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EUROPEAN SOCIAL CHARTER

28th report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

(for the period 1 January 2002/2004 to 31 December 2009:
Articles 7, 8, 16, 17 and 19)

Report registered at the Secretariat on 5 November 2010

CYCLE XIX-4 (2011)

28th REPORT

presented under the provisions of Article 21 of the European Social Charter,
on Articles 7, 8, 16, 17 and 19
(period under review: 1 January 2002/2004 to 31 December 2009)

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

ARTICLE 7

RIGHT OF CHILDREN AND YOUNG PERSONS TO PROTECTION

Para. 1 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

Not ratified by Austria.

Para. 2 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Accidents at work:

- In 2004, 2005, 2006 and 2008 talks on topical issues concerning the enforcement of the special protection provisions for children and young persons were held by the Labour Inspectors responsible for child labour and the protection of young persons; the latest discussion round took place in May 2010.
- Project "Supervision of approved employment of children in theatre performances" 2006
- Project "Supervision of young persons performing dangerous work" 2006
- Focus of inspection on young persons employed in apprenticeships as event technicians in 2005
- Regular "Team4kids" projects of the Labour Inspectorate, particularly in cooperation with schools

Additionally, the national work protection strategy scheme has been trying to not only apply the educational/school-like approach of knowledge transfer in the education and provision of information to young persons, but also to take into account that juveniles have a way of thinking completely different from adults and are much more willing to take risks. Effective prevention can only be imparted if the young are given

the chance to identify the risks themselves and if they are made aware of them this way.

In this context, it is important to refer to the provisions of the Austrian Ordinance on Noise and Vibrations (*Verordnung über Lärm und Vibrationen, VOLV*), Federal Law Gazette II no. 22/2006 as amended by Federal Law Gazette II no. 302/2009 which stipulates that in the case of exposure to vibrations by young persons, the action values shall be used as the exposure limit values.

Occupational diseases:

The most frequent cause of skin diseases is the allergic and toxic skin eczema caused by exposure to chemical products used by hairdressers. Therefore, the Austrian Workers' Compensation Board (*Allgemeine Unfallversicherungsanstalt, AUVA*) launched a targeted campaign with the aim of reducing this disease, after the Labour Inspectorate had already carried out investigations from 1996 to 1997 geared towards improving the information and training of employees. Well-structured information brochures and folders have been compiled to provide information to the employees.

In the metal industry, campaigns on skin diseases have been initiated, too. A lot has been achieved in this industry by informing employees, and in particular apprentices, of how to prevent occupational diseases. Here, it is particularly tapping fluids that cause skin irritations.

As, according to the *AUVA*, the most dominant occupational diseases with a prevalence of 83 % are skin diseases in the cleaning industry, targeted campaigns were launched also for cleaning companies and their employees.

In 2008, a dedicated campaign of the Labour Inspectorate disseminated information on appropriate personal protective equipment (especially skin protection) and aimed at encouraging its use; additionally, the campaigns "Healthy skin" and "Cleaning and skin care" were carried out by the *AUVA* in 2009. They comprised basic information and practical advice for optimal skin protection.

Moreover, the establishment of the *SPAR Akademie* in 2004 as a public vocational school can be considered a measure towards curbing occupational diseases in the food sector as the young employees undergo high-quality practical courses in which safety and health protection play a vital role.

Bronchial asthma caused by allergenic agents is the most common recognised occupational respiratory disease in Austria (in apprentices and adults alike). With the aim of reducing allergic asthma in bakeries, the Labour Inspection has carried out an Austrian-wide campaign from 2000 to 2005 called "Let's get it baked" („. When looking at the age distribution of asthma in bakeries (data compiled by the *AUVA* from 1999-2001), it becomes evident that especially the group of employees aged 19 to 30 years is affected by this occupational disease with 52 %. If this age group is complemented to include the 16-to-18-year old persons, the percentage is as high as 56 %. This was one of the reasons for particularly defining young persons as the target audience of this project.

As baker's asthma is the final stage of this disease and takes many years to develop, starting with a cold, watering eyes and coughing, the campaign did not have an impact on the number of occupational diseases in bakery apprentices. However, it is important to note that this campaign has raised awareness concerning the reduction

of exposure to flour dust both with employers and employees and has thus helped prevent occupational diseases in middle-aged and advanced-age employees.

For the protection of young persons, the Labour Inspectorate has also initiated the “Kids Project” aiming at cooperation with vocational schools in order to draw young employees’ attention to work safety and health protection. A team of Labour Inspectors specially trained in working with young persons provides information and training to apprentices. This is a project specially geared towards young persons. Other major activities of the Kids Team comprise organising and staging roadshows and fairs and compiling information and background material for tuition and lectures.

In order to demonstrate how important it is to safeguard employees’ health already at a young age, an international construction group dealing with the issue of health protection of apprentices was awarded the Austrian Work Safety Award 2009.

The company’s philosophy of “increasing safety through education” aims at helping apprentices manage their daily routine in the construction industry by raising their awareness: potential risks should be identified beforehand. It also focuses on training the trainers to be able to cater for the needs of young persons.

In addition to periodical inspections by the Agriculture and Forestry Inspection, information sessions and events are held in the framework of courses at medium-level secondary agricultural and forestry colleges and vocational schools concerning employment prohibitions and limitations for young persons.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Reply to this question and the additional question on Para. 2 of Article 7 in the Conclusions XVII-2:

Rate of accidents at work of young employees

Recognised accidents at work from 2002-2008

Employees

Occupational position = apprentices

	2002	2003	2004	2005	2006	2007	2008	Years
male	Tumbling and falling of persons	1,448	1,452	1,532	1,590	1,615	1,539	1,812
	Machinery and equipment	1,256	1,252	1,180	1,210	1,295	1,126	1,443
	Sharp and spiky objects	1,192	1,272	1,201	1,195	1,220	1,139	1,384
	Hand tools and simple devices	1,057	1,143	1,179	1,203	1,263	1,209	1,530
	Vehicles and other means of transport	761	894	839	840	809	774	950
	Hitting or banging	666	708	721	696	760	702	847
	Falling or tumbling over of objects, collapsing	559	550	559	583	614	626	701
	Handling of objects (carrying or conveying manually)	499	526	532	589	577	631	759
	Other accident causes	398	381	405	359	397	394	501
	Crushing or clamping	347	389	394	341	369	337	471
female	Accident causes	8,183	8,567	8,542	8,606	8,919	8,477	10,398
	Tumbling and falling of persons	431	488	498	505	550	513	625
	Vehicles and other means of transport	335	337	402	369	405	357	470
	Sharp and spiky objects	293	279	302	302	349	285	392
	Hand tools and simple devices	178	202	199	221	256	222	312

	Machinery and equipment	203	222	195	233	241	203	252	1,549
	Hitting or banging	173	177	168	189	200	205	249	1,361
	Other accident causes	111	118	128	123	123	115	159	877
	Handling of objects (carrying or conveying manually)	92	106	80	102	128	134	146	788
	Falling or tumbling over of objects, collapsing	68	84	79	97	97	121	147	693
	Crushing or clamping	78	81	67	87	72	86	98	569
	Accident causes	1,962	2,094	2,118	2,228	2,421	2,241	2,850	15,914
	Women and men	10,145	10,661	10,660	10,834	11,340	10,718	13,248	77,606

Recognised accidents at work 2002-2008

Employees

Age = from 11 to 20 years

		2002	2003	2004	2005	2006	2007	2008	Years
male	Tumbling and falling of persons	2,313	2,375	2,504	2,540	2,553	2,343	2,772	17,400
	Machinery and equipment	2,025	2,009	1,915	1,941	1,994	1,735	2,138	13,757
	Sharp and spiky objects	1,898	2,017	1,885	1,845	1,857	1,700	2,073	13,275
	Hand tools and simple devices	1,620	1,746	1,740	1,793	1,804	1,739	2,134	12,576
	Vehicles and other means of transport	1,174	1,470	1,373	1,292	1,248	1,176	1,434	9,167
	Hitting or banging	1,044	1,087	1,098	1,078	1,124	1,103	1,266	7,800
	Falling or tumbling over of objects, collapsing	945	939	972	980	984	1,008	1,139	6,967
	Handling of objects (carrying or conveying manually)	881	904	909	963	969	970	1,266	6,862

	Other accident causes	635	650	673	565	614	595	768	4,500
	Crushing or clamping	614	627	638	581	645	528	706	4,339
	Accident causes	13,149	13,824	13,707	13,578	13,792	12,897	15,696	96,643
female	Tumbling and falling of persons	773	824	854	852	886	826	965	5,980
	Vehicles and other means of transport	609	640	707	652	700	613	770	4,691
	Machinery and equipment	505	513	478	457	479	438	457	3,327
	Hand tools and simple devices	344	370	347	376	405	400	511	2,753
	Sharp and spiky objects	345	369	362	343	392	355	408	2,574
	Hitting or banging	273	256	275	280	301	308	364	2,057
	Other accident causes	180	205	205	193	203	213	271	1,470
	Handling of objects (carrying or conveying manually)	174	187	177	178	221	211	272	1,420
	Falling or tumbling over of objects, collapsing	142	162	150	183	188	198	277	1,300
	Crushing or clamping	143	149	134	161	149	156	173	1,065
	Accident causes	3,488	3,675	3,689	3,675	3,924	3,718	4,468	26,637
Women and men		16,637	17,499	17,396	17,253	17,716	16,615	20,164	123,280

Source: AUVA

Occupational diseases of young employees:

The number of occupational diseases in young persons is small because, as a rule, occupational diseases do not occur in the first few years of working life. Hairdressers are an exception to this rule, however. In this job group, occupational diseases occur as early as in the first two apprenticeship years. Yet, the incidence gradually diminishes after several years of working as a hairdresser.

The table shows the number of occupational diseases in young employees. The data for 2009 have not yet been evaluated, which is why they are not included in this table.

As can be seen from the table, skin diseases and bronchial asthma caused by allergenic agents are the most common occupational diseases in young employees.

Occupational diseases of young employees:

Recognised accidents at work from 2002-2008
Occupational position = apprentices

	2002	2003	2004	2005	2006	2007	2008	Years
	1	-	-	-	-	-	-	1
(BK-15) Diseases caused by carbon monoxide								
(BK-19) Skin diseases	6	12	10	7	5	6	4	50
(BK-20) Diseases caused by vibration (pneumatic tools)	1	-	-	-	-	-	-	1
(BK-27b) Malignant tumours of pleura, lung, larynx caused by asbestos	-	-	-	1	-	1	1	3
(BK-30) Bronchial asthma caused by allergenic agents	5	5	4	2	2	4	3	25
(BK-32) Dental diseases caused by acids	-	-	-	-	-	1	-	1
(BK-33) Noise-induced hearing loss	2	-	1	1	-	1	-	5
(BK-38) Infectious diseases	1	-	-	-	-	-	-	1
(BK-39) Diseases transmitted from animals to humans	-	-	-	1	-	-	-	1
(BK-41) Diseases of the lower respiratory tract caused by chemically irritating or toxic agents	1	-	1	-	-	-	-	2
Occupational diseases	17	17	16	12	7	13	8	90
(BK-19) Skin diseases	54	34	28	32	27	27	34	236
(BK-30) Bronchial asthma caused by allergenic	10	7	3	2	3	-	3	28
male								
female								

[illegible]

Para. 3 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

Reply to the additional question on Para. 3 of Article 7 in the Conclusions XVII-2, as to whether children in Austria are allowed to work for more than half of their school summer holiday:

With regard to children working at music, theatre or other performances as well as at photo or film shootings, TV or audio recordings (Section 6 of the Austrian Young Persons Employment Act (*Kinder- und Jugendlichen-Beschäftigungsgesetz, KJBG*)), Section 7 Para. 2 no. 3 stipulates that children are allowed to work during their holidays only if it is made sure that they are employed during one-third of the school holidays as a maximum and only to the extent absolutely necessary. Only in the case of tours abroad, the restriction to a maximum employment of one-third of the school holidays may be disregarded in justified cases.

Although there is no comparable regulation for the employment of children aged thirteen or older (Section 5a *KJBG*), the recreational need after the holidays with a view to school attendance has been accounted for sufficiently. Only light and sporadic work is allowed, consuming a maximum time of two hours a day.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Reply to the additional questions on Para. 3 of Article 7 in the Conclusions XVII-2:

Number of violations and offence reports involving the employment of young persons (including children):

YEAR	Violations	Offences reported
2002	1,143	130
2003	1,215	76
2004	1,197	80
2005	1,110	66
2006	982	93

2007	951	124
2008	1,155	96

The increase from 83 offences reported in 2001 to 130 in 2002 is within the statistical variation (small absolute values) and cannot be considered a “trend reversal” at all in view of the numbers of the subsequent years (no figures available for 2009).

The Agriculture and Forestry Inspection did not record any violations of the prohibition of child labour as defined in Section 110 Para. 2 Agricultural Labour Act (*Landarbeitsgesetz, LAG*). Hence, there were no offence reports in this respect either.

Para. 4 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please supply any relevant statistics or other information on the proportion of workers not covered by these limits and the reasons why they are not covered and state whether any particular measures have been taken to assist young persons under 16 who do not benefit from any restrictions on their working hours.

No exceptions to the provisions on working hours limits.

Para. 5 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please supply any relevant statistics or other information on the remuneration of young workers as well as on other appropriate allowances for apprentices and the adult reference wage or salary.

The following definitions apply to the statistics on the next few pages (apprenticeship pay table for the major collective agreements): “Skilled workers with final apprenticeship examination” are young and adult employees having completed specialised vocational training.

“Workers without specific training (unskilled workers)” are young and adult employees not having completed specialised vocational training.

“Semi-skilled workers” are employees who have not completed specialised vocational training but have undergone comprehensive on-the-job-training for certain jobs or activities.

Rates of pay for apprentices (blue-collar workers) determined by collective agreement, minimum wage rates for young workers and initial wages for adults (blue-collar workers) in selected occupations in important branches of the Austrian economy

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

MINING (monthly wages in EUR) as of 1 Nov. 2009:

1st year of apprenticeship:	502,57
2nd year of apprenticeship:	673,84
3rd year of apprenticeship:	912,25
4th year of apprenticeship:	1,233,49
Skilled workers with final apprenticeship examination	1,748,66
Workers without specific training (unskilled workers)	1,478,87

PETROLEUM INDUSTRY (monthly wages in EUR) as of 1 Feb. 2010

1st year of apprenticeship:	625,98
2nd year of apprenticeship:	834,63
3rd year of apprenticeship:	1,043,26
4th year of apprenticeship:	1,286,90
Skilled workers with final apprenticeship examination	1,892,32
Workers employed on simple tasks (unskilled workers)	1,566,51

CONSTRUCTION INDUSTRY AND BUILDING TRADE (*Bauhauptgewerbe*)
as of 1 May 2009 (monthly wages)

1st year of apprenticeship:	778,00
2nd year of apprenticeship:	1,167,85
3rd year of apprenticeship:	1,566,01
4th year of apprenticeship, if learning two trades:	1,750.94
Apprentices commencing apprenticeship after reaching the age of 18:	1,56.01

Skilled workers employed in the trade learned:	1,945.86
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Building labourers	
a) Up to 18 years	1,428.21
b) Older than 18 years	1,654.32

FERROUS AND OTHER METALLURGY AND METAL-WORKING INDUSTRY
as of 1 November 2009 (monthly wages)

1st year of apprenticeship:	502.57
2nd year of apprenticeship:	673.84
3rd year of apprenticeship:	912.25
4th year of apprenticeship:	1,233.48

Skilled workers with final apprenticeship examination:	1,748.66
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Workers without specific training (unskilled workers)	1,478.87
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IRON AND METAL PROCESSING TRADE

Plumbers and heating fitters
as of 1 January 2010 (monthly wages, excluding board and lodging for apprentices)

1st year of apprenticeship:	484.64
2nd year of apprenticeship:	649.86
3rd year of apprenticeship:	874.37
4th year of apprenticeship:	1,174.65

Skilled workers with final apprenticeship examination:	1,741.81
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Workers without specific training (unskilled workers)	1,471.27
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WOODWORKING TRADE as of 1 May 2009 (monthly wages)
(excluding board and lodging for apprentices)

1st year of apprenticeship:	471.67	Apprentices who commence their training after reaching the age of 18 or who continue their training after compulsory military service receive a 25 % supplement to the rates of apprenticeship pay. Apprentices who qualify under the above paragraph after
2nd year of apprenticeship:	605.59	
3rd year of apprenticeship:	724.45	

4th year of apprenticeship: 821.36 reaching the age of 21 receive a 50 % supplement to the rates of apprenticeship pay set.

Skilled workers with final apprenticeship examination in the first year after apprenticeship 1,352.70

Unskilled workers 1,332.66

SAWMILL INDUSTRY as of 1 June 2009 (monthly wages, excluding board and lodging for apprentices)

1st year of apprenticeship:	582.16	Young workers up to the age of 17 receive 80 % of the rate for their wage group. For the duration of on-the-job training, trainees receive the hourly wages of an unskilled worker; after due completion of the agreed training period, they receive the hourly wages of a semi-skilled worker; the management, in agreement with the works council, determines when on-the-job training is complete, which must be after at least three months of employment on the machine.
2nd year of apprenticeship:	831.66	
3rd year of apprenticeship:	979.62	
On-the-job trainees	1,447.89	

Skilled workers with final apprenticeship examination 1,663.32

Semi-skilled workers

Unskilled workers 1,447.89

TEXTILE INDUSTRY as of 1 June 2009 (monthly wages)

3- or 4-year apprenticeship:

1st year of apprenticeship: 512.00
 2nd year of apprenticeship: 634.00
 3rd year of apprenticeship: 818.00
 4th year of apprenticeship: 1,018.00

2-year apprenticeship

1st year of apprenticeship: 512.00
 2nd year of apprenticeship: 716.00

On-the-job trainees 1,122.24 On-the-job trainees receive the hourly tariff wages for unskilled workers;

if they are on piece or bonus rates, the agreed piece or bonus rates apply to them.
The duration of on-the-job training depends on the nature of the activity to be learned and the personal capacity of the trainee, but may not exceed 13 weeks in any individual case.

Skilled workers with final apprenticeship examination or skilled workers, depending on the branch in question	1,205.74 to 1,339.34
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Unskilled workers	1,122.24
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GARMENT-MAKERS Dressmaking trade
(Bespoke tailoring and dressmaking; men's and women's ready-made clothing)
as of 1 January 2010 (monthly wages)

1st year of apprenticeship:	292
2nd year of apprenticeship:	394
3rd year of apprenticeship:	532

Skilled workers in the first year after apprenticeship	1,103.74
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Semi-skilled seamstress in the first year	1,072.60
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Unskilled work, first five years	1,089.90
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PAPER AND PAPERBOARD PROCESSING INDUSTRY
as of 1 March 2009 (monthly wages)

1st year of apprenticeship:	405.68
2nd year of apprenticeship:	572.51
3rd year of apprenticeship:	831.19
4th year of apprenticeship (two trades)	1,039.85

Skilled workers with completed apprenticeship in the first year of work, varying according to branch:	1,443.62 to 1,781.62
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Other workers (unskilled workers)	1,315.24
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PAPERMAKING, CHEMICAL AND MECHANICAL PULP AND PAPERBOARD
INDUSTRY

as of 1 August 2009 (monthly wages)

1st year of apprenticeship:	559.78
2nd year of apprenticeship:	650.07
3rd year of apprenticeship:	993.16
4th year of apprenticeship:	1,534.89

Skilled workers with final apprenticeship examination	1,686.94
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Workers during trial period	1,329.10
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CHEMICAL INDUSTRY as of 1 May 2009 (monthly wages)

1st year of apprenticeship:	738.00
2nd year of apprenticeship:	922.50
3rd year of apprenticeship:	1,107.00
4th year of apprenticeship:	11,291.50

Workers with completed apprenticeship and up to one year's service in the enterprise	1,844.72
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Semi-skilled workers, up to 6 months	1,583.19
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Unskilled workers	1,519.90
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FOOD, BEVERAGES AND TOBACCO TRADE – Bakers

as of 1 October 2009 (monthly wages, excluding board and lodging)

1st year of apprenticeship:	400.00
2nd year of apprenticeship:	512.90
3rd year of apprenticeship:	729.60
4th year of apprenticeship (two trades)	799.50

Workers after completing apprenticeship in the retention period	1,136.90
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Other workers (unskilled workers)	1,219.10
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FOOD, BEVERAGES AND TOBACCO TRADE – Butchers

as of 1 July 2009 (monthly wages)

1st year of apprenticeship:	555.68 – 569.70
2nd year of apprenticeship:	720.69 – 731.64
3rd year of apprenticeship:	960.55 – 979.45,47

Butchers	Burgenland, Lower Austria, Vienna (as of 1 July 2009)	Carinthia (as of 1 July 2009)	Upper Austria (as of 1 July 2009)
Workers in the first year after completing apprenticeship	1,452.63	1,452.63	1,453.26
Semi-skilled workers	1,452.63	1,452.63	1,453.26
Unskilled workers	1,395.20	1,396.00	1,398.66

Butchers	Salzburg (as of 1 July 2009)	Styria (as of 1 July 2009)	Tyrol (as of 1 July 2009)	Vorarlberg (as of 1 July 2009)
Workers in the first year after completing apprenticeship	1,452.63	1,455.77	1,698.42	1,452.27
Semi-skilled workers	1,452.63	1,455.77	1,467.51	1,447.18
Unskilled workers	1,394.21	1,399.87	1,409.80	1,391.85

BRICK-MAKING AND PREFABRICATED PRODUCTS INDUSTRY (applicable to all *Laender*)

as of 1 May 2009 (monthly wages)

1st year of apprenticeship:	706.81
2nd year of apprenticeship:	1,060.21
3rd year of apprenticeship:	1,413.62
4th year of apprenticeship	1,590.32
Workers with completed apprenticeship	1,767.02
Semi-skilled craftspeople	1,767.02
Semi-skilled workers	1,533.64
Unskilled worker	1,480.30

MINIMUM WAGES IN AGRICULTURE AND FORESTRY

1. Forestry workers in the private sector (all *Laender* except *Tyrol and Vorarlberg*) Valid as of 1 January 2009

Category	Monthly wages in EUR
1st year apprentices	908.10
2nd year apprentices	1,107.39
3rd year apprentices	1,310.15
Vacation workers	1.010,34
Unskilled workers	1.351.74
Semi-skilled forestry workers	1,429.73
Skilled forestry/horticultural workers, with examination	1,469,58
Foremen/Forewomen without skilled forestry/horticultural workers' examination	1,478.25
Foremen/Forewomen with skilled forestry/horticultural workers' examination	1,519.84
Foremen/Forewomen without skilled forestry workers' examination Skilled forestry workers with examination Forestry workers employed craftspeople's jobs, for the duration of such employment	1,634.22

Truck and tractor drivers and mechanics	
Foremen/Forewomen with skilled forestry workers' examination	1,679.28
Skilled craftspeople, e.g. bricklayers, mechanics, etc.	
Master foresters	1,733.00

2. Farming operations in Lower Austria

Valid as of 1 June 2009

Category	Monthly wages in EUR
1st year apprentices	519.57
2nd year apprentices	726.42
3rd year apprentices	934.10
Skilled workers	1,350.27
Farm workers for house, estate, field and barn	1,192.17

3. Farming operations in Vorarlberg

Valid as of 1 January 2009

Category	Farm workers	Alpine dairy
1st year apprentices	411.65	781.48
2nd year apprentices	469.94	1,021.76
3rd year apprentices	638.87	1,201.39
Skilled workers	1,366.98	2,546.87
Farm workers older than 18 years:	1,190.92	-
Farm workers younger than 18 years:	1,029.12	-

**Market gardening operations in Vienna, Lower Austria
and Burgenland**
Valid as of 1 January 2009

Category	Monthly wages in EUR
1st year apprentices	400.00
2nd year apprentices	457.00
3rd year apprentices	620.00
Horticultural workers	1,122.98
Skilled workers from 3rd year	1,396.80

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

Category	Burgenland	Carinthia	Lower Austria	Upper Austria	Salzburg	Styria	Tyrol	Vorarlberg	Vienna
Valid as of:	01.03.2009	01.05.2009	01.03.2009	01.03.2009	01.01.2009	01.01.2009	-	-	01.03.2009
Estate, field and horticultural workers older than 18 years	1,367.33 bis 1,438.39	1,153.00	1,367.33 bis 1,438.39	1,131.00	1,250,50	1,095.98	-	-	1,367,33 bis 1,438.39
Day labourers	-	-	-	1,138.58 bis 1,240.83	-	1,095.26	-	-	-

UPPER AUSTRIA:

Farming operations (valid as of 1 September 2009)

Farm workers, monthly: EUR 1,048

Seasonal workers, monthly: EUR 990

Apprenticeship pay during 1st apprenticeship year, monthly: EUR 480

Apprenticeship pay during 2nd apprenticeship year, monthly: EUR 550

Apprenticeship pay during 3rd apprenticeship year, monthly: EUR 625

Apprenticeship pay during 4th apprenticeship year (second trade, *Anschlusslehre*), monthly: EUR 880

Agricultural estates (valid as of 1 March 2010)

Permanent workers, monthly: EUR 1,146

Day or hourly labourers (hourly rate) EUR 6.65 to EUR 7.25

1st year apprentices, monthly: EUR 435

2nd year apprentices, monthly: EUR 501

3rd year apprentices, monthly: EUR 569

4th year apprentices (second trade, *Anschlusslehre*), monthly: EUR 801

Forestry (valid as of 1 January 2010)

Unskilled workers (time wage/hour) EUR 7.89

Vacation workers (time wage/hour) EUR 5.89

1st year apprentices (time wage/hour) EUR 5.30

2nd year apprentices (time wage/hour) EUR 6.46

3rd year apprentices (time wage/hour) EUR 7.64

Market gardening operations (valid as of 1 March 2010)

Unskilled workers (hourly wage): EUR 6.18

Seasonal workers (hourly wage): EUR 5.97

1st year apprentices, monthly: EUR 400

2nd year apprentices, monthly: EUR 485

3rd year apprentices, monthly: EUR 625

TYROL:Forestry workers (valid as of 1 March 2009)

	Apprentice	Unskilled/vacation	Unskilled
Younger than 16 years	5.67	5.67	6.15
From 16 to 18 years	6.43	6.52	7.00
Older than 18 years	7.81	7.99	8.50

	Journeymen	Skilled workers	Master foresters
	9.48	10.23	11.53
After 5 years	9.89	10.67	11.98
After 10 years	10.18	11.03	12.40

Farm workers (valid as of 1 January 2009)

Apprentices		Young persons and unskilled workers	
1st year	709.50	Aged 15	1,231.50 bis 1,273.00
2nd year	777.50	Aged 16-17	1,322.00 bis 1,366.50
3rd year	887.00	Aged 18+	1,344.50 bis 1,425.00

	Master craftsmen	Skilled workers	Other
House and field	1.689.50	1.660.00	1,493.50 bis 1,530.50
Estate and field	1.847.00	1.824.50	1,579.50 bis 1,646.00
Milkers	2.070.00	2.019.00	1,757.00 bis 1,835.50
Overseers	2.213.00	2.161.00	1,869.50 bis 1,984.00

Horticulture (valid as of 1 January 2009)

Vacation workers	320.00
1st year apprentices	376.00
2nd year apprentices	430.00
3rd year apprentices	524.00

Horticultural workers	5.66 bis 6.78
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Horticultural journeymen/skilled workers	1st year: 7.28 2nd year 7.81 3rd year 8.38
Master gardeners	9.43
Head gardeners with master's certificate	10.27

Professional gamekeepers (valid as of 1 April 2009)

1st year	551.00
2nd year	740.50
1st year after qualification	1,409.00
2nd and 3rd year after qualification	1,458.00
4th and 5th year after qualification	1,505.50 to 1,565.00

Cheese-making operations (valid as of 1 November 2008)

1st year	424.00
2nd year	561.50
3rd year	765.00
Unskilled	1,616.50
Drivers	1,785.00
Journeymen	1,929.00
Master craftsmen	2,145.50

Cooperatives (valid as of 1 April 2009)

	Blue-collar workers	White-collar workers
1st year	474.00	432.50
2nd year	636.00	547.00
3rd year	854.50	784.50
4th year	1,147.50	810.50

VORARLBERG:

Farming operations (valid until 31 December 2009)

Gross amounts

EUR/month

Skilled agricultural workers or

farm workers

1,366.98

Unskilled workers older than 18 years:

1,190.92

Unskilled workers younger than 18 years:

1,029.12

Apprentices	
1st year of apprenticeship:	411.65
2nd year of apprenticeship:	469.94
3rd year of apprenticeship:	638.87
Forestry (valid until 31 December 2009)	Gross amounts
EUR/hour	
Skilled forestry workers with examination	9.75
Skilled forestry workers without examination	8.94
Unskilled workers older than 18 years and casual workers	7.26
Unskilled workers younger than 18 years	6.53
Apprentices	
1st year of apprenticeship:	4.40
2nd year of apprenticeship:	4.76
3rd year of apprenticeship:	5.35
<u>Market gardening operations (valid until 31 December 2009)</u>	Gross amounts
EUR/hour	
Skilled horticultural workers	
1st year	7.27
2nd and 3rd year	7.61
4th year after examination	8.28
Horticultural workers	5.99
Apprentices	Gross amounts
EUR/month	
1st apprenticeship year	454.47
2nd apprenticeship year	524.83
3rd apprenticeship year	706.36
Alpine dairy operations (valid until 31 December 2009)	Gross amounts
EUR/month	
Unskilled sub-dairymen	2,351.55
Unskilled workers	1.392.65

Apprentices

1st year of apprenticeship:	781.48
2nd year of apprenticeship:	1,021.76
3rd year of apprenticeship:	1,201.39

NOTE: As opposed to 2002, the collective agreements 2009 do not differentiate age groups (younger/older than 18 years) in the following occupational groups:

- Farming operations in Lower Austria – Skilled workers and farm workers for house, estate, field and barn
- Farming operations in Vorarlberg – Skilled workers
- Market gardening operations in Vienna, Lower Austria, Burgenland – Horticultural workers
- Estates – Estate, field and horticultural workers (no numbers for the age group “younger than 18 years” given, but numbers for “older than 18 years” given), day labourers - young persons under 16 years of age are not included.

