, NGOs, universities, as well as international organisations. In brief, the Joint Action scheme contributes to capacity building among partners and in the wider public health community by: strengthening competence in alcohol survey methodology and monitoring progress in reducing alcohol related harm, clarifying the scientific basis and practical implications of drinking guidelines as a public health measure, enhancing access to well described, likely transferable interventions on which some evidence of effectiveness in influencing attitudes or behaviour and cost estimates are available.

Health education at schools

The Federal Ministry for Education and Women’s Affairs, the Federal Ministry of Health, and the Main Association of Austrian Social Security Institutions continue to jointly maintain the website www.gesundeschule.at (available in German). Now that the project has been completed, the website serves as a contact point for stakeholders with an interest in school life, providing information on the schemes and activities of the three partner organisations. The site also makes available useful information relating to the topic of health and school.

Health promotion strategy of the Federal Ministry for Education and Women’s Affairs (BMBF)

Based on the outcomes of the Healthy School project (*Gesunde Schule*) and the Austrian health targets (see <http://www.gesundheitsziele-oesterreich.at/austrian-health-targets/>) adopted by the Federal Government in 2012, a co-ordinating office for health promotion in schools was set up in the BMBF, which has developed a health promotion strategy of the BMBF. The following primary fields of action were identified in terms of health promotion in schools:

- school administration and organisation;
- teachers and learning including education and further training for teachers;
- support systems to promote physical and emotional health;
- physical exercise and sports;
- environment, safety and security.

Health promotion in the agricultural community

The Farmers’ Social Security Authority (*Sozialversicherungsanstalt der Bauern, SVB*) submitted the following additional statement:

Health surveys in the agricultural community are carried out in ten-year intervals. The health survey 2010 yielded the following positive results:

The assessment of health awareness in the agricultural community has improved substantially over the previous survey in 2000.

The healthy lifestyle is reflected in healthier behaviour with respect to nutrition, increased physical exercise and less frequent alcohol consumption. As a result, people are less overweight, they take advantage of precautionary check-ups more often and farmers are generally better informed about risks. The percentage of adipose people, however, is higher among farmers than among the general population.

Priority target groups are men and young adults. The key goals include increasing health awareness with a view to changing their behaviour at an early age.

Health promotion activities for the future are planned on the basis of the health survey results in order to target farmers' health needs as efficiently as possible. The *Sozialversicherungsanstalt der Bauern* has already drawn its conclusions from the health survey 2010 and re-designed the Health Activity Weeks (*Gesundheits-Aktivwochen*). Health Activity Weeks will focus on the following themes:

1. "Lifestyle and healthcare prevention"
2. "Performance and stamina"
3. "Charging the batteries"
4. "Weight management"

Health Activity Weeks have been offered since 1996 to keep persons covered by the Sozialversicherungsanstalt der Bauern insurance scheme healthy and strengthen their physical resources. Some 440 insured persons take part in this campaign every year.

An evaluation of the campaign yielded a particularly encouraging result: After participating in a Health Activity Week, approx. 95% changed their lifestyle to live a healthier life. Positive effects are observed especially on eating and drinking habits, physical exercises, movements at work and how to cope with stress.

Another project is called Healthy School (*Gesunde Schule*).

Under the Healthy School project, agricultural schools (agricultural colleges, occupational schools and higher secondary schools) are supported in the long run and take an active part. The health theme is to be integrated gradually (even more) and holistically in everyday school life.

The framework conditions are to be improved in the long run, as is the practical and actual knowledge (health literacy) regarding safety and health of students and all members of the school partnership (teachers, staff, parents). A "healthy lifestyle" should be a matter of course after attending those schools.

Particular attention will be paid to specific problems prevalent in the agricultural community as well as to the results of the Fit4Life study.

The Austrian health targets and the health promotion strategy within the scope of the federal objectives' management agreement and the state objectives' management in all *Laender* are also focusing on "ensuring conditions under which children and young people can grow up as healthy as possible".

Counselling and screening

Precautionary check-ups (health screening)

The precautionary checkup can be obtained once a year by all individuals living in Austria, regardless of whether or not they are covered by health insurance. The scheme is open to all persons from age 18 who are resident in Austria. The right to a precautionary check-up for people without insurance coverage was modified as of 1 January 2016 to the effect that it does not apply to persons who are entitled to a precautionary check-up at a healthcare institution or if,

pursuant to Regulation (EC) 883/2004 and/or an intergovernmental agreement, a different country is responsible for providing healthcare.

Recent statistics on the participation rate for precautionary check-ups

A total of 950,940 precautionary check-ups were provided in 2014. However, considering that many precautionary services are rendered in the curative field, participation rates do not provide a full picture of medical care provision in the precautionary field.

In 2014, a total of 442,417 men (46.5%) and 508,523 women (53.5%) participated in the precautionary general check-up scheme.

A total of 187,102 women also participated in the gynaecological examination programme.

On average, an increase in absolute terms of precautionary check-ups can be seen in Austria.

ARTICLE 11§3

Questions 1, 2 and 3

Healthy environment

Reference is made to previous reporting in particular to the following website:

http://www.umweltbundesamt.at/en/soer/soer2015/soer2015_mainthemes/

Chemicals

As stated in the 2012 report, Umweltbundesamt GmbH carries out toxicological analyses of chemicals and pollutants within the scope of monitoring the environment (see also <http://www.umweltbundesamt.at/umweltsituation/chemikalien/>).

Aside from collaborating in numerous international bodies and conferences (e.g. on the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Minamata Convention on Mercury, the Montreal Protocol on Substances that Deplete the Ozone Layer, see also <https://www.bmlfuw.gv.at/greentec/chemikalien/uebereinkommen-int.html>), Section 1 Para. 1 of the Austrian Chemicals Act (*Chemikaliengesetz, ChemG*) 1996 stipulates the precautionary protection of life and human health and the environment against directly or indirectly harmful exposure that may be caused by the production, placing on the market, purchase, use or waste treatment of substances, mixtures or products, in particular by preventing their production and/or identifying and eliminating them.

For more detailed information on the purpose of this law see also: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10011071>). (in German)

Waste

Shipments of waste are governed by Regulation (EC) No. 1013/2006 of the European Government and of the Council in transposition of the Basel Convention. In the Federal Waste Management Plan 2011, the Federal Ministry for Agriculture, Forestry, Environment and Water Management defines waste subject to inspections in detail and draws up inspection plans in accordance with Regulation 1013/2006/EC in order to combat illegal shipments of waste. Sanc-

tions to be imposed for illegal shipments of waste are laid down in Section 181b Para. 3 of the Austrian Penal Code (*Strafgesetzbuch, StGB*).

Pursuant to the polluter pays principle, waste producers must treat waste in such a way as to ensure a high level of protection of the environment and human health. Accordingly, waste holders are in charge of handing over waste only to authorised parties and of having it treated in an environmentally sound way. Waste holders are subject to general and specific waste treatment obligations as well as to recording and reporting obligations. Anyone who collects or treats waste usually needs a permit and is subject to further recording and reporting obligations. Waste treatment facilities usually also require a permit, which can be granted only if they do not endanger lives and human health. The provisions laid down in the Austrian Industrial Code (*Gewerbeordnung, GewO*) must be regarded as distinct from the aforementioned requirements.

Environment/international

For many years, the implementation reports on the Declaration of the United Nations Conference on the Human Environment in Stockholm (1972) and on Environment and Development in Rio (1992) were drawn up within the scope of the Commission on Sustainable Development (CSD).

The last implementation report for the CSD was submitted to the United Nations in 2009, covering chemicals, waste management, mining, transport, sustainable consumption and sustainable production:
http://www.un.org/esa/dsd/dsd_aofw_ni/ni_pdfs/NationalReports/austria/Full_Report.pdf

At the Rio+20 Conference in 2012 it was decided to disband the CSD. After that, no more reports were drawn up.

In autumn 2015, the 2030 Agenda was adopted, more or less replacing the decisions made in Rio in 1992. Reporting on the national implementation of the 2030 Agenda will from now on take place within the framework of the High-level Political Forum. A first round of reports took place at the HLPF in July 2016. Austria, however, did not attend and did therefore not submit an implementation report.

Water

The relevant legal provisions pertaining to water, in particular the third chapter of the Austrian Water Act (*Wasserrechtsgesetz, WRG*) on protecting water and keeping it clean as well as waste water emissions ordinances based on said law lay down specific prevention and protection measures in order to tackle the issues of water pollution.

As a member of the European Union, Austria must, among others, adhere to the following directives:

- the EU Water Framework Directive 2000/60/EC (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1468397338292&uri=CELEX:32000L0060>);
- the EU Floods Directive 2007/60/EC (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007L0060>); or
- the EU Directive concerning urban waste-water treatment 91/271/EEC (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1468397440182&uri=CELEX:31991L0271>);

as well as to the reporting requirements associated with these directives.

Austria ratified the UNECE Helsinki Convention on the Protection and Use of Transboundary Watercourses and International Lakes (<http://www.unece.org/env/water/>) and ensures international cooperation and its documentation through reports on the three international conventions on the protection of the Danube (<https://www.icpdr.org/main/>), the Rhine (<http://www.iksr.org/>) and the Elbe river (<http://www.ikse-mkol.org/>) as well as on transboundary water commissions with all neighbouring states sharing water systems on the basis of bilateral treaties.

Climate protection / clean air

As an EU Member State, Austria has to adhere to the provisions of the Air Quality Directive 2008/50/EC as well as of Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.

The directives lay down requirements to make information available to the public (http://ec.europa.eu/environment/air/quality/legislation/public_info.htm), to report to the European Commission on pollution, and to develop action plans in the event that limit values are exceeded. The European Environment Agency publishes summaries on air pollution in the Member States on a regular basis (<http://www.eea.europa.eu/themes/air/>).

At EU level, a number of provisions apply to the restriction of emissions in ambient air, including emission limit values for motor vehicles and non-road mobile machinery, limit values for industrial plants and power plants, ecodesign rules for boilers and furnaces, and product-specific rules for solvent-containing paints, for example.

As Party to the UNECE Convention on Long-range Transboundary Air Pollution (<http://www.unece.org/env/lrtap/welcome.html>) and a number of Protocols under the Convention, Austria reports on the emission of air pollutants on a regular basis; the data reported are publicly available via the EMEP Centre on Emission Inventories and Projections (<http://www.ceip.at/>).

As Contracting Party to the UN Framework Convention on Climate Change and the Kyoto Protocol, Austria regularly submits reports on climate protection measures, measures to facilitate adaptation to climate change and related information (http://unfccc.int/national_reports/annex_i_natcom/items/1095.php).

Mobility/transport/noise

Austria is a leading member of THE PEP - Transport, Health, Environment Pan-European Programme (represented by the Ministries for Agriculture, Forestry, Environment and Water Management; of Transport, Innovation and Technology; and of Health).

The UNECE and WHO Transport, Health and Environment Pan-European Programme is the action programme for green and healthy mobility and transport endorsed by the Ministers of the Environment, Health and Transport of the 56 Member States of the UN/Euro region and an important platform for cooperation at a pan-European level.

The five priority goals of THE PEP read as follows:

- to contribute to sustainable economic development and stimulate job creation through investment in environment- and health-friendly transport;
- to manage sustainable mobility and promote a more efficient transport system;

- to reduce emissions of transport-related greenhouse gases, air pollution and noise;
- to promote policies and actions conducive to healthy and safe modes of transport;
- and to integrate transport, health and environmental objectives into urban and spatial planning policies.

Austria supports in particular THE PEP workshops and specific partnerships built on successful Austrian campaigns:

- THE PEP Partnership on Promotion of Cycling in Europe (initiated jointly by Austria and France)
- THE PEP Partnership on Ecodriving (initiated by Austria)
- THE PEP Partnership on Jobs in Green and Healthy Transport
- HEAT Health Economic Assessment Tool for Cycling and Walking

During Austria's EU presidency, the fifth THE PEP (Transport, Health, Environment Pan-European Programme) High-level Meeting at ministerial level is scheduled to be held in Vienna.

Tobacco, alcohol and drugs

Tobacco

Statutory changes in the reporting period 1 January 2012 to 31 December 2015

In the amendment to the Austrian Tobacco Act (*Tabakgesetz, TabakG*) 2015, Federal Law Gazette I no. 101/2015, the statutory smoking ban was essentially extended to festival tents and clubhouses in general (provided that the club's activities include young people). It also covers the outside areas of schools and childcare facilities now.

In addition to the traditional tobacco products, what is referred to as related tobacco products, e.g. herbal products, electronic cigarettes and water pipes, are now also governed by the provisions on the smoking ban and the protection of non-smokers.

From 20 May 2016, the provisions on the protection of non-smokers must be applied to all these products as well and said products may basically be consumed only in designated smoking facilities and smoking areas of blended facilities.

As of 1 May 2018, a universal smoking ban will be in place in all public places including bars and restaurants that pertains to the consumption of all tobacco products as well as of related tobacco products. In contrast to other rooms in public places, no separate rooms for smokers may be made available in the entire gastronomy and restaurant sector, except for hotels and accommodation facilities, from that point of time.

Measures against smoking

Like other countries, Austria has in recent years made greater efforts to combat the tobacco-associated health risks by preventive measures. Counselling points to help smokers give up their habit are available in all the Austrian states.

In addition, a quitline was set up for smokers. The smokers' telephone, an initiative launched by the Austrian social insurance organisations in collaboration with the Health Ministry and the states, offers easy access, at local rates in all of Austria, to professional support to help people wean themselves off tobacco. The service also offers counselling on general issues of tobacco

addiction and encourages preventive action. The dissemination of information on tobacco is designed to reduce the number of smokers in Austria.

Major campaigns during the reporting period also included:

"Live your life. No smoking, YOLO" - "YOLO" (= you only live once) is the slogan of a campaign launched by the Federal Ministry of Health targeting 10 to 14-year-olds, which was presented by the Ministry in collaboration with the *Fonds Gesundes Österreich* and the Main Association of Austrian Social Security Institutions on the occasion of World No Tobacco Day on 31 May 2015. Young people use this slogan to encourage each other to seize the opportunity of consciously deciding to refrain from smoking. "YOLO" expresses the gist of young people's attitude towards life, i.e. living in the here and now. Information is presented online at www.yolo.at, on Facebook and WhatsApp.

At *Laender* level, the agencies dedicated to preventing addiction and the state governments arrange local and regional activities revolving around the protection of non-smokers.

Changes in patterns of tobacco consumption

Some 14,000 people die in Austria each year as a consequence of tobacco consumption (source: Rauchfreitelefon 2015); the WHO estimates the number at closer to 15,500 (source: WHO Global Report Mortality Attributable to Tobacco 2004, WHO 2011).

The 2015 Austrian Health Survey found that 1.76 million Austrians, or one in four persons aged 15+, smoke every day; this is an increase by 134,000 over 2006/07. This increase is largely attributable to a higher prevalence of daily smoking among women.

In 2014, 27% of men (down one percentage point compared to 2006/07) and 22% of women (up three percentage points compared to 2006/07) were smoking on a daily basis. Another 6% of men and 5% of women said they smoke occasionally.

39% of men and 52% of women had never smoked though.

29% of women and 21% of men had given up smoking.

Between 2006 and 2014, a downward trend was observed in the proportion of young women (aged 15 to 24) who smoked on a daily basis, but in 2014, one in five 15 to 19-year-old women and 29% of 20 to 24-year-old women were smoking tobacco. Tobacco use among women aged 25 and older, however, was more prevalent than in 2006 in all age groups.

The percentage of young men (aged 15 to 19) who smoked tobacco declined between 2006 and 2014 (from 26% to 22%),

whereas the percentage of male smokers aged 25 to 29 rose by 4 percentage points.

First-time tobacco users

92% take up smoking before they turn 25

10% are younger than 15 (EU: 17%)

62% are between 15 and 18 (EU: 53%)

20% are between 19 and 25 (EU: 24%)

Only a small number of smokers (5% of men, 4% of women) started smoking as early as in their childhood (up to the age of 13).

About one quarter of the people who smoke every day took up smoking when they were 15 years of age or younger.

More than half of the men and women who smoke became regular users of tobacco by the age of 17.

Exposure to second-hand smoke

In Austria, some 20% of the people who do not smoke daily were exposed to second-hand smoke indoors, with women less affected (14%) than men (25%).

The exposure was highest among young people, with one in three 15 to 29-year olds exposed to second-hand smoke indoors (men: 36%, women: 29%).

Smoking and subjective health condition

Men and women across all age groups who smoke every day assessed their health status less frequently as (very) good than non-smokers.

Likewise, people who smoke every day rated their general quality of life poorer than those who had never smoked or had never smoked every day.

(Source: Austrian Health Survey - 2014, Statistics Austria/Federal Ministry of Health, 2015; available at:

[http://www.bmg.gv.at/home/Gesundheit/Gesundheitssystem_Qualitaetssicherung/Gesundheitsberichte/Oesterreichische_Gesundheitsbefragung_2014_ATHIS_\(in_German\)](http://www.bmg.gv.at/home/Gesundheit/Gesundheitssystem_Qualitaetssicherung/Gesundheitsberichte/Oesterreichische_Gesundheitsbefragung_2014_ATHIS_(in_German))

Some 16% of all school children and students smoke tobacco products, either occasionally or on a daily basis (14.9% boys, 16.5% girls). Only 17% of adolescents who try to quit smoking succeed. The number of the school girls and boys aged 11 to 15 who said they were smoking (regardless of the frequency) rose from 1994 to 1998 but has declined ever since. (Source: WHO Health Behaviour in School-Aged Children 2014, WHO/Federal Ministry of Health 2015).

More details are provided in a report referred to as "*Tabakatlas Deutschland 2015*", issued by the German Cancer Research Center (dkfz) in 2015.

Other surveys and studies in which Austria participates:

- ESPAD: the European School Survey Project on Alcohol and Other Drugs (ESPAD) is a Europe-wide survey of 15 and 16-year-old students concerning the consumption of alcohol, tobacco and other drugs and attitudes towards these substances (most recently in 2015, will be published soon). Available at: <http://www.espad.org/austria>
- HBSC (Health Behaviour in School Aged Children): this survey, carried out under the auspices of the WHO, collects data on tobacco and other health-related topics from students aged 11 to 15 using a self-reporting questionnaire (most recently in 2014). Available at: http://www.bmg.gv.at/cms/home/attachments/9/7/0/CH1444/CMS1427118828092/gesundheit_und_gesundheitsverhalten_oester_schuelerinnen_who-hbsc-survey_2014.pdf (in German)
- GPS: conducted by ÖBIG (Gesundheit Österreich GmbH) on commission of the Federal Ministry of Health, the General Population Survey is a representative national survey of substance use and consumption patterns among the population aged 15 and older (published most recently in 2015; new issue to be published shortly).

Alcohol

Restrictive measures designed to combat alcoholism are found chiefly in the *Laender*-level laws to protect the young by banning alcohol consumption altogether or prohibiting public consumption and handing-over of alcohol for the private use of children and youths up to the age of 16. The Federal Act Governing Employment of Children and Youths (*Bundesgesetz über die Beschäftigung von Kindern und Jugendlichen*) 1987 provides for an Austria-wide ban on giving children and youths alcohol by way of compensation or otherwise. The School Code provides for a general ban on alcohol for pupils.

Under the 1994 Industrial Code (*GewO*), hotel and restaurant businesses must not serve, either in person or through their employees, alcoholic beverages to youths who under the youth protection laws of the relevant state are not allowed to consume alcohol; in such a case, the business must put up a notice that unequivocally points out this ban.

In connection with alcohol, the Industrial Code lays down the following other provisions:

- serving and selling alcoholic beverages off the premises through vending machines (Section 52 Para. 2) is prohibited;
- if alcoholic beverages are offered, cold non-alcoholic beverages must also be on offer upon request; furthermore, at least two types of cold non-alcoholic beverages must be offered at a price that is lower or equal to the cheapest cold alcoholic beverage available (except for fruit wine) and they must be specifically labelled. The prices shall be compared on the basis of the price of one litre of the respective beverages. (Section 112 Para. 4)
- alcoholic beverages must not be sold to intoxicated persons (Section 112 Para. 5).

In addition, in Austria the drink driving limit is 50 milligrammes per 100 millilitres of blood (in specific cases it is 10 milligrammes).

In accordance with the Work Agreement of the Austrian Federal Government for the 25th legislative period, the Council of Ministers adopted a national addiction prevention strategy in February 2016, which also covers the consumption of alcohol (see also the section on drugs).

The Alcohol Forum, which was set up in 2007 with the Federal Ministry of Health, is a permanent advisory body to the Ministry and develops programmes and strategies with respect to all national alcohol issues. On the basis of alcohol-related issues and problems, its steering committee outlines key points that are dealt with in existing or ad hoc working groups set up for this purpose.

By way of the working group for addiction prevention (*Arbeitsgemeinschaft für Suchtvorbeugung*), the specialised units for addiction prevention established in the *Laender* are also integrated; they cooperate with schools and various addiction facilities primarily at regional and local levels.

Drugs

The drug sphere is regulated by the Austrian Addictive Drugs Act (*Suchtmittelgesetz, SMG*), Federal Law Gazette I no. 112/1997, and its implementing ordinances (especially the ordinances governing narcotic drugs, psychotropic substances, and education on oral substitution).

Producing, processing, purchasing and possessing addictive drugs (i.e. substances as defined by the Single Convention on Narcotic Drugs as well as certain substances as defined by the Con-

vention on Psychotropic Substances 1971) require a license for the production and wholesale of medicines that has to be renewed every year by application to the Federal Ministry of Health.

The prescription of pure narcotic drugs and preparations from heroin, cannabis and coca leaves is prohibited, with the exception of medicines containing narcotic drugs and preparations made from cannabis extracts that have been authorised as pharmaceutical specialities as well as high-purity Delta-9-THC isolated from cannabis extracts for the purpose of magistral preparations.

The Austrian Addictive Drugs Act is aligned with the principle of "Therapy instead of penalty", i.e. addicted criminal offenders are preferably subjected to health-related measures rather than penalised. Being addicted to psychoactive substances is considered a disease, and a wide range of health-related measures including social assistance and help with integration is available to addicts. This applies also to those addicted to illegal drugs. In addition to approaches aimed at abstinence, the necessity of offering programmes accompanying addicts or substitution therapy is emphasised, which are designed to minimise risks and control damage. The health-policy goal is to offer - interconnected, if possible - prevention, treatment and re-integration measures as well as risk-reducing accompanying measures for addicts in a differentiated and multi-professional support environment.

The Addictive Drugs Act is based on the assumption that psychological or social problems are more prevalent than medical problems in people who occasionally use addictive drugs (sometimes also in people who use addictive substances regularly and are used to drugs). Consequently, the law contains a range of potential intervention options, which are referred to as "health-related measures": medical monitoring of the health status, medical treatment including withdrawal and substitution therapy, clinical-psychological counselling and care, psychotherapy as well as psychosocial counselling and care.

The Ministry of Health has to make public the availability of certified counselling and care institutions which provide health-related measures, taking into account regional requirements. Drug counselling and care facilities are funded by the Ministry of Health and the *Laender*.

Austria's anti-addiction and anti-drug policy relies first and foremost on the primary prevention of addictions (strengthening personal protection factors, "setting" approach, etc.) with a view to containing the demand for psychoactive substances (alcohol, tobacco, drugs) but also the emergence of non-substance addictions (pathological gambling, eating disorders, etc.). A broad range of activities and initiatives is carried out at schools in particular. Agencies dedicated to preventing addictions (*Fachstellen für Suchtprävention*) have been set up in each Austrian state; these specialised institutions launch local and regional projects and provide ongoing support and they also provide further training for multipliers and relevant occupational groups, for example. The Ministry of Health supports networks, professionalisation and quality assurance in the field of prevention and publishes information material on addictions and drugs. Increased efforts have also been put in secondary prevention over the past few years; the related offering is directed to persons, and in particular adolescents, who are already using or at risk of starting to use drugs. Monitoring the epidemiological aspect of drug abuse is also an important task of the Ministry of Health with the aim to get an insight into current trends and problems on which preventive measures can be based.

A further important key element is the national addiction prevention strategy which takes into account different forms of addiction (including non-substance-related addictive behavior), pursues a holistic approach to prevention (i.e. encompassing not only prevention in a strict sense, but also treatment and harm reduction) and highlights the fact that addiction is a disease and

should be treated as such, thus forming an “umbrella strategy” for the drug or addiction strategies of the *Laender*.

Narcotic drug policies

In the reporting period from 1 January 2012 to 31 December 2015, drug-policy discussions and measures continued to revolve mostly around improvements in the treatment of addictions, particularly opioid substitution treatment and complementary psychosocial support for persons with opioid addictions. In this context endeavours have been made to establish integrated systems (at least across different substances, but also with regard to better links between health care and psychosocial services, and the integration of addiction services into the general health-care system). For instance, an expert dialogue on addiction problems and opioid substitution treatment for opioid users has been initiated by the Ministry of Health in which experts from the fields of medicine, law and psychosocial support are to prepare recommendations for medically assisted treatment of assured quality for patients addicted to opioids. These quality standards are to reflect the state of the art, practical experience, as well as the specific situation in Austria, and will serve as an interdisciplinary reference framework for all professionals who are involved in questions of substitution treatment of patients with opioid addictions.

With regard to the phenomenon of so-called “new psychoactive substances” (formerly also referred to as “research chemicals” or “legal highs”) an important legal measure was taken in 2012, when the New Psychoactive Substances Act (*NPSG*; Federal Law Gazette I Nr. 146/2011), and the New Psychoactive Substances Regulation (*NPSV*, Federal Law Gazette II Nr. 468/2011) entered into force in 2012. They aim to minimize the circulation of new psychoactive substances and the health hazards resulting from the use of these substances, by adopting specific control measures. In contrast to the Narcotic Substances Act (*SMG*, Federal Law Gazette. I 1997/112), the New Psychoactive Substances Act and Regulation rather pursue a generic approach and primarily relate to classes of substances, both in order to break the cycle of new substances emerging and the public regulator always lagging behind. Offences covered under the Act are exclusively related to supply to consumers. It is a punishable offence to import and export new psychoactive substances, to make them available to or to procure them for others in order to derive benefit from this act and with the intention that others or third persons use said substances to achieve psychoactive effects. Punishment ranges from imprisonment for up to two years, to imprisonment between one and ten years in the case of severe bodily harm or death resulting from this offence. Mere possession or use of the respective substances is not punishable, because criminalisation and penalisation in the given context is considered as a momentum for motivating consumers to develop secretive consumption behaviours which, in turn, would make it difficult to provide them with preventive messages and make them aware of health risks related to the consumption of new psychoactive substances. Meanwhile data available regarding use in the general population of new psychoactive substances indicate insignificant prevalence levels, in contrast to the great interest in this subject shown by the media.

Within the scope of increased monitoring of the epidemiological aspect of drug abuse and the Representative Survey on Substance Use (*Repräsentativerhebung zum Substanzgebrauch*) carried out nationwide in 2004 and 2008 (drugs, alcohol, tobacco, psychoactive medications), a further representative survey on addiction in the general population has been conducted in 2015/16. At present, the data for this survey are being analysed.

During the previous period reviewed, a uniform Austria-wide documentation and reporting system was implemented that collects, standardises and evaluates comparable and reliable infor-

mation on addicts (demographic and social data, drug consumption patterns etc.) who have turned to counselling facilities for treatment. The system has continued to be effective and has resulted in highly informative insights. In terms of its methods, the system entails national, routine and anonymous case reporting involving standard core data on drug consumers who seek treatment. The data are intended to help estimate the user rate with a view to planning drug counselling services. Providing an estimate of the prevalence of problematic drug consumption and an analysis of drug-related deaths, the system provides most of the type of monitoring and key indicators envisaged by the European Monitoring Centre for Drugs and Drug Addiction.

A number of recent datasets are available to assess the narcotic drugs situation. The prevalence of experience with the consumption of illegal psychoactive substances, after rising slightly in the early noughties, has stabilised, albeit at a higher level and has partly started to go down. About one in five Austrians has consumed cannabis at least once, with a peak rate of up to 35% among young adults. Rates are substantially lower for all other substances, typically at 2% (heroin) to 4% (Ecstasy, amphetamines, cocaine) for the general population. Current consumption rates (for the last twelve months) are even lower – evidence that consumption of illegal substances is usually restricted to a trial experience or a short phase in life.

Based on the latest estimate of the prevalence of high-risk drug use (usually of several substances) involving opiates, some 28,000 to 29,000 individuals are affected in Austria. When this estimate is compared with other data sources it can be concluded that, following an increase in 2004, the prevalence of high-risk drug use decreased once again and has started gradually going down since 2009.

Regarding the details on developments during the reporting period reference is made to the annual report on the drugs situation on the web site of the Federal Ministry of Health (www.bmg.gv.at).

Epidemiological monitoring and immunisation

Epidemiological surveillance

Austrian legislation requires the reporting of major infectious diseases (Epidemic Disease Act, *Epidemiegesetz*). Austria also participates in international and EU networks and early warning systems relevant to the monitoring and control of communicable diseases.

1. Reporting of infectious diseases:

At national level, notifiable diseases as defined in the Epidemic Disease Act must be reported electronically to the Epidemiologic Reporting System (*Epidemiologisches Meldesystem, EMS*). Routine mapping allows for a fair overview of the epidemiological situation and is also a requirement for being able to plan preventive measures.

Relevant infectious diseases must be reported not only at national but also at EU level. To this end, national datasets are collated once a year and reported to the European Centre for Disease Prevention and Control (ECDC).

2. Participation in EU networks:

With the implementation of the ECDC, a network was created to monitor communicable diseases and associated specific health risks. Austria plays an active part in this network and has integrated all its reference centres. Specifically, all data requests are complied with in good time and enquiries by specific networks, e.g. on inoculation schemes, recommended vaccinations, national combating strategies, etc. are given proper responses. Best practice models are emulated wherever suitable and proposed laboratory methods are implemented. Regarding

laboratory diagnostics, regular ring tests are carried out for quality control purposes and lab staff are trained in new methods.

Decision no. 1082/2013/EU lays down rules on the epidemiological surveillance, monitoring, early warning of, and combating serious cross-border threats to health, including preparedness and response planning related to those activities. It also provided for the establishment of a Health Security Committee (HSC). The tasks of the HSC include supporting the exchange of information between the Member States and the European Commission and facilitating the co-ordination of preparedness and response planning in case of an outbreak as well as risk and crisis communication. Austria is an active member of the HSC.

3. Participation in EU early warning systems:

Austria also participates in the EU's Early Warning and Response System (EWRS) and operates a network of national offices that were established in accordance with the WHO's International Health Regulations. A 24/7 call point has been set up at national level as part of the operation and coordination centre (EKC) at the Ministry of the Interior. In terms of crisis management, the Ministry of Health works closely with all relevant ministries, *Laender*-level healthcare authorities, reference centres and other key facilities. It will inform them promptly about any important incidents involving infectious diseases. This mechanism is also harnessed in the reverse direction, i.e. medical health officers will notify the Ministry of Health of important incidents.

National vaccination programme and vaccination coverage rate.

Immunisation is one of the most effective prophylactic measures at present. In Austria, vaccination is voluntary.

In early 1998, a new vaccination scheme was created with a view to giving all children up to the age of 15 who live in Austria access to vaccinations that are essential for public health, without incurring any costs for the legal guardians. This scheme covers most of the vaccine-preventable diseases potentially occurring in children and adolescents. This way, the vaccination figures necessary to achieve the threshold proportion of immune individuals in the population, referred to as "herd immunity", are reached.

According to the most recent data, people tend to choose free vaccination primarily to protect themselves against very common - and rare but serious - diseases. The vaccination scheme also aims at protecting children against as many diseases as possible with as few shots as possible.

Two-thirds of the vaccination costs are borne by the Federal Government, one-sixth by the *Laender* and one-sixth by the Main Association of Social Security Institutions. The *Laender* have to provide the funding for the distribution and administration of vaccinations.

The Austrian vaccination schedule provides recommendations all physicians in Austria should follow. It was drawn up in close collaboration of the Federal Ministry of Health and the National Vaccination Board (*Nationales Impfgremium*) and is updated and adapted annually to accommodate the most recent evidence-based findings.

The following vaccinations are free of charge and recommended for children in Austria under the immunisation programme for children:

- rotavirus immunisation for infants (2 or 3 shots (depending on the vaccine used) with at least a 4 weeks' interval from the end of the 6th week));
- hexavalent immunisation against diphtheria, tetanus, pertussis, polio, hepatitis B and haemophilus influenza type B;

	at least 4 weeks apart																			
Diphtheria (DIP) Tetanus (TET) Pertussis (PEA) Poliomyelitis (IPV) Haemophilus infl. B (HIB) Hepatitis B (HBV)	1st hexavalent vaccination	2nd hexavalent vaccination																		
Pneumococcal (PNC)	1st PNC	2nd PNC																		
Mumps Measles Rubella (MMR)																				
Meningococcal B ¹		Men B 3 doses, at least 1 month apart																		
Meningococcal C ²																				
TBE																				
Varicella (VZV)																				
Hepatitis A (HAV)																				
Influenza (IV) ^{3,4}																				

Free

Not free

¹For persons who start late, age-dependant vaccination schemes

²MEC-C: conjugated menC vaccine; if first immunisation from the 12th month, only one dose (vaccination can be initiated at 2 months; in that case, two doses at least 8 weeks apart).

³IV: recommendation for children: primary immunisation (by the age of 8) to consist of two doses at least 4 weeks apart

⁴From 2 years, live attenuated influenza vaccine (nasal spray)

Recommended additional vaccinations, to be paid by patients:

- Meningococcal C vaccination
- Meningococcal B vaccination
- TBE vaccination
- Varicella vaccination
- Hepatitis-A vaccination
- Influenza vaccination annually

School children and adolescents:

Age→ ↓Vaccination	7th year	8th year	9th year	10th year	11th year	12th year	13th year	14th year	15th year	16th year	17th year
Diphtheria (dip) Tetanus (TET) Pertussis (PEA) Poliomyelitis (IPV)	quadri- valent vaccina- tion	to be admin- istered to children who where not vaccinated at age 7					1				booster dose every 10 years
Hepatitis B (HBV)	primary immunisation (0/1/6 months) or booster dose,									catch-up if neces- sary	
Mumps Measles (MMR) Rubella	MMR if not previously immunised										
Humane Papilloma Virus (HPV) ²				2 x HPV (0/6 months)			2 x HPV ^{3,4} (0/6 months)			catch-up if neces- sary	
Varicella (VZV)	VZV catch-up										
TBE				TBE					TBE		
Meningococcal ⁵ (MEC-4)				MEC-4							
Influenza (IV)	IV annually										

¹Children who received only a combined dip-Tet-IPV vaccination between 7 and 9 years of age should be given a vaccination with a pertussis component by the time they leave school.

²HPV immunisation according to the 1+1 pattern should be initiated as early as possible after the 9th birthday.

³Catch-up programme from 12 years of age at low cost.

⁴Recommendation for the 15th year is based on WHO recommendations: <http://www.who.int/entity/wer/2014/wer8943.pdf?ua=1>; in derogation of the currently valid information about tetravalent vaccine.

⁵Free (pink) or not free (blue) vaccination. Source: www.burdenofinjury.org

Adults:

Adults who received primary immunisation, according to recommendations

Age→ ↓Vaccination	18th to 20th year	30th year	40th year	50th year	60th year	65th year	70th year	75th year	80th year etc.	
Diphtheria (dip) Tetanus (TET) Pertussis (PEA) Poliomyelitis (IPV)	booster dose every 10 years				booster dose every 5 years					
Hepatitis B (HBV)	catch-up if necessary									
Human papillomaviruses (HPV)	catch-up if necessary									
Mumps Measles (MMR) Rubella	catch-up if necessary									
TBE	booster dose every 5 years				booster dose every 3 years					
Pneumococci	see chapter on pneumococcal									
Herpes Zoster (HZV)	once									
Varicella (VZV)	in seronegative persons catch-up unless previously immunised									

The majority of vaccine-preventable diseases are subject to a statutory reporting obligation and are entered into the electronic reporting system EMS.

Anti-HIV/AIDS activities

More than 30 years ago, in 1983, the first cases of AIDS emerged in Austria. In the mid-1990s, the AIDS epidemic in Austria peaked at some 200 who contracted AIDS and more than 150 who died per year. Since the introduction of potent anti-retroviral therapy in 1998 the number of persons infected with HIV/AIDS has continuously decreased. In Austria, the number of new HIV infections has remained relatively stable at 400 per year.

The number of people currently living with HIV in Austria is estimated at approximately 8,000. Their number has increased due to the therapy available and the resulting substantially longer life time. While in the epidemic's initial phase and at its peak, men who had sex with men (MSM) and intravenous drug users were particularly affected, MSM still represent the highest number of HIV infections contracted in Austria. In comparison with other European countries, Austria is among those with an extremely low incidence and prevalence.

The HIV/AIDS outbreak was contained in Austria because far-reaching measures have been taken since the early 1980s. Austria did some pioneering work in the fields of the safety of blood products and transfusions as well as in preventing vertical mother-to-child transmission.

The introduction of mandatory HIV reporting is currently planned with the aim of improving national epidemiological surveillance and thus being able to respond even more specifically to new developments and trends.

Detailed information on the current HIV/AIDS situation can be obtained from a cross-country HIV cohort study (AHIVCOS), which comprises some 75% to 80% of all infected persons.

Accidents

Preventing **accidents at work and occupational diseases** is an important responsibility of statutory accident insurance, which has traditionally been emphasised by accident insurance providers, in particular the Austrian Workers' Compensation Board (*Allgemeine Unfallversicherungsanstalt, AUVA*). To this end, a wide range of preventive measures is being taken, including the following initiatives:

- advice and support from the accident prevention service as well as free support for small and medium-sized enterprises from prevention services (*AUVASicher*) with occupational health and safety officers and occupational physicians;
- campaigns in order to raise safety awareness (e.g. slips, trips and falls, hand injuries) in accordance with corresponding EU programmes;
- targeted campaigns and programmes for special accident-prone occupational groups (e.g. protective equipment for construction workers) or accident-prone groups of people (e.g. road safety education for pupils);
- priority programmes for workers exposed to a high risk of catching occupational diseases (e.g. asbestos aftercare, skin diseases);
- support of relevant research programmes on the prevention of accidents at work and occupational diseases.

Health insurance providers are also authorised to take accident-preventing measures and/or to participate in such measures taken by other institutions (e.g. supporting campaigns such as "Safe municipalities" (*Sichere Gemeinden*)).

Road accidents

The Austrian Federal Government and, in particular, the Federal Ministry for Transport, Innovation and Technology (BMVIT) as the main government body responsible for road safety have set themselves the target of making Austria's roads among the safest in the EU. Road safety in Austria is a joint responsibility of various policy and decision-makers such as the Federal Ministry of Transport, Innovation and Technology, Federal Ministry of the Interior, Federal Ministry of Health, FM of Labour, Social Affairs and Consumer Protection, local authorities, political stakeholders, research institutes, non-governmental organisations. The Road Safety Programme (RSP) forms the core of the country's road safety work. The first RSP was enacted in 2002 for the period from 2002 to 2010. The current RSP 2011-2020 was published in February 2011. As a result of the Accident Investigation Act (*Unfalluntersuchungsgesetz*) which came into force in 2006, the BMVIT established a Road Safety Advisory Council as the forum for decision-makers in matters relating to road safety. The Road Safety Advisory Council focuses, in particular, on the preparation, ongoing evaluation and development of road safety programmes for all modes of transport. Its members are made up of the transport spokespersons for the parliamentary political parties, safety experts for all modes of transport and representatives of government ministries, local and regional authorities, automobile clubs, chambers of commerce and industry, trade and labour associations, interest groups and research institutions. The Advisory Council's "Roads Task Force" was actively involved in the preparation of the RSP 2011-2020, will support the programme throughout its duration and will evaluate it at regular intervals. The annual report provides a mid-term overview of the implementation status of the RSP and provides information on current trends in accident statistics. The 2014 edition of the Annual Report on Road Safety in Austria reports on the implementation of the measures contained in the RSP's individual areas of intervention and outlines the resulting successes in reducing the number of accidents, injuries and fatalities on Austria's roads, allowing any necessary adaptations to the programme to be made in a timely manner. All analyses should factor in the changes to accident data collection procedures that came into effect as of 2012. Since 1 January 2012, personal injury accidents on Austria's roads have been recorded electronically by the police officers who respond to a road traffic accident via an "Accident Data Management" system and transmit the data directly to Statistics Austria. While the actual accidents are recorded on the spot, the full details of an incident may subsequently be entered into the system in stages. A major change is that all accidents are now assigned spatial coordinates using a geographic information system, a development which will significantly aid the identification of high accident concentration sections of the road network in future. The accident data collection catalogue has been updated in line with road safety and accident research requirements and considerably extended in comparison to the data previously collected via the accident statistics report.

The Austrian Road Safety Fund (RSF) established at BMVIT was set up with the aim of promoting and improving road safety in Austria and of financing projects to improve road safety. Its funding is drawn from the road safety contribution which motorists are required to pay when they order a personalised vehicle number plate. The RSF also receives funding from income retained in its entirety by the Federal Government under the provisions of the Austrian Transportation of Goods Act (*Güterbeförderungsgesetz*). A total of four calls for tender have been issued in the period from 2011 to 2014 focussing on the following issues

http://www.bmvit.gv.at/en/service/publications/transport/downloads/roadsafety_report2014.pdf

- “Safe - Electric - Mobile” (2011)
- “Attention and Concentration on the Roads” (2011)
- “Careful - Children - Consideration” (2013)
- “On Foot on the Roads - Safe(guarding) Mobility” (2014)

In order to support the RSP strategy numerous road safety awareness-raising measures and campaigns were carried out in 2014 at national or regional level in Austria.

Significant progress was already achieved through the first Austrian Road Safety Programme (2002–2010). Based on the “Safe System Approach” in which responsible cooperation, shared responsibility and joint action come together to create a safe environment for all road users in Austria. These joint actions and efforts should serve to reach the following numerical targets:

- > 50% fewer fatalities by 2020
- > 40% fewer serious injuries on the roads by 2020
- > 20% fewer personal injury accidents by 2020

To achieve these targets, a catalogue of over 250 measures in 17 fields of action in 10 areas was drawn up, covering the specific road user groups of children, young road users, elderly road users, pedestrians, cyclists and motor riders. One chapter of this annual report focuses on the implementation of measures in the individual areas of intervention in the RSP. The programme will be monitored and adapted throughout its duration by the Austrian Road Safety Advisory Council (Roads Task Force). An interim evaluation of the RSP in 2015 shows positive trends since 2000.

With special emphasis on the needs of vulnerable road users, in particular pedestrians and cyclists, there are legal changes in the road safety sector according to the RSP 2011-2020:

- Introduction of a blood alcohol concentration (BAC) limit of 0.1 ‰ for all school transport drivers in the future,
- Introduction of a ban on lorries in the far left lane on motorways with three or more lanes
- New Section Control Measuring Acts
- New standard for child restraints

Further information and more figures can be found at

<http://www.bmvit.gv.at/bmvit/service/publikationen/jahresbericht2014.html>

Domestic accidents / accidents during leisure time

In 2012, the Federal Ministry of Health launched a programme for the prevention of home and leisure accidents, with its measures to be implemented at intersectoral level.

In the field of prevention of domestic accidents and accidents during leisure time, Austria joined the European Home and Leisure Accident Surveillance System in 1997 and has since then participated in this EU programme without interruption. EHLASS-Austria, renamed into IDB Austria (Injury Database Austria) in 2005, has been operated by KfV (Austrian Road Safety Board) and has provided detailed information about the accident causes and circumstances as well as the severity of the injuries. The data system is co-funded by the Ministry of Labour, Social Af-

fairs and Consumer Protection and has proven an indispensable tool for injury prevention for a variety of stakeholders, such as manufacturers, importers and traders, standardisation bodies, consumer organisations, legislation and enforcement authorities and other institutions working in the area of home and leisure accident prevention. Further information about the IDB Austria and the EU IDB can be found at

<http://unfallstatistik.kfv.at/index.php?id=82>

and http://ec.europa.eu/health/data_collection/databases/idb/index_en.htm.

ARTICLE 12
THE RIGHT TO SOCIAL SECURITY

ARTICLE 12§1

Questions 1, 2 and 3

Reference is made to the previous reporting. In addition, the following information is provided:

Risks covered, financing and personal scope

Austria pursues comprehensive social policies based on a wide range and dense network of duly coordinated social benefits and services. Compared with other European countries, these benefits and services are very well developed and greatly help to cushion the still-felt impact of the economic and financial crisis as well as its social and economic consequences for those groups of the population that were and are particularly affected by them. Rising expenditure on labour market and anti-poverty policies in combination with consistently high family, health and pension benefits are major contributors in reducing the risk of poverty and marginalisation in Austria: the percentage of the Austrian population at risk of poverty, which is below the EU average, would be more than three times as high were it not for these social benefits.

Recent policies targeted at social protection have already made a positive impact. In addition, the importance of social services provided to supplement existing cash benefits has grown in the past years. This is particularly true of childcare, nursing care, rehabilitation and labour market integration. Social services thus improve the prospects of participation in society and help stabilise economic and employment development in Austria. In conjunction with social benefits and services, a comprehensive legal framework on health and safety at work, on reconciling work and family life as well as on non-discrimination in all aspects of life constitutes another major pillar of the Austrian welfare state.

The publication Social Protection in Austria provides an up-to-date overview of the services and benefits of this welfare state. It highlights the basic aspects and benefits of individual systems catering to families, old age, health, unemployment, social distress as well as the development of social spending and its funding.



social_protection_in_
austria 2014.pdf

Statistics Austria - Social protection according to EU concept:

http://www.statistik.at/web_en/statistics/PeopleSociety/social_statistics/social_protection_according_to_eu_concept/index.html

In 2014, the social expenditure to GDP ratio, expressing the level of social expenditure (calculated according to the European System of Integrated Social Protection Statistics - ESSPROS) as a proportion of gross domestic product (GDP), reached 30.1%, the highest level so far.

In Austria a large proportion of expenditure on social benefits is dedicated to old-age benefits (2014: 44% or EUR 42.9 billion) and about a quarter of the expenditure goes to benefits in the field of sickness/healthcare. Significantly lower proportions of the expenditure are recorded for the following areas: family/children (10%), disability (7%), survivors as well as unemployment

(each with 6%), housing and social exclusion (2%). More than two-thirds of social benefits are cash benefits. Social benefits in kind are dominated by in- and out-patient health care benefits. In 2014, EUR 49.2 billion were spent for pension benefits, amounting to 14.9% of gross domestic product (GDP).

After deduction of wage tax and social contributions, partly due from cash benefits, 89.19% net social benefits (cash benefits and benefits in kind) actually reached the beneficiaries (value for 2013). Therefore, social expenditure to GDP ratio declines by -3.2 percentage points to 26.5%.

With respect to the financing of social benefit systems, more than one-third of the total number is financed by employers' social contributions, with another third being financed by general government revenues and more than one quarter by social contributions from protected persons.

The number of pension beneficiaries according to ESSPROS for the first time declined by -0.05% compared to the previous year to 2 421 351 in 2014.

More information and tables can be found on the website of the [Federal Ministry of Labour, Social Affairs and Consumer Protection](#). Eurostat publishes social protection expenditure and receipts, qualitative information and pension beneficiaries for EU member states on its website ([database](#), [qualitative information](#), [statistics explained article](#)). The [ESSPROS Manual](#) contains detailed information on the methodology.

The Austrian social security system covers the following areas/benefits:

- medical care,
- sick pay,
- unemployment benefits,
- old-age benefits,
- benefits in case of accidents at work and occupational diseases,
- family benefits,
- maternity benefits,
- invalidity benefits,
- survivors' benefits.

Health, accident and pension insurance is provided by insurance institutions for insured parties (employees and employers) which operate autonomously under state supervision.

Unemployment insurance is provided by an independent institution under public law (the Public Employment Service (*Arbeitsmarktservice*)). Family benefits are provided by government institutions.

The main statutory bases for provision of the individual benefits are as follows:

- **General Old-Age Pension Act (*Allgemeines Pensionsgesetz, APG*)**, [Federal Law Gazette I no. 142/2004](#) as amended, which, since 1 January 2005, has governed the pension system for everyone born on or after 1 January 1955 and insured in Austria under old-age pension insurance schemes.
- **General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*)**, Federal Law Gazette no. 189/1955 as amended essentially governs
 - health, accident and pension insurance for employees except those whose terms and conditions of employment are laid down by public law,
 - accident insurance for schoolchildren and students,

- accident insurance for self-employed persons in the fields of commerce, trade and industry

- **Civil Servants Sickness and Accident Insurance Act (*Beamten- Kranken- und Unfallversicherungsgesetz, B-KUVG*)**, Federal Law Gazette no. 200/1967 as amended, which governs health and accident insurance for those whose terms and conditions of employment are laid down by public law (civil servants) and some contractual public employees.
- **Commercial Social Insurance Act (*Gewerbliches Sozialversicherungsgesetz, GSVG*)**, Federal Law Gazette no. 560/1978 as amended, which governs health and pension insurance for self-employed persons in the fields of commerce, trade and industry.
- **Farmers' Social Insurance Act (*Bauern-Sozialversicherungsgesetz, BSVG*)**, Federal Law Gazette no. 559/1978 as amended, which regulates health, accident and pension insurance for self-employed agricultural and forestry workers and their family members who work with them in the agricultural or forestry operation.
- **Act on Social Insurance for Freelancers (*Bundesgesetz über die Sozialversicherung freiberuflich selbständig Erwerbstätiger, FSVG*)**, Federal Law Gazette no. 624/1978 as amended, which incorporates certain groups of self-employed persons (medical doctors, dentists, pharmacists and patent lawyers) into the health, accident and pension insurance system under the GSVG.
- **Notary Insurance Act 1972 (*Notarversicherungsgesetz 1972, NVG*)**, Federal Law Gazette no. 66/1972 as amended, which governs pension insurance for notaries and candidate notaries.
- **Federal Long-Term Care Benefit Act (*Bundespflegegeldgesetz, BPGG*)**, Federal Law Gazette no. 110/1993, which governs the granting of care benefits to benefit recipients.
- **Unemployment Insurance Act 1977 (*Arbeitslosenversicherungsgesetz 1977*)**, Federal Law Gazette no. 609/1977 as amended, which governs unemployment insurance for employees.
- **Family Allowance Act 1967 (*Familienlastenausgleichsgesetz 1967, FLAG*)**, Federal Law Gazette no. 376/1967 as amended, governing family benefits for the entire resident population.
- **Continued Remuneration Act (*Entgeltfortzahlungsgesetz, EFZG*)**, Federal Law Gazette no. 399/1974, which governs the continued payment of wages to blue-collar workers in case of illness.

Because in principle all income from employment is subject to social insurance contributions, only a few groups of liberal professions are now not covered by the Austrian health, accident and pension insurance system; people in these professions have access to comparable provision via professional organisations and are able to opt out. In addition, everyone resident in Austria has the right to arrange voluntary health and pension insurance.

Stateless persons

Citizenship is not a relevant criterion when it comes to entitlement to receiving statutory social security benefits. Accordingly, stateless persons are treated the same way as Austrian citizens.

Main features, type and amount of benefits and financing

As regards the main features, type and amount of benefits and the financing of the Austrian social security system reference is also made to the **MISSOC tables on social security in the European Union member states** collated by the European Commission and downloaded from

<http://www.missoc.org/MISSOC/index.htm>

Change in the number of persons directly covered by social insurance 1) according to insurance type

Yearly average for 1995 - 2015

Year	Health-insurance ¹⁾	Pension-insurance	of which		Accident-insurance	Unemployment-insurance
			Dependently empl.	Self-employed		
1995	5.397.426	3.031.157	2.604.516	426.641	5.526.260	2.487.735
1996	5.418.540	3.015.447	2.589.044	426.403	5.464.653	2.474.339
1997	5.446.031	3.038.070	2.603.181	434.889	5.488.101	2.492.756
1998	5.514.946	3.075.097	2.632.828	442.269	5.523.972	2.522.679
1999	5.552.591	3.122.235	2.670.598	451.637	5.644.579	2.561.801
2000	5.695.691	3.169.954	2.709.492	460.462	5.698.698	2.601.532
2001	5.772.843	3.197.295	2.732.731	464.564	5.753.641	2.626.893
2002	5.853.263	3.201.264	2.726.596	474.668	5.728.088	2.615.877
2003	5.930.330	3.218.870	2.741.035	477.835	5.697.863	2.618.054
2004	6.016.422	3.244.811	2.761.978	482.833	5.739.715	2.622.490
2005	6.094.857	3.288.720	2.800.270	488.450	5.772.407	2.647.074
2006	6.165.781	3.352.321	2.859.905	492.416	5.815.182	2.707.795
2007	6.231.384	3.431.308	2.935.998	495.310	5.917.896	2.779.594
2008	6.330.390	3.527.212	3.022.085	505.127	5.981.709	2.852.086
2009	6.378.354	3.497.069	2.982.956	514.113	5.938.138	2.829.900
2010	6.447.172	3.540.529	3.019.221	521.308	6.057.701	2.869.034
2011	6.543.564	3.607.920	3.078.526	529.394	6.122.236	2.922.534
2012	6.620.491	3.673.673	3.137.529	536.144	6.170.999	2.990.524
2013	6.715.327	3.715.733	3.166.706	549.027	6.195.225	3.030.494
2014	6.793.204	3.758.306	3.201.590	556.716	6.220.226	3.082.490
2015	6.891.364	3.807.725	3.241.363	566.362	6.264.402	3.134.986

1) Versicherungsverhältnisse ohne mitversicherte Angehörige.

(Source: Main Association of Austrian Social Security Institutions)

Health insurance

A total of 99% of the population are covered by statutory health insurance schemes. With the introduction of the means-tested minimum income scheme, its beneficiaries are covered by compulsory social health insurance as well. Public expenditure on healthcare (according to ESS-PROS) was almost EUR 23.1 billion in 2012, i.e. almost 8% of GDP or 25% of social expenditure. Outpatient and inpatient care account for most (81%) of this expenditure. Another 14% are spent on income support provided by employers and by social health insurance schemes in cases of temporary incapacity to work due to illness. Irrespective of their individual amount of health insurance contributions, all individuals covered by any one of Austria's social health insurance schemes are entitled to medical care by office-based (self-employed) physicians or hospitals. In case of temporary incapacity to work, employees are entitled to sickness benefits which follow on the continued payment of wages by the employer (employers are obliged to continue paying wages for six to twelve weeks).

Although statutory health insurance is linked to gainful activity, it goes far beyond the scope of an insurance scheme for workers. Insurance cover relates not only to direct insurees but also to family members. Roughly one-fourth of health insured individuals are co-insured family mem-

bers (e.g. children, housewives or househusbands). Co-insurance is non-contributory for the following groups:

- children
- individuals who care for the children or have done so for at least four years
- nursing family members and beneficiaries of long-term care benefits (category 3 and higher)
- particularly vulnerable individuals in need of social protection.

Otherwise, co-insured family members are required to pay an additional contribution of 3.4% of the insured party's gross income. More than 90% of co-insured family members are exempted from contributions.

Non-insured parties may opt into a voluntary insurance scheme to have an insurance of their own. On an annual average, around 130,000 persons were covered by such a voluntary self-insurance scheme in 2012.

Persons paying health insurance contributions

Insurance relationships (excluding family members) in health insurance

Year	Categories of insured persons						
	I - VI Directly Insured	I Working	II Voluntary insurance	III Unemployed	IV Childcare- Benefit recip.	V Pensioners	VI Others
2012	6.620.491	3.798.711	128.672	290.098	130.302	2.225.188	47.520
2013	6.715.327	3.828.565	125.141	330.825	127.836	2.251.060	51.900
2014	6.793.204	3.850.527	124.931	351.866	123.060	2.278.918	63.902
2015	6.891.364	3.891.661	125.034	373.772	119.449	2.279.443	102.005

Benefits in kind by statutory health insurance

Most of the benefits available under health insurance schemes are benefits in kind provided by insurance-run facilities (mainly clinics) or - primarily - by entities (hospitals) or office-based doctors under contracts concluded with statutory health insurance (SHI). If patients consult other (i.e. non-SHI) physicians or entities, the costs incurred will be refunded (in part). Basically, all those covered by SHI are free to choose their physicians. If, however, insurees choose treatment by non-SHI physicians ('doctor of choice'), they will have to prefinance this service. Up to 80% of the amount the SHI would be required to pay to SHI physicians for the same treatment will be refunded ex-post at the insuree's request.

Medical treatment

Upon showing their e-card, persons covered by health insurance are entitled to treatment by an SHI physician. The e-card is a chip card used by patients to prove their entitlement to treatment and by SHI doctors or SHI entities to settle their fees with the related health insurance fund. The e-card is subject to an annual service charge of EUR 10.85 (2016) to be collected by employers on behalf of their employees. Pensioners, children, low-income earners and individuals suffering from notifiable communicable diseases are exempted from this service charge.

Self-employed persons and civil servants are required to make co-payments, i.e. pay a deductible, of 20% for each medical treatment; farmers pay a lump-sum co-payment of EUR 9.38 per

quarter (2016), but need not pay any service charge for their e-card. Employees working under contracts governed by private law, as well as pensioners, are not subject to any co-payment.

Some medical services, in particular dental treatment, e.g. dental crowns or bridges, are not covered by statutory health insurance. SHI funds only pay a small contribution towards costs to the insured person. But people in need may claim assistance from a special SHI support fund for such treatments.

Insured persons are entitled to hospital care for unlimited periods of time when required. Health insurance funds have concluded contracts with all public and most private hospitals.

Patients' co-payments for inpatient care range from roughly EUR 12 to EUR 19. These contributions are to be paid for no more than 28 days per calendar year and waived for particularly vulnerable individuals in need of social protection. Maternity-related hospitalisation is exempted from such contributions as well.

Medication

If medical treatment requires medication, a fixed prescription charge of EUR 5.70 (2016) is to be paid for each medicinal product prescribed. Medication needed for the treatment of notifiable communicable diseases is free of prescription charges. In addition, low-income earners and individuals providing evidence that they incur above average medication expenses due to (chronic) illness or infirmity may request exemption from prescription charges.

There is a cap on prescription charges. Whoever has spent 2% of their annual net income on prescription charges at any point in time during a calendar year will be automatically exempted from paying further charges for the remainder of this year. An application for exemption is not required.

In order to control the cost of medication and to meet quality assurance standards, the Main Association of Austrian Social Insurance Institutions has compiled a catalogue, the so-called 'reimbursement code', of medicinal products which can be obtained free of charge or on certain conditions at the expense of the SHI fund. Some of these medicinal products are subject to approval by the head doctor of the relevant SHI fund.

Therapeutic appliances and aids

Therapeutic appliances and aids to help people with physical infirmities include spectacles, crutches, wheelchairs, etc. Employees are required to contribute co-payments of 10% of the costs incurred, but no less than EUR 32.40 (2016), while self-employed individuals must make co-payments of 20%. Vision aids are subject to a co-payment of EUR 97.20 (2016). However, there is a ceiling on therapeutic appliance costs covered by social health insurance. Co-payments are reduced for needy persons or children with disabilities, as well as for vision aids for young adults from their 15th to their 27th year.

Psychosocial care and treatment by non-medical healthcare professionals

Basically, patients requiring treatment by non-medical healthcare professionals - such as physio- and ergotherapists, psychotherapists and clinical psychologists - are eligible for benefits in kind. Physiotherapies, speech and language therapies are usually approved by social health insurance funds for treatment following inpatient care. The health insurance institutions pay a contribution towards the costs of psychotherapy. Other important benefits in kind are measures of primary and secondary preventive care as well as follow-up treatment (at spas or rehab centres).

Sickness benefit and maternity benefit

Relationship between Article 12§1 and Article 13§1 (adequacy of benefits)

Sickness and maternity benefits are typical benefits to offset the loss of income of employed persons during any period of incapacity due to illness once their entitlement to continued payment of their wage or salary by their employer has expired or during any period female employees are not allowed to work due to maternity (in principle eight weeks before and eight weeks after the birth).

The amount and calculation of sickness and maternity benefits are tied to the previous earnings obtained from the insured employment:

Sickness benefit amounts to 50% of earnings until the 42nd day of incapacity to work, rising to 60% from the 43rd day. Where the statutes of the sickness insurance fund so provide, the benefit may be increased by a given percentage if the insured person has a spouse and/or other dependent family members. The increased benefit may not exceed 75% of earnings.

Maternity benefit is calculated on the basis of the average net earnings during 13 weeks (3 months) prior to the occurrence of the insured event (eight weeks before birth).

However, as in case of unemployment benefit, if the amount of the sickness or maternity benefit is lower than the amount of the minimum standard, fixed by the respective *Land* (which is equivalent to the equalisation supplement rate) then the recipients are entitled to a top-up.

Accident insurance (benefits in the event of work accidents and occupational diseases)

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

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

Unemployment insurance

Relationship between Article 12§1 and Article 13§1 (adequacy of benefits)

If the unemployment benefit is lower than the minimum level guaranteed by the means-tested minimum income scheme of the *Laender* - which is as high as the equalisation supplement rate - the person is entitled to receive supplemental benefits (means tested minimum income) by the *Laender* to guarantee an income at the level of the equalisation supplement rate.

The means-tested minimum income scheme guarantees that there is a legal entitlement for a benefit at least as high as the equalisation supplement rate, because the level of the equalisation supplement rate is identical to the minimum level of the means tested minimum income scheme.

In 2015, singles and single parents received € 827.82 and couples/partners € 1,241.74 (12 times a year). The flat-rate minimum benefit level already includes some housing support. If adequate housing costs exceed 25 % of the minimum benefit level of a shared household of benefit-dependent members, the *Laender* grant additional benefits to cover housing costs. For this

purpose they may use funds available under the means-tested minimum income scheme or they may grant support in the form of housing benefits.

It should be noted that the amounts of benefits presented here are to be seen as floor levels which may be exceeded by the *Laender*. Some of the *Laender* provide higher benefits for e.g. children.

Personal coverage

Insurance protection is related to gainful activity as an employed person. Protection extends, e.g. to employees, apprentices, homeworkers, persons undergoing vocational training and development assistants. Unemployment Insurance is compulsory for the persons mentioned in § 1 Austrian Unemployment Insurance Act (*Arbeitslosenversicherungsgesetz*). Self-employed persons may join the unemployment insurance voluntarily. Public service employees are excluded from the unemployment insurance requirement and receive from the Public Employment Service a benefit corresponding to unemployment benefit and unemployment assistance in the event of unemployment ("bridging aid" or "extended bridging aid"), which is financed by the relevant Federal or *Laender* Government authorities.

On the annual average for 2010, the number of persons protected by unemployment insurance was 2,869,350, for 2011 2,922,534, for 2012 2,990,524, for 2013 3,032,337, for 2014 3,082,490 and for 2015 it was 3,134,986.

From 2008 on the so called "freelance workers" (*freie Dienstnehmer*) are protected by unemployment insurance.

The number of this group was 25.366 (2008), 23.737 (2009), 21.771 (2010), 19.884 (2011), 19.481 (2012), 18.550 (2013), 17.671 (2014) and 16.721 (2015).



LeistungenBeiAL_Tab
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Freelance workers:

Freelance workers perform their work just as regular employees, however they do not find themselves in a state of personal dependency to the employer. The employer's authority covers solely the tasks but not how the tasks are accomplished by the freelance worker. Protecting provisions granted by labour law are generally not applicable to freelance employment contracts, merely provisions regarding the termination of the employment relationship (termination, dismissal, withdrawal) may be applied analogously.

Freelance workers - just as all persons listed in the Austrian Unemployment Insurance Act (*Arbeitslosenversicherungsgesetz – ALVG*) are subject to compulsory unemployment insurance, if they earn a remuneration above the minimum threshold (2015: EUR 405.98 per month).

Working periods as a freelance worker after 12/31/2007, which are covered by compulsory unemployment insurance, are creditable to the entitlement of unemployment benefit, whereas working periods before 1/1/2008 solely can be used for the extension of the timeframe (*Rahmenfrist*; 5 years at maximum).

Extension of the circle of persons covered by unemployment insurance by using an opting-in model while maintaining the acquired rights of the insured persons

Since 1/1/2009, self-employed persons earning a remuneration above the minimum threshold (2015: EUR 405.98 per month), which are covered by the compulsory retirement insurance or

which are exempted according to sec. 5 para 1 GSVG (Commercial Insurance Act), may be included into the unemployment insurance voluntarily. After the professional activity was commenced, the self-employed persons will get informed by the competent social security institution about the possibility to join the unemployment insurance. After this notification, self-employed persons can join the unemployment insurance within a period of 6 months. The decision is binding for a period of 8 years. After expiration of the vesting period it is possible to join or to leave the unemployment insurance.

The inclusion takes place based on a contribution base of a quarter, the half or three thirds of the maximum contribution basis according to sec. 48 GSVG, which is at the insured self-employed person's option. The maximum contribution basis is calculated on the basis of the contribution basis stipulated in sec. 108 para 3 Social Security Act (Allgemeines Sozialversicherungsgesetz – ASVG)

Procedure

A substantial administrative reform which entered into force on January 1st 2014 changed the Austrian administrative procedural law massively. The most important part of the reform is the constitutionally embodied abolition of the administrative stage of appeals, which got - in almost all cases - replaced by a two-level administrative jurisdiction. A Federal Administrative Court ("Bundesverwaltungsgericht"), nine Administrative Courts of the Provinces ("Landesverwaltungsgerichte") and a Federal Administrative Court for Finance ("Bundesfinanzgericht") have been established as appeal instances against decisions of the Administrative Authorities. The legal remedy against decisions of the Administrative Authorities is called complaint ("Beschwerde").

Appeals (revisions, "Revision") to the Supreme Administrative Court ("Verwaltungsgerichtshof") have been restricted as the Administrative Courts now have to permit the appeal; according to the former legal regime, an appeal to the Supreme Administrative Court was generally possible. If the permission is denied by the Administrative Court, the parties can file an extraordinary appeal to the Supreme Administrative Court ("außerordentliche Revision").

Against this background, the AMS has to give written notice to the applicant in case of a favourable decision. This notification must contain the beginning, the duration and the amount of the unemployment benefit. In case of a negative ruling, a formal legal notice (Bescheid) has to be issued.

A complaint may be filed against the AMS' dismissing decision within the legal deadline of four weeks after the receipt of a copy of the ruling. The complaint has to be filed with the AMS as the Administrative Authority that issued the ruling. No more appeal is permissible if the party expressly waived the right of appeal after receipt or pronouncement of the administrative decision.

Appeals that have been filed in due time and are permissible generally have a suspensive effect (§ 13 para 1 Proceedings of Administrative Courts Act - "Verwaltungsgerichtsverfahrensgesetz", VwGVG), which can be excluded by the AMS mainly if the decision is urgently required because of imminent danger. The AMS is competent to the decision regarding the exclusion of the suspensive effect.

The party may file a complaint against the exclusion of the suspensive effect. It has to be filed with the AMS, which must check the formal legal requirements for the complaint. If those requirements are satisfied, the AMS must submit the complaint to the Administrative Court without delay. The Administrative Court then must decide over the complaint without delay.

According to § 56 para 3 of the Austrian Unemployment Insurance Act (“Arbeitslosenversicherungsgesetz” - ALVG), complaints against the AMS initially had no suspensive effect. This provision has been repealed as unconstitutional by the Austrian Constitutional Court (“Verfassungsgerichtshof” - VfGH) in December 2014. Therefore, complaints against decisions of the AMS now have a suspensive effect according to § 13 para 1 VwGVG.

The AMS is free to give a preliminary ruling on the complaint (“Beschwerdevorentscheidung”) within a period of two months after the receipt of the complaint (§ 14 para 1 VwGVG). § 56 para 1 ALVG states a period of 10 weeks for the preliminary decision in unemployment security matters.

If the AMS decides to give a preliminary ruling, it is free to repeal, alter or to complement the contested decision in any way, even to the detriment of the appealing party. Furthermore, the AMS is free to reject the complaint due to formal or material reasons. The preliminary decision replaces the first instance decision.

If the AMS wants to abstain from such a ruling, the complaint has to be submitted to the Administrative Court (Verwaltungsgericht) without undue delay.

If the AMS gives a preliminary ruling, each party can file a request with the authority that the complaint may be submitted for decision to the Administrative Court (request for the administrative court to hear a complaint – “Vorlageantrag” § 15 para 1 VwGVG) within a period of two weeks after receipt of the decision.

The AMS has to submit the request to the Administrative Court if the request is admissible and has been filed in due time. The request has a suspensive effect, if the conditions stipulated in § 15 para 2 VwGVG are met. Deviating provisions may be stipulated in the relevant laws applicable. The Administrative Authority can grant (or exclude) a suspensive effect in the particular case.

Requests in unemployment security matters have a suspensive effect according to § 15 para 2 VwGVG.

Generally, the provisions of the Austrian Administrative Proceedings Act (Allgemeines Verwaltungsverfahrensgesetz – AVG) are applicable to proceedings regarding unemployment insurance.

Family allowance

In Austria, family allowance is payable to persons whose place of residence or centre of vital interests is in Austria. Entitlement is independent of employment or income. Third-country nationals require a valid residence title; there are no minimum residence or minimum employment periods.

Family allowance was increased by the Federal Act of 26 May 2014, Federal Law Gazette I no. 35/2014; as a result an additional EUR 830 million in family allowance will be paid out between July 2014 to 2018.

Family allowance amounts:

Family allowance	until 30 June 2014	1 July 2014 to 31 December 2015 +4%	1 January 2016 to 31 December 2017 +1.9%	from 1 January 2018 +1.9%
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0-2 years	105.4	109.7	111.8	114.0
3-9 years	112.7	117.3	119.6	121.9
10-18 years	130.9	136.2	138.8	141.5
19 years and older:	152.7	158.9	162.0	165.1

Child benefit scale by number of children	until 30 June 2014 per child	1 July 2014 to 31 December 2015 +4%	1 January 2016 to 31 December 2017 +1.9%	from 1 January 2018 +1.9%
2 children	6.40	6.7	6.9	7.1
3 children	15.94	16.6	17.0	17.4
4 children	24.45	25.5	26.0	26.5
5 children	29.56	30.8	31.4	32.0
6 children	32.97	34.3	35.0	35.7
7 children	35.40	50.0	51.0	52.0
8 children	37.23	50.0	51.0	52.0
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from 16 children	50.0	50.0	51.0	52.0

Increased family allowance (children with serious disabilities)	until 30 June 2014	1 July 2014 to 31 December 2015 +8.4%	1 January 2016 to 31 December 2017 +1.9%	from 1 January 2018 +1.9%
	138.3	150	152.9	155.9

School start benefit	
6-15 years	100/once per year in September

Multiple-child supplement	
From third child and family income below EUR 55,000 p.a.	20/month

Child tax credits, which are financed from general taxation, are paid together with family allowance; the amount of the credit is EUR 58.40 per month and child.

Pension insurance

(Old age, invalidity and survivors' benefits)

Relationship between Article 12§1 and Article 13§1 (adequacy of benefits)

The Austrian statutory pension system does not provide for an unconditional minimum pension for persons beyond a certain age. However, the so-called “means-tested equalisation supplement” (*Ausgleichszulage*) may - on a partly means-tested basis - apply to persons who are, in principle, eligible to a pension entitlement. This means that pensions of low benefit level may be raised to the so-called “equalisation supplement reference rate” in case of financial indigence. In 2015 the equalization supplement reference rate was EUR 872.31 for single persons and EUR 1,307.89 for couples.

Number of persons covered by pension insurance are as follows:

Employed persons

in million.

2012: 3,465,453

2013: 3,482,996

2014: 3,503,400

2015: 3,534,854

Source: Main Association of Austrian Social Security Institutions

Self-employed persons

In thousands

2012: 427,446

2013: 437,750

2014: 456,582

2015: 466,481

Source: Federal Ministry of Labour, Social Affairs and Consumer Protection

Rates of benefits, pension adjustment

Maximum contribution base

2012 EUR 2,230.00 0.71%

2013 EUR 4,440.00 5.0%

2014 EUR 4,530.00 2.0%

2015 EUR 4,650.00 2.7%

Source: Expert opinion of the Commission on the long-term safeguarding of pensions

Average contribution base

2012 EUR 2,573.79 2.2%

2013 EUR 2,650.87 3.0%

2014 EUR 2,711.03 2.3%

2015 EUR 2,762.49 1.9%

Source: 2015 Expert opinion of the Commission on the long-term safeguarding of pensions

Average (total) pension in EUR

2012 EUR 993.40

2013 EUR 1,022.33

2014 EUR 1,048.86

2015 EUR 1,075.15

Source: Expert opinion of the Commission on the long-term safeguarding of pensions

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

2012 EUR 2,940.10

2013 EUR 3,034.16

2014 EUR 3,135.94

2015 EUR 3,226.51

Source: *Changing social security figures (Pension Insurance Institution, Pensionsversicherungsanstalt)*

Equalisation supplement (Ausgleichszulage)

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

	Standard rate for single pensioners		Standard rate for married couples		Standard rate for each child			
2012	EUR	814.82	2.7%	EUR	1,221.68	2.7%	EUR	125.72
2013	EUR	837.63	2.8%	EUR	1,255.89	2.8%	EUR	129.24
2014	EUR	857.73	2.4%	EUR	1,286.03	2,4%	EUR	132.34
2015	EUR	872.31	1,7%	EUR	1,307.89	1,7%	EUR	134.59

Source: *2015 Expert opinion of the Commission on the long-term safeguarding of pensions*

Pension adjustment¹

2012	2.7%
2013	1.8%
2014	1.6%
2015	1.7%

Source: *Manual of Austrian Social Insurance 2015*

Comparison of cost of living, wages and salaries, and pension adjustment

	Consumer price index (CPI) Basis 1986	Tariff wage index Basis 1986
Annual average 2012	176.3	220.5
Annual average 2013	179.8	226.1
Annual average 2014	182.7	231.5
Annual average 2015	184.4	236.5

Quelle: *Statistics Austria*

Average number of persons receiving old-age benefits

2012	1,298,820
2013	1,327,720
2014	1,355,991
2015	1,373,280

Quelle: *Expert opinion of the Commission on the long-term safeguarding of pensions (Ü 5)*

Equalisation supplement

Year	Total	Men	Women
2012	229,186	74,493	154,693
2013	229,366	74,988	154,378
2014	224,209	73,010	151,199
2015	215,609	69,905	145,704

Source: *Manual of Austrian Social Insurance 2015*

¹ Owing to the introduction of base rates and/or the increase of pensions in line with consumer prices or by set amounts, the percentages given are not comparable for all years.

A single pensioner on a minimum pension receives the „equalisation supplement“ 14 times a year.

ARTICLE 12§2

No substantial changes.

ARTICLE 12§3

Questions 1 to 3

The following measures were adopted in the reporting period (2012-2015) in order to adjust regulations in the field of health, accident, pension and unemployment insurance to economic change, to consolidate the progress achieved and, as far as additionally possible, raise it to a higher level:

Legislative activities in the field of health and accident insurance

Social Insurance Amendment Act 2012 (*Sozialversicherungs-Änderungsgesetz 2012*), Federal Law Gazette I no. 123/2012:

“Sick pay for the self-employed” - benefit in case of long-term illness (Section 104a GSVG)

For the self-employed, incapacity to work due to long-term illness can quickly become a threat to their livelihood. This is particularly true for sole traders and the owners of businesses with a small number of employees.

For this reason, self-employed persons on whose personal efforts the continuation of their business directly depends and who regularly employ no staff or fewer than 25 staff, are entitled to receive sick pay in case of long-term illness in line with the existing sick pay rules.

The benefit can be claimed from the 43rd day of incapacity to work and is payable for a maximum period of 20 weeks for a single illness. The benefit is EUR 29.23 per day (in 2016); this amount is reassessed annually.

Increase in maternity benefit for self-employed women and female farmers

To better safeguard the livelihoods of self-employed women and female farmers in case of maternity, maternity benefit, which is payable if there is no entitlement to operational assistance benefit (*Betriebshilfe*), was increased from a flat rate of EUR 26.97 per day (in 2012) to EUR 52.69 per day (in 2016). This brings the average maternity benefit payable to the self-employed and farmers into line with that payable to women in employment.

Expansion of services provided by dental clinics

This measure will make a significant contribution to dental health in Austria: The new rules enable dental clinics run by the social security institutions to provide their insurees with comprehensive dental care in line with that provided by self-employed (office-based) dentists. They permit health insurance institutions operating dental clinics to gradually bring the services they provide closer to those provided in the self-employed sector. This gives insurees more freedom to choose where they receive treatment.

Updating of list of occupational diseases for accident insurance purposes

Not just illnesses caused by vibrations, but also vibration-induced vascular disorders will be added to the list. Furthermore, pressure damage will be considered as an occupational illness

alongside paralysis of the nerves due to pressure.

In addition, chronic diseases of the tendon sheaths, peritendinium, and muscular and tendinous insertions, as well as rhinopathy, a precursor to bronchial asthma, will also be included in the list of occupational diseases.

Second Stability Act 2012 (2. Stabilitätsgesetz 2012), Federal Law Gazette I no. 35/2012

Transfer of resources within the farmers' health and accident insurance system

Financial equilibrium in the accident and health insurance system of the Farmers' Social Security Authority is ensured by permitting resources to be transferred from health insurance to accident insurance.

Reduction of employers' contribution

The employers' health insurance contribution under the Civil Servants Sickness and Accident Insurance Act (*Beamten-Kranken- und Unfallversicherungsgesetz, B-KUVG*) was reduced by 0.35% in 2012 and 2013 and by 0.33% in each of 2014, 2015 and 2016.

Greater flexibility regarding the contribution towards the cost of medical treatment payable by persons insured under the B-KUVG

The provision that the current 20% contribution towards the cost of treatment payable by persons insured under the B-KUVG will in future be the upper limit for such contributions gives the Insurance Institution for Public Service Wage and Salary Earners (*Versicherungsanstalt öffentlicher Bediensteter, BVA*) greater flexibility to adjust such contributions in line with the financial situation of the insurance institution.

Act Governing Amendments to Social Law 2012 (Sozialrechts-Änderungsgesetz 2012), Federal Law Gazette I no. 3/2013

The new disability pension – introduction of rehabilitation benefit

A key element of the Act Governing Amendments to Social Law 2012 is the replacement of the limited-duration disability pension with rehabilitation and retraining in conjunction with appropriate social security provision with the aim of giving people the security and motivation to seek retraining in a profession compatible with their health needs and reintegration into the labour market.

Persons whose pension application is rejected because they do not have a permanent disability (incapacity to work) but who have been found by administrative decision to have a temporary disability (incapacity to work) lasting at least six months will also be entitled to receive rehabilitation benefit within the health insurance system. Recipients of rehabilitation benefit are covered under the partial health insurance scheme.

In addition to the presence of a temporary disability (incapacity to work), a further condition for receipt of this benefit, which is payable by the competent health insurance institution, is that it must be inappropriate or unreasonable to require the individual to undertake occupational rehabilitation measures.

Rehabilitation benefit is paid by the health insurance institutions on occurrence of the insured event of reduced capacity to work and should be considered as a replacement for the limited-duration disability pension, which is being discontinued. Rehabilitation benefit is awarded and withdrawn by administrative decision of the competent pension insurance institution. The amount of rehabilitation benefit payable is set by the health insurance institution.

Relevant assessments to check that there is continued entitlement to rehabilitation benefit must be carried out as required and at least once per year.

Rehabilitation benefit is payable at the same level as sick pay and, from the 43rd day (following commencement of the temporary disability/incapacity to work) at the same level as higher-rate sick pay, and at least in the amount of the equalisation supplement reference rate for single persons, for the duration of the temporary disability/incapacity to work.

The Act also introduces a case management facility to be provided by the health insurance institutions for the purpose of supporting insurees; if required the pension insurance institution and the Public Employment Service can also be included.

Case management activities include selection of clients in need of particular support, assessment of requirements, particularly assessment of current status, in respect of which the health insurance institution must take into account the content of the administrative decision issued by the pension insurance institution, development and implementation of a provision plan, monitoring of service provision/implementation, and where required amendment of the provision plan and assessment of the case.

The pension insurance institutions, via the Main Association of Austrian Social Security Institutions, are required to reimburse the health insurance institutions for the reported costs of the rehabilitation benefit and a portion of the administration costs.

Administrative Jurisdiction Amendment Act (*Verwaltungsgerichtsbarkeits-Anpassungsgesetz*), Federal Law Gazette I no. 130/2013

Numerous special authorities which previously acted as appeals authorities in the various areas of public administration were abolished at the end of 2013. In matters relating to health and accident insurance, this concerns the nine Land Appeal Committees, responsible under the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*) for disputes in connection with relationships between the social insurance institutions and their service partners, the Federal Arbitration Commission, and the Independent Medicines Commission, competent for proceedings connected with the refunding codex.

Since 1 January 2014, competence to review administrative decisions in these areas has resided with the Federal Administrative Court. To ensure that decisions by the Federal Administrative Court reflect practical realities, lay judges with specialist expertise will be involved in hearing such cases.

Labour Law Reform Act 2013 (*Arbeitsrechts-Änderungsgesetz 2013*), Federal Law Gazette I no. 138/2013

Since 1 January 2014, employees have been able to take care leave by agreement with their employers, either full time (in which case the leave will be unpaid) or part-time (in which case they will forfeit part of their wage) in order to care for a close relative. Care leave benefit may be payable during such care leave.

As regards health insurance, the following factors are relevant in this regard:

Health insurance coverage during care leave

For the duration of the period that a person is in receipt of care leave benefit, that person's health insurance contributions will be paid by the Federal Government, and his or her health insurance cover will remain in place.

Amendment of the social insurance acts by Federal Law Gazette I no. 28/2014

Free orthodontic braces

To improve dental health, children and young people under the age of 18 are entitled to receive orthodontic braces as a benefit in kind without co-payment or payment of a contribution towards the cost of treatment by the insured, provided that such treatment is necessary. The intention is to facilitate access to healthcare services and place an emphasis on health promotion and prevention.

The Federal Government is providing funds of EUR 80 million per year for this new service, which has been available since 1 July 2015.

Social Security Fraud Act (*Sozialbetrugsbekämpfungsgesetz, SBBG*), Federal Law Gazette I no. 113/2015:Verification of identity

To prevent misuse of e-cards, the requirement to verify the identity of patients at hospital out-patient departments, which previously only applied if the identity of the patient was in doubt, has been tightened and hospitals are now required to verify the identity of all patients (by checking their ID). In the offices of self-employed (office-based) physicians, a patient's identity must be verified if the patient is not personally known to the doctor providing treatment.

The identity of patients under the age of 14 must be verified only in case of doubt.

Checks concerning service partners of insurance institutions:

For the purpose of conducting checks on their service partners, insurance institutions will in future be permitted to have their inspectors use e-cards issued specifically for this purpose. Checks may be conducted on service partners using e-cards issued specifically for this purpose only if there is good reason to suspect that the service partner is acting in contravention of the law or in breach of the terms of a framework or individual contract; in addition, checks may be conducted at random in accordance with an annual sampling plan to be prepared in advance.

Tax Reform Act 2015/2016 (*Steuerreformgesetz 2015/2016*), Federal Law Gazette I no. 118/2015:Simplification of health insurance contribution rates:

In detail, this means:

- a) Health insurance contributions currently comprise the following elements: General contribution, additional health insurance contribution, supplementary contribution to finance health insurance for apprentices, and supplementary contribution to finance accident-related health insurance benefits. All contributions have now been grouped together under a single contribution rate, simplifying this unwieldy system.
- b) Harmonisation of contributions for blue-collar and white-collar workers: Previously, white collar and blue collar workers paid different employee health insurance contributions. This amendment will remove this inequality. Under the new rules, the employee contribution is 3.87% and the employer contribution is 3.78%.
- c) Companies offering apprenticeship training previously had the cost of health insurance coverage for their apprentices paid from out of health insurance funds for the first two years of their apprenticeships. This benefit will be abolished. In return, however, a lower contribution rate specifically for apprentices is being introduced; this rate is 3.35%, 1.67% of which will be payable by the apprentice and 1.68% by the employer.

Budget Accompanying Act 2016 (*Budgetbegleitgesetz 2016*), Federal Law Gazette I no. 144/2015:

Removal of Federal Government funding for supplementary insurance and extended insurance coverage in accident insurance:

Where supplementary insurance is in place, extended insurance may be applied for with the Austrian Workers' Compensation Board (*Allgemeine Unfallversicherungsanstalt, AUVA*). For such extended coverage, the organisation in question must pay a contribution of EUR 2.18 per person per calendar year instead of EUR 1.16 (for the supplementary insurance); under the current rules, the Federal Government will double the contributions actually paid for such coverage (as it does for supplementary insurance).

To reduce administrative overheads, this "partner share" paid by the Federal Government has now been abolished. In future, the AUVA will only receive the contributions payable by organisations.

This will not result in any additional financial burden on or reduction in benefits for members of volunteer organisations covered under supplementary insurance or extended insurance.

Abolition of cost reimbursement by the Federal Government for medical check-ups for young people:

Health insurance institutions must ensure that young people for whom they provide mandatory health insurance undergo a medical checkup at least once per year for health monitoring purposes.

Previously, Federal Government reimbursed the health insurance institutions 50% of proven costs actually incurred for such check-ups, and 60% of travel costs incurred in connection with the check-ups.

To achieve necessary savings, such costs will no longer be reimbursed.

Reduction in cost reimbursement for health screenings (precautionary check-ups):

Under the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*), insurees and their eligible family members are entitled to an annual health screening. Persons without insurance coverage are also entitled to such health screenings.

In future, as is already standard practice for uninsured persons, such health screenings will only be available to persons whose domicile or habitual place of residence is in Austria. In addition, Federal Government will no longer fund health screenings for persons whose domicile or place of habitual residence is in Austria but who are employed abroad and for whom the state of employment is responsible as regards health insurance.

Act Governing Amendments to Social Law 2015 (*Sozialrechts-Änderungsgesetz 2015*), Federal Law Gazette I no. 162/2015:

Introduction of relief measures for those caring for a disabled child and wishing to take out self-insurance

Abolition of the lock-out rule and the three-month waiting period before health-insurance benefits can be accessed means that self-insurance can now be accessed immediately following a period of insurance under the *GSVG* or *BSVG*.

Creation of a non-contributory self-insurance scheme for certain people providing care for family members:

Individuals who provide care for a relative who is him- or herself an eligible relative of an insured period are not currently entitled to access non-contributory health insurance.

Following a change in the law, individuals who are unable to engage in gainful employment due to caring for a close relative who is eligible for care benefit at the level 3 rate because providing such care requires almost all of their working capacity, who are socially vulnerable and who have no other way of accessing health insurance, in particular by way of co-insurance through a relative, can now take out self-insurance.

The insurance contributions for these self-insured individuals must be covered in full by the Family Burdens Equalisation Fund.

Legislative activities to maintain and improve the old-age pensions insurance system

2013:

Amendment of the **Corridor Pension** - Reduce inflows in this pension scheme (2. *Stabilitätsgesetz* 2012) in force since 01 January 2013.

The entitlement of the corridor pension (early retirement pension scheme, retirement age 62) will be increased gradually up to 40 years starting in:

2013: at 38 years

2014: at 38.5 years

2015: at 39 years

2016: at 39,5 years and

2017: at 40 years

Pension subject to very long insurance period (*Hacklerregelung*)

Access to this pension scheme was substantially tightened by increasing the respective retirement age (62 for men, 57 for women and further increasing to 62).

2014:

As from 2014 the number of periods which count as “substitutional insurance periods” will be substantially reduced. Only times spent in the military service and/or alternative civilian service and times for raising children will be credited as such.

New Disability Pension scheme (2. *Stabilitätsgesetz* 2012):

Disability only in cases of permanent disability; no (limited) disability pension for those born in 1964 and later; implementing a competence centre (=an organisation where decisions are taken on disability - either in a medical or in an occupational rehabilitation path), Rehabilitation and retraining measures are obligatory (legal entitlements).

Special retirement scheme for long-time insured manual workers (*Hacklerregelung*) since 01.01.2014:

Stricter access conditions for early retirement have been in effect for long-time insured manual workers. The minimum age and number of contribution months has been raised (men: 62 years, 540 contribution months. Women: 57 years, with a gradual increase to 540 contribution months) and the prerequisites for claiming these pensions are now more rigid (no purchase of insurance periods, school and university years no longer credited).

New Retirement Account model:

With the introduction of the new retirement account as from 1 January 2014 the annuity rate will be calculated on the basis of just one retirement account system. Using this instrument, a standardised pension account for all insured individuals is created making pension calculations clearly understandable and also any pension entitlements readable in the respective statement.

Concerning **pension adjustment**:



Pensionsanpassung
n

Legislative activities in the field of pension insurance

Amendment, Federal Law Gazette I no. 17/2012, 1 June 2012

(Federal Act adopting the *FreiwG* and amending the *FLAG* 1967, the *ASVG*, the *GSVG*, the *BSVG*, the *AVG* 1977 and the *GebG* 1957; Art. 3)

- Inclusion of certain volunteers in full insurance coverage (with the exception of sick pay and maternity benefit), specifically: participants in the voluntary social year, the voluntary environmental protection year, the memorial service programme as well as peace and social service in foreign countries as specified in the (concurrently passed) Volunteer Act (*Freiwilligengesetz, FreiwG*); and the inclusion of this group, for the purpose of pension insurance, in the category “children” until a maximum age of 27;
- addition of the pocket money stipulated in the Volunteer Act to the payments to be disregarded when determining the overall income for calculating the equalisation supplement.
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2012_1_17

77th Amendment, Federal Law Gazette I no. 35/2012, 1 January 2013

(Second Stability Act 2012 (*2. Stabilitätsgesetz 2012*); Art. 48)

- Temporary reduction of the assessment rates (*Hebesätze*) for the health insurance of pension benefit recipients belonging to the insurance institution for the railway and mining (VEB) sector.
- Transfer of the reporting requirement for partial insurance, fictitious qualifying periods and insurance months in multiple pension insurance schemes (*Wanderversicherung*), from the Minister of Social Affairs to the Main Association of Social Security Institutions;
- Increase of the monthly maximum contribution base to EUR 90 (in addition to the yearly adjustment) and limiting of the maximum amount paid out in widow(er)’s pension benefits to 60 times the maximum contribution base for the 2012 calendar year where beneficiaries have a separate income;
- incremental increase of the minimum age pursuant to Section 255 Para. 4, applied to determine the pension eligibility of individuals no longer able to work at their previous occupation, to 60 years;
- incremental reduction of the fictitious value for the retiring farmer’s life interest (*fiktives Ausgedinge*) that is taken into account in calculating the equalisation supplement;
- Introduction, from 2014, of the initial account credit under the General Pension Act (*Allgemeines Pensionsgesetz, APG*):
Capping of loss/surplus staggered by birth year: maximum 3.5% downwards or upwards.
Parallel accounting under three legal situations abolished. All insured persons born after 31 December 1954 are covered by this initial account credit provided that they have completed

at least one insurance month under the statutory pension insurance system by the end of 2013.

- Inclusion of ascertainment of the initial account credit and any supplementary credit as stipulated in the General Pension Act (Allgemeines Pensionsgesetz, APG) among the legal cases pertaining to benefits that are listed in Section 354
- Introduction of more stringent special eligibility requirements for early retirement in the case of a long insurance period (specifically the incremental increase of the long insurance period from 450 to 480 insurance months by 2017); mirrored by an increase in the required insurance period for the corridor pension in accordance with Section 4 Para. 2 APG. Actuarial discount increased from 4.2% to 5.1% under the APG per year for birth year cohorts from 1955
- Discontinuation of the time limit for the invalidity regulation in cases of hardship;
- Basic stipulations for adjusting pension levels in 2013 (reduction by 1%) and 2014 (reduction by 0.8%).

<https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Bundesnormen%20%20%20%20%20%20%20%20%20%20%20&Dokumentnummer=NOR40137778>

78th Amendment, Federal Law Gazette I no. 3/2013, 1 January 2013/1 January 2014

(Act Governing Amendments to Social Law 2012 (*Sozialrechts-Änderungsgesetz 2012*))

- No time-limited disability pension from 2014 for those born on or after 1 January 1964;
- Legal entitlement to medical rehabilitation - disability determined by the pension insurer, rehabilitation benefit paid by the health insurer;
- Legal entitlement to occupational rehabilitation - disability and appropriateness of occupational rehabilitation determined by the pension insurer, retraining benefit: awarded and paid by the Public Employment Service (*Arbeitsmarktservice, AMS*);
- Competence centre for assessment - set up within the pension insurance institutions;
- Case management - established within the health insurance institutions;
- Applicant has duty to cooperate.

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2013_I_3&ResultFunctionToken=a972978a-eef9-4695-9f8a-254141f50f05&Position=1&Sort=0%7cAsc&Titel=&Bgblnummer=&SucheNachGesetzen=True&SucheNachKundmachungen=False&SucheNachVerordnungen=False&SucheNachSonstiges=False&SucheNachTeil1=True&SucheNachTeil2=False&SucheNachTeil3=False&VonDatum=01.01.2013&BisDatum=21.02.2014&ImRisSeit=Undefined&ResultPageSize=50&Suchworte=

83th Amendment, Federal Law Gazette I no. 86/2013, 1 January 2014

(Social Insurance Amendment Act 2013 (*Sozialversicherungs-Änderungsgesetz 2013*))

- Creation of objection proceedings in Section 367a ASVG against administrative decisions concerning ascertainment of the initial account credit (supplementary credit) under Section 15 APG.

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2013_I_86

84th Amendment, Federal Law Gazette I no. 2/2015, 1 January 2014/1 January 2015

(Social Insurance Adaptation Act 2015 (*Sozialversicherungs-Anpassungsgesetz 2015*))

- Improvement to the pension self-insurance scheme during periods spent caring for a disabled child by bringing arrangements into partial alignment with those relating to pension self-insurance for periods spent caring for close relatives; Section 18a ASVG only requires almost all of a person's working capacity to be used;
- When a claimant is committed to an institution for mentally disturbed offenders, 80% of his/her rehabilitation benefit passes to the state;
- Creation of a recourse facility for pension insurance institutions regarding rehabilitation benefit.

https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2015_I_2/BGBLA_2015_I_2.html

85th Amendment, Federal Law Gazette I no. 79/2015

(Notification Requirement Amendment Act (*Meldepflicht-Änderungsgesetz*))

The Act permits among other things a simplified social insurance notification procedure for employees before they start work.

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2015_I_79

86th Amendment, Federal Law Gazette I no. 162/2015

(Act Governing Amendments to Social Law (*Sozialrechts-Änderungsgesetz, SRÄG*) 2015)

Among other things changes to the law concerning notification, insurance and contributions (ASVG, GSVG, BSVG, FSVG) and closing of a loophole regarding loss of the advance on pension.

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2015_I_162

Legislative activities in the area of unemployment insurance

Most important changes during the period under review (01/01/2012 - 31/12/2015):

Adaption of the regulations concerning further training allowance and introduction of the part-time training allowance

(*BGBI. I Nr. 67/2013 - SRÄG 2013, in force since 1/7/2013*)

In force as of 1 July 2011, after six or more months of uninterrupted employment with the employer in question employees may qualify for training leave or part-time training leave. In the case of part-time training leave they must work no less than ten weekly hours while taking such leave. Training leave may be agreed to last from two months to one year and part-time training leave from four months to two years. While on training or part-time training leave employees may claim further training allowance (*Weiterbildungsgeld*) or part-time training allowance (*Bildungsteilzeitgeld*) respectively.

Reorganization based on the introduction of Administrative Courts

(*BGBI. I Nr. 71/2013, in force since 1/7/2014*)

The main adaption in the Unemployment Insurance Act was brought upon the introduction of the Administrative Courts in 2014. Instead of the Public Employment Service (*Arbeitsmarktservice; AMS*), the Administrative Courts of the Provinces (*Landesverwaltungsgerichte*) are responsible for the appeal procedures. In force as of 1 July 2014, appeals against decisions

of the AMS must be raised within four weeks of receiving them before the *Land* offices of the AMS (*Landesgeschäftsstellen*). The AMS is free to give a preliminary ruling on the complaint (*Beschwerdevorentscheidung*). If the AMS wants to abstain from such a ruling, the complaint has to be submitted to the Administrative Court without undue delay.

Introduction of care leave and part-time care leave

(*BGBI. I Nr. 138/2013, in force since 1/1/2014*)

In force as of 1 Jan 2014, care leave (*Pflegekarenz*) and part-time care leave (*Pflegezeit*) enables employees to agree with their employers in writing that they will waive their wages or salaries in full or in prorated part while taking leave or reducing their working hours to care for or nurse a close family member for between one month and three months at most. Nursing or care must relate to close family members who, at the time when the worker takes care or part-time care leave, have received an official decision granting them long-term care benefits of category 3 or higher (category 1 in case of demented or under-age family members in need of care) under the Federal Long-Term Care Benefit Act (BPGG). This written agreement between employer and employee may be drawn up if the employment relationship has been in effect for an uninterrupted period of at least three months. If care leave or part-time care leave meets all legal requirements, workers are entitled to claim care leave benefits or prorated care leave benefits, respectively. For the duration of benefit receipt the competent federal authority will pay the social health and pension insurance contributions.

Introduction of retraining benefits

(*BGBI. I Nr. 3/2013 - SRÄG 2012, in force since 1/1/2014*)

Retraining benefits (*Umschulungsgeld*) are granted to persons who have received an official decision by their social pension insurer stating that their disability or incapacity for work, although temporary, will last for at least six months, and that the required occupational rehabilitation measures make sense and are reasonably suitable.

Retraining benefits are already paid during the period in which suitable rehabilitation programmes are selected and preparations made, and continue to be paid during actual participation in these programmes. However, claimants are eligible for retraining benefits only if they actively cooperate in the selection, preparation and implementation of their occupational rehabilitation programmes.

Introduction of the rehabilitation allowance

(*BGBI. I Nr. 3/2013 - SRÄG 2012, in force since 1/1/2014*)

The rehabilitation allowance (*Rehabilitationsgeld*) was introduced for persons whose application for invalidity pension is denied because of the lack of permanent invalidity, but whose temporary invalidity is confirmed by an official decision for a minimum duration of six months. A further condition for the rehabilitation allowance requires occupational measures to be not practicable or appropriate.

Introduction of the temporary assistance allowance

The temporary assistance allowance (*Überbrückungsgeld*) was introduced for unemployed construction workers who are close to their retirement age. The regulations are in force as of 1 January 2014, however, the allowance can be claimed from 1 January 2015 onwards. Unemployed persons of the construction industry who terminated their 58th year of life and subsequently have a claim to old-age, corridor or heavy labour pension, may receive the temporary

assistance allowance once. From 2017 onwards, the completion of a rehabilitation measure within the last two years is needed for receiving the allowance. Furthermore, it can only be applied for in case the construction worker cannot fulfil his work due to illness.

Temporary allowance instead of advance on future pensions

(BGBI. I Nr. 3/2013, in force since 1/1/2013)

Since the reorganization of the advance on future pensions (*Pensionsvorschuss*), a temporary allowance will only be granted if the waiting period has been fulfilled. The temporary allowance may also be granted after applying for invalidity or occupational disability pension or after applying for old-age pension, if the claim from the retirement insurance cannot be approved within two months.

Aggregation of periods credited towards the minimum period of employment

To fulfil the minimum period of employment for receiving unemployment benefits, the required period of 52 weeks of unemployment insurance-covered employment within the 24 months prior to the assertion of such claims stays intact. However, since 1 January 2015, specific periods such as military service or alternative civilian service, family hospice leave etc. are credited towards the duration of previous employment. The newly credited periods may also be part of the 156 weeks of unemployment insurance-covered employment within the preceding five years, for claiming 30 weeks of unemployment benefits.

Note: The following adaptations were approved in 2015 and came/will come into force 2016 and 2018 respectively

Adaption of the contribution base for the unemployment benefit rate

(BGBI. I Nr. 79/2015 in force from 1/7/2018)

In force as of 1 July 2018, the calculation of the unemployment benefit rates will be based on the last 12 months of income instead of the income of the last or penultimate year.

Introduction of partial retirement (*Teilpension*)

(BGBI. I Nr. 106/2015, in force since 1/1/2016)

Persons who are entitled to corridor pension but do not yet receive old-age pension, may reduce their working hours with the benefit of partial wage compensation. Besides, the additional expenses of employers who conclude a partial retirement agreement are compensated.

ARTICLE 12§4

Questions 1 to 3

Intergovernmental agreements between 1 January 2011 and 31 December 2015

India of 4 February 2013 entered into force 1 July 2015

Federal Law Gazette III no. 60/2015

https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_201

[Kosovo²] Published Federal Law Gazette III
no.147/2010
Suspension entered into force 29 August 2012 Federal Law
Gazette III no. 132/2012
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2012_III_132

Moldova (Moldavia) of 5 September 2011 entered into force 1 December 2012
Federal Law Gazette III no. 174/2012
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2012_III_174

Serbia of 26 January 2012 entered into force 1 December 2012
Federal Law Gazette III no. 155/2012
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2012_III_155

Supplementary agreement

Australia of 1 April 1992 entered into force 1 December 1992
Federal Law Gazette no. 656/1992
First Supplementary Agreement of 26/06/2001 entered into
force 1 October 2002 Federal Law Gazette III no. 192/2002
Second Supplementary Agreement of 17 February 2010 entered
into force 1 January 2012 Federal Law Gazette III no. 169/2011
[new agreement of 12 August 2015 not yet in force]
https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2011_III_169

Pension benefits are exported to all countries without exceptions.

ARTICLE 13
THE RIGHT TO SOCIAL AND MEDICAL ASSISTANCE

ARTICLE 13§1

Questions 1 to 3

Previous reporting, in particular the 1st Austrian report on the revised Charter, is updated as follows:

Types of benefits and eligibility criteria, level of benefits

Migrants in an irregular situation

The following statutes guarantee that medical care, social support and counselling is provided to foreigners who do not have a permit to lawfully stay in Austria:

Section 18 of the Federal Hospitals and Sanatoriums Act (*Bundesgesetz über Kranken- und Kuranstalten, KAKuG*) obliges each *Land* to provide adequate hospital nursing for impecunious individuals in need of inpatient hospital treatment. Under Section 23 of the aforementioned Act, nobody may be refused any necessary first medical aid in public hospitals.

In this connection, no differentiation is made by nationality or alien status, so that medical care in an emergency is ensured for all non-nationals while they stay in Austria.

Persons in detention pending deportation are to be granted the necessary medical care to the same extent as described above, irrespective of whether or not the person concerned had to be released from detention on grounds of his/her physical condition.

At European level, Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers by the Member States (Reception Directive) was adopted, which had to be transposed into national law by 6 February 2005.

In Austria, the transposition of the Reception Directive was effected by an agreement between the Federal Government and the *Laender* pursuant to Art. 15a B-VG on joint measures ensuring provisional basic welfare support for non-nationals in Austria in need of help and protection (Basic Welfare Support Agreement (*Grundversorgungsvereinbarung*), Federal Law Gazette no. I 80/2004), the Basic Welfare Support Act – Federal Government 2005 (*Grundversorgungsgesetz – Bund, GVG-Bund*, Federal Law Gazette no. I 100/2005)) as well as separate basic welfare support acts at *Laender* level.

The amended version of the Reception Directive 2013/33/EU has been transposed as well.

The Basic Welfare Support Agreement governs the responsibilities of the Federal Government and the *Laender* regarding asylum seekers.

Based on this Agreement, the Federal Government is primarily responsible for asylum seekers

- in the admission process (within the first 20 days after the application for asylum was filed);
- whose application was rejected in the admission process; as well as
- whose application was rejected, with the suspensive effect of the appeal having been denied.

The *Laender* are responsible for taking care of any other non-nationals not falling into the above categories who are in need of protection and support.

Asylum seekers in need of support and protection are entitled to receive basic welfare support (*Grundversorgung*) which, however, ends upon leaving Austrian federal territory (i.e. deportation or voluntary return).

Basic welfare support comprises:

- accommodation in suitable facilities with due regard to human dignity and consideration of family unity;
- adequate food;
- monthly pocket money;
- medical services;
- securing of health care;
- measures for persons in need of nursing care;
- information, counselling and social care for non-nationals;
- payment of transport costs (including travelling costs to school);
- measures to organise a daily structure;
- benefits in kind or monetary benefits to obtain the requisite clothing;
- payment of a burial as is customary locally or an equal amount for repatriation of the deceased person; and
- counselling on returning to the home country, paying for travelling costs and, in special cases, a one-off bridging allowance if the person returns home voluntarily.

From the very beginning, particular emphasis is placed on identifying groups of people who require special protection and such protection is extended already during the initial interview conducted by the security authorities or during the questioning by the Austrian Federal Office for Immigration and Asylum (*Bundesamt für Fremdenwesen und Asyl, BFA*). Moreover, in each stage of the procedure, interests which require special protection – even if they turn up later on – are taken into account.

First reception interviews (*Erstaufnahmegespräch*), in which personal data of each asylum seeker are gathered and a first assessment of the psychological condition and a medical examination are carried out, are conducted in the federal reception centres. In these centres, psychologists who are highly qualified in this area of specialisation are in attendance. In emergency situations, psychological crisis intervention can be provided 24/7.

Groups of people requiring special protection are taken care of according to their specific needs in the federal reception centres.

For minor asylum seekers there are numerous special procedural provisions as well as separate types of care and support.

Pursuant to Section 28 of the Asylum Act 2005 (*Asylgesetz, AsylG*), each asylum seeker must be given the opportunity of a voluntary medical examination at the First Reception Centre (*Erstaufnahmestelle*) or at an institution established by the Federal Government. In addition, newly arriving asylum seekers are generally x-rayed immediately (children and pregnant women also have to undergo a tuberculin skin test). In addition to these comprehensive medical services, psychological support is also provided.

Even if basic welfare support services may be restricted or suspended, medical emergency services are always available.

Means-tested minimum income

Basic benefit: According to MISSOC, the minimum standards (*Mindeststandards*) were in 2015

EUR 827,82 for a single person or a single parent (EUR 837,76 for 2016) and EUR 1.241,73 for a couple (EUR 1.256,64 for 2016). The minimum standard for minor children was at least EUR 149,01.

Additional benefits: a 25% share of housing costs is included in the minimum standards. If the actual housing costs exceed this amount, additional benefits (e.g. housing or rent allowance) can be granted. The heating costs are integrated in the minimum standards and in some *Laender* covered by an additional heating allowance.

Latest statistics

https://www.sozialministerium.at/site/Service_Medien/Infomaterial/Downloads/?category1=alue_13



bms-statistik_2014.pdf

English website:

https://www.sozialministerium.at/siteEN/Social_Policy_Consumers/Means_tested_Minimum_Income/

Long-term care benefits

Due to the rapidly rising number of very old people, the risk of dependency on care has turned into a growing socio-political challenge. Austria's long-term care system was revised in the 1990s. In place since 1993, the Federal Long-Term Care Benefit Act (*Bundespflegegeldgesetz, BPGG*) and the related *Laender* acts replaced the previous system of numerous cash benefits, which varied both in terms of benefit levels and eligibility criteria. Longer-term plans were established in 1994 for upgrading social services under which the *Laender* agreed to create minimum standards for extramural, intramural and daycare services by 2010. Target attainment has meanwhile been evaluated and the agreed plans are constantly being improved to meet the requirements of new forms of nursing care and of demographic developments.

Under the 2012 amendment of the Long-Term Care Benefit Act, law-making and law enforcement powers have been transferred from the *Laender* to the Federal Government, thus pooling responsibilities for long-term care at the federal level. The *Laender's* previous long-term care benefit acts were repealed on 31 December 2011. This means a reduction in the number of decision-makers from over 300 to seven in 2013 and can thus be considered a model of administrative reform. With the 2013 Labour Law Reform Act (*Arbeitsrechts-Änderungsgesetz, ARÄG 2013*) the Federal Long-Term Care Benefit Act (*Bundespflegegeldgesetz, BPGG*) was revised and introduced yet another reduction of bodies responsible for long-term care benefit enforcement down to five decision-makers as of 1 January 2014.

An amendment of Section 3a *BPGG* came into force on 1 January 2015. This amendment clarified that within the scope of EU-Regulation 883/2004 an individual is entitled to long-term care benefits, even if not entitled to basic benefits, when fulfilling the requirements (extent to which they need care), if no other member state is responsible for granting care benefits.

In December 2015, 451,753 individuals (approx. 5.26% of the Austrian population) were entitled to long-term care benefits pursuant to the *BPGG*. In 2015, annual expenditure for long-term care benefits amounted to approx. EUR 2.5 billion.

Long-term care benefits are benefits earmarked for the sole purpose of covering care-related additional expenses and are thus not meant to raise incomes in general. As the actual costs of care exceed the relevant long-term care benefits in most cases, they are to be regarded as a lump-sum contribution towards care costs. This type of benefit enables individuals in need of care to be independent to some extent and remain (longer) in their familiar environment.

The amount of long-term care benefits is exclusively based on actual care and assistance requirements. Long-term care requirements due to physical, mental or psychological disabilities or sensory impairment must exist for at least six consecutive months and average more than 60 hours per month.

Long-term care benefits are awarded irrespective of the root cause of care needs, but also irrespective of income, property or age of claimants. However, in most cases claimants are old people. Claimants are legally entitled to long-term care benefits.

Pension or retirement benefit claimants file their applications for long-term care benefits with the competent insurance institution. Employees, co-insured family members and claimants of minimum income or rehabilitation benefits may request long-term care benefits from their pension insurance institution. Retired civil servants receiving pensions from the *Laender* or local governments must turn to the pension service of the statutory insurance institution for public-sector employees and civil servants (*BVA*).

Amount of long-term care benefits

The amount of long-term care benefits an individual is entitled to depends on their need of care. There are seven stages of long-term care benefits. Stage 1 corresponds to a need of care of more than 65 hours per month. The number of hours of care required per month is determined in an assessment carried out by a physician or a qualified nurse.

Need of care in hours per month	Stage of long-term care benefit	Amount in EUR per month (net)
More than 65 hours	1	EUR 157.30
More than 95 hours	2	EUR 290.00
More than 120 hours	3	EUR 451.80
More than 160 hours	4	EUR 677.60
More than 180 hours if the amount of time spent giving care is particularly high.	5	EUR 920.30
More than 180 hours if care cannot be exactly scheduled and is regularly required in the daytime and at night or if the permanent presence of a caregiver is required during days and nights as the person receiving care may endanger themselves or others.	6	EUR 1,285.20
More than 180 hours if the person receiving care is not able to functionally move their four limbs in a coordinated way or	7	EUR 1,688.90

is in an equal condition.		
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Long-term care benefits are paid out twelve times per year for each month in retrospect. Payroll tax and health insurance contributions are not deducted from long-term care benefits.

Personal scope

Means-tested minimum income

Stateless persons

Stateless persons are entitled to means-tested minimum income if

- they hold a “long-term resident – EU” title or
- have been granted asylum - subsidiary protection.

Statement on criticism of the five-year waiting period for third-country nationals:

The means-tested minimum income scheme which has been criticised by the ECSR was introduced in 2010 by means of an agreement concluded under Article 15a of the Federal Constitutional Act between the Federal Government and the 9 Austrian *Laender*.

Austria’s federal structure requires that this agreement be implemented through corresponding federal and *Laender* statutes.

Until 2010, the *Laender* had nine different social assistance schemes providing varying amounts of benefits. As of 2010 there is now a uniform minimum standard which applies nationwide.

However, the *Laender* may grant additional or higher benefits.

The agreement between the Federal Government and the *Laender* itself does not make a distinction between third-country nationals from Social Charter signatory states and other third-country nationals. This is why the ECSR concluded that a five-year residence requirement is required for all third-country nationals.

A closer look at *Laender* statutes nevertheless reveals the following:

Four *Laender* adopted legal regulations that presumably conform to ECSR case law.

Tyrol and Vorarlberg, in keeping with the legal situation in effect prior to the agreement, treat non-Austrian citizens as Austrian citizens where an international agreement requires such equal treatment. Citizens of signatory countries of the Social Charta therefore enjoy equal status with Austrian citizens.

Carinthia makes no distinction whatsoever along the lines of citizenship. Any individual entitled to reside in the country for more than four months is eligible for means-tested minimum income.

Styria provides social assistance benefits to everyone entitled to residence for more than three months.

According to the statutes of **five *Laender***, the entitlement to the benefit is linked to the right to permanent residence in Austria, meaning that in principle a five-year residence period is required.

Yet in those *Laender* as well, third-country citizens may receive support while not yet having full equality with Austrian citizens.

To provide a **safety net**, all of the *Laender* statutes specify what is referred to as the **hardship clause** for foreigners, for which third-country nationals from Social Charter signatory countries are also eligible.

According to the clause, benefits may be provided to foreign citizens within the framework of the private-sector management of the *Laender*, where such aid appears warranted in order to avoid any social hardship caused by the personal, family or economic situation of such individuals.

This has resulted in an overall system that provides adequate support to everyone not having adequate funds.

Whereas other signatory countries reduced their range of social benefits during the economic crisis, Austria introduced the means-tested minimum income in 2010, which has resulted in numerous improvements and enhanced benefits for certain groups, for instance single parents.

This already entailed considerable additional expenditure on the part of the *Laender*. Added to this was an increase in the number of recipients, brought on by the economic crisis and a higher rate of unemployment, so that costs consequentially rose.

The most recent statistical data available show that the number of *BMS* recipients climbed 33% in the period from 2011 to 2014, which led to an increase in expenses of 54% or some EUR 234 million. Data for 2015 is not yet available but a strong increase in the number of recipients and *BMS* expenses is to be expected, also as a result of the refugee crisis.

In light of the current developments, Austria's social security system would have to shoulder a heavy extra burden if the group of entitled persons were extended to all newly immigrated third-country nationals from ESC signatory countries. The Austrian *Laender* and municipalities are reporting already at this point in time that the extra expenses for means-tested minimum income pose an enormous challenge.

Since 1996, statistical data have been available in Austria on the number of immigrants by countries of origin and the migration flows of foreign nationals. These statistics show the development of net immigration (i.e. the number of immigrated individuals less the number of emigrated persons) of nationals of ESC signatory countries over time.

The conclusions are as follows:

Net immigration of the overall group of third-country nationals increased more than tenfold from 1996 to 2014 (i.e. 2,983 vs. 29,902 persons). Net immigration rose most sharply in the sub-category "European third countries", which includes 9 signatory countries to the Charter:

When comparing 1996 to 2014, net immigration in 2014 was almost 70 times higher than in 1996 (2014: 10,823 persons). Temporarily it even increased by 147 times compared to 1996. This group is to be expected to rise substantially again in 2015.

Conclusion:

Given these numbers, opening up the system for additional groups of people is not an option. The situation has recently been aggravated by the strong increase of persons granted asylum and subsidiary protection who are entitled to receive means-tested minimum income. Statistics Austria's figures for 2013/2014 already give evidence of the strong increase in net migration, for example among the groups of Syrians and Afghans, i.e. the majority of asylum-seekers as at

31 December 2015 (Syrians: +440%, Afghans: +60%). These numbers are expected to rise sharply for 2015.

With respect to means-tested minimum income, these figures are of significance as persons who are granted asylum status or subsidiary protection are potentially entitled to receive means-tested minimum income.

Statistics:



Art 13 BMS-Statistik
2014.pdf

Long-term care benefit

Stateless persons

Stateless persons shall be - according to the EU-Regulation 883/2004 - treated like European citizens or recognised refugees. If stateless persons can be considered as refugees or if they are subsidiarily protected, they are entitled to receive the necessary medical benefits according to Art. 29 of Directive 2004/83/EC. The Member States can reduce these services to the essential benefits.

Under European law, the Austrian long-term care allowance is considered as sickness benefit. Sickness benefits are included in the essential benefits.

Therefore, stateless persons are also entitled to receive long-term care benefit in cash in line with Section 3a Para. 2 of the Austrian Long-term Care Act if they fulfil the legal requirements (see also e.g. judgement of the Austrian Supreme Court of Justice 10 ObS 3/14k).

Recent statements by the individual *Laender* (states)

Lower Austria

Figures, data, statistics:

The following numbers are available for the reference period from 1 Jan. 2014 to 31 Dec. 2014 (number of persons/beneficiaries):	2014
Recipients of means-tested minimum income	
People living in the same household and being dependent on one another (<i>Bedarfsgemeinschaft</i>).	13,072
Men	7,125
Women	9,459
Children	7,963
Health insurance contributions	
Persons	6,176
Recipients of long-term care benefits	58,740
Help in special life situations (applications)	
Help for families and elderly people	1,693

Establishing and securing an economic subsistence basis	1,451
Inhabitants of residential facilities	
Old-age and nursing homes (places)	9,097
Short-term care (permanent places)	320
Day-care	96
Palliative care units (places)	32
Fully institutional end-of-life care	78
People with disabilities or mental illnesses and disabilities	
Day-care centres	4,839
Living facilities	2,643
Assistance at home	319
Assistance at home for people with intellectual disabilities	67
Social services	
24-hour care	7,775
Socio-medical services (number of persons assisted)	16,204
Meals-on-wheels services (servings)	2,524,172
Debt counselling	13,925
Supported emergency hotline services	25,428
Assistance in raising children and schooling	36
Housing protection - counselling	2,265
Assistance through Sheltered Work (<i>Hilfe durch geschützte Arbeit</i>)	379
Persons in assisted living facilities	450
Heating allowance (recipients)	7,360
Early instruction assistance (number of children)	440
Travel expenses (number of persons)	1,344

The legal status of stateless persons in Austria is regulated by the “Convention relating to the Status of Stateless Persons”. This state treaty was ratified by the Austrian National Council and promulgated in the Federal Law Gazette II no. 81/2008 on 11 July 2008.

Article 23 of the treaty provides that the Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

According to Section 5 of the Lower Austrian Minimum Income Act (*NÖ Mindestsicherungsgesetz, NÖ-MSG*), State Law Gazette 9205, the group of eligible persons includes those in need of help whose primary or habitual place of residence is in Lower Austria and who are entitled to permanent residence in Austria.

Lower Austria also includes stateless persons in this definition as long as they have their lawful abode in Austria. Stateless persons - and all third-country nationals - need a permit to stay in Austria.

They may be granted asylum or subsidiary protection, or a provisional right of residence according to the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz*). Relatives of individuals who are citizens of EEA signatory countries are also subject to EU law governing lawful residence. Stateless persons who have been granted the status of legitimate and lawful residents are entitled to receive benefits within the scope of the means-tested minimum income scheme.

The contracting parties have fulfilled their obligation of introducing a Social Security System as defined by Article 12§1 by adopting the Lower Austria Social Assistance Act (*NÖ Sozialhilfegesetz, NÖ SHG*) 2000.

The obligation pursuant to Article 13§1, on the other hand, was implemented in the Lower Austria Minimum Income Act (*NÖ Mindestsicherungsgesetz*).

The minimum standard amounts are adjusted annually to the equalisation supplement reference rate of pension insurance and are due 12 times a year. In 2016, they amount to EUR 837.76 for singles or single parents, EUR 1,256.64 for couples and EUR 192.68 for children. If an individual is not able to reach these minimum standard amounts with their income, their assets or any third-party benefits, the difference will be paid out.

Section 5 *NÖ MSG*, State Law Gazette 9205, provides that citizens of another EEA signatory country or Swiss nationals as well as their family members as defined by Directive 2004/38/EC are eligible persons as long as they do not lose their right of residence on account of receiving minimum-income benefits or have entered the country in the intention of receiving means-tested minimum income benefits. Equal treatment to Austrian citizens has thus been legally established. Para. 5 of the cited law regulates further that persons who are not classified as eligible persons, but should receive support in view of their personal, family or economic situation to avoid any social hardships and are not granted any similar benefits due to other legal provisions may receive means-tested minimum income benefits under private law.

A similar provision can be found in Section 4 Para. 5 of the *NÖ SHG* 2000, stipulating that persons who are not classified as eligible persons may receive support under private law if they are in institutional care.

The means-tested minimum income scheme includes subsistence and accommodation benefits. Individuals have a claim if evidence of accommodation costs is provided and these costs cannot be covered by third-party benefits. If accommodation allowance is granted, it is taken into account in view of the minimum accommodation allowance standard. On application, the *Land* Government of Lower Austria additionally pays out a heating allowance to persons in need once a year. Recipients of the means-tested minimum income are automatically classified as eligible persons, making an additional application unnecessary. For 2015/16 the heating allowance amounted to EUR 120.00 per household.

Pursuant to Section 13 *NÖ MSG*, special needs not covered by benefits pursuant to Sections 10 and 12 may be provided for by an additional benefit granted by the private sector in the amount absolutely necessary.

Help to secure the necessities of life (private-sector administration)

- additional benefits pursuant to Section 13 *NÖ MSG*
- interment costs pursuant to Section 14 *NÖ MSG*

Help in special life situations (private-sector administration)

- Help in establishing and securing an economic subsistence basis pursuant to Section 18 *NÖ SHG*
- Help for families and elderly people pursuant to Section 19 *NÖ SHG* Help for homeless persons in extraordinary emergency situations pursuant to Section 20 *NÖ SHG*
- Help for victims of violence by family members pursuant to Section 21 *NÖ SHG*

- Help for debtors pursuant to Section 22 *NÖ SHG*

Section 12 Para. 1 *NÖ MSG* stipulates that persons seeking help will be granted support in case of illness, pregnancy and childbirth. This support includes all necessary benefits (excluding monetary benefits) to which recipients of an equalisation supplement from pension insurance are entitled. The *Land* Government pays the monthly contributions to the statutory health insurance system for all means-tested minimum income beneficiaries. If not covered by the statutory health insurance, costs of support in case of illness, pregnancy and childbirth are borne by the State Government.

Upper Austria

Up to 30 September 2011, public care and social assistance in Upper Austria were based mainly on the Upper Austria Social Assistance Act 1998 (*Oö. SHG 1998*), State Law Gazette no. 82/1998 as amended by State Law Gazette no. 41/2008. As of the entering into force of State Law Gazette no. 74/2011, the sphere of “open social assistance” was replaced by the Upper Austria Minimum Income Act (*Oö. BMSG*). This means that the social assistance sphere is currently mainly governed by two legal sources: the *Oö. SHG* covering the area of care and the *Oö. BMSG* covering other social hardships.

Pursuant to these laws, social assistance benefits have the following aims:

- avoiding social hardships (preventive support)
- enabling people to overcome social hardships by their own efforts (help for self-help) or
- covering basic needs (support by satisfying basic needs)

Social assistance is usually granted after the person seeking help, their legal representative or guardian has submitted an application.

When means-tested minimum income is granted, the following basic principles have to be taken into account:

- decisions are to be made on a case-by-case basis (individuality),
- support is to be granted in time (principle of timeliness),
- orientation towards families (principle of integration), priority of personal assistance (principle of personal assistance),
- subsidiarity (principle of subsidiarity), and
- guaranteeing an age-appropriate participation of children in social life (principle of equal opportunities for children).

The *Oö. SHG* also lays down similar principles.

Pursuant to this law, social assistance usually can only be granted to individuals fulfilling all of the requirements below:

- habitual place of residence in the *Land* of Upper Austria;
- right to permanent residence in Austria;
- the presence of social hardship and
- the willingness to make efforts to avoid, cope with or overcome social hardships.

Social hardship is defined as an inability to cover subsistence or arises in special social situations (particularly when in need of nursing care, in need of treatment due to illness, in case of preg-

nancy, a lack of appropriate education or employment qualification, violence from family members, indebtedness, homelessness).

Individuals seeking help may prove their willingness to make efforts particularly by

- using their own resources (income and realisable assets),
- using their ability to work,
- pursuing claims against third parties and
- implementing measures to avoid, alleviate and overcome social hardships.

Means-tested minimum income and social assistance benefits are paid by the *Land* of Upper Austria and regional social assistance institutions (social assistance associations and cities and towns with regional governments). There is thus a regional structure as stipulated by the principle of subsidiarity.

Measures for implementation of the legal framework:

- The Upper Austria Minimum Income Act lays down a legal entitlement to the following types of social assistance:
 - help to secure subsistence and accommodation;
 - help by inclusion in the health insurance system;
 - help by providing support in the field of education and employment qualification.
- Apart from these types, the Upper Austrian Minimum Income Act stipulates the following private-law benefits in the framework of the means-tested minimum income scheme:
 - personal assistance
 - by counselling, support and care;
 - by assistance for work;
 - allowances for interment costs;
 - one-time support in special social life situations; and
 - help to obtain appropriate old-age support.

Apart from the means-tested minimum income benefits, the *Oö. SHG* 1998 and the Upper Austria Equal Opportunities Act (*Oö. Chancengleichheitsgesetz*) provide for help for individuals in need of support (need of nursing care, disabilities). On the one hand, the *Oö. SHG* provides for personal assistance in the form of personal care, support and counselling of those in need including their relatives, if necessary (social services). These services include

- activating care and support;
 - mobile care and support;
 - social home care for the ill;
 - short-term nursing care;
 - services provided by partially institutional facilities (e.g. by daytime or nighttime care);
 - lease of medical equipment;

- physiotherapy and other therapeutic services;
- food delivery services;
- measures for supporting those providing care;
- measures for daytime care and day-structuring;
- other help to continue with household duties;
- specific accommodation types with appropriate professional care, especially for chronically ill persons in need of care;
- family assistance and support services;
- supported employment, work training and trial employments;
- end-of-life care.

There is no general legal claim to these services. Adequate availability of these services is ensured by regular social planning activities.

On the other hand, the *Oö. SHG* regulates support in residential facilities:

- Help in residential facilities includes accommodation, food and care as well as support in residential facilities suitable to provide for the individual needs of the persons requiring assistance.
- The groups covered include persons needing help and assistance primarily due to their old age. There is a legal claim to these services.

Figures, data, statistics:

Number of persons/beneficiaries 01.01.2012 until 31.12.2015	2012	2013	2014	2015 ¹
Help for subsistence (Oö. SHG 1998 and BMSG 2014)				
Singles and single parents	3,397	4,377	4,890	5,287
Persons living in the same household	2,111	2,440	2,737	2,991
Children	3,646	4,481	5,141	5,617
Help in special life situations				
Total applications	8,750	8,787	8,837	
Inhabitants of residential facilities				
Old-age and nursing homes (places)	12,118	12,040	11,989	
Short-term care (permanent places)	236	301	319	
Partially institutional facilities				
Daytime care for persons needing care at an advanced age (places)	523	557	572	
Social services				
Mobile care and support*	20,354	20,325	20,352	
Home nursing*	11,019	12,658	13,001	
Debt counselling	9,757	9,809	10,266	
Women's shelters (excl. children)	240	211	210	
Guidance for work	376	222	237	
Heating allowance (benefi- ciary/amount in EUR)	24,797 140	23,991 140	22,310 140	21,902 152
Recreation reimbursement for senior citizens	922	813	906	629**

*The table includes double entries if different services are used at the same time.

**Due to the changeover to the electronic filing system ELVIS und a change of the responsible government member in 2015, the majority of applications for 2015 were only processed in January 2016, hence the lower number of people.

Tyrol

The application of the minimum income is governed by the Tyrolian Minimum Income Act (*Tiroler Mindestsicherungsgesetz, TMSG*), State Law Gazette no. 99/2010, as last amended.

As part of the implementation of the agreement between the Federal Government and the *Laender* on a means-tested minimum income for all of Austria pursuant to Art. 15a of the Federal Constitutional Law (*B-VG*), the *TMSG* entered into force on 1 January 2011 and with regard to basic benefits (subsistence allowance, accommodation allowance and assistance for illness) with retroactive effect as of 1 September 2010.

Minimum income benefits are intended as assistance for people who are in financial need situations and not able to cover subsistence and accommodation needs or the needs aris-

ing in cases of illness, pregnancy and childbirth with their own means (income and assets), at least not completely.

When assistance is granted, the life situation of the person seeking help always needs to be taken into account. When it is decided that an individual is in a need situation, all the circumstances of each individual case have to be taken into account and the type and extent of assistance has to be adapted in the best possible way to each specific situation (principle of individuality).

The minimum income benefit is only intended as a second social protection net, which is why it will only be granted when a person seeking help does not have (enough) own resources or when means granted on another legal basis are not available or do not suffice (principle of subsidiarity).

Austrian nationals or individuals who are considered equal to Austrian nationals (citizens of other States Parties to the Social Charter) and have their legal abode in Austria and permanently reside in Tyrol (primary or permanent residence) are entitled to receive minimum income benefits.

The *TMSG* differentiates between basic benefits and other benefits.

Basic benefits

Help to secure the necessities of life (subsistence);
 help to secure accommodation needs;
 protection in cases of illness, pregnancy and childbirth; and
 costs of a simple burial.

Other benefits

Education and employment qualification support
 guidance for work;
 the support scheme;
 nursing and care support and
 various additional benefits.

Help to secure the necessities of life (subsistence)

A person seeking help is granted a flat-rate monthly monetary benefit (minimum amount) to cover their subsistence. These monetary benefits are intended to cover regular expenses for food, clothes, personal and health care, means of transport, cleaning, small household goods, electricity and adequate participation in the social and cultural life.

In 2015, the following minimum amounts applied:

- Singles and single parents EUR 620.87
- Children of major age living in the same household
EUR 465.65
- for the third dependent person of major age and any additional person
EUR 310.43
- Minors who are eligible for family allowance EUR 204.89

These minimum amounts are paid out twelve times per year. Those who receive minimum income benefits for more than three months receive a special payment of EUR 74.50 per quarter.

Help to secure accommodation needs

The accommodation allowance granted to a person seeking assistance covers actual regular expenses for rent, operating costs, heating and taxes of which evidence has been provided.

The accommodation has to meet the individual's needs and correspond to normal local prices and the prescribed size.

Useable floor space must not exceed 40m² for single households and 60m² for two-person households. If there are more than two persons living in a household, the maximum useable floor space increases by 10m² per person, but must not exceed 110m² in total.

Protection in cases of illness, pregnancy and childbirth

Recipients of minimum income benefits are automatically included in the statutory health insurance. They will thus receive an e-card and are exempted from prescription charges and deductibles for hospital stays.

In case of extraordinary hardships, individuals may receive additional support within the framework of the minimum income scheme by:

- education and employment qualification support by covering education, schooling and vocational training costs, including any expenses for accommodation and travel,
- help for work for long-term unemployed minimum income beneficiaries in the form of allowances granted to employers or by covering costs for retraining and follow-up training,
- establishing a support scheme to ensure targeted support of recipients of minimum income,
- an additional allowance in case of special hardships in the form of
 - financial support amounting to a maximum of EUR 125.66 per month or a one-off payment of a maximum of EUR 1,507.96,
 - and by covering indispensable one-off expenses connected to procuring living space, including payments for security and tenancy agreements and a basic set of furniture and household goods.

Amount of minimum income:

Before being granted minimum income benefits, the persons seeking help have to use their own means including their entire income and realisable assets.

Income includes all revenues the person seeking help actually receives (including wages, salaries, unemployment benefit, unemployment assistance, sick pay, pensions, maintenance/child support, childcare benefit, rental assistance).

Benefits pursuant to the Family Allowance Act (*Familienlastenausgleichsgesetz*) (particularly family benefit) and long-term care benefits are exempted.

Favourable provisions governing exempt amounts are provided for elderly persons and/or beneficiaries who are only able to work to a limited extent as well as for single parents and long-term unemployed minimum income beneficiaries who are employed (again).

Savings up to an amount of EUR 4,139.12 are generally exempted from the obligation to use one's own assets.

An appropriate motor vehicle required for occupational activities or other needs (disabilities or insufficient infrastructure) does not have to be realised, either.

If a person seeking help possesses immovable property (condominium/house), they may receive minimum income benefits for 6 months without having to use their houses or condominiums (if appropriate and used for their own accommodation needs) as realisable assets. Only after having received minimum income benefits for more than 6 months, immovable property registered in the land register is used for collateralisation (with retroactive effect).

Before being granted minimum income, persons seeking help have to demonstrate their willingness to use their working capacity or look for a reasonable gainful employment.

Persons who

- have reached the regular retirement age as defined by the *ASVG*,
- have care duties towards children under the age of three years (if no adequate care facilities are available),
- mainly attend to relatives in need of care receiving level 3 long-term care benefits,
- have end-of-life care duties towards relatives or need to care for seriously ill children,
- take part in job training or school education programmes (no university courses!) already commenced before reaching the age of 18 years and pursue this training/education in a determined way,
- participate in training and further training offers are

exempted from the obligation to use their working capacity.

Before being granted minimum income benefits, the person seeking help is also required to pursue any public-law (e.g. statutory maintenance claims) or private-law claims against third parties, if it is not obviously pointless or unreasonable.

Cutting minimum income benefits

Minimum income beneficiaries have to use their own means or the means provided in an economical way and pursue their claims against third parties in a reasonable way.

A need situation brought about through the help-seeking person's own fault as well as unwillingness to work may result in a reduction of minimum income benefits.

Minimum income beneficiaries who are not willing to use their working capacities or do not look for reasonable employment or do not participate in training and further training offers or do not cooperate in the assessment of their work capability may have their benefits reduced.

Even if benefits are cut, subsistence needs of relatives and accommodation needs still have to be covered.

Reimbursement of minimum income benefits

When minimum income beneficiaries are reintegrated into the labour market, they are not obliged to use their income to reimburse any received benefits.

Individuals who are granted minimum income benefits based on incorrect statements or after concealing important circumstances have to pay back any benefits received.

(Ex-)Spouses obliged to pay support and parents of minor children may be obliged to reimburse costs.

Competent authorities:

The competent District Commission or the City Magistrate Innsbruck, Office for Social Affairs, is responsible for decisions concerning minimum income benefits. The competent authority is that of the district in which the person seeking help has their primary residence.

Pursuant to the amendment (State Law Gazette no. 150/2012) complaints against decisions of the District Administration Authority may be submitted to the Administrative Court of the Province (*Landesverwaltungsgericht, LVwG*) as of 1 January 2014. Since 1 January 2014, the *Land* Government only fulfils the function of a supreme authority.

Rights of stateless persons

Section 3 Para. 3 *TMSG* governs the entitlement to minimum income benefits of stateless persons. It is legally guaranteed that persons who reside in Tyrol but do not have a sovereign legal claim to minimum income (do not enjoy equal treatment to Austrian nationals) and are not subject to the scope of the Tyrol Basic Welfare Support Act (*Tiroler Grundversorgungsgesetz*) (asylum seekers) will be granted basic minimum income benefits under private law.

Minimum level

The question whether social assistance benefits are used if the minimum level of benefits in lieu of pay within the social security system's framework is below a guaranteed income threshold minimum can be answered as follows:

The minimum income scheme provides for a minimum amount for covering subsistence and accommodation needs for every *Bedarfsgemeinschaft* (formed by people living in the same household and dependent on one another; i.e. singles, families, children, etc.). The granted amount of minimum income benefits corresponds to the sum total of the respective minimum amount and actual accommodation costs of which evidence has been provided and which are to be taken into account.

Every eligible person seeking help who does not reach this minimum level based on available own funds (income from paid work, unemployment benefits, unemployment assistance, maintenance/child support, pension, etc.) receives additional minimum income benefits to reach this amount.

Benefit amounts and additional benefits

In order to assess whether the amount of social assistance benefits is adequately adapted to the poverty threshold, the amount of additional benefits that people receive in addition to the minimum amount is inquired.

The description of individual minimum income benefits in Tyrol (see above) provides an answer to this question.

Development of benefits to secure subsistence (minimum amounts) between 2011 and 2015:

Minimum amount	2010	2011	2012	2013	2014	2015
Singles and single parents	558.01	564.71	579.95	596.18	610.49	620.87
Number of children of major age in same household	418.51	423.53	434.86	447.14	457.87	465.65
For the third person of major age and any additional eligible person	279	282.35	289.97	298.09	305.25	310.43
Children of minor age entitled to family allowance	184.14	186.35	191.38	196.74	201.46	204.89
Pocket money	111.6	112.94	115.99	119.24	122.1	124.17

These minimum amounts are paid out twelve times per year. Those who receive minimum income benefits for more than three months receive a special payment of EUR 74.50 per quarter (rates from 2015).

Within the framework of the help to secure accommodation needs, minimum income beneficiaries receive benefits to pay for their subsistence and actual accommodation and operating costs for adequate accommodation for which they provide evidence.

Minimum income beneficiaries do not have to use their subsistence allowance (minimum rate) to pay for heating costs; actually incurred heating costs are covered within the framework of the help to secure accommodation needs.

Indispensable one-off expenses connected to procuring living space, including payments for security and tenancy agreement, are covered; additionally, minimum income beneficiaries are provided with a basic set of furniture and household goods.

The following table provides an overview of the most important developments of the minimum income scheme in the past five years:

Supported persons according to claimant groups 2011 to 2015										
	2011	Share in %	2012	Share in %	2013	Share in %	2014	Share in %	2015	Share in %
Singles	3,779	31.8	4,004	29.7	4,330	30.4	4,608	30.3	5,029	31.6
Single parents	1,747	14.7	1,999	14.8	2,137	15	2,192	14.4	2,217	13.9
Persons of major age in same household	3,250	27.4	3,722	27.6	3,910	27.4	4,101	26.9	4,109	25.8
Children of minor age entitled to family allowance	2,867	24.2	3,438	25.5	3,621	25.4	4,105	27	4,350	27.3
Third and any additional person of major age in same household	130	1.1	197	1.5	189	1.3	162	1.1	177	1.1
Other recipients	98	0.8	105	0.9	70	0.5	52	0.3	32	0.2
Sum total of recipients	11,871	100	13,465	100	14,257	100	15,220	100	15,914	100

In recent years, expenditure for minimum income benefits has increased as follows:

Development of costs for minimum income benefits granted by sovereign providers from 2010 to 2015 in EUR						
	2010	2011	2012	2013	2014	2015
Expenditure	28,523,490	32,628,975	37,597,780	43,083,467	47,085,752	54,357,339
Income	2,656,777	2,318,462	2,329,171	2,634,136	2,299,948	2,980,487
Net expenditure	25,866,713	30,310,513	35,268,609	40,449,330	44,785,804	2

Vorarlberg

Amendments to the Vorarlberg Minimum Income Act (*Vorarlberger Mindestsicherungsgesetz, MSG*) during the reporting period (2012 to 2015):

- Protection pursuant to Section 7 Para. 3 *MSG* was extended to victims of human trafficking and individuals with serious physical diseases or psychological disorders.
- Asylum seekers are granted free legal advice and representation if they decide to launch a complaint (*Beschwerde*) against an administrative decision pursuant to Section 7 Para. 6 lits. a to c.
- Non-nationals in need of help and protection who are granted basic welfare support but would have been able to use their own resources to cover their subsistence needs are obliged to fully or partially pay back the costs incurred.
- The Social Fund has to bear the costs for allowances granted for 24-hour care.

Benefits pursuant to the *MSG*, the Opportunities Act (*Chancengesetz*) and the Ordinance on integration assistance (*Integrationshilfverordnung*) are still granted to the extent described in the first report.

At the beginning of 2014, the Austrian system of redress mechanisms was amended. The 2012 amendment of administrative jurisdiction, among other things, replaced Independent Administrative Tribunals by Administrative Courts of the Provinces (*Landesverwaltungsgerichte*) representing the only appellate instance in the administration of the *Land* and concerning the implementation of federal laws by the *Land* government. The establishment of the *Landesverwaltungsgerichte* also changed the competences regarding the Minimum Income Act: In appeal proceedings against decisions taken by the competent administrative authorities (*Bezirkshauptmannschaften*) pursuant to the Minimum Income Act, the *Landesverwaltungsgericht* is now the court of decision.

In Vorarlberg, there is principally no legal entitlement to special benefits (social services). Private-law providers, organised in a dense network of private institutions and organisations, offer a very differentiated range of assistance services (monetary benefits, benefits in kind or personal support), however.

The provided amount of minimum income is definitely appropriate. The amount of minimum income continues to be based on the equalisation supplement reference rate pursuant to the General Social Insurance Act (*Allgemeine Sozialversicherungsgesetz, ASVG*) rather than on the at-risk-of-poverty threshold value. In 2014, the at-risk-of-poverty threshold value for singles corresponded to EUR 1,161.00 (Statistics Austria). The subsistence allowance for singles granted in the framework of the minimum income scheme amounted to EUR 623.00 (food, clothing, articles for personal hygiene, household goods, heating and electrical power, and other personal needs, such as reasonable participation in social and cultural life). In Vorarlberg, adequate accommodation allowance (regularly recurring expenses including rent, general operating costs and other charges) for singles may amount to up to EUR 560.00. This means that subsistence and accommodation allowances taken together may exceed the at-risk-of-poverty threshold value.

Benefits available in addition to minimum income:

- heating allowance (up to EUR 270.00 per year)
- packages for students at the beginning of the school year (*Schulstartpaket*, benefit in kind)
- family allowance
- family supplements
- Fair Card (subsidised monthly tickets for EUR 16.00 for all public means of transport)

The at-risk-of-poverty threshold value is therefore reached and even exceeded in some cases.

Minimum income benefits (basic welfare support) 2012 – 2015:

Benefit	2012	2013	2014	2015
Subsistence allowance (reference rate)	9,659,168	11,089,691	12,719,970	15,871,698
Accommodation allowance (reference rate)	6,925,218	7,603,640	8,657,632	10,168,871
Assistance for illness	2,884,670	3,278,455	3,404,248	4,045,119
Cash grants and other benefits	4,435,065	5,066,688	5,617,623	6,950,275

Total:	23,904,122	27,038,474	30,399,473	37,035,964
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At the central level, public-law bodies, such as *Land* Governments, district administrative authority (*Bezirkshauptmannschaft*), local governments, Public Employment Service, the Service Centre of the Ministry of Social Affairs etc. are responsible for counselling and supporting individuals without means or threatened by a lack of means. At the decentralised level, the following social services are available based on the Minimum Income Act, offered mainly by private welfare organisations:

- Help for the homeless: approx. 220 institutional places for helping the homeless; 20 places in 3 emergency shelters (in different regions); approx. 20,000 social worker hours per year for mobile accommodation counselling and support; state-wide eviction prevention.
- Activating help for self-help: general social counselling including debt counselling (approx. 50,000 social worker hours per year); various work projects for (re)integrating minimum income beneficiaries into the labour market.
- Coping with special life situations: state-wide family allowance; crisis intervention and emergency pastoral care; emergency accommodation for women and people in crisis situations; various small projects such as "Tischlein Deck Dich" (*"The Wishing Table"*, food bank), etc.
- State-wide community work is organised in regional areas.
- In case of a need of nursing care: claim to long-term care benefits pursuant to the Federal Long-Term Care Act (*Bundespflegegeldgesetz, BPGG*)
- To support 24-hour care as defined by the Home Care Act (*Hausbetreuungsgesetz*) based on the Art. 15a *B-VG* agreement.

Benefit	2012	2013	2014	2015
Recipients of minimum income bene-	2,397	2,144	2,153	2,296
Recipients of 24 hour care	958	1,269	1,411	1,668

Stateless persons

Concerning equal treatment of stateless persons within the framework of the minimum income scheme, basic benefits (subsistence, accommodation, protection in cases of illness, pregnancy and childbirth and interment costs) have to be differentiated from special services. Basic benefits may also be granted to non-nationals in need of support who actually do not fall under the Minimum Income Act, if this is required due to their personal, family or economic situation to avoid social hardships. To a limited extent, stateless persons may thus be treated equally to Austrian citizens.

Gap between minimum wage compensation and minimum income

Any gap is covered by minimum income benefits (*"Aufstocker"* - people receiving increased payments). Subsistence allowance is increased up to the respective defined minimum income rates:

2015:

Singles or single parents	EUR 630.76
Number of children of major age in same household	EUR 471.22

For each further dependent person of major age in the same household	EUR 314.16
For children of minor age entitled to family allowance in the same household	EUR 183.09

Amount of minimum income in 2015

The guidance values referred to in the original question from 2011 refer to the Agreement on a Federal Means-Tested Minimum Income pursuant to Art. 15a of the Federal Constitutional Law (*Bundesverfassungsgesetz, B-VG*). These guidance values are increased annually based on the equalisation supplement reference rate. In 2015, the guidance values for singles and single parents amounted to EUR 837.76, for example.

These guidance values for subsistence and accommodation, however, only represent minimum standard amounts, the respective amounts granted in Vorarlberg being significantly higher (in particular because the *Land* of Vorarlberg pays for the actual accommodation needs, if appropriate).

Do minimum income and additional benefits reach the poverty threshold?

As mentioned above, the at-risk-of-poverty threshold value is reached by minimum income and even exceeded in some cases.

Do basic and additional benefits reach the poverty threshold?

As described above, minimum income is based on the equalisation supplement reference rate pursuant to *ASVG* rather than on the poverty threshold. In total, minimum income, accommodation allowance and additional benefits, however, reach - and in some cases even exceed - the poverty threshold.

Vienna

In the period under review from 2012 to 2015, the legal framework with regard to subsistence and accommodation allowances within the scope of the means-tested minimum income scheme was not changed. Decisions were taken based on the valid provisions of the Vienna Minimum Income Act (*Wiener Mindestsicherungsgesetz, WMG*).

The means-tested minimum income scheme is aimed at avoiding and combating poverty and social marginalisation as well as at facilitating the integration or reintegration into the labour market.

The means-tested minimum income benefit covers the minimum standard amount in the areas of subsistence, accommodation, health, pregnancy and childbirth. There is a legal entitlement to these benefits.

As a result of the agreement between the Federal and *Laender* Governments according to Art. 15a *B-VG* on means-tested minimum income in Austria, the Vienna Minimum Income Act defined the group of eligible recipients in Section 5 of the Vienna Minimum Income Act (*WMG*) as follows:

Section 5 Para. 1 *WMG* reads:

Only Austrian nationals shall principally be entitled to services and benefits according to this Act.

Section 5 Para. 2 WMG reads:

The following persons shall be treated equally to Austrian nationals if they have permission to stay in Austria and have not entered the country in the intention of receiving social assistance benefits:

1. *Persons entitled to asylum or subsidiary protection who were granted this status based on the provisions of the Federal Act on the Granting of Asylum (Asylum Act 2005, AsylG 2005);*
2. *citizens of an EU or EEA state or Swiss nationals, if they are in employment or qualify as in employment pursuant to Section 51 Para. 2 of the Federal Act on Settlement and Residence in Austria (Settlement and Residence Act, NAG) or have been granted the right of permanent residence pursuant to Section 53a NAG, and their family members; persons holding a “permanent residence - EC” or “permanent residence - family member” title granted pursuant to Section 45 or Section 48 NAG or whose residence or settlement title granted before the NAG entered into force is still valid pursuant to Section 81 Para. 2 NAG in conjunction with the Ordinance of the Federal Minister of the Interior on the Implementation of the Settlement and Residence Act (Implementing Ordinance on the Settlement and Residence Act, Niederlassungs- und Aufenthaltsgesetz- Durchführungsverordnung, NAG-DV);*
3. *persons with a “permanent residence - EC” title of another member state of the European Union who were granted a settlement permit pursuant to Section 49 NAG.*

Section 5 Para. 3 WMG reads:

Persons who have filed an application for asylum pursuant to the provisions of the AsylG 2005 shall not be entitled to means-tested minimum income benefits until the asylum procedure has been concluded with final effect.

Pursuant to Section 5 Para. 2 no. 3 WMG, persons who were granted a “permanent residence - EC” or “permanent residence - family member” title or whose residence permit continues to be valid are legally entitled to minimum income benefits irrespective of the length of their residence in Austria.

Although the term “long-term resident’s EU residence permit” (“permanent residence - EU” title in Austria) used in Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection has not been included in the WMG, the WMG has always implemented this Directive. This means that individuals holding a “permanent residence - EU” title are of course also legally entitled to minimum income benefits.

Pursuant to Section 39 Para. 2 WMG, the following provision applies to the support of non-nationals who are not entitled to equal treatment pursuant to Section 5 Para. 2 WMG:

Non-nationals who do not enjoy equal treatment and have permission to stay in Austria for more than three months may be granted means-tested minimum income benefits if they seem due because of their personal, family or economic situation in order to avoid any cases of social hardship.

This means that persons who have been legally residing in Austria for at least three months may also be granted minimum income benefits to avoid social hardships. Section 7 Para. 2 no. 2 WMG defines persons of full age living in the same household depending on one another or living in cohabitation as a *Bedarfsgemeinschaft*.

Families and couples applying for assistance form such a *Bedarfsgemeinschaft* and as such will be granted benefits pursuant to *WMG*. Section 7 Para. 2 no. 3 *WMG* defines minor persons living in the same household with at least one parent or another person entrusted with the custody of the child and this respective parent or other person as *Bedarfsgemeinschaft*.

If one member of a *Bedarfsgemeinschaft* is classified as eligible person, all the other members will be granted full minimum income benefits, as long as they have permission to stay in Austria, irrespective of whether they fulfil the requirements pursuant to Section 5 *WMG*.

Data on the number of persons who are neither non-nationals enjoying equal treatment pursuant to Section 5 Para. 2 nor receive minimum income benefits as members of a *Bedarfsgemeinschaft* with an eligible person or pursuant to Section 39 Para. 2 are not available.

Subsistence and accommodation allowances are calculated based on minimum standard amounts whose base value corresponds to the equalisation supplement reference rate pursuant to Section 293 Para. 1 lit. a sublit. b *ASVG*. The base value is increased annually by the same percentage as the equalisation supplement reference rate.

The minimum standards for 2012 to 2015 (in EUR per month) amounted to:

	Sole beneficiary/ single parent	Spouse or cohabiting/registered partners living in the same household	Child of full age living in the same household eligible for family allowance, or child until 21 st birthday without any income or income not exceeding the marginal earnings threshold	Dependent minor child living in the same household
2012	773.26	579.95	386.63	208.78
2013	794.91	596.18	397.46	214.63
2014	813.99	610.49	407.00	219.78
2015	827.82	620.87	413.91	223.51

The minimum standard amounts for persons of full age include a base amount earmarked for accommodation needs corresponding to 25% of the respective minimum standard amount. In Vienna, this base amount is paid out to recipients of minimum income benefits regardless of the actual rent they pay (no disallowance or cuts). In addition, recipients of minimum income benefits are eligible for rental assistance if they can provide evidence of higher accommodation expenses.

When calculating the amount of rental assistance, which is subject to a specific ceiling, the base amount earmarked for accommodation needs is taken into account. In 2012 to 2015, this ceiling was defined as follows:

	For 1 to 2 persons	For 3 to 4 persons	For 5 to 6 persons	For 7 and more persons
2012	289.00	303.00	321.00	338.00
2013	297.09	311.48	329.99	347.46
2014	304.22	318.96	337.91	355.80
2015	309.39	324.38	343.65	361.85

When recipients of means-tested minimum income benefits were included in the statutory health insurance, the health insurance vouchers specifically issued for recipients of social assistance, which they had always perceived as stigmatising, were replaced by the e-card. Individuals for whom health insurance contributions are covered by the bodies responsible for paying minimum income are entitled to the same services and benefits as recipients of an equalisation supplement from pension insurance.

Since the Vienna Minimum Income Act (*Wiener Mindestsicherungsgesetz*) entered into force, energy costs have been taken into account for the minimum standard. Until 2012, however, low-income households were still granted a one-off heating allowance amounting to EUR 100.00 per household in 2012. As this allowance was not able to sustainably cover increasing energy costs, the City of Vienna decided to thoroughly reform this system.

As of January 2013, the one-off heating allowance was replaced by the Vienna energy subsidy (*Wiener Energieunterstützung*). The aim was to sustainably support low-income households in times of continuously increasing energy costs. In the framework of the Vienna energy subsidy, recipients of minimum income benefits or a pension with an equalisation supplement were granted the following opportunities in 2013: having their gas boilers exchanged, using a free professional energy saving advice service after which efficient measures to increase energy efficiency and permanently reduce energy consumption in the long-run were financed (*NEVK* project), and receiving a one-off allowance as support in special life situations (for energy debts, annual statements, exchange of gas boilers, etc.).

In 2014, the “Vienna Energy Subsidy Team” (*Team Wiener Energieunterstützung*) was established to optimise service processes. The team members are, among other things, responsible for processing applications for energy subsidies provided in special life situations, commissioning energy saving advice services at *Umweltberatung Wien* as well as cooperating with energy suppliers, in particular the ombuds body of *Wien Energie*, the energy supplier among the municipal utilities of the City of Vienna. In the reporting period from 2012 to 2015, Mobility Passes were issued to low-income people living in Vienna.

The Mobility Pass entitles its holders to discounts for public transport services in Vienna, for example, which is intended to support their mobility and social participation.

	Number of Mobility Pass holders
2012	108,974
2013	119,489
2014	122,260
2015	134,308

Apart from providing for subsistence, the means-tested minimum scheme focuses on integration, prevention and social security for all. Currently, six regional social centres (three large centres and three centres each responsible for a single district) in Vienna are available to anyone with social problems. Minimum income benefits are granted in connection with counselling and support services, if these are required to prevent and overcome social hardships and achieve sustainable social stability. Social workers offer initial talks, counselling and support and develop a help and support plan jointly with the person seeking help. Their services are based on a holistic approach.

Concurrently with the introduction of the means-tested income scheme in Vienna, the counselling and support facilities of Step2Job were established primarily for this target group. These facilities place people in need of support aged between 18 and 64 years directly in employment relationships on the primary labour market and are responsible for preparing other employment measures on the secondary labour market and assigning individuals to them. In the period from 1 January 2012 to 31 December 2015, Step2Job supported more than 30,000 persons; approximately 25% of them were placed on the primary or secondary labour market and approximately 20% of them participated in skills training courses.

Closely cooperating with the Public Employment Service, the City of Vienna has been contributing input in terms of strategy, operations and financials to ESF-funded employment integration projects since autumn of 2006. In the funding years of 2012 and 2013 the following NGO projects were rolled out, all of which were linked in the LEA platform: JE_TZT, markt_platz (Caritas) and Job-TransFair TRAIN. In this framework, synergies concerning information, competences and internships were better utilised. Permeability among the projects enabled an easier transfer from one project to another. Many of the more than 300 participants were assigned to the individual projects by Step2Job. More than 50% were then successfully placed on the primary labour market or participated in skills training courses.

In 2014 and 2015, the non-profit employment project *ArbeitsRaum* was funded by the City of Vienna and the Public Employment Service. This low-threshold measure was intended to stabilise a group of people who were in particular need of support, separated from the labour market and affected by multiple barriers to employment and to help them enter the secondary labour market. More than 55% of approximately 130 participants were successfully placed in socio-economic businesses.

In collaboration with Municipal Department 17 and third-party course providers, free German language courses (literacy up to the A2 level) were offered to recipients of minimum-income benefits from October 2005 to the end of 2014. These courses were intended to help participants learn the German language and support their social integration. From 2012 to 2014 more than 200 individuals used this service offer, and in many cases they completed several courses up to the ÖSD (*Österreichisches Sprachdiplom*) diploma.

The Housing Protection Agency (*Fachstelle für Wohnungssicherung; FAWOS*) is the central contact point for all persons living in private or cooperative homes who are threatened with the loss of their home. The social workers of the agency provide rental and social information and advice, crisis intervention and mediation between landlord and tenant, so that, in three quarters of the cases processed, the tenants can ultimately remain in their homes.

As before, Vienna has seen a constant rise in the number of persons in need over the past few years. The number of supported individuals in 2012 to 2015 amounted to:

	Number of supported persons:
2012	144,767
2013	153,434
2014	160,152
2015	final figure not yet available

Additional human resources and space were required to cope with the increased number of applicants. In April 2012, two social centres were opened in addition to the existing ten.

In December 2012, a new location concept was developed in response to the continuously increasing number of applications for minimum income benefits. For efficiency reasons (to save costs, optimise the deployment of staff), five major centres, each with approximately 120 employees, were to be established instead of further social centres of the traditional size. The first major centre was opened in September 2013, two further centres followed in January 2014 and March 2015. The remaining two major centres are planned to open at the beginning of 2017. Based on the number of applications, additional human resource requirements are regularly calculated and the creation of the respective number of posts is applied for.

New employees receive comprehensive expert training to make sure that they are familiar and comply with statutory provisions. In addition, all employees responsible for enforcing the Vienna Minimum Income Act are periodically trained in regard of specific topics.

Subsistence and accommodation allowances are calculated based on minimum standard amounts. In 2016, these standards amounted to EUR 837.76 for singles of full age and single parents, to EUR 628.32 for couples (EUR 1,256.64 in total) and to EUR 226.20 for minor children.

The minimum standard amounts for persons of full age who are fit and able to work include a base amount earmarked for accommodation needs, corresponding to 25% of the respective minimum standard amount. This amount is taken into account when rental assistance is calculated subject to the respective rental assistance ceilings.

Below you find some specific examples to allow for a better understanding:

	Single	Single parent + 1 child	Couple	Couple + 1 child
1 adult	837.76	837.76	628.32	628.32
2 adults	0.00	0.00	628.32	628.32
1 minor child	0.00	226.20	0.00	226.20
Rental assistance ceiling	313.10	313.10	313.10	328.27
Base amount for accommodation	-209.44	-209.44	157.08 x 2 -314.16	157.08 x 2 = -314.16
Rental assistance	103.66	103.66	0.00	14.11
Total allowances max.	941.42	1,167.62	1,256.64	1,496.95

If applicants have already reached the regular retirement age as defined by the ASVG (women: 60 years, men: 65 years) or have been unfit for work for at least one year, the base amount earmarked for accommodation needs included in the minimum standard amount will be reduced. In these cases, it amounts to 13.5% of the respective applicable minimum standard amount for singles of full age and single parents, to 9% for couples. In addition to the minimum standard amount paid out every month, these persons are granted a special payment at the

rate of the minimum standard amount in May and October. Below you find some specific examples to allow for a better understanding:

	Single	Couple	Couple (1 person fit and able to work)
1 adult	837.76	628.32	628.32
2 adults	0.00	628.32	628.32
Rental assistance ceiling	313.10	313.10	313.10
Base amount for accommodation	- 113.10	56.55 x 2 = 113.10	- 157.08 + 84.82 = - 241.90
Rental assistance	200.00	200.00	71.20
Total allowances max.	1,037.76	1,456.64	1,327.84

There is a legal entitlement to benefits to secure subsistence and accommodation as well as to cover the needs in cases of illness, pregnancy and childbirth.

As provider of means-tested minimum income, the *Land* of Vienna may grant assistance within the framework of private-sector administration to help people in special life situations when they are affected or threatened by poverty or social exclusion due to their special personal, family or economic situation. It is specifically assumed that individuals are in a special life situation when they are confronted with unexpected expenses for which they are not responsible themselves or when they are in arrears with their rent, which may directly result in their eviction if they fail to pay.

Assistance as help in special life situations cannot only be used by those defined as eligible persons pursuant to Section 5 *WMG*, but also by non-nationals who do not enjoy equal treatment and have permission to stay in Austria for more than three months.

With regard to the discrimination of minimum income beneficiaries it should be noted that in case of regular employment in Austria all provisions of Austrian labour and social security legislation apply. If minimum income beneficiaries are unemployed, they have the same access to services offered by the AMS as non-beneficiaries. Individuals for whom health insurance contributions are covered by the bodies responsible for paying minimum income are also entitled to the same services and benefits as recipients of an equalisation supplement from pension insurance.

On "supplementary benefits":

Means-tested minimum income benefits are flat-rate monetary benefits intended to cover essential needs. In 2016, the minimum standard amount for a person fit and able to work on the labour market amounted to EUR 837.76 per year. 25% of this amount are a base amount to cover accommodation needs.

- Additional rental assistance and housing allowance: If accommodation needs exceed the base amount, most Austrian *Laender* provide additional benefits. The type of benefit (with or

without legal entitlement, minimum income benefits or housing subsidies) varies among the individual *Laender*. The amount granted also varies, depending on the respective rent level. In Vienna, additional rental assistance for one person amounts to a maximum of EUR 103.66 per month. Under certain conditions, housing allowance may also be obtained (it is not possible to state the allowance's exact amount as it is calculated based on many parameters).

- Higher benefits for elderly minimum income beneficiaries and minimum income beneficiaries who are permanently unfit to work: This target group receives means-tested minimum income benefits 14 times per year. Additional rental assistance amounts to a maximum of EUR 200 per month for single households. Rental assistance for pension beneficiaries is a special type of means-tested minimum income in Vienna. Like those who receive means-tested minimum income benefits for more than three months, recipients of an equalisation supplement receive additional rental assistance amounting to a maximum of EUR 200 per month. Many Austrian *Laender* also provide for higher benefits for elderly means-tested minimum income beneficiaries in their respective Minimum Income Acts.
- Higher allowances for minor children in Vienna: The Vienna minimum income scheme provides for a minimum standard amount for children of EUR 226.20 (27% of the minimum standard amount for singles). In Vienna, families with children are provided with more funds within the framework of minimum income than in other Austrian *Laender*. As a result, particularly families with several children and single parents are able to achieve an income above the poverty threshold when taking into account family allowance and tax credits.
- Exempt income: When commencing an employment, claims to exempt income may be asserted in the first 18 months, the exempt amounts being EUR 60 (for incomes below the marginal earnings threshold) and EUR 140 (for incomes above the marginal earnings threshold). This results in an increase of household income.
- Help in special life situations: These benefits may be applied for by people with low incomes in situations of special hardships. They may also be used by means-tested minimum income beneficiaries and are mainly intended for funding furniture, urgent repair work and the settlement of rent arrears and energy debts. There is no legal claim to these benefits and their amount depends on the respective individual case.
- Social infrastructure/social services/benefits in kind: The *Land* of Vienna provides a high number of social services usually granted for free to low-income persons (e.g. debt counselling, housing protection, addiction and drug counselling, Vienna energy subsidy, nursery school). Additionally, means-tested minimum income beneficiaries receive the Vienna Mobility Pass entitling them to numerous discounts (for public transport, for example).

Conclusion: In combination with other benefits (e.g. housing and family allowances), the amount of means-tested minimum income granted reaches the poverty threshold in individual cases (not in general and not in all constellations). However, when looking at the situation only from this perspective, the development level of social infrastructure, which is particularly high in Vienna, is not taken into account. The *Land* of Vienna additionally focuses on an extension of benefits in kind (e.g. guidance for work).

ARTICLE 13§2

Questions 1, 2 and 3

The applicable provisions lay down that recipients of means-tested minimum income or social

assistance benefits must not be discriminated against. The political and social rights of these people are neither indirectly nor directly compromised. This would conflict with the principle of equality of all citizens, which is enshrined in the Austrian Federal Constitution (Art. 7 of the Federal Constitutional Law (*Bundes-Verfassungsgesetz*) and Art. 2 of the Basic Law on the General Rights of Nationals (*Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger*), Imperial Law Gazette no. 142/1867). This principle lays down the constitutional right to equal treatment before the law for all citizens. Privileges based upon birth, sex, estate, class or religion are excluded. The Constitutional Court is responsible for making sure that these principles are observed in legislation. Unlawful decisions can be appealed, following the regular stages of appeal and, after their exhaustion, before the Administrative Court and the Constitutional Court.

ARTICLE 13§3

Reference is made to previous reporting, in particular to the additional information provided in the addendum to the 1st report on the Revised Charter. In addition, the following information is provided:

Social services accounted for EUR 7.7 billion in 2012 (with the exception of health care), i.e. 9% of social benefits or approx. 2.5% of GDP. The major areas of social services include labour market policy measures, non-school childcare, homes for the elderly and nursing homes, day-structuring and extramural services, housing and/or employment schemes for people with special needs, as well as counselling and assistance to individuals with special problems (e.g. women exposed to domestic violence and their children, drug-dependent or drug-addicted persons, homeless persons or persons at risk of losing their homes, persons released from prison or asylum seekers).

According to ESSPROS data for 2012, EUR 1.2 billion were spent on services related to unemployment, EUR 2.2 billion on services related to children and families, EUR 1.9 billion on extramural, intramural and daycare services for the elderly and those in need of nursing care, EUR 1.5 billion on facilities for people with disabilities and EUR 0.9 billion on other social services.

With the exception of labour-market related measures, responsibility for most of the social services is in the hands of *Laender*, local and municipal authorities.

Whereas individuals enjoy legal entitlements to most cash benefits and health care services, they enjoy no such entitlements to the majority of social services.

With regard to services for which there is a legal entitlement, the social assistance authorities must advise and guide people seeking help in accordance with the situation to the extent as is necessary to achieve the goals of social assistance, so that any violation of such obligations can be reviewed in procedures involving services for which there is a legal entitlement within the scope of an appeal.

There is no direct right of appeal with regard to general counselling and the provision of assistance within the frame of the private-sector administration, and, moreover, such a right would be foreign to the Austrian system.

Regional differences exist in the quality and quantity of services and their organisational delivery. This is partly due to the fact that Austria has one *Land* (Vienna) that is fully urban in structure, whereas the other eight *Laender* only have a few smaller urban areas. Territorial authorities run some of the social services themselves, while others are outsourced to non-profit or-

ganisations, associations or private providers. Overall, the public sector plays a dominant role in the areas of childcare, homes for the elderly and nursing homes. Other providers are private and non-profit organisations, including large organisations with a long-standing tradition in this field (church-related associations, associations affiliated with political parties, other supra-regional welfare organisations) and numerous smaller entities.

Statistical information:

http://www.statistik.at/web_en/statistics/PeopleSociety/social_statistics/social_benefits_at_lower_level/index.html

Upper Austria

The social services offered are outlined in the Upper Austria Social Assistance Act 1998 (*Oö. SHG 1998*; Section 12 Personal assistance), in the Upper Austria Minimum Income Act (*Oö. BMSG*; Section 12: Means-tested minimum income benefits) and the Upper Austria Equal Opportunities Act (*Oö. Chancengleichheitsgesetz*).

The following aspects of social assistance are specifically mentioned in the context of providing - in particular - advice and personal help to persons without adequate resources or at risk of becoming so:

- help to continue with household duties
- specific accommodation types with adequate and professional care, especially for women and children exposed to violence; homeless persons; persons with psychological/mental disabilities; and chronically ill persons in need of care
- family assistance, family care and family counselling
- work assistance and training

Pursuant to Sections 30 and 31 *Oö. SHG 1998* as well as Sections 43 and 44 *Oö. BMSG*, the institutions in charge of social assistance and/or means-tested minimum income are responsible for promoting and funding those services.

In order to be able to provide the required counselling, the regional social assistance institutions have to establish decentralised social counselling points pursuant to Section 31 *Oö. SHG 1998*. Such centres were set up all over Upper Austria taking into account the regional requirements, especially with regard to the age structure of the population and the relevant situation of the neighbourhoods, living conditions and transport infrastructure.

The social services offered are independent of the beneficiaries' nationality and can be used by anybody residing in Upper Austria. There is no legal claim to any of the services described. The services can be used only to the extent as sufficient resources are available.

Nationals of other Contracting Parties to the Charter therefore have access to the social services at the same terms as Austrian nationals, if they have the right to reside in Austria.

For the recipients of minimum income there is a special "case management" system. For people who are in need for care there is another case management system that gives support to elderly people with multiple problems.

Vorarlberg

In addition to facilities of social insurance organisations and interest groups, there are private welfare facilities provided by a number of larger organisations, including the Institute for Social Services, Caritas of the Diocese Feldkirch, Dowas, Kaplan Bonetti GmbH, Kolpinghäuser in Götzis and Bregenz, and some smaller bodies.

Local governments also assume important counselling and supporting functions.

ARTICLE 13§4

Specific emergency assistance for non-residents who are nationals of other States Parties to the Social Charter

Section 18 of the Federal Hospitals and Sanatoriums Act (*Bundesgesetz über Kranken- und Kuranstalten, KAKuG*) obliges each *Land* to provide adequate hospital nursing for impecunious individuals in need of inpatient hospital treatment. Under Section 23 of the aforementioned Act, nobody may be refused any necessary first medical aid in public hospitals.

In this connection, no differentiation is made by nationality or alien status, so that medical care in an emergency is ensured for all non-nationals while they stay in Austria.

The social assistance institution may furthermore grant non-nationals who do not enjoy equal treatment and who have permission to stay in Austria benefits to secure their subsistence, help in case of illness and help for pregnant women and women in confinement if this appears to be due in view of their personal, family or economic situation to avoid any social hardship.

ARTICLE 14**THE RIGHT TO BENEFIT FROM SOCIAL WELFARE SERVICES****ARTICLE 14§1****Questions 1 to 3**

Previous reporting, in particular the 1st report on the Revised Charter, is updated as follows:

Organisation of social welfare services, effective and equal access, quality of services

In Austria, regulations regarding the social services and the establishment, maintenance and operation of old-age residential homes and nursing homes are the responsibility of the *Laender*.

The social assistance acts of all nine Laender provide for the counselling and personal support required to prevent, resolve or alleviate a personal or family emergency.

Of the social services provided they list in particular: home care for the ill, family assistance, household help, general and special counselling, services to promote social contacts and to foster participation in cultural life; respite care for the elderly and disabled, accommodation in homes run by the social assistance service.

Advice and counselling on social assistance are primarily provided by bodies at district administrative level and the specialised departments at the offices of the provincial governments. This also applies to services for the disabled, with team consulting on individual cases organised with the participation of medical experts, representatives of the Federal Office for Social and Disabled Services, representatives of the social insurance institutions and representatives of the Public Employment Service.

With regard to services for which there is a legal entitlement, the social assistance authorities must advise and guide people seeking help in accordance with the situation to the extent as is necessary to achieve the goals of social assistance, so that any violation of such obligations can be reviewed in procedures involving services for which there is a legal entitlement within the scope of an appeal.

There is no direct right of appeal with regard to general counselling and the provision of assistance within the frame of the private-sector administration, and, moreover, such a right would be foreign to the Austrian system.

This sector is supervised by way of activities by the supervisory authorities (e.g. a telephone hotline for problems of intramural support) or other bodies accepting complaints (ombudsman, etc.).

In addition, social services are run by numerous private organisations, such as political parties, religious communities and orders as well as interest groups, partly financed from public funds.

By way of example of the situation in all nine Laender, statements from the Laender of Lower Austria, Upper Austria, Tyrol, Vorarlberg and Vienna are reproduced below:**Upper Austria**

The social services offered are outlined in the Upper Austria Social Assistance Act 1998 (*Oö. SHG 1998*; Section 12 Personal assistance), in the Upper Austria Minimum Income Act (*Oö.*

BMSG; Section 12: Means-tested minimum income benefits) and the Upper Austria Equal Opportunities Act (*Oö. Chancengleichheitsgesetz*).

The following aspects of social assistance are specifically mentioned:

- activating care and support;
 - mobile care and support;
 - social home care for the ill;
 - short-term nursing care;
 - services provided by partially institutional facilities (e.g. by daytime or nighttime care);
 - lease of medical equipment;
 - physiotherapy and other therapeutic services;
 - food delivery services;
 - measures for supporting those providing care;
 - measures for daytime care and day-structuring;
 - other help to continue with household duties.
- Specific accommodation types with adequate and professional care, especially for chronically ill persons in need of care;
- family assistance, family care and family counselling;
- work assistance and training;
- terminal care.

Pursuant to Sections 30 and 31 *Oö. SHG 1998* as well as Sections 43 and 44 *Oö. BMSG*, the institutions in charge of social assistance and/or means-tested minimum income are responsible for promoting and funding those services.

In order to be able to provide the required counselling, the regional social assistance institutions have to establish decentralised social counselling points pursuant to Section 31 *Oö. SHG 1998*. Such centres were set up all over Upper Austria taking into account the regional requirements, especially with regard to the age structure of the population and the relevant situation of the neighbourhoods, living conditions and transport infrastructure.

The social services offered are independent of the beneficiaries' nationality and can be used by anybody residing in Upper Austria. There is no legal claim to any of the services described. The services can be used only to the extent as sufficient resources are available.

Social services are usually rendered by private welfare organisations, with corresponding agreements being made according to Section 60 *Oö. SHG 1998* in the case of regular assignments.

These agreements lay down the following terms:

- object, type and scope of the services to be rendered;
- the applicable service standards to be met;
- the required qualification of the staff employed by the service provider as well as measures to ensure further training and supervision;
- the remuneration due for the services agreed;
- the duties of the service provider to contribute to the required coordination activities, in particular within the area of a social district (*Sozialsprengel*);
- appropriate measures to safeguard and develop quality standards;
- the required documentation and reporting system as well as appropriate evaluation and controlling measures;

- the obligation to provide appropriate information on the services offered and the applicable terms to those who seek help and want to make use of a service.

The *Oö. SHG 1998* contains provisions on the funding and promotion of some of these services. For other spheres, the authority to provide guidelines has been defined.

Measures to ensure sufficient availability and plans for extending such services are discussed and agreed within the scope of periodic social planning.

The services are provided by skilled staff working in care and nursing professions. The job models are set out in the Upper Austria Social Care Professions Act (*Oö. Sozialberufegesetz – homecare aides (Heimhilfe), skilled social workers with 2 and 3 years of education and training (Fach-Sozialbetreuer, Diplom-Sozialbetreuer)*) and in the Healthcare and Nursing Care Act (homecare workers (*Pflegehilfe*), qualified health workers (*Diplomiertes Gesundheits- und Krankenpflegepersonal*)).

A major factor is the establishment of social counselling points, with the aim to set up one centre in each social district for those seeking help. This goal has been achieved in all districts. The 656 social counselling points provide information on regional and supra-regional support institutions.

Upper Austria maintains a low-threshold contact and service point for drug users and drug addicts. This institution provides primarily services that reduce harm already caused. Ten counselling points providing support in the field of addiction with qualified staff (social workers, psychotherapists, physicians) are open for persons involved in problems with illegal drugs, alcohol, eating disorders and pathological gambling. Substitution therapy is also provided at these points. Drug addiction treatment centres offer 28 therapy places and 68 residential places.

For persons with alcohol problems there are service hours and self-help groups at each District Administration Authority.

The *Institut für Suchtprävention*, an institution run by the Upper Austria branch of pro mente, provides services in the field of preventing addiction, with a staff of specialised employees (peers, family, etc.) and prevention coordinators working on site. The employees are normally responsible for two districts. The aim of the activities is to encourage and foster addicts' personalities and provide tools for conflict resolution. Another approach aims at ameliorating "predisposing structures". Within the scope of the *Oö. SHG* and the *Oö. BMSG* there is also a case management facility for complex issues.

Access to the services

Under the Upper Austria Social Assistance Act (*Oberösterreichisches Sozialhilfegesetz, Oö. SHG*) of 1998, social assistance is granted only to persons who have their factual and lawful abode in Upper Austria. It is not necessary to have a fixed abode in Upper Austria. In this instance, nationality is irrelevant. Nationals of other Contracting Parties to the Charter therefore have access to the social services at the same terms as Austrian nationals.

Under Section 2 Para. 4 of the *Oö. SHG 1998*, the wishes of the persons requiring assistance are to be considered in rendering such assistance to the extent such wishes are reasonable and do not incur disproportionately higher costs. The data obtained in the course of counselling and rendering social assistance are, of course, governed by non-disclosure and data protection provisions and their collection and processing is carried out with due regard to maintaining personality rights. The establishment of social counselling points furthermore facilitated access to the social services while observing privacy rights.

Quality of services

In Upper Austria, mobile social services are rendered almost exclusively by private welfare organisations.

Institutional facilities (in particular old-age and nursing homes), however, are mostly run by institutions in the public sphere (municipalities or regional social assistance institutions). The quality of the services rendered there is monitored, regardless of the institution (public or private bodies), within the scope of home supervision under Section 64 Para. 3 *Oö. SHG* 1998 in accordance with the stipulations of the *Oö. SHG* of 1998 and the Upper Austria Ordinance governing old-age and nursing homes of 1996.

Recent developments and statistics

For the most part, the situation in Upper Austria is presented in the Upper Austria Social Report (*Oberösterreichischer Sozialbericht*).

The current status can be viewed on the website www.pflegeinfo-ooe.at (in German), which is run jointly with an NGO.

Tyrol

Social services are provided by the public authorities and by private providers, partly financed by public funds. In Tyrol, for example, there are specialised social facilities for the elderly (such as residential and nursing homes, senior citizens' social groups, outpatient services), social facilities for persons with disabilities (such as organisations providing support for children with disabilities, preparation for work for people with disabilities, workshops, residential homes, mobile services), social facilities for women (such as pregnancy advisory services, apartments and residential homes for women, advisory centres for women's issues in general), and social facilities for men, the homeless, ex-prisoners, the sick, advice to mothers/parents, family counselling, advice on issues affecting children and young people, crisis intervention centres, street-work and facilities for homeless young people.

One significant change to the legal situation over recent years - in view in particular of the negative conclusion of the Committee on Social Rights (no appeal to an independent body is possible) - is the amendment introduced in 2012 (State Law Gazette no. 150/2012), under which competence for deciding complaints against decisions at first instance was passed to the *Land* Administrative Court. Following this fundamental change in the system of judicial relief under public law, which was implemented in compliance with legislation including Article 6 of the European Convention on Human Rights, complaints submitted/appeals brought are now decided by an independent body.

Effective and equal access

Social services may be accessed free of charge by anybody regardless of their nationality.

Social services are basically provided regardless of the financial situation. In some cases (Section 20 of the Tyrol Rehabilitation Act (*Tiroler Rehabilitationsgesetz, TRG*), Sections 22, 23 of the Tyrol Minimum Income Act (*Tiroler Mindestsicherungsgesetz, TMSG*)), payment of an income-based cost contribution or repayment of the full cost may be required; such cost contribution may be waived for those on a low or no income.

Data protection

The Tyrol Rehabilitation Act and the Tyrol Minimum Income Act lay down provisions relating to the protection of personal data. As well as requiring compliance with the Austrian Data Protec-

tion Act (*Datenschutzgesetz*) 2000, these acts specify that personal data may only be used for the purpose of fulfilling public duties and lay down provisions regarding the transmission of sensitive data. Data protection rules are adjusted on an ongoing basis in light of the outcome of regular reviews of the relevant laws.

Quality of services

The quality of service provision in the social services field, which are provided almost exclusively by the private sector, is ensured by regular reviews and inspections by the authorities.

Mobile services

The mobile nursing and care organisations in Tyrol (62 local health and social care associations, five associations in Innsbruck, two further associations providing childcare and mobile psychiatric care for senior citizens) make up a complex care network ensuring provision of nursing and care at home across the region. To ensure optimal provision to affected individuals and guarantee the quality of services, the province of Tyrol is seeking to further expand its mobile nursing and care service provision.

In 2014, 1,588 people, including 411 certified health workers (*diplomierte Gesundheits- und Krankenpflegepersonen*) were employed by mobile nursing organisations.

In 2015, 3,988 men and 7,146 women, 11,134 people in total, were in receipt of mobile nursing and care

Number of persons in receipt of mobile nursing and care

	2010	2011	2012	2013	2014	2015	Change between 2010 and 2015 in %
Tyrol	8,322	8,295	9,290	10,100	10,605	11,134	33.8%

Residential care

As regards help towards residential care for persons requiring nursing and care and experiencing hardship, accommodation in a residential or nursing home is funded from minimum income benefits if the individual's own resources or entitlements from third parties are insufficient.

Hardship, for the purposes of minimum income legislation, is present when a person resident in a residential or nursing home is unable to cover the resultant accommodation costs from their own resources or from their entitlements from third parties. Alongside current income (e.g. pension, care benefit, etc.), own resources also include assets, movable and immovable property, other assets, and claims against third parties (e.g. maintenance obligation, usufructuary right).

For accommodation in a residential or nursing home, an individual requiring nursing and care must make a personal contribution of 80% of their net pension (excluding special payments) plus the entire amount of their care benefit minus monthly pocket money, and must also enforce any claims they have against third parties and contribute these. They must also contribute their assets in excess of an allowance of EUR 7000 and enforce and contribute other claims against third parties. Costs which are not covered by these sums

will be paid by the province of Tyrol or local authorities. Individuals who receive support in this way are referred to as “*TeilzahlerInnen*” - those who make part-payments. There is no general legal entitlement to these services.

Responsibility for granting residential care assistance for individuals classified as requiring nursing (care benefit paid at levels 3–7) lies with the *Land* government. Responsibility for granting assistance towards residential care for individuals classified as requiring care (no care benefit paid or care benefit paid at levels 1–2) lies with the local authorities.

Number of residential and nursing home places (incl. nursing care with a special focus (*Schwerpunktpflege*))

	2010	2011	2012	2013	2014	2015
Residential home places	1,144	1,101	1,132	1,069	1,059	1,021
Nursing home places	4,410	4,504	4,641	4,836	4,856	5,054
Total	5,554	5,605	5,773	5,905	5,915	6,075

Lower Austria

Information about the social benefits available can be obtained from the District Administration Authorities. The *Laender* also provide extensive information on their websites about the social benefits they offer. Since the 2013 administrative reform, it has been possible to appeal against decisions denying social benefits or awarding social benefits at an insufficient level, e.g. with regard to the minimum income, to the Administrative Courts of the *Laender*. If an individual has resources of their own (income, property, etc.), the value of these is taken into account above a certain threshold. The income threshold is laid down in the *Land* regulations; e.g. regarding the means-tested minimum income this is done in the Ordinance governing allowance for own funds (*Verordnung über die Berücksichtigung von Eigenmitteln*), State Law Gazette 9200/2. In the case of social benefits, to which, in contrast to the means-tested minimum income, there is no legal entitlement, the individual situation of the applicant is determined in “social reports”. It is determined what benefits can be awarded and in what amount, and whether assistance can be given in the form of a non-repayable grant or repayable loan. Instances of discrimination or violation of human dignity can be reported to the Ombudsman’s Board (*Volksanwaltschaft*) and at *Laender* level (e.g. in the case of Lower Austria to the *Land* Equality Officer, to the Monitoring Committee and to the Equal Treatment Committee) for review by these independent bodies.

Vorarlberg

Stateless persons in receipt of the Vorarlberg minimum income are regarded as Austrian nationals for minimum income purposes, and equal treatment is guaranteed.

In Vorarlberg these services are mostly provided free of charge. In some areas individuals seeking help are required to make co-payments where they can reasonably be expected to do so.

Nationals of other Contracting Parties who are lawfully resident in Austria or regularly work here are granted the same access to social services as Austrian citizens.

Vienna

Socially graded contribution to costs:

A key criterion applied by the Vienna Social Fund (*Fonds Soziales Wien*) when determining the amount of contributions to costs is affordability in line with the customers' financial resources. It is ensured that services can be accessed as required by the individual and that the cost contribution paid by customers remains affordable.

The customer's financial situation is taken into account in a number of ways when calculating the cost contribution. For example, individuals in receipt of the pension equalisation supplement, minimum income or another permanent benefit do not make any contribution from their income to the costs of mobile nursing and care services. In addition, the cost contribution per unit of service falls as the number of service units received increases. This ensures affordability even when needs are extensive.

Right of appeal

With the exception of labour market-related measures, responsibility for most of the social services is in the hands of the *Laender*, local and municipal authorities.

Regional differences exist in the quality and quantity of services and the organisational structure within which they are provided. This is partly due to the fact that Austria has one *Land* (Vienna) that is fully urban in structure, whereas the other eight *Laender* only have a few smaller urban areas.

To give an example for the organisation of specific social services, Austria's long-term care system is briefly described below:

Due to the rapidly rising number of very old people, the risk of dependency on care has turned into a growing socio-political challenge. Austria's long-term care system was revised in the 1990s.

In place since 1993, the Federal Long-Term Care Benefit Act (*Bundespflegegeldgesetz, BPGG*) and the related *Laender* acts replaced the previous system of numerous types of cash benefits, which varied both in terms of benefit levels and eligibility criteria. Longer-term plans were established in 1994 for upgrading social services under which the *Laender* agreed to create minimum standards for extramural, intramural and daycare services by 2010. Target attainment has meanwhile been evaluated and the agreed plans are constantly being improved to meet the requirements of new forms of nursing care and of demographic developments.

Under the 2012 amendment of the Long-Term Care Benefit Act, law-making and law enforcement powers have been transferred from the *Laender* to the Federal Government, thus pooling responsibilities for long-term care at the federal level. The *Laender's* previous long-term care benefit acts were repealed on 31 December 2011. This means a reduction in the number of decision-makers from over 300 to seven in 2013 and can thus be considered a pioneering effort in administrative reform. With the Labour Law Reform Act (*Arbeitsrechts-Änderungsgesetz, ARÄG*) 2013 the Federal Long-Term Care Benefit Act was revised and introduced yet another reduction of bodies responsible for long-term care benefit enforcement down to five decision-makers as of 1 January 2014 (PVA, BVA, VAEB, SVB, SVAGW).

Austria's long-term care system comprises two major pillars:

1. long-term care benefit
2. social services.

Pursuant to the Federal Long-Term Care Benefit Act, long-term care benefit at seven levels is granted to persons in need of care independently of their income, their assets and the reasons

necessitating care, and compensation for expenses incurred by the care is provided as a lump sum.

This is a right enshrined in the law for which recourse can be sought before the Labour and Social Court.

The purpose of long-term care allowance is to be able to pay for nursing and care services.

These social services are governed by the laws of the individual *Laender* in the framework of social assistance and are provided by the *Laender* and municipalities. There is no legal claim to nursing and care services because these services are provided within the scope of private-sector management.

As opposed to sovereign administration, where the state acts within the scope of its sovereign powers and, specifically, imposes binding administrative decisions (*Bescheide*), within the scope of private-sector management the state has an administrative function and meets its obligations on the basis of the legal instruments (contracts) available to all.

However, it is worth mentioning that the state is bound by fundamental rights also in cases where it does not act within the scope of its sovereign powers but uses providers under private law to fulfil public-sector responsibilities. This is referred to as *Fiskalgeltung* or fiscal validity. The equality principle (Article 7 of the Austrian Federal Constitutional Law (*Bundes-Verfassungsgesetz, B-VG*)) is of central importance in this context:

Supreme Court of Justice (OGH), 7 Ob 299/00, of 11 July 2001: Where territorial corporate bodies (*Gebietskörperschaften*) act under private law, the relevant private-law provisions are applicable to them, i.e. private autonomy prevails as a general rule. However, Section 16 of the Austrian General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*) introduces the general values of the constitutional fundamental rights to private law, i.e. private autonomy is restricted not only by explicit statutory provisions but also by the equality principle enshrined in the constitution in cases where specific circumstances are present. The constitutional powers of territorial corporate bodies to act under private law (where this is necessary in order to meet their broad range of responsibilities) are therefore limited as they are allowed to act only in the public interest because the fundamental rights are a mandatory proposition for state authorities also if they act under private law.

Please see also the OGH ruling of 28 November 2013, Ob 173/13d: If a service is denied by a government body, reference to a provision in a self-binding law (*Selbstbindungsgesetz*) stipulating that there is no legal claim to such service is not adequate to justify a denial. In fact, there is an enforceable claim vis-a-vis the territorial corporate body on the basis of a self-binding law, unless such a claim is forfeited because the prerequisites stipulated in the self-binding law for rendering the service are not met or, where no such provisions apply, because the denial of the service does not violate in a specific case the equal-treatment principle or the non-discrimination principle for special reasons (RIS legislation RS0117458). With a view to the fiscal validity of fundamental rights and the principle of equal treatment in connection with social services, the Austrian Supreme Court of Justice previously ruled that, in summary, social services may only be denied if this is justified by special subject-matter specific reasons aligned with the legal purpose (1 Ob 272/02k).

The *Laender* can adapt their service portfolio offered to meet regional needs (e.g. by preparing need-oriented schemes and development plans).

By introducing the long-term care fund (in the Long-term Care Fund Act, *PFG*), the Federal Government supports the *Laender* and municipalities in granting earmarked subsidies and developing and expanding the nursing and care services offer in line with actual demand.

The monies drawn from the long-term care fund can be used for the following services:

- mobile nursing and care services;
- fully institutional nursing and care services;
- day-care services;
- temporary care in residential care facilities;
- case and care management;
- alternative forms of living;
- accompanying measures of quality assurance;
- innovative projects.

These services are offered in all the *Laender*, albeit in different forms.

Thanks to the long-term care fund, the offer will be expanded in the next few years and the *Laender* and municipalities will be better able to meet the individual nursing and care needs both of the persons in need of care and their families. Case and care management will be promoted in an effort to draft and offer tailored types of care.

Long-term care services are provided in Austria on a broad scale and at a high level: according to relevant statistics, from a total of 438,000 persons eligible for long-term care allowance (i.e. 5% of Austria's population), an average of 32% were granted mobile services and 16% were taken care of in homes for senior citizens and nursing homes in 2012.

Proof of the superior quality of long-term care in Austria is provided by the project "Quality assurance in domestic care". Since 2001, skilled health workers have made some 20,000 house calls annually to the homes of recipients of long-term care allowance. Analyses suggest that 96% of the people are completely and reliably cared for.

For more detailed information, comments of the individual *Laender* are provided below.

Please note that the accounts of the provision of social services in private-sector management (bound by fundamental rights, ascertaining contractual services) **apply to all the nine *Laender***. They apply also to those *Laender* which do not expressly explain this concept again, namely **Upper Austria and Salzburg**.

Tyrol

Article 14 sets forth the right to benefit from social welfare services (also referred to below as social services). Social welfare services include guidance, counselling, rehabilitation and other types of support by social workers, home care services, residential care facilities and care in social emergency cases.

Guidance and counselling services within the scope of minimum income ("open social assistance" and nursing and care) are offered by several institutions at different levels in Tyrol. The related services are provided either at the level of territorial corporate bodies by the authorities responsible for minimum income, the municipalities and the District Administration Authorities or by publicly funded social welfare associations established under private law.

The individual right to access to guidance and counselling services by social service providers is safeguarded inasmuch as the relevant authorities and associations are open to the public during designated office hours.

Such services are often directly connected to applications for granting minimum income, particularly if these services are drawn from authorities with immediate local or subject-matter competence.

In addition, mention should be made of the fact that any decisions regarding applications for granting assistance by way of minimum income have to be taken in writing, both for services of sovereign and private-law providers. In the case of sovereign services, decisions of the first-instance authority can be challenged by means of a complaint (*Beschwerde*) to be submitted to the (independent) administrative court at the level of the *Land* (Section 31 of the Tyrol Minimum Income Act, *TMSG*). In the field of non-sovereign minimum income measures involving nursing and care (fully institutional, mobile, temporary care and day-care services), the authorities' decisions can be appealed before the ordinary courts.

The Tyrol Non-Discrimination Act (*Tiroler Antidiskriminierungsgesetz, TADG*) 2005 applies to the provision of services within the scope of sovereign administration and within private-sector management by bodies of the *Land*, the municipalities, the local authorities associations as well as the self-government bodies established by state law. The *TADG* also applies to natural and legal persons in connection with activities subject to legislation by the *Land* (Section 1 *TADG*).

Section 3 Para. 1 *TADG* sets forth the general principle of non-discrimination, which according to Section 3 Para. 2 *TADG* 2005 applies in particular to matters involving social protection, including social security and healthcare services as well as social benefits and access to goods and services open to the public.

Since equal treatment of citizens of State Parties to the European Social Charter has been stipulated in Section 3 Para. 2 lit. c *TMSG*, they are not included in the non-discrimination exceptions defined under Section 4 *TADG* 2005.

This means that, in cases of discrimination against a citizen of a State Party to the European Social Charter, this person is eligible according to Section 7 *TADG* 2005 for reimbursement of the financial loss and personal interference with his or her integrity suffered.

A similar approach applies to assistance for people with disabilities. Social workers are employed in all District Administration Authorities, where they do not only play their role as experts involved in reviewing applications for social services but, for instance, also offer guidance free of charge.

Similar to services within the scope of minimum income, assistance for persons with disabilities is approved partly by public bodies and partly within the scope of private-sector management, and recourse can be sought in the same way as described above.

Vienna

Pursuant to Section 22 Para. 1 of the Vienna Social Assistance Act (*Wiener Sozialhilfegesetz, WSHG*), social services are services offered with the aim to meet similar, regular, personal, family-related or social needs of persons seeking help.

According to Para. 2, social services include: home care for the ill, family assistance, help to continue with household duties, general and special counselling, services to promote social contacts and to foster participation in cultural life; recreation for the elderly and persons with disabilities, homes.

The award of social services may be tied to reasonable financial contributions by the recipients and their relatives liable to provide maintenance.

In principle, Austrians, EEA citizens as well as third-country nationals have equal access to the various social services. General counselling is provided to every person seeking help irrespective of their nationality.

Counselling provided by the customer service of the Vienna Social Fund (*Fonds Soziales Wien*) with regard to applying and granting social services is free of charge and unlimited. Customers are involved in decision-making in the framework of case management processes. An action plan is developed jointly with customers in order to meet their specific needs.

As a private-law organisation, the social assistance institution is responsible for the provision of social services.

The social assistance institution is bound by fundamental rights also within the scope of private-sector management. Services granted within the scope of private-sector management have to be accessible to all persons under identical conditions and to the same extent.

Social services are provided as contractual services within the scope of private-sector management. Recourse to the ordinary courts can be sought by the contracting parties in order to ascertain the contractual services.

Lower Austria

Access to social services in Lower Austria is based on private law, i.e. the person seeking help concludes a corresponding service agreement with the social service provider in each case. Access to social services can consequently be deemed equal.

The financial assistance offered by the *Land* is provided by means of private-law supplements granted to the persons seeking help, except in cases of institutional care and assistance to persons with disabilities under medical treatment, assistance with early instruction, education and schooling, assistance with integration into working life, assistance with integration into social life and personal assistance, which are legally enforceable. The legal basis is provided by the Lower Austria Social Assistance Act (*NÖ Sozialhilfegesetz, NÖ SHG*), which provides for equal treatment of foreign nationals and Austrian citizens in Section 4 Para. 2 no. 1 where equality is stipulated in state treaties (such as the European Social Charter). Free counselling and guidance services are offered all over Lower Austria.

In contrast to regulations in sovereign administration, where persons seeking help are required to deal with material as well as procedural regulations, the private-law approach provides low-threshold access to social services and financial support. Applications and/or complaints in the field of private-sector management assistance are not bound by deadlines; services can be granted quickly, easily and retroactively. Services rendered within a private law framework are by far more flexible and can be tailored to the individual's needs, resulting in much more effective solutions in the individual case.

According to the Austrian Nursing Care Report 2012 (*Pflegevorsorgebericht 2012*), a total of 54,127 persons made use of social services (mobile services, services for people in residential care, day-care services, temporary care, case and care management) in Lower Austria in 2012.

As the current system of access to social services is well-established and works properly, changing to a sovereign-administration scheme that would require establishing an approval system for social services as well as creating a corresponding organisational structure at authority-level cannot be justified from an economic point of view.

Carinthia

With regard to the concerns expressed in respect to Art. 14§1, according to which legal remedies have to be available to beneficiaries of social services, specifically in the form of complaints and appeals to an independent body in urgent cases of discrimination against and violation of human dignity, it should be noted that in terms of minimum income benefits to be granted by the *Land* of Carinthia as an entity under private law, a pertinent review by the civil courts is in any case possible and therefore, the criterion of the right to appeal to an independent body is deemed met in the framework of the fiscal validity of fundamental rights and in particular of the equality principle, which was adequately confirmed by the Supreme Court of Justice.

In addition to this option of seeking recourse with civil courts, complaints can be filed with administrative bodies, such as the Ombudsman Board (*Volksanwaltschaft*).

Styria

In principle, social services are rendered by the respective social assistance institution as an entity under private law, i.e. the person seeking assistance has no legal claim to a certain measure. The aim of the regulations in the field of social services is mainly to create an obligation for social assistance institutions, which are responsible for establishing, maintaining and expanding social services to a sufficient extent.

However, social services in the field of long-term care are different in this respect. Mobile care in residential care facilities as well as the supply with nursing care aids and products are classified as services to secure the necessities of life, i.e. there is a legal claim to the related support. Where social services are provided in the form of home care for the ill, mobile care services and accommodation in appropriate residential care facilities, a complaint procedure to be ruled upon in an administrative decision (*Bescheid*) has to be conducted. Within the framework of the Styria Administrative Court Amendment Act (*Steiermärkisches Landesverwaltungsgerichts-Anpassungsgesetz*), the previously two-step administrative procedure was amended to include an appeal to the administrative decision of the competent authority by means of a complaint submitted to the administrative court of the *Land* of Styria.

As in the past, persons in need of assistance may choose to appeal to the Ombudsoffice for Patients and Care (*Patienten- und Pflegeombudsschaft*) as well as to the Ombudsman Board.

Vorarlberg

Similar to Upper Austria, there is a right of appeal to the administrative court of the *Land* of Vorarlberg for cases where eligibility to social services under Vorarlberg state law exists (e.g. eligibility for basic minimum-income benefits according to Section 5 of the Minimum Income Act (*Mindestsicherungsgesetz, MSG*), such as subsistence, accommodation expenses and the costs of nursing and care in a nursing home, if applicable).

For services provided within the scope of private-sector management, civil action can be taken. For instance, if a child's well-being is at risk, it is the *Land* Government's responsibility to provide services to support parenting. Measures of parenting support are granted as parenting support within the family (*Unterstützung der Erziehung*) or full residential care (*volle Erziehung*) on the basis of an agreement, a court order or in case of imminent danger. As child and youth welfare services are provided in the framework of private-sector management in such cases, the only resort is to take the matter to an ordinary court if the services are denied.

In addition, development-fostering and preventive services in the field of child and youth welfare are offered with the aim of supporting and accompanying the entire family (early help, pre-school childcare services and care of school children, prevention of violence and help provided to cope with problematic losses of relationships). At the same time, the *Land* Government is

obligated to provide social services for children and young people, families and guardians or other persons with an intimate relationship. These services aim at promoting childcare and education of children and young people as well as overcoming problems of children and young people and their families. These services are used on a voluntary basis (at the discretion of those concerned).

Within the scope of integration assistance as laid down in the Opportunities Act (*Chancengesetz*), persons with disabilities are offered integration assistance by the *Land* as an entity under private law. According to Section 9 Para. 2 of the Opportunities Act, persons with disabilities can apply for mediation services moderated by a representative of the Ombudsoffice for Patients and Care, if the *Land* Government takes a view different from that envisaged in the application regarding the service to be rendered. Pursuant to Section 3 of the above Act, approvals of integration assistance have to be issued in writing. If an application is denied, or parts of the services applied for are denied, the reasons have to be given.

Within the scope of means-tested minimum income, social services laid down in Section 6 of the Austrian Minimum Income Act (“special services”, previously referred to as “help in special life situations”) are decided upon within the scope of private-sector management.

Upper Austria

Although there is no legal claim to some of the services, this does not mean that they are not governed by acts of law. Rather, statutory provisions with regard to social assistance are contained in the Upper Austria Regulation on Homes for the Elderly and Nursing Homes (*Oö. Alten- und Pflegeheimverordnung*), the Upper Austria Social Assistance Act, the Upper Austria Minimum Income Act, the Federal Long-Term Care Benefit Act, etc. Apart from defining such assistance as a government responsibility, they also safeguard that the required services are provided. In addition, other provisions such as within the scope of the Consumer Protection Act (Section 27b et seq.) apply.

Salzburg

Where the term “social services” refers to mobile, partly and fully institutional services within the meaning of Art. 15a of the Federal Constitutional Law (*Bundes-Verfassungsgesetz, B-VG*) regarding agreements on common measures of the Federal Government and the *Laender* for persons in need of care, the contracting parties undertake to provide the legal resort of filing an action with the competent Regional Court (*Landesgericht*) in its capacity of Labour and Social Court in the case of “benefits in cash”. This does not apply to “benefits in kind - social services”. For this reason, social services such as home care and household support are rendered by the *Laender* within the scope of private-sector management, whereas there is a legal claim to services to secure the necessities of life.

ARTICLE 14§2

Questions 1 to 3

Participation of private welfare organisations in the establishment and performance of social services is supported chiefly by the granting of subsidies from public funds.

A number of social services can be efficiently implemented only by the interplay of private welfare organisations and the social assistance scheme. One example of this would be the meals-on-wheels service in several of the Austrian *Laender*. To organise this service, private welfare organisations and the social assistance bodies entered into agreements to regulate their coop-

eration in that the social assistance scheme, i.e. the welfare office, provides the funding, while the private organisation supplies the staff and is responsible for performing the service subject to predefined principles.

In the same manner, private organisations are used to perform other necessary services. The collaboration between the social assistance bodies and private organisations based on private agreements has produced good results.

Similar working groups are formed in the field of welfare services for the disabled, bringing together private welfare organisations, the public welfare office and the Public Employment Service.

Under the *Laender* Acts private welfare facilities are to be used by the social assistance bodies to contribute to the extent they are suitable and willing and provided that their use appears conducive to achieving the purpose. The state and local governments, in their capacity of private law organisations, can fund private welfare facilities used regularly for cooperation to the extent allowed by their budget.

Some *Laender* are making efforts to activate neighbourly help by financial grants within the scope of social assistance. In this way, the homecare workers service is run in Burgenland, and visiting services are organised in Vienna. For family members contributing to nursing care, a course was set up jointly with the Vienna Red Cross to instruct them on “nursing at home”. This course teaches practical knowledge of use for nursing care.

Another incentive for individuals to participate in the establishment and maintenance of social services is the prospect of an award or distinction. Thus the Social Assistance Act of Vorarlberg provides for the creation of badges and occupational designations for people working in private welfare services. The right to wear such a badge and use such an occupational designation is awarded when a person shows his/her special qualification for service in such a facility by an appropriate training and long practical work.

On 30 July 2011 the Federal Long-Term Care Fund Act (*Pflegefondsgesetz, PFG*) entered into force. This federal act provides the legal foundation for setting up a long-term care fund and an earmarked supplement to the *Laender* for safeguarding the establishment and expansion of support and care-giving service offers from 2011-2014 in the long-term care system.

The amendment of 6 August 2013 to the Federal Long-Term Care Fund Act (*Pflegefondsgesetz*) extended funding for 2015 and 2016 and stipulated a uniform provision target. In connection with earmarked funds to be awarded to the *Laender* from the long-term care fund, the aim is to ensure that nursing and care services in all *Laender* meet the statutory provision target. A review by the Ministry to determine whether earmarked funds are used for designated purposes showed that the provision target was exceeded in all *Laender* in the years 2011 to 2014.

In addition, the *Laender* were given the opportunity to use the earmarked subsidies for innovative projects and quality assurance measures to enable them to meet future requirements and new demands.

The Federal Government, via the long-term care fund, makes a significant contribution to the costs of securing, developing and expanding long-term nursing and care provision by the *Laender* and local governments. Earmarked funds totalling EUR 1.335 billion were provided from the long-term care fund for the years 2011-2016.

A key measure under the government programme for 2013-2018 was that the long-term care fund should be retained and developed as a central pillar for the financing of care by the Feder-

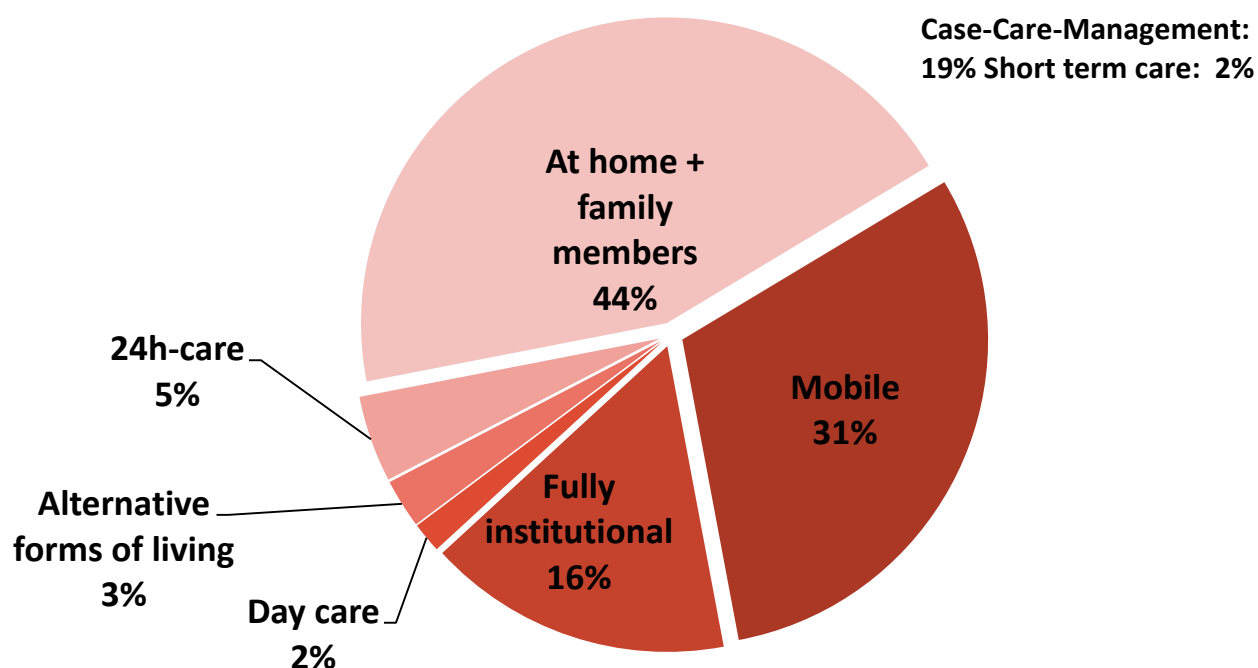
al Government. In agreement with the Federal Minister of Finance, therefore, the long-term care fund is to be extended into 2017 and 2018 and funding of EUR 350 million per year is to be allocated, which will take total funding allocated to the fund since it was established to over EUR 2 billion.

The resources, which are divided among the *Laender* according to population, can be used to provide the following long-term care services:

1. Mobile nursing and care services (including hospice and palliative care)
2. fully institutional nursing and care services;
3. day-care services;
4. Temporary care in residential care facilities;
5. case and care management;
6. alternative forms of living;

Mixed service portfolio 2014: Persons receiving care as a % of recipients of long-term care benefit (rounded figures)

Recipients of long-term care benefit: 454,716 (excluding those abroad)



To improve the transparency, validity and comparability of data concerning long-term nursing and care provision and enable comparative portrayals to be made, in early July 2012, Statistics Austria set up an Austria-wide care services database commissioned by the Ministry of Social Affairs.

The legal basis for establishment of this database was provided by the Ordinance governing care services statistics (*Pflegedienstleistungsstatistik-Verordnung, PDStV*) of 12 September 2012. The Long-Term Care Fund Act requires the *Laender* to enter data concerning service providers into the online application provided by Statistics Austria. Data concerning the following

social services are gathered: mobile, day-care and fully institutional, i.e. residential, nursing and care services for senior citizens requiring care, short-term care in residential facilities, alternative forms of living, case management and care management.

Statistics Austria uses the care services database to produce annual aggregate statistics on care services. These care statistics show the long-term care services provided in the individual *Laender*. (See:

http://www.statistik.at/web_de/statistiken/soziales/sozialleistungen_auf_landesebene/betreuungs_und_pflegedienste/index.html)

Data submitted by the *Laender* are checked for plausibility by the Ministry of Social Affairs.

The care fund report prepared annually by the Ministry of Social Affairs is based on the care statistics and describes in particular changes in the mixed service portfolio and spending in comparison with the previous year.

Additional *Laender*-specific information:

Burgenland

The social services offered in Burgenland include mobile care services and partly and fully institutional care services as well as women's shelters and shelters for persons and families in need (*Sozialhäuser*).

Among the mobile services (help to continue with household duties, personal assistance, care-related services, therapeutic services, general counselling and psychosocial services) only care-related services require the approval of the Burgenland Government; partly institutional services (care and support in the framework of day-care facilities for the elderly and those in need of care as well as persons with disabilities) and institutional services (old-age and nursing homes, accommodation for persons with disabilities) require a foundation and operation permit from the Burgenland Government.

These facilities providing social assistance are subject to supervision by the Burgenland Government; in individual cases the Government authorities may transfer their supervisory responsibilities to the competent District Administration Authority.

Carinthia

The state of Carinthia enters into an agreement with the providers of social services which clearly states the design of the respective social services (content, type and scope of services, quality standards, cost refunding, etc.) and stipulates that only qualified persons employed by the relevant provider may render such services.

The provider must keep client-based performance records and care/nursing documentation which must be opened to inspection by bodies of the Carinthian Social Department at any time.

The agreements also stipulate that if the provider of a social service fails to perform it in the agreed manner or by qualified staff, the state of Carinthia must send a written request to the provider to remedy such faults within a reasonable period. If the provider fails to do so at all or in good time, the state of Carinthia is entitled to terminate the agreement with immediate effect.

Lower Austria

The *Land* subsidises private welfare organisations when this is economically more efficient, e.g. mobile services (socio-medical and social support services, meals-on-wheels, counselling, emergency telephone, day care structures and therapeutic services).

The private organisations are bound by legal provisions and they are supervised by the administration. The *Land* also concludes agreements with the organisations, stipulating in particular access criteria and service standards to be met as well as appropriate evaluation and controlling measures. The *Land* also monitors adherence to the agreement.

Upper Austria

Social services are usually rendered by private welfare organisations, with corresponding agreements being made according to Section 60 *Oö. SHG* 1998 in the case of regular assignments.

These agreements lay down the following terms:

- object, type and scope of the services to be rendered;
- the applicable service standards to be met;
- the required qualification of the staff employed by the service provider as well as measures to ensure further training and supervision;
- the remuneration due for the services agreed;
- the duties of the service provider to contribute to the required coordination activities, in particular within the area of a social district (*Sozialsprengel*);
- appropriate measures to safeguard and develop quality standards;
- the required documentation and reporting system as well as appropriate evaluation and controlling measures;
- the obligation to provide appropriate information on the services offered and the applicable terms to those who seek help and want to make use of a service.

The *Oö. SHG* 1998 contains provisions on the funding and promotion of some of these services. For other spheres, the authority to provide guidelines has been defined.

Measures to ensure sufficient availability and plans for extending such services are discussed and agreed within the scope of periodic social planning.

Within the organisation of associations providing social assistance (regional bodies) representatives of local governments are members in their respective meetings and therefore able to influence at community level the strategies and plans of regional organisations.

The bodies of the regional organisations are also supported in their social planning work by the Expert Conference. This Expert Conference assembles representatives of social service providers and social counselling points as well as representatives of organisations advocating the interests of the elderly and the disabled, which is another way to allow considering the needs of the population.

Social councils are established at *Land* level which advise the government in all matters of essence to social policy. This council includes politicians, representatives of social service providers, experts and, again, representatives of organisations advocating the interests of the elderly.

Salzburg

As the *Land* Salzburg considers itself having a priori obligations to its clients and not necessarily to voluntary associations or any other non-governmental entity, the *Land* is offering a reliable planning environment that helps both: the clients and the voluntary associations. This is ensured by two types of agreement with voluntary associations, NGOs, firms and other entities: There are either law-backed tariffs for standardised services (calculated on a person-by-person basis) or several-year-long contracts (specifying e.g. number of people taken care of etc.). In case of the latter, the entity is entitled to at least 80% of earlier year's funding if a new agreement for the next one cannot be reached.

The *Land* Salzburg ensures that all quality standards are met by making this part of the legal framework surrounding the social and welfare services (e.g. long-term care). Additionally, there are *Land* personnel exclusively dedicated to control those quality standards. Besides that, all services provided, whether administered by the district authorities or not, carried out by specialised organisations, need to be documented and shown to the public officials.

The *Land* Salzburg has launched regular networking events that allow all stakeholders to contribute to public debate: social workers, experts, representatives of clients etc. There is for example a yearly meeting of all those organisations in the city of Salzburg that provide help on the basis of the Salzburg Minimum Income Act.

Styria

The *Land* Government gives financial support to NGOs/projects to strengthen the dialogue with civil society concerning the development of social services (e.g. *ForumTheater – "Kein Kies zum Kurven kratzen"* und "*jung.pleite.abgestempelt ... sucht: das gute Leben!*") and to support voluntary associations.

Tyrol

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

The social and health district authorities form a complex social care network at local authority level in Tyrol.

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

Vienna

Social services are provided within the scope of private-sector management of the *Land* Vienna. The *Fonds Soziales Wien*, an organisation operating on behalf of the *Land* Government and the municipality, is a key player in this field.

In its activities, the *Fonds Soziales Wien* pursues the following development goals:

- collaboration with private organisations in the healthcare and social services sector;
- transparency in the social services sector;
- cost-effective structures;
- continuous improvement of service offers and customer orientation.

On 1 January 2006 the General and Specific Funding Guidelines of the *Fonds Soziales Wien* entered into force, fundamentally changing the structure of social services.

Direct funding of the services of private welfare organisations, which had been common practice up to that time, was replaced by targeted and direct subsidies of subjects, projects and objects.

This new funding model places the persons needing help in the centre of attention (subject funding). Persons seeking help can select one of a number of recognised institutions that provides services tailored to their specific individual needs. Funding is provided to persons in need of nursing and care, who are Austrian citizens or equivalent to Austrian citizens according to the Vienna Social Assistance Act, and who have their principal residence or, in the absence of one, their actual abode in Vienna. The funding granted to the client consists of grants towards the cost for nursing and care, with due regard to the client's financial situation. Operators of facilities for nursing, care, rehabilitation, prevention and health promotion can apply for recognition ("quality seal") under the General and Specific Funding Guidelines of the *Fonds Soziales Wien*. The quality criteria set out in these Guidelines ensure that social dumping by any cheap, low-quality providers is prevented.

In 2010 the *Fonds Soziales Wien* and the *Kuratorium Wiener Pensionisten-Wohnhäuser (KWP)*, one of Austria's largest service providers in the field of nursing and care for senior citizens, jointly founded the *Wiener Schule für Sozialberufe* (Vienna School for Social Professions). The aim of this new education and training institution is to provide high-quality education with a high level of hands-on training to young people who want to become skilled social service workers specialising in working with persons with disabilities, the elderly and families and in accompanying persons with disabilities.

Effective access is granted by the following measures:

- enshrinement in the law, in particular defining the group of eligible persons, personal and factual prerequisites;
- publishing funding guidelines;
- public information campaigns;
- individual counselling for customers;
- staff training;
- setting up case management systems with the goal of planning measures in line with the needs, and putting them into practice;
- continuous evaluation and review of the effectiveness and efficiency of the offers and their implementation in practice;
- establishing supervision by the authorities if tasks are outsourced to private-sector providers.

Vorarlberg

The local social model works principally on the basis of the maxim of “as much as possible by private organisations, as much as necessary by public organisations”. In Vorarlberg the public sector supports and promotes private organisations and initiatives rather than operating as a service provider itself.

Supervision of the service providers is laid down in several laws and is carried out by the *Land* Government. Section 18 Para. 4 of the Minimum Income Act) e.g. sets forth that the *Land* Government has to verify whether professional and appropriate services are rendered in the institutions.

Instances of discrimination or violation of human dignity can be reported to the Ombudsman’s Board (Volksanwaltschaft), to the Equality Officers and the Equal Treatment Committee for review by these independent bodies. Civil action can also be taken (see also comments regarding Art. 14§1 - right to appeal).

ARTICLE 7§10

RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION

Special protection against physical and moral dangers

As regards the alleged violation of Art. 7§10 of RESC:

Art. 7§10 RESC does not necessarily suggest that no exceptions from punishability are allowed concerning pornographic representations of minors. It is important to note that according to Arts. 5 and 8 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography as well as in order to replace the Council Framework Decision 2004/68/JHA, exceptions to the mandatory punishability of certain acts are stipulated, in particular of those that are based on consensus. Austria made use of these provisions and laid down exceptions. It seems odd that a 19-year old female should be allowed to have consensual sexual intercourse with a 17-year old male, whereas consensual possession of pornographic representations of a 17-year old boy is a criminal offence, even if there is no risk of dissemination of the representation. Such a stipulation would infringe the right to private and family life set forth in Article 8 ECHR and seems inappropriate.

However, it remains clear that in many cases the photos of nudes are published on the internet without the consent of that individual and this poses a risk to children. Yet this phenomenon must be seen as separate from the fundamental issue of possessing or producing pornographic images in consensus with a minor. Dissemination as referred to above is a punishable offence under Section 207a of the Austrian Penal Code (*Strafgesetzbuch, StGB*) anyway and may additionally constitute the offence stipulated in Section 107c *StGB* (continued harassment via telecommunications or computer systems).

Young persons are frequent social media users and social media are often crucial in finding a partner and supportive in an individual's sexual identification process. According to an ECPAT study, 33% of all young persons received photos of naked individuals, 16% sent such photos and 51% have met persons who disseminated naked pictures of themselves (ECPAT; <https://www.saferinternet.at/news/news-detail/article/aktuelle-studie-sexting-in-der-lebenswelt-von-jugendlichen-489/> (in German, retrieved on 24 June 2016)). "Sexting" is problematic for several reasons, in particular due to the potential of such intimate messages of being disseminated uncontrollably, and coercion, bullying and similar unlawful conduct being possible consequences. Stringent criminal prosecution of (minor) individuals who only possess or produce naked pictures, however, does not solve the underlying problems. This can be concluded from the fact that, at the time of this study, sexting was still a criminal offence for young persons in Austria. Information, education and prevention as well as criminal prosecution of persons who abuse pictures of others seem to be the most effective means of combating this phenomenon.

It is important to emphasise in this context that awareness of and sensitivity towards this issue has grown over the past few years and the perspective has changed to some extent. ECPAT Austria, for instance, has taken a more diversified stance towards this critical issue: The statement submitted by that organisation in the legislative review process preceding the adoption of the Penal Code Amendment Act (*Strafrechtsänderungsgesetz*) 2015 was in particular instrumental to enlarging the exceptions from punishability under Section 207a (pornographic representations of minors) and consequently contributed to decriminalising the behaviour of young

persons. It would be highly appreciable if discussions of this topic were initiated at international level soon with the aim of interpreting the Charter in accordance with its original intention as regards the protection of children and young persons.