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EUROPEAN SOCIAL CHARTER

26th report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

(Articles 3, 12 and 13 for the period 01/01/2005 – 31/12/2007
Articles 11 and 14 for the period 01/01/2003 – 31/12/2007)

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CYCLE 2009

26th REPORT

presented under the provisions of Article 21
of the European Social Charter,
on Articles 3, 11, 12, 13 and 14

(reporting period: 1 January 2003/2005 to 31 December 2007)

by the

Austrian Federal Government
regarding measures to implement the
European Social Charter,
the ratification instrument of which
was deposited on 29 October 1969.

Pursuant to Article 23 of the Charter, copies of this report were furnished
to:

the Austrian Trade Union Federation,
the Federal Chamber of Labour,
the 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

ARTICLE 3

THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Para 1 of Article 3

Issuance of safety and health regulations

1. General legal framework, reforms:

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.

Länder (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 Bundesgesetz über die Arbeitsinspektion of 1993 (Federal Labour Inspectorate Act; ArbIG), Federal Law Gazette no. 27/1993; most recently amended in Federal Law Gazette I no. 159/2001.

The **Transport Labour Inspectorates**, which are competent to monitor transport companies (railways, post office, boats, airplanes, parts of telecommunications), check observance of workers' health and safety regulations along the same lines as the Labour Inspectorate, based on the Bundesgesetz über die Verkehrs-Arbeitsinspektion of 1994 (Federal Transport Labour Inspectorate Act; VAIG), Federal Law Gazette no. 650/1994; most recently amended in Federal Law Gazette I no. 59/2006.

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.

The following laws and administrative regulations were amended during the reporting period of 1 January 2005 to 31 December 2007:

Labour inspectorate:

Amendments to the ArbeitnehmerInnenschutzgesetz (Workers' Health and Safety Act; ASchG), Federal Law Gazette I no. 113/2006 (effective as of 25 July 2006) and Federal Law Gazette I no. 147/2006 (effective as of 12 August 2006):

The amendment of Federal Law Gazette I no. 113/2006 repealed obsolete provisions. The amendment of Federal Law Gazette I no. 147/2007 was necessary to achieve the complete transposition of Directive 89/391/EEC (EuGH C-428/04), by specifying in detail the hearing and information rights of safety representatives as provided in the Directive. It stipulated that first-aid providers, fire fighters and officers overseeing evacuation must be appointed as a minimum at each workplace. The priority of in-house preventive care was included in the ASchG.

Amendment to the Bauarbeitenkoordinationsgesetz (Act Governing Coordination of Construction Works; BauKG), Federal Law Gazette 42/2007, effective as of 10 July 2007:

For constitutional reasons it was stipulated that the provisions of the BauKG are a federal competence. No changes were made to the content of the Act.

Ordinances issued during the reporting period:

Ordinance to provide for the equal treatment of approval procedures, Federal Law Gazette II no. 43/2005, effective as of 19 February 2005

Ordinance governing drilling works (BohrarbV), Federal Law Gazette II no. 140/2005, effective as of 25 May 2005 (doubling as an amendment of the Ordinance governing explosive atmospheres VEXAT)

Ordinance governing noise and vibrations (VOLV), Federal Law Gazette II no. 22/2006, effective as of 26 January 2006 (doubling as an amendment of the Ordinance governing construction workers protection (BauV) and the Ordinance governing workplace health monitoring (VGÜ))

Ordinance governing documentation of skills (FK-V), Federal Law Gazette II no. 13/2007, effective as of 1 February 2007 (doubling as an amendment of the Ordinance governing construction workers protection BauV, the Ordinance governing the training of safety officers SFK-VO, the Ordinance governing documentation of skills in the preparation and organisation of stage and lighting works Bühnen-FK-V, the Ordinance governing shooting and blasting works SprengV)

Amendments:

- to the Ordinance governing construction workers protection (BauV) by Federal Law Gazette II no. 17/2005, effective as of 22 January 2005
- to the Ordinance governing limit values for materials and carcinogenic substances (GKV), GKV 2007: Federal Law Gazette II no. 243/2007 (effective as of 1 October 2007), GKV 2006: GKV 2006, Federal Law Gazette II no. 242/2006 (effective as of 1 July 2006, doubling as an amendment to the BauV)
- to the Ordinance governing workplace health monitoring (VGÜ) in Federal Law Gazette II no. 224/2007, effective as of 1 March 2008

Provisions affecting federal employees

The following laws were amended during the reporting period of 1 January 2005 to 31 December 2007:

The Bundes-Behindertengleichstellungs-Begleitgesetz (Federal Equal Treatment for People with Disabilities Accompanying Act), Federal Law Gazette I no. 90/2006, substitute the terms "körperliche Eignung" (physical fitness) and "körperliche und geistige Eignung" (physical and mental fitness) used, i.a., in the Bundes-Bedienstetenschutzgesetz (Federal Employees Protection Act) which discriminates against people with disabilities, for the term "fitness in terms of health" and/or the general term "fitness".

In its judgment of 6 April 2006, the European Court of Justice in the case C-428/04 found that the Republic of Austria had failed to sufficiently transpose into Austrian law Council Directive 89/391/EEC of 12 June 1989 on measures to encourage improvements in the safety and health of workers at work. The legal modifications required for federal employees were implemented by the 2007 Dienstrechtsnovelle (Amendment of the Rules Governing Government Employees), Federal Law Gazette I no. 53/2007, in the Bundes-Bedienstetenschutzgesetz (Federal Employees Protection Act). This applies in particular to:

- the obligation to include and hear safety representatives in the event that external experts for preventive action are consulted;
- inclusion and hearing of safety representatives with regard to specified information;
- the obligation to store personal protective equipment at its assigned location after use;
- ensuring that, as a minimum, workers will be appointed as being responsible for first aid, fire fighting and evacuation;
- ensuring that the employer will appoint experts on preventive action primarily within the scope of an employment relationship and will consult external experts on preventive action only if and when its own resources are insufficient;
- creating the legal basis for internal or external care by an occupational physician.

The following ordinances were issued during the reporting period:

- Ordinance of the Federal Government on workers' protection from explosive atmospheres (B-VEXAT), Federal Law Gazette II no. 156/2005
- Ordinance of the Federal Government on workers' protection from noise and vibrations (B-VOLV), Federal Law Gazette II no. 90/2006
- Ordinance of the Federal Government on the health and safety protection of federal employees from electricity hazards (B-ESV), Federal Law Gazette II no. 228/2007
- Ordinance of the Federal Government on the documentation of skills (B-FK-V), Federal Law Gazette II no. 229/2007

Provisions within the competence of the Transport Labour Inspectorate

Amendments (during the reporting period of 2005–2007) to the **Bundesgesetz über die Verkehrs-Arbeitsinspektion** (Federal Transport Labour Inspectorate Act; VAIG), **Federal Law Gazette no. 650/1994**, which provides the foundation for the work of the Transport Labour Inspectorate:

Federal Law Gazette I no. 59/2006:

This amendment specifies, i.a., the duty to report accidents at work in the course of which a person carrying mandatory accident insurance is killed or has become partly or wholly incapable of work for more than three days and which need not be notified to an accident insurer within the meaning of Para 1 of Section 363 of the Allgemeines Sozialversicherungsgesetz (General Social Insurance Act, ASVG). Employers to which the brief of the Transport Labour Inspectorate extends must notify such accidents at work to the Inspectorate not later than five days after their occurrence.

In addition, the amendment waives payment of fees lower than € 50.– for official actions by the Transport Labour Inspectorate.

Federal Law Gazette I no. 83/2006:

Where special statutory provisions require expert opinions or public documents for approval procedures, the Federal Minister for Transport, Innovation and Technology can stipulate by an ordinance how the requirements of workers' protection are to be considered in such expert opinions or public documents and how their observance is to be documented.

Ordinance governing Transport Labour Inspectorate ID cards (VAI-DV), Federal Law Gazette II no. 501/2006

This ordinance enumerates in greater detail the provisions governing the design and content of ID cards for employees of the Transport Labour Inspectorate acting as supervisory and monitoring bodies in implementing workers' protection provisions.

On 1 January 2000, the Ordinance of the Federal Minister of Science and Transport on the protection of workers in the vicinity of railway tracks (EisbAV), Federal Law Gazette II no. 384/1999 entered into force, currently amended in Federal Law Gazette II no. 281/2007.

It specifies safety distances and safe spaces for the construction and layout of railway facilities, with special provisions applicable for tunnels. If any (construction) work is carried out within the safety space of tracks, the employer must specify safety measures in written instructions. Within the safety space of tracks, the employer may deploy only such workers as have been instructed on the hazards of railway operations, and the employer must use a number of workers as required to ensure the safe performance of such work. Specific supplementary regulations are specified for railway work equipment (especially railway vehicles).

Other special health and safety provisions for **railway** workers are included in:

the Ordinance governing engine drivers (TFVO), Federal Law Gazette II no. 64/1999,
the Ordinance governing noise thresholds for rail vehicles, Federal Law Gazette no. 414/1993,

the Ordinance governing streetcars, Federal Law Gazette II no. 76/2000.

More provisions to protect workers' health and safety can be found in the **maritime** field, such as:

Bundesgesetz über die Binnenschifffahrt (Federal Inland Navigation Act; SchFG), Federal Law Gazette I no. 62/1997 as amended in Federal Law Gazette I no. 123/2005.

Ordinance governing the construction, furnishing and fitting of vehicles, except sports vehicles, on inland waterways, Federal Law Gazette no. 450/1993 as amended in Federal Law Gazette II no. 196/1997.

Ordinance governing navigation equipment and other equipment and works at waterways, Federal Law Gazette no. 334/1991 as amended in Federal Law Gazette II no. 249/2005.

Ordinance governing qualification tests for inland navigation (EPVO-BSG), Federal Law Gazette II no. 225/2002.

Bundesgesetz über die Seeschifffahrt (Federal Marine Navigation Act), Federal Law Gazette I no. 41/2005.

Ordinance governing marine navigation, Federal Law Gazette no. 189/1981.

Ordinance governing medical provision on board of sea-going vessels, Federal Law Gazette II no. 365/1998.

Ordinance governing equipment for sea-going vessels, Federal Law Gazette II no. 139/1999, as amended in Federal Law Gazette II no. 394/2003.

Ordinance governing safety requirements for passenger vessels, Federal Law Gazette II no. 150/2000 as amended in Federal Law Gazette II no. 252/2005.

Ordinance governing the training, issuance of certificates and watch spells of sailors (STCW Ordinance), Federal Law Gazette II no. 228/2000, as amended in Federal Law Gazette II no. 346/2005.

Other provisions govern workers' health and safety in **aviation**, such as the Bundesgesetz über die Öffnung des Zugangs zum Markt der Bodenabfertigungsdienste auf Flughäfen (Federal Act governing access to the market of airport check-in services; FBG) as amended in Federal Law Gazette I no. 98/2007.

Ordinance governing the criteria for issuing air operator certificates (AOC) 2004 – AOCV 2004, Federal Law Gazette II no. 425/2004.

Ordinance governing the protection of transport workers (AVO Verkehr)

Federal Law Gazette II no. 422/2006, present version in Federal Law Gazette II no. 57/2008.

The provisions of this Ordinance apply to licensing procedures under the Railway Act, Federal Law Gazette no. 60/1957, and the Cableway Act, Federal Law Gazette I no. 103/2003. The Ordinance determines procedures to check and document observance of workers' protection requirements in approval procedures under the Railway and Cableway Acts. Similarly, compliance with workers' protection provisions must be checked and documented before a licence to operate railways or cableways is issued.

The expert opinions for the building permit and design approval must, i.a., include the following checks of compliance with the workers' protection provisions:

- safety and health documents,
- documentation for later works,
- explosion protection documentation,

- compliance with all workers' protection regulations and other rules to protect workers.

The test certificates for an operating licence must include, i.a., the following:

- certificates on acceptance tests,
- safety marking carried out,
- documents updated,
- observance and implementation of workers' protection regulations and other rules to protect workers.

Ordinance governing protection of railway workers:

- Amendment of the Ordinance governing protection of railway workers EisbAV
Federal Law Gazette II no. 536/2006

This amendment allows doing without escape niches in railway tunnels while at the same time stipulating comprehensive protection measures for construction workers in railway tunnels in its new Section 26a.

The Ordinance essentially sets out measures to protect workers carrying out construction works in tunnels.

- Supplement to the Ordinance governing protection of railway workers (EisbAV)

In Federal Law Gazette II no. 281/2007 two provisions were added to the EisbAV, a collation of protective measures for workers on railway tracks. Existing safety measures for track work carried out by railway companies were extended to track work carried out by third parties (e.g. police). In addition and supplementary to the Ordinance of the Federal Minister of Economics and Labour governing the documentation of skills, it stipulates the need to document competent skills for specified safety-relevant railway work (guards and monitoring along the tracks, operations manager for private sidings). The stipulated training periods mostly follow existing internal regulations of the railway companies.

The Ordinance of the Federal Minister for Transport, Innovation and Technology governing the minimum crew for marine vessels, Federal Law Gazette II no. 518/2004, which was drafted together with the Transport Labour Inspectorate, stipulates that licensing procedures for marine vessels must determine the minimum crew on the basis of the safety and health documents to be submitted and the operating mode applied for, taking into account the working hours regulations. This Ordinance entered into effect on 1 January 2005.

The most important regulations in the railway sector in terms of workers' health and safety are described in information brochures drawn up by the Transport Labour Inspectorate and published by the Railway and Mining Insurance Institute. These brochures provide the latest updates on laws as well as comments on workers' protection to employers, employees, government authorities, interest groups and works councils.

Provisions for farming and forestry

The legal framework for health and safety at work in farming and forestry operations is provided in the 1984 Landarbeitsgesetz (Farming Act; LAG), Federal Law Gazette no. 287/1984 as amended.

During the reporting period, work was carried out to adjust and implement provisions regarding employee retirement and severance pay schemes, continued pay, pro rata payment of the holiday bonus, part-time employment of parents, the definition of employment periods and activities of the experts for preventive action, and work and rest periods.

In line with the basic law provisions of the LAG, these amendments were also implemented in the executory laws of the *Länder* (Landarbeitsordnungen (Farming Work Codes) and Land- und Forstarbeitsgesetz (Farming and Forestry Work Act)). Detailed regulations were implemented through ordinances for these laws at *Länder* (state) level. To give an example, the following ordinances were thus issued or amended in Upper Austria during the reporting period:

- Upper Austrian Ordinance governing limits for working substances in farming and forestry, Provincial Law Gazette no. 106/2002, most recently amended in 121/2007,
- Upper Austrian Ordinance governing work places in farming and forestry, Provincial Law Gazette no. 5/2005,
- Upper Austrian Ordinance governing explosive atmospheres in farming and forestry, Provincial Law Gazette no. 56/2005,
- Upper Austrian Ordinance governing the protection of farming and forestry employees against noise and vibration hazards, Provincial Law Gazette no. 121/2006,
- Upper Austrian Ordinance governing work equipment in farming and forestry, Provincial Law Gazette no. 136/2006,
- Upper Austrian Ordinance governing health monitoring in farming and forestry, Provincial Law Gazette no. 31/2007.

2. Measures taken to implement the legal framework:

Labour Inspectorate:

In 2006, the Labour Inspectorate focused on the subject of accidents at work and factors affecting such accidents. It investigated more than 600 accidents at work that had occurred between January and June 2006, all of them accidents to which the reporting duty applied (i.e. the person suffering the accident was unable to work for longer than the next three days).

A serious accident at work is one where the person suffers a serious bodily injury. Of the accidents collated, 10% were suffered by temporary agency workers ("leased workers"). Considering that just about 2% of all workers are temporary agency workers, their 10% share in accidents translates into an accident risk that is almost five times higher than that of normal workers. Twenty percent of the accidents occurred in the evening or at night (6 pm to 6 am). The investigation aimed to find whether operations had workers protection systems installed and if so what type they were. One finding of the study was that the reporting of near accidents depended especially on the scope of instructions given to workers.

Safety representatives (Sicherheitsvertrauenspersonen; SVP) are workers who have been given at least 24 hours of workers' health and safety training. For this reason, and also because they are directly involved in the operations, they are best positioned to identify problems in their sphere of action and contribute to their solutions.

In order to illuminate the work carried out by the safety representatives and their inclusion in the operational structure, the Labour Inspectorate organised a concerted action in 2007 the result of which was summarised in a report. To give but two findings of this report: 89% of the operations investigated had a sufficient number of safety representatives; 11% had appointed an insufficient number or no safety representatives at all. The number of female safety representatives (12%) does not even come close to the number of female workers (31%). The project accorded particular attention to the rate of participation and contribution of safety representatives.

Reply to the additional questions on Para 1 of Article 3 of Conclusions XVIII-2:

Asbestos:

Have the new workplace limit value and the minimum health and safety measures of Directive 2003/18/EC been transposed?

The provisions of the asbestos directive 83/477/EEC and the two amending directives 91/382/EEC and 2003/18/EC have been fully transposed into Austrian law through the following regulations to protect workers: ArbeitnehmerInnenschutzgesetz (Workers Protection Act; ASchG), the 2007 Ordinance governing limit values (GKV 2007) and the Ordinance governing health monitoring (VGÜ).

Workplace limit value

	Directive 2003/18/EC	Austrian Ordinance governing limit values of 2007 – GKV 2007
Definition of fibres	Length > 5 µm Width < 3 µm Ratio of length to width > 3:1	Length > 5 µm Diameter < 3 µm Ratio of length to diameter > 3:1
Permissible asbestos fibre concentration in the air (8 hours)	< 0.1 fibres per cm ³	< 100,000 fibres/m ³

Ionising radiation:

Between 1 January 2005 and 31 December 2007 the **Strahlenschutzgesetz** (Radiation Protection Act; StrSchG), Federal Law Gazette no. 227/1969 as amended in Federal Law Gazette I no. 13/2006, underwent one minor amendment.

The Ordinance governing general radiation protection (**AllgStrSchV**), Federal Law Gazette II no. 191/2006, entered into force on 1 June 2006. Also in 2006, an Ordinance to protect air crew against cosmic radiation (FIP-StrSchV), Federal Law Gazette II no. 235/2006, and an Ordinance governing fees for radiation protection passes, Federal Law Gazette II no. 234/2006, were completed and became effective on 1 July 2006.

In 2007, an Ordinance governing intervention (IntV), Federal Law Gazette II no. 145/2007, was issued which regulates health protection of individuals against the risks of ionising radiation in the event of radiological emergencies or constant exposure due to the consequences of a radiological emergency or due to earlier handling of or working with radiation sources. This Ordinance transposes Title IX of Directive 96/29/EURATOM and Directive 89/618/EURATOM.

In addition, an Ordinance to protect against the hazard of natural terrestrial sources of radiation (NatStrV), Federal Law Gazette no. II 2/2008, was issued which became effective on 1 January 2008.

It should also be noted that the transposition of Directive 2006/117/EURATOM has been started.

Ordinance to protect air crew against cosmic radiation (FIP-StrSchV), Federal Law Gazette II no. 235/2006:

The Ordinance was issued by the Federal Minister for Agriculture, Forestry, Environment and Water Management in agreement with the Federal Minister for Transport, Innovation and Technology and the Federal Minister of Defence in order to transpose into Austrian law Articles 40 and 42 of Directive 96/29/EURATOM laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation.

As specified in Para 14 of Section 2 Radiation Protection Act, it regulates the protection of the life and health of air crew and their descendants against damage caused by cosmic radiation during flights.

The Ordinance specifies the maximum permissible effective dosage and the key obligations of the aircraft operators (including their information obligations) vis-à-vis their air crew.

It also describes provisions regulating approval of analysing stations, physical monitoring and medical examinations.

The Ordinance entered into force on 1 July 2006, while the aircraft operators' obligations to carry out physical checks and medical examinations became effective on 1 January 2007.

Self-employed (negative conclusion):

As already pointed out in the previous reports, self-employed persons are not covered by the provisions of workers' protection laws as the latter aim to accord

protection to dependently employed individuals, i.e. people who are in a dependent relationship with their employers. When it comes to the self-employed, legislators assume that they are generally able to look after themselves.

Nevertheless there are legislative provisions to regulate the protection of:–

- employees who work side by side with the (self-employed) owner of a plant – employees protection laws;
- employees who work side by side with self-employed persons on construction sites and in plants – employees protection laws;
- (self-employed) owners of small businesses who work in a plant using dangerous machines, equipment and systems – Industrial Code;
- third parties such as family members, neighbours and customers – Industrial Code.

In its comment, the Committee on Social Rights points out that the work of the self-employed may damage not just their own health but also that of employees and third parties. Comprehensive protective regulations have been drawn up both for employees working side by side with self-employed and for third parties (see explanation in the 24th report), also in the high-risk construction sector.

With regard to protecting the self-employed working in a plant, the Industrial Code stipulates ways and means to reduce the hazard for the self-employed through the equipment provided for such plant. Non-compliance with the stipulations by the regulatory bodies constitutes an administrative offence. In order to obtain the licence for a plant, a major approval procedure must be passed.

As is stated in Para 1 of Section 77 of the Industrial Code (GewO) a plant may be licensed for operation only when, based on the state of the art of technology, medicine and other applicable sciences, it can be expected that any danger within the meaning of Section 74 (2) 1 GewO (endangering the life and health of the owner) can be averted.

Where necessary, the supervisory authority issues stipulations tailored to the plant conditions which can be expected to prevent any danger to the life and health of the owner. Such measures must be based on an expert opinion furnished by the official safety expert.

If such measures cannot assure that the owner's life and health will be protected, the plant must not be licensed.

Seen in this context, the provisions to protect the self-employed as well as employees and third parties are adequate. Any further extension of workers' protection regulations to the self-employed is rejected by their representatives, as has already been outlined in the 24th report.

Furthermore, reference is made to the following regulations and measures:

The General Social Insurance Act (ASVG) and the Social Insurance Act for Farmers (BSVG) set down the responsibilities of the accident insurance providers with regard to preventing accidents at work and occupational diseases of the self-employed.

These include in particular:

- publish information to prevent accidents,

- provide advice and training to the insurees,
- investigate the causes of accidents at work in order to encourage prevention,
- provide preventive care to insurees at risk of suffering from occupational diseases.

The accident insurance providers are thus obliged under the law to make preventive services available to the self-employed.

Information and advice, training:

Information and advice are given to the self-employed by:

- accident insurance providers, and
- their lobbies, such as the Economic Chamber.

Their information typically comes free of charge, such as information sheets by Allgemeine Unfallversicherungsanstalt and Sozialversicherungsanstalt der Bauern, and can also be found on their web sites.

Allgemeine Unfallversicherungsanstalt – AUVA: <http://www.auva.at>

Sozialversicherungsanstalt der Bauern – SVB: <http://www.svb.at>

The Allgemeine Unfallversicherungsanstalt AUVA has created a web site together with employers' and employees' organisations that provides in-depth information on the risks to safety and health at the workplace and which can be used to identify and assess hazards at work. This web site is available to all interested parties at <http://www.eval.at>.

Within the scope of their membership in the Austrian Economic Chamber, the self-employed can avail themselves of its advisory services. As a special service to entrepreneurs, the Economic Chamber offers advice on health and safety at the workplace. For more information see <http://www.unternehmerservice.at>.

The Sozialversicherungsanstalt der Bauern organised a concerted safety action in 2003 and 2004, under the title of "Mit Sicherheit gut beraten" (Safe advice). In 2005, it launched a scheme entitled "Gefahrstoffe in der Land- und Forstwirtschaft" (Toxic substances in farming and forestry) focusing on dangerous substances in farming and forestry, drawing up a large range of information materials such as films and information sheets used in lectures, training courses and trade fairs; cf. i.a. <http://www.svb.at/mediaDB/110203.PDF>.

For 2007, it concentrated on a new scheme to counteract stress, known as "Entspannt durchs Leben – oder Stress" (Relaxed living – or stress).

Health monitoring:

The cost of health monitoring activities in Austria are borne by the social insurance providers in accordance with the provisions of the relevant social insurance laws.

The Allgemeine Unfallversicherungsanstalt AUVA covers the cost of health monitoring for the self-employed under the motto of "Gleiche Gefahr – gleicher Schutz" (Same hazards – same protection).

Para 2 of Article 3

Measures to check compliance with these regulations

1. Enforcement of safety and health regulations

No major changes.

2. Figures and statistics

Labour Inspectorate

Workplaces, construction sites and external work sites checked

Between 2005 and 2007, the number of inspection visits to workplaces (including federal offices) and enterprises at construction sites and external work sites declined from 70,201 to 65,407. Excluded from inspection visits are plants and work sites supervised by the Farming and Forestry Inspectorates and the Transport Labour Inspectorate, administrative employees of the states, of associations of local governments and of local governments, educational institutions run by the states and local governments, religious institutions of the legally recognised churches and religious communities, and household helpers working in private households.

Inspection visits made in 2005–2007

Year	Workplaces inspected	Enterprises inspected at construction sites and external work sites	Total	Percentage of inspected workplaces* [%]
2001	58,032	14,691	72,723	25.7
2002	57,504	13,485	70,989	25.2
2003	56,691	15,439	72,130	24.7
2004	56,676	14,705	71,381	24.5
2005	55,879	14,322	70,201	24.0
2006	50,910	13,132	64,042	21.6
2007	52,025	13,382	65,407	21.9

* Percentage of workplaces within the Labour Inspectorate's sphere of competence.

Inspections carried out

Between 2005 and 2007, the number of inspection visits declined from 97,333 to 92,733. At the same time, other activities (e.g. cooperation with government authorities and other agencies, participation in conferences and training courses) recorded a sharp increase, from 13,673 to 20,427.

Year	Inspection visits to workplaces	Inspection of construction sites and external work sites	Total ⁾
2001	81,137	18,407	99,544
2002	80,580	17,118	97,698
2003	79,770	19,574	99,344
2004	81,356	19,168	100,524
2005	79,295	18,038	97,333
2006	74,236	16,341	90,577
2007	76,179	16,554	95,444

⁾ Excluding checks of drivers.

Proportion of employees covered by inspection visits

During 2005–2007, the number of employees at the workplaces, construction sites and external work sites inspected was slightly down, from 1,335,785 to 1,319,366, as shown in the table below. Similarly, the proportion of employees working at inspected workplaces also declined slightly, from 47.3% to 45.6%.

Year	Employees inspected at			Proportion of employees at the inspected workplaces * [%]
	workplaces	construction sites and external work sites	total	
2005	1,267,612	68,173	1,335,785	47.3
2006	1,229,138	60,384	1,289,522	45.2
2007	1,254,386	64,980	1,319,366	45.6

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

Complaints

The following table shows that the number of infringements declined from 77,363 to 68,908 between 2005 and 2007.

Year	Infringements ¹⁾
2001	74,258
2002	73,131
2003	83,144
2004	82,957
2005	77,363
2006	67,870
2007	68,908

¹⁾ Including persons enjoying special job placement protection, excluding checks of drivers.

Sectors in which infringements were found

During 2005–2007, most infringements and transgressions were found in the following sectors:

	2005	2006	2007
Construction	19,033	18,371	16,841
Trade; maintenance and repair of cars and durables	17,387	14,151	15,280
Hotels and restaurants	9,890	8,718	9,204

Measures

Apart from according priority to advising operations on how to eliminate abuses, the Labour Inspectorate sent them written requests to remedy faults and, where necessary, filed a complaint with the administrative authorities. Reflecting the decline in the number of infringements, the number of written requests similarly fell between 2005 and 2007, whereas the number of complaints filed showed a slight increase.

Year	Requests ¹⁾	Complaints ¹⁾
2005	22,229	1,971
2006	20,947	1,955
2007	20,653	2,031

¹⁾ Including persons enjoying special job placement protection.

Accidents at work and occupational diseases in general

The following table illuminates 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):

	1990	1995	2000	2004	2005	2006	2007
Recognised accidents at work (except accidents on the way to or from work)	155,112	138,128	110,429	103,487	103,029	106,768	99,694
of which fatal	195	161	135	132	124	107	108
Rate of accidents at work ¹⁾	623	535	412	389	385	393	359
Recognised cases of occupational disease	1,913	1,308	1,136	1,100	1,146	1,199	1,253
of which fatal	14	7	13	62	58	72	61

¹⁾ Recognised accidents at work in terms of the annual average of accident insurees (x 10,000).

Source: AUVA.

Between 2005 and 2007, the number of **accidents at work** suffered by dependently employed persons and recognised by AUVA (excluding accidents on the way to or from work) thus declined from 103,029 to 99,694, while the accident rate (in terms of 10,000 workers) fell from 385 to 359. There was a similarly sharp decline in the number of fatal accidents at work, from 124 to 108. The highest accident rates in 2007 were recorded by the construction sector (866), the wood-working sector (excluding furniture; 692) and the metal production and metal-working sector (616).

In contrast the number of **occupational diseases** recognised by AUVA rose slightly, from 1,156 to 1,253. The highest absolute figures for cases of occupational disease in 2007 were found in the construction sector (246), metal production and metal-working (135), and other public and personal services (80).

Yet seen from a middle-range perspective, the trend is quite good for occupational diseases as well, since they have declined by 34.5% since 1990. If we look at the development in 2005–2007 (+107 or +9.3%) broken down by types of occupational disease, the highest absolute growth rates were recorded for noise-caused hearing damage (+273).

Transport Labour Inspectorate

Workplaces and plants checked and inspections carried out

	Total inspections	Plants and workplaces inspected
2005	905	548
2006	976	571
2007	1,044	620

Employees covered by inspections

	Employees covered by inspections	Proportion of employees covered by inspections
2005	37,014	29%
2006	45,388	35%
2007	44,403	36%

Complaints, broken down by enterprises/transport sector

	Complaints		
	2005	2006	2007
Primary and secondary railways	704	1,134	869
Streetcars	27	23	57
Cableways	561	578	673
Non-public railways	82	64	76
Sleeping and dining car operators	36	10	35
Post office	344	265	201
Telecoms	448	624	630
Marine	36	61	247
Aviation	98	89	86
Total (of all transport sectors)	2,336	2,848	2,874

Measures taken, including recourse to courts

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

	Requests	Complaints filed
2005	193	3
2006	366	1
2007	409	4

Statistical information on accidents at work

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
2005	4,633	7
2006	4,019	5

2007	4,443	9
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The rise in the number of accidents reported in 2007 is the consequence of additional reporting duties newly introduced by the VAIG Amendment of 2006.

Specifically, the civil servants employed by WIENER LINIEN GmbH & Co. KG were included for whom there had previously been no reporting duty for accidents at work through the accident insurance company and where such accidents now need to be reported directly by the transport company.

If the accidents derived from the new reporting duties were left out, their number would have slightly declined over the previous year.

Over the past ten years, the accident rate (accidents per 1,000 employees) dropped from 45.0 (1997) to 36.1 (2007), a decline of 20% over the period of observation.

The work reports by the Transport Labour Inspectorate can be downloaded at

<http://www.bmvit.gv.at/verkehr/vai/taetigkeitsberichte/index.html>.

Farming and Forestry Inspectorates

A regular item in the EU annual reports, the Farming and Forestry Inspectorates established at the offices of the provincial governments had an average of 17 inspectors on their rolls in 2005–2007. On average, just over 16,000 operations with employees were scheduled for inspections which covered some 60,000 employees.

Year	Inspectors	Full-time equivalent	Scheduled operations	Employees covered
2005	16	10.5	16,583	59,352
2006	17	10.5	16,568	61,162
2007	17	10.5	16,104	61,433

During the same period, an average of 2,347 inspections were carried out per year, and 1,392 written remedial instructions were issued.

Year	Inspections	Requests	Complaint filed	Immediate measures
2005	2,308	1,441	1	0
2006	2,014	1,218	1	1
2007	2,719	1,518	2	0

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

Year	Employed family members			Employees		
	Accident	Occupational	Fatal	Accident	Occupational	Fatal

	at work	disease		at work	disease	
2005	5,245	98	74	1,704	22	11
2006	5,069	169	69	1,801	24	8
2007	Not yet available					

Reply to the additional questions on Para 2 of Article 3 in the Conclusions XVIII-2:

Accidents at work and occupational diseases (negative conclusion, i.e. the Charter is not complied with):

Labour Inspectorate

According to EUROSTAT, the figures and rates for accidents at work developed as follows between 2003 and 2005 (2006 not yet available):

	1995	2000	2003	2004	2005
Accidents at work ¹⁾ Austria	174,044	100,089	88,792	88,398	85,501
EU (15 countries)	4,820,451	4,815,629	4,176,286	3,976,093	3,983,881
Incidence rate ²⁾ Austria	5,451	3,056	2,629	2,731	2,564
EU (15 countries)	4,266	4,016	3,329	3,176	3,098
Fatal accidents at work ³⁾ Austria	182	146	145	152	138
EU (15 countries)	3,092	2,631	2,410	2,285	2,226
Incidence rate ³⁾ Austria	6.7	5.1	4.8	5.4	4.8
EU (15 countries)	3.7	2.8	2.5	2.4	2.3

¹⁾ All NACE categories.

²⁾ Standardised incidence rate (accidents at work/gainfully employed x 100,000) for the nine main categories A and D-K.

³⁾ Excluding road traffic accidents and accidents within means of transport of all kinds during work; eight main categories A, D-H, J, K.

Source: EUROSTAT.

Between 2003 and 2005, the **total figure for accidents at work** in Austria thus declined from 88,792 to 85,501 (a minus of 3.7%) while the incidence rate dropped from 2,629 to 2,564 (-2.5%). With this, the Austrian incidence rate in 2005 was 17.2% below that for the EU in general (3,098), ranking Austria (regardless of the data source) fifth among the 15 member states and even second among the ten states that report the accident at work insurance data to EUROSTAT, just behind Greece (1,626). The successful efforts of Austrian labour inspectorates, in the form of monitoring and consulting to ensure that health and safety at work regulations are complied with and thus cut down on the number of accidents at work, are evidenced by the fact that both the number of accidents at work and the incidence rate since

1995 have declined in Austria at a much faster pace (-50.9% and -53.0%) than in the EU in general (-17.4% and -27.4%).

As regards **fatal accidents at work**, the above table illustrates that they declined from 145 in 2003 to 138 in 2005, a reduction by 4.8%, while the incidence rate remained virtually unchanged at 4.8. With this, Austria is clearly above the EU average (2.3) and has the second-highest incidence rate after Portugal (6.5%).

The high number and incident rate of fatal accidents at work are the result chiefly of two factors: first, the high number of the fatal accidents at work published by EUROSTAT for Austria is a statistical artefact inasmuch as the EUROSTAT questionnaire for calculating and specifying fatal accidents at work (Table 1e) was incorrectly filled in by the Sozialversicherungsanstalt der Bauern, which did not exclude traffic accidents and thus declared all fatal accidents at work as non-traffic accidents. AUVA, which is represented in the EUROSTAT working group, has promised to correct these data.

A second factor for the high number of fatal accidents at work in Austria is that the ESAW methodology includes all accidents at work that cause death within one year, while Austria does not limit the time span between the date of the accident and the date of death and reports all fatal accidents at work regardless of when death occurs, similar to Belgium, Greece, Italy, Luxembourg and Sweden. In contrast to this, the Netherlands report only accidents that lead to death on the same day; Germany reports those that cause death within 30 days, Spain reports those that lead to death within 18 months and France does not report deaths that occur after the victim has been recognised as suffering from a permanent invalidity.

Seen in the medium run, Austria has certainly been successful in combating fatal accidents at work, as evidenced by the fact that since 1995 the number of fatal accidents at work has declined by 24.2% (EU: -28.0%) and the incidence rate by 28.4%. Especially within the scope of implementing the new community strategy for health and safety at work (2007-2012) and the relevant national focus efforts, Austria will continue to extend its efforts to reduce accidents at work, and in particular those that are fatal.

Transport Labour Inspectorate

The growth in the number of reported accidents in 2007 is the result of the additional reporting duties introduced by the VAIG Amendment of 2006 (see above).

Farming and Forestry Inspectorates

Farming and forestry do not show any increase in the number of fatal accident at work over the past five years. Nevertheless, a substantial rise in fatal accidents at work is expected for 2007, due mostly to the especially dangerous work in clearing up areas of windfall and damaged timber.

Activity reports:

The activity reports of the **Labour Inspectorate** can be downloaded from the homepage of the Federal Ministry of Economics and Labour at:

<http://www.bmwa.gv.at/BMWA/Schwerpunkte/Arbeitsrecht/Arbeitsinspektion/default.html>

The reports by the **Transport Labour Inspectorate** are available from:

Para 3 of Article 3

Consultations with employers' and workers' organisations

1. Consultations with employers and workers organisations

Previous reports are updated as follows:

Consultations not obligatory under the law

The **Health and Safety at Work Strategy of 2007–2012** was launched with a view to coordinating activities by the relevant players in the field of workers' protection. It is based on the annual work schedule of the Labour Inspectorate, international guidelines (ILO) and, specifically, the EU common strategy 2007–2012 (Communication by the European Commission and Council Resolution).

The strategy encompasses representatives of institutions that are directly or indirectly involved in the field, such as ministries, state governments, accident insurers, the social partners, interest groups, universities, businesses, associations, etc.

The joint planning that goes into the National Health and Safety at Work Strategy aims to make optimal use of the time and staff resources at each institution, to encourage an exchange of know-how and information and set up networks and cooperations. Many factors, such as the demographic change seen in the working world (ageing-friendly work), new employment trends (the new self-employed, migrants, teleworking, etc.), economic incentives for workers' protection, rehabilitation and reintegration of workers, etc., are considered in implementing the projects under the strategy, and measures are taken that aim to reduce the incidence rate of accidents (by 25% throughout the EU), cut down on occupational diseases and work-caused illnesses.

Core elements of the Health and Safety at Work Strategy

- Improve and adapt the health and safety at work laws;
- properly implement the workers' protection rules;
- include workers' protection in the education and training systems (schools, senior technical colleges, universities);
- improve the quality of and access to preventive services;
- support SMEs through the provision of easy-to-understand information and hands-on guidelines.

Objectives of the Health and Safety at Work Strategy

- Reduce incidence rate of accidents at work;
- reduce occupational diseases and work-caused illnesses;
- supply labour inspectorates with pertinent resources;

- provide support through public health measures and the promotion of in-plant health schemes.

Implementation of the Health and Safety at Work Strategy

- Consideration of demographic change and new employment trends (self-employed, migrants, etc.);
- better health monitoring, rehabilitation and reintegration of workers;
- coherent health and safety at work and employment policies;
- health and safety at work skills training;
- dissemination of best practices;
- development and dissemination of guidelines and simple tools;
- access to qualified specialists in preventive care;
- economic incentives;
- measurable goals to reduce accidents at work and occupational diseases, especially in high-risk sectors;
- effective enforcement of workers' protection by the monitoring bodies.

2. Measures taken to implement the consultations

Work to develop the Health and Safety at Work Strategy 2007–2012 commenced in April 2007. Following initial preparatory work (contacting the social partners, social insurance organisations and other interest groups; drafting proposals for the content and implementation of the strategy), the committee decided in June 2007 to start upon work for the strategy.

An expert committee was appointed to work on the content of the strategy and accompany the process. Working panels were set up on four subjects, each made up of representatives of the ministries, social partners and social insurance organisations. Concomitantly, a labour inspectorate strategy group was established that combines the heads of the regional labour inspectorates, of the Occupational Medicine Service and the gender mainstreaming officer at the Labour Inspectorate.

The working panels launched their activities in October 2007.

ARTICLE 11

THE RIGHT TO PROTECTION OF HEALTH

Para 1 of Article 11

Measures to remove the causes of ill health

1. General public health policy, legal framework, reforms

Previous reports are updated as follows:

The bodies charged with executing measures within the health care system are structured to reflect the federal structure of the Republic of Austria.

The health care system as understood by the Austrian constitution comprises all measures that foster public health. These include all measures to preserve and protect the population's health, including measures to prevent and combat contagious diseases and endemic diseases.

Under the Austrian constitution, legislative and executive powers with regard to the health care system are a federal competence, with the exception of matters pertaining to local medical services, ambulances, corpses, burial, hospitals and nursing homes, natural spas and health resorts. Regarding hospitals and nursing homes, health resorts and natural spas, the federal government is competent only to pass basic laws and to exercise sanitary supervision, while executory laws and execution are within the competence of the *Länder* (states).

At state level, federal responsibilities in the field of health care are executed by the governor and the bodies reporting to the governor. For its executive responsibilities, each state has set up an office of the provincial government, within which one department is competent for health care, headed by a medical officer (Landes-sanitätsdirektor) and staffed with the requisite specialists. At a lower state level, health care administration is run by district administration bodies (magistrates in statutory cities and district commissioners). Each district commissioner and magistrate is provided with a public health officer and specialist staff.

Matters of local health administration, especially with regard to emergency and rescue matters, ambulances, corpses and burial, are handled by local governments within their own sphere of action but in accordance with the federal and state laws. Local governments must appoint a local public health officer either on their own or in combination with other local governments (district physician).

Health services run by the state and local governments are generally offered for free, although some bodies charge cost contributions. Health services offered by the social insurance institutions can be used by their insurees either at no cost or against a small cost contribution.

Privately run hospitals are not always profit-oriented. Some of them are of the non-profit types (e.g. those run by religious denominations) and are largely financed from public funds or are operated by the social insurance institutions themselves (e.g. rehabilitation centres).

Special treatment is typically obtained at general hospitals that have specialised in some subfield, such as cancer, pulmonary diseases and psychiatric treatment. Within

the scope of reforming the psychiatric sector a process was initiated in 1999 that aims to decentralise emergency in-patient psychiatric treatment and integrate it in the general health services. Similarly, follow-up care, especially in neurology, is frequently provided by general hospitals.

In view of the spread of competences, the large number of financing bodies and the mixed funding system (contributions from social insurance and tax revenues), the federal and state governments regularly enter into agreements under Article 15a of the Federal Constitution Act B-VG, to regulate hospital financing and agree on the structural development, organisation and financing of the health system. To this end, the so-called Österreichischer Krankenanstalten- und Großgeräteplan (Austrian schedule for hospitals and major equipment; ÖKAP/GGP) was agreed for 1997–2005. In 2006, this schedule was replaced by the Österreichischer Strukturplan Gesundheit (Austrian structural plan for health; ÖSG 2006) which is the first plan to encompass the entire health care system. Its health policy goals aim to ensure high supply quality to meet future challenges (principles: equity in terms of distribution and qualitative and quantitative needs, medical quality assurance, structural quality assurance) as well as to improve – within the scope of integrative planning and health care control – supply efficiency by shifting performance to those sectors where it can be produced at the lowest cost in macroeconomic terms while maintaining the quality level. The ÖSG is a framework plan that underlies current location and capacity planning at the state level (Regionale Strukturpläne Gesundheit – Regional Structural Plans for Health; RSG).

The district administrative authorities, cities and towns operate counselling points for mothers and families, care centres for tuberculosis patients, school dental clinics, facilities providing preventive medical checkups, counselling for VD, the physically disabled, blind and deaf, the mentally ill and disabled, alcoholics, geriatrics and drug users. Added to this are examination points for sports medicine, dispensaries for cancer prevention and prenatal care, school health services and disinfection facilities.

With regard to drug abuse, the Health Ministry funded counselling, treatment and care facilities as well as specialist preventive agencies during the reporting period.

Austria has set up a well-defined network of in-patient facilities to treat and care for mental patients. The reform of the psychiatric sector provides for cutting down on the large-scale psychiatric hospitals and integrating general emergency psychiatric treatment into the general medical system. Vienna, Graz and Innsbruck each run psychiatric university hospitals, to which are added seven major psychiatric hospitals, four smaller facilities specialising in special mental cases and psychiatric wards at 17 general hospitals (status as of 2006). Almost all in-patient mental health facilities offer partly in-patient or out-patient care.

2. Administrative arrangements, programmes, action plans, projects, etc. to implement the public health policy and the legal framework

Previous reports are updated as follows:

Reply to the additional questions on Para 1 of Article 11 in the conclusions XVII-2:

Access to the medical system:

The Austrian social insurance system works on the principle of mandatory insurance tied to an employment relationship or self-employment, from which health insurance coverage is obtained.

In addition, the system allows health-care self-insurance for all individuals not covered by mandatory health insurance for as long as their official residence is in Austria.

Persons holding a marginal job and whose mandatory insurance extends only to accident insurance, can apply to be self-insured in the health and old-age pension insurance schemes for as long as they reside in Austria (Section 19a combined with Section 77 (2) ASVG), which gains them contributory years for their old-age pension and comprehensive health insurance coverage (including sickness benefit and confinement benefit).

Under the Dienstleistungsscheckgesetz (Service Check Act; DLSG), Federal Law Gazette I no. 45/2005, individuals who perform simple household chores within the scope of an employment relationship with natural persons in private households and who are paid below the marginal earnings threshold by a so-called service check are included in the mandatory accident insurance scheme (Section 4 (2) combined with Section 5 (1) 2 and (2) ASVG). Alternatively, these individuals can obtain self-insurance under Section 19a ASVG.

Financing of the health and accident insurance scheme is almost entirely through contributions by the insurees and their employers within the scope of their respective institutions. On the grounds of equity it is thus necessary to grant equal access to the social insurance benefits to all participants, regardless of their nationality.

Statutory health insurance coverage (by way of mandatory insurance, voluntary insurance or co-insurance) extends to 98.5% of the Austrian population. Individuals not included in this system receive social assistance, a scheme that falls within the competence of the states.

The government programme for the XXIIIrd legislative period provides for including recipients of social assistance currently excluded from health insurance into the statutory health insurance regime.

This step is to ensure these individuals unobstructed access to health care. The measure will greatly facilitate their use of preventive health measures (such as preventive medical checkups) and early treatment.

Studies at state level found that in 2005 some 19,000 beneficiaries of social assistance had no statutory health insurance and did not receive benefits with regard to illness, pregnancy and confinement. Another 3,000 people were registered in the health insurance scheme by entering into a self-insurance contract.

These measures are to be implemented by way of an ordinance pursuant to Section 9 ASVG, under which statutory health insurance can be extended to persons who are not gainfully employed and are not subject to a statutory health insurance but who need insurance coverage. This provision allows including, i.a., asylum seekers in federal care schemes in the statutory health insurance. Their contributions are paid

either by the state caring for them or by the federal government. The provision also includes, i.a., attendants of private training courses or old-age pensioners lacking health insurance. Their coverage, however, does not extend to the granting of sickness benefit or confinement benefit.

Benefits granted under health and accident insurance are of the in-kind type, with the exception of confinement benefit and sickness benefit. The different groups of insurees are subject to considerably different co-payment regimes when obtaining medical help, although the large majority of insurees (those who are insured under the ASVG) are exempt from co-payment. In January 2008, a cap was introduced for the prescription charge, amounting to 2% of the insuree's income and administrated through the e-card. In the future, a prescription charge account will be kept for each insuree, where charges paid are compared to their net income. Once the accumulated charges reach 2% of their net income in any one calendar year, the insuree will be exempt from paying the prescription charge for the rest of the calendar year without the need to file an application. Once the system has identified the validity of the exemption, it indicates it to the physician through the e-card system when the physician makes out the next prescription. The physician notes the exemption on the prescription and the insuree need not pay any charge at the pharmacy. The object is to alleviate the financial strain from accumulating prescription charges payable by chronically ill persons or persons suffering from multiple illnesses which might cause them to forego the use of medically necessary services. The new regime will lead to noticeable financial relief especially for people who need a large quantity of medication and who live on low incomes.

3. Statistics or other information on the main health indicators and on health services and professions, for example WHO and/or Eurostat data

Previous reports are updated as follows:

Diseases and causes of death:

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

Diseases:

http://www.statistik.at/web_de/dynamic/statistiken/gesundheit/gesundheitsdeterminanten/publdetail?id=86&listid=86&detail=457

Carcinogenic diseases:

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

Infant mortality in 2006 was 3.6 per thousand. **Maternal mortality** in the same year was 2.6 for 100,000 life births.

Life expectancy:

http://www.statistik.at/web_de/static/ergebnisse_im_ueberblick_023572.pdf

Hospitals:

Current status (2006):

	Number of hospitals	Number of actually provided beds
Total hospitals	264	63,354
<i>of which:</i>		
in public ownership, of which:	157	45,941
of public status (non-profit)	105	40,072
of non-public status, not-for-profit	15	1,757
for profit	37	4,112
general medical services	78	33,529
special medical services (short-term)	35	7,333
rehabilitation	33	4,267
long-term medical services	11	812
in private ownership, of which:	107	17,413
of public status (non-profit)	24	7,074
of non-public status, not-for-profit	18	4,144
for profit	65	6,195
general medical services ¹⁾	51	10,745
special medical services (short-term) ¹⁾	19	1,287
rehabilitation ¹⁾	21	2,864
long-term medical services	16	2,517

1) including nursing homes.

Pharmacies available as of 31 December 2006: 1,200 community pharmacies, 17 subsidiary pharmacies, 978 physician's medicine chests and 49 hospital pharmacies.

Physicians

http://www.statistik.at/web_de/static/berufsausuebende_aerztinnen_und_aerzte_insgesamt_und_auf_100.000_der_bevoe_022350.pdf

Expenditure on health care (percentage of GDP):

http://www.statistik.at/web_de/static/gesundheitsausgaben_in_oesterreich_laut_system_of_health_accounts_oecd_199_019701.pdf

Para 2 of Article 11 **Counselling and training**

1. General public health policy, legal framework, reforms

See Para 1 of Article 11.

2. Administrative arrangements, programmes, action plans, projects, etc. to implement the public health policy and the legal framework

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.

The Fonds Gesundes Österreich (Fund for a Healthy Austria), today a segment of Gesundheit Österreich GmbH, was charged with implementing the Bundesgesetz über Maßnahmen und Initiativen zur Gesundheitsförderung, -aufklärung und -information (Federal Act Governing Measures and Initiatives to Promote and Inform about Health) which had entered into force in March 1998. The Austrian federal government dedicates additional means amounting to € 7.27 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 Fund also carries out successful awareness-raising campaigns under the motto "Bewusst lebt besser" (More awareness – better living) which aim specifically at food, physical exercise, mental health and stress management.

Health-related information is a crucial component of health care education which is started already at kindergarten age. A series of leaflets covers various aspects of health promotion and prevention. Several topics are turned into focus schemes, such as information on the abuse of legal and illegal drugs, on food, sports and physical exercise, on cancer, AIDS, infectious diseases and on vaccination schemes.

The **precautionary medical checkup**, a screening service available since 1974, has been modified to reflect the latest progress and new medical insights, prodded on by the Federation of Austrian Social Insurance Institutions, the Austrian Chamber of Physicians and the then Federal Ministry of Health and Women's Affairs, and has since 1 October 2005 been offered in the form of a "New Precautionary Medical Checkup" scheme.

This new checkup has been enlarged by important tests and interventions. More than ever, the findings of modern lifestyle medicine are reflected in the checkup. It involves not just early detection of prevalent civilisational diseases, but also provides information and support to help people change to a more healthy lifestyle by focusing on physical activities, eating habits and smoking.

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. Where the former scheme had been targeted at people from age 19, the new scheme is now open to all comers from age 18 who are resident in Austria.

In 2006, 903,647 checkups were performed in all of Austria. 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.

Apart from early detection, the new scheme concentrates on information and counselling of individuals prone to risky behaviour. The parameters applied are the body mass index, total cholesterol and HDL cholesterol. The focus is on information on how healthy food and proper physical activities can help reduce overweight, avoid high blood pressure and prevent diabetes.

The objects of the screening scheme are to: –

- reduce cardiovascular diseases and metabolic diseases,
- prevent prevalent cancer forms,
- prevent addiction,
- prevent diseases prevalent in old age,
- prevent paradontal diseases and glaucoma.

The new precautionary checkup includes examinations tuned to the individual's life phase. To cater to this, the advisory role of physicians has been extended. A risk profile is developed for each examinee, to be used as a basis for further action. Physicians take a closer look at the individual's life situation and address further measures such as how to wean smokers from smoking and advising on nutrition and physical activities.

The new checkup comprises a basic examination and a gynaecological examination for women.

The basic programme consists of a blood test, a clinical examination (head/neck, heart/lung/vessels, abdomen, spine/joints, skin) and a consultation. New additions are preventive checkups for intestinal carcinoma for people over 50, involving not just a faecal occult blood test but also a colonoscopy performed in 10-year intervals. For individuals over 65, a new focus is on their audio-visual capacities. Early recognition of bad hearing or vision will significantly reduce their accident rates and substantially improve their health and social well-being. Another novelty is the inclusion of paradontal diseases which can be effectively prevented in many people by suitable precaution. The checkup offers and recommends a mammography every two years for women from age 40. This is most effective for women between 50 and 70. Another item of the programme is a smear from age 18 to detect cancer of the uterine cervix.

In order to further improve the acceptance rate of the new screening scheme, marketing tools, and specifically an invitation system, are to be used to achieve greater awareness of the subject. Persons who have so far failed to make use of the offer are actively invited to take the new health checkup. People over 50 are informed of the intestinal carcinoma tests, women aged 40+ are offered a mammography every two years. All individuals who have so far made use of a preventive checkup are sent a reminder to carry out the checkup in regular intervals. Apart from such invitations, individuals are of course entitled to get a checkup without any invitation.

In addition to the precautionary examinations for people from age 18, the system also offers checkups for younger persons, to identify diseases as early as possible, to raise awareness of health risks and occupational hazards and to offer a first step towards a solution for problems involving the family, job, alcohol or drugs. Every gainfully employed youth between age 15 and 18 is invited by his/her social insurance institution to take part in a checkup.

This checkup consists of a basic examination (physical check, urine check and health advice). The results of the basic examinations are later checked and supplemented by specialised examinations.

Reply to the additional questions on Para 2 of Article 11 in the conclusions XVII-2:

Health education in school:

Healthy school in Austria

The “Gesunde Schule” (Healthy School) project was launched in the spring of 2007, by the Federal Ministry for Education, Arts and Culture, the Federal Ministry for Health, Family and Youth and the Federation of Austrian Social Insurance Institutions. The three agencies act as partners to foster sustainable, high-quality health promotion at Austrian schools.

The project has several objectives:

1. set up an organisational structure to promote health at Austrian schools,
2. present the current scientific findings on health promotion at school,
3. develop a model to define goals for health promotion at school,
4. create a need-based and quality-controlled pool for schools encompassing health care providers,
5. develop a model project for redesigning health care provision at schools,
6. develop and test quality assurance tools for health promotion at schools,
7. develop a tool to measure the health impact of measures of health promotion at schools,

The “Healthy School” project is targeted at all parties involved in a school setting, specifically and chiefly at:

- 1) schools: pupils, students, teachers, management, physicians, supervisory bodies,
- 2) external providers offering health promotion projects and programmes at school,

3) players in politics and administration at federal and state levels.

By February 2009, a comprehensive overall concept on how to implement sustainable health promotion in school is to be developed within the scope of the "Healthy School" project. This concept will be submitted to the competent politicians for their decisions on which of the proposed measures are to be put into practice. The proposals are based on the findings of the project design and the pilot stage (autumn 2008) when the proposals are tested for their implementability.

GIVE service point for health education

The GIVE service point for health education at the Österreichisches Jugendrotkreuz (Austrian Youth Red Cross, ÖJRK) acts as an Austria-wide agency to provide information on "model" projects, current initiatives and activities to promote health at schools, and it operates as a nodal point for information and documentation. GIVE is a joint initiative of the Federal Ministry for Education, Arts and Culture, the Federal Ministry for Health, Family and Youth and the ÖJRK which is scheduled to be more closely linked to the Healthy School project in the future.

Medical checkups at schools:

All school-age children are attended and accompanied with regard to issues of physical health and development during school periods. Each child undergoes an individual examination by the school physician in regular intervals.

3. Statistics/other information, including on consultation and screening services in schools and for the rest of the population

Reply to the additional questions on Para 2 of Article 11 in the conclusions XVII-2:

Precautionary checkups:

Recent statistics on the participation rate for precautionary checkups:

In 2006, 791,370 individuals (367,256 men and 536,391 women), 11.8% of the eligible population of Austria, made use of the basic checkup. Across all age groups and in absolute terms, it is women who make greater use of the offer than men. Seen altogether, at 12.2% vs. 11.4%, the women's share is slightly higher than that of men. The highest participation rate in 2006 was found among the 60 to 64-year-olds (15.8%), followed by the 65 to 69-year-olds (15.2%) and the 55 to 59-year olds (14.9%). From age 75 on, the checkup participation rate is in a steep decline (9.1%). In terms of actual figures, the 40–44 age group shows the greatest number of checkups, reflecting the high demographic proportion of this age group within the population of Austria.

The introduction of the new precautionary checkup in 2005 caused a slight decline in the rate of utilisation due to the changeover, but by 2006 the figure was again up to approximately the level of 2004. Altogether, a continuous growth in utilisation rates can be found since 2000.

Basic checkups in 2000 to 2006 (all health insurers).

	2000	2001	2002	2003	2004	2005	2006
Austria	653,472	709,350	748,332	786,315	813,782	775,723	791,370

Precautionary checkups, by age and gender, absolute figures (all health insurers), 2006

Age group	Total checkups			of which basic checkups			Gynaecol.checkup
	M+W	Men	Women	M+W	Men	Women	
Total	903,647	367,256	536,391	791,370	367,256	424,114	112,277
18-24	47,960	16,808	31,152	39,255	16,808	22,447	8,705
25-29	60,184	21,181	39,003	49,688	21,181	28,507	10,496
30-34	73,147	28,146	45,001	62,506	28,146	34,360	10,641
35-39	91,738	37,435	54,303	79,623	37,435	42,188	12,115
40-44	102,310	43,553	58,757	90,010	43,553	46,457	12,300
45-49	96,071	41,263	54,808	85,022	41,263	43,759	11,049
50-54	85,751	36,345	49,406	76,031	36,345	39,686	9,720
55-59	84,288	35,617	48,671	74,847	35,617	39,230	9,441
60-64	77,791	32,866	44,925	68,779	32,866	35,913	9,012
65-69	73,076	31,566	41,510	65,769	31,566	34,203	7,307
70-74	46,039	18,682	27,357	40,974	18,682	22,292	5,065
75 +	65,292	23,794	41,498	58,866	23,794	35,072	6,426

Note: M = men; W = women.

Precautionary checkups, by age and gender, in percent of the target group (residential population in Austria from age 18), 2006

Age groups	Basic checkups			Gynaecolog. checkups
	M+W	Men	Women	
Total	11.8	11.4	12.2	3.2
18-24	5.4	4.6	6.3	2.4
25-29	9.5	8.0	11.0	4.1

30-34	11.0	9.9	12.1	3.7
35-39	11.7	10.9	12.4	3.6
40-44	12.6	12.0	13.2	3.5
45-49	13.5	13.0	14.0	3.5
50-54	14.5	14.0	15.0	3.7
55-59	14.9	14.5	15.4	3.7
60-64	15.8	15.8	15.9	4.0
65-69	15.2	15.5	14.9	3.2
70-74	13.5	13.9	13.2	3.0
75 +	9.1	10.8	8.2	1.5

Note: M = men; W = women.

Publicity campaigns:

The “Ich (b)rauch(s) nicht” (I Don’t Need to Smoke) campaign referred to in the 22nd Report involved a scheme organised by the Fonds Gesundes Österreich on behalf of the Health Ministry in September 2002 to December 2002, focusing on the young and on their awareness of the dangers of smoking. The campaign deployed celebrity athletes and young, self-confident, positive role models on posters, folders, etc., aiming to get young people to actively participate in a range of projects at state level and to post off e-cards.

The “Smoke-free School” project involved a project derived from the findings of a 2001 study on “The role of national policy to check smoking among the young and the influence of school and home”, developed by LBI Medizin- und Gesundheitssoziologie and jointly commissioned by the Health and Education Ministries, and implemented as a cooperation between the two ministries with a view to drawing up a guideline (Smoke-free School – Joint Action against Smoking) which was published in 2004. The project starts out from the premise that full-scale prohibitions are as useless as are overly tolerant regulations. Using a specific approach to tobacco prevention, the project developed rules acceptable to all parties involved on how to handle smoking in school, where the guideline was aimed to support the school community in its efforts for a joint development process. Both activities were directed at an all-Austrian coverage.

Para 3 of Article 11

Prevention of epidemic, endemic and other diseases

1. General public health policy, legal framework, reforms:

See para 1 of Article 11.

Previous reports are updated as follows:

General environmental laws

Austria has no omnibus “environmental law” (within the meaning of a code) and no “environmental authority” (within the meaning of an agency with overall competence). This situation is the result of the fact that provisions to protect the environment pervaded the various laws already at a time when ecology had not yet been a subject of relevance to society. Historically, the Austrian law system has “grown” along other schematic criteria. Therefore, environmental provisions can be found in the Industrial Code, in the Act governing mineral resources, in the police laws by the *Länder*, and in many other regulations. Environmental agencies are the government authorities authorised to implement these laws.

General issues of ecology, such as general environmental protection, general pollution impact protection and environmental compatibility, are in the competence of the Federal Ministry for Agriculture, Forestry, Environment and Water Management. Another quirk is provided by the fact that, due to the federal structure of Austria, some matters of environmental protection are within the competence of the *Länder*.

In order to be effective, environmental policy requires not just standards and prohibitions but also financial assistance from public sources. This signals that, notwithstanding the polluter-pays principle chiefly applicable, environmental protection is an overall public concern.

A major element of such financial incentives is the funding from the European Union, provided during 2000-2006 mostly with regard to disaster protection, environmental awareness, European environmental organisations, maintaining and restoration of natural habitats (LIFE III), development of ecological policies, the pollution of the seas, and sustainable urban development. Environmental funding can also be obtained from general EU sources, such as the Cohesion Fund, the European Social Fund, from (inter-)regional development schemes or from the funding of schemes to develop agglomerations.

At federal level, funding regulations can be found in a complex range of contexts. Thus federal funding with an ecological bias is included, i.a., in the forestry laws (Section 141 ff of the Forstgesetz (Forestry Act), Federal Law Gazette I 1975/440 as amended in I 2002/59), in the water laws (Wasserbautenförderungsgesetz 1985 (Act Governing Funding of Hydrological Structures), Federal Law Gazette 1985/148 as amended in I 2003/82), energy laws (Energieförderungsgesetz 1979 (Energy Funding Act), Federal Law Gazette 1979/567 as amended in I 2002/149), etc.

A key interface role when it comes to handling funds with an ecological earmark from the European Union’s common agricultural policy as well as national funding schemes is played by Agrarmarkt Austria, a public legal entity (AMA-Gesetz 1992, (AMA Act, Federal Law Gazette 1992/376 as amended in I 2001/108).

Earmarked funds appropriated under the Zweckzuschussgesetz 2001 (Earmarked Appropriates Act), Federal Law Gazette 1988/691 as amended in I 2004/156, for housing and housing rehabilitation schemes similarly have an environmental character.

The Umweltförderungsgesetz (Environmental Promotion Act; Federal Law Gazette 1993/185 as amended in I 2005/112) covers most of the respective terrains of the Umweltfondsgesetz 1993 (Environmental Fund Act), Wasserbautenförderungsgesetz 1985 (Act Governing Funding of Hydrological Structures) and Umwelt- und Wasserwirtschaftsfondsgesetz 1987 (Environmental and Water Management Fund

Act). It provides funding for sanitary engineering, for environmental promotion in Austria and abroad, for the reclamation of polluted sites and the Austrian Joint Implementation and Clean Development Mechanism programme.

Decisions on all spheres of funding within the Environmental Promotion Act are the responsibility of the Federal Ministry for Agriculture, Forestry, Environment and Water Management, which has set up several consultative boards for its decision-making. There is no legal entitlement to funding. According to a valid decision of the Ministry, the agency handling the funding (i.e. Kommunalkredit Public Consulting GmbH since 1993) must enter into a funding agreement under private law with the applicant.

Some of the *Länder* (states) have passed their own environmental laws, which, i.a., provide for funding as an incentive to boost environmental services. Clean air is the key goal of the various clean air acts governing heating systems, to be achieved by funding from state and local governments. Some *Länder* statutes to implement the Electricity Act include provisions for the funding of renewable energy sources, granting, i.a., funding for biogas and biomass-fuelled district heating schemes. State funding schemes obtain their environmental guidelines mostly from those applicable at federal level.

The Umweltbundesamt (Environmental Agency), set up in 1985 as the federal authority for environmental protection, is a federally owned agency. Operating as a GmbH (limited liability company under Austrian law), its brief is specified in the Umweltkontrollgesetz 1998 (Environmental Monitoring Act).

Its chief statutory responsibilities are:

- monitoring the environment and any changes to it with a view to pollution, especially by way of measuring emissions and impacts,
- preparing statements on complaints and proposals,
- drawing up reports and expertises on complaints filed against polluters,
- carrying out toxicological investigations of chemicals and pollutants,
- performing other measurements, observations, investigations and tests to report environmental impacts,
- developing, providing and documenting the key findings, especially for keeping environmental and radiation cadastres and the water management cadastre,
- drawing up comments on environmental compatibility statements,
- contributing to the development of clean air concepts, and
- providing information and consulting on efficient environmental protection measures, in particular information and consulting to business on environmentally friendly technologies.

The Agency also has a key role in coordinating and supplementing the activities of specialist facilities in Austria.

It is the only specialist agency in Austria that covers all segments of environmental protection. In addition to working for the federal government, the Agency is also authorised to carry out work for third parties if such is in the general public interest.

With regard to its brief of monitoring the environment, the Agency collects, analyses and evaluates data on the situation and development of the environment in Austria from all ecological angles. It publishes (on paper and online) its findings in studies and reports, keeps an environmental database for online enquiries and prepares the federal environmental monitoring report.

As stipulated in the Umweltkontrollgesetz 1998 (Environmental Monitoring Act), the environment minister must furnish the National Council with a written report on the environment every three years. The current report, the eighth of its kind, describes the state of the environment in Austria between 2003 and 2006.

Under the Umweltinformationsgesetz 1993 (Environmental Information Act) citizens are entitled to environmental information. This act makes a major contribution towards more transparency, awareness-creation and a grassroots approach to environmental administration. The right to ecological information is a key factor in a democracy, as it obliges government authorities to grant citizens access to information.

Since February 2005, the Umweltbundesamt has been acting as the coordinator for environmental information. In this crucial role it is required to further improve the networking between institutions required to grant access to information, to harmonise environmental data and information and to process them for readability, precision, comparability and currency. A catalogue of environmental data has been created which constitutes a meta-information system for ecological data under the Environmental Information Act. In its capacity as coordinator, the Agency networks the data from the various sources and ensures better direct access to them.

A newly introduced control system for environmental law, the eco-audit system is designed to compensate for the inadequacies of the traditional imperative environmental laws which are based on sectoral prohibitions and standards. Through new tools it accords greater importance to the own initiative on the part of businesses in coping with the environmental impact of their actions, by developing a system of plant-level environmental protection.

Waste

The **Abfallwirtschaftsgesetz 2002** (Waste Management Act, AWG; Federal Law Gazette I no. 102), effective as of 1 July 2002, provides that the waste management system must be designed to comply with the goals and principles of its Paras 1 and 2 of Section 1 and to avoid impairing public interests (Para 3 of Section 1). Protected goods which must not be impaired under the Act include the soil, water and air.

In this connection, reference is made especially to the Deponieverordnung 2008 (Dumping Ordinance, Federal Law Gazette II no. 39), the Abfallverbrennungsverordnung (Ordinance governing waste incineration, Federal Law Gazette II no. 389/2002) and the Abfallnachweisverordnung 2003 (Ordinance governing waste documentation, Federal Law Gazette II no. 618).

The **Deponieverordnung 2008** (Ordinance governing the dumping of waste) provides for measures and processes to prevent negative effects of the deposited waste on the environment for the entire life of a dump, including pollution of surface water, groundwater, soil and air, and on the global environment including greenhouse effects, and to prevent or reduce all associated risks for human health to the widest possible extent.

The **Abfallverbrennungsverordnung** (Ordinance governing waste incineration) aims to protect human health from the negative effects of (co-)incinerating waste and to keep emissions from waste incinerators low.

The **Abfallnachweisverordnung 2003** (Ordinance governing waste documentation) specifies provisions to allow tracking the environmentally correct waste management.

As regards the laws governing commercial plants, reference is made specifically to a provision that mandates: "The plant shall be licensed, where necessary subject to stipulations, if the waste (Section 2 of the Waste Management Act) can be avoided or utilised in accordance with the state of the art (Section 71a) or, if this is economically unreasonable, properly disposed of. Exceptions shall be made for plants whose waste is comparable to that of private households in terms of type and quantity (Para 4 of Section 77 of the Commercial Code of 1973 as amended).

The **Mineralrohstoffgesetz** (Mineral Resources Act) provides that the operation of a mine and work carried out as described in an extraction plan must not produce any waste which can be avoided according to the state of the art or which cannot be utilised. If it is economically unreasonable to avoid or utilise the waste, it must be ensured that it is properly disposed of.

Noise protection:

The promotion of noise protection measures is one of the key funding aspects in Austria (See Section 1 (1) g of the Promotion Guidelines for 2002 for environmental promotion in Austria).

Under **Section 181a of the Criminal Code** serious cases of intentional noise generation constitute a crime. Noise-caused impairment is punishable when the noise is generated against a law or regulation by a government authority, in a way and of a scope that it causes many people to suffer a sustained and serious impairment of their physical welfare. Such cases involve a punishment of up to six months imprisonment or a fine of up to 360 daily rated fines.

The **Umweltverträglichkeitsprüfungsgesetz 2000** (Environmental Impact Assessment Act; to be applied to projects which may have potentially grave effects on the environment) provides for an obligation to generally minimise pollutant loads. Where the life and health of neighbours are at risk or where neighbours are exposed to unacceptable annoyance, additional pollution is prohibited. The assessment considers these health requirements by consulting a medical expert.

Other important provisions to fight noise are found in special laws of ecological relevance, such as the codes regulating waterway transport, aviation, road traffic and the Motor Vehicle Act.

The **Mineralrohstoffgesetz** (Mineral Resources Act) stipulates that the approval of extraction plans and the construction of mining plants are subject to state-of-the-art procedures to prevent avoidable emissions

Air Pollution

Legislation on ambient air quality

According to the Federal Constitution Act, air quality and air pollution control fall under the jurisdiction of the Federation. The only exceptions are regulations of domestic heating which fall under the jurisdiction of the federal provinces ("Länder").

Austria is party of the UN/ECE Convention on Long-range Transboundary Air Pollution and has ratified the 1984 Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), the 1985 Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes, the 1988 Protocol concerning the Control of Nitrogen Oxides or their Transboundary Fluxes, the 1991 Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes, the 1994 Protocol on Further Reduction of Sulphur Emissions, 1998 Protocol on Heavy Metals and the 1998 Protocol on Persistent Organic Pollutants (POPs). As of 31 December 2007, Austria has always complied with the obligations of the Convention and the Protocols.

The **Ambient Air Quality Act** (Immissionschutzgesetz-Luft), (BGBl. I No. 115/1997) as amended, lays down air quality limit values for the protection of human health (limit values for sulphur dioxide, carbon monoxide, nitrogen dioxide, PM10, lead in PM10, benzene, deposition of particulate matter as well as lead and cadmium; air quality target values for arsenic, cadmium, nickel, BaP). The limit values correspond to those of the relevant EU Directives; in some cases they are even slightly stricter. If air quality limit values have been exceeded, programmes for emissions reduction and improvement of air quality must be developed and implemented; in general this has to be done at the level of the federal provinces.

The **Ozone Act** (BGBl. No. 210/1992) as amended, lays down target values for ground level ozone to protect human health and vegetation as well as information and alert thresholds to warn the public in case of high ambient ozone concentrations. Directive 2002/3/EC has been transposed into national law by the Ozone Act. A national programme has to be developed by the Federal Government to meet the target values; that programme must be based on the programme to meet the national emission ceilings (see below).

Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants has been transposed into national law by the **Emission Ceilings Act** (BGBl. I No. 34/2003). The Directive does not regulate particular emission sources but aims at improving air quality in general, with a focus on the transboundary problems of ground level ozone and acidification. The pollutants concerned also have major impacts on the ambient air concentration of particulate matter. A national programme has to be developed by the Federal Government with the aim of complying with the national emission ceilings by 2010.

Legislation concerning stationary emission sources in industry

For new or modified industrial installations a permit is required according to a.o. the **Industrial Code** (Gewerbeordnung), (BGBl. I No. 194/1994) as amended, and the **Emissions Reduction Act for Steam Boilers** (Emissionsschutzgesetz für Kesselanlagen), (BGBl. I No. 150/2004) as amended. Emission limit values and/or measures to limit emissions according to best available technology have to be determined in the licensing procedure. Permits for large installations had to be adapted to technical progress according to Council Directive 96/61/EC until 31 October 2007. For several categories of (new and existing) stationary emission sources explicit emission limit values for several pollutants and BAT requirements have been set by ordinance (see Q.27–28).

For the incineration and co-incineration of waste, emission limit values for the relevant air pollutants have been laid down in the **Waste Incineration Ordinance** (Abfallverbrennungsverordnung),(BGBl. II No. 389/2002) as amended.

Legislation concerning mobile sources

National emission standards for vehicles have been introduced in the 1980s. These standards have been improved and extended at EU-level. Current national law is based on Directive 98/70/EC which is one of the Directives amending Directive 70/220/EEC (light duty vehicles) and on Directive 2005/55/EC (heavy-duty vehicles). National emission standards for off-road mobile sources are based on Directive 97/68/EC (diesel engines) and Directive 2002/88/EC (petrol engines), amended by Directive 2004/26/EC. National fuel quality standards are based on Directive 2003/17/EC; road fuel with sulphur content above 10 ppm will be phased out by 2009. Leaded petrol is banned in Austria since 1994.

Legislation concerning residential heating

Responsibility for regulating the operation of residential combustion sources lies within the federal provinces. As a consequence requirements concerning product certificates, emission limit values, monitoring of emissions and inspections vary. Common limit values for the type approval of domestic stoves and boilers have been laid down in a formal agreement pursuant to Article 15a Federal Constitution Act between the federal provinces in the 1990ies. An update of that agreement, which includes stricter emission limit values for particulate matter and other pollutants as well as requirements regarding inspection of installations and advisory service has been prepared and is expected to be concluded in 2008.

Another relevant agreement (agreement pursuant to Article 15a Federal Constitution Law concerning the setting of consolidated quality standards to support the establishment and refurbishment of residential buildings for the purpose of the reduction of greenhouse gases) is directed to reduce energy consumption of residential buildings. This reduces fuel consumption and thus emissions from combustion installations in this source category.

Clean waterways:

The transposition of the Water Framework Directive 2000/60/EC into Austrian law through the Water Law Amendment of 2003 (WRG; Federal Law Gazette I no. 82/2003) made for some changes in its third chapter, including a broader scope of goals in its Section 30. The new version aims to prevent scenic impairments and deteriorations in general, to protect the state of aquatic ecosystems and to promote sustainable water use. Specifically, the groundwater and spring water is to be kept sufficiently clean to be used as potable water.

Promotion of sanitary engineering measures:

The purpose of funding for sanitary engineering measures under the **Umweltförderungsgesetz** (Environmental Promotion Act, UFG) is to help the environment by achieving full-scale sewage disposal in residential as well as industrial areas in line with the state of the art and to ensure that the population in all of Austria is provided with adequate high-quality potable water. The funding scheme makes available water services to the population at socially compatible rates.

Federal funding of sanitary engineering measures was restructured in the UFG of 1993. As a priority goal of the new system, more emphasis is to be accorded to improving the rural infrastructure.

The goals and terms of funding are defined in the UFG. It is executed and funds under it are distributed by the Environmental Minister upon consultation of a political panel consisting of representatives of the political parties represented in Parliament. Parliament has to receive activity and evaluation reports on the funding in regular intervals.

The specific design of the funding system is determined by **funding guidelines**. Currently applicable are the 1999 guidelines as amended in 2008 for community sanitary engineering, the promotion guidelines of 1996 as amended in 2002 for commercial sewage systems and the technical guidelines of 2006 for sanitary engineering. The guidelines are issued by agreement with the Federal Minister of Finances and the Federal Minister of Economics and Labour.

Protection against radioactive contamination:

The Bundesverfassungsgesetz für ein atomfreies Österreich (Federal Constitutional Act on a Nuclear-free Austria) of 13 August 1999 (Federal Law Gazette I no. 149/1999) prohibits the construction and operation of plants that are used to generate energy from nuclear fission.

Radioactive protection is governed by the provisions of the Strahlenschutzgesetz (Radioactive Protection Act; Federal Law Gazette no. 227/1969 as amended) and ordinances based on this Act.

An amendment to this Act through the Strahlenschutz-EU-Anpassungsgesetz (Act to Transpose EU Law on Radioactive Protection; Federal Law Gazette I no. 137/2004) in 2004 transposed the following EU directives into national law:

EU Directive 96/29/EURATOM (laying down basic standards for the protection of the health of workers and the general public), EU Directive 90/641/EURATOM (operational protection of outside workers in controlled areas) and EU Directive 122/2003/EURATOM (control of high-activity sealed radioactive sources and orphan sources).

On the authority of the amendment, the following ordinances governing radiation protection were issued: Ordinance governing medical radiation protection (Federal Law Gazette II no. 409/2004), Ordinance governing radiation protection for aviation staff (Federal Law Gazette II no. 235/2006), Ordinance governing general radiation protection (Federal Law Gazette II no. 191/2006), and the Ordinance governing intervention (Federal Law Gazette II no. 145/2007).

Another ordinance (Ordinance governing natural radiation sources) is set to enter into force in early 2008.

Environmental Impact Assessment Act of 2000 and its application

During the reporting period the Environmental Impact Assessment (EIA) has become an effective and generally recognised tool of providential environmental protection. Use of the method has proliferated over the past years and the duration of assessments could be substantially reduced.

The amendment of the Directive governing EIAs led to a major amendment of the 2000 Umweltverträglichkeitsprüfungsgesetz (Environmental Impact Assessment Act; UVP-G) in 2004; a second amendment was passed in March 2005. Further, the Agrarrechtsänderungsgesetz 2005 (Act Amending Agrarian Law) changed the EIA for land reform and the rights of woodland and pasture exploitation and special rights of servitus praediorum rusticorum.

The authorisation of Para 8 of Section 3 to issue ordinances to identify territories to be protected in terms of air has so far been utilised twice; a third ordinance was in its assessment phase until 13 April 2006.

The Federal Ministry for Agriculture, Forestry, Environment and Water Management commissioned a study on the "Evaluation of the Environmental Impact Assessment in Austria", which evaluated the quality and effectiveness of EIAs for all 136 completed approval procedures (97 plant projects under Chapter 2 of the UVP-G 2000 and 39 route projects under Chapter 3 of the UVP-G 2000) as of 31 October 2005, and looked into procedures for legal in-depth investigations.

Its key findings:

- Efforts to **optimise** a given project are already made during the design and planning stage; obstacles to approval are indicated at an early stage.
- The positive effect of the EIA as a tool for precautionary environmental protection is almost universally recognised. It improves public acceptance of projects and makes for reconciliation between conflicts. Project applicants find safeguards for their planning and investment processes and the interested public has an opportunity to effectively participate in the decision-making.
- The legal interests involved are better protected than would be the case if the substantive law were applied on its own. It compensates for legal issues that are unclear or in need of interpretation. Specific features distinguishing the EIA from individual approval procedures in terms of quality include measures to realise potentials for traffic optimisation beyond any given project, an assessment of interactions and cumulative effects, and the integrative overall trans-issue evaluation of a project. Insights obtained from an EIA will thus achieve a visible, documentable and sustainable success for (providential) environmental protection.

The **Umweltsenat** has become a generally recognised appellate body. The quantity and scope of its activities have risen enormously over the reporting period. Throughout this period, only a single decision of the Umweltsenat has been annulled by a supreme court.

Asbestos:

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.

Smoking:

Measures to restrict the use of tobacco, especially among the young, are found in the laws passed by the *Länder* (states) to extend legal protection to the young. All states have banned smoking and the consumption of tobacco products (in some states: in public) by children and youths up to completion of age 16. Access to cigarette vending machines has been impeded: only persons over the age of 16 are permitted to buy tobacco products from vending machines.

The Bundesgesetz über die Beschäftigung von Kindern und Jugendlichen 1987 (Federal Act Governing Employment of Children and Youths) provides for an Austria-wide ban on giving children and youths tobacco by way of compensation or otherwise. The Tobacco Act of 1995, similarly applicable throughout Austria, comprises a three-pronged approach to protection against tobacco-associated harm: in view of the serious risk involved in tobacco consumption, smokers are to be protected against avoidable unreasonable harm through quality assurance, limiting the pollutant level, labelling and the prohibition of misleading product names that downplay the risk of smoking. Producers and importers are obliged to furnish information on the ingredients of the tobacco products marketed by them.

For primary prevention, the Tobacco Act chiefly focuses on advertising as the root cause for the attraction and role-model action of smoking. It issues a far-reaching ban on advertising and sponsoring for tobacco products with very few exceptions, especially product and price information solely and directly referring to the sale of tobacco. This ban, together with an absolute ban on smoking in school and in other places dedicated to children and youths, is designed to combat smoking, especially imitative smoking.

Other rules similarly aim to act as smoking disincentives for the young: thus the marketing of single cigarettes or packs of fewer than 20 cigarettes is prohibited, and minimum prices were defined for cigarettes and fine-cut tobacco for self-rolled cigarettes in order to counter the downward-spiralling prices.

As to the protection of non-smokers, smoking is banned in enclosed public spaces to protect against passive smoke exposure, although smokers' rooms can be assigned except in schools and other facilities dedicated to the use of children and youths. The gastronomic sector is still exempt from this rule. Certain other non-public facilities, including in particular rooms for educational, negotiating and school-sports purposes, are also subject to the ban on smoking.

Drugs:

The drug sphere is regulated by the Suchtmittelgesetz (Addictive Drugs Act), Federal Law Gazette I no. 112/1997, and its implementing ordinances (especially the

ordinances governing narcotic drugs, psychotropic substances, and education on oral substitution). Reference is made to previous reporting.

Alcohol:

Restrictive measures designed to combat alcoholism are found chiefly in the *Länder*-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 Bundesgesetz über die Beschäftigung von Kindern und Jugendlichen 1987 (Federal Act Governing Employment of Children and Youths) 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.

Under the 1994 Industrial Code, hotel and restaurant businesses generally must not serve any further alcoholic beverages to persons disturbing public order through their drunkenness or other conduct or condition. Hotel and restaurant businesses that serve alcoholic beverages and sell them in unsealed receptacles are furthermore obliged to serve non-alcoholic cold beverages if so requested. The business must serve at least two types of non-alcoholic cold beverages at a price that is not higher than the cheapest alcoholic beverage offered (with the exception of fruit wine).

On 27 February 2008, the amendment to the Industrial Code (GewO) of Federal Law Gazette I no. 42/2008 entered into force.

- The ban on serving alcohol to youths stipulated in the previous Section 114 GewO basically applied only to hotels and restaurants. The revision of Section 114 has extended the youth protection obligation to commercial enterprises and any other businesses that serve alcohol, whether for free or against payment, within the scope of their trade.
- All regulations and penalties in connection with serving alcohol to youths will now apply also to events covered by the exception of Section 2 (1) 25 GewO 1994 (including in particular Zeltfeste (fairground parties)) and Buschenschanken (dedicated wine taverns) pursuant to Section 2 (9) GewO 1994.
- The business operator and its employees must insist on being shown an official ID card or special youth ID card suitable to evidence the age under the relevant state youth protection laws in order to determine the age of a young would-be consumer.
- Serving alcohol to youths contrary to the provision of Section 114 has been made a separate criminal offence (Section 367a). In view of the particularly great importance of protecting youths, a minimum fine of € 180 has been introduced and the maximum fine raised from € 2,180 to € 3,600.

2. Administrative arrangements, programmes, action plans, projects, etc. to implement the public health policy and the legal framework:

Previous reports are updated as follows:

Vaccination:

A new vaccination schedule has been introduced:

General vaccination schedule for infants and small children

	From week 7	Month 3	Month 4	Month 5	Month 6	Month 7	Age 2
Rotavirus (RTV)	2 or 3x RTV vaccine (oral vaccination)						
Diphtheria (DIP) Tetanus (TET) Pertussis (PEA) Poliomyelitis (IPV) Haemophilus infl. B (HIB) Hepatitis B (HBV)		First six-fold vaccination		Second six-fold vaccination		Third six-fold vaccination	Fourth six-fold vaccination
Conjugated multiple vaccination against pneumococci (PNC)		First PNC vaccination		Second PNC vaccination		Third PNC vaccination	Fourth PNC vaccination
Measles Mumps (MMR) Rubella							2 MMR vaccinations

Additional vaccinations recommended if indicated:

- FSME vaccination
- Hepatitis-A vaccination
- Influenza vaccination annually
- Meningococcus C vaccination before entering a communal home and before school group events in countries with higher exposure to infection

General vaccination schedule for school children

Age:	7	8	9	10	11	12	13	14	15	16	17
Diphtheria (dip) Tetanus (TET) Poliomyelitis (IPV)	Booster shot dip-TET-IPV*										
Hepatitis B (HBV)	Booster shot HBV or basic HBV immunisation (at the latest by age 13**)										
Diphtheria (dip) Tetanus (TET) Pertussis (PEA)							Booster shot dip-TET-PEA*				
Chickenpox = varicella (VZV)			2x VZV***								
Measles Mumps (MMR) Rubella	Possibly catch-up MMR****										
Humane Papilloma Virus (HPV)			3x HPV (see specialist information)*****								

* All school-age children should be given two shots of dip-TET and, wherever possible, one shot each of PEA and IPV. Currently available vaccines allow several variants for this. Due to the reactivity of the pertussis component at a relatively short interval between

pertussis shots, it is recommended not to use the currently available combination vaccine (DIP-TET-IPV-PEA) for serial vaccinations in schools for the 7-9 age group, although it may be used individually for this age group. For the same reason, a dip-TET-PEA combination vaccination, which would be more logical from epidemiological data, is not advised for the 7-9 age group, but rather the variant shown in the table (dip-TET-IPV at age 7-9 and dip-TET-PEA at age 13-16) is provided as a general recommendation.

- ** The HBV vaccination may be retroactively obtained at any age, but should be completed at the commencement of age 13 at the latest. If possible, individuals vaccinated as infants or at a pre-school age should be given a booster shot at age 13. Deadlines for further booster shots are to be defined to the extent necessary.
- *** Chickenpox (varicella) vaccination: if varicella anamnesis or serology is negative. All persons to be vaccinated against varicella should be given two shots (spaced at 4-6 weeks). If one vaccination has already been performed, the second shot may be given later.
- **** All children should be given two MMR shots.

Children and youths who have been given 1 measles/mumps and one MMR shot each are recommended to take another MMR vaccination to cover the second rubella vaccination because no monovalent rubella vaccine is currently available.
- ***** Vaccines against oncogenic Papillom virus should be used for girls and women (preferably before the onset of the sexually active age). It is important to inoculate both genders in order to interrupt the infective chain.

Waste:

The provision of funds to secure and rehabilitate abandoned sites helps eliminate a major risk potential for humans and the environment from contaminated soil and groundwater.

Up to 1 January 2008, 244 sites were listed in the inventory of contaminated sites under the relevant Ordinance, of which 88 are already registered as secured or rehabilitated. For another 78 sites, appropriate measures are already in progress.

The funding is obtained from dedicated federal contributions (Section 6 (1) 3 Umweltförderungsgesetz). Altogether, 176 projects have so far been completed, carrying an investment volume of about € 824 million to improve 46 million cubic metres of groundwater, properly dispose of 9.9 million metric tons of contaminated soil and rehabilitate 145 hectares of derelict land.

In 2007, funding of about € 10.1 million was promised. Up to 95% of the environmentally relevant investment cost can be financed. The applications for funding are evaluated in accordance with the "2002 funding guidelines for rehabilitating and securing contaminated sites".

Air Pollution:

Monitoring

General provisions on air quality monitoring are part of the Ambient Air Quality Act and the Ozone Act; details regarding the number of measuring stations, methods, quality assurance and the publication of information have been laid down by ordinance. Air quality measurements are performed by the federal provinces and by the **Austrian Federal Environment Agency** (Umweltbundesamt). Ambient air concentrations of particulate matter, sulphur dioxide, nitrogen dioxide and ozone are currently measured at considerable more than 100 stations in Austria. Information on

pollutant concentrations in ambient air and exceedances of limit values is published in the internet (with hourly updates) and in regular reports.

Whereas for most pollutants no or only occasional exceedances of limit or target values have occurred throughout the last years, exceedances at a significant number of measuring stations have occurred for particulate matter, nitrogen dioxide and ozone. Those pollutants have turned out to be persistent problems.

The Austrian air emission inventory is used to assess whether the national emission ceilings are met. The inventory is maintained by the Austrian Federal Environment Agency (Umweltbundesamt) according to the EMEP/CORINAIR Emission Inventory Guidebook and the IPCC Guidelines for National Greenhouse Gas Inventories. Emissions of sulphur dioxide, volatile organic compounds and ammonia are already below or only slightly above the ceilings. The ceiling for nitrogen oxides, however, is still considerably exceeded.

Implementation measures for improving air quality

Exceedances of air quality limit values for PM10 have occurred in all federal provinces, for nitrogen dioxide in most of them. According to the provisions of the Air Quality Act, the federal provinces have established measures and programmes to improve air quality. Depending on the situation and the pollutants affected, measures are planned or have been implemented mainly in the areas of transport, domestic heating, manufacturing and construction industries. Measures comprise for example: Reduced highway speed limits, restrictions for old heavy duty vehicles, reduced road sanding and optimised street-cleaning, improvements in public transport, subsidies to replace old domestic boilers, comprehensive measures in the iron and steel production, particle filters for construction machinery. A ban concerning the transport of certain goods on a highway in Tyrol, however, had to be repealed due to a decision of the Court of Justice of the European Communities. The Court has decided in favour of the free movement of goods, although only goods had been concerned which would have been perfectly suitable for rail transport.

Details of the programmes are accessible on the internet, e.g.:

- http://www.klagenfurt.at/downloads/UW_Massnahmenpaket_Klagenfurt_070813.pdf
- http://www.land-oberoesterreich.gv.at/cps/rde/xchg/SID-3DCFCFC3-A6A7086F/ooe/hs.xsl/41338_DEU_HTML.htm
- http://www.umwelt.steiermark.at/cms/dokumente/10434780_12313709/957793f3/%C2%A79aIG-L-Programm_Steiermark.pdf
- http://www.tirol.gv.at/fileadmin/www.tirol.gv.at/themen/umwelt/umweltrecht/Programm__9a_Tirol_nach_Stng_v11.pdf
- http://www.vorarlberg.at/vorarlberg/umwelt_zukunft/umwelt/umweltundlebensmittel/weitereinformationen/luft_klima/pm10massnahmen.htm
- <http://www.magwien.gv.at/umweltschutz/luft/feinstaub.html>

Air quality concerns have also **influenced policies** at the Federation level, for example:

- Some sector specific ordinances based on § 82 of the Industrial Code have been adapted to the technical progress in 2007 or are going to be adapted, with a focus on emissions of particulate matter.
- Emission limit values for particulate matter in the Waste Combustion Ordinance have been tightened in 2002.

- In the framework of environmental promotion in accordance with the Environmental Support Act (Umweltförderungsgesetz) subsidies are granted for measures to reduce air pollutants (e.g. for the additional equipment of construction machinery with particle filters). Subsidies are also granted for biomass district heating plants (in order to reduce fossil CO₂ emissions); in 2007 the criteria for these grants have been tightened with respect to emissions of particulate matter.
- In 2005 a differentiated tax rate was introduced for the registration of cars with and without particle filters. In 2008 a further differentiation will be introduced to promote cars that conform to the EURO 6 standards (which become mandatory not until 2014). A reduced mineral oil tax rate for sulphur free gas oil will be introduced in 2008.

Protection against radioactive contamination

The obligatory environmental monitoring for radioactive contamination specified in the Strahlenschutzgesetz (Radiation Protection Act) has proved its value when emergency measures were taken to counter the nuclear fallout from Chernobyl. Both the automated radiation early warning system with its 336 data points and the lab-based monitoring system provide for the rapid acquisition of necessary data on exposure and contamination to be used for decision-making processes.

The automated radiation early warning system is kept at the state of the art in science and technology through ongoing modernisation. In recent years, automatically recording aerosol measuring points were added at the borders to the neighbouring states. In addition, agreements were signed with the Czech Republic, Hungary, Slovakia and Slovenia to install aerosol monitors and exchange the data thus obtained. Similarly, an exchange of early warning data on radiation was agreed with the above states and with Germany and Switzerland.

For the near future, plans are to substantially deepen cooperation with the neighbouring states with regard to emergency planning and an exchange of the data relevant for decision-making.

Asbestos:

In 2006, the **European Asbestos Campaign of 2006** was successfully implemented in Austria as well, informing the population and checking on asbestos under the motto "Asbestos is deadly serious – Prevent exposure!" The main focus of the campaign was on the protection of workers in maintenance-demolition-removal activities and waste disposal involving asbestos cement and other highly bonded asbestos products. A "Practical Guideline" of how to handle asbestos was developed.

Reply to the additional questions on Para 3 of Article 11 in the Conclusions XVIII-2:

Food hygiene:

In Austria, food checks are made based on the Lebensmittelsicherheits- und Verbraucherschutzgesetz (Food Safety and Consumer Protection Act; LMSVG), Federal Law Gazette I no. 13/2006 as amended.

Supervision of the marketing of goods under the LMSVG is incumbent upon the governor of each *Land* (state) who employs specially trained bodies as supervisory boards to discharge this duty (cf. Section 24 LMSVG).

According to Section 24 (2) of the LMSVG, official controls must be performed in accordance with Regulation (EC) 882/2004 and Regulation (EC) 854/2004 governing official monitoring of food of animal origin designed for human consumption. The multi-annual integrated control schedule (MIK) comprising the entire food chain will be of key importance in the future. For more detailed information on the MIK see <http://www.bmgfj.gv.at/cms/site/standard.html?channel=CH0834&doc=CMS1202727938512>.

Under Regulation (EC) 178/2002, it is the food business operator who is generally responsible for compliance with the requirements of food law. The state governor introduces revisions on an ongoing basis and without any specific occasion, in line with a revision and sampling schedule based on the control schedule. The samples taken by supervisory bodies on suspicion or at random are sent to the Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH or the state-level testing institutions in Bregenz, Klagenfurt and Vienna for expert testing and evaluation.

This body also is responsible for advising the Federal Minister of Health, Family and Youth and the Federal Minister for Agriculture, Forestry, Environment and Water Management, especially with regard to risk evaluation and the submission of proposals for risk management.

The Austrian Food Register (Codex Alimentarius Austriacus) publishes designations, definitions, investigation methods and evaluation principles, as well as guidelines for the production and marketing of goods governed by the LMSVG. The register does not have the powers of either a law or an ordinance, but it serves as an “objectified expert opinion”.

Narcotic drug policies:

During the reporting period, discussions and policies revolving around narcotic drugs focused on substitution treatment, because the framework for this treatment, regulated since 1987 through ordinances, had been obligatory for the government health services but not for physicians. As a result, drugs were at times dispensed with excessive generosity, fostering the diversion of drugs with a narcotic content into the black market. In response, an obligatory framework was set up that aims to include not just health officers but extends to all other physicians and pharmacies with the object of binding them to exact observance. Following an in-depth discussion of the problem, the Health Ministry issued two ordinances that regulate the framework for substitution treatment and which became effective on 1 March 2007 (Amendment of the Narcotic Drugs Ordinance, Federal Law Gazette II no. 451/2006, and Ordinance governing further training in oral substitution, Federal Law Gazette II no. 449/2006).

Benchmarks of the new regulation are the obligatory further training for physicians offering substitution treatment, more restrictive drug dispensation by physicians, a greater role of the government health services, and the establishment of panels and committees at state and federal level to ensure ongoing quality assurance. Apart from methadone, buprenorphine is now considered the drug of first choice. A key

factor in the success of a treatment that is part of the recognised spectrum of methods to treat opiate addicts is the coordinated and harmonised approach of the various professions involved in the treatment (indicating physician, stabilising physician, therapist, medical officer, pharmacy, associated psychosocial therapist and drug counselling service). The Narcotic Drugs Ordinance defines the competences for physicians and medical officers and fosters an approach harmonised between physicians, medical officers, pharmacies and psychosocial therapists. The Ordinance governing further training in oral substitution aims to achieve a minimum degree of harmonisation between the qualifications of physicians and medical officers. These ordinances aim to improve the quality of substitution treatment and bring more safety to the handling of narcotic drugs prescribed within this type of treatment. The effects of the ordinances are currently evaluated in order to obtain pointers as to whether adjustments are necessary.

A new development implemented during the reporting period is the “Austrian Compass for Drug Addicts”, an online database holding information on facilities to help drug and alcohol addicts.

The information and early warning system, also developed during the reporting period, is aimed to provide information on circumstances in connection with drug abuse which may give rise to health risks for consumers, such as a noticeable pollution of drugs, unusually high concentrations, or the emergence of drugs previously unknown and not circulating in Austria, and high-risk consumption patterns. A systematised information line provides and examines relevant information. If it finds previously unknown drugs or consumption patterns that point at serious health risks, an early warning mechanism is triggered. An expert panel was appointed to provide advice and consult about sensible and useful prevention measures.

Another focal activity on the part of the Health Ministry during the reporting year was to intensify monitoring of the epidemiological situation regarding narcotic drugs. This involved Austria-wide polls among pupils/students and surveys among the general population on drug consumption. With such surveys involving the identification and observation of trends they are particularly useful when repeated in regular intervals. Austria participated in the ESPAD survey of schools periodically organised by the Council of Europe, first in 2003 and again in 2007. In 2004 it organised the first territory-wide survey on substance abuse (drugs, alcohol, tobacco, psychoactive medication); a second survey is being prepared.

Secondly, a uniform Austria-wide documentation and reporting system was implemented, after large-scale and intense discussions, that collects, standardises and evaluates comparable and reliable information on addicts who have turned to drug counselling facilities for treatment (demographic and social data, drug consumption patterns, etc.). In terms of its methods, the system is a national, routine and anonymous case reporting system that involves standard core data on drug consumers who undertake 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 data are available to assess the narcotic drugs situation. The prevalence of experience with the consumption of illegal psychoactive substances,

after rising slightly both in adults and youths over the past decade, has stabilised, albeit at a higher level. About one in five Austrians has consumed cannabis at least once, with a peak rate of up to 35% among young grown-ups. Rates are substantially lower for all other substances, typically at 1% (heroin) to 3% (Ecstasy, amphetamines, cocaine) for the general population. Current consumption rates (the last 12 months) are even lower – evidence that consumption of illegal substances is usually restricted to a try-out experience or a short life phase.

An analysis of available data and information leads to the assumption that problematic drug consumption has increased in Austria over the past years. Reference is made to the enclosed fact sheet “Illegal drug consumption in Austria” (**Annex 1**).

Based on the latest estimate of the prevalence of – usually multiple – addiction, including opiates in 2004, some 25,000 to 32,000 individuals are affected in Austria. Compared to a methodologically comparable estimate in 2001, this translates into an increase by about 10,000 individuals. The rise is particularly noticeable in the 15-24 year olds. Similarly, the number of narcotic drug-related deaths has grown for the fourth time in a row since 2002, to 197 cases in 2006. Even though the data need to be interpreted with caution due to the low case numbers, the simultaneous decline in the average age of people dying of narcotic drugs intoxication still points at some change in the drug situation. There appears to be a rise in the group of young drug users and drug addicts showing a high-risk consumption pattern.

In response to this development, the Austrian states offer new and adapted schemes and are extending their health policy measures. They increasingly organise activities that include elements of general and specific prevention as well as early recognition and early intervention schemes. Drug counselling services are continuously responding to new developments, making efforts to focus their counselling, care and treatment services at known target groups and to address new target groups. It is noticeable that open-access treatment and care facilities offer a range of activities directed specifically at women.

Such new developments are frequently a response to deficits, gaps and adjustment requirements identified in actual practice, by surveys and evaluations. In addition to multiple activities regarding primary and secondary prevention as well as damage control and treatment, there are numerous new or extended offers for social reintegration. Reintegrating (former) drug users in the working world continues to be a focal effort. Consideration is increasingly given to covering their requirements in terms of housing (emergency overnight stays as well as long-term shelters) and leisure/social networking. Drug counselling and care facilities continue to be funded by the states and the Health Ministry.

The programme of the Federal Government of January 2007 provides for the development of a “national strategy to combat narcotic drug and alcohol use among the young”, together with intensifying measures to prevent alcohol and drug abuse, as well as abusive nicotine use and gambling, where the Health Ministry is invested with the lead management and coordination.

Regarding the details on developments during the reporting period reference is made to the annual report on the drugs situations on the web site of the Federal Ministry of Health, Family and Youth.

Measures against smoking:

Several legislative measures have been implemented in the field of tobacco consumption during the reporting period. Within the sphere of activities pursued by the Federal Ministry of Health, Family and Youth, the following amendments to the Tabakgesetz (Tobacco Act) are of relevance:

The Amendment to the Tobacco Act of Federal Law Gazette I no. 74/2003 regulates limits to the tar, nicotine and carbon monoxide content in cigarette smoke, adapts the warning and introduces a reporting duty of manufacturers and importers on the content of the tobacco products marketed in Austria.

The Amendment to the Tobacco Act of Federal Law Gazette I 167/2004 further restricts tobacco advertising and improves the protection of non-smokers:

On 1 January 2007, a far-reaching ban on advertising and sponsoring tobacco products became effective which allows only a few exceptions, mostly with regard to product and price information for tobacco trading.

As of 1 January 2005, the protection of non-smokers was extended to all public enclosed spaces, with the exception of tobacco shops and restaurants. Smoking is permitted only in separate smokers' rooms and only when it is ensured that the smoke does not penetrate into the other rooms in which smoking is banned.

Smoking is banned absolutely in schools and other facilities that accept, care for or accommodate children and youths. Smokers' rooms are prohibited.

The Federal Government Agreement of January 2007 provides for restaurants to be included in the statutory ban on smoking; the subject is currently negotiated between the government parties.

The Amendment to the Tobacco Act of Federal Law Gazette I no. 47/2006 and the Ordinance governing minimum price regulation of Federal Law Gazette II no. 171/2006 stipulated minimum prices for cigarettes and fine cut for self-rolled cigarettes to combat the downward spiral of cigarette prices. The measure aims to counter the incentive to smoke, especially among the young, that derives from their ever lower prices.

Furthermore, drawing on the code of ethics of the Federal Board of Tobacco Retailers, access to tobacco products was impeded for children and youths as of 1 January 2007. Tobacco products may be sold from cigarette vending machines only to persons over the age of 16.

Reference is made to the enclosed fact sheet on "Smoking behaviour in Austria" (**Annex 2**).

The data underlying the fact sheet were collected by a survey of 2004 on the consumption of psychoactive substances the results of which, however, currently do not allow clear conclusions regarding the smoking behaviour of Austria if other sources are considered (BMGF/LBISucht/market 2005): a later survey made by Statistik Österreich (see the Austrian Health Survey of 2006/2007) arrives at a much lower prevalence of smoking. The variations in the data make it difficult to assess smoking in the Austrian population. Nevertheless, the data of 2004 correlate well with the sales statistics including an estimate for smuggled goods. Accordingly, cigarettes smoked per head in Austria have declined by some 15% since 1980. This may mean that there are fewer smokers now or, alternatively, that, in spite of a greater number

of smokers, falling sales are due to a decline in consumption per head (A. Uhl, LBI Sucht, Chaos um die Raucherzahlen in Österreich, Vienna 2007, to be published). Further surveys are expected to bring clarity to a data situation that is currently difficult to interpret.

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.

As another measure during the reporting period, 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.

Campaigns against smoking are more frequent than those against illegal drug use. Major campaigns during the reporting period were:

- "Nichtrauchen – die coole Alternative" (Be cool – don't smoke): Originally organised in Salzburg and targeted at youngsters, the project was subsequently supported by the Fonds Gesundes Österreich (Fund for a Healthy Austria; FGÖ) between 2002 and 2005 as a successor to the "Ich (b)rauch(s) nicht" (No need to smoke) campaign. Under the Gesundheitsförderungsgesetz (Health Promotion Act; Federal Law Gazette I no. 132/2006) the Fund is charged with health promotion and information.
- "ISCH" Campaign: Within the scope of a health promotion campaign in 2003-2006, the Health Ministry devoted a separate focus to smoking, including an internet web site.
- "Ka Tschick ist an! – das Auto wird zur rauchfreien Zone" (No fag please – turning the car into a smoke-free zone): The 2007 campaign, supported by the Health Ministry, aimed to increase awareness of the need to protect non-smokers and draw attention to the risks involved in smoking in the car.
- "HELP – Für ein Leben ohne Tabak" (Help – for a life without tobacco): The EU media campaign was the successor to the "Feel Free to Say No" campaign organised in 2002-2004. The Austrian partner is Krebshilfe Österreich/Initiative Ärzte gegen Raucherschäden. Designed to run for four years, it was launched in the media on 1 March 2005. The campaign concentrates on prevention, exit from smoking and passive smoking.

Schools discussed smoking in a project entitled "Smokefree school". At state level, the agencies dedicated to preventing addiction arrange local and regional activities revolving around smoking.

Measures against alcohol abuse:

The Work Agreement of the current Federal Government of January 2007 includes a national strategy to combat addiction which also extends to alcohol.

To implement its brief, an Alcohol Forum was institutionalised in 2007, headed by the Health Ministry, which is charged with developing concepts and strategies on all

national alcohol issues and with executing a national alcohol strategy. Its working groups deal with prevention as well as alcohol and business.

In 2007, a campaign against alcohol “Nachdenken statt Nachschenken” (Think before you drink) aimed to disseminate information at a national level and foster a greater sense of responsibility with regard to youths and alcohol, not least in response to the binge drinking phenomenon.

The campaign was chiefly directed at parents and adults, to make them aware of their responsibility and function as a role model. The emphasis was on enjoyment without the need for alcohol. Experts developed specific measures and organised events in all states that focused on social problems and sensitised society for these problems. Businesses, restaurants and event organisers committed to a charter that obliges them to comply with the youth protection provisions governing the sale of alcohol. The campaign was accompanied by TV and radio commercials to sensitise the public and it ended at the end of November 2007.

Throughout July and August 2007, a pool tour “Think before you drink” took to the road, organising “beach parties” at 18 outdoor pools in all parts of Austria to inform youths on the problems of alcohol (addiction, abuse, effects) and guide them towards alcohol-free enjoyment.

Epidemiological surveillance:

The 22nd report noted that major infectious diseases must be reported to Austrian authorities. Austria also participates in all EU networks of relevance for the monitoring and control of contagious diseases. Austria fully participates in the operation of the early warning and response system set up by the EU. The ECSR requests information on how these measures work and are applied in practice.

1. Reporting of infectious diseases:

The first EU-wide epidemiological report on infectious diseases published by the European Centre for Disease Prevention and Control in 2007 furnished a positive description of the situation regarding infection monitoring. A particularly positive aspect was the fact that Austria was one of the few EU countries to supply data on almost all diseases: reliable data were lacking for only four diseases – infectious diseases which need not be reported in Austria. For the remaining 45 diseases, Austria could supply data of generally high quality throughout, thanks to the excellent network set up by the Federal Ministry for Health, Family and Youth, including its reference centres and the universities.

As of 2008, the new electronic reporting system for infectious diseases is being implemented which allows real-time monitoring of the epidemiological situation and rapid ascertainment of outbreaks.

2. Participation in EU networks:

In addition to proactively participating in all network projects pursuant to EU Decision 2119/98, Austria organised several project meetings (e.g. ENTERNET 7/2007; ESSTI 11/07). Upon the establishment of the European Centre for Disease Prevention and Control, the network projects were gradually shifted to it. Austria continues to participate proactively in all projects and has included all its reference

centres. Specifically, all data requests are complied with in good time and enquiries by specific networks, e.g. on inoculation schemes, mass vaccination rates, 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.

3. Participation in EU early warning systems:

Austria participates in the EU Early Warning and Response System (EUEWRS) and the Rapid Alert System for Biological and Chemical Alerts and Threats (RAS-BICHAT), and has set up a 24/7 call point. For the RAS-BICHAT, cooperation has been established with the Federal Ministry of Defence which acts as 24-hour contact point. In addition, the Early Warning Austria system was created which uses e-mail to inform all state-level health authorities, reference centres and other key facilities on important events regarding infectious diseases (“top down” system). This mechanism is also available reversely for health officers to report events to the Federal Ministry for Health, Family and Youth (“bottom-up” system).

3. Statistics or other information

See reporting on Para 2 of Article 11.

ARTICLE 12

THE RIGHT TO SOCIAL SECURITY

Paras 1 and 2 of Article 12

Maintaining a social security system of a level at least equal to that of the ILO Convention no. 102

1. General legal framework, reforms and

2. Administrative arrangements, programmes, action plans, projects, etc. to implement the legal framework

Previous reports are updated as follows:

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

http://ec.europa.eu/employment_social/missoc/db/public/compareTables.do,

status as of 1 July 2007, with due regard to the following changes:

- Mandatory contributions listed in “2. Sickness and maternity: cash benefits” total 7.65% for 2008, of which 3.95% are paid by the employees and 3.70% by the employers. The contribution for quasi free-lancers (“freie Dienstnehmer”) is also 7.65%, of which 3.87% are paid by the employees and 3.78% by the employers.
- Regarding “8. employment injuries and occupational diseases” it should be noted that the cost of the contribution to accident insurance, which need no longer be paid by employees aged 60 and over, is paid from funds of the accident insurance company.

Family allowance:

Under an amendment of the Familienlastenausgleichsgesetz (Family Burden Equalisation Act; FLAG 1967) entering into force on 1 January 2006, eligibility for a family allowance under Section 3 FLAG 1967 is no longer based on the duration of stay or an employment. The criterion now is that a person has his/her legitimate residence and centre of vital interests in Austria, with the legitimate residence to be accepted as prerequisite by the authorities responsible for aliens and in charge of executing the Niederlassungs- und Aufenthaltsgesetz (Act Governing Establishment and Residence in Austria; NAG 2005). The same rules apply for the child-care benefit.

As a member of the European Union, Austria complies with its obligation to transpose the requisite EU regulations. In connection with family allowance and child-care benefit these are the Regulations (EEC) no. 1408/71 and 859/2003.

No bilateral agreements have been made in the field of social security which also relate to family benefits and there is no intention to enter into such agreements.

3. Pertinent figures, statistics or any other relevant information

Sickness insurance

a) Medical care, maternity benefits in kind

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

On the average of 2007, 8.2 million persons (98.7% of the population) were protected by sickness insurance: 5,873,200 contributors, 2,087,300 co-insured family members and about 200,000 persons had sickness insurance with health care institutions (employees of certain public law employers).

- Insured contributors 46%
- Co-insured family members 26%
- Pensioners 24%
- Others 4%

b) Sickness benefit, maternity cash benefits

Employed persons compulsorily insured under the General Social Insurance Act (ASVG) and unemployed persons are entitled to sickness benefits or maternity cash benefits. The number of persons protected under the ASVG in 2007 was 4,898,089 or 88,2% of all contributing insurants.

Civil servants are protected under the civil service welfare regulations. They are entitled to the continued payment of salary in the event of incapacity for work because of sickness or maternity.

Self-employed persons are protected under the Self-Employed Persons' Social Insurance Act (GSVG).

The only persons without insurance cover were some marginally employed persons (marginal employment earnings limit for 2008: 349.01 € per month), namely, those who were not already protected by sickness insurance outside their marginal employment or were not self-insured if in marginal employment.

2. Accident insurance

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

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

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

In 2007, the number of persons protected was 5,887,776.

Employed persons 3,158,456

Self-employed persons 1,404,320

Schoolchildren and students 1,325,000

3. Pension insurance

(Old age, invalidity and survivors' benefits)

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

a) In 2005, 2006 and 2007 the number of persons protected in pension insurance was as follows*:

Employed persons (excluding the unemployed):

2005: 2,789,400

2006: 2,848,900

2007: 2,924,800

Self-employed persons:

2005: 390,000

2006: 394,400

2007: 395,800

Civil servants:

2005: 299,800

2006: 291,600

2007: 283,700.

Total:

2005: 3,479,200

2006: 3,534,900

2007: 3,604,300.

*Multiple insurance possible.

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

b) Rates of benefit, pension adjustment

i) Maximum contributory base

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

2005	€ 3,630.00	5.2%
2006	€ 3,750.00	3.3%
2007	€ 3,840.00	2.4%
2008	€ 3,930.00	2.3%

i) Average contributory base

2005	€ 2,186.90	2.5%
2006	€ 2,245.60	2.7%
2007	not yet known	

iii) Standard wage

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

2005	€ 2,367.43	2.4%
2006	€ 2,434.29	2.8%
2007	not yet known	

iv) Maximum pension (normal old-age pension after 40 insurance years, 80% of the highest possible individual assessment base)

2005	€ 2,439.26	1.8%
2006	€ 2,505.55	2.7%
2007	€ 2,590.85	3.4%
2008	€ 2,654.33	2.5%

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

2005	€ 1,552.49	2.3%
2006	€ 1,573.47	1.4%
2007	€ 1,606.54	2.1%

vi) Equalisation supplement

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

	Standard rate for single pensioners		Standard rate for married couples		Standard rate supplement for each child	
2005	662.99	1.5%	1,030.23	1.5%	70.56	1.5%
2006	690.00	4.1%	1,055.99	2.5%	72.32	2.5%
2007	726.00	5.2%	1,091.14	3.3%	76.09	5.2%
2008	747.00	2.9%	1,120.00	2.6%	78.29	2.9%
Increase						
2007/2004	11.1%		7.5%		9.5%	

vii) Pension adjustment

The increase of pensions in payment was as follows:

2005	1.5%
2006	2.5%
2007	1.6%
2008	1.7%

Reporting date	Average old-age pension according to the ASVG	Maximum pension on the basis of standard wage	Other factors affecting the amount of benefit*
December 2005	972.00 €	1,552.49 €	1,030.23 €
December 2006	1,002.00 €	1,573.47 €	1,055.99 €
December 2007	1,028.00 €	1,606.54 €	1,091.14 €
Increase 2007/2004	7.4%	5.8%	7.5%

* Standard rate of the equalisation supplement for married couples

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

	Cost-of-living index 1986=100	Tariff wage index 1986=100	Pension adjustment 1986=100
Annual average 2005	152.20	183.80	150.70
Annual average 2006	154.40	188.80	154.46
Annual average 2007	157.80	193.40	156.93

Increase 2007/2004	6.0%	7.6%	5.7%
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Total number of persons receiving old-age benefits

December 2005	1,129,425
December 2006	1,144,074
December 2007	1,164,240

4. Unemployment insurance

Insurance protection is related to gainful activity as an employed person. Protection extends, e.g. to employees, apprentices, homeworkers, persons undergoing vocational training and development assistants. Civil servants are excluded from the unemployment insurance requirement and receive from the Public Employment Service a benefit corresponding to unemployment benefit and emergency assistance in the event of unemployment ("bridging aid" or "extended bridging aid"), which is financed by the relevant Federal or local government authorities.

On the annual average for 2005, the number of persons protected by unemployment insurance was 2,647,074, for 2006 2,707,795 and for 2007 it was 2,779,594.

From 2008 on the so called "free employees" will also be protected by unemployment insurance. The number of this group will be about 28,000.

5. Family benefit

In principle, this benefit covers the entire resident population.

In the year 2005 1,107,756 persons were entitled to family benefit for 1,838,118 children, in the year 2006 1,104,988 persons for 1,838,452 children and in the year 2007 1,102,981 persons for 1,829,336 children.

Reply to the additional questions on Para 1 of Article 12 in the conclusions XVIII-1:

Amount of unemployment benefit:

Since unemployment benefit and unemployment assistance, both based in the unemployment insurance system, depend on a person's pay while employed (in spite of being assessed using net replacement rates + (family) supplements if any, as well as a possible supplementary amount; for details see the 23rd Austrian Report), and since there is no security-for-all basis in the unemployment insurance system, some beneficiaries may receive payments below the (internationally) defined poverty limits such as the equalisation supplement reference rate.

No change to this general regulation, i.e. towards some “minimum income”, is at present envisaged.

Para 3 of Article 12
**Endeavour to raise progressively the
 system of social security to a higher level**

Ad questions 1 to 3:

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

Legislative activities in the field of health and accident insurance:

Below, a list is given of all amendments to laws in 2005 and afterwards which are of relevance for health and accident insurance, together with their key innovations:

Sozialrechts-Änderungsgesetz 2005 (Act Governing Amendments to the Social Law), Federal Law Gazette I no. 71:

This act comprises the 64th Amendment of the ASVG (General Social Insurance Act), an amendment of the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry), the 30th Amendment of the BSVG (Act Governing Social Insurance for Farmers) and the 33rd Amendment of the B-KUVG (Act Governing Health and Accident Insurance for Civil Servants). Key changes with regard to health and accident insurance:

- Members of the Controlling Group and the Sozial- und Gesundheitsforum Österreich are included in the accident insurance scheme.
- Health insurance coverage for recipients of child-care benefits is terminated on the last day of the claim period rather than upon the end of the calendar month in which the last benefit is paid.
- Clarifications with regard to the levying of the service charge for the e-card.
- Assessment basis for confinement benefit increased by any child-care benefit received.
- Merger of Betriebskrankenkasse Alpine Donawitz and Betriebskrankenkasse Kindberg.
- Accident insurance extended to pupils for days in which they get individual occupational counselling out of school.
- Introduction of a marginal earnings threshold in the B-KUVG in line with the ASVG regulations; including waiver of a minimum contribution base, change in the ceiling of insurable earnings, creation of a new self-insurance scheme for marginal jobs.

- Clarification that state-employed teachers are included in the health and accident insurance scheme under the B-KUVG in line with federal employment law (partial insurance in the old-age pension insurance system under the ASVG), and clarification of the exception for the Viennese state-employed teachers (full insurance under the ASVG).
- Adjustment of the Dienstgeberabgabegesetz (Act Governing Employers' Dues) in response to the dissolution of the Equalisation Fund of the Old-Age Pension Insurance Carriers, the withdrawal of the Railways and Mining Insurance Institute from the Equalisation Fund of the Health Insurance Carriers and the introduction of a minimum threshold in the B-KUVG.
- Changes regarding farmers:
 - Changes in the disability benefit (e.g. higher benefits for serious disability, maintenance claims not credited, previous accidents not accounted for in granting disability benefit, express regulation of the date at which disability benefit is due).
 - Adjustment in the calculation of the assessment base for accident insurance.
 - Help for survivors to continue farm operation by providing for workers for up to two years after the insuree's death.
 - Harmonisation of the voluntary retirement pay (currently 100% of the pension) with the obligatory retirement pay (50% of the pension).
 - Update in the criteria for granting the so-called "small" disability benefit.
 - More extensive administrative help.

Dienstleistungsscheckgesetz (Service Check Act; DLSG), Federal Law Gazette I no. 45/2005:

This act regulates the claims and obligations of persons from their employment relationship to natural persons regarding simple household services in private households. The pay is below the monthly marginal earnings threshold and is paid out by way of a "service check". Persons thus paid who are no quasi-freelancers are included in the mandatory insurance system under the ASVG and are obligatorily accident-insured as marginal part-timers. Furthermore they are entitled to take out health and old-age pension self-insurance.

Sozialversicherungs-Änderungsgesetz 2005 (Act Governing Amendments to Social Insurance), Federal Law Gazette I no. 132:

This Act comprises the 65th Amendment of the ASVG (General Social Insurance Act), the 31st Amendment of the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry), the 31st Amendment of the BSVG (Act Governing Social Insurance for Farmers) and an Amendment of the B-KUVG (Act Governing Health and Accident Insurance for Civil Servants). In terms of health and accident insurance the following measures are highlighted:

- Pupils and students are excepted from full insurance for activities and customary practical work required within the scope of the curriculum or study plan. Accordingly, adaptations were made to the accident insurance with regard to eligibility for disability benefits, crediting to overall old-age pension

schemes and disability benefits, in order to adequately secure pupils and students for their work within the scope of internships and similar activities. Separately from this, most pupils and students are co-insured in a health insurance scheme.

Amendment to the Bauern-Sozialversicherungsgesetz (Act Governing Social Insurance for Farmers) , Federal Law Gazette I no. 60/2006:

An amendment of the Act Governing Social Insurance for Farmers, necessitated by a decision of the Constitutional Court, produced a new regulation in the accident insurance system regarding occupational pensions, which in turn was cancelled by a new decision of the Constitutional Court and followed by a new amendment embodied in the 2007 Act Governing Amendments to the Social Law (see below).

Sozialrechts-Änderungsgesetz 2006 (Act Governing Amendments to the Social Law), Federal Law Gazette I. no. 131:

This Act comprises the 66th Amendment to the ASVG (General Social Insurance Act), as well as amendments to the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry), BSVG (Act Governing Social Insurance for Farmers) and B-KUVG (Act Governing Health and Accident Insurance for Civil Servants). Key changes with regard to health and accident insurance:

- Authorisation under federal law to use the e-card for eligibility checks by the states, to extend the application range of the e-card.
- Inclusion of the officers of the Association of Professional Ski and Snowboard Instructors of Salzburg in the partial insurance scheme for accident insurance under the ASVG.
- Legislative instruction to the Federation of Austrian Social Insurance Institutions to take special promotional action, within the scope of its competences, for women under the Bundes-Gleichbehandlungsgesetz (Federal Equal Opportunities Act), Federal Law Gazette I no. 100/1993.
- New regulation of the definition of the term “Angehöriger” (family member) to include cohabiting partners in response to a decision by the Constitutional Court.
- Adaptation of the deadlines for a new decision of the Federation of Austrian Social Insurance Institutions, after the Independent Medicinal Board acting as appellant body decided to reject an application to accept a medication to the refunding codex.
- Shifting the reporting duty from the temporary work agency to the employer in the event that temporary workers incur accidents at work or suffer from an occupational disease.
- Additions to the list of occupational diseases kept under the ASVG.

Sozialrechts-Änderungsgesetz 2007 (Act Governing Amendments to Social Law), Federal Law Gazette I. no. 31:

This Act comprises the 67th Amendment to the ASVG (General Social Insurance Act), the 32nd Amendment to the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry), and the 32nd Amendment to

the BSVG (Act Governing Social Insurance for Farmers). Key changes regarding health and accident insurance:

- Inclusion of the officers under the Zahnärztekammergesetz (Dentists' Chamber Act) in the partial insurance scheme for accident insurance under Section 8 (1) 3 (g) ASVG.
- New regulation of electronic settlement with the contracting partners required under a decision by the Constitutional Court.
- Extension of the brief of the statutory health insurance with regard to an influenza pandemic; influenza vaccination using the influenza pandemic vaccine to be included in the statutory catalogue of other measures to maintain national health, in the case and for the duration of a pandemic declared by the World Health Organization (WHO); for such period, this vaccination is a benefit obtained under the statutory health insurance scheme.
- Adjustment of regulations governing deadlines in the procedure to accept a medication to the refunding codex to comply with Article 6 (1) of Directive 89/105/EEC.
- New regulations governing granting and withdrawal of an occupational pension under the BSVG, required due to a decision of the Constitutional Court; accordingly, occupational pensions granted as permanent pensions will now be withdrawn upon the cessation of the farming operation or, at the latest, on the day an old-age pension is granted under the ASVG, GSVG or BSVG.
- Clarification regarding cash benefits for farm accidents under the BSVG.
- Adaptation regarding health insurance entitlements of family members.

Changes to the Beamten-Kranken- und Unfallversicherungsgesetz (Act Governing Health and Accident Insurance for Civil Servants), Federal Law Gazette I no. 32/2007:

- Adjustments regarding self-insurance of marginal part-timers.
- Adaptations regarding health insurance entitlements of family members.

Bundesgesetz zur Anpassung von Rechtsvorschriften an die Vereinbarung gemäß Art. 15a B-VG über die Organisation und Finanzierung des Gesundheitswesens für die Jahre 2008 bis 2013 (Federal Act Governing the Adaptation of Laws to the Agreement under Article 15a of the Federal Constitution Act on Organising and Financing the Health Care System for 2008-2013), Federal Law Gazette I no. 101/2007:

This Act comprises the 68th Amendment to the ASVG (General Social Insurance Act), the 33rd Amendment to the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry), the 33rd Amendment to the BSVG (Act Governing Social Insurance for Farmers), and the 34th Amendment to the B-KUVG (Act Governing Health and Accident Insurance for Civil Servants). Key changes regarding health and accident insurance:

- Introduction of a cap to the prescription charge of 2% of the net income to combat the problem that an accumulation of prescription charges for people suffering

from chronic or multiple illnesses may cause a financial hardship which leads them to forego medically necessary treatment.

- Introduction of a six-week period during which benefits are granted from an insured illness in spite of a person's losing his/her eligibility.
- To safeguard the liquidity situation of the statutory health insurance system, health insurance contributions under the ASVG are increased by 0.15%, to be paid solely by the employers for blue-collar workers, and shared between employers (0.07%) and employees (0.08%) for white-collar workers; for BSVG-insured persons, contributions are also raised by 0.15%.
- To foster further harmonisation, the health insurance contribution by persons insured under the GSVG is reduced to the level of blue-collar workers, white-collar workers and farmers.
- In line with an agreement between the social partners, an increase in the employer's contribution by 0.35% while eliminating the surcharge for extended medical treatment amounting to 0.4% results in a reduction of the overall contribution by 0.05% for B-KUVG insurance.
- Clarification that the higher confinement benefit is due also to recipients of child-care benefits health-insured under the B-KUVG.
- New regulation of payment of child-care benefits to expatriate family members of Foreign Service workers.
- Adjustment of social insurance law to the (new) agreement under Article 15a B-VG on the organisation and financing of the health care system. This item covers predominately the technical implementation of the agreement:
 - Increasing the brief of the reform pool to promote integrated care projects (in particular medical services for diabetes patients, apoplexy patients, patients suffering from coronary heart diseases and nephrological diseases, and the discharge management), as well as promote pilot projects for the intersectoral financing of the outpatient department with funds provided by the social insurance system.
 - Obligation on the part of the Federation of Austrian Social Insurance Institutions to participate in planning for the introduction and implementation of the Elektronische Gesundheitsakte (Electronic Health Care File; ELGA).
 - Extension of the regulation to cap administrative costs of insurance institutions and the Federation of Austrian Social Insurance Institutions.
 - Planning of in- and outpatient services within the scope of the Regionale Strukturpläne Gesundheit (Regional Structural Plans for Health; RSG).

Legislative activities to maintain and improve the old-age pension insurance system

Federal Act of Federal Law Gazette I no. 142/2004

Establishment of a uniform old-age pension law ("harmonisation of old-age pensions") for all gainfully employed persons, starting on 1 January 2005.

Extending credits for child-rearing phases in the case of multiple births.

New regulation of the pension adjustment as of 1 January 2006.

Right to be self-insured in the old-age pension insurance scheme for periods of caring for a disabled child up to the child's 40th year of age.

Additional contribution to the pension guarantee contribution under the employment codes of workers at the social insurance institutions.

Measures for the sustainable financing of the old-age pension insurance system.

Increase of the ceiling on insurable earnings.

Revaluation of the contributory years for old-age pension insurance to reflect the development of the average growth of the contribution base.

Extension of the personal scope of application of the regulation governing long-term insurees.

Retroactive reduction of maximum losses from the "pension insurance reform of 2003".

Postponement of the second stage of increasing the health insurance contribution of pensioners by one year.

Waiver of the actuarial factor of increase ("risk surcharge") for purchasing school and university periods after the 40th birthday for all persons born after 31 December 1954.

Federal Act of Federal Law Gazette I no. 171/2004

Restructurisation of the Federation of Austrian Social Insurance Institutions.

Establishment of a federal supervisory body for associations, funds and limited liability companies.

Authorisation of the Health Minister to determine the date of launching the e-card.

General obligation of the employers to levy the service charge (for making available the e-card).

Federal Act of Federal Law Gazette I no. 152/2004

Obligation of the employer to register the employee with the social insurance institution upon the start of employment and before midnight of the first day of work.

Cancellation of the option to extend the reporting deadline through statutes.

Transfer of the offence of Section 114 ASVG subject to supplementary penal provisions to the section on "punishable acts against third-party property" of the Criminal Code.

Federal Act of Federal Law Gazette I no. 45/2005

Adjustments of the ASVG to reflect the Dienstleistungsscheckgesetz (Service Check Act) enacted at the same time.

Federal Act of Federal Law Gazette I no. 71/2005

Inclusion of all state-employed teachers (with the exception of those employed by the State of Vienna) in the partial insurance scheme of the old-age pension insurance system.

Addition of the “severe disability allowance” under the BSVG to the remunerations to be ignored when determining the overall income for calculating the equalisation supplement.

Federal Act of Federal Law Gazette I no. 88/2005

Addition to the catalogue of fictitious qualifying periods from before 1 January 1956 of periods during which the insuree was barred from disposing of his/her working capacity due to a prison term imposed by an NS military court.

Federal Act of Federal Law Gazette I no. 132/2005

Exemption from full insurance of pupils and students who perform a practical work stipulated or customary within the scope of the curriculum or the study plan.

Creation of a favourable self-insurance scheme in the old-age pension insurance system for periods of caring for family members.

Obligation of the employer to register employees with the social insurance system by the start of their work at the latest.

Contributions to the old-age pension system can be paid after they have time-lapsed.

New definition of “school” in the ASVG to reflect European law.

Clarification that the calculation of widow(er)’s pensions must take into account special contributions for higher insurance coverage resulting from gainful employment in addition to the receipt of an old-age pension.

Increase of the equalisation supplement reference rate for singles.

Definition of data exchange with regard to determining child-rearing periods by the pension insurance institutions.

Revision of the provisions governing the cap on administrative costs.

Federal Act of Federal Law Gazette I no. 130/2006

Reduction of administrative procedures as provided in the European project “Less and Better Regulations”.

Revision of eligibility for a pension for a physically demanding job.

In certain cases extension of the observation period for calculating the widow(er)’s pension to the last four years prior to death.

Federal Act of Federal Law Gazette I no. 99/2006

Adjustment of the provisions governing judicial and administrative assistance to the restructurisation of the units to combat tax fraud within the scope of the Betrugsbekämpfungsgesetz 2006 (Fraud Combating Act).

Federal Act of Federal Law Gazette I no. 131/2006

Extension of uses for the e-card.

Specification of special measures to promote women within the meaning of the Bundesgleichstellungsgesetz (Federal Equal Opportunities Act) for employees of the

social insurance institutions and with due regard to achieving gender parity in the administrative bodies.

Federal Act of Federal Law Gazette I no. 165/2006

Granting of a socially graded one-off payment for 2007 to all recipients of an old-age pension.

Federal Act of Federal Law Gazette I no. 169/2006

Increase of the equalisation supplement reference rates.

Federal Act of Federal Law Gazette I no. 31/2007

Addition of partially insured child-rearers to the category of marginal part-timers entitled to take out self-insurance.

Obligation of the employer to register employees with the social insurance system already before the start of their work.

Dynamisation of the general contribution base for child-rearers, people in national service and alternative civilian service with mandatory pension insurance.

Certain income earned by (elsewhere defined) au pairs exempt from the definition of pay.

Federal obligation to temporarily pay all or most of the contribution of persons who care for family members and who have taken out voluntary old-age pension insurance.

The actuarial discount for pensions in favour of long-term insurees is not applied for another three years after 2007.

Provided (initial) compliance with the eligibility requirements for a pension for persons who have laboured in a physically demanding job pursuant to Section 607 (14) ASVG, such persons will retain their eligibility for such a pension.

Federal Act of Federal Law Gazette I no. 101/2007

Increase of the equalisation supplement reference rates and socially graded increase of old-age pensions.

Legislative activities in the field of labour market policy:

Changes of the Arbeitslosenversicherungsgesetz 1977 (Unemployment Insurance Act; AIVG)

A. Sozialrechts-Änderungsgesetz 2005 (Act Governing Amendments to the Social Law; SRÄG 2005)

Regulations governing the levying of the e-card charge

(Section 51 (4) AIVG), (Federal Law Gazette I no. 71/2005, effective as of 1 July 2005)

The replacement of health fund vouchers by e-cards means that a service charge needs to be paid for the e-card rather than the voucher charge. This charge is paid to the health insurance institutions in early December, up to an amount due for November. The Federation of Austrian Social Insurance Institutions must make electronically available to the AMS (Public Employment Service) all data necessary for determining this charge not later than 20 November of each year.

B. Bundesgesetz, mit dem das Insolvenz-Entgeltsicherungsgesetz und das Arbeitslosenversicherungsgesetz 1977 geändert werden (Federal Act Amending the Act on Wage Compensation from the Insolvency Contingency Fund and the Unemployment Insurance Act of 1977)

Access only when a permission to stay has been issued for the purpose of taking up a job

(Section 7 (3) 2 and (6) AIVG) (Federal Law Gazette I no. 102/2005, **effective as of 1 August 2005**)

In connection with the revision of the residency law it was again clarified that job placement agencies are available only to such persons who are entitled to stay in Austria in order to take up and carry out a dependent employment and that this entitlement is lacking once an employment within the scope of quotas pursuant to Section 5 AuslBG (Act Governing Employment of Foreign Nationals) is terminated.

Extension of the deadline for extending the overall time limit to qualify for unemployment benefit for self-employed persons

(Section 80 (10) AIVG) (Federal Law Gazette I. no. 102/2005, **effective as of 17 August 2005**)

The unlimited extension of the overall time limit for periods of self-employment (in the case of obligatory health insurance under the BSVG or GSVG) is extended by another year (until the end of 2006).

Clarification of the criteria required to claim a corridor pension

(Section 22 (1) AIVG) (Federal Law Gazette I no. 102/2005, **effective as of 1 August 2005**)

A person meets the prerequisites to be paid unemployment benefit or unemployment assistance for up to one year in spite of qualifying for a corridor pension if s/he has left the last employment relationship due to termination by the employer, justified early termination, termination during a trial period or time expiry. If the employment relationship has terminated due to time expiry, the employee must not have been in a previous unlimited employment relationship with the same employer.

C. Bundesgesetz, mit dem ein Beschäftigungsförderungsgesetz (BeFG) erlassen wird sowie das Arbeitsmarktpolitik-Finanzierungsgesetz, das Arbeitslosenversicherungsgesetz 1977, das Arbeitsmarktservicegesetz, das Insolvenz-Entgeltsicherungsgesetz, das Nachtschwerarbeitsgesetz, das Dienstleistungsscheckgesetz, das Jugendausbildungs-Sicherungsgesetz und das Bundesfinanzgesetz 2006 geändert werden (Federal Act to Pass an Employment Promotion Act and Amend the Labour Market Policy Funding Act, the

Unemployment Insurance Act of 1977, the Public Employment Service Act, the Bankruptcy Employee Protection Insurance Act, the Act Governing Heavy Work at Night, the Service Check Act, the Youth Training Consolidation Act and the Federal Finances Act of 2006)

Protection of assessment basis in connection with the wage top-up scheme

(Section 21 (1) AIVG) (Federal Law Gazette I no. 114/2005, **effective as of 1 January 2006**)

Annual contribution bases which include a period during which a top-up wage (Section 34a AMSG; Public Employment Service Act) was received are not considered when such bases are lower than the annual contribution bases otherwise to be used as an assessment basis. This ensures that people below the age of 25 who work in the low-wage sector and receive a top-up wage upon termination of their employment will not get a lower unemployment benefit than they did before. For people aged 45 and over, this applies due to preservation of the assessment basis.

D. Sozialversicherungs-Änderungsgesetz 2005 (Act Governing Amendments to Social Insurance; SVÄG 2005)

Social security for care-giving family members by extending the overall time limit for unemployment insurance also when they are self-insured

(Section 15 (3) 4 AIVG) (Federal Law Gazette I no. 132/2005, **effective as of 1 January 2006**)

Persons who care for a family member eligible to receive long-term care benefit of at least level 3 can now take out self-insurance in the old-age pension system (Section 18b ASVG). Accordingly, the overall time limit for qualifying for unemployment benefit is extended, same as in the case of a voluntary continuation of insurance (Section 18a ASVG).

E. Bundesgesetz, mit dem das Arbeitsvertragsrechts-Anpassungsgesetz, das Arbeitslosenersicherungsgesetz 1977 und das Landarbeitsgesetz 1984 geändert werden (Federal Act Amending the Act Governing Adjustments to Employment Law, the Unemployment Insurance Act of 1977 and the Farming Act of 1984)

Extending the period to accompany seriously ill children to up to nine months (family hospice leave)

(Section 32 (1) AIVG) (Federal Law Gazette I no. 36/2006 of March 2006, **retroactively effective as of 1 January 2006**)

The maximum duration of family hospice leave for unemployed persons (who need to deregister from receiving unemployment benefit or unemployment assistance in writing at the competent regional office and are then covered by health and old-age pension insurance) to accompany a severely ill child is increased from six to nine months. The other criteria remain unchanged.

F. Sozialrechts-Änderungsgesetz 2006 (Act Governing Amendments to Social Law; SRÄG 2006)

Introduction of best-of rule for assessing confinement benefit for recipients of unemployment benefit and unemployment assistance

(Section 41 (1) AIVG) (Federal Law Gazette I no. 131/2006), **effective as of 1 July 2006)**

The confinement benefit for recipients of unemployment benefit and unemployment assistance is set at 180% of the payment received at the time of the insured event. In rare cases, the addition of a partner income to the calculation may cause the recipient to receive only very low unemployment assistance so that the confinement benefit is extremely low, in spite of the lump-sum calculation at 180% of the unemployment assistance. In order to improve the situation for such rare cases, a comparison is made based on the assessment regulation of the ASVG (General Social Insurance Act), where the payments under the KBGG (Child-Care Benefit Act), AIVG (Unemployment Insurance Act) and KGG (Parental Leave Benefit Act) made within the assessment period are not appreciated in this comparison, in order to focus on such person's actual average income during the last three months (best-of rule). The additional funding required is shared by the health insurance organisation and the Family Burden Equalisation Fund.

Further extension of the extension of the overall time limit in unemployment insurance for self-employed persons until the end of 2007

(Section 80 (10) AIVG) Federal Law Gazette I no. 131/2006, **effective as of 28 July 2006)**

The transition regulation existing since 1 October 2000 for the unlimited extension of the overall time limit for qualifying for unemployment insurance by periods of self-employment (in the case of mandatory health insurance coverage under the BSVG (Act Governing Social Insurance for Farmers) or GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry)) is extended by another year (until the end of 2007).

Social security for care-giving family members by extending the overall time limit in unemployment insurance for self-insurance also for periods of caring for a disabled child

(Section 15 (3) AIVG) (Federal Law Gazette I no. 131/2006, **effective as of 1 July 2006)**

The amendment of the section aims to eliminate unequal treatment. The prerequisites for extending the overall time limit in unemployment insurance for self-insurance in old-age pension insurance, listed in Item 21 (Section 15 (3) 4 AIVG), now apply also to persons who care for a **disabled child who qualifies for an increased family allowance**.

G. Ordinance by the Federal Minister of Economics and Labour governing access to a transitional allowance

Extending the access rules for the transitional allowance to 2007–2009

(Section 39a (7) AIVG) (Federal Law Gazette II no. 408/2006, **effective as of 1 January 2007)**

This ordinance enables access to the transitional allowance for persons who have no job and who cannot retire in 2007–2009 due to the abolition of the early retirement scheme for the unemployed or the raising of the pensionable age (61.5 for men, 56.5 for women).

H. Bundesgesetz, mit dem das Arbeitslosenversicherungsgesetz 1977, das Arbeitsmarktpolitik-Finanzierungsgesetz, das Arbeitsmarktförderungsgesetz, das Arbeitsmarktservicegesetz, das Arbeitsvertragsrechts-Anpassungsgesetz, das Insolvenz-Entgeltsicherungsgesetz und das Einkommensteuergesetz geändert werden (Federal Act Amending the Unemployment Insurance Act of 1977, the Labour Market Policy Financing Act, the Labour Market Promotion Act, the Public Employment Service Act, the Act Governing Adjustments to Employment Law, the Act on Wage Compensation from the Insolvency Contingency Fund and the Income Tax Act)

Clarification regarding social security for care-giving family members by extending the overall time limit in unemployment insurance for self-insurance due to care of a disabled child

(Section 15 (3) 5 AIVG) (Federal Law Gazette I no. 104/2007, **retroactively effective as of 1 July 2006**)

The previous regulation did not help with regard to persons in the old-age insurance schemes who rear their child actually and mostly in Austria during the first 48 months or, in the case of multiple births, during the first 60 calendar months after birth. Furthermore, for periods prior to 1 January 2005, it was necessary to consider fictitious qualifying periods for child-rearing periods pursuant to Section 227a ASVG. The unequal negative treatment of this group of persons was abolished retroactively (effective as of 1 July 2006). Self-insurance due to caring for a disabled child can be taken out only after the child-rearing periods. This gap has now been closed.

Changes of the Arbeitsmarktservicegesetz (Public Employment Service Act; AMSG)

A. Sozialrechts-Änderungsgesetz 2005 (Act Governing Amendments to Social Law; SRÄG 2005)

Clarification of the regulation governing levying of the e-card charge

(Section 35 (3) AMSG) (Federal Law Gazette I no. 71/2005, **effective as of 1 July 2005**)

The provision serves to clarify that the regulations governing benefits payment applicable to recipients under the AIVG also apply to recipients of an allowance to cover their subsistence.

Preview of key changes in the Arbeitslosenversicherungsgesetz (Unemployment Insurance Act) after 2007

The Flexicurity Amendment introduced the following changes:

(Section 26 (1) AIVG, cancellation of Section 26a, Section 80 (13) AIVG) (Federal Law Gazette I no. 104/2007, effective as of 1 January 2008)

- Cancellation of Section 26a AIVG and age-independent amount of the further education benefit

The cancellation of Section 26a made obsolete the regulation that only older employees from age 45 onwards are eligible for further education benefit to the amount of unemployment benefit, but not less than the daily allowance of the child-care benefit. Now, the further education benefit is paid out in all cases at the rate of the unemployment benefit (but at least at the rate of the daily allowance of the child-care benefit), regardless of age, to all employees (including previous cases).

- Scope of the further education measure

The weekly time to be spent on an education measure was raised from 16 to 20 hours. For persons with small children (up to 7 years of age) the weekly education period is 16 hours if available child-care facilities do not permit any longer training. In addition, documented learning and training periods for acceptance tests or qualifying examinations are considered.

- Practical training

Practical experience has shown that practical training should not be carried out at the leave-giving employer. An exception is when such practical training cannot be carried out at another operation.

- Duration of the further education benefit

The further education benefit may be obtained for not more than one year within four years. If the further education measure is taken in instalments, the benefit can be obtained within an overall time frame of four years.

- Prerequisites and duration of educational leave

- An employee needs to be employed with his/her employer for not more than one year in order to be entitled to educational leave.
- An educational leave extends to not more than one year within an overall time frame of four years. The educational leave can be taken in instalments, provided that each such instalment lasts at least three months.
- A new educational leave may be applied for only after expiry of an overall time frame of four years (as of the start of the first instalment of the last educational leave).

- Special regulation for persons on limited employment in seasonal operations

An educational leave requires a minimum employment term with the same employer, i.e.:

- three months of uninterrupted employment, and
- altogether one year of employment in the last four years.

Formatiert: Nummerierung und Aufzählungszeichen

Statutory regulation of minimum availability on the labour market

(Section 7 (7) AIVG – new) (Federal Law Gazette I no. 104/2007, **effective as of 1 January 2008**)

As of 1 January 2008, the minimum availability for claiming unemployment benefit (unemployment assistance), previously specified by way of an instruction, was set out in the Unemployment Insurance Act.

- An unemployed person must be available for a job for 20 standard weekly working hours; this means that it must be possible for beneficiaries to accept such a job because otherwise they have no claim to unemployment benefit (unemployment assistance) due to their lack of availability.
- The minimum availability for standard working hours may be 16 hours if the person is obliged to care for a child of up to 10 years of age without having access to long-term care, or to care for a disabled child.

The minimum availability is specified in the guidance plan developed by the Public Employment Service counselling officer.

Addition of quasi-freelancers to unemployment insurance and their equal treatment with genuine employees with regard to unemployment insurance coverage

(Section 1 (8) – AIVG) (Federal Law Gazette I no. 104/2007, **effective as of 1 January 2008**)

Quasi-freelancers who earn an income above the marginal earnings threshold are now mandatorily included in the unemployment insurance. Any periods worked as quasi-freelancer which are subject to insurance and which are after 31 December 2007 therefore count towards eligibility. Any periods as quasi-freelancer before 1 January 2008 do not qualify and may be used only as a work periods not subject to unemployment insurance in order to extend the overall time limit (maximum of three years; five years as of 2009).

Clarification regarding the processing of personal data

(Section 25 AMSG) (Federal Law Gazette I no. 104/2007, **effective as of 1 January 2008**)

The amendment of provisions regulating the handling of personal data is designed to enable the Public Employment Service to continue to optimally comply with its statutory duties while at the same time giving better account of the data protection regulations. The amendment concerns the collection of data for executing the AIVG (Unemployment Insurance Act), AuslBG (Act Governing Employment of Foreign Nationals), AMFG (Labour Market Promotion Act), AMSG (Public Employment Service Act) and Jugendausbildungs-Sicherungsgesetz (Youth Training Consolidation Act). Health-related data, which are particularly sensitive and thus covered by special protection within the meaning of Section 4 (2) DSG 2000 (Data Protection Act), may be used only in the cases listed in Section 9 DSG 2000. Section 9 (3) DSG 2000 permits the use of sensitive data when such use is authorised or mandated under statutory provisions which serve to safeguard an important public interest. The obligation to consider the health aspect in finding employment for a person is derived from Section 3 (7) AMFG and Section 9 (2) AIVG. Under Section 36 (5) AIVG, an illness is a criterion which increases the earnings exemption for unemployment assistance.

Reply to the additional questions on Para 3 of Article 12 in the conclusions XVIII-1:

Reform of the health care system:

The Gesundheitsreformgesetz 2005 (Health Care System Reform Act), Federal Law Gazette I no. 179/2005, provided for an adjustment to the agreement under Article 15a B-VG (Federal Constitution Act) regarding organisation and financing of the health care system which applies for 2005–2008.

This Act included the social security system in the effort to restructure the health care system through the creation of a Federal Health Agency and of state-level health platforms, and regulated the distribution of new funds injected in the health care system from 2005 onwards.

With the Federation of Austrian Social Insurance Institutions and social insurance institutions required to participate in the supra-regional and intersectoral planning, control and financing of the health care system, the Federation must delegate representatives to the Federal Health Commission instituted at the Federal Health Agency, while the competent local health insurance company needs to send representatives to the health platform of the relevant state-level health fund, and the special insurance institutions are required to post representatives to the health platforms of the state-level health fund, as the states and social insurance institutions need to be represented equally on the health platforms.

The social insurance institutions must furthermore dedicate funds for structural changes and projects to shift benefits between intra- and extramural sectors as are based in health-economic reasoning and agreed upon, as stipulated by the guidelines for the cooperation area of the Federal Health Agency pursuant to Section 59 (1) 11 KAKuG (Federal Hospitals and Health Resorts Act).

The responsibilities assigned to the Federal Health Agency and the state-level health funds require a comprehensive and current data base comprising all health sectors, for which reason the Federation of Austrian Social Insurance Institutions and each individual social insurance institution are obliged to supply the requisite data in an anonymous form to the Federal Health Agency.

With a view to improving interface management between institutional care and patient treatment, the Federal Minister for Health, Family and Youth is authorised to identify the requisite criteria.

Considering that the measures required for health and accident insurance under the Health Care System Reform Act of 2005 are mostly issues of technically implementing compatibility under Article 15a B-VG regarding the organisation and financing of the health care system, this has no impact on the access to the supply of health care.

Harmonisation of old-age pensions:

On 18 November 2004, Parliament passed the Pensionsharmonisierungsgesetz (Act Governing the Harmonisation of Old-age Pension Schemes), Federal Law Gazette I no. 142/2004, which became essentially effective as of 1 January 2005.

Personal scope

The Allgemeines Pensionsgesetz (General Old-age Pension Act; APG) does not apply to persons who had completed their 50th year of life by 1 January 2005 (exception: the provisions governing the corridor pension and pension for persons who have laboured in a physically demanding job also apply to such persons).

Principle

After 45 years of insurance coverage/contribution payment, all insurees from age 65 on receive an old-age pension amounting to 80% of their average life income.

Pension account

A personal pension account is set up by the Federation of Austrian Social Insurance Institutions for each insuree covered by the APG. This account records the contributions paid in and appreciated, as well as such person's entitlements to benefits.

Insurance periods

The new regulation knows only insurance periods (qualification: contributory years).

Child-rearing periods

As was the practice before, the first 48 calendar months after a child's birth (60 calendar months in the case of multiple births) are counted as insurance periods. As a novelty, a contribution base of € 1,350 (value as of 2005) is assigned to the account for each month.

School and university periods

The so-called risk markup is waived for all persons covered by the APG. Markups already paid will be refunded.

Contribution base

A ceiling on insurable earnings of € 3,630 per month (value of 2005) applies to all insurees. Similarly, there is a single marginal earnings threshold applicable for all. For insurees under the GSVG (Act Governing Social Insurance for Self-employed Persons in Commerce, Trade and Industry) and BSVG (Act Governing Social Insurance for Farmers), this threshold will be the minimum contribution threshold. The latter is gradually reduced from 1 January 2006 onwards.

Rate of contribution

A uniform rate of contribution, set at 22.8% of the contribution base, applies to all occupational groups. For insurees under the ASVG (General Social Insurance Act), the employer contributes 12.55% while the employee's share is 10.25%. For insurees under the GSVG and BSVG, a federal equalisation compensation ("partner share") must be accounted for, as a result of which persons with mandatory old-age pension insurance under the GSVG pay in 17.5% (value of 2005) and those insured under the

BSVG pay in 15% (value of 2005). The contributions are adjusted in increments of 0.25% per year as of 1 January 2006.

Account percentage

A uniform account percentage of 1.78% per annum applies. This cannot be changed retroactively.

Beneficiary provision for long-term insurees

The scope of this provision was extended to men born before 1 July 1950 and women born before 1 July 1955 (after 45/40 contributory years, they are eligible for early retirement at 60/55). In addition, a phasing-in regulation was created for later cohorts.

APG pension for persons who have laboured in a physically demanding job (as of 1 January 2007)

Persons who have accumulated at least 540 insurance months, of which at least 180 months were spent in a physically demanding job, are eligible for old-age pension before they reach the standard retirement age. The retirement age is reduced by three months for each month in a physically demanding job (but not below age 60).

The actuarial discount is 2.1% for each year below the age of 65. This value is further reduced by the number of months in a physically demanding job, by 0.05% for every 12 such months, down to 0.85% (for 40 years in a physically demanding job).

The definition of a physically demanding job is regulated by an ordinance issued by the Minister for Social Affairs.

“Corridor pension”

Individuals are eligible for an old-age pension (with an actuarial discount) once they have completed their 62nd year of life provided they have accumulated at least 450 insurance months. The benefit may alternatively be claimed after completing the 65th year of life (with an added bonus).

Parallel accounting

This calculation is generally carried out for all persons who have not yet reached their 50th year of age on 1 January 2005 provided they have by that time accumulated insurance periods in a statutory pension insurance scheme. Two fictitious pension benefits are compared:

1. the pension payment under the former law across the entire working life (with a cap);
2. the pension payment under the harmonised pension law across the entire working life.

The actual pension claim is then calculated from the ratio of insurance periods accumulated in the two systems.

No parallel accounting is made for people entering working life on or after 1 January 2005. Individuals who are over 50 years of age on 1 January 2005 are excluded from the APG.

Cap

The “protective cap” against the legal situation as of 31 December 2003 was modified inasmuch as it is set at 5% for 2004 and increases by 0.25% for each year afterwards (by 2024 it will be 10% again). However, it applies only to pension calculations under the former law.

Pension adjustment

As of 1 January 2005, old-age pensions are generally adjusted by the consumer price index.

Sustainability factor

This factor is designed to ensure long-term financing of the old-age pension system. It is based on life expectancy data calculated by Statistik Austria. Any deviations therefrom will in the future have an effect on the contribution rate, increment, retirement age, pension adjustment and federal contribution.

On this subject a paper by Gerhard Buczolich, *Le développement et les perspectives de la couverture retraite en Autriche*, Paris, 2006, is included which provides, i.a., information on the pension harmonisation (**Annex 3**).

Para 4 of Article 12

Equal treatment with their own nationals of the nationals of other Contracting Parties

Ad Questions 1 to 3:

In the reporting period agreements on social security with the following states came into force (for details see tables attached – status as of 1 January 2008, **Annex 4**):

- Bulgaria (1 April 2006)
- Romania (1 December 2006)

Furthermore, Regulation (ECC) no. 1408/71 was extended to the new member states through the accession to the European Union of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia on 1 May 2005, and, subsequently, Bulgaria and Romania.

The agreements on social security (see Annex 4) i.a. provide for equal treatment of the nationals of the Contracting Parties with regard to social security, consideration of insurance periods obtained in the states of other Contracting Parties for the acquisition and maintenance of entitlements, calculation of the Austrian old-age

pensions under the “direct calculation” method and the export of monetary benefits to eligible persons in the states of other Contracting Parties.

As regards the conclusion of a bilateral agreement between Austria and the Republic of South Korea and between Austria and Uruguay, it is pointed out that several rounds of negotiations have already been held with both countries and that a comparison of versions will have to be carried out as the next step. After this, the evaluation and signatory process can be initiated.

Furthermore, Austria and Australia carried out negotiations for a second supplementary agreement. Agreement could be achieved on the draft so that the evaluation and signatory process can be initiated.

Considering the efforts by Austria to enter into agreement with all states which wish to do so and where a sufficient number of individuals are affected, it can be assumed that the obligations of Para 4 of Article 12 are fully complied with by Austria.

Reply to the additional questions on Para 4 of Article 12 in the conclusions XVIII-1:

Equal treatment of third-party nationals:

The Austrian social insurance system provides for virtually no special regulations for Austrian nationals, so that no transposition measures were necessary for Regulation 859/2003. For those few areas which might be affected by this regulation (e.g. insurance of people working on a sea-going vessel flying the Austrian flag), the Regulation is applied in practice based on the direct priority application of EU law – for which it was not necessary to take any specific supplementary transpositional measures.

Export of benefits:

Under Para 4 of Article 12, the Contracting Parties undertake to enter into agreements to achieve equal treatment, to export benefits into other Contracting Parties and to add up insurance periods. If we look at the supranational instruments applicable to Austria (especially Regulation (EEC) no. 1408/71) in their extended application due to the EEA Agreement and the sectoral agreements with Switzerland, as well as the bilateral agreement, we find hardly any gaps within Europe with regard to the states covered. A major factor was the enlargement of 1 May 2004, which included ten new states, i.e. Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, in this coordination tool. Furthermore, bilateral agreements were made with Bulgaria and Romania which became effective on 1 April 2006 and 1 December 2006 respectively. Through the accession of these two states to the European Union, these agreements were superseded by Regulation (EEC) no. 1408/71 in terms of the scope of this Regulation.

Where these agreements apply, the obligations regarding social insurance of Para 4 of Article 12 of the European Social Charter have been fully complied with.

With regard to the states within the sphere of the European Social Charter which are not yet covered by international agreements, it needs to be summarised that no

provisions have yet been made with regard to the CIS states (with the exception of the new EU member states Estonia, Latvia and Lithuania), Albania and the small states of Andorra and San Marino. With regard to the latter, there are hardly any problematic issues in the relationship and Austria considers that the efforts repeatedly made at Community level to achieve a satisfactory solution for social security should be awaited before taking any steps.

As to the remaining CIS states and Albania, it is pointed out that almost none of the obligations of Para 4 of Article 12 ESC apply to the relationship to these states. Nevertheless, Austria would not refuse any wish to conclude agreements with these states provided that the requisite requests were filed, which has not been the case in general so far. If new agreements should be concluded, it would be necessary to consider the social policy background (especially the number of persons concerned) as well as the limited administrative resources to develop new agreements.

Consideration also needs to be given to the fact that no complaints have been received with regard to the export of pension benefits, since in actual practice an old-age pension is always granted even where the beneficiary resides in any of these states (consent to the abode).

Austria is aware that the consent requirement does not mean a legal title for the potential beneficiary, which in the past was seen to violate Para 4 of Article 12. Nevertheless it should be noted that this consent applies also to Austrians. A practice that discriminates non-nationals would certainly be a violation of the Human Rights Convention, according to the decision of the European Court of Human Rights in the case 39/1995/545/631, *Gaygusuz vs. Austria*. Since export limitations are not conceivable for Austrian nationals, this translates into a factual export guarantee.

In the light of these facts and in view of Austria's efforts to conclude agreements with all states which so desire and with regard to which a sufficient number of persons is affected, it can be assumed that the obligations of Para 4 of Article 12 have been completely complied with by Austria.

ARTICLE 13**The right to social and medical assistance****Para 1 of Article 13****The right to social and medical assistance****Ad Questions 1 to 3:**

Previous reports are updated as follows:

REFERENCE RATES FOR 2007

(in euro per month)

	Sole beneficiaries ("singles")	Main beneficiaries ("household heads")	Co-beneficiaries ("household members")	
			not entitled to family allowance	entitled to family allowance
Burgenland 1)	433.–	358.30	261.40	128.30
	488.70	414.–	306.80	173.70
Carinthia 1)	435.–	358.–	263.–	129.–
	510.–	435.–		
Lower Austria	501.30 (341.30) ²⁾	440.20	242.30	135.90
Upper Austria 1)	542.30 (402.–) ²⁾	492.50	311.50	150.70
	562.– (426.20) ²⁾	513.00	339.60	
Salzburg	421.–	379.–	242.50	113.–
Styria	507.–	463.– ²⁾	309.–	156.–
Tyrol	431.20	368.90	256.60	143.40
Vorarlberg	480.40	403.30	257.30	156.70
Vienna 1)	420.–	325.–	325.–	125.–
	655.84	501.86	501.86	
		420.– ³⁾		

- 1) **Increased** reference rate for "**permanent beneficiaries**" (in particular persons incapable of self-support, persons of retirement age in need of aid).
- 2) Lower rate for persons who are basically sole beneficiaries but who live in the **same household** with persons not obligated to provide maintenance for them (e.g. siblings).
- 3) Main beneficiary who is a single parent.

Carinthia:

On 1 July 2007, the Kärntner Mindestsicherungsgesetz (Carinthian Minimum Social Protection Act; K-MSG), Provincial Law Gazette no. 15/2007, entered into force, which superseded the Carinthian Social Assistance Act.

With this, Carinthia was the first Austrian *Land* (state) to ensure comprehensive minimum social protection with the object to grant a legal title to securing subsistence level provision for all and to create the legislative preconditions for benefits bundling to the fullest possible extent and secure customer-friendly and equitable access to the benefits.

The law regulates, i.a., the obligations of the benefits providers:

- ⇒ to provide detailed information and advice on benefits,
- ⇒ to inform citizens of the competent bodies,
- ⇒ to pass on applications to the competent bodies,
- ⇒ to cooperate closely with other benefits providers and facilities,
- ⇒ to adequately consider the wishes of beneficiaries within the scope of the statutory provisions, etc.

Only those persons are eligible for the minimum scope of social protection (regardless of whether or not they are Austrian citizens) who are entitled to stay in the federal territory for more than four months and whose principal residence or, in its absence, whose actual abode is in Carinthia.

Minimum social protection is granted in several ways:

- by way of money – both as ongoing monthly payments and as one-off payments (subsistence help);
- as benefits in kind;
- as personal help, e.g. by counselling and care of the person seeking help.

The Carinthian Minimum Social Protection Act of 2007 covers several key benefits:

- increased family-oriented financial support to cover subsistence, with due regard to the needs of elderly persons and families with disabled children;
- housing allowance (financial grant for housing, including operating costs and electricity);
- heating allowance, socially graduated;
- work projects to facilitate the reintegration of, especially, long-term unemployed (e.g. after a long spell of care obligations);
- provision and help with regard to nursing home and institutional accommodation;
- help in cases of illness, pregnancy and confinement;
- various nursing services (social services):
 - home nursing care,
 - help to continue with household duties,
 - short-term nursing care, etc.;
- assistance in issues of education and help in school and occupational training;
- help against physical abuse (especially of women and children);
- help for debtors;
- provision for individuals in special circumstances:
 - services to reach out to dying people and their family members,
 - counselling services for families and the elderly,
 - recreational services for families, elderly and disabled people, etc.;

- help for the shelterless and in other extraordinary social problem situations:
 - temporary shelter,
 - counselling to develop new life perspectives;
 - non-refundable aid, etc.;
- in-depth counselling and development of a customised need and help plan.

The Carinthian Minimum Social Protection Act of 2007 includes the following key changes to achieve sustained and effective prevention and combating of poverty and social exclusion:

- clear emphasis on “minimum social protection”;
- reformulation of goals and principles (Sections 1-3);
- linked to the Aliens Act rather than differentiation by nationality (Section 4);
- clear entitlements and qualification requirements (Sections 5-7), particularly by a more precise definition of the deployment of own means and capacities, including reasonable exceptions, and anchoring of the obligation to obtain other resources where possible;
- standardisation of a general benefits part (Sections 8 and 9);
- greater importance accorded to personal help by priority over other types of help (in particular Sections 11 and 14), and anchoring of a general counselling obligation (cf. Section 2 (5));
- more emphasis on the integrative function of work by incentives and exceptions (Sections 6 and 7) and anchoring of the new work-based minimum social protection (Section 10);
- genuine minimum standards rather than reference rates (Section 12), with maximum possible bundling of benefits and more emphasis on lump-sum payment;
- clear-cut entitlements also for special needs, especially for housing and heating (Section 13);
- first-time express inclusion of risk situations suffered by abused women and children, people in excessive debt, shelterless people, discharged prisoners and of the specific measures required for them (Sections 18-20);
- integration of previous benefits for special situations and social services into a need-focused one-stop service;
- socially graded statutory provision for heating allowance and school start benefit;
- no refunding by the recipient for monetary benefits and benefits in kind granted as an alternative to monetary benefits;
- refunding also in cases of unjustified transfer of property;
- lump-sum payment of refunds to hospitals;
- procedural provisions: applications accepted not just by local administration, adequate procedural law, case management, more legal certainty/protection; concentration of procedures with district administrative authority;
- additional financial relief for local administrations.

Below, a more detailed discussion is given of the minimum social protection granted for subsistence, minimum standards (Section 12 K-MSG):

Under Section 12 (1), minimum social protection for subsistence covers expenditure on food, clothing, personal hygiene, household goods and other personal needs such as, in particular, participation in cultural life, and housing needs (Section 13).

Under Section 12 (2), subsistence needs are to be covered by monthly monetary benefits to the extent that no benefits in kind are granted. The Provincial Government must identify by an ordinance the minimum standard required per month for covering the regular needs pursuant to Para 1, except for housing, for persons who do not live in the same household with other persons (singles), with due regard to the costs of living in Carinthia for average living conditions. This minimum standard also applies to single parents of at least one child living in the same household.

This minimum standard was set at € 490.– as of 1 January 2008 by an Ordinance of the Carinthian Provincial Government of 5 December 2007, Provincial Law Gazette no. 79/2007.

The minimum standard of € 490.– applies to persons who are not living in another household (singles) and for single parents with at least one child living in the same household.

Under Section 12 (3) K-MSG, the minimum standard is:

- a) for persons living in another household: 75% of the amount set in Para 2; € 367.50 for 2008;
- b) for persons who receive or are entitled to a family allowance under the Familienlastenausgleichsgesetz (Family Burden Equalisation Act) of 1967;
 - 1. on or after completion of their 10th year of life: 40% or € 196.– for 2008;
 - 2. before completion of their 10th year of life: 30% or € 147.– for 2008,

The K-MSG also provides for increases to the minimum standard under Section 12 (2) as follows:

- 1. (Section 12 (4) K-MSG): 10% of the amount set in Section 12 (2) = EUR 49.– for 2008, for persons who must not be requested to use their working capacity, not just temporarily but for at least three months, except when they receive an increase under Section 12a (minimum social protection for the elder generation).
- 2. (Section 12a K-MSG; minimum social protection for the elder generation): 15% or € 73.50 for persons who:
 - a) have completed their 60th year of life, and
 - b) have or had the care and education of at least one child, and
 - c) are not eligible for an old-age pension or similar pension from their own gainful employment, and
 - d) because they meet the prerequisites of (a) to (c) do not receive any benefits from the province in its capacity of bearer of private entitlements that correspond to or are higher than the foreseen increase; if the benefit granted by the province in its capacity of entity under private law is lower than the envisaged increase, the minimum standard under Section 12 (2) or (3) a increases by the difference.
- 3. (Section 12b K-MSG; minimum social protection for families with disabled children)

The minimum standard under Section 12 (3) K-MSG (persons entitled to family allowance before and after completion of their 10th year of life) increases by 30% of the amount set under Section 12 (2) = € 147.– for 2008, for persons who are

entitled to an increased family allowance under Section 8 (4) of the Family Burden Equalisation Act of 1967.

Tyrol:

Under Section 1 (2) of the Tiroler Grundsicherungsgesetz (Tyrolean Basic Protection Act; TGSG), Provincial Law Gazette no. 20/2006 as amended, a minimum income is granted to all persons in an emergency situation. A person in an emergency situation is defined by the Act as somebody who is unable to provide full or sufficient subsistence for him/herself from his/her own capacities and funds and who does not get it from any third person (cf. Section 1 (3) a TGSG) or somebody who is unable to cope fully or sufficiently with extraordinary difficulties in his/her personal, family or social relationships ("life situation") either him/herself or with the help of third persons (cf. Section 1 (3) b TGSG).

At the first administrative level, the administrative procedure involves comparing the expenditure for subsistence and rent to the applicant's own means in order to ascertain whether the person actually needs help. Under Section 5 (1) a of the Tyrolean Basic Protection Ordinance (TGSV), Provincial Law Gazette no. 28/2006 as amended, the subsistence expenditure is defined by reference rates.

Under Section 3 (1) TGSG, basic protection may be provided by way of monetary benefits or benefits in kind.

Under its Section 5, basic protection covers help to ensure subsistence, help in special life situations, the cost of a simple burial and help to get work.

Needy persons are legally entitled to receive help to ensure subsistence (which includes the expenditure necessary for the basic general needs such as housing, food, clothing, personal hygiene and household goods plus expenses for special personal needs).

Under Section 7 (1), help in special life situations comprises help in case of illness, help for pregnant women and women in confinement, help for education and to enable a person to get a gainful employment, help for persons in need of nursing care, preventive health care, help to bridge extraordinary emergencies, help for the old, family assistance, development of an assistance schedule and personal help. The granting of help for persons in need of nursing care, preventive health care, personal help, development of an assistance schedule and bridging of extraordinary emergencies is the responsibility of the province of Tyrol as an entity under private law. The granting of help for the old and family assistance is incumbent upon the respective local government as an entity under private law. There is no legal entitlement for benefits granted by the province of Tyrol or the local governments within the scope of its private sector management (cf. Section 2 (7) TGSG).

Vienna:

The reform of the social administration system in Vienna was continued in 2003–2007.

As of 2004, the Vienna Sozialhilfegesetz (Social Assistance Act; WSHG) assigns to Vienna in its capacity of *Land* (state) the responsibility for social assistance. The granting of monetary benefits under the title of social assistance and the attendant counselling and care remain within the scope of sovereign administration, while the

Fonds Soziales Wien (FSW), acting as social assistance entity with regard to social services named in the WSHG, renders them as an entity under private law.

Social assistance

The Vienna Sozialhilfegesetz names as an objective of social assistance efforts to enable persons to live a dignified life even when they need help from the community to do so.

Principles of social assistance

- help targeted at individuals and families,
- preventive and follow-up help
- help for self-help
- timely granting of social assistance
- legal title
- subsidiarity
- no application necessary

Types of help

- help to secure the necessities of life
- help in special life situations
- social services

Monetary benefits to secure subsistence are granted in accordance with reference rates, which are adjusted on an annual basis. In order to eliminate the discriminatory differentiation between main beneficiaries and co-beneficiaries, the reference rate system was modernised in 2006 and a uniform rate was created for spouses and cohabiting partners.

By changing to the monthly payment of a heating allowance, introduced at the same time, the City of Vienna takes into consideration that heating bills (district heating, electric and gas heating) come due not just during the cold season but throughout the year.

Irrespective of any eligibility for a heating allowance, low-income households were granted a one-off heating supplement amounting to € 50.– for the 2004/2005 winter season, € 75.– for 2005/2006, and € 100.– each for 2006/2007 and 2007/2008.

In 2007, preparations were launched for a so-called Mobility Pass, which has been issued to some 100,000 people in Vienna since 1 April 2008. This pass is designed to promote mobility and social participation of low-income people and offer them cut-rate tickets for the Vienna public transport system.

According to the latest statistical data available, the following expenditure was made for general social assistance in 2006:

	Burgenland	Carinthia	Lower Austria	Upper Austria	Salzburg	Styria	Tyrol	Vorarlberg	Vienna
Reference rate benefits	1,280,230	4,321,275	22,373,629	16,291,283	9,125,378	9,121,847	8,056,400	4,740,941	43,500,000
Rental assistance	469,593	734,381	2,571,763	1,194,647	9,896,400	5,265,835	6,805,282	4,209,336	46,600,000
Cash grants to secure the necessities of life	265,182	2,728,345	2,594,768	2,194,658	1,740,360	5,370,439	1,091,297	653,294	128,400,000
Assistance for illness	987,173	22,812,200	28,777,178	5,228,055	6,308,269	22,411,272	3,726,669	2,891,523	46,600,000
Other benefits	558,889	219,289	2,796,832	5,486,327	3,478,058	1,642,627	1,987,378	2,346,996	600,000
Total	3,561,067	30,815,490	59,114,170	30,394,970	30,548,465	43,812,020	21,667,026	14,842,090	265,700,000

Para 2 of Article 13

No diminution of political or social rights

Ad questions 1 to 3:

No major changes.

Para 3 of Article 13

Right to advice and personal help in situations of personal or family want

Ad questions 1 to 3:

See reporting on Article 14.

Para 4 of Article 13

Social and medical help in emergencies granted to nationals of other Contracting Parties lawfully within Austrian territory

Ad questions 1 to 3:

Reply to the additional questions on Para 4 of Article 13 in the conclusions XVIII-1:

The acts governing social assistance in **Carinthia** (minimum social protection), **Upper Austria** and **Styria** do not distinguish between nationals and non-nationals.

The acts governing social assistance in **Burgenland**, **Lower Austria**, **Vorarlberg**, **Vienna** and **Salzburg** and the act governing basic protection in **Tyrol** i.a. provide for equal treatment of nationals and non-nationals where such results from state treaties (e.g. the European Social Charter) or where reciprocity with the home state prevails in actual practice.

The Social Assistance Acts of Salzburg, Vienna, Lower Austria and Burgenland and the Tyrolean Act Governing Basic Protection provide for equal treatment of non-nationals when asylum has been granted under the Asylum Act.

Non-nationals in need of help but not enjoying equal treatment with nationals must be granted within the scope of social assistance sufficient subsistence (Vorarlberg), help to secure the necessities of life/subsistence (Lower Austria after 3 months of lawful abode; Salzburg after six months of lawful abode in Austria), help in case of illness and help for pregnant women and women in confinement. Also covered is the cost of a simple burial (Vorarlberg, Tyrol).

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.

Subject to the prerequisite of a lawful abode (including one of a prolonged duration), benefits are thus granted also to nationals of the Contracting Parties to the revised European Social Charter within the scope of social assistance.

In addition, the following regulations ensure that non-nationals without any lawful abode in Austria obtain medical and social help and care as required:

Section 18 of the Krankenanstalten- und Kuranstaltengesetz (Federal Hospitals and Health Resorts Act; KAKuG) obliges each *Land* (state) to provide adequate hospital nursing for impecunious individuals in need of a hospital. Under Section 23 of the same Act, nobody may be refused any necessary first 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.

Furthermore, the **Basic Provision Agreement** of Federal Law Gazette I no. 80/2004, effective as of 1 May 2004 and entered into between the federal and state levels pursuant to Article 15a B-VG ensures provisional basic provision across the entire Austrian territory for non-nationals in need of help and protection, such as asylum seekers, persons granted asylum, expelled persons and other people who on legal or factual grounds cannot be deported.

Target group of the Basic Provision Agreement:

(1) Under its Article 2, the Agreement applies to aliens in need and worthy of help and protection.

A person is in need of help when s/he is unable or not fully able to obtain on his/her own the necessities of life for him/herself and any family members entitled to maintenance from him/her and living in the same household and does not or not adequately obtain it from other persons or institutions. Protection needs to be extended to:

1. aliens who have filed an application for asylum (asylum seekers) that has not been finally settled;
2. aliens without the right of abode whose application for asylum has been rejected but who, on legal or factual grounds, cannot be deported;
3. aliens with the right of abode under Section 8 combined with Section 15 AsylG (Asylum Act), Section 10 (4) FrG (Aliens Act) or an ordinance pursuant to Section 29 FrG;
4. aliens without the right of abode who, on legal or factual grounds, cannot be deported;
5. aliens who under Sections 4, 4a, 5, 5a and 6 of the Asylgesetznovelle (Amendment to the Asylum Act) of 2003, Federal Law Gazette I no. 101/2003, are either detained pending deportation after a (also non-final) decision by the asylum authority or to whom the provisions of Section 66 FrG are to be applied or whose temporary basic provision is ensured by the *Länder* until their deportation after the decision by the asylum authority;
6. aliens who are granted asylum in Austria on or after 1 May 2004 for the first four months after having been granted asylum.

(2) Assistance for aliens who are detained is suspended for the duration of detention.

(3) Assistance is terminated upon the beneficiary leaving the federal territory unless Austria is obliged to take him/her back under international norms.

(4) Under Article 1 (2) eligibility for assistance may be lost or limited when the alien is sentenced for an offence which is punishable by court and which is deemed a reason for exclusion under Section 13 AsylG.

Basic provision:

(1) Under Article 6, basic provision comprises:

1. Accommodation in suitable quarters with due regard to human dignity and consideration of family unity;
2. provision of adequate food;
3. granting of a monthly pocket money for people in organised quarters and for unaccompanied minors, except when they are accommodated individually pursuant to Article 9 (2);
4. medical examination where required upon first acceptance in line with the requirements of monitoring by the health authorities;
5. securing of health care within the meaning of the ASVG by payment of the health insurance contribution;
6. granting of any additional necessary benefits not covered by health insurance on a case-to-case examination;
7. measures for persons in need of nursing care;
8. information, counselling and social care for aliens by suitable staff including the use of interpreters, to help them cope in Austria and for their voluntary repatriation;
9. payment of transport costs for transfers and official summons;
10. payment of the travelling costs required for school attendance and provision of the school needs for pupils;
11. measures to organise a daily structure on a case-to-case basis;
12. granting of benefits in kind or monetary benefits to obtain the requisite clothing;
13. payment of a burial as is customary locally or an equal amount for repatriation; and
14. granting of repatriation counselling, travelling costs and, in special cases, a one-off bridging allowance if the person returns home voluntarily.

(2) Basic provision may be paid in parts if this satisfactorily covers the needs of the alien.

(3) Aliens who through their conduct repeatedly and sustainably endanger public order in an accommodation may have their basic provision pursuant to Para 1 reduced or terminated with due regard to Article 1 (2). The same applies if Section 38a of the Sicherheitspolizeigesetz (Securities Authorities Act; SPG) applies.

(4) The restriction or termination of benefits must not endanger the alien's medical emergency care.

(5) Subject to their consent aliens pursuant to Article 2 (1) may be used for auxiliary work directly connected with accommodation and care.

Special provisions for unaccompanied minors:

(1) Under Article 7, the Contracting Parties agree that unaccompanied minors require basic provision beyond that provided in Article 6. Such aliens are supported by measures of initial clarification and stabilisation that are aimed to strengthen them mentally and create a trust relationship. Where necessary, additional socio-

paedagogical and psychological support must be granted. Such persons are accommodated in a living group, a home, other suitable organised quarters, assisted living facilities or individual accommodation.

(2) Living groups need to be set up for unaccompanied minors in particularly great need of care. Homes need to be set up for unaccompanied minors who are not able to care for themselves. Assisted living facilities need to be set up for persons who are able to care of themselves with some outside instruction.

(3) The care of unaccompanied minors also includes:

1. a day schedule adjusted to their needs (school, leisure, sports, group and individual activities, household work), and
2. attendance to questions regarding age, identity, origin and location of family members;
3. clarification of future perspectives in collaboration with the authorities;
4. where applicable enabling family reunion; and
5. where applicable development of an integration plan and measures to carry out school, occupational training and vocational preparation activities, utilising existing programmes with a view to make them self-reliable.

ARTICLE 14

The right to benefit from social welfare

Para 1 of Article 14

Creation and promotion of social services

Ad questions 1 to 3:

Previous reports regarding Para 3 of Article 13 and Para 1 of Article 14 are updated as follows:

In Austria, regulations regarding the social services and the establishment, maintenance and operation of old age homes and nursing homes are the responsibility of the *Länder* (states).

The federal and state governments have entered into the following agreements:

- Agreement under Article 15a B-VG (Federal Constitution Act) between the federal and state governments on joint measures for persons in need of nursing care (Federal Law Gazette no. 866/1993). This agreement obliges the states to continuously extend and improve the social services based on need and development schedules up to 2010. Under this Agreement, a working panel on provisional nursing services was established which documents progress in an annual report.
- Agreement under Article 15a B-VG between the federal and state governments on social support workers (Federal Law Gazette I no. 55/2005), which aims to give a better standing to social support workers caring for the elderly and disabled and to link them to health care workers.

The **Social Assistance Acts passed at *Länder* level** provide for the counselling and personal support required to prevent, eliminate or alleviate a personal or family predicament. 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** (e.g. Section 24 OÖ SHG (Upper Austrian Social Assistance Act) of

1998 supplementary to the information and instruction duty stipulated in Section 13a AVG (Act Governing General Administrative Procedures).

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 the **youth welfare sector**, counselling services are offered for the individuals affected, as are preventive and therapeutic services and help to care for minors. Special provisions regulate foster care, homes and other facilities for minors, adoption and educational aids (**for more details see the report on Article 16**).

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.

Burgenland:

No substantial changes.

Carinthia:

No substantial changes.

Reply to the additional questions on Para 1 of Article 14 in the conclusions XVII-2:

Do nationals of other Contracting Parties to the Charter have access to the social services at the same terms as nationals?

As described in more detail for Article 13, the Carinthian Minimum Social Protection Act of 2007 makes the granting of minimum social protection benefits (Section 9 K-MSG covers personal assistance which includes social services) conditional not upon the nationality but on the principal residence or, if no principal residence applies, on the actual abode and status under alien law, i.e. on the lawful stay in the federal territory for more than four months.

Is it possible to appeal against the refusal of the right to counselling and are there any non-court remedies with regard to other social services?

Counselling and social services are rendered within the frame of the private sector administration – the state does not act in its sovereign capacity, i.e. no Bescheid (notice) is issued, so that no appeal is possible.

To what extent are people seeking help included in the decision-making process and how are their privacy rights protected?

The Carinthian Minimum Social Protection Act of 2007 provides for social minimum protection to be rendered in such form as is best suited to overcome the social distress. Adequate wishes by the person seeking help must be considered in the best possible way (Section 2 (3) K-MSG).

In this respect, an association named "Verein Sozial" was founded in March 2008. Its brief is to provide local "case management" – the provision of counselling by diplomated health and nursing experts and social workers as to which type of support or care is required for the individual. This association will be active in all of Carinthia and is expected to start its operations in the autumn of 2008.

Quality of social services:

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:

Previous reports are updated as follows:

The compound version of the NÖ Antidiskriminierungsgesetz (Lower Austrian Antidiscrimination Act) of 2005, Provincial Law Gazette 9290-1 (<http://ris.bka.gv.at/lr-niederoesterreich/>) became effective on 30 April 2005.

It applies to the sovereign and private sector administration of the State of Lower Austria, the Lower Austrian local governments and associations of local governments as well as (natural and legal) persons whose activities is regulated under a state law.

The Lower Austrian Antidiscrimination Act explicitly bans discrimination on the grounds of personal features (gender, ethnicity, religion/belief, disability, age or sexual orientation) in certain spheres of life specified by state law.

Thus, an explicit ban on discrimination on the grounds of ethnic origin has been instituted in the sphere of social protection, including social security and health services, social benefits and access to and supply of goods and services available to the public.

The Lower Austrian Antidiscrimination Board was set up to serve as a grievance point, offering counselling and conciliation efforts.

Upper Austria:

No substantial changes.

Reply to the additional questions on Para 1 of Article 14 in the conclusions XVII-2:

Access to the services:

Under the Oberösterreichisches Sozialhilfegesetz (Upper Austrian Social Assistance Act; Oö. SHG) of 1998, social assistance is granted only to persons who have their factual and lawful abode in the state of 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.

Inclusion in the decision-making process:

Under Section 2 (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 more costs. The data obtained in the course of counselling and rendering social assistance are, of course, governed by the non-disclosure and data protection provisions and their collection and processing is carried out with due regard to maintaining privacy rights. The establishment of social counselling points would furthermore facilitate access to the social services while observing privacy rights.

Quality of services:

In Upper Austria, extramural social services are rendered almost exclusively by non-state welfare organisations.

Intramural facilities (in particular old-age and nursing homes) are mostly run by institutions in the public sphere (local government 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 (3) Oö. SHG 1998 in accordance with the stipulations of the Oö. SHG of 1998 and the Upper Austrian Ordinance governing old-age and nursing homes of 1996.

Salzburg, Styria, Tyrol, Vorarlberg:

No substantial changes.

Vienna:

Previous reporting is updated as follows:

Social assistance:

Vienna has seen a constant rise in the number of persons in need of social assistance over the past years. In 2003, 70,333 persons received monetary benefits from the social assistance budget; in 2004 it was 75,779; in 2005 the figure had risen to 79,964; by 2006 it was 83,523 and in 2007 the rolls had extended to 88,629 persons.

Apart from providing for subsistence, the social assistance scheme focuses on integration, prevention and social security for all. Ten regional social centres in Vienna are open to all persons with social problems. Their services are based on a holistic approach. Social workers offer initial talks and develop a help and support plan jointly with the person seeking help.

The City of Vienna explicitly aims to enable people to overcome their need for social assistance and to support them in their efforts. The emphasis is primarily on helping

the target group (counselling and support by social workers), offering a range of incentive systems and on the voluntariness of recourse to services.

Help for the homeless:

The Viennese scheme to help the homeless provides counselling and support to homeless people and makes available night and longer-term shelters. Its services aim to stabilise users in their social and health situation. In the medium to long-term, homeless people are to be enabled to live in their own home again or in a suitable assisted-living place. To this end, "wieder wohnen" (Housed Again), a subsidiary of the Fonds Soziales Wien, runs four houses for the homeless and a day-care centre. In addition, the Fonds Soziales Wien collaborates with more than 40 facilities operated by a range of organisations to assist their offer of services.

The Fonds Soziales Wien was set up under the Wiener Landes-Stiftungs- und Fondsgesetz (Vienna State Foundation and Fund Act). Its purpose and brief are defined in its statutes. It supports, i.a., persons who need medical, mental and social counselling, treatment, care or nursing. There is no legal entitlement for the funding of social services. Detailed regulations on the use of funds by people are set out in the specific funding guidelines of the Fonds Soziales Wien, to be found on its homepage.

Work with the disabled:

The Fonds Soziales Wien supports organisations which counsel, accompany and support disabled persons and their family members. The service comprises:

- general counselling and help to become independent,
- foster self-determination,
- legal advice,
- financial and personal support (job, family, place to live),
- personal assistance,
- help in conflicts,
- leisure arrangements,
- barrier-free access, etc.

The cost of counselling and accompanying services are met by the Fonds Soziales Wien. The client need not make any financial contribution, regardless of whether the service involves a once-only talk or a long-term process.

The aim is to help disabled people to live a self-determined life as much as possible by informing them of the most suitable offers and schemes available.

Debt counselling:

Schuldnerberatung Wien GmbH is a non-profit counselling service that offers free debt counselling to private persons domiciled in Vienna. It was created by the merger of the debt counselling service run by the Fonds Soziales Wien and the Verein für Kredit- und Wiedergutmachungshilfe (KWH) in November 2005. Under a decision of the Minister of Justice, the counselling service was awarded a state quality seal and is therefore a state-recognised debt counselling service.

Jobchance:

Jobchance is a labour exchange project aimed specifically at recipients of social assistance. Since its start in 1998, it has successfully placed 3,500 recipients. In 2007, 850 persons were referred to Jobchance.

Closely cooperating with the Public Employment Service, the City of Vienna has been organising the work projects JETZT and JobTransFair since the autumn of 2006, which aim to achieve long-term occupational integration of about 200 young recipients of social assistance. The work projects, organised in close collaboration with the business sector, are designed to make young persons on social assistance fit for the labour market within about seven months and in this way enable them to be integrated in the working world. This measure aims to prevent long-term dependence on social assistance and reduce the benefit period for young recipients of social assistance. Of those referred to the work projects, some 40% have so far found employment.

In 2005 and 2006, the work projects Spurwechsel (Changing Tracks) and Generation 19+, financed from funds of an EU programme entitled EQUAL, helped especially young recipients of social assistance to approach the labour market.

Persons with a migratory background in particular have problems integrating in the labour market due to an inadequate knowledge of German. Accordingly, a project was set up in October 2005, in collaboration with the Municipal Department 17 and various course organisers, that aims to improve the basic and key competences (literacy) of recipients of social assistance. On average some 40 German courses are offered per year. In 2007, altogether 46 courses were offered and attended by 120 men and 230 women. At the end of each course, participants are informed of schemes to help their entry into the labour market (such as Jobchance, JETZT, JobTransFair, etc.).

Housing protection:

The Fachstelle für Wohnungssicherung (Housing Protection Agency; 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 diplomated social workers of the agency provide rental and social information and advice, crisis intervention and mediation between landlord and tenant. The agency, which received an international award for its work, extended its range of clients after the tenancy reform of 2000 (quicker notification by the courts). Its track record has remained unchanged: in three out of four cases, it succeeds in keeping tenants in their homes.

Other services:Emergency call line for women:

The call line is open around the clock for women and girls affected by sexual, physical or mental violence. It offers rapid and immediate help, crisis intervention, counselling and support in acute cases of violence. The offer is also open to affected family members, friends and acquaintances.

The staff members are trained psychologists, social workers, psychotherapists and lawyers.

Offers:

- Immediate help around the clock,
- also on weekends and holidays,
- anonymous and free of charge,
- counselling by telephone or from person to person,
- crisis intervention,
- psychological, social and legal counselling and support,
- advice to family members, friends and acquaintances,
- reference to social and health institutions,
- advice by e-mail or chat line,
- provision of a non-anchored forum where users can exchange experience and give advice,
- accompanying and support for:
 - complaints to the police,
 - court hearings,
 - medical examinations,
- further education events for institutions.

The service offers specialised information and further education to institutions which work on the subject of violence against women and girls.

Women's hotline:

A team of female lawyers who are skilled in discussion and mediation and a social worker provide counselling to women in Vienna, by telephone, in writing or by a head-to-head talk.

Offers:

- Legal and social counselling, with the focus on matrimonial and family law, partnerships, maintenance,
- interface to counselling and support offers for women's issues.

Girls' hotline:

Set up in late October 2004, the girls' hotline is an information and counselling point for girls seeking advice and help and their personal environment. It is targeted at girls and young women aged 13–17, as well as their family members, friends and confidantes. The interdisciplinary team of advisors consists of an educator, a social worker and a lawyer, all of them women.

The team advises on issues regarding school, family, friends, occupational training, job, sexuality, worries and anxieties. The girls' hotline provides comprehensive support and where necessary passes on the caller to a specific facility. It also offers advice by e-mail. Advice is given in strict confidence and anonymity.

Daughters' day:

The purpose of the daughters' day is to expand the horizon of girls with regard to their choice of occupation and to motivate them to choose unfamiliar training paths.

Girls aged 11 to 16 are given an opportunity to visit enterprises in Vienna in order to get a glance at the occupational practice. The focus is on jobs involving engineering, crafts and natural sciences.

Promotion of women's facilities and gender mainstream projects:

The Municipal Department 57 supports women's and gender-specific activities in Vienna. Applications for funding may be filed by associations. The Department grants year-long grants as well as three-year grants to associations who have received grants for many years.

Women's shelters in Vienna:

Based on an agreement with and financed by the City of Vienna, the Verein Wiener Frauenhäuser (Association of Women's Shelters in Vienna) operates four shelters open to abused or threatened women and their children. Altogether, it can accommodate some 160 women and children.

An outreach service is open to women who do not want to live in a women's shelter but who still need help and advice. Advice is given anonymously and free of charge. The association also runs flats offering follow-up care.

Day care centres for senior citizens provide individual care for the elderly. A structured day, need-oriented care, group and individual offers and social contacts help visitors to escape their isolation, counter their loneliness and promote personal skills and talents.

Care is provided by social workers, ergotherapists, psychotherapists, homecare workers, creative instructors, diplomated nurses and psychologists.

Several highly individualised nursing and support programmes are available in order to enable people of an advanced age to continue to live in their own home. These services may be obtained temporarily or permanently. The advisory centres on nursing and care at home run by the Fonds Soziales Wien provide information on available services and link up with the required service. Such services include:

- meals on wheels,
- visiting and accompanying service,
- homecare workers,
- homecare workers for demented and/or mentally ill people,
- cleaning service,
- laundry service,
- round-the-clock care.

Nursing and medical services:

- home care (nursing and care at home without any time limit),
- medicinal home care (home care in lieu of hospital care, with a time limit),
- child care when the parent falls ill,
- hospice.

Para 2 of Article 14**Participation of individuals and organisations in the establishment and maintenance of such services****Ad questions 1 to 3:**

Previous reporting is updated as follows:

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 *Länder*. To organise this service, private welfare organisations and the social assistance bodies in Vienna and Salzburg entered into agreements to regulate their cooperation 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 Social Assistance Acts applicable in Vorarlberg, Vienna, Upper Austria, Tyrol, Lower Austria, Salzburg and Styria, 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 states 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.

Upper Austria:

With regard to including civil society into the development of principles and strategies for social services it should be noted that it is included in the frame of social planning inasmuch as polls and statistical surveys produce data which are an important starting point for the strategic orientation of social services.

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 state level which advise the respective provincial 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.

Vienna:

When the General and Specific Funding Guidelines by the Fonds Soziales Wien became effective on 1 January 2006, they fundamentally affected the structure of social services in Vienna.

Both the structure and the financing of the social services were changed from funding, by the Fonds Soziales Wien, of services rendered by private welfare organisations by the direct awarding of service contracts to the targeted and direct funding of subjects, projects and objects. This "funding model" must, first and foremost, put the individual in need of help at the centre of attention (subject funding) by granting this individual the free choice of a recognised facility that renders social services in line with his/her individual needs.

The framework agreements between the Fonds Soziales Wien and the private welfare services were terminated at the end of 2005. Now, funding is granted to persons in need of nursing and care provided they have their principal residence or, if 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 by a recognised facility, with due regard to the client's financial situation. Operators of facilities for nursing, care, rehabilitation, prevention and health promotion can apply for an award ("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.

The actual service contract is then concluded between the client and the recognised facility.