Para. 6 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

Not ratified by Austria.

Para. 7 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

No substantial changes.

Para. 8 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

In order to be able to make definite statements on how efficiently compliance with the *KJBG* is monitored, the development of violations by companies previously inspected would have to be tracked by means of follow-up analyses and longitudinal analyses. At present, such analyses are not carried out, however, as they are very work-intensive and other important tasks would have to be neglected. However, the efficiency of the *KJBG* inspections may also be roughly described by looking at the development of the total number of violations per investigation and the company-specific rate of violations (i.e. companies that were found to have committed violations compared to the total number of companies).

This results in the following data for the years from 2003 to 2008:

YEAR	Violations identified in the course of investigations (A)	Investigations (B)	Ratio A/B	Companies found to have committed violations in the course of inspections (C)	Companies inspected (D)	Company-specific rate of violations C/D
2002	825	3.185	0,26%	391	2.952	13,2%
2003	936	3.204	29,2%	429	2.636	16,3%
2004	973	3.338	29,1%	456	2.651	17,2%
2005	854	3.020	28,3%	422	2.398	17,6%
2006	709	3.208	22,1%	458	2.553	17,9%
2007	726	3.006	24,2%	455	2.441	18,6%
2008	856	3.760	22,8%	493	2.955	16,7%

Source: Central Labour Inspectorate

Para. 9 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

No substantial changes.

Para. 10 of Article 7

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is updated as follows:

Protection against physical and moral dangers outside of work:

The most important changes at statutory level for the period under review before 1998 compared to previous reports are, firstly, the "Violence Protection Act" (Protection against Violence within the Family Act, *GeSchG*), and, secondly, the modifications to criminal law in the field of sexual offences (including child pornography) and the changes to criminal proceedings. The provisions contained in the above Act were gradually amended and extended in the years 1999, 2002 and 2004 and, in particular, by the Second Protection Against Violence Act (*Zweites Gewaltschutzgesetz*, 2. *GeSchG*), Federal Law Gazette I no. 40/2009, which entered into force on 1 June 2009.

While it had been common practice before the enactment of the Protection Against Violence Act (effective since 1 May 1997) to protect children who had become the victims of physical or sexual violence from further assaults by accommodating them elsewhere, the new law provided ways of barring the perpetrator or the person who represents imminent danger from the household where the child lives. This may be imposed either by an act of the police ("barring order" (*Wegweisung*), possibly combined with a more comprehensive "prohibition to return order" (*Betretungsverbot*), Section 38a Security Police Act, *Sicherheitspolizeigesetz*) or by an act of court ("interim injunction" (*einstweilige Verfügung*) valid for up to three months (since the enactment of the Second Protection Against Violence Act, the maximum period has been extended to six months) or, pursuant to Section 382b of the Austrian Enforcement Code (*Exekutionsordnung*, *EO*), upon application by the child's legal representative or the youth welfare office, up to the time a final judgment has been issued in proceedings pending, e.g. in divorce proceedings). The duration of the prohibition to return order was extended in the framework of the *SPG* amendment of 1999 and, additionally, by the 2. *GeSchG*. The order's validity ends two weeks after it has been imposed; if an application was filed during this two-week period requesting an interim injunction pursuant to Section 382b *EO*, it ends at the time of service of the court decision upon the respondent, but in no case later than four weeks after the order was imposed.

Furthermore, it is important to note that a barring order or interim injunction can be imposed not only after the child has actually been assaulted but at an earlier point of time, “if certain facts or a previous dangerous assault suggest that there is an imminent danger of an ensuing assault on life, health or freedom” (Section 38a *SPG*) or “if the endangered person cannot be expected to tolerate continued cohabitation due to a previous bodily assault, or threat thereof, or due to behaviour that causes considerable psychological strain” (Section 382b *EO*).

In addition to the information given above concerning the protection of children in the framework of the Protection Against Violence Act, it shall be emphasised that this protection of course applies to any person subject to domestic violence, and, since the enactment of the Second Protection Against Violence Act in 2009 it has applied to “closely related persons” without any restrictions. If children are faced with violence, it is usually their parents or the youth welfare office who report it to the police. The central idea of the Act is the protection of victims: not the victims should have to leave their familiar surroundings in order to avoid (additional) acts of violence, but the perpetrators.

Developments in the reporting period from 1 January 2002 to 31 December 2009:

Putting into practice the protection of victims has been the subject of nearly all amendments to criminal proceedings over the past few years. Apart from ensuring the procedural rights of victims and providing sensible support in seeking compensation, the major objective in this context has been to protect the victims from major psychological impairment through prosecution of the offence itself (secondary victimisation). This applies in particular to children that have become victims of violence or sexual abuse.

On 26 February 2004 the Austrian National Council adopted the Code of Criminal Procedure Reform Act (*Strafprozessreformgesetz, StPRG*), Federal Law Gazette I no. 19/2004, which introduced totally new provisions for the pre-trial proceedings laid down in the Austrian Code of Criminal Procedure (*Strafprozessordnung, StPO*). The *StPRG* entered into force on 1 January 2008; when the National Council unanimously approved the “improvement of victim protection” resolution (43/E of the supplements, 22nd legislative period), in which the Federal Minister of Justice was asked to review as to which extent the improvements concerning the rights of victims could be integrated into the Code of Criminal Procedure applicable until the end of 2007, before the Reform Act would come into effect, and to submit to the National Council a corresponding government bill in order to be able to put the related advantages into practice at an earlier point of time. This decision was implemented in the framework of the Federal Act amending the Code of Criminal Procedure 1975, the Public Prosecution Act (*Staatsanwaltschaftsgesetz, StAG*) and the Erasure of Convictions and Limitation of Information Act (*Tilgungsgesetz, TilgG*) (Federal Law Gazette I no. 119/2005), which entered into force on 1 January 2006. Urgent improvements concerning the rights of victims were included in the *STPO* in force as of end-2007. In particular, the *Institut der psychosozialen und juristischen Prozessbegleitung*, an institute that provides psychosocial and legal assistance in court proceedings and had been supported by the Federal Ministry of Justice since 2000, was given a statutory basis as of 1 January 2006. As a consequence, victims subject to violence inflicted upon them as an intentional criminal offence, victims subject to threat of serious harm or victims whose sexual integrity has been affected are entitled to receive psychosocial and legal assistance in court proceedings. Psychosocial assistance includes preparing the victim for the trial and for the inherent

emotional stress as well as taking part together with the victim in interrogations during the pre-trial investigation phase and the trial itself; legal assistance includes legal advice as well as representation by a lawyer. Victims do not have to pay for court assistance, funding is provided from the national budget earmarked for justice matters. In order to ensure a nationwide system of court assistance facilities, the Minister of Justice has contractually mandated suitable well-established institutions with the provision of court assistance. Additionally, the above-mentioned Federal Act introduced further improvements to the *StPO* concerning the victim's legal position, such as the extension of the obligations to actively inform and notify the victim, specifically about eligibility concerning court assistance and release from prison of the accused person prior to the judgement of the first-instance court, the right to access to files and translation support, the obligation to treat the victim with respect and dignity as well as the stipulation concerning the admissibility of victim protection organisations as court representatives of private participants (*Privatbeteiligte*, i.e. private parties joining criminal proceedings to claim civil damages).

Furthermore, the Code of Criminal Procedure Reform Act, Federal Law Gazette I no. 19/2004, which has been in force since 1 January 2008, and the related comprehensive revision of the pre-trial proceedings in criminal cases have also contributed to a further enhancement of the victim's legal position. Pursuant to Section 66 *StPO* as amended by Federal Law Gazette I no. 109/2007, victims are granted, apart from asserting material claims to damages exceeding the rights of private participants, more comprehensive rights of information and rights to be heard as a party in court proceedings; for example, information about their rights on the proceedings, access to files, notification, participation in the adversary questioning (*kontradiktorische Vernehmung*) of witnesses and accused persons, in the fact finding as well as reconstruction of the incident and the right to psychosocial and legal assistance for emotionally severely affected victims. Moreover, victims now have the right to demand continuation of proceedings dismissed by the public prosecution (Section 195 *StPO*). Pursuant to Section 70 *StPO*, victims whose sexual integrity may have been affected have to be informed, before their first interrogation at the latest, of their right to demand, if possible, questioning by a person of the same sex in the preliminary investigation, the right to demand being questioned both in the preliminary investigations and the trial itself in a considerate and gentle manner, to exclude the public from the proceedings and to refrain from answering questions concerning their intimate, personal life or questions concerning details of the criminal offence the description of which they consider unacceptable. With regard to the trial itself, victims of violent or sexual offences now have the right, pursuant to Section 250 Para. 3 *StPO*, to give their testimony in a well-protected environment. A witness making use of this right to considerate treatment must, upon his or her application, be questioned outside of the court room, and the other parties involved in the proceedings must be given the opportunity to follow the questioning and exercise their right of asking questions through technical means.

Victims who assert claims for damages have the status of a private participant (Section 67 *StPO*), which grants them additional specific rights to influence or participate in the course of the proceedings (e.g. the right to request further evidence); if the corresponding requirements are met, legal aid is granted and a free legal counsel may be appointed.

Since 1 January 2008, the public prosecution offices (public prosecution offices with at least 10 permanent positions) have been assigned competence for proceedings that involve violence in the immediate social environment (violence in the family, child abuse).

Another important step towards improving the protection of victims has been taken with the Second Protection Against Violence Act, Federal Law Gazette I no. 40/2009, the major part of which came into effect on 1 June 2009. With regard to procedural law, complementary provisions were introduced to the Code of Criminal Procedure, e.g. concerning the new option of imposing work prohibition for sexual offenders pursuant to Section 220b of the Austrian Penal Code (*Strafgesetzbuch, StGB*). The *TilgG* brought about a general, offence-specific extension of the erasure period and a preclusion of erasure in the case of severe judgements. The Criminal Records Act (*Strafregistergesetz, StRegG*) stipulates the inclusion into the Criminal Record of information concerning the imposition of court supervision pursuant to Section 52a *StGB*, instructions pursuant to Section 51 *StGB* that were imposed on a person convicted of a criminal offence violating the sexual integrity and self-determination, as well as legally effective work prohibitions and their duration pursuant to Section 220b *StGB*. In addition, it stipulates that all convicted sexual offenders who were committed to a mental institution be specifically marked in the Criminal Record: it also stipulates periodically reviewing and updating the residence and address data by cross-checking with the Central Register of Residents (*ZMR*) and it lays down specific information supply requirements concerning sexual offenders. According to this provision, information concerning sexual offenders has to be supplied to courts in criminal proceedings, proceedings pursuant to the Austrian Penal Execution Act (*Strafvollzugsgesetz, StVG*), adoption proceedings, child custody proceedings and proceedings concerning the personal contact between parents and minor children, guardianship proceedings, proceedings on the committal to mental institutions; information has to be also provided to public prosecution offices, the Austrian security authorities (*Sicherheitsbehörden*) and to the police for the purpose of criminal prosecution and monitoring court supervision as well as inspecting compliance with work prohibitions; additionally, such information must be given to criminal enforcement authorities for the purpose of executing the sentence and to security authorities (*Sicherheitsbehörden*) and the police for the purpose of prevention and combat of dangerous assaults.

On 10 December 2009 the Austrian National Council adopted with Federal Law Gazette I no. 142/2009, the Federal Act amending the Penal Code, the Penal Execution Act, the Code of Criminal Procedure, the Juvenile Court Act (*Jugendgerichtsgesetz, JGG*) 1988 and the Criminal Records Act, the major part of which entered into force on 1 January 2010. An addition to the information and notification rights defined in Section 70 Para. 1 *StPO* now provides the victims of physical and sexual violence with the option to request a notification about the perpetrator's first unguarded prison leave and release from prison. The victims have to be informed of their corresponding rights in the course of their interrogation.

Court assistance:

Since the *StPRG* entered into force, victims have been entitled (free of charge for the victim) to legal and psychosocial assistance in court proceedings (Section 66 *StPO*). Psychosocial assistance includes preparing the victim for the trial and for the inherent emotional stress as well as taking part together with the victim in interrogations

during the pre-trial investigation phase and the trial itself; legal assistance includes legal advice as well as representation by a lawyer.

Since 1 June 2009, psychosocial assistance has been extended to include civil actions pursuant to the Second Protection Against Violence Act. If the victim was granted psychosocial assistance in the court proceedings, this has to be granted to the victim, upon his or her request, also for a civil action conducted against the accused offender of the criminal proceedings, if the subject matter of the civil action is related to the subject matter of the criminal action and to the extent as is necessary for safeguarding the victim's rights in connection with the proceedings taking into account the victim's personal involvement as much as possible. The person providing assistance in the proceedings has the position of a confidant. The maximum claim is EUR 800; if legal aid (*Verfahrenshilfe*) was granted, the maximum is EUR 1,200 (Section 73b ZPO, Section 7 Non-Contentious Proceedings Act (*Außerstreitgesetz, AußStrG*)).

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework and

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

In the course of the **Labour Inspectorate's** site visits, the following numbers of young persons were recorded in connection with monitoring the provisions on the protection of juvenile persons:

YEAR	Male	Female
2003	19,257	7,655
2004	34,958	14,140
2005	48,076	19,904
2006	31,709	13,005
2007	31,696	13,367
2008	31,910	13,766

Source: ZAI

The **Transport Labour Inspectorate** recorded the following numbers of young persons in the course of monitoring compliance with protection provisions for juvenile persons:

	2002	2003	2004	2005	2006	2007	2008	2009
Male	63	147	759	67	170	59	107	27
Female	13	16	34	19	5	2	10	8
Total	76	163	793	86	175	61	117	35

In the course of periodic site visits of the **Agriculture and Forestry Inspection** paid to businesses employing young persons, compliance with any and all protection provisions for juvenile persons was also monitored. In **Upper Austria, for example**, the following numbers of young persons were recorded in the past few years: 109 in 2005, 131 in 2006, 159 und 2007, 187 in 2008 and 135 in 2009.

Response of the *Land* of Vienna

Legal framework: Youth Welfare Act (*Jugendwohlfahrtsgesetz, JWG*) 1989 (Federal Law Gazette no. 161, as amended by Federal Law Gazette no. 41/2007; fundamental Federal act); Vienna Youth Welfare Act (*Wiener Jugendwohlfahrtsgesetz, Wr. JWG*) 1990 (Vienna State Law Gazette no. 36, as amended by Vienna State Law Gazette no. 9/2007; implementing act), Section 15d Para. 5, Section 17a Para. 2 Vienna Hospital Act (*Wiener Krankenanstaltengesetz, Wr. KAG*) 1987.

Transposition measures, statistical data:

In the framework of child and youth protection the Municipal Department 11 - Vienna Youth and Family Offices (*MA ELF*) maintains 18 regional service points responsible for social work with families. The crucial task in the field of child protection is the risk assessment (*Gefährdungsabklärung*). Risk assessment processes are initiated if it is assumed that a child is endangered by neglect, physical or mental violence or sexual abuse (10,451 risk assessment processes were performed in Vienna in 2009). If necessary to protect the child, the children or young persons are placed in a "crisis foster family" (*Krisenpflegefamilie*) or in a crisis intervention centre. Later on, mobile or residential parenting support is offered:

The following schemes are currently provided in the field of on-site child protection measures:

- Mobile social work with families: in cases where the specific situation requires intensive, continuous assistance.
- Family assistance – practical support in everyday life: in cases where practical support in housekeeping or structuring daily routines is required.
- Intensive training for families: video analyses of family interaction aimed at providing guidance and support.
- Clinical-psychological diagnostics: psychological counselling and treatment by psychologists employed by the regional service points.
- Psychotherapy arranged by the psychologists at the regional service points.
- On-site support for minors who are pregnant or have children (project „Early support“).

In the context of parenting support 2,877 cases of on-site assistance were started in 2009 and 751 new children were taken into full care.

The total number of children and juveniles in central care receiving guidance and support for their everyday lives was 2,943 at the end of 2009, 1,519 of whom were living in foster families (223 of whom with relatives).

Pursuant to Section 15d Para. 5 *Wr. KAG*, child protection groups (*Kinderschutzgruppen*) have to be established at hospitals for paediatrics and juvenile medicine, psychiatry or surgery, and at general hospitals with corresponding departments or other in-patient units specialising in these areas. These child protection groups are responsible for early identification of violence to children or young persons and for early detection of neglect as well as for raising awareness among occupational groups potentially faced with violence to children or young persons.

In March 2010, the *Institut für Ethik und Recht in der Medizin*, an institution specialising in ethical and legal aspects of medicine, was commissioned with a scientific study of the work of child protection groups.

The following aspects will be examined:

- quantitative analysis of case documentation of child protection groups;
- description of types of violence recorded in child protection groups;
- depicting the processes of case work of child protection groups.

The final report is scheduled to be available by the end of 2010.

Section 17a Para. 2 lit. k *Wr. KAG* guarantees the right of children admitted for in-patient treatment to a hospital setting as child-friendly as possible. This is why special importance is attached to equipping and designing the facilities in the children's departments of the hospitals in the Vienna Hospital Association (*Wiener Krankenanstaltenverbund*) in a way that optimally meets the customers' requirements.

The planning manual for the general care of children and juveniles, for example, specified that the allocated lavatories with basins, toilets and showers have to be made accessible to small children by equipping them with appropriate fixtures. This also serves the purpose of avoiding "moral risks" (e.g. by providing separate lavatories for adults) to children during their hospital stay.

Play rooms and tuition rooms are standard requirements in the space allocation plans. Appropriate accommodation for adults accompanying children is an important aspect, too.

Furnishings and equipment suitable for children are always taken into account in the planning process. In addition, in several specialty areas, such as radiology, special devices are used.

Additional questions by the European Committee of Social Rights in the Conclusions XVII-2 on Para. 10 of Article 7.

Child pornography – The Committee notes that it will examine the legislation adopted in 2003 (*Strafrechtsänderungsgesetz 2003*) in more detail during the next examination of Article 7 § 10, in particular it asks **whether the possession of child pornography is prohibited** and whether the legislation relating to pornography and minors **covers all those under 18 years of age**.

Pursuant to **Section 207a Para. 3 StGB**, anybody who obtains or possesses a pornographic representation of a minor is liable to prosecution. The penalty to be imposed is up to one year of imprisonment in case of representations of minors between 14 and 18 years and up to two years in case of representations of minors under 14 years of age. In addition, the 2. *GeSchG* also made **knowingly accessing** child pornography in the Internet liable to prosecution.

The relevant provision generally applies to pornographic representations of all minors (younger than 18 years of age). Producing and possessing pornographic representations of minors older than 14 years is not a criminal offence, if it is intended for the minor's own use and if it is produced with his or her consent. The same applies to producing and possessing virtual pornographic representations of minors older than 14 years, if no real pornographic material was used for its production, it is intended for the minor's own use and if there is no risk of dissemination of the representation.

Trafficking of children – *The Committee asks for information on legislation covering the trafficking of children, in particular whether legislation provides for extra territorial jurisdiction to be exercised.*

Pursuant to **Section 104a StGB (trafficking of humans)** a sentence of up to three years of imprisonment shall be imposed if

1. a person under age or
2. a person of full age by using unfair means against the person

is enticed, harboured or otherwise accommodated, transported or offered or passed to another person with the intention to abuse the minor sexually, to remove his or her organs or exploit his or her labour. The use of unfair means only applies to persons of full age in order for the behaviour to be liable to prosecution. The potential sentence increases if the offence was inflicted on a person under 14 years (imprisonment from one to ten years).

With regard to **extra-territorial jurisdiction**, Section 64 Para. 1 no. 4 StGB stipulates that irrespective of the criminal laws valid in the place of occurrence, Austrian criminal law also applies to the criminal offence of trafficking in humans, if the offence infringes Austrian interests or the offender cannot be extradited. Austrian interests are infringed, for example, in case of offences committed against an Austrian citizen and if the offence has any other relation with Austria. The non-extradition condition also applies if the offender cannot be extradited due to his/her Austrian citizenship.

Child prostitution – *The Committee asks if it is a criminal offence to encourage, facilitate or induce a minor to engage in prostitution.*

Pursuant to Section 215a StGB, promoting prostitution and pornographic presentations of minors is a punishable offence. According to Section 215 Para. 1 StGB, enticing, offering or procuring a minor with the intention of engaging in prostitution or participating in a pornographic performance as well as exploiting a person with the intention of obtaining a pecuniary benefit for oneself or a third person is presumed to be “promoting”. Pursuant to Section 214 StGB, arranging personal contact of a minor under 14 years with another person with the aim of performing a sexual act is a punishable offence. Section 215 StGB makes introducing someone to prostitution subject to prosecution.

Pursuant to Section 207b Para. 1 StGB, it is a criminal offence for a person to induce by payment persons under the age of 18 years of age to perform a sexual act with him/her or a third person or to allow a sexual act to be performed on him/her.

Extent of sexual exploitation in Austria – trafficking of children and child prostitution – measures taken to address the problem, including information on assistance programmes for child victims of sexual exploitation:

In the framework of the Task Force on Human Trafficking (decided upon by the Council of Ministers on 9 November 2004) the ministry responsible for family affairs (currently the Federal Ministry of Economy, Family and Youth - BMWFJ) established a working group on the trafficking of children (2007). The working group is composed of experts of various ministries (exterior, interior, justice, family), the Austrian Laender governments, and non-governmental organisations including Unicef, IOM, Ecpat Austria, etc. Based on an analysis of the current situation, a folder including background information on how to identify victims and with the aim of raising awareness concerning this issue was produced and distributed to the relevant target audiences (institutions in the field of justice, police, youth welfare, consular

authorities, etc.). At this time, the introduction of a “national referral mechanism” is being discussed. The working group on child trafficking examines all forms of exploitation mentioned in the ECSR’s recommendations.

As indicated in the 2009 report of the working group on child trafficking, mainly in Vienna unaccompanied minors without a habitual place of abode were caught by the police; these children had been used for carrying out criminal offences (primarily theft, but also prostitution) in Vienna. Thanks to the good cooperation of the Federal Criminal Police Office and the Vienna Youth Welfare Office with the most common countries of origin (Romania and Bulgaria), the number of victims of child trafficking that were taken into the care of “*Drehscheibe*”, a Vienna institution of the youth welfare authorities established at municipal level for accommodating the victims of trafficking of children, has conceivably decreased.

2004: 315

2005: 701

2006: 319

2007: 72

2008: 88

In Vienna, the Vienna Youth and Family Offices (MA 11) participate in a number of programmes for the protection of under-age victims of sexual exploitation (“Coordination Group Sexual Exploitation”, “Task Force on Human Trafficking”). The aim of these programmes is to raise sensitivity among the staff at youth welfare institutions concerning this issue and subsequently be able to identify victims at an early stage and offer them adequate protection. Victims are taken care of in the framework of various programmes of youth welfare institutions, including, for example, psychotherapy for coping with trauma. Additionally, MA 11 maintains a specialised institution for victims of child trafficking and sexual exploitation. This institution (“*Drehscheibe*”) cooperates across borders (primarily with Romania and Bulgaria) with the aim, for example, to arrange the children’s return to their home country in a way that is appropriate for children. Another goal of this cooperation is to ensure adequate care for the children in their countries of origin after they have returned.

In Styria, cases of suspected forced marriages have been reported over the past few years involving Islamic girls under age, particularly Chechen girls. In Salzburg, one case had been recorded in 2006. The Land of Tyrol reported cases of unaccompanied minors from North Africa, India, Romania, China, among other countries, in which child trafficking was suspected.

The report of the working group was submitted to the Austrian Council of Ministers and published at

http://www.kinderrechte.gv.at/home/upload/50%20thema/bericht_ag-kinderhandel_0902_engl.pdf.

The ministry in charge of family affairs (i.e. the *BMWFJ*) provides information on sexual education (booklet “Love, sex, etc.”, in German). The booklet “(Un)Safe places. Sexual violence against children” (in German, “*(K)ein sicherer Ort. Sexuelle Gewalt an Kindern*”), designed for helping all those who want to respond adequately to suspected sexual abuse of children is offered to staff working in child and youth care institutions, e.g. educators, youth group leaders, etc. (5th edition 2010).

In order to enhance the protection of victims of domestic violence, the *BMWJF* has developed guidelines for the healthcare professions providing guidance on how to identify violence against children and violence against women, and distributed them to all general practitioners, gynaecologists, paediatricians and hospitals. By distributing these guidelines so broadly, general competence in dealing with victims of violence is to be promoted, awareness is to be raised and contact between physicians and support organisations is to be established.

In order to make good for data available, the *BMWFJ* commissioned a survey examining the change in attitude and behaviour of Austrian parents concerning education, especially with regard to the use of violence as a means of education. The study entitled "Families – no room for violence! (?) - 20 years of prohibition of violence by Austrian law" (*"Familie - kein Platz für Gewalt! (?) - 20 Jahre gesetzliches Gewaltverbot in Österreich"*) published in 2009 suggested a decreasing readiness to use psychological or physical violence in education.

Protection from abuse involving the use of information and communication technologies:

For the other two issues included in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which were also raised by the ECSR, the ministry responsible for family affairs, i.e. the *BMWJF*, established a working group in autumn 2009, too. The coordinating body consisting of representatives of the relevant ministries, the *Laender*, the Internet business and NGOs currently discusses options to better protect children from sexual exploitation involving the use of information technology.

As mentioned above, there are comprehensive regulations concerning pornographic representations of minors. In addition, the transposition of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse will bring about the introduction of a new criminal offence that will make **contacting children for sexual purposes** ("grooming") liable to prosecution. This clause is also contained in a draft directive of the Council of Europe and the European Parliament against sexual abuse and sexual exploitation of children. Moreover, the draft directive provides for blocking access to Web sites containing child pornography. The draft is currently under discussion.

Protection against other forms of exploitation – the Committee asks for information on any measures that have been taken by the authorities to prohibit and prevent other forms of exploitation (other than sexual exploitation), such as trafficking for domestic exploitation, organ removal and the use of children in begging.

As mentioned above, Section 104a *StGB* defines three forms of exploitation: sexual exploitation, organ removal and exploitation of labour. Trafficking for domestic exploitation or the use of children in begging can be considered to belong to exploitation of labour.

For the legal provisions in the field of victim protection see Para. 10 of Article 7.

ARTICLE 8

THE RIGHT OF EMPLOYED WOMEN TO PROTECTION OF MATERNITY

Para 1 of Article 8

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is updated as follows:

Maternity leave and parental leave:

Since spring 2004 the entitlement to part-time employment has been enshrined in law (Sections 15h to 15r of the Maternity Protection Act (*Muttschutzgesetz, MSchG*)). Mothers are entitled to part-time employment up to the child's seventh birthday or up to the child's later entry into school in companies with more than 20 employees, if the employee has maintained the employment relationship for an uninterrupted period of three years at the time of taking up part-time employment. The conditions (beginning and duration of the part-time employment, number and scheduling of working hours) has to be agreed upon with the employer. In smaller companies such entitlement may be laid down in a works agreement.

If no agreement can be reached between the employer and the employee, neither out of court, nor within a court-supported attempt at a settlement, the employer may file an action with the Labour and Social Court. The employee is entitled to commence working as previously intended by her if the employer fails to apply for a settlement or file an action with the court. After careful consideration of the interests of the two parties involved, the court has to make a final decision concerning the conditions of part-time work.

If there is no entitlement to part-time employment, it can be mutually agreed (including the beginning and duration of the part-time employment, number and scheduling of working hours) with the employer up to the child's fourth birthday. If no agreement can be reached, the employee can (as previously) file an action with the court seeking her employer's agreement to the part-time employment.

Part-time employment is only possible if the child lives in the same household; if this prerequisite is not met, at least child custody rights as defined by family law are required. Additionally, the child's other parent must not be on parental leave at the time of part-time employment. The duration and admissibility of part-time employment no longer depend on the parental leave taken. Part-time employment is not permissible, however, if the child's other parent is on parental leave at the same time.

Part-time employment can start after the maternity leave period at the earliest.

It must be agreed for a minimum duration of two months. The child's parents can work part-time simultaneously. Each parent may claim a period of part-time employment for each child only once (modifications during this period are possible).

During the part-time employment period the employee is granted protection against notice of termination of employment and dismissal until up to four weeks after the child's fourth birthday at the latest; after that, the employment relationship must not be terminated on the grounds of the employee taking part-time work (*Motivkündigungsschutz*), which is applicable until the end of the part-time employment period. If the employee takes up another job during the part-time period, the protection against notice of termination of employment and dismissal is suspended. The employee is entitled to the same number and scheduling of working hours as prior to the part-time employment (or prior to the parental leave).

Special part-time employment provisions, partially adapted to the relevant public service regulations, are applicable to public-service employees.

In any case, part-time employment must not be denied generally. Part-time employment may be denied by the administrative authority/human resources department only if the public-service employee/contractual public employee, due to the part-time nature of the employment and for substantial job-related reasons, could neither work in her previous job nor in a job at least equivalent to her previous position under public sector employment law.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information in order to demonstrate that the level of maternity benefit is adequate.

No substantial changes.

Para. 2 of Article 8

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

No substantial changes.

Additional questions by the European Committee of Social Rights in the Conclusions XVII-2 on Para. 2 of Article 8:

Consequences of unlawful notice of termination of employment:

According to prevailing theory and court rulings of the Austrian Supreme Court of Justice (*OGH*), an employee protected by the *MSchG* (or similar Austrian legislation) can waive her right to this special protection in the case of unlawful termination or dismissal and thus has the choice to either continue the employment relationship or assert claims for damages.

These claims are specified in Section 29 of the Austrian Salaried Employees Act (*Angestelltenengesetz, AngG*), and, in the case of blue-collar workers, in Section 1162b of the General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*) and, in the case of farm workers, in Section 35 of the Agricultural Labour Act (*Landarbeitsgesetz, LAG*). According to these stipulations, the employee will retain, notwithstanding any further damages, her contractual claim to remuneration for the period that would have needed to pass until the termination of her employment either by expiry of the pre-defined contract period or by the employer giving due notice including the funds saved due to the work not being performed or the funds acquired through a different task or intentionally failed to acquire.

Apart from this, it has to be noted that a notice of termination or dismissal on the grounds of an employee's pregnancy is to be considered gender-related discrimination. If the employee accepts the termination of her employment relationship, she is entitled not only to compensation for the financial loss suffered, but also to compensation for the personal impairment suffered pursuant to Section 12 Para. 7 of the Austrian Equal Treatment Act (*Gleichbehandlungsgesetz, GIBG*), Federal Law Gazette I 2004/66 as last amended.

Hence, no upper limits apply to damages.

To the extent as legislative competence rests with the *Laender*, the Austrian state of Vorarlberg, for example, referred to the Vorarlberg Antidiscrimination Act (*Vorarlberger Antidiskriminierungsgesetz*) as follows: A termination of employment or dismissal on the grounds of pregnancy shall be deemed gender-related discrimination, from which, pursuant to Section 9 Para. 5 in conjunction with Section 7 Para. 1 and pursuant to Section 9 Para. 4 last sentence of the above-mentioned Act, entitlements to compensation for the financial loss and the personal impairment suffered are derived.

Para. 3 of Article 8

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

Para. 4 of Article 8

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

- a) to regulate the employment of women workers on night work in industrial employment;**
- b) to prohibit the employment of women workers in underground mining, and, as appropriate, on all other work which is unsuitable for them by reason of its dangerous, unhealthy, or arduous nature.**

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is updated as follows:

Underground mining:

The Ordinance of the Federal Minister of Economics and Labour concerning prohibitions and restrictions of employment for female employees, Federal Law Gazette II no. 356/2001 was amended by Federal Law Gazette II no. 279/2008 with effect from 3 April 2009:

In the amended version of Federal Law Gazette no. 279/2008, *Section 2 on the prohibition of employment for female workers in underground mining* was cancelled altogether.

Dangerous, unhealthy and arduous work:

Pursuant to Section 2 (formerly Section 3) of the Ordinance as amended by Federal Law Gazette II no. 279/2008, female employees must not perform work involving exposure to lead to an extent that necessitates an initial medical examination (*Eignungsuntersuchung*) or a follow-up examination pursuant to Section 49 Para. 1 of the Workers Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*). Para. 1 does not apply if the workplace exposure to lead is below 0.02 mg/m³ according to a measurement certificate for the workplace.

Pursuant to Section 3 (formerly Section 4) of the Ordinance as amended by Federal Law Gazette II no. 279/2008, female employees must not perform work that involves special physical strain caused by lifting, carrying, pushing, turning or other type of moving loads from one place to another which entails a detrimental burden on the organism. When assessing the work specified in Para. 1, the factors decisive for the strain or burden have to be reviewed: These are primarily the weight, the type and form of the load, the transport path and velocity, the duration of the work and their frequency, as well as the performance ability of the individual employee. Para. 1 is not applicable to work that female employees have to carry out only temporarily or in any other way where no risk to the employee's life and health can be expected.

Pursuant to Section 8 Para. 1 of the Austrian Ordinance on Working in a High-Pressure Atmosphere and Underwater Diving, Federal Law Gazette no. 501/1973 as amended by Federal Law Gazette II no. 13/2007, previously amended by Federal Law Gazette I no. 123/2004, only employees may perform work in compressed air who are 21 years of age and are apt for this work with regard to their health. Employees who are 40 years and older and who have never before carried out work in high-pressure atmosphere, must not perform such a job. Employees older than 45 years are allowed to work in compressed air only if they have repeatedly performed such work when older than 40 years and if the competent physician consents. When 50 years and older, workers must not perform work in high-pressure atmosphere anymore.

Pursuant to the First Federal Repeal Act (*Erstes Bundesrechtsbereinigungsgesetz, 1. BRBG*), Federal Law Gazette I no. 191/1999, the Petroleum Mining Police Ordinance (*Erdöl- Bergpolizeiverordnung*), Federal Law Gazette no. 278/1937, last amended by Federal Law Gazette II no. 358/2004, expired on 31 December 2004.

The Ordinance on the production, packaging, storage and import of ground basic slag, German Law Gazette no. I S 17/1931 was repealed by Section 124 Para. 1 no. 1 of the *ASchG*, Federal Law Gazette no. 450/1994.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

ARTICLE 16

THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is updated as follows:

Legal protection of the family

The Act Governing Amendments to Family Law 2009 (*Familienrechts-Änderungsgesetz, FamRÄG*) introduced new stipulations for the protection of stepchildren living within families and for the elimination of discrimination of couples living in extra-marital cohabitation.

On 1 May 1997 the Protection against Violence within the Family Act (*Bundesgesetz zum Schutz vor Gewalt in der Familie, GeSchG*), Federal Law Gazette 1996/759 entered into force. The provisions contained in this Act were gradually amended and extended in the years 1999, 2002 and 2004 and, in particular, by the Second

Protection Against Violence Act (*Zweites Gewaltschutzgesetz, 2. GeSchG*), Federal Law Gazette I no. 40/2009, which entered into force on 1 June 2009.

Before the *GeSchG* entered into force, an application with the court seeking to bar the violent spouse from the place of cohabitation could be filed with the court only by married partners. Since 1 May 1997, this option has been available also to partners living in extra-marital cohabitation and other close relatives, especially children. For this purpose, they are assisted by the Youth welfare Office. Since the enactment of the Second Protection Against Violence Act (*Zweites Gewaltschutzgesetz, 2. GeSchG*), this protection has applied to all persons that currently live in the same household with the alleged perpetrator or have done so in a close timely relationship, independently of whether they are a family member or not.

Apart from barring the perpetrator from the household where the victim lives by means of an “interim injunction”, the court may additionally forbid the perpetrator to meet or approach the victim in specified places (at work, school, nursery school, etc.). Initially, these interim injunctions were able to be imposed for three months. Pursuant to the 2. *GeSchG*, the maximum validity period of an order barring the alleged offender from the common household is six months, and in the case of other interim injunctions for the protection against violence one year. If the victim initiates proceedings (e.g. seeking divorce), the interim injunction may be prolonged beyond the above-mentioned maximum duration until up to the end of these proceedings.

The court may impose such measures at an early stage if the victim cannot be expected to tolerate living in the same household or meeting the perpetrator. Previously, the violence had to be as severe as to make continued cohabitation unbearable.

Formerly the requirement of “gross severity” was prerequisite for the police to be allowed to help the victim immediately and effectively. Perpetrators could only be arrested if the criminal offence was of major severity and if reasons for arrest were existing. Since 1997 the police has been allowed to bar the perpetrator from the common household and prevent him from returning also in case of risk of (additional) violence being committed. These orders can be imposed for a period of two weeks since the enactment of the Second Protection Against Violence Act; if an application for barring the perpetrator is filed with the court, this period is extended up to the court’s decision, but for another four weeks at most.

Court assistance:

In 2009 the Federal Ministry of Justice concluded agreements with 49 victim support organisations all over Austria for offering legal and psychosocial assistance. In total, EUR 4,460,515.99 was spent on first-time court assistance for 2,962 persons in this year.

Concerning the **legal protection of families** including **protection from violence against women and domestic violence** please refer also to the statements concerning **Article 7 Para. 10**.

The study entitled “Families – no room for violence! (?) - 20 years of prohibition of violence by Austrian law” and commissioned by the Austrian ministry responsible for family affairs examined the change in attitude and behaviour of Austrian parents concerning education, especially with regard to the use of violence as a means of education. The study published in 2009 suggested a decreasing readiness to use psychological or physical violence in education.

In order to enhance the protection of victims of domestic violence, the *BMWJF* has developed guidelines for the healthcare professions providing guidance on how to identify violence against children and violence against women and distributed them to all general practitioners, gynaecologists, paediatricians and hospitals. By distributing these guidelines so broadly, general competence in dealing with victims of violence is to be promoted, awareness is to be raised and contact between physicians and support organisations is to be established.

In 2010 the fifth edition of the booklet “(Un)Safe places. Sexual violence against children” (in German) was published. It aims at raising awareness and is designed to help particularly educators to identify sexual violence and adequately protect victims.

Reply to the additional questions by the Committee on Social Rights regarding Article 16 in the conclusions XVIII-1:

Domestic violence against women

The report states that two counselling centres for cases of sexual abuse have been set up in the city of Vienna. This information is not sufficient to enable the Committee to assess the situation.

It notes from another source (Parliamentary Assembly of the Council of Europe, Report by the Committee on Equal Opportunities for Women and Men, “Campaign to combat domestic violence against women in Europe”, 16 September 2004, Doc. 10273) that violence against women is the reason given for half of all applications for divorce.

*The Committee invites the Austrian Government to provide an **extensive description of the situation** in Austria in accordance with the request contained in the general introduction (see Appendix, especially, Paras. 27 and 28 – legal measures, practice, statistical data, court rulings).*

The following actions in the field of supporting women faced with domestic violence were taken:

Expansion of violence protection centres – recruiting additional staff and establishing several regional service points. The violence protection centres (there is one in each Austrian *Land*; the counselling service in Vienna is referred to as intervention centre) are informed by the police immediately after a barring order or a prohibition to return order was imposed and subsequently contact the victim (usually women) and offer comprehensive assistance.

	Increased funding for violence protection centres/intervention centres	Increase in %	Prohibition to return orders Barring orders according to statistics of the Federal Ministry of the Interior	Increase in %
2004	3,054,803.52	-0.08	4,764	+12.26
2005	3,368,325.00	+10.26	5,618	+13.49
2006	3,368.324,97	+0.00	7,235	+14.65
2007	5,459,208.00	+62.07	6,347	+14.09
2008	5,630,740.00	+3,14	6,566	+5.89
2009	6,179,740.00	+9.75	not yet available	

In addition, a great number of service centres for women providing counselling also to women affected by violence were and are promoted, a nationwide free 24-hour hotline for women and a total of 30 battered women's shelters (providing accommodation for a total of 700 women) were established. For victims of sexualised violence five regional emergency helplines (Innsbruck, Linz, Salzburg, Graz, Vienna) as well as a 24-hour emergency hotline for women in Vienna are available. Education and training for staff members of women's facilities was regularly encouraged and offered, too.

Among the public relations initiatives launched in the period under review there were the campaign for the nationwide helpline for women, the dissemination of information brochures (specifically the updated brochure "Women have rights", in German: "*Frauen haben Recht(e)*"), the touring exhibition "Behind the façade" ("*Hinter der Fassade*") shown in many places since 2006 and the provision of important information and contact points in German and English in the women's section of the Federal Chancellery's website at <http://oesterreich.gv.at/site/6811/default.aspx>.

Reasons for divorces

According to Statistics Austria's data, the most common reason given for divorce is "by mutual consent" (Section 55a Marriage Act (*Ehegesetz, EheG*)) of the spouses. Divorces by mutual consent accounted for 87.4 % to 90 % of all divorces in the years from 1998 to 2008. Nearly 50 % of the other divorces are due to fault of one or both of the spouses. However, this divorce reason covers a broad range of circumstances including cases of lack of love, failure to support one's spouse and severe violence.

Response of the *Land* of Vienna

Vienna boasts of one of the tightest victim protection networks nationwide and is internationally often mentioned as good practice example.

Since 1996, the Women's Department of the City of Vienna has been running the 24-Hour-Women's-Emergency-Helpline for women affected by violence, rape, etc. It offers 24hrs phone and face-to-face counselling, as well as accompaniment to court, hospital or police. In 2009, the 24-Hour-Women's-Emergency-Helpline had 7.850 counselling contacts.

In Vienna, the Women's Department fully funds:

- four NGO-run women's shelters for women and children affected by violence (166 places; the first shelter founded was in 1978 and since then shelters have been fully supported by the City of Vienna),
- 45 transition flats (about 90 places) if women after a stay at a shelter are safe, but still need assistance,
- a counselling centre for women and children affected by violence.

Thus, with a population of 1,697,982 inhabitants (1 September 2009), Vienna fulfils the recommendation of the European Parliament (1987) of one shelter place per 10,000 inhabitants as well as the recommendation of the CoE Task force against Violence on Women (2007) concerning one place per 7,500 inhabitants.

Additionally, the Viennese Women's Department also offers core funding to 30 women's NGOs. Eight of these NGOs explicitly focus on the issue of violence prevention, assistance, counselling. The other NGOs also are sensitised in the topic of violence against women when working with migrant women, in the job

market/promotion of women, girls counselling, regarding issues of health, homosexuality, prostitution, culture and education/training.

In Vienna, there are also women's NGOs and organisations working on violence against women which are not funded by the Viennese women's department, as for example the Viennese Intervention Centre against Violence in the Family and 24hrs Austrian Emergency Helpline (both fully funded by the Federal Chancellery) and specialised programmes, training for the police in implementing the Viennese Protection Act against Violence. A list of all services regarding violence can be found for example in the following publication (in German):

www.wien.gv.at/menschen/frauen/pdf/wienfuerwienerinnen.pdf

Mediation services

*The Committee has received and taken note of the information on mediation services in the 23rd Report. It asks that this report contain information on the **implementation of the mediation system**. In particular, it wishes to know whether foreign families may use these services.*

Upon recommendation by the courts or family counselling offices within the courts, couples wishing to get a divorce or separation may use subsidised mediation services. Two mediators (in most cases a man and a woman) are involved in each instance with one of them covering legal aspects and the other covering psychosocial aspects. At the beginning of the mediation process, the two mediators calculate the joint income of the couple wishing to divorce/separate and determine the couple's financial contribution to the mediation procedure on the basis of a fee schedule taking into account any dependent children. The difference between the amount to be paid by the couple and the hourly rate of EUR 182 is subsidised. Subsidised mediation services can only be offered and rendered by mediators who meet the prerequisites specified in the guidelines on subsidised mediation services and who are included in the ministry's lists (available at courts and published in German on the BMWJF website at www.bmwjf.gv.at).

On average, the subsidy amounts to EUR 1,000 and the couple has to contribute approximately EUR 220.

Foreign couples can use subsidised mediation if their case is subject to the jurisdiction of the Austrian courts.

Nearly 90 % of the approximately 440 couples seeking divorce or separation each year and using subsidised mediation services split up by mutual consent.

The initiative "Accompanying parents and children through divorce and separation" was subsidised in the period under review as follows (amounts given in EUR):

2004	2005	2006	2007	2008	2009
510,000	600,000	630,000	730,000	810,000	735,000

Currently (status as of 1 March 2010) there are 3,140 registered mediators in Austria, 1,872 of whom are women and 1,268 are men. Slightly more than one-third of them are registered in Vienna (1,155 mediators), the remaining mediators are distributed over the other *Laender*.

Land	Total	Male	Female	Share of women
Burgenland	53	21	53	60.38%
Carinthia	166	66	166	60.24%
Lower Austria	380	163	380	57.11%
Upper Austria	409	174	409	57.46%
Salzburg	206	90	206	56.31%
Styria	367	141	367	61.58%
Tyrol	289	116	289	59.86%
Vorarlberg	75	33	75	56.00%
Vienna	1.155	444	1.155	61.56%
Abroad	40	20	40	50.00%
Total	3.140	1.268	3.140	59.62%

Mediators work either full-time or part-time. Among the latter a broad range of professions is represented including social workers, educators, marriage, life and family counsellors, psychologists, physicians and legal experts.

There are 1,300 mediators in the age groups from 40 to 49 years or older than 50 years; only less than 500 are younger than 40 years.

As there is no compulsory mediation system in civil matters in Austria, no statistical data are available concerning the actual use of mediation services and hence no statement can be given concerning the share of foreigners who use mediation services.

Family benefits

Family allowance

Legal framework: Family Allowance Act 1967 (*Familienlastenausgleichsgesetz, FLAG*), Federal Law Gazette no. 376 as last amended.

The “Aliens’ Law Package 2005”, Federal Law Gazette I no. 100/2005 entered into force on 1 January 2006 and introduced new provisions and a new structure for Austria’s legislation relating to aliens by enacting the Austrian Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz – NAG*; provisional right of residence for at least six months), the Aliens’ Police Act (*Fremdenpolizeigesetz, FPG*; provisional right of residence for a period shorter than 6 months, excluding visa vignette in passport), concurrently repealing the Aliens Act 1997 (*Fremdengesetz, FrG*) that had been in force until end-2005 and also enacting a new asylum law, i.e. the Asylum Act (*Asylgesetz, AsylG*).

This set of new laws referred to as „Aliens’ Law Package 2005” also entailed an amendment to the *FLAG* 1967 with the aim to harmonise the entitlement to family allowance with the new laws relating to aliens, specifically by amending the relevant Section 3 of the *FLAG* 1967. The amendment entered into force on 1 January 2006.

On the basis of Section 3 Para. 1 of the *FLAG* 1967 as amended on 1 January 2006, non-Austrian citizens are entitled to family allowance if they lawfully reside in Austria pursuant to Sections 8 and 9 of the *NAG*, Federal Law Gazette I no. 100/2005.

Children who are not Austrian citizens are entitled to family allowance if they lawfully reside in Austria pursuant to Sections 8 and 9 of the *NAG*.

Additionally, persons who were granted asylum in accordance with the *AsylG* 2005, Federal Law Gazette I no. 100, are entitled to family allowance. Children who were granted asylum in accordance with the *AsylG* 2005 are also entitled to family allowance.

Persons who were assigned the status of a beneficiary of subsidiary protection pursuant to the Austrian Asylum Act 2005 are entitled to family allowance if they do not receive basic supply (*Grundversorgung*) or income from self-employed or dependently employed work. Children who were assigned the status of a beneficiary of subsidiary protection pursuant to the Austrian Asylum Act 2005 are also entitled to family allowance.

Another innovation was introduced by Section 2 Para. 8 *FLAG* that stipulates that only persons whose centre of vital interests is on Austrian territory are entitled to family allowance. A person's centre of vital interests is in the country with which his/her personal and economic relations are closer. This prerequisite applies to Austrian and non-Austrian citizens alike.

Generally, pursuant to the *FLAG* 1967 there is no entitlement to family allowance for children permanently residing abroad.

Family allowance is paid on a monthly basis.

The following amounts are applicable per child and month (status as of 1 January 2010):

- 0-3 years: EUR 105.40
- 3-9 years: EUR 112.70
- 10-18 years: EUR 130.90
- 19 years and older: EUR 152.70

The following amounts are added to the total family allowance per month:

- for two children EUR 12.80
- for three children EUR 47.80
- for four children EUR 97.80
- for each additional child EUR 50

The supplement for a significantly disabled child is EUR 138.30 per month.

Persons whose residence or permanent place of abode is on Austrian territory and whose centre of vital interests is in Austria are entitled to family allowance. The children for whom family allowance is claimed have to live in the same household as their parents. If the children do not live with their parents anymore, they have to be supported by the parents to a large extent in order to be eligible to family allowance. Children as defined by law are the biological descendants (i.e. this includes grandchildren), adopted children and their descendants, stepchildren and foster children. If both parents live in the common household, the parent primarily doing the housekeeping in the household where the child lives is entitled to family allowance because it can be assumed that this parent also accomplishes the major part of childcare duties. Pursuant to Section 2a *FLAG* 1967, it is assumed that the child's mother has this position unless proven otherwise. The assumption that mothers are

usually the parent primarily responsible for childcare is made because empiric data suggests that she actually is responsible in the majority of cases.

The predominantly eligible parent may waive his/her right in favour of the other parent, however.

In exceptional cases, and if all prerequisites are met, the child itself may draw family allowance; this is the case if the child is an orphan or if the child's parents do not fulfill their duties although they would be obliged to do so, because the child cannot yet (fully) take care of itself. Yet, the child must not be accommodated exclusively at public cost.

Eligibility for the receipt of family allowance is usually conferred for minor children. For children of full age (the age of majority is attained in most cases with the children's 18th birthday) the law specifies restrictions. Family allowance will then be granted only if the prerequisites explicitly stipulated by law are met. Family allowance is granted for children of full age if:

- they are undergoing vocational training and are younger than 26 years (in certain cases the period of entitlement may be extended until the age of 27), or
- they are undergoing further training at a vocational school in an occupation for which they were trained, or
- they can be expected to be permanently unable to take care of their own support due to a disability that developed before the person's 21st birthday or in the course of vocational training taking place at a later point of time, but no later than their 27th birthday, or
- they have completed vocational training, for three months after completion of the training, if neither national service nor national training service is performed during that time.

In addition, family allowance is granted:

- for children for the time from completion of national service, national training service or alternative civilian service to the onset or continuation of vocational training, if this training is commenced or continued at the earliest possible time,
- for children who are younger than 21 years, if they do not perform national service or national training service or alternative civilian service and are registered as unemployed without being entitled to support pursuant to the Unemployment Insurance Act (*Arbeitslosenversicherungsgesetz, AIVG*) or to an allowance exceeding the marginal earnings threshold as defined in the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*) for covering their living expenses. Furthermore, any income from paid work which the child possibly receives must not exceed the marginal earnings threshold either. (This threshold is EUR 366.33 per month for 2010.)

Children of age are allowed to earn their own taxable income of up to EUR 9,000 per calendar year in order to retain eligibility for family allowance. This amount not including the 13th and 14th monthly payments serves as the assessment base for the purpose of calculating payroll tax and income tax. Apprenticeship pay and orphan pensions (*Waisenpension* or *Waisenversorgungsgenuss*) do not increase taxable income.

Family allowance is not granted for times of national service, alternative civilian service or national training service and for children receiving maintenance payments from a (former) spouse.

Furthermore, family allowance is not granted if the beneficiary is eligible for a similar benefit from another country.

Payments of family allowance are always made in the first month for two consecutive months by the residence tax office using EDP-support.

Multiple-child supplement

Since 1 January 2002, a multiple-child supplement of EUR 36.4 per month has been due for the third and each additional child living in Austria (or the EU area) for whom family allowance is granted.

This supplement is granted only if the taxable family income did not exceed a certain amount in the year preceding the calendar year for which the application is filed. Since 2007 the income threshold for being granted the multiple-child supplement has been EUR 55,000.

The application for the multiple-child supplement has to be filed for each year in the framework of the annual income tax return with the tax office responsible for collecting the levies on income.

Funding

The allowances and benefits payable pursuant to *FLAG* 1967, including in particular family allowance and multiple-child supplement, are paid out of the Family Burdens Equalisation Fund (*Familienlastenausgleichsfonds, FLAF*). The *FLAF* is funded by:

- contributions paid in by employers (employer's share) amounting to 4.5 % of the wage/salary,
- a share of the income tax and corporate income tax revenues,
- contributions of agricultural and forestry businesses.

The following allowances and benefits were paid from *FLAF* funds in 2009 (based on preliminary financial statements):

Principal monetary and in-kind benefits of the Family Burdens Equalisation Fund

	Result 2009 preliminary financial statements in EUR
Family allowances	3,444,398,362
Childcare benefit	1,062,997,089
Transport benefit for schoolchildren and apprentices	9,064,597
Free use of public transport for schoolchildren	369,216,224

School books	102,615,949
Free use of public transport for apprentices	18,811,265
Family Burdens Equalisation Fund/major revenue components	
Employer's share	4,623,624,351
Income tax and corporate income tax revenues	189,564,194
Comp. for contr. for income tax	690,392,000
Contributions from agric. and forestry businesses	6,368,609

Childcare benefit

Legal framework: Childcare Benefit Act (*Kinderbetreuungsgeldgesetz, KBGG*), *Federal Law Gazette I no. 103/2001 as last amended*.

Childcare benefit is payable for children born on or after 1 January 2002. Generally, the following prerequisites must be met in order to be eligible for childcare benefit:

- eligibility for family allowance for the child,
- the parent applying for childcare benefit and the child have their centre of vital interests in Austria,
- they live in the same household and
- the additional-income limit is not exceeded.

Childcare benefit is payable to biological parents, adoptive and foster parents.

The instrument applicable to EEA or EU citizens is Council Regulation (EC) No. 1408/71 on the application of social security schemes to employed persons and to members of their families moving within the Community. This regulation is based on the State-of-employment principle.

This means the primary responsibility for the payment of family benefits (including childcare benefit) rests with the Member State in which a parent is employed. Compensatory payments may become due in the State of residence if the family benefits of the State of employment are lower. If both parents are employed in two different States, childcare benefit has to be granted in the State of employment where the child lives with the parent (State-of-residence principle).

Up to the end of 2009, parents could choose from three childcare benefit schemes. The scheme must be selected when filing the initial application for childcare benefit and will also apply to the other parent.

Scheme (entitlement period)	Daily rate	Monthly amount
30 + 6 months	EUR 14.53	approx. EUR 436
20 + 4 months	EUR 20.80	approx. EUR 624
15 + 3 months	EUR 26.60	approx. EUR 800

If only one parent claims childcare benefit, it applies up to the 30th, 20th or 15th month of the child's life. If the parents claim childcare benefit alternatively, the entitlement period is extended, depending on the scheme selected, by six, four or three months (see table above). The idea of the extra months "reserved" for the other parent is to encourage fathers to increasingly participate in childcare. Also, the relationship between children and their fathers is to be reinforced already during infancy and the children's mothers can return to work earlier if they wish so.

Parents may alternate the receipt of childcare benefit twice with each drawing period lasting a minimum of three months.

For births on or before 31 December 2009, an additional supplement is available for low-income parents and low-income single parents; this supplement is kind of a loan that has to be paid back to the tax office as soon as the income situation has improved and the annual income exceeds a specific limit. The supplement is granted upon application and amounts to EUR 6.06 per day (EUR 181 per month).

In the case of multiple births, childcare benefit will be raised by EUR 218 for the second and each additional child (applicable up to 31 December 2009).

For entitlement periods until the end of 2009, the additional-income limit was EUR 16,200 per calendar year. "Additional income" is generally defined as the total of the entire taxable income earned during the period of childcare benefit payments, whereas only the income of the parent drawing childcare benefit is relevant. The income of the other parent is irrelevant. If this annual additional-income limit is exceeded, the excess amount has to be paid back (applicable since 2008).

Childcare benefit is payable for the youngest child in each family.

During periods of maternity benefit payments, childcare benefit is suspended. Yet, if the amount of the maternity benefit is lower than childcare benefit, the difference has to be set off.

For public healthcare policy reasons, the payment of childcare benefit was tied to undergoing Mother-Child-Booklet examinations (five check-ups of the mothers during pregnancy and five check-ups of the infant). If the check-ups are not performed and evidenced, childcare benefit will be halved as of a certain month (depending on the scheme selected).

Responsibility for executing the Childcare Benefit Act rests with the health insurance institutions.

Parents receiving childcare benefit are covered by health insurance during the entitlement period.

Within the scope of the pension harmonising reform in Austria the accumulation of periods of contribution to pension insurance was unlinked from drawing childcare benefit. Now, for parents who were not yet 50 years old on 31 December 2004 mandatory pension insurance applies to periods of child-rearing from 1 January 2005 for the baby's first four years (in the case of multiple births for the first five years). This way parents can accumulate contribution time.

As at the end of December 2009, 155,605 persons received childcare benefit. Of these, 33,912 persons (approximately 22 %) additionally received a supplement as at the end of December 2009. 2,796 childcare benefit recipients received increased payments due to multiple births.

On 1 January 2010 the Childcare Benefit Amendment 2009, Federal Law Gazette I no. 116/2009 entered into force and brought about a number of innovations: For example, apart from an additional flat-rate scheme (12+2 months, approximately EUR 1,000 per month), an income-related childcare benefit scheme was introduced for children born on or after 1 October 2009.

Income-related childcare benefit may be claimed up to the 12th month of the baby's life (if the other parent also takes parental leave, up to the 14th month) and amounts to 80 % of the previous income, but EUR 66 per day at most (totalling approximately EUR 2,000 per month); apart from the general prerequisites that have to be met, the parent must have been working for a period of six months prior to the child's birth. The income-related childcare benefit scheme gives income-oriented parents a better choice and pursues the primary goal of reconciling work and family life and getting fathers more actively involved in the care of children.

Since income-related childcare benefit is kind of a replacement for income, additional income is allowed only in the amount of EUR 5,800 per calendar year.

The Childcare Benefit Amendment 2009 also introduced an individual additional-income limit: during the period of drawing flat-rate childcare benefit, the additional income is allowed to amount to 60 % of the income earned before the calendar year of the child's birth during which no childcare benefit was drawn, with the minimum being EUR 16,200 per calendar year.

Furthermore, the childcare benefit supplement was transformed into a genuine allowance. The allowance is EUR 6.06 per day (approximately EUR 181 per month) and is payable for children born on or after 1 January 2010. The eligible recipients are, firstly, single parents who are entitled to flat-rate childcare benefit and do not earn more than an extra EUR 5,800 per calendar year and, secondly, parents who live in extra-marital cohabitation provided that the other partner does not earn more than EUR 16,200 per calendar year. Regardless of the flat-rate scheme selected, the allowance is payable for a maximum period of 12 months from the time when the application was filed.

Moreover, since 1 January 2010 a supplement of 50 % of the selected (flat-rate) scheme has been due in the case of multiple births.

Instead of three months, each period of payment of this supplement must be at least two months now.

Reply to the additional questions by the Committee on Social Rights regarding Article 16 in the Conclusions XVIII-1:

Family allowance, multiple-child supplement and childcare benefit; entitlement of citizens of other Contracting States

See above.

Benefits for schoolchildren

School grant and school boarding grant:

In accordance with legal requirements (specifically social need and merits at school; see School Grants Act (*Schülerbeihilfengesetz*, *SchBG*), Federal Law Gazette no. 152/1984 as last amended), regular students (and certain groups of irregular students) who are Austrian citizens or whose status is equal to Austrian citizens (including convention refugees, EEA citizens, and, to the extent this can be derived

from Community law, foreigners who have stayed in Austria for quite some time) are entitled to school boarding grants from the 9th school year and to school grants and school boarding grants from the tenth school year.

Currently, the annual base amount for school grants is EUR 1,130 and for school boarding grants EUR 1,380. In case the student is entitled to a school boarding grant, he/she will also be granted a commuting grant of EUR 105. These base amounts may increase up to EUR 1,172 under specific conditions (e.g. self-supported persons, orphan, etc.) For disabled students, this increase may be up to EUR 1,298 and, in case of excellent merits at school EUR 404.

Special school grant:

Employed persons who attend an upper secondary school and who stop working or take leave in order to prepare for the secondary-school leaving exam will receive a special school grant of up to EUR 715 per month for six months before the secondary school leaving exam (the amount may be higher in case the person has maintenance obligations).

In the school year of 2008/2009 a total of 39,645 applications for school grant were filed, 31,071 of these were approved resulting in a total amount of EUR 40 million.

Apart from these school grants, subsidies for participating in school events and subsidies for cases of hardship may be granted pursuant to Section 20a *SchBG* 1983.

School books

With the aim to relieve parents' financial burden caused by their children's education, schoolchildren at all levels are entitled to free school books (funded from the Family Burdens Equalisation Fund) required for their classes.

Schools order the school books as required for the respective type of school or the respective grade in line with the relevant maximum amount per child/student (school book limit) via the Internet program SBA-Online from the school book shop of their choice and distribute them to the students at the beginning of the school year (approximately 8.5 million school books for some 1.2 million children at 6,000 schools).

Apart from printed text books there are other approved school aids that are available online (SbX), audio CDs, CD-ROMs, DVDs, therapeutic teaching aids, learning games and school books for vision-impaired pupils/students. Annual expenditure for school books amounts to some EUR 100 million.

For each pupil/student 7-8 school books worth approximately EUR 83 are ordered on average.

Parents pay a contribution towards costs of 10 % of the applicable school book limit. Pupils at schools catering for special needs (*Sonderschule*) are generally exempt from paying a contribution and pupils in need of special support (*sonderpädagogischer Förderbedarf*) are partially exempt.

The school books then belong to the pupils/students. In order to improve pupil's supply with the required school books, schools may re-use school books suitable for this purpose. The money saved by re-using school books can be used for ordering self-selected teaching aids in an amount of up to 15 % of the school book budget ceiling.

Taxation of families

Income tax

The Austrian Tax Reform 2009 provided for a number of incentives for families:

Legal framework: Tax Reform Act 2009, Federal Law Gazette I no. 26/2009

Increased tax credit for children (*Kinderabsetzbetrag*)

The tax credit for children paid out along with family allowance was raised from EUR 50.90 per child and month to EUR 58.40 per child and month as of 1 January 2009.

The tax credit for children does not depend on the parents' income and is granted to persons who receive family allowance. This increased amount is paid out automatically together with family allowance.

Increased tax credit for maintenance/child support (*Unterhaltsabsetzbetrag*)

The tax credit for maintenance is due to parents who pay maintenance for their children and was raised from EUR 25.50 to EUR 29.20 per month for the first child as of 1 January 2009; for the second child the amount rose from EUR 38.20 to EUR 43.80 per month and for each additional child from EUR 50.90 to EUR 58.40. As in the past, the tax credit for child support can be claimed when filing the income tax return.

New tax abatement for children (*Kinderfreibetrag*)

In order to balance the burden on families at the horizontal level in relation to those who do not have children, a tax abatement for children was introduced. Generally, a tax abatement of EUR 220 per annum and child can be asserted. If both parents work, each of them can claim the tax abatement for children. In this case, the amount for each parent is 60 % (i.e. EUR 132 for each of them) of the amount due if only one parent claims the abatement, the idea being to encourage parents to work. The prerequisite for eligibility to the tax abatement for children is that the tax credit for children was granted for more than six months in the relevant calendar year for this child. The new tax abatement for children has to be claimed when filing the income tax return.

Tax deduction of childcare expenses

Since 1 January 2009 the costs of childcare up to a maximum amount of EUR 2,300 per child and calendar year can be claimed as an extraordinary financial burden. The deduction can be asserted for children who were younger than 10 years at the beginning of the relevant calendar year and who were looked after by qualified institutions/persons. The prerequisites are the claimant's eligibility to the tax credit for children or to the tax credit for maintenance for a minimum of six months in the relevant calendar year and that the child did not reside permanently outside the EU, the EEA or Switzerland.

Tax-free childcare supplement

If employers contribute funds for the childcare of all their employees or certain groups of employees, this supplement has been exempt from payroll tax up to EUR 500 annually for each child since 1 January 2009. The child must be cared for at public or private childcare facilities or by a pedagogically qualified person.

Property tax

The Austrian Property Tax Act 1954 was not formally repealed. It cannot be applied to circumstances existing after 31 December 1993, though.

Inheritance and gift tax

Levying of the inheritance and gift tax has stopped on 1 August 2008. In order to be able to track the transfer of assets in the future, a reporting system for donations was established. The limit for donations between relatives subject to reporting was set as high as at EUR 50,000.

Property purchase tax

Legal framework: Real Estate Transfer Tax 1987 (, Federal Law Gazette no. 309

In the case of property transfers against payment between close relatives, a reduced tax rate of 2 % is applicable instead of the ordinary rate of 3.5 %.

Reduced public-transport fares

Children

Children travelling accompanied by adults and not occupying a seat can use public transport free of charge up to the age of six years (maximum: two children per adult). Children from six to 15 years of age pay 50 % of the ordinary fare.

Schoolchildren/students

Pursuant to the *FLAG* 1967, schoolchildren travel free of charge from their place of residence to school and back.

Young persons

Young persons up to the age of 26 may obtain a 50% reduction on the fare. This reduced rate applies to first-class and second-class carriages on all trains operated by the Austrian Federal Railways (*ÖBB*) and to most private railway routes in Austria. It is also granted by several transport associations (*Verkehrsverbünde*). Special reduction cards ("*VORTEILScard <26*") to be bought at all stations are required to be eligible for the reduced fare.

Families

A 50 % reduction applies to parents (or stepparents, adoptive parents or foster parents) if they travel with their unmarried children (or stepchildren, adoptive children or foster children) and if they receive family allowance pursuant to the Austrian laws for at least one child and if at least one child travels with them. This reduced rate applies to first-class and second-class carriages on all trains operated by the Austrian Federal Railways (*ÖBB*) and to most private railway routes in Austria. It is also granted by most transport associations (*Verkehrsverbünde*). Special reduction cards ("*VORTEILScard Familie*") to be bought by parents at all stations are required to be eligible for the reduced fare.

Senior citizens

Senior citizens (women from the age of 60 and men from 65) may obtain a 50 % reduction on the fare. This reduced rate applies to first-class and second-class carriages on all trains operated by the Austrian Federal Railways (*ÖBB*) and to most private railway routes in Austria. It is also granted by most transport associations

(*Verkehrsverbünde*). Special reduction cards ("*VORTEILScard Senior*") to be bought at all stations are required to be eligible for the reduced fare.

Disabled persons

Disabled persons with at least 70 % disability may obtain a 50 % reduction on the fare. This reduced rate applies to first-class and second-class carriages on all trains operated by the Austrian Federal Railways (*ÖBB*) and to most private railway routes in Austria. It is also granted by most transport associations (*Verkehrsverbünde*). Special reduction cards ("*VORTEILScard Spezial*") to be bought at all stations are required to be eligible for the reduced fare.

Statements by the individual *Laender*

Burgenland

Basis

- Burgenland Family Support Act (*Bgld. Familienförderungsgesetz*) 1992, last amended by State Law Gazette no. 44/2009,
- Guidelines of the Austrian state (*Land*) of Burgenland on the granting of a school start benefit (*Schulstartgeld*).

Purpose of the benefits

Within the framework of these benefits, the *Land* provides financial support to families by granting a child benefit supplement (*Kinderbonus*), funding for childcare (*Kinderbetreuungsförderung*), the school start benefit (*Schulstartgeld*), the financial support for the purchase of a family car (*Familienautoförderung*) and benefits in the case of multiple births. There is no legal claim to receiving these benefits.

Entitlement prerequisites

Any persons who live together in marital cohabitation or in extra-marital cohabitation or persons who are single parents and who care for at least one child living in the same household are entitled to these benefits, if they are entitled to family allowance for this child. The child living in the same household must be an Austrian citizen. The following persons have equal status as Austrian citizens:

- Citizens of the Union and their family members as set out under the law of the European Communities;
- Beneficiaries due to the Agreement on the European Economic Area (EEA) as set out under this agreement,
- Third-country nationals who have long-term resident status in the European Community based on Council Directive 2003/109/EC,
- Persons who have equal status due to state treaties.

The benefit granted for multiple births, the school start benefit and the funding for childcare are not income-related; in the case of all other benefits, the following income limits apply:

The benefits may only be granted if the weighted per-capita income does not exceed EUR 722.40 (except for the benefit granted for multiple births, school start benefit and funding for childcare). The weighted per-capita income is calculated by dividing the computed net family income by the weighting factor. The weighting factor is calculated by adding up the weighting units of the individual family members and amounts to:

For an adult liable to provide maintenance	1.0	(EUR 722.40)
For a second adult	0.8	(EUR 577.92)
For each dependent child	0.5	(EUR 361.20)
For single parents	1.2	(EUR 866.86)

The computed family income is defined as the income of the person applying for the benefits plus the income of his/her spouse or cohabiting partner.

The individual benefits

Child benefit supplement (*Kinderbonus*)

The child benefit supplement may be granted for children up to the age of three. It is a monthly financial allowance payable for a maximum period of twelve months from application. The allowance can be requested for the period from the child's birth until it reaches the age of 30 months.

The child benefit supplement may only be granted, if the weighted per-capita income does not exceed EUR 722.40. The amount of the benefit starts from EUR 140 and is capped at a maximum of EUR 190 per month.

Funding for childcare (*Kinderbetreuungsförderung*)

Funding for childcare is granted to parents/guardians of children under compulsory school age, irrespective of their family income.

Funding is based on the amount of fees to be paid by the parents/legal guardians for sending children to childcare facilities but must not exceed the following maximum amounts:

Weekly hours attended	Amount granted per month
20 to 30 hours	EUR 30
30 to 40 hours	EUR 40
More than 40 hours	EUR 45

If a child attends a crèche group as defined in Section 2 Para. 1 no. 2 of the Burgenland Childhood Education and Childcare Act 2009 (*Burgenländisches Kinderbildungs- und -betreuungsgesetz 2009, Bgld. KBBG 2009*), State Law Gazette no. 4/2009, the maximum monthly amount stipulated under Para. 2 will double for children up to the end of their 36th month of age.

School start benefit (*Schulstartgeld*)

School start benefit is a one-off payment of EUR 100 and is granted regardless of the family's income. To be eligible, the child must attend the first class of primary school for the first time.

Family car

Families with at least four dependent children under the age of 18 may receive a financial contribution to the purchase of a family car. A family car is defined as a motor vehicle (new, used or leased vehicle) which was registered for at least six seats no longer than five years ago.

The car must be registered in the name of the person applying for the benefit and must not be used for commercial purposes. The application must be submitted within six months from the time of purchase. The one-off payment amounts to EUR 1,500.

One-off payment in the case of multiple births

This one-off payment serves to partly reimburse parents for the additional expenses related to multiple births. The financial contribution is paid out as follows:

- For the birth of twins: EUR 700
- For the birth of triplets: EUR 1,000

In the case of multiples, for each additional child another: EUR 300

This benefit is not income-related.

Family Card (*Familienpass*)

In September 2001, the Burgenland family card (*Familienpass*) project for all families and single parents was launched. With this free discount and service card, reductions can be claimed at about 400 partner businesses in the leisure, culture, trade, industry, tourism and catering sectors. Since January 2002, Family Card holders have been granted various concessions in other Austrian *Laender* as well.

Document Folder (*Dokumentenmappe*)

The Document Folder comprises important information for families in all areas of life and particularly caters for parents-to-be. It can be ordered from the Family Department (*Familienreferat*) using vouchers that are available at general practitioners and gynaecologists in Burgenland as well as at the municipal offices and magistrates.

Support for apprentices

In accordance with the Burgenland Employee Benefits Act (*Burgenländisches Arbeitnehmerförderungsgesetz*), grants are given to apprentices or participants in training measures pursuant to the National Action Plan for Employment, graduates from intermediate vocational schools and secondary academic schools (*AHS*) who have started an apprenticeship as well as persons who have dropped out from the higher grades of one of the above-mentioned schools or from higher-level vocational schools (*BHS*) and have started an apprenticeship, if they come from families who live on a particularly low income (Apprenticeship Benefit Supplement, *Lehrlingsförderungszuschuss*).

Furthermore, apprentices who have to stay in residential accommodation or rent private accommodation because of the long distance from their apprenticeship place to their primary residence, which incurs additional costs, are entitled to benefits (accommodation allowance, *Wohnkostenzuschuss*).

Rental assistance (*Mietzinsbeihilfe*)

Based on the Burgenland Social Assistance Act (*Burgenländisches Sozialhilfegesetz 2000, Bgld. SHG 2000*), persons with low income who receive social assistance benefits may be granted rental assistance, if necessary, to secure their accommodation needs.

Childcare facilities

Within the framework of the Youth Welfare Act (*Jugendwohlfahrtsgesetz, JWG*), childminders offer day care for minors under the age of 16. Childminders look after children in their homes or on the premises of a childcare facility pursuant to the *Bgld. KBBG 2009*.

Styria

One of the tasks of the special department "Society and generations" of the *Land* of Styria is to act as an initial point of contact for providing information and counselling services for people seeking support and assistance. The current benefits and services offered cater for some 344,200 families; 211,500 of these families have children and 142,400 of these families with children are married couples with children, 24,800 are unmarried couples with children and 44,300 are single parents.

The goal of the special department "Society and generations" is to introduce new benefits and services in the future catering for even more families in Styria in their entire diversity and providing even more service for them.

Specifically, the benefits and services offered by the special department "Society and generations" with regard to families include the following:

Child supplement of the *Land* of Styria

The child supplement of the Land of Styria is a voluntary benefit and is designed to support families in their early years as a family.

It can be granted to one parent (or adoptive or foster parent) if

1. the application was filed within the first twelve months of the child's life and the parent is eligible to family allowance for this child from the Federal Government,
2. the parent applying for the supplement lives in the same household with the child,
3. the primary residence of the claimant and the child is in the *Land* of Styria,
4. the weighted per-capita income does not exceed a specified amount (adding up all income from employed and self-employed work, income from agriculture or forestry, childcare benefit, unemployment benefit, unemployment assistance, maintenance/child support, income from rent or lease, etc.)

The weighting factor is calculated by adding up the weighting factors of the individual family members recognised all over Austria.

Family members:

first adult	1.0 points
second adult	0.8 points
children from their birth up to commencing work	0.5 points
children whose income is added to the family's overall income	0.8 points (in case of eligibility to childcare benefit from the Federal Government).

In order to determine the per-capita income in each case, the underlying net family income has to be divided by the added-up weighting factor.

Net family income thresholds for granting child supplement 2009:

1 adult 1 child	EUR 1,158.60
2 adults 1 child	EUR 1,776.52
1 adult 2 children	EUR 1,544.80
2 adults 2 children	EUR 2,162.72
1 adult 3 children	EUR 1,931.00
2 adults 3 children	EUR 2,548.92
1 adult 4 children	EUR 2,317.20
2 adults 4 children	EUR 2,935.12
1 adult 5 children	EUR 2,703.40

2 adults 5 children EUR 3,321.32

Net family income thresholds for granting child supplement 2010:

1 adult 1 child EUR 1,175.84
 2 adults 1 child EUR 1,802.95
 1 adult 2 children EUR 1,567.78
 2 adults 2 children EUR 2,194.90
 1 adult 3 children EUR 1,959.73
 2 adults 3 children EUR 2,586.84
 1 adult 4 children EUR 2,351.67
 2 adults 4 children EUR 2,978.79
 1 adult 5 children EUR 2,743.62
 2 adults 5 children EUR 3,370.73

Amount and entitlement period

The child supplement of the *Land* of Styria is EUR 145.35 per month and is paid out for the first 12 months of the baby's life provided that the requirements for granting it are still met.

Filing an application

The application can be filed within the first 12 months of the baby's life.

The application has to be submitted with the competent municipal authorities or directly with the family department of the Styria *Land* Government or the district authority of the Graz Magistrate using the corresponding form.

Styria Family Card (*Familienpass*)

- Available to families made up of at least one adult and one child (prerequisite: eligibility for family allowance for this child) with their primary residence in Styria
- In addition, families whose primary residence is not in Styria can apply for a TWO AND MORE Family Card (*ZWEI UND MEHR-Familienpass*).
- A second card can be issued for each family upon request at any time.

Benefits of the Styria Family Card

- Exclusive discounts (also in other Austrian *Laender*) for leisure, sports, culture and training events and facilities
- Special family discounts with the Styria Transport Association
- Information and advice concerning other offers of the Family Department of the Styria *Land* Government and a number of (family) counselling centres
- lotteries and contests with attractive prizes
- Training vouchers for parents (2 x EUR 10 per family and year)

The Family Card has a validity of three years. After that, the Family Card will be renewed automatically if the requirements are still met. A Family Card information leaflet containing interesting and promising suggestions for family activities is available from the Family Department. Exclusive discounts and rebates for families are granted for Family Card holders (including events and facilities in other Austrian *Laender*). Apart from that, there are a number of lotteries and contests with attractive prizes.

Training vouchers for parents

One of the major goals is to promote parenthood. Affordable training offers for parents cater for the manifold interests and need of families and provide support in all phases of children's lives. Family Card holders receive two vouchers of EUR 10 each redeemable for parent training courses or events at recognised parent education and training institutions. The scheme's aim is to inform parents of the training offers for parents and encourage them to make use of such offers by providing financial support.

Styria Parental Information Folder (*Steirischer Elternbrief*)

The Styria Parental Information Folder provides information on everything of importance for the first six years of children: a wide range of services of the *Land* of Styria, counselling centres, nutrition, health, education and child-rearing, development, etc. This information folder comprises all public service offers in the field of children's health, child safety, childcare and cultural activities for children, etc. Personalised for the child's birthday, it contains all important information and is delivered to families directly. The folder comprises information on vaccinations and check-ups, childcare facilities in the families' vicinity, family and fun events for children in Styria, to name just a few.

Allowance for child vacation initiatives

This is a voluntary benefit of the Styria *Land* Government offering vacation for underprivileged children and young persons which is operated by recognised organisations.

The allowance is granted to one of the parents (adoptive parent, foster parent) for his/her child (adoptive child, foster child):

- for mother/child or father/child courses for children from the age of three;
- for children up to the age of 16;
- for child vacation initiatives with a minimum duration of five days, conducted by non-profit providers such as youth organisations and charitable associations (partly with quality seal for vacation providers);
- if the weighted per-capita income does not exceed EUR 900;
- the parent claiming the allowance must live in the same household with the child and have their primary residence in Styria.

The weighting factor is calculated by adding up the weighting factors of the individual family members recognised all over Austria.

Family members:

first adult:	1.0 points;
second adult:	0.8 points;
children from their birth up to commencing work:	0.5 points;
children whose income (apprenticeship pay) is added to the family's total income (for the time of eligibility to childcare benefit from the Federal Government):	0.8 points.

The per-capita income is calculated by dividing the computed net family income by the added-up weighting factor.

Amount of allowance

The Styria *Land* Government contributes 60 % of the course's/initiative's costs after deduction of any other subsidies; the following maximum allowances per child apply:

- for a weighted per-capita income from EUR 751 to EUR 900
 - 1 week: EUR 50
 - 2 weeks EUR 100
 - 3 weeks EUR 150
- for a weighted per-capita income from EUR 601 to EUR 750
 - 1 week: EUR 100
 - 2 weeks EUR 175
 - 3 weeks EUR 250
- for a weighted per-capita income up to EUR 600
 - 1 week EUR 150
 - 2 weeks EUR 250
 - 3 weeks EUR 350

The Family Department encourages recruiting corporate childminders for Styrian companies by offering start-up funding of up to EUR 5,000.

Since 1 September 2007 companies have been allowed to offer childcare services by qualified childminders on their premises.

This initiative offers professional childcare directly at parents' workplace. This enhances employee satisfaction, facilitates re-entry into working life (for women and men alike) and enables small and medium-sized companies to offer childcare services adapted to parents' working times.

The first 30 companies applying for a subsidy in writing and meeting specific requirements will receive a one-off funding of up to EUR 5,000.

Promoting associations, institutions and individuals

The *Land* of Styria promotes

- Styrian parent-and-child centres (EKIZ) as points of contact for families in the regions;
- the "Contact centre for anonymous birth – baby hatch" of Caritas;
- and a great number of other valuable initiatives/institutions/projects of interest for families in Styria.

Issuing a range of publications and brochures on family issues

- Promoting families – A guide to family and social benefits in Austria/Styria
- Overview "Social benefits"
- Guide for single parents
- Equal rights for both – A guide to marriage, divorce, the consequences of divorce and non-marital cohabitation
- "Everything for newborns" (Birth folder provided to all municipalities in Styria)

Moreover, the special department "Society and generations" offers premier services in the field of childcare and school and after-school care and strives to continuously develop and expand various facilities in this field. In addition to the activities and services describe above, special attention is to be drawn to youth centres (*Jugend(sport)haus*) established at five schools throughout Styria and run by the Styria *Land* Government; these centres cater for 800 schoolchildren/students and focus on their specific talents and aims in school, sports and occupational education.

Vienna

Legal framework:

Vienna family supplement: Guidelines for granting the Vienna family supplement (resolution of the Vienna City Senate of 28 February 1992), measure of private sector administration.

Transposition measures, statistical data:

The Vienna family supplement was introduced on 1 July 1992 and is designed to further support underprivileged families and single parents with children aged one to three years. The prerequisite is that at least one of the parents has been residing in Vienna for at least one year prior to the child's birth (for citizens from other countries, this period is three years). Since 2001, the same eligibility requirements as for Austrian citizens have applied to citizens from EEA countries and to citizens of equal status.

The amount of the supplement depends on family income and the number of family members (weighted per-capita income) and ranges from EUR 50.87 to EUR 152.61.

At year-end of 2009, 2,478 families and single parents were entitled to the family supplement with more than one-third receiving the maximum amount of EUR 152.61. A total of EUR 4.4 million was spent on family supplements in 2009.

In addition, the following voluntary social and family services and benefits were offered by the Municipal Department 56 (Vienna schools):

- Transport service for disabled children attending compulsory schools

Disabled children at compulsory schools who cannot use public transport are offered free transport by the Vienna transport service from their home to their school (public schools). In the school year 2009/2010 approximately 1,700 school children made use of this service.

- Incremental food and care contributions at full-time public compulsory schools

By applying incremental food and care contributions (including exemption) depending on the family's financial situation, children of underprivileged families in Vienna were able in the past to attend school day care.

In the school year 2009/2010 the contribution towards day care was EUR 5 per day. This contribution is due only if the underlying monthly assessment base exceeds EUR 2,503. Up to a monthly assessment base of EUR 1,153 parents do not have to contribute at all. In addition to the care contribution, costs for lunch of some EUR 3 per day are incurred. Up to a monthly assessment base of EUR 922, the food contribution does not have to be borne by parents either.

- School events

In order to enable children from underprivileged families to take part in school events such as summer and winter sports weeks, the City of Vienna supports these families by offering a subsidy of EUR 72 or EUR 104 for such events.

- Subsidy for teaching materials (*Warenkorbgeider*)

With the aim to relieve parents of children attending private and public general compulsory schools, the City of Vienna has provided a fixed amount for the purchase of teaching materials for many years. In the school year 2009/2010 this amount was

EUR 33 per pupil and school year at primary schools, EUR 47 for lower secondary schools, EUR 44 for special needs schools and EUR 70 for pre-vocational schools.

The Vienna Mobility Pass (*Mobilpass*) was introduced on 1 April 2008 for pensioners entitled to an equalisation supplement and for all adult social assistance benefits recipients (those receiving social assistance benefits for at least one month). The Mobility Pass offers cut-rate monthly tickets for the Vienna public transport system at a price of EUR 15.20 (2009) and half-price single tickets. Additionally, the *Mobilpass* card offers discounts at public pools run by the City administration and reduced annual tickets for the Vienna public libraries. For pensioners the card is valid for five years, for recipients of social assistance benefits six months. The Mobility Pass card is not transferable and valid only when used together with an official photo identification document. Since September 2009 Mobility Pass holders can attend courses of the basic programme provided by the Vienna Adult Education Schools (*Volkshochschulen*) at a reduced rate of EUR 1 per teaching unit. The basic programme comprises courses in the following fields: languages, sciences, EDP, learning techniques, physical exercising as well as arts and creativity. Lectures can also be attended at reduced rates. This way, affordable low-threshold access to education and training is provided for people with low incomes.

Number of Mobility Pass holders:

2008: 64,830 persons

2009: 54,584 persons

Socio-cultural services for families

Family counselling centres

Austria operates a network of nearly 400 family counselling centres funded on the basis of the Austrian Family Counselling Promotion Act (*Familienberatungsförderungsgesetz, FBFG*) that offer free, anonymous counselling for those seeking advice. Since its introduction in 1997, the promotion of family counselling focussed on specific issues by earmarking part of the funds provided by the Federal Government for specific topics including counselling for pregnant women, counselling in case of domestic violence, divorce counselling.

A total of approximately 366,000 counselling hours was provided at the counselling centres in 2008 (data for 2009 have not yet been evaluated), some 187,000 of which were provided by social workers and marriage and family counsellors, some 73,000 hours by psychologists, 52,000 counselling hours by educators and 29,000 hours by legal experts.

The amount laid down in the *FBFG* has been raised from some EUR 11 million in 2004 to EUR 11.6 million at present. This increase has enabled the establishment of 20 new counselling centres predominantly in formerly under-provided regions since 2004 .

In 2008, 232,000 persons were recorded to have used family counselling services resulting in a total of 494,000 counselling sessions. Yet, due to the anonymity of the clients, it cannot be excluded that these figures entail double counting.

Some 469,000 counselling sessions (i.e. 95 % of all counselling sessions) providing advice to approximately 218,000 persons were provided at subsidised counselling centres operated by private and church organisations.

Funding

For the personnel costs in the state-subsidised family counselling centres, money from the Family Burdens Equalisation Fund (for all of Austria) was used as follows:

Million EUR
2005 10.9
2006 10.9
2007 11.6
2008 11.6
2009 11.6

The socio-demographic background of people using family counselling services in 2008 was as follows:

Sex	
Male	28.9%
Female	71.1%
Age	
Age	
0-6	2.2%
7-14	5.4%
15-19	6.8%
20-29	15.5%
30-39	27.4%
40-49	22.9%
50-59	9.7%
Older than 60	4.1%
Unknown	6.0%
Country of origin	
Austria	79.1%
EU	3.7%
Other neighbouring countries	2.7%
Other European countries	4.8%
Non-European countries	4.7%
Unknown	5.0%
Number of children (own)	
None	27.4%
One child	20.5%
Two children	25.4%
Three children	9.6%
Four children	3.2%
Five children	0.7%
Six children	0.2%
More than six children	0.2%

Unknown	12.8%
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Number of children in same household

None	34.0%
One child	21.7%
Two children	22.4%
Three children	7.2%
Four children	2.0%
Five children	0.5%
Six children	0.1%
More than six children	0.1%
Unknown	11.9%

Marital status

Unmarried	30.0%
Married	42.5%
Divorced	13.3%
Widowed	1.9%
Unknown	12.3%

Highest education completed

Primary school	4.0%
Compulsory school	12.7%
Apprenticeship/intermediate school	27.0%
General secondary education/vocational secondary education	13.8%
Higher grades	9.2%
No graduation	4.0%
Unknown	29.3%

Current occupational situation

Full-time work	29.3%
Part-time work	15.2%
Unemployed (receiving unemployment benefit or unemployment assistance)	11.4%
On parental leave	5.2%
Undergoing training	11.5%
Housekeeping	6.8%
Retired	6.1%
Unknown	14.6%

Counselling recommended by

Individuals, e.g. partners, relatives, acquaintances, superiors	25.2%
Recommendation by persons using counselling services themselves	16.6%

Media and PR, e.g. press, radio, TV, posters – on their own initiative	
	14.7%
Therapeutic institution, e.g. hospital, doctor, counselling centre, psychotherapist	10.4%
Pedagogic institution, e.g. nursery school, school, adult education facilities	5.1%
Legal institution, e.g. lawyer, court, probation officer	3.4%
Other public bodies, e.g. Youth Welfare Office, Public Health Office, Social Welfare Office, church facilities	8.7%
Unknown	15.9%

Specialising

Generally, the aim is to offer comprehensive counselling at all family counselling offices through interdisciplinary teams of counsellors concerning all topics listed in the *FBFG*.

In urban areas, where family counselling offices are available in a sufficient number, offices with a specific focus are increasingly established.

For example, three additional child protection centres that put their focus on "violence within the family" were sponsored as family counselling centres; hence, a total of 20 facilities specialising in counselling services in the field of domestic violence is available now.

In Vienna, Lower Austria, Upper Austria and Tyrol family counselling offices in the immediate vicinity of battered women's shelters are promoted. Furthermore, eight counselling centres for men are subsidised that specialise on working with perpetrators' aspects in connection with domestic violence.

In total, approximately 8.4% of the counselling sessions at family counselling offices explicitly deal with violence, i.e. approximately 19,000 clients are advised during some 41,000 counselling sessions on violence-related topics (12.3 % child abuse, 39.2 % sexual violence against children, 25 % violence against women, 5.3 % sexual violence against women, 11.6 % violence against other family members, 6.7 % violence against persons outside the family) at subsidised family counselling offices each year.

Two counselling offices specialising in counselling services for disabled persons and their relatives in case of problems in the family were added, resulting in a total of 23 counselling centres in this field.

Within the scope of the "Mediation and divorce assistance" project, the number of family counselling offices with branch offices at local courts in order to offer both legal and psychosocial counselling services next to legal advice during public court consultation days (*Amtstag*) rose from 65 to 80.

Types of problems discussed during 494,000 counselling sessions in 2008, grouped by category:

Type of problem	Share in %
Separation/divorce, visitations rights, maintenance	17.1
Child-rearing, childcare, school, children becoming independent	15.6
Conflicts in partnership, communication, roles, sexuality	15.6
Psychological problems	10.4
Domestic violence, abuse	8.4
Pregnancy, contraception, desire to have children	6,2
Medical conditions	4.3
Other conflicts in the family	4.1
Financial problems, accommodation	3.4
Job, unemployment, return to work	2.8
Migrants, psychological, legal, financial problems	2.6
Disability	2.6
Traumatic experience	2.5
Legal problems	2.1
Alcohol, drugs, other addictions	1.8
Sects, ideological issues	0.5

Childcare facilities

In Austria, the following types of childcare services and facilities are available:

1. Day care centres operated by public bodies (Federal Government, *Laender*, municipalities) and private organisations (companies, associations, parishes, private individuals):

- For children below the age of 3: crèches (*Krippe*) or baby/toddler groups (*Krabbelstube*).
- For children from 3 to 6 years: nursery schools (*Kindergarten*): general nursery schools, nursery schools offering integrated care for disabled and healthy children alike, specialised nursery schools and trainee nursery schools.
- For schoolchildren:
 - day homes (*Hort*): general day homes, day homes offering integrated care for disabled and healthy children alike, specialised day homes, trainee day homes and other facilities for pupils; partly open all-year round.
 - *Tagesheimschule* offering lessons in the mornings and lunch plus
 - after-school supervision (closed on school holidays)
 - All-day schools (*Ganztagsschule*): alternating tuition and supervision units, closed during school holidays.

Some of the institutions cater for mixed-age groups. Children's groups (*Spielgruppen*), often with a high level of co-determination by parents, offer childcare services for up to 15 hours per week.

2. Alternatively, children may be cared for by childminders (mobile mothers/childminders also offer childcare in the children's homes), au-pairs (childcare

at home), babysitters (*"Flying Nannies"*) and rent-a-grandma or rent-a-grandpa services.

In 2008/2009 there were 7,950 childcare institutions (excluding seasonal day care facilities) including 4,863 nursery schools, 1,026 crèches, 1,183 day homes and 878 mixed-age caretaking facilities. Since 2003/2004 the number of crèches increased by 39.8 % and the number of day homes by 19.9 %. The number of mixed-age facilities doubled over the past five years and childcare facilities increasingly offer their services for schoolchildren in the afternoon, too.

Of the total population, 73.4 % of all three-year old children were taken care of at childcare facilities, 92.2 % of the four-year old children and 93.8 % of the 5-year old children.

Year	Number of crèches	Number of children
2004/05	773	13.429
2005/06	889	16.037
2006/07	928	16.551
2007/08	956	17.017
2008/09	1.026	18.389

(Source: Day care centre statistics 2008/2009, Statistics Austria)

Year	Number of nursery schools	Number of children
2004/05	4.407	194.914
2005/06	4.482	195.176
2006/07	4.505	195.049
2007/08	4.555	195.801
2008/09	4.863	208.449

(Source: Day care centre statistics 2008/2009, Statistics Austria)

Reply to the additional questions by the Committee on Social Rights regarding Article 16 in the conclusions XVIII-1:

Childcare facilities

*The Committee takes note of the data contained in the 23rd report, pointing to an increase in the number of places in crèches. According to a survey carried out in 2004, **18,154 places for children under the age of 14 are still needed**. The Committee asks to be informed of the **measures** taken to **meet this demand**.*

In order to increase the number of available childcare places, particular in regions and for age groups where the corresponding infrastructure was previously lacking or rather poor, the Federal Government implemented the measures described below in the period under review.

The Federal Government made co-financing offers to the Governments of the Laender, who are responsible for the provision of childcare, in order to ensure a demand-oriented expansion of childcare facilities. In the years 2008-2010 a total of EUR 45 million has been made available from Federal funds. In order to claim and use these funds, the Laender have to raise an additional sum of EUR 60 million for

this purpose by 2010, thereby considerably expediting the expansion of available childcare places.

Since 1 January 2005 the amount of EUR 700,000 per year has been earmarked within the Family Burden Equalisation Funds for the objective of promoting the reconciliation of work and family life. With these funds innovative, demand-oriented, private childcare facilities with flexible times (also provided by companies) as well as the training of childminders are supported (for a maximum of three years). Childcare projects that on the basis of their organisation and flexible care concept take into account the parents' needs to reconcile work and family life and that provide a role model for a region or Land are deemed to be innovative.

Facilities and companies that create childcare places for the summer holidays in addition to the normal offer have been supported with a total bonus of EUR 12,500 per year since 2006. Outstanding care initiatives may be rewarded with the childcare award.

In order to enable all children irrespective of their socio-economic origins to obtain pre-school education and thus be provided with a good starting position for their working life later on, the Federal Government has implemented the following measures:

In the years 2008-2010 a total of EUR 15 million (EUR 5 million per year) have been made available for early language learning of children with a migration background with the aim of improving their German languages skills as early as at nursery school, even before the start of compulsory school.

In the years 2009-2013 the Federal Government will make available another EUR 70 million per year in order to enable free pre-school education at public and private nursery schools in the last year before the start of compulsory school (payment of parents' contributions). This measure, which has been in force since September 2009, made the half-day attendance at a nursery school for children of this age group free of charge throughout Austria. From September 2010 such attendance will also be compulsory.

Also, a tax credit with respect to childcare costs has been introduced. With retrospective effect from 1 January 2009 childcare costs (e. g. for crèches, childminders, nursery schools) may be deducted from the wage and income tax by parents up to a limit of EUR 2,300 per year and child. The costs are deductible on condition that the child has not yet completed its 10th year of age at the beginning of the calendar year, and the childcare takes place at an institutional facility, meeting the regulations of the Land, or through a person qualified and trained in the field of pedagogy.

Parental education

Since the creation of the legal basis for the support of parental education from the Family Equalisation Fund in 2000, the Federal Ministry of Economy, Family and Youth has subsidised high-quality parental education projects (2005-2006 EUR 1.1 million per year, since 2007 EUR 1.3 million per year). In this way, the offer of affordable parental education, supporting mothers and fathers in their daily educational tasks, has been significantly increased.

Connected to these activities is a rapidly increasing need for highly-qualified parent educators. Institutions that provide training courses according to the quality standards specified in the curriculum (revised 2008) receive the stamp of quality "Training Courses for Parent Educators". Since 2004, 21 quality stamps have been

awarded, and 892 graduates have obtained a certificate with the stamp of quality. Basic and further training programmes are co-financed from parental education funds.

Training programmes and educational offers on the website are supplemented by information for parents on violence-free upbringing published corresponding to the development phases of the child (six age groups) and special interest issues (single parents, patchwork families, late parents, etc.). The issues contained in the printed information for parents are accompanied by parental education published in digital format on CD-ROMs.

Reply to the additional question by the Committee on Social Rights regarding Article 16 in the Conclusions XVIII-1:

Participation of associations representing families

*The Committee asks for **updated information** to be provided in the 28th report. It also wishes to know **whether all associations representing families are consulted in the formulation of family policies.***

The Family Policy Advisory Committee (familienpolitischer Beirat) is convened on a regular basis, and all the associations defined by law are invited to attend and give their views and statements regarding family policies.

The Family Policy Advisory Committee belongs to the Federal Ministry of Economy, Family and Youth. It is assigned to provide counselling in family policy issues, and, if so requested, to provide special reports on economic, social, legal and cultural matters in the field of family policy. The committee also has the right to make proposals and suggestions. Furthermore, it is responsible for examining and making statements on the suggestions and demands of family organisations in Austria. In this context the committee is involved in the review process of bills of the Federal Government.

The family policy advisory committee is composed of a maximum of 10 representatives of such family associations, which according to their by-laws engage in economic, social, legal and cultural family matters, and with respect to their composition and number of members constitute a representative interest group to advocate the interests of families. A maximum of three representatives may be nominated from each organisation. Furthermore, the committee comprises one representative each of the Austrian Federal Economic Chamber, the Presidential Conference of Austrian Chambers of Agriculture, the Federal Chamber of Labour, the Austrian Trade Union Federation as well as a joint representative of the Austrian Chambers of Agricultural Labour. For each committee member a substitute member has been appointed. Depending on the subject to be discussed, experts from the economic, social, legal or cultural fields may be consulted, who do not have a voting right, though.

Statements by the individual Laender

Burgenland

Childcare facilities pursuant to the *Bgld. KBBG 2009*

The Burgenland Childhood Education and Childcare Act (*Bgld. KBBG 2009*) governs childcare for children from their birth to the completion of compulsory education by childcare facilities. Accordingly, the following types of childcare facilities are provided by law:

- Crèches (*Kinderkrippen*): childcare facilities which are mainly attended by children under the age of 2.5 or three years;

- Nursery schools (*Kindergärten*): childcare facilities which are mainly attended by children from the age of 2.5 years – or from the age of 3 years, if the respective municipalities offer places in crèches – until they go to school. “*Alterserweiterte Kindergärten*” are special types of nursery schools providing childcare for age groups of children from 1.5 years until the end of compulsory primary school age.
- Day homes (*Horte*): childcare facilities which are attended by school-age children.

In most cases, these facilities are operated by the municipalities, in single cases, by private providers. The legal carriers of childcare facilities (both from the public and private sector) may charge the parents a fee that is only cost-covering, i.e. operating a childcare facility must not be profit-oriented.

Upon application of the legal carriers, the *Land* Burgenland contributes to the staff costs of childcare facilities.

Furthermore, the *Land* Burgenland grants subsidies for attending childcare facilities pursuant to Section 2 Para. 1 no. 5 in conjunction with Section 8d of the Burgenland Family Support Act. Parents who send their children to childcare facilities (crèches, nursery schools or day homes) receive a financial contribution to the fees charged by these facilities.

The legal carrier has to fix the start of the working year and schedule the summer holidays as well as the Christmas, Easter and Whitsun holidays, taking into account the respective local demands. The legal carrier may also decide to close the childcare facility in the week between the two school semesters (semester break) as required. The summer holidays last four weeks without interruption. The legal carriers may also opt for longer or shorter summer holidays or refrain from scheduling summer holidays at all to meet parents' needs.

If it is not possible to provide childcare during the above-mentioned holidays because the required minimum of four children has not been reached, these children may be looked after by a childminder on the premises of the respective childcare facility.

In Burgenland, there are currently 298 childcare facilities which provide care for approximately 9,500 children.

Childminders (*Tagesmütter und Tagesväter*)

Apart from the above-mentioned childcare facilities, childcare may also be provided by childminders, i.e. persons who look after minors under the age of 16 (who are not related or related by marriage) regularly and professionally for a part of the day. In general, day care is provided individually in the childminders' homes, which requires the approval by the District Administration Authority. During the process of approval, the childminders' personal qualifications are examined in exhaustive interviews and their living and housing conditions are inspected in an on-site visit.

At present, there are 38 childminders in Burgenland. The *Land* Burgenland supports the *Tagesmütter Burgenland* project (operating organisation) by granting an annual subsidy.

All-day schooling

Apart from the above-described types of childcare facilities, there are also all-day childcare facilities at primary schools, special needs schools, lower secondary schools, during the pre-vocational year and in the lower grade of secondary academic schools. All-day schools are schools that not only provide education but also day care for children until (at least) 4 p.m.

In the school year 2009/2010, 61 primary schools, 27 lower secondary schools and 2 special needs schools offered all-day schooling in Burgenland. 1,761 pupils of primary schools, 1,471 students of lower secondary schools and 37 students of special needs schools made use of this offer.

Other measures of child (care) support offered by the *Land* Burgenland:

School start benefit

Child benefit supplement

Holiday allowance for single parents

Family counselling centres

Streetwork projects, etc.

Upper Austria

Family counselling centres

Depending on the region, family counselling centres offer psychological, social work-related, medical and legal advice. There are four centres that are supported by the Land Upper Austria exclusively and three offices that are supported by the Land and the Federal Government.

Parents' schools

Individual lectures, workshops and seminars are geared towards helping parents with information regarding various educational issues as well as healthcare topics and issues concerning the care of children. The lectures and workshops are conducted by associations in cooperation with the Land Upper Austria, which also provides financial support.

Early childhood counselling

Beside numerous parents' and mothers' counselling centres, five IGLU project centres are operated in Upper Austria that offer integrative medical, social work-related as well as psychological support and advice for expectant parents and persons being close to the child, together with the children aged up to three years.

Streetwork

In Upper Austria 17 streetwork project centres are operated by independent youth welfare institutions and one municipal office and financed by the Land Upper Austria and social service associations. This is a low-threshold service for assisting minors and young adults.

Recreation programmes for children, kids' holiday weeks

The objective of these programmes is to enable children mainly from socially disadvantaged families to enjoy a relaxing, exciting and socio-educationally positive holiday. Recreation programmes for children as well as kids' holiday weeks are organised by two associations in Upper Austria, with each of the associations performing two programmes of this kind and one kids' holiday (lasting for two weeks each) per year. In 2009 a total of 296 children and young people participated in these programmes.

Family holiday supplement

The family holiday supplement is to support families that without such supplement would hardly, or not at all, be able to afford a joint holiday of the parents and the children. The granting of this supplement by the Land Upper Austria is not legally enforceable. The supplement will be granted upon application. The application has to

be submitted to the Land Government of Upper Austria. In 2009, 763 applications were approved by the Land.

Childminders

In Upper Austria there are six childminder associations (independent youth welfare institutions) offering training facilities, placement services as well as professional support to childminders. In the period from October 2008 and October 2009 there was an average of 353 childminders, caring for an average of 1,268 children. Training courses for becoming a childminder include 103 teaching units, in particular basics in family pedagogy, family sociology, (developmental) psychology, legal basics, educational play, communication and conflict management, education and medical basics, and are either organised by the childminder associations or the Vocational Training Institute (Berufsförderungsinstitut, BFI). Every active childminder has to complete and evidence at least 15 hours of further training per year.

Childcare facilities

According to preliminary statistical evaluations, the following improvements of childcare facilities were achieved since the comparative period of the study between 2004 and 2009.

On the basis of the comparative periods 2004 to 2009 a significant increase in the number of children placed at childcare facilities was reported for the different age groups.

In September 2009 the "non-contributory nursery school" was introduced in Upper Austria. Every child with primary residence in Upper Austria may attend nursery school free of charge from its completed 30th month of age until school entry.

This means, in the year 2009/2010 alone, 3,747 more children were placed at childcare facilities than within the comparative period in the year 2008/09.

The study also suggests that the offers were extended substantially for all types of childcare, ranging from crèches to day homes, in comparison to previous years.

Vorarlberg

For families with toddlers play groups offer supplementary care with respect to social learning while playing with others of the same age. In 2009 a total of 76 play groups applied for funding with the Land Government. These play groups, where 1,504 children are looked after, were supported with funds of the Land Government amounting to approximately EUR 312,508.46.

As of 31 December 2009, 297 children were placed with a childminder of the childminder association. By the end of 2009 a total of 9,722 children (excluding nursery schools) were placed in 71 childcare facilities, six external care facilities for schoolchildren, 135 in-house care facilities at schools and three boarding schools for day pupils. Of these, 7,194 children were schoolchildren.

Childcare facilities are mainly operated by private organisations. Care facilities for schoolchildren, however, are almost exclusively run by municipalities. Childminders, childcare facilities as well as care facilities for schoolchildren, in-house care facilities at schools as well as holiday homes are supported by the Land. Childminders, childcare facilities as well as care facilities for schoolchildren offer places throughout the year (apart from a five-week holiday). Childminders also provide care during holiday times. Seven holiday homes in Vorarlberg offer recreational weeks during the summer holidays for children aged five to twelve. In addition, municipalities continuously expand their offer for holiday care facilities.

Apart from the offers described above, Vorarlberg has 18 parent-and-child-centres that were supported with approximately EUR 58,459 in 2009.

Further childcare options in Vorarlberg include: an area-wide network of nursery schools, babysitter services, rent-a-grandma-programmes, etc.

The offer of childcare facilities outside the family has been further expanded. Besides the creation of new places at infant and all-day care facilities, mainly the number of places available at care facilities for schoolchildren was increased.

In 2003 the Land established the info service "Familypoint" to make all these types of care facilities as well as family-related benefits accessible for parents. This service point not only offers counselling but also supports municipalities, companies, schools, etc. in the development and establishment of childcare facilities (including care facilities for schoolchildren).

State Law Gazette no. 48/2008 amended the Nursery School Act. The primary aim of the amendment was to

- ensure a high pedagogical pre-school education standard taking into account latest scientific findings as well as the necessity of language coaching;
- promote and develop the offer of childcare facilities through a high-quality assessment and planning of demand (with the objective to expand childcare facilities to meet this demand);
- to improve the reconciliation of work and family life through an adequate, demand-oriented offer of nursery school places, also for three-year olds (adjusted opening times and opening of nursery schools to three-year olds);
- achieve significantly higher quality by reducing the group size.

Consequently, the amendment by State Law Gazette no. 59/2009 provided for a mandatory attendance of 16 to 20 hours on at least four work days per week, free of charge, for children who are at least five years old on the 31st of August preceding the nursery school year and who will attend compulsory school in the following year.

Family Advisory Committee

The Family Advisory Committee was established in Vorarlberg in the framework of the Family Support Act 1989 (Familienförderungsgesetz). The Committee advises the Land Government on specific family issues. This may include the review of new bills as well as involvement in fundamental issues of family support or general family policy decisions. The Family Advisory Committee is composed of a member of the Land Government responsible for family issues, three representatives of each the Vorarlberg Family Association (Vorarlberger Familienverband), the Austrian Kinderfreunde, regional organisation for Vorarlberg, and the Vorarlberg Family Organisation (Vorarlberger Familienbund), one representative of each the Marriage and Family Centre of the Diocese of Feldkirch, the family assistants' school and the Institute for Social Services, two representatives of the Vorarlberg local authorities association (Gemeindeverband), together with three more qualified experts.

No statement can be given regarding the situation of Roma families in Vorarlberg as no information is available that Roma families are resident in Vorarlberg.

Vienna

Legal framework

Vienna Youth Welfare Act 1990 (Wiener Jugendwohlfahrtsgesetz 1990), Vienna State Law Gazette no. 36, as amended by the Vienna State Law Gazette no. 9/2007.

Transposition measures, statistical data

In the framework of a social assistance scheme the Municipal Department 11 - Vienna Youth and Family Offices (MA ELF) offers comprehensive counselling for any family-related topics such as pregnancy, childbirth, education, basic income and family law at 18 regional service points for social work with families. In 2009, 38,949 counselling sessions were carried out by MA ELF in the framework of the social assistance scheme.

Furthermore, family assistants offer support to families. A special focus in this field is put on the support of families with disabled children. Additionally, children and family holidays for low-income families in Vienna are organised in cooperation with the Wiener Jugenderholung association.

Child-raising counselling is offered via eight parent-and-child centres in Vienna. Families with small children benefit from communication offers with accompanying counselling services in the form of open group meetings (e. g. schemes for get-togethers of parents with babies, toddlers, etc.). In addition, 24 service points offer parent counselling by physicians, social workers and social education workers (if needed also in Serbian, Croatian, Bosnian, Turkish, Kurdish and Polish). Home visits are available upon request, too.

Furthermore, MA ELF offers nine “parents’ schools” for expectant mothers and fathers. Parents-to-be receive information through presentations and lectures held by midwives, representatives of the Austrian Chamber of Labour, social education workers as well as social workers. The contents are aimed at preparing them for childbirth, parenthood, daily routines with the infant as well as changes in the parent’s relationship. Moreover, information regarding legal and financial matters is provided.

Mobile support offers for families with disabled children have been extended: the FAHI Kib project offers support via specialised family assistants.

All newborn babies in Vienna are equipped with a baby starter set. Through this offer it has become possible for the staff of the parent-and-child centres and social workers cooperating with the obstetrics departments of hospitals to reach virtually all parents in Vienna in order to inform them about the counselling services provided to parents by the City of Vienna.

Availability of childcare facilities in the first half of 2010

In the first half of this year 102,707 childcare places have already been available at municipal and private facilities in Vienna. Of these 14,171 are crèche places (0 to 3 years), 46,602 nursery school places (3 to 6 years), 23,066 after-school childcare/day-home places (6 to 10 years) and 18,868 afternoon care places at schools.

Approximately 50 % of the childcare facilities in Vienna are operated by private institutions and 50 % by the City of Vienna. In September 2009 the City of Vienna implemented the model of “non-contributory childcare at pre-school age” for children from 0 to 6 years, thereby promoting education for children in Vienna as well as economic support of families in Vienna. The scheme provides full-time childcare free of charge at municipal childcare facilities, i.e. crèches and nursery schools. Parents only have to pay a contribution towards meals. In case the family income does not exceed EUR 1,100 net (excluding family allowance), families may submit an application to MAG ELF for exemption from the meal contribution up to the amount of the municipal quota of the meal contribution. In the context of the “non-contributory childcare at pre-school age” model, the City of Vienna also supports childcare

through childminders in Vienna. Childcare facilities for school-age children in municipal and private institutions are offered at socially graduated rates. The offer of a mobile development support for children with special needs is still available free of charge from the City of Vienna – Municipal Department 10.

Reply to the additional question by the Committee on Social Rights regarding Article 16

In 2008 the Land Government of Vienna concluded an agreement with the Austrian Federal Government pursuant to Article 15a of the Austrian Federal Constitutional Law (Bundes-Verfassungsgesetz, B-VG) concerning the expansion of institutional childcare facilities as well as the introduction of compulsory early language learning at institutional childcare facilities and the creation of a pre-school education programme at Federal level. By expanding the available childcare facilities a better reconciliation of work and family life is to be achieved.

The specific situation of Roma families is considered in the counselling and care programmes offered free of charge by MA ELF. The care concept of MA ELF is characterised by the principles of integration and diversity.

Construction of family housing

The Austrian Laender (constituent states) are responsible for the legislation and enforcement in the field of direct support of housing construction and refurbishment through subsidised loans, annuity and interest subsidies, housing allowances, etc. Various "accompanying" indirect subsidies (such as tax benefits, exemption from charges, contributions to building savings programmes) are granted by the Federal Government.

The primary goal of housing subsidies in Austria has always been and still is to resolve the discrepancy of demand and supply concerning available accommodation. Furthermore, the refurbishment of old buildings and flats and the idea of increasing energy efficiency have gained importance over the past few years. Subsidies mainly aim at reducing the required funding and energy expenditure, whereby families (depending on their size, the family income, whether they have a disabled child, etc.) are granted additional benefits.

Housing construction

Currently data concerning the completion of building projects are only available up to the year 2002 (included in the 23rd Report). Data from the new building measures statistics which forms part of the address, building and residence register are not available to date. This is mainly due to the intermittent lack of legislation governing the maintenance of these statistics and delays in passing the new legislation. Furthermore, newer data could not be published lately due to lacking responses. Data for the more recent reporting years are scheduled to be submitted in the year 2010 (at least selected preliminary results).

Existing accommodation

The number of the existing accommodation, including secondary residences or accommodation without registered residences, is available only at the counting dates, and therefore only once in 10 years. Therefore, the latest accurate data available refer to the housing census 2001, and have been included in the 23rd Report.

Furnishing and equipment

A standardisation of home furnishing and equipment, conducted in the context of the micro-census of accommodation registered as primary residence, results in a classification of accommodation according to the following categories:

- Category A: Accommodation with bathroom, WC and central heating
 Category B: Accommodation with bathroom, WC and individual heating device
 Category C: Accommodation with WC and water tap
 Category D: Accommodation with running water or no installations

The following table shows a classification of primary-residence accommodation according to furnishing category and according to the Laender (annual average 2009):

Land (Austrian state)	Primary-residence accommodation in total	Furnishing category			
		A	B	C	D
		In thousands			
Burgenland	112.0	99.6	11.8	0.1	0.4
Carinthia	238.2	213.3	21.9	1.8	1.2
Lower Austria	664.7	591.6	65.8	3.1	4.2
Upper Austria	582.1	550.4	28.4	1.0	2.3
Salzburg	223.5	202.7	19.1	0.4	1.2
Styria	500.9	468.8	27.2	0.7	4.2
Tyrol	288.2	250.9	35.4	0.8	1.1
Vorarlberg	150.3	134.1	15.3	0.4	0.5
Vienna	838.4	759.9	27.9	4.7	45.9
Austria	3,598.3	3,271.2	252,9	13,0	61,1
		in %			
Burgenland	100.0	88.9	10.6	0.1	0.4
Carinthia	100.0	89.5	9.2	0.7	0.5
Lower Austria	100.0	89.0	9.9	0.5	0.6
Upper Austria	100.0	94.6	4.9	0.2	0.4
Salzburg	100.0	90.7	8.6	0.2	0.5
Styria	100.0	93.6	5.4	0.1	0.8
Tyrol	100.0	87.1	12.3	0.3	0.4
Vorarlberg	100.0	89.2	10.2	0.3	0.3
Vienna	100.0	90.6	3.3	0.6	5.5
Austria	100.0	90.9	7.0	0.4	1.7

Source: Austrian Micro-Census, Annual results 2009, Statistics Austria

"Paid primary-residence accommodation and housing costs as per Land

Annual average 2009

<i>Land</i> (Austrian state)	Paid primary-residence accommodation (in thousands)	Average housing costs per flat (EUR)	Average housing costs per m2 (EUR)
Burgenland	20.5	358	4.36
Carinthia	93.7	350	4.71
Lower Austria	213.4	359	4.90
Upper Austria	250.7	390	5.49
Salzburg	113.9	421	6.06
Styria	218.8	375	5.29
Tyrol	137.0	406	5.25
Vorarlberg	66.2	446	5.88
Vienna	766.7	390	5.60
Austria	1,880.8	387	5.42
Of these:			
Condominiums	388.1	284	3.43
Rental flats	1,423.8	417	6.09

Source: Austrian Micro-Census, Annual Results 2009, Statistics Austria

**"Household and family type, furnishing category
Annual average 2009**

Type of household, family	Primary- residence accommodati on, total	Furnishing category			
		A	B	C	D

	Absolute (in thousands)				
	Total				
Total	3,598.3	3,271.2	252.9	(13.0)	61.1
Family households	2,264.8	2,104.2	137.1	(3.0)	20.6
Single-family households	2,195.3	2,040.1	132.5	(3.0)	19.7
					(10.4)
Married couple without child(ren)	859.2	791.2	55.7	(1.8))
Married couple with child(ren)	1,074.1	1,012.5	54.3	(0.7)	(6.6)
Father with child(ren)	39.0	36.2	(2.5)	(0.1)	(0.2)
Mother with child(ren)	223.1	200.2	20.0	(0.4)	(2.4)
Two- and multi-family households	69.5	64.1	(4.5)	-	(0.9)
Non-family households	1,333.4	1,167.1	115.8	(10.0)	40.5
Single-person households, total	1,283.1	1,121.1	112.6	(10.0)	39.4
Under the age of 30 years	171.2	154.5	(10.7)	(0.4)	(5.6)
30 to under 60 years	551.2	486.8	42.4	(3.1)	19.0
					(14.8)
60 years and older	560.8	479.8	59.6	(6.6))
Single men	558.2	479.9	50.1	(4.9)	23.3
Under the age of 30 years	90.5	80.4	(5.4)	(0.2)	(4.5)
					(12.8)
30 to under 60 years	316.9	274.2	27.4	(2.5))
60 years and older	150.7	125.3	17.3	(2.2)	(6.0)
Single women	725.0	641.2	62.6	(5.0)	16.2
Under the age of 30 years	80.7	74.2	(5.3)	(0.1)	(1.1)
30 to under 60 years	234.2	212.5	(14.9)	(0.5)	(6.2)
60 years and older	410.1	354.5	42.3	(4.4)	(8.8)
Multi-person households	50.3	46.0	(3.2)	(0.1)	(1.0)
Households without members below the age of 15					
In total	2,839.1	2,557.0	213.5	(12.5)	56.1
					(15.6)
Family households	1,505.7	1,390.0	97.7	(2.4))
					(15.1)
Single-family households	1,453.3	1,341.7	94.0	(2.4))
					(10.4)
Married couple without child(ren)	859.2	791.2	55.7	(1.8))
Married couple with child(ren)	427.0	400.8	22.8	(0.1)	(3.4)
Father with child(ren)	31.6	29.2	(2.1)	(0.1)	(0.1)
Mother with child(ren)	135.5	120.5	(13.4)	(0.4)	(1.2)
Two- and multi-family households	52.4	48.3	(3.7)	-	(0.5)
Non-family households	1,333.4	1,167.1	115.8	(10.0)	40.5
Single households	1,283.1	1,121.1	112.6	(10.0)	39.4
Multi-person households	50.3	46.0	(3.2)	(0.1)	(1.0)
Households with one member below the age of 15					
In total	411.0	385.4	22.1	(0.5)	(3.1)
Single-family households	402.9	378.0	21.5	(0.5)	(3.0)
Married couple with child(ren)	339.3	319.7	16.9	(0.5)	(2.2)
Father with child(ren)	(5.2)	(4.8)	(0.4)	-	(0.1)

Mother with child(ren)	58.4	53.5	(4.2)	-	(0.7)
Two- and multi-family households	(8.0)	(7.4)	(0.6)	-	(0.1)
Households with two members below the age of 15					
In total	271.0	256.2	(13.2)	(0.1)	(1.5)
Single-family households	264.1	249.7	(13.1)	(0.1)	(1.2)
Married couple with child(ren)	238.9	227.1	(11.2)	(0.1)	(0.6)
Father with child(ren)	(1.8)	(1.8)	-	-	-
Mother with child(ren)	23.4	20.9	(1.9)	(0.0)	(0.6)
Two- and multi-family households	(6.9)	(6.5)	(0.1)	-	(0.3)
Households with three or more members below the age of 15					
In total	77.2	72.6	(4.1)	-	(0.5)
Single-family households	75.0	70.7	(3.9)	-	(0.5)
Married couple with child(ren)	68.8	65.0	(3.3)	-	(0.5)
Father with child(ren)	(0.4)	(0.4)	-	-	-
Mother with child(ren)	(5.8)	(5.3)	(0.5)	-	-
Two- and multi-family households	(2.2)	(2.0)	(0.2)	-	-

Source: Austrian Micro-Census, Annual Results 2009, Statistics Austria

The legal situation at the *Laender* level

Including the statements of the Laender concerning the negative conclusion XVIII-1 regarding equal treatment of nationals of the other states party to the Charter in the housing subsidies laws at the Laender level.

Burgenland

Legal framework

The legal situation has changed inasmuch as housing subsidies are now granted based on the Burgenland Housing Subsidies Act 2005 (*Burgenländisches Wohnbauförderungsgesetz; Bgld. WFG 2005*), State Law Gazette no 1/2005, as amended by State Law Gazette no. 46/ 2009, and the Burgenland Ordinance on Housing Subsidies 2005 (*Burgenländische Wohnbauförderungsverordnung; Bgld. WFVO 2005*), State Law Gazette no. 20/2005, as amended by State Law Gazette no. 88/2009.

See <http://www.e-government.bgld.gv.at/wbf/index.htm> (available in German).

Remarks on the content

Based on Council Directive 2003/109/EC, it has become possible for third-country nationals and for persons who have equal status due to state treaties to take full advantage of subsidies.

Thus, access to accommodation provided by the public housing sector has been further facilitated.

In general, housing allowances (*Wohnbeihilfe*) are granted only to Austrian citizens or the lately extended groups of persons; however, applicants will always have to provide evidence of a certain regular basic income for calculating the amount of the allowance. Should this not be possible, the subsidiary and more extensive provisions of the *Bgld. SHG 2000* will apply (see Section 3 ff *Bgld. SHG 2000*).

The introduction of a means-tested minimum income, which will also take into account the housing expenditure of recipients, will establish an additional/new pillar of possible subsidies to meet housing needs.

As to date, there is no legal claim (Section 1 Para. 2 *Bgld. WFG 2005*) to the granting of housing allowance, as is the case for all subsidies set out in the *Bgld. WFG 2005*; the earmarking of federal funds has been abolished.

The *Bgld. WFG 2005* (Section 48 ff) still does not stipulate that a representative of an association representing families has to participate in the housing subsidies advisory board.

Summary of housing subsidies

As a result of the amendment to the Burgenland Housing Subsidies Act, an even greater number of persons are granted access to housing subsidies funds. Housing subsidies are to be seen in connection with other subsidies, all of which together aim to ensure the implementation of the intentions of the European Social Charter.

Lower Austria

In Lower Austria, support from housing subsidies funds is available to the nationals of other States, irrespective of their citizenship, for the following areas: for refurbishing; for the acquisition of a flat subsidised through the old-building refurbishment programme (*Althausanierung*) of Lower Austria; for renting a subsidised rental flat; for subsidising the exchange of boilers and installation of a district/community heating connection; for supporting the installation of solar systems and heat exchangers.

Upper Austria

In Upper Austria, subsidies for the construction of new homes, housing refurbishment, acquisition and completion subsidies, subsidies for alternative energy systems, for the surroundings as well as the provision of housing allowances are governed by the Upper Austria Housing Subsidies Act 1993 (*Oö. Wohnbauförderungsgesetz 1993*).

For obtaining approval of a subsidy, the applicant has to furnish evidence that he/she is eligible as defined by the above-mentioned act, i.e. that he/she meets the specified requirements.

The following persons are eligible:

- Austrian citizens or citizens of an EEA country. Applicants from non-EEA countries are granted a subsidy only if they
 - have had their legitimate primary residence in Austria for an uninterrupted period of more than five years and
 - have an income subject to Austrian income tax or have paid contributions to the Austrian social security system and are eligible for benefits as a result.
- Persons who intend to use the subsidised accommodation exclusively for their own permanent housing needs.
- Persons of full age.
- Persons whose annual household income does not exceed the statutory income limits (see below); the amounts given are net income amounts.

The household income is defined as the total income of the applicant, together with the income of any other persons living in the same household.

The income limits are as follows for all housing subsidies:

One person	EUR 37,000
Two persons	EUR 55,000

Each additional person	EUR 5,000
In the case of maintenance payments, per child	EUR 5,000

Example:

Family with two children	EUR 65,000
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In case the income limit is exceeded by a maximum of 10 %, 20 %, or 30 %, the subsidy reduced by 25 %, 50 % or 75 %, respectively, will be granted (this does not apply to rental flats).

Alternative energy generation systems are not subject to any income limits.

An overview of the individual subsidy requirements in the ordinances for housing subsidies in Upper Austria is included in [Appendix 1](#).

A schedule of the volume of Upper Austrian housing subsidies for the years 2004 to 2009 is enclosed in [Appendix 2](#).

Styria

In 2009, 1,230 interest supplements for capital loans were granted to young families setting up a joint household.

Section 7 Para. 5 no. 3 of the Styrian Housing Subsidies Act 1993 (*Steiermärkisches Wohnbauförderungsgesetz 1993*) was amended in 2009 (State Law Gazette no. 81/2009) and Section 7 Para. 5 of the cited law now reads as follows:

„(5) The following persons have an equal status as Austrian citizens:

1. Foreign nationals who lost Austrian citizenship after 6 March 1933, had to leave Austria for political, racist or religious reasons, returned to Austria and intend to reside in Austria permanently;
2. Persons whose refugee status was acknowledged by the authorities and who are legally entitled to reside in Austria;
3. Citizens of states that are a party to the Agreement on the European Economic Area as well as persons who have to be granted the same rights as Austrian citizens in housing subsidy matters pursuant to the laws of the European Union or on the basis of a state treaty.”

The full version of the amended text of Section 7 of the Styrian Housing Subsidies Act is enclosed in [Appendix 3](#).

Tyrol

In Tyrol the only requirement for obtaining a housing allowance is a minimum residence period. Section 17 Para. 4 of the Tyrolian Housing Subsidies Act 1991 (*Tiroler Wohnbauförderungsgesetz, TWFG 1991*) stipulates that, a housing subsidy may be granted, among others, to individuals who have had their primary residence in Tyrol for a minimum period of five years. In cases of social hardship the Housing Subsidies Committee (*Wohnbauförderungskuratorium*) may, however, grant an exception.

Vorarlberg

With respect to housing subsidies and access to social housing, reference is made to the EU Adaptation Act (*EU- Rechtsanpassungsgesetzes*) which amended the Housing Subsidies Act: a minimum residence requirement to obtain housing subsidies, be it for housing construction and/or refurbishment, or for granting housing

allowances, is not applicable anymore. The group of eligible persons was also re-defined.

For all types of housing subsidies, natural persons who are Austrian citizens or persons of equal status pursuant to the laws of the European Union or a state treaty may be granted subsidies without having to meet any minimum residence requirement. Such persons – as well as any “third-country nationals holding a long-term residence permit” – also have access to socially integrated rental accommodation. The latter are also eligible for the housing supplement.

Vienna

In order to alleviate the burden of continued housing expenses, housing allowances were paid as listed in the following.

2004: for	41,918	cases a total amount of	EUR 68.974.686,32
2005: for	46,539	- „ -	EUR 76.634.902,04
2006: for	54,784	- „ -	EUR 86.123.012,06
2007: for	56,286	- „ -	EUR 90.088.813,39
2008: for	58,336	- „ -	EUR 92.233.671,88
2009: for	56,922	- „ -	EUR 93.241.038,80

Equity surrogate loans (*Eigenmittlersatzdarlehen*, i.e. loans with an interest rate of 0.5% to cover the proportionate land and construction costs, as invoiced by building companies, partially or in full) were granted as follows:

2004: for	2,438	cases for a total amount of	EUR 18.5 million
2005: for	2,118	- „ -	EUR 16.3 million
2006: for	2,523	- „ -	EUR 19.3 million
2007: for	2,582	- „ -	EUR 20.5 million
2008: for	2,623	- „ -	EUR 20.4 million
2009: for	2,411	- „ -	EUR 18.6 million

The following subsidies were granted for housing construction by the *Land* of Vienna:

2004: a total of	6,051 housing units
2005: a total of	5,496 housing units
2006: a total of	5,721 housing units
2007: a total of	6,796 housing units
2008: a total of	6,617 housing units
2009: a total of	6,481 housing units

Additionally, the following subsidy approvals were granted for eligible projects in the field of housing refurbishment (renovation measures as well as improvements raising the classification standard) in the years 2004 to 2009:

Years	Multi-storey buildings (number of refurbishment projects)	Refurbishment of flats/ owner-occupied homes and small garden homes
2004	442	3,178
2005	405	8,776

2006	513	8,597
2007	531	7,517
2008	567	7,571
2009	537	9,610

Roma, refugees, EEA citizens, stateless individuals, etc., are provided with a council flat via the City's *Wiener Wohnen* organisation or via the Municipal Department in charge of social housing (*Soziale Wohnungsvergabe*), if they fulfil the relevant requirements.

Pursuant to the Vienna Housing Subsidies and Housing Refurbishment Act (*Wiener Wohnbauförderungs- und Wohnhaussanierungsgesetz, WWFSG*), non-EEA citizens have the same status as Austrian nationals in the context of housing subsidies. This means that foreign and Austrian citizens can make use of housing subsidies for the purpose of housing construction or refurbishment on the same basis.

The same applies to equity surrogate loans (*Eigenmittlersatzdarlehen*). Both Austrian and foreign nationals may claim a 1 % equity surrogate loan from the City of Vienna for making an advance payment of the proportionate land and construction costs upon the acquisition of a subsidised flat.

Pursuant to the *WWFSG*, housing allowances are also available for

- a) residential buildings constructed from public funds;
- b) old buildings refurbished with subsidies; and
- c) unsubsidised accommodation (general housing allowance).

ad a) and c)

Also non-EEA nationals with a legitimate minimum residence of five years in Austria may claim these housing allowances. Permanent legitimate residence for a minimum period of five years must be evidenced by a settlement or residence permit.

ad b)

Housing allowances for old buildings refurbished with subsidies are also available to persons who have a right to employment (holding an employment permit (*Beschäftigungsbewilligung*) or an unrestricted work permit (*Befreiungsschein*) pursuant to the Employment of Foreigners Act (*Ausländerbeschäftigungsgesetz, AuslBG*)).

Whether a housing allowance is granted or not always depends on family size, family income, size of the accommodation, housing costs as well as a minimum income based on the reference rate for the equalisation supplement.

Eligibility for a council flat in Vienna is tied to five basic prerequisites:

1. Minimum age of 17 years;
2. Austrian citizenship or application by EU or EEA citizens, Swiss nationals, recognised refugees or individuals with a "long-term residence right" according to the Austrian Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*);
3. Falling below the maximum income limit (defined in Section 11 of the *WWFSG 1989*);

4. At the time of filing the application, the housing applicant must have had his/her address in Vienna registered as his/her primary residence (without any further registered residence) for at least two years;
5. Evidence that there is a need for accommodation (e. g. previous accommodation poses a health hazard, accommodation need due to illness or age; too many household members in previous accommodation (*Überbelag*), separated household, faultless termination of accommodation provided by the employer, pre-registration for young couples (*Jungwienerinnenvormerkung*), family splitting, accommodation for disabled persons).

If a housing applicant has been pre-registered for one of the reasons mentioned above, he/she will receive a reservation certificate (*Vormerkschein*) indicating the reason for pre-registration as well as the submission date.

Under certain conditions, individuals may also be awarded council flats in Vienna by the Municipal Department in charge of social housing (*Soziale Wohnungsvergabe*). This target group has to meet the basic requirements listed in items 1 – 4 above. Only the two-year primary-residence requirement at an address in Vienna may be replaced by a two-year stay in Vienna.

Additionally, under certain conditions (accommodation in the case of crisis or particular social hardship) emergency dwellings may be obtained by individuals with an advanced legal residence status (*Aufenthaltsverfestigung*, third-country nationals with legitimate residence in Austria for a minimum of five years and residence in Vienna for a minimum of two years).

Housing conditions of elderly people:

In addition to integrating the principle of “a compulsory living space design in accordance with the requirements of buildings accessible for people with impairments” into the “standard furnishing” of accommodation pursuant to Section 2 no. 2 of the Limited Profit Housing Act (*Wohnungsgemeinnützigkeitsgesetz, WGG*), limited-profit housing associations (*gemeinnützige Bauvereinigungen, gBV*) were permitted on the basis of the Housing Law Amendment 2000, Section 7 Para. 4a *WGG* to offer housing-related services, primarily to the occupants of dwellings managed by them (e. g. services in the context of elderly care), provided that these services are mainly intended to benefit the inhabitants of their own buildings.

Furthermore, the Housing Law Amendment 2006, which entered into force on 1 October 2006, introduced a new type of accommodation, the so-called “senior-citizen flat” to the Landlord and Tenant Act (*Mietrechtsgesetz, MRG*). This newly defined type of accommodation – partially evading the right of family members to take over the tenancy inter vivos or upon death – aimed at making offering such flats by limited-profit housing associations to senior citizens more attractive.

Pursuant to Section 12 *MRG*, three essential prerequisites have to be met by the limited-profit housing association in order to be able to offer this type of accommodation.

- The (individual) flats as well as the common areas of the building must cater for the needs of the elderly.

- Upon conclusion of the contract the housing association has to agree to provide a basic supply of social services for elderly people to the tenant. Such services need not necessarily be rendered by the housing association itself, but have to be made available to the tenant – for an additional fee.
- At the time of conclusion of the rental contract the main tenant of the senior-citizen flat must be 60 years of age or older.

Statements by the individual *Laender*

Vienna

Accommodation offers for elderly people in Vienna have improved over the past few years, both quantitatively and qualitatively. In this context, particular reference is made to the modifications in the field of retirement and nursing homes based on the Retirement and Nursing Home Act (*Wiener Wohn- und Pflegeheimgesetz, WWPG*) and the corresponding implementing ordinance, the support of independent living through mobile social services and geriatric day centres, as well as housing adaptations with regard to the needs of senior citizens.

At the new facilities the standards were improved, e.g. single rooms with sanitary facilities were made available at nursing homes as were assisted-living facilities for senior citizens at residential homes. Among others, this remarkable development has been shaped by the funding guidelines of the *Fonds Soziales Wien (FSW)*.

Assisted-living facilities for senior citizens provide elderly people with the opportunity to live in the company of their peers if they cannot, or do not want to, live on their own any more for psychological, physical or social reasons.

Occupants of these facilities can use various social services available within the flat-sharing community. However, assistance during the night is not provided. Depending on the size of the accommodation, approximately four to eight persons live together in one community.

Providers of flat-sharing communities for senior citizens have to offer one individual room for each inhabitant, a shared bathroom and toilet, a community kitchen as well as the provision of social services such as meals on wheels, homecare workers, home care for the ill and much more. Occupants of these flat-sharing communities for senior citizens receive attendance allowance of level 1 or higher and must reside in Vienna. The costs vary according to the furnishing and equipment of the flat. In general, the costs have to be paid by the residents; residents with a low income may, however, apply for rental assistance. The contribution to be paid for social services by the residents themselves is calculated by the "*Pflege und Betreuung zu Hause*" counselling centre (home nursing and care).

The programme of "*Sozial Betreutes Wohnen*" caters for the needs of elderly, previously homeless people. Socially assisted accommodation is thus available to this target audience in cases where living independently and without care is no longer possible. Within the scope of this scheme, one of the major goals to protect the dignity of the elderly and to provide them with adequate accommodation, if possible, for the rest of their lives.

A multi-faceted offer of partly residential and mobile services enables elderly citizens in Vienna to live at home as long as they wish and plan. Residential care will be required at an advanced age, when this type of accommodation becomes necessary due to multimorbidity and the related increased need of nursing and care. The severity of a condition as well as the duration of a potential improvement or

deterioration of the general physical state, and therefore the related nursing needs cannot be predicted accurately. It should be avoided to relocate residents several times, just to achieve the most suitable form of care for the current state. Hence, institutions must be able to react in a flexible way to the changing needs of residents, which poses special requirements to the personnel's occupational qualifications and the infrastructure.

Care facilities in Vienna increasingly attempt to implement life-oriented environments with the aim to create residential care and assistance facilities as a place of living. Care and assistance is to be adapted to the history and lifestyle of their inhabitants. Moreover, the needs and prevailing competences of elderly people in need of care are taken into account.

The *WWPG* stipulates mandatory standards for retirement and nursing homes in Vienna, including construction requirements and technical equipment standards, qualitative and quantitative staff requirements and the residents' protection of their individual needs. This Act therefore represents an essential component of quality assurance in residential nursing and care. Based on the *WWPG*, the Vienna *Gemeinderätliche Geriatriekommission* committee has developed the strategic concept of "Active and self-determined living for elderly people in Vienna" (*"Lebenswertes Altern in Wien - aktiv und selbstbestimmt"*). In order to implement the nursing and care concepts that result from these standards in the best possible way, the City of Vienna has decided on an ambitious expansion and/or modification programme for the Vienna retirement and nursing homes.

With a view to the future development of social and healthcare services, the *Gemeinderätliche Geriatriekommission* does not focus on quantitative expansion, but concentrates on achieving better quality by offering flexible, structured and holistic services adaptable to the individual needs of senior citizens. These services are expected to be available to the elderly locally and readily while at the same time being affordable.

The following strategic objectives were defined for elderly care:

- Maximum support for retaining personal responsibility/self-determination;
- Avoiding social isolation;
- Transformation from a "nursing and care chain" towards a "nursing and care network";
- Preparation for old age; and
- Control of public funds with a view to their effectiveness.

In the future, rather than erecting large-scale nursing and care institutions such as the geriatric centre *Am Wienerwald*, the focus is to be put on smaller, decentralised facilities in the vicinity of people's homes. In order to better meet the requirement of care facilities close to elderly people's places of residence, the currently existing surplus of offers in the West of Vienna will be shifted to parts of the city where demand is higher.

For the Vienna Hospital Association (*Wiener Krankenanstaltenverbund*) with its organisational unit for geriatric centres and nursing homes providing social-medical care it is foreseen to reduce the available number of systemised beds to approximately 3,500 by the year 2010. At the same time, massive restructuring of existing facilities and/or construction of new facilities are to be expected in order to comply with the stipulations of the *WWPG*. Modern facilities designed in accordance with the law will be established for a total of 3,500 residents.

In the future the facilities of the geriatric centres of the City of Vienna will cater for the needs of persons with a high degree of multimorbidity categorised at attendance allowance levels 4 to 7, who are in an unstable condition and unlikely to return to their homes or to a facility with a lower degree of care. The objectives of care and nursing in this respect are to maintain people's quality of life, to restore and/or preserve their skills and to live in dignity in their last years. Care is provided according to an interdisciplinary care plan developed in the context of a multi-discipline care process.

More precisely, the Vienna Hospital Association (*Wiener Krankenanstaltenverbund*) with its organisational unit for geriatric centres and nursing homes providing social-medical care wants to achieve the following goals:

- Accommodation conditions for nursing home residents will be revamped
- Decentralised structures will be created
- Operational procedures will be streamlined and modernised
- The number of occupants will be reduced to 3,500 persons
- The number of staff will be adjusted to market level
- A market-oriented cost level will be achieved.

ARICLE 17

THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

Article 17

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is updated as follows:

Health insurance

Legal framework (as last amended):

- General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*), Federal Law Gazette no. 189/1955,
- Farmers Social Insurance Act (*Bauern-Sozialversicherungsgesetz, BSVG*), Federal Law Gazette no. 559/1978,
- Commercial Social Insurance Act (*Gewerbliches Sozialversicherungsgesetz, GSVG*), Federal Law Gazette no. 560/1978,
- Civil Servants Sickness and Accident Insurance Act (*Beamten-Kranken- und Unfallversicherungsgesetz, B-KUVG*), Federal Law Gazette no. 200/1967

The citizenship of the beneficiaries and their families is not relevant to the entitlement to health insurance benefits. The statutory provisions apply to the entire Austrian territory.

Any children, spouses or registered partners considered to be family members of the beneficiary as well as any persons that are no family members but live in the same household as the beneficiary (cohabiting partners) are eligible to receive medical treatment, institutional care and maternity support under basically the same conditions and to the same extent as the beneficiary himself or herself. This co-insurance is free of charge for children, family members who engage in childcare or have engaged in childcare for a minimum of 4 years, recipients of attendance allowance and for persons in need of special social protection.

Medical treatment for family members

Any children, spouses or registered partners considered to be family members of the beneficiary as well as any persons that are no family members but live in the same household as the beneficiary (cohabiting partners) are eligible to receive medical treatment, if their habitual place of abode is in Austria and they are not insured themselves. According to the provisions of the *ASVG*, *B-KUVG*, *BSVG* or *GSVG*, medical treatment also includes receiving medical drugs and aids as well as receiving therapeutic appliances pursuant to the *GSVG* und *B-KUVG*.

Pursuant to the *GSVG*, *BSVG* and *B-KUVG*, treatment contributions and/or cost deductibles have to be made for consulting a medical doctor.

A prescription charge has to be paid for obtaining medical drugs. This prescription charge does not have to be paid by persons with a special need of social protection or if the upper limit for the prescription charge total as defined in the guidelines of the Main Association of Austrian Social Security Institutions is reached.

Institutional care in a public hospital will be provided in case and as long it is required by the specific disease. Pursuant to the provisions of the *ASVG* and *BSVG* the beneficiary has to pay a contribution towards institutional care of a family member. No contribution has to be paid for a period of institutional care exceeding four weeks per calendar year. Pursuant to the provisions of the *GSVG* and the *B-KUVG* a contribution limited to four weeks has to be paid in accordance with the individual hospitals acts.

Dental treatment and prosthesis: Necessary dental treatments as well as unavoidable dental prosthesis are paid by the health insurance, although the beneficiary is obliged to pay a contribution.

Sick pay: From a certain point of time, sick pay pursuant to the *ASVG* may be raised by a certain percentage with a view to children deemed to be family members of the beneficiary.

Maternity support to beneficiaries and family members

Female beneficiaries as well as female persons deemed to be family members receive the following benefits in kind following occurrence of maternity as the insured event. Assistance by a midwife, medical assistance if necessary, medical drugs and aids; hospital care (also at birth centres).

Only female persons suffering a loss of income upon the occurrence of the insured event, i. e. usually employed and self-employed persons covered by compulsory insurance, or voluntary insurance in the case of marginal part-time workers, are entitled to the monetary benefit of maternity benefit payments. Under certain restricted conditions, maternity benefit will also be paid in cases where pregnancy occurred while covered by a compulsory insurance (existing employment relationship) but terminated later on ("maternity leave cases"). Childcare benefit

recipients are eligible for maternity benefit if they were granted maternity benefit for the child birth which made them eligible for the receipt of childcare benefit.

Maternity benefit, which is a monetary benefit, is payable for eight weeks immediately preceding the presumed date of confinement, the day of birth and the eight weeks immediately following child birth. In the case of premature births, multiple births or Caesarian section births, mothers are granted maternity benefit for a period of twelve weeks following birth.

The amount of maternity benefit is determined on the basis of calendar days of the average work remuneration of the last 13 weeks and/or the last three calendar months, reduced by statutory deductions. Special provisions apply to self-insured marginal workers as well as childcare benefit recipients.

Maternity support will also be granted to wives even after dissolution of the marriage by death of the beneficiary, annulment or divorce of a marriage, if birth occurs before the 302nd day following the dissolution of the marriage.

Family members of beneficiaries completing national service, of women in national training service, of severely injured persons pursuant to the Army Benefit Act (*Heeresversorgungsgesetz, HVG*) and the War Victims' Benefits Act (*Kriegsopferversorgungsgesetz, KOVG*) as well as of victims pursuant to the Victims Assistance Act (*Opferfürsorgegesetz, OFG*) participate in the statutory health insurance plan.

Benefit payments by the health insurance for family members of beneficiaries

The share of benefits paid to family members of beneficiaries in the total expenditure on insurance benefits was as follows:

	<i>Total benefit expenditure in million EUR</i>		<i>Benefits paid to family members of beneficiaries in million EUR</i>		<i>Share</i>
1998	EUR	8.58	EUR	1.61	18.7
1999	EUR	9.14	EUR	1.66	18.2
2000	EUR	9.45	EUR	1.67	17.7
2001	EUR	9.78	EUR	1.70	17.4
2002	EUR	10.14	EUR	1.71	16.9
2003	EUR	10.42	EUR	1.69	16.2
2004	EUR	10.85	EUR	1.67	15.4
2005	EUR	11.17	EUR	1.75	15.7
2006	EUR	11.69	EUR	1.81	15.5
2007	EUR	12.40	EUR	1.89	15.2
2008	EUR	12.99	EUR	1.93	14.8

Statistical data concerning the number of mothers and children covered by health insurance are not available; yet it may be assumed that the quota will hardly be below 100%.

Accident insurance

Legal framework (as last amended):

- General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*), Federal Law Gazette no. 189/1955,
- Farmers Social Insurance Act (*Bauern-Sozialversicherungsgesetz, BSVG*), Federal Law Gazette no. 559/1978,
- Civil Servants Sickness and Accident Insurance Act (*Beamten-Kranken- und Unfallversicherungsgesetz, B-KUVG*), Federal Law Gazette no. 200/1967

The citizenship of the beneficiaries and their families is not relevant to the entitlement to accident insurance benefits. The statutory provisions apply to the entire Austrian territory.

While pupils and students have been covered by the compulsory accident insurance plan without extra contributions since the 32nd amendment of the ASVG in 1977, from 1 September 2010 also nursery school children will be included during the compulsory last year at nursery school.

The following groups are entitled to accident insurance:

- a) nursery school children if they attend an appropriate institutional childcare facility in the final year before starting compulsory school;
- b) schoolchildren at general compulsory schools, vocational schools, secondary academic schools as well as teachers' and educational workers' schools and colleges;
- c) students at universities, colleges, music academies and the Diplomatic Academy.

All **school children** are covered irrespective of their nationality and independently of the fact whether they attend a public or a private school. Also during the times of an individual, extra-curricular vocational orientation programme (*Schnupperlehre*), schoolchildren are covered by the compulsory accident insurance for schoolchildren.

University **students** are covered if they are enrolled as regular degree students and if they are Austrian nationals (nationals of other EEA member states have an equal status). Students are also covered, if they are nationals of a country that has concluded a corresponding social insurance agreement with Austria; coverage also applies to students from abroad with at least one parent that was obliged to full payment of income taxes in Austria for a minimum period of five years, with the prerequisite that they had their centre of vital interests in Austria during this time. Furthermore, the insurance also covers persons admitted for the university entrance qualification exam (*Studienberechtigungsprüfung*) and who attend courses at universities or adult education facilities in order to prepare for this exam.

Schoolchildren and students carrying out practical work (not in the framework of an employment relationship) as required by the curriculum and/or study plan are also subject to the provisions of pupils' accident insurance.

Accident insurance for these groups is funded by a contribution to be made from the Family Burdens Equalisation Fund, with the remaining amount being provided by the *Allgemeine Unfallversicherungsanstalt (AUVA)*.

Insurance cover includes all accidents occurring in connection with the nursery school/school attendance or university education, i. e. any accident occurring when attending (tuition) classes and courses, lectures, excursions, project and sports

weeks as well as skiing weeks organised by the school, school-related events as well as individual vocational orientation programmes.

In particular also accidents occurring on the way to and from nursery school/school/university and to the above mentioned events are covered by accident insurance as well as any accidents related to autonomous activities by schoolchildren and students.

Additionally, insurance cover also includes occupational diseases.

Benefits in kind comprise treatment of accidental injuries as well as medical, occupational and social rehabilitation measures.

Monetary benefits include disability benefit in case the working capability is reduced by 50 % or more over a period of three months following occurrence of the insured event. This disability benefit will be paid from the time when school attendance would normally have been completed and working life would have started.

Surviving dependants' pensions (*Hinterbliebenenrenten*) as well as a partial reimbursement of funeral costs as well as the transportation costs (optional provision) have to be paid to the same extent as for any other beneficiary. Any additional provisions with respect to the receipt of benefits (e.g. pension supplement, children's supplement, supply with a prothesis, payment in lieu) are to be applied to the same extent to pupils and students.

However, schoolchildren and student accident insurance does not include a daily pay (*Taggeld*) or family pay (*Familiengeld*).

Children's supplement (*Kinderzuschuss*)

For each child of a severely disabled person a children's supplement amounting to 10 % of the disability benefit (capped with EUR 76.31) is to be paid up to the child's 18th birthday. In case the child attends school or completes vocational training this period may be extended to the 27th birthday; however, in the case of according physical or mental deficiencies it may be paid for an unlimited period.

(Daily) family pay (*Familien(Tag)Geld*)

If the disabled person receives treatment at a hospital, nursing home, rehabilitation centre or other care facility after an accident, he/she will be entitled to a daily family pay for his or her family members if certain conditions are met; only beneficiaries insured under the ASVG are eligible for this type of benefit.

Special assistance

For the duration of treatment following an accident, the accident insurer may grant a voluntary benefit in the form of special assistance to the injured person or his/her family members, taking into account the severity of the consequences of the injury and the duration of treatment.

The following **benefits** may be granted to **surviving family members**:

Widow's benefit, widower's benefit

This benefit is granted as a one-off benefit if a severely disabled person dies and the widow(er) is not eligible for receiving a widow(er)'s pension due to the fact that death did not occur as a consequence of a work accident or an occupational disease. It is due pursuant to the provisions of the ASVG and the B-KUVG.

Furthermore, a contribution will be made towards funeral costs and, if required, a supplement to the transportation costs or a reimbursement of such costs may be granted.

Widow's pension, widower's pension

In case the beneficiary died due to the consequences of a work accident or an occupational disease the widow(er) is eligible for receipt of a widow(er)'s pension until her/his death or re-marriage.

This type of pension is also awarded to a former spouse whose marriage to the beneficiary was annulled, dissolved or divorced, provided that spousal support was paid at the time of death. The pension is paid as long as the former spouse does not get married again.

Orphan's pension

Orphans with one parent deceased receive 20 %, orphans with both parents deceased 30 % of the assessment base.

	Expenditure on orphan's pensions from accident insurance funds in million EUR	
1998	EUR	17.92
1999	EUR	18.07
2000	EUR	17.77
2001	EUR	17.30
2002	EUR	17.27
2003	EUR	17.2
2004	EUR	17.2
2005	EUR	17.2
2006	EUR	17.4
2007	EUR	17.5
2008	EUR	17.4
2009	EUR	17.0

Pension insurance

Legal framework (as last amended):

- General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*), Federal Law Gazette no. 189/1955,
- Farmers Social Insurance Act (*Bauern-Sozialversicherungsgesetz, BSVG*), Federal Law Gazette no. 559/1978,
- Commercial Social Insurance Act (*Gewerbliches Sozialversicherungsgesetz, GSVG*), Federal Law Gazette no. 560/1978,

Pension insurance payments awarded to children of eligible or deceased beneficiaries:

Equalisation supplement

An equalisation supplement to pension insurance benefits is granted if the total income of the beneficiary is below certain standard rates graded by family status. The standard rate applicable for each child increased annually as follows:

2003	by EUR 68.49
2004	by EUR 69.52
2005	by EUR 70.56
2006	by EUR 72.32
2007	by EUR 76.09
2008	by EUR 78.29
2009	by EUR 80.95

Children's supplement

A children's supplement amounting to 5 % of the assessment base and of at least EUR 29.07 is granted to old age (disability) pensions for every child up to completion of the 18th year of life throughout the whole period under review, and subject to the same requirements as in accident insurance. Beyond the 18th year of life children's supplement is granted only upon special application:

Expenditure on children's supplements from pension insurance funds:

2003	EUR 26.01 million
2004	EUR 25.77 million
2005	EUR 26.51 million
2006	EUR 27.05 million
2007	EUR 27.58 million
2008	EUR 28.12 million
2009	EUR 28.62 million

Orphans' pension

The orphan's pension amounts for a single orphan to 40 %, for a double orphan to 60 % of a widow's or widower's pension calculated at a percentage of 60.

Beyond the 18th year of life an orphan's pension is granted only upon special application.

Expenditure on orphans' pensions from pension insurance funds:

2003	EUR 132.08 million
2004	EUR 135.18 million
2005	EUR 141.10 million
2006	EUR 146.97 million
2007	EUR 150.09 million
2008	EUR 153.52 million
2009	EUR 158.44 million

Unemployment insurance

Legal framework:

Unemployment Insurance Act 1977 (*Arbeitslosenversicherungsgesetz, AIVG*), Federal Law Gazette no. 609 as last amended.

Family supplements (*Familienzuschläge*)

Family supplements to unemployment benefit/unemployment assistance are granted for children who are supported by the unemployed person to a considerable extent, if he/she is also eligible for family allowance. For a spouse, cohabiting partner and/or registered partner a family supplement is only granted if such supplement was also granted for children of minor age living in the same household or to whose custody the beneficiary is obliged. Children of major age for whom family allowance was granted on the grounds of a disability are eligible for the same supplements as minor-aged children.

Health insurance of unemployed persons

Additionally, every beneficiary as well as any family members of the beneficiary being eligible for family supplements are also covered by health insurance during the time of receiving benefits from unemployment insurance. In this case a beneficiary as well as his/her family members are eligible for the same benefits as any other beneficiaries insured on the basis of employment. Health insurance contributions are paid from unemployment insurance funds.

Individuals who are not eligible for unemployment assistance due to the fact that the income of their spouses, cohabiting partners or registered partners is taken into account, but who meet all other requirements for obtaining the benefits, and thus accumulate pension insurance periods during this time, are also covered by health insurance.

Childcare allowance (*Kinderbetreuungsbeihilfe*)

For the purpose of supporting the re-integration of unemployed persons into the labour market and/or securing employment, the Austrian Public Employment Service (*Arbeitsmarktservice, AMS*) may grant benefits for increasing the regional mobility of its clients. An important measure for promoting mobility is childcare allowance. The costs for childcare facilities for children may be paid in order to support re-integration into the labour market, for securing an existing employment or for enabling the beneficiary to participate in labour-market policy (re-)integration programmes. This allowance is granted to women and men with care duties towards children if

- starting an employment or participating in occupational training or education programmes or vocational orientation measures that are promising from a labour market perspective, or actively seeking a job is not possible or only to a limited extent;
- retaining an existing job, continuing occupational training or education programmes or vocational orientation measures that are promising from a labour market perspective, participating in a business start-up programme or some other initiative with the objective to actively seek a job is restricted or put at risk;

or because

- their economic situation has deteriorated considerably despite having a job;

- significant modifications of working times require a new childcare facility or type of childcare;
- the person who used to care for the child is no longer available.

The prerequisites for being granted childcare allowance are that the child lives in the same household, is younger than 15 years (younger than 19 years in the case of a disabled child) and a certain limit of (family) income is not exceeded. The amount of childcare allowance is based on the gross (family) income, the costs involved in childcare as well as the duration and type of childcare, and may amount to up to 90% of the total costs (a maximum of EUR 524 per month).

This allowance is always granted for half a year, which means that a new application is to be submitted every half year. The support period for one child may be up to three years. The application has to be filed before starting work or participating in a labour market measure and before the child is placed in a childcare facility.

The following table shows the development of support cases:

	2007	2008	2009
Childcare allowance support cases	12,668	11,205	9,134
AMS funds spent on childcare allowance	EUR 6,296,737	EUR 5,586,059	EUR 4,110,571

Childcare benefit (*Kinderbetreuungsgeld*)

Reference is made to the relevant statements on Article 16.

Free school transport, school books, etc.

Reference is made to the relevant statements on Article 16.

Youth employment – training allowances (*Ausbildungsbeihilfen*)

The dual apprenticeship training scheme, characterised by its practical approach, is a pillar of the Austrian education system and as such the strongest branch of secondary education. Apprenticeship training takes two to four years and ends with the final apprenticeship examination. It takes place at a company and at a vocational school. This dual system is open to young people after completing a compulsory schooling period of nine years. The model of dual education is currently offered for approximately 260 apprenticeship trades, governed by vocational training guidelines.

Apprenticeship promotion at company level

On 28 June 2008 new regulations concerning the promotion of companies offering apprenticeship programmes entered into force with Sections 19c et seq. of the Vocational Training Act (*Berufsausbildungsgesetz, BAG*). Subsidies are granted by the Apprenticeship Offices on behalf and account of the Federal Government. The Apprenticeship Offices are delegated by the Economic Chamber in the relevant *Land*. Special sections within the Apprenticeship Offices run by the Economic Chamber are responsible for administering the apprenticeship subsidies. For the preparation and execution of decisions by the Apprenticeship Offices the Economic Chambers may use an independent organisation or other appropriate service

institution pursuant to Section 19c Para. 7 BAG. In this context WKO Inhouse GmbH of the Economic Chambers of Austria was commissioned to take over those tasks of subsidy management which can be pooled and carried out for the whole of Austria. For this purpose, the division “*Inhouse Förderservice (IFS)*“ was founded within the Inhouse GmbH in 2008.

The total volume of apprenticeship subsidies excluding AMS payments amounts to EUR 151 million in 2010.

Basic subsidy

This subsidy replaces the former apprenticeship bonus for apprenticeships starting after 28 June 2008. Instead of a credit on the company's tax account in the annual financial statements the subsidy is now actually and visibly paid out (tax-free). In order to accelerate determination of the subsidy amount, the Economic Chambers may use data provided by the Main Association of Austrian Social Security Institutions concerning the actually paid out apprenticeship allowance.

After each year of apprenticeship the basic subsidy may be applied for, amounts as given in the following:

- 1st apprenticeship year 3 monthly apprenticeship allowance payments
- 2nd apprenticeship year 2 monthly apprenticeship allowance payments
- 3rd and 4th apprenticeship year: 1 monthly apprenticeship allowance payment per year, or half a monthly apprenticeship allowance payment in the case of an apprenticeship period of 3.5 years.

Subsidising additional apprenticeship places

This subsidy is intended to encourage companies or start-ups to start offering apprenticeship training for the first time or, in the case of companies that have not offered apprenticeship training for at least three years, to re-start offering apprenticeship places. The subsidy is a one-off payment and amounts to EUR 2,000 for each newly created apprenticeship place. Applications may be submitted to the Apprenticeship Offices run by the Economic Chambers for each year in retrospective.

Further quality-oriented incentives

These incentives are intended to promote quality apprenticeship training at companies, and are granted for already existing apprenticeships, too.

- Promoting further training initiatives of trainers;
- Promoting additional qualifications of apprentices in excess of the statutory job profile and thereby raising qualification standards;
- Promoting training associations in the form of “voluntary” associations (agreements between companies for offering training in addition to the required job profile) as well as “mandatory” training associations for covering the required training contents with respect to the respective job profile;
- Promoting slow learners who have to acquire school-leaving qualification in a second attempt through attending extra courses or crash courses by providing these free of charge;
- Bonuses for final apprenticeship examinations passed with excellent or good success (EUR 200 for good success, EUR 250 for excellent success);
- Corporate initiatives promoting equal access to various apprenticeship trades for young women and men;
- Training certificate at apprenticeship mid-term (EUR 3,000 if successful);

Person-related AMS subsidies

In addition to the above mentioned company-related support, the AMS provides individual person-related incentives for promoting apprenticeship places in accordance with the Vocational Training Acts with the aim to improve the integration of problem groups into the labour market and to counteract the discrimination of women. This takes the form of a lump-sum supplement to the costs of apprenticeship training and integrative occupational training.

Persons eligible for this type of incentive are girls in apprenticeship trades with a low percentage of women (less than 40 % women in the previous training year), apprenticeship applicants particularly disadvantaged due to physical, psychological or mental deficiencies or social maladjustment as well as young people that completed their compulsory schooling in whole or in part at a special needs school or a lower secondary school with a need for special pedagogical support, slow learners having completed compulsory schooling, apprentices who have lost their apprenticeship place outside the statutory trial period or young people receiving payments pursuant to the Unemployment Insurance Act (*Arbeitslosenversicherungsgesetz, AIVG*). The participants of integrative occupational training (*integrative Berufsausbildung, IBA see below*) qualify for special support. Companies receive subsidies of up to EUR 400 per month for girls and disadvantaged young people as well as *IBA* participants, training institutions above company level up to EUR 453. Young people older than 19 years are supported with up to EUR 755 at company level and above. For the year 2010 funds totalling EUR 30 million are available for person-related apprenticeship promotion by the AMS.

Apprenticeship training above company level

In 1998 the Youth Training Consolidation Act (*Jugendausbildungssicherungsgesetz, JASG*) was passed for the provision of course and foundation places for young people who are not able to find an apprenticeship vacancy after completing compulsory schooling. In June 2008 the *JASG* was replaced by an amendment concerning the expansion of apprenticeship training above company level. Together with this amendment the Austrian government established the “education and training guarantee”. Young persons who want to complete apprenticeship training, but cannot find a vacancy at a company are hence guaranteed a training place at an institution above company level.

The legal framework regarding apprenticeship training above company level was summarised and amended in the *BAG* (Sections 30 and 30b).

With respect to labour and social rights (General Social Insurance Act, Unemployment Insurance Act, Insolvency Guarantee of Remuneration Act, Family Burden Equalisation Act and concerning compulsory vocational school) individuals completing apprenticeship at training institutions above company level are treated equally to company apprentices and are also entitled to receive training pay. Currently, the monthly training pay within the first two years of apprenticeship is EUR 240, from the third year of apprenticeship EUR 555.

In principle, everybody looking for an apprenticeship vacancy who is registered with the AMS and has completed compulsory schooling may participate in a training programme offered at an apprenticeship institution above company level, if he/she

has not been able to find a suitable apprenticeship place despite intensive job placing attempts or if he/she has abandoned an apprenticeship at company level.

Training measures have to be designed to meet the job profile of the respective apprenticeship, and the training objective must correspond to the requirements as defined in the examination rules of a respective apprenticeship. Training is expected to be completed upon the applicant starting an apprenticeship at a company or passing the final apprenticeship examination. Vocational school attendance is mandatory.

For promoting apprenticeship at company and above-company level by the AMS a budget of EUR 189.8 million is available for 2010.

	2007/2008	2008/2009	2009/2010
Participants at above-company level training	8,190	10,213	12,300

Integrative occupational training

Through an amendment to the Vocational Training Act (*Berufsausbildungsgesetz, BAG*) in 2003 it became possible for persons with a lack of social skills, lack of talent or with a physical handicap to undergo integrative occupational training (*Integrative Berufsausbildung, IBA*). The integrative occupational training initiative offers these young people two new options regarding their vocational training: a partial apprenticeship or apprenticeship with an extended training period. In the framework of partial qualification selected parts of the job profile for one or several apprenticeships are taught within one to three years, which will be confirmed by a final certificate. In the case of an extended training period, the regular training period is extended by a maximum of one year (in exceptional cases by up to two years) and completed with the regular final examination. Both options offer vocational training assistance for the integrative occupational training period; this assistance provides social education, didactic and psychological care to the young person and is crucial for the success of this measure. 1,250 integrative training places are available for the training year 2009/2010.

Advance on maintenance payments

Pursuant to the Advance Maintenance Payment Act of 20 May 1976, Federal Law Gazette no. 250 the state has to make advance payments if a parent or grandparent who is obliged to maintenance does not comply with his/her obligations. Advance payments are made in the same amount as the individual normally obliged to maintenance has to pay. However, the overall upper limit for 2010 is EUR 512.41 per month.

The Act Governing Amendments to Family Law 2009 (*Familienrechtsänderungsgesetz 2009, FamRÄG 2009*), which entered into force on 1 January 2010, stipulates a number of measures to speed up the process of advance payments:

- An unsuccessful execution is no longer required for granting the advance payment;
- The period of granting the advance payment was extended from three to five years;
- Continued payment in case of changed entitlement basis;

- Interim injunctions are treated equally to other maintenance titles;
- Advance reference rates were adapted to the jurisdiction;
- Concrete measures in favour of children in the case of non-payment and suspended payments.

Adoption

The *FamRÄG* 2009 stipulates the elimination of dowry, replacing it by „furnishings“ (*Ausstattung*). Furthermore, this collective amendment introduced the recognition of decisions regarding the adoption of a child as passed by foreign courts (amendment to the Non-Contentious Proceedings Act) as well as an obligation of the court to obtain criminal records information with respect to the adoptive parents and their immediate family relations.

Protection of orphans and children whose parents are not able to exercise their custody rights:

Upon entry into force of the Act to Reform the Law of Parent and Child 2001 (*Kindschaftsrechts-Änderungsgesetz, KindRÄG*) the legal concept of a guardian (*Vormund*) for minors was abolished. The person being entitled to child custody is obliged to care for and bring up the minor, act as his/her legal representative and handle his/her assets. For minors who are not represented by a parent, a suitable person has to be entrusted with the custody rights by the authorities.

Transfer of a child into public care:

In 2008 (latest pan-Austrian statistics available) 25,969 minors received parenting support within the family. 10,557 children and young persons were in full care of whom 4,481 children were placed with foster parents (6,076 were placed in youth welfare institutions).

Reply to the additional question by the Committee on Social Rights regarding Article 17 in the Conclusions XVIII-2:

Children in public care

The Committee repeats its request for information on the conditions under which an institution may restrict or interfere with a child's property, mail, personal integrity and right to meet persons close to him.

It is not conceivable that the “property rights” of a minor are restricted. If this request for information addresses the approval of medical treatments, it has to be mentioned that minors with the ability to understand and judge always have to approve for themselves (Section 146c *ABGB*). To the extent that minors are not able to understand and judge themselves, approval will be granted by the legal representative. In case the legal representative is “another person entrusted with custody” – for instance a more remote relative – he/she will require a medical certificate evidencing the necessity of the treatment or a court approval for consenting to treatments that are likely to affect the physical integrity or personality of the minor concerned in a severe and/or permanent way. If the minor refuses approval, the representative needs a court approval in any case.

Any person exercising care and education of a minor, is also entitled to monitor the child's contact to other people. Parents and, to a lesser degree, also grandparents, have a right to maintain contact with the child. The child also has this right towards third persons, if this is required for its well-being and the third person agrees. In the case of dispute such contacts are decided upon by the court pursuant to Section 148

ABGB. These provisions also apply if custody has been entrusted to a youth welfare institution on the basis of the law or through a court ruling concerning the assignment of custody.

The Committee notes that in Lower Austria, children themselves can file complaints on conditions in institutions and asks whether this is the case in other Laender.

The Committee asks that the next report explain the role, legal and otherwise, of a guardian or other care taker in a child care institution.

The Committee wishes to receive further information on regulations concerning staff qualifications and training and wage levels of staff in institutions.

The Committee considers that a unit should not accommodate more than 10 children. It notes from the last report that in Carinthia the residential units have a maximum of 10 children and asks for information on the situation in other Laender.

Note

Pursuant to the stipulations of Section 12 Para. 1 *B-VG*, in youth welfare matters the Federal Government is competent only to pass basic laws, while executory laws and execution are within the competence of the *Laender*.

The additional questions regarding the roles of guardians and care takers, the qualifications and wages of staff as well as the number of children accommodated in one residential unit concern the execution of laws and therefore fall within the competence of the *Laender*. In this respect, the *Laender* are not obliged to provide information to the Federal Government.

Statements by the individual Laender

Burgenland

Within the scope of youth welfare, there are currently 20 residential care facilities for children and young persons (socio-pedagogical institutions and institutions with a psychotherapeutic focus) in Burgenland. These facilities provide care for children and young people who were taken out of their families due to the families' insufficient or lacking resources.

Such facilities may only be established and operated with the approval of the *Land* Government. The approval may only be granted if the following requirements are met: existence of a socio-pedagogical concept based on commonly accepted scientific findings, a sufficient number of qualified employees for the management of the facility and the provision of care and upbringing for the minors, suitability of the premises, sufficient funds for providing care in accordance with the responsibilities of youth welfare. Homes are subject to the supervision of the *Land* Government and have to be inspected annually.

A socio-pedagogical youth welfare institution or a group in a Children's Village (*Kinderdorf*) may not provide care for more than 16 children and young persons. The ratio of children/young persons to educational staff (without management) is 2.5:1. If fewer than 12 children/young persons are accommodated in such institutions, an educational staff of at least five persons has to be available. Institutions with a psychotherapeutic focus may accommodate 12 children and/or young persons at most, the ratio of caregivers to children/youth is 2:1. Most employees are paid according to the applicable collective agreement of the *BAGS*, the professional association of employers for health and social professions.

The employees who provide care for minors must have adequate training and qualifications. They must not have been convicted for any offences which may endanger the minors' well-being, and they must not have any psychological or mental deficiencies which might impair the minors' physical and/or psychological-mental development. One third of the pedagogical staff has to consist of certified social education workers (*Diplomsozialpädagog/innen*) or have undergone equivalent recognised training. The other staff providing care must have basic psychosocial training. Persons without specific professional training may be employed if they are undergoing an on-the-job training. They have to commence such training in the first year of their job and successfully complete it within five years. The organisation running the facility is responsible for the further training of the staff, while the authority responsible for youth welfare (i.e. the *Land*) prescribes the number of hours of further training to be attended per year.

As regards the procedure for complaining about the treatment in institutions, it should be pointed out that such a possibility is expressly stipulated by law as one of the tasks of the Children and Youth Ombudsperson, with no age limit applying. Complaints may also be submitted at the youth welfare departments of the district commissioners and magistrates as well as at the competent department at the Office of the *Land* Government of Burgenland. In this case, there are no age limits either and all complaints will be immediately reviewed.

The law does not provide for any restrictions concerning personal contacts of the children or young persons and the facilities are required to work closely with parents and to encourage any contacts. In individual cases, however, restrictions may be imposed if the child's well-being might be endangered by such contacts.

At the end of 2009, 230 children and young persons from Burgenland were under institutional care. 126 children lived in foster care. 999 children and young persons received parenting support.

Children and Youth Ombuds Office:

Based on the Burgenland Youth Welfare Act, a Children and Youth Ombudsperson has been established.

He/She has the following tasks:

- Handling the complaints submitted by children and young persons, parents/guardians and legal representatives;
- Identifying deficiencies or shortcomings which affect children and young persons;
- Receiving and reviewing suggestions;
- Providing information on these matters in accordance with the provisions of the Burgenland Duty to Provide Information Act (*Bgld. Auskunftspflichtgesetz*);
- Preparing recommendations or getting into contact with the competent persons or facilities in the interest of the children and young persons;
- Reviewing and initiating laws and ordinances concerning the interests of children and young persons;
- Making recommendations, proposals and statements concerning requests of children and young persons; and
- Providing information on the rights and interests of children and young people and on the tasks of the Children and Youth Ombudsperson.

Carinthia

A child is taken into State care, particularly if the family of origin has inadequate parenting skills, by assigning custody to the youth welfare authority, at least in the areas of care and upbringing, either by agreement or on the basis of a court decision.

Depending on the age and personality of the child, the youth welfare authority later accommodates him/her in a suitable foster-family or other youth welfare institution.

The Federal *Land* of Carinthia has a wide and varied range of care facilities outside the family for satisfying the individual problem- and age-related needs of children and young persons.

The following forms of care, with different organisational structures and objectives, are available:

- Homes
- Flat-sharing communities
- Family flat-sharing groups
- Associations of flat-sharing groups
- Children's villages (*Kinderdörfer*)
- Crisis intervention services
- Extramural forms of assisted living
- Foster-families/Crisis-foster-families

The various services work on the basis of the relevant socio-educational plan, which specifies the target group to be cared for, the age structure, placement indication/counter-indication, parenting aims, parenting services, etc. Owing to the range of services available, the individual needs of the children and young persons can be taken into account to a very wide extent, so that they can be offered the best possible living conditions.

In all these services, care is taken to ensure that the residential units are relatively small and manageable (groups with a maximum of 10 places).

The services are subject to technical inspection by the authorities

The following facilities are available for foster-families:

1. New guidelines for the selection of new foster-parents: Standard and binding guidelines for the selection of new foster-parents have been created jointly with qualified social workers. These guidelines regulate selection procedure and criteria.
2. Preparatory seminars for new foster-parents: Applicants for places as foster-parents, who have satisfied the selection procedure (see 1 above) and have been found to be suitable in principle must attend a two-day preparatory seminar, concentrating on personal experience and motivation analysis, before being allotted a foster-child.
3. Continuous further training: Further training courses for all foster-parents are held twice a year. These full-day courses offer both technical training and also an opportunity for exchange of experience between foster-parents and youth welfare authority staff.

4. Training record card: Attendance at further training courses, seminars, lectures, etc. is entered in this training record card for foster-parents, as evidence of technical qualifications.
5. Foster-Parents Service facilities: Conclusion of non-standard contracts between the foster-parents and the applicant organisation (SOS-Kinderdorf), giving protection under social insurance law. The foster-parents employed receive ongoing support and assistance from women psychologists of the Foster-Parents Service, (assistance in crisis situations, documentation of care, etc.). Participation in the further training courses (see 3 above) is compulsory for the foster-parents employed.
6. Monitoring of care is the responsibility of the authorities.

Number of children/young persons taken into State care

Year	Children/young persons in care, total	thereof in homes and other institutions	thereof foster-children
1999	1,017	556	461
2000	1,011	591	448
2001	909	592	317
2002	919	626	293
2003	926	633	293
2004	887	614	273
2005	873	608	265
2006	944	690	254
2007	926	659	267
2008	920	667	253
2009	930	671	259

Minors are given support and assistance in the framework of social welfare services, for example, by socio-educational family assistants, group services for minors in separation situations, by the Psychological-Psychotherapeutic Service, assistance with schoolwork, and youth holiday schemes. Furthermore, extramural care and intensive family services are provided.

Lower Austria

In most cases, children are taken into State care after an agreement between the parents/guardians and the locally competent youth welfare authority, and in rare cases by action because of imminent danger and subsequent transfer of parenting rights to the youth welfare authority by the court.

If this measure takes the form of care of the child outside the family with foster-parents – who receive a care allowance from the *Land* for that service – a permit is granted under a supplementary administrative procedure to take a child from outside the family into care.

In recent years, there have been major changes in the form of facilities available. Whereas only a few large institutions with more than 60 care places have survived, the number of flat-sharing communities of 10 to 20 places has increased. A new innovation has also been parenting care that is not locally based as well as part-time care (halfway-house forms). Each full-care institution is subject to regular inspection

by the *Land* Government, in respect of its overall organisation and also with regard to the progress of each individual child.

Young persons can raise complaints concerning care to the inspectors and also to the district social workers in the context of routine contacts, insofar as they are able to make coherent statements. Children's relatives can complain to the youth welfare authorities or to the *Land* Government. If a child was taken into care by order of a court, the curatorship court is also a possible point of contact. Before a child is taken into care as well as regularly in the progress conferences, an exchange of information between professionals of the institution and the youth welfare authority must take place regarding possible contacts between the child and persons close to him/her. Alternatively, consultations can take place with close relatives and, if appropriate, an agreement can be made.

Upper Austria

In Upper Austria, there are 65 residential care facilities (homes, living groups) which are operated by 24 independent youth welfare organisations on behalf of the public Youth Welfare Office. Children who cannot stay with their families due to the families' lack of resources are placed in these socio-pedagogical institutions by the Youth Welfare Office to receive full residential care (*volle Erziehung*) as a measure of parenting support. Full residential care requires that the youth welfare organisations are entrusted with the overall care and upbringing of the children concerned, either based on a voluntary agreement reached with the parents/guardians or – if the parents/guardians do not agree – by means of a court order. The Youth Welfare Office then passes on the actual tasks of care and upbringing to the legal carrier of the residential care facility. In these institutions, trained and qualified socio-pedagogical professionals are in charge of the actual care and education of the children and young persons, offering a needs-oriented structured and safe setting. The children and young persons placed in these residential care institutions can thus feel safe and secure during their stay, find orientation and get support based on their skills and needs.

In 2009, a total of 759 children and young persons were accommodated in homes and flat-sharing communities within the scope of full residential care. According to the guidelines for full residential care applicable in Upper Austria, a group may consist of nine children or young persons at most; in exceptional cases, this number may be slightly exceeded. About 2,500 families with children and young persons received qualified assistance within the scope of parenting support within the family. The total labour market for qualified socio-pedagogical professionals in all fields of youth welfare in Upper Austria comprises about 900 persons.

Pursuant to Section 7 of the Upper Austria Youth Welfare Act (Oö. *Jugendwohlfahrtsgesetz*; Oö. *JWG*), all staff entrusted with the tasks as set out in this regional law must have adequate professional training and personal qualifications. Only persons who have graduated from a public Austrian academy for social work or from an Austrian academy for social work having public-law status or who have undergone comparable training may be employed as social workers. Taking into account the content of the curriculum, the teaching methods and the duration of trainings of other institutions, the *Land* Government has to determine by ordinance to what extent these trainings may be equivalent to the training at an academy for social work.

The bodies executing the tasks of public youth welfare may be supported by any other qualified persons who do not fulfil the requirements as set out under Section 7 Para. 2, if the type and scope of activities do not require professional training. The *Land* and the statutory cities have to ensure that their qualified staff entrusted with public welfare tasks regularly attend further training measures; they also have to enable supervision to the extent required.

It is the responsibility of the competent independent youth welfare organisation to ensure that the staff of independent youth welfare institutions attend further training measures. The *Land*, however, may grant financial assistance and provide its own professional staff in order to support the further training measures for the staff of these institutions in accordance with the funds earmarked in the respective budget of the *Land* Upper Austria.

Pursuant to Section 30 of the Oö. JWG, residential homes, flat-sharing communities and other facilities, such as Children's Villages, which are intended to provide full residential care (Section 37) for minors or otherwise provide permanent care and upbringing may only be established and operated with the approval of the *Land* Government. Such approval may only be granted if the institution provides responsible care and education based on its facilities and management and if a targeted socio-pedagogical concept exists; in particular, it has to be ensured that

- a sufficient number of personally and professionally qualified staff is available for the management of the facility or the project as well as for the care and education of the minors;
- the personal safety of the minors is guaranteed, as far as this may be assessed in advance;
- the staff meets health requirements and is reliable;
- the funds for the establishment and continued existence of the facility are available;
- the location, number and design of the rooms, especially the bedrooms and day rooms, meet the technical requirements and that playgrounds and, if possible, sports grounds are available;
- appropriate medical attendance for the minors is ensured;
- the sanitary and hygienic requirements are complied with; and
- the compensations for costs pursuant to this state law are used in an economical and expedient way.

The approval may be granted under certain requirements and conditions and for a limited period; the *Land* Government may order that the home, flat-sharing community or other facility may only be operated based on a separate operating licence.

An approval granted may be modified or withdrawn by the *Land* Government if the socio-pedagogical concept on which the approval is based no longer reflects the current state of scientific knowledge in the areas of psychology, medicine, education and sociology, and if this step is necessary to achieve and maintain the well-being of minors. In doing so, the authority shall proceed in a manner not interfering, to the extent possible, with any rights already arisen to somebody.

The *Land* Government is responsible for supervising homes, flat-sharing communities and other facilities; children and young persons placed in care (like anybody else) may submit complaints on conditions in institutions to the *Land* Government.

It has to inspect at appropriate intervals, but at least once in two years, whether the prerequisites to be fulfilled for the approval are still being met. If costs are compensated, the supervisory powers of the *Land* Government also extend to supervision of whether the contributions paid are used in an economical and expedient way (sound financial management audit). If the *Land* Government identifies deficiencies, it has to order the organisation running the facility, by means of an administrative decision and setting an appropriate deadline, to remedy these deficiencies. If the deficiencies are not remedied within the set period, the approval has to be withdrawn.

The approval for the operation of a home, flat-sharing community or other facility has to be withdrawn too, if the well-being of minors is at risk. The organisation running the facility has to allow for supervision to be carried out. In particular, the bodies of the *Land* Government must be able to get into contact with the minors and get access to the day rooms in such a way that they can convince themselves of the well-being of the minors.

Salzburg

Two types of parenting support are provided: parenting support within the family (*Unterstützung der Erziehung*) and full residential care (*volle Erziehung*). Both types may be provided on a voluntary basis or against the will of the parents/guardians. In each individual case, the youth welfare services have to use the mildest applicable means and choose that measure of parenting support which is in accordance with the respective minor's personality and living conditions. Parenting support within the family aims to improve the minor's upbringing in the setting of his/her own family. If this kind of support is not sufficient, the minor will be placed in full residential care outside his/her own family in a foster family or in an institution (e.g. socio-pedagogical facilities).

The *Land* Salzburg recorded the following numbers of parenting support measures (as of December of the respective years):

- 2003: 1,197, of which 578 were non-residential
- 2004: 1,259, of which 613 were non-residential
- 2005: 1,295, of which 654 were non-residential
- 2006: 1,331, of which 667 were non-residential
- 2007: 1,499, of which 826 were non-residential.

The following institutions are run under the term "socio-pedagogical accommodation":

- Flat-sharing communities,
- Assisted living facilities (also called independent living facilities – *BEWO*), and
- the SOS Children's Villages.

Target groups

Such socio-pedagogical residential facilities accommodate children and young persons

- whose parents are unable (or unwilling) to provide adequate care and education,
- who are victims of violence/abuse,
- who need support for their social and vocational integration.

Objectives

Socio-pedagogical accommodation aims to help young people lead an independent life. It is an important supplement to the placement in foster families. Its key objectives are:

- Reducing relationship and socialisation deficits,
- Coping with the demands of everyday life in a manner which is adequate for the age group,
- Social integration – reintegration of the child in his/her family,
- De-escalation of crisis situations,
- Helping minors become independent and assume personal responsibility – stabilisation in mental and social terms,
- Support for the school and job career.

Services

Socio-pedagogical accommodation offers 24-hour care with a permanent staff of carers. Core services include:

- Providing accommodation,
- Help cope with everyday life (school, leisure activities),
- Help cope with violence and abuse,
- Intensive psychosocial relationship building and care, with the parents being permanently involved,
- Help lead an independent life (social and vocational integration).

Facilities

In the *Land* Salzburg, residential homes have ceased to exist many years ago. They were replaced by socio-pedagogical flat-sharing communities with differentiated objectives in terms of care. Flat-sharing communities do not accommodate more than 8 children/young persons. In SOS Children's Villages, children and young persons live together in family houses (in most cases, there are five children per family).

For assisted living facilities, single flats (one-room flats) are usually rented. Flat-sharing communities mainly accommodate young people in single bedrooms.

The socio-pedagogical facilities are operated exclusively by private providers.

Currently 279 places are offered in total, which can be distributed by operating organisations and types of accommodation as follows:

- 12 flat-sharing communities for children (95 places)
- 9 flat-sharing communities for young persons (71 places)
- 58 places in assisted living facilities
- 12 family houses of the SOS Children's Village in Seekirchen (55 children).

Children and young persons are only placed in socio-pedagogical institutions if a measure of parenting support was determined (voluntarily or based on a court decision) or other urgent reasons exist.

There is no freedom to choose a certain type of accommodation. The Youth Welfare Office at the place of residence decides where the minor will be placed. For placement in assisted living facilities young people (from the age of 15) are expected to already have reached a certain degree of independence.

The type and purpose of accommodation depends on age:

- Flat-sharing communities for children accommodate children from the age of 6 to 13.
- Flat-sharing communities for young persons accommodate young people from the age of 12 to 18.
- Assisted living facilities cater to young people from the age of 15 to 18.
- If necessary, young persons may also be accommodated in residential care up to the age of 21.

Children/young persons and relatives liable to provide maintenance (parents/grandparents) have to pay a financial contribution for the placement in a socio-pedagogical institution (e.g. from the orphan's pension). The amount of the financial contribution is determined based on the principle of reasonableness.

Staff

A socio-pedagogical flat-sharing community, which must not accommodate more than 8 persons pursuant to the Salzburg Ordinance on Types of Accommodation in Youth Welfare (*Jugendwohlfahrts-Wohnformen-Verordnung*), must employ at least a staff of six. The staff (from the five specialist fields of social education, education, social work, psychology and psychotherapy) is headed by a qualified pedagogical employee.

Funding

Any costs not covered by financial contributions are borne by the *Land* Salzburg (40 %) and the municipalities (60 %).

Legal framework

Socio-pedagogical accommodation is established and operated based on the following legal regulations:

- Youth Welfare Act 1989
- Salzburg Youth Welfare Act 1992
- Salzburg Ordinance on Types of Accommodation in Youth Welfare 2007

Statistics

Core data concerning socio-pedagogical accommodation:

- Number of places in flat-sharing communities: 166
- Number of places in assisted living facilities: 58
- Number of places in SOS Children's Villages: 55
- Number of providers: 6

Styria

Legal framework:

Styria Youth Welfare Act 1991 (*Steiermärkisches Jugendwohlfahrtsgesetz 1991, StJWG*), State Lay Gazette 93/1990, as amended by State Law Gazette 5/2010 (12)

Implementing Regulation pertaining to the Styria Youth Welfare Act (*Steiermärkisches Jugendwohlfahrtsgesetz Durchführungsverordnung, StJWG DVO*), State Law Gazette 7/2005, as amended by State Law Gazette 15/2010 (4)

Ordinance on the Parity Commission and the Conciliation Body pursuant to the Styria Youth Welfare Act 1991 (*Verordnung betreffend die paritätische Kommission und die Schlichtungsstelle nach dem StJWG 1991*), State Law Gazette 30/2009

The Public Welfare Office has to grant measures of parenting support in compliance with their subsidiary responsibility for education, if parents/guardians cannot achieve and maintain the well-being of minors. Measures of parenting support can only be granted if the Youth Welfare Organisation intervenes. Such step will be taken if deemed necessary because the well-being of the child is at risk. Subject matter competence rests with the District Administration Authorities.

It has to be decided on a case-by-case basis whether parenting support within the family or full residential care is the appropriate measure of parenting support, in any case, the mildest applicable means should always be used. If parents/guardians agree to measures, their consent has to be put down in writing. If, however, the parents/guardians do not agree to a necessary measure, the District Administration Authorities have to arrange all steps required under civil law to maintain the minor's well-being.

Before deciding on certain measures of parental support and when granting full residential care, the District Administration Authority has to consult with a team of experts which must include the head of the respective Youth Welfare Office, two social workers and the competent psychologist assigned by the authorities.

When carrying out the measure, the minor's personality, his/her living conditions and disposition, skills, aptitudes and potential for development have to be taken into account and it has to be permanently reviewed whether the measure is still the best support for the minor. The measure has to be adapted if the minor's well-being requires so, or it has to be terminated if it is no longer beneficial to the minor.

The District Administration Authorities may use independent youth welfare institutions to carry out measures of parenting support, if these institutions have received official recognition or permission for the respective tasks and have entered into a framework agreement with the *Land*.

In 2008, 162 operating organisations had concluded such a framework agreement with the *Land*.

Residential homes and other facilities which are intended to provide care and education for minors may only be established and operated with the approval of the *Land* Government. They are also subject to the supervision of the *Land* Government.

In 2007, 195 residential care facilities had official permissions; in 2008 this figure was 227.

All residential care facilities together accommodated 1,847 minors in 2007 and 1,986 minors in 2008, which is an increase of 7.5 %.

Staff:

Public service employees at *Land* and municipal level who are entrusted with tasks as set out in the Youth Welfare Act must have adequate training and qualifications. It has to be ensured that they have access to further training measures and supervision.

Accommodation:

The aim of accommodation is to help mothers-to-be, parents/guardians and minors cope with emergencies and crisis situations. In particular, the following residential care facilities are to be provided, if necessary:

1. Mother-and-child accommodation,
2. Foster families,
3. Flat-sharing communities, Children's Villages (*Kinderdörfer*),
4. Residential homes and remedial care facilities (*heilpädagogische Stationen*),
5. Assisted living facilities providing temporary accommodation in crisis situations for young persons who have completed compulsory schooling, if it does not seem any longer appropriate to place them in a foster family or residential care institution.

Residential homes and other facilities which are intended to provide care and education for minors may only be established and operated with the approval of the *Land* Government.

The approval has to be granted upon application if

1. the concept submitted by the operating organisation is in compliance with the services stipulated in the Ordinance under Section 9a;
2. a current expert report about adequate fire protection exists, and
3. the prerequisites in terms of construction, space, staff, organisation, and finances can be expected to provide the appropriate conditions in order to guarantee the adequate care of minors as defined by this law.

The approval may be granted, where necessary, under certain requirements and conditions.

The *Land* Government is in charge of supervising the facilities. It has to inspect at appropriate intervals whether the homes and other facilities continue to meet the given requirements. If any deficiencies that can be remedied are identified, their correction has to be ordered within an appropriate period by means of an administrative decision. If deficiencies are detected which cannot be remedied or if the order for correction is not fulfilled within the set period, the approval has to be withdrawn. The approval also has to be withdrawn if the prerequisites for its granting no longer exist. Should the approval be withdrawn, the *Land* government has to order at the same time that the minors be placed in another accommodation; in case of imminent danger, this order has to be executed immediately.

Children and Youth Ombuds Office:

The Children and Youth Ombudsperson has the following general tasks:

1. Making recommendations how to create better living conditions for children and young persons;
2. Informing the public about matters which are especially important for children and young persons, in particular about children's rights, as well as about the tasks of the Children and Youth Ombudsperson;

3. Reviewing laws, ordinances and other legal provisions, taking into account the needs and rights of children and young persons;
4. Integrating the interests of children and young people into planning and research tasks which have an impact on the living conditions of children and young persons;
5. Coordinating the activities of public and independent youth welfare organisations to the best interests of the children and young people;

Furthermore, the Children and Youth Ombuds Office has to fulfil the following special tasks to maintain the well-being of children and young persons:

1. Advising children and young persons, parents, guardians and legal representatives on all matters concerning the status of the children and young persons and the tasks of the parents/guardians;
2. Mediating between parents or guardians and children and young persons in the event of differences and disputes concerning care and upbringing;
3. Mediating between parents or guardians and children and young persons as well as authorities or independent youth welfare institutions in the event of differences and disputes or to provide counselling;
4. If it learns that measures concerning care and education may be necessary because children and young persons are endangered it can refer the matter to the youth welfare bodies. The body involved is obliged to inform the Children and Youth Ombuds Office about the measures taken.

More extensive information can be found in the youth welfare plan 2005:

<http://www.soziales.steiermark.at/cms/beitrag/10175548/5352/> (in German)

Tyrol

Public youth welfare facilities are supervised by the Youth Welfare Department at the Office of the Government of the *Land* Tyrol. The Tyrol Youth Welfare Act does not provide for any statutory opportunity to submit complaints. However, complaints may be lodged with both the Children and Youth Ombuds Office and the Youth Welfare Department at any time. As the Youth Welfare Department is interested in reviewing and remedying all deficiencies already within the scope of supervision of residential care facilities – irrespective of who submitted the claim – the Youth Welfare Department will also have to investigate complaints about the circumstances in a facility lodged by a child.

There is no legal basis for restricting personal contacts of the child or young person (a restriction for pedagogical reasons would have to be discussed with the individual concerned and imposed, if necessary). Contact with the family background/the parents of the children and young people is deemed to be positive by the institutional staff and social workers at the youth welfare sections and is to be fostered - if possible in the individual case. Any interference with the property of the child/young person is not legally provided.

The role of carers or caregivers:

Carers or caregivers working in a residential care facility are usually employed by the organisation operating the facility. Their main task is to provide pedagogical care for minors, which may vary in its scope depending on the respective setting. As part of their duties, caregivers also have to provide children with the things of daily use, take health promotion measures and support their physical development.

Socio-pedagogical professionals are responsible for implementing care and education during the minors' stay.

The professional qualification of the caregivers may vary. In any case, qualified professional staff has to be employed. In this context, qualified staff is defined as any persons who have graduated from an academy, college, university or any other educational institutions with a special focus on education/pedagogy, family education, social pedagogy, social work, educational studies or psychology and psychotherapy. Depending on the objectives, however, day home educators and nursery school teachers, teachers, registered nurses and doctors may also be employed. Furthermore, persons working in leading positions must have relevant practical experience.

The employees are paid according to the applicable collective agreement of the BAGS, the professional association of employers for health and social professions. The staff employed by the *Land* Tyrol is employed as social care specialists (*Soziale Spezial-Sachbearbeiter*) and paid accordingly.

At present, there are no statutory provisions governing the size of groups. The size of groups varies.

However, an ordinance is expected to be issued that specifies the maximum number of minors placed in a residential care facility as 12. If this number is exceeded, individual groups have to be established, with an individual group comprising nine minors at most. Crisis care facilities are expected to be limited to 14 care places.

Vorarlberg

The term "children in public care" applies to those children that have been accommodated at youth welfare institutions and flat-sharing communities providing full care.

"Care and education" are elements of custody which are assigned to an institution. This includes "rights of interference and restriction" analogously to the rights of parents in accordance with civil law (e. g. Sections 146, 146a, 146b ABGB). The visitation right is derived from Section 148 ABGB. In the case of a dispute the custody court (*Pflegschaftsgericht*) decides on the extent of visitation rights of a minor living at an institution. The custody court may obtain the opinion of the youth welfare office and/or the youth welfare institution.

Children and adults may consult the department of the *Land* Government responsible for approval and subject-matter supervision and/or the youth welfare special department with their request or complaint concerning youth welfare institutions or flat-sharing communities providing full care. Complaints will be reviewed without delay. Children may also consult the Children and Youth Ombudsperson, who is not bound by authority instructions (Section 26 Regional Youth Welfare Act, *Landes-Jugendwohlfahrtsgesetz L-JWG*). Additionally, complaints may be filed with the youth welfare departments at the individual district commissions (*Bezirkshauptmannschaften*).

The youth welfare office has custody for minors living at this institution. Custody may either be awarded by a court or in the context of "voluntary parenting support" by mutual agreement with the parents. Subsequently, the "care and education" of minors will be awarded to the institution by means of a written agreement between the youth welfare office and the institution. The institution's staff will exert care and education on behalf of the institution. The institution is legally obliged (Section 28

L-JWG) to have the tasks of public youth welfare carried out by qualified personnel. If required for completing the task, suitable qualified experts are to be consulted. These are usually trained social workers, social education workers, psychologists, etc. At Children's Villages these are the Children's Village mothers and fathers.

In Vorarlberg employees of private social and healthcare organisations are paid according to the applicable collective agreement.

The size of the individual residential units available at the institutions is inspected when obtaining a permit for an individual institution pursuant to Section 21 *L-JWG*.

There is no standardised maximum number for minors living in residential units in Vorarlberg. Virtually all residential units are limited to eight to nine minors.

In 2009, 564 minors used juvenile legal aid services (*Jugendgerichtshilfe*) in Vorarlberg. Within the framework of this aid programme young offenders and their families may receive advice, they may be supported during proceedings in court, and follow-up care may be provided.

Vienna

Legal framework: Section 34 Vienna Youth Welfare Act 1990 (*Wiener Jugendwohlfahrtsgesetz 1990*), Vienna State Law Gazette no. 36, as amended by the Vienna State Law Gazette no. 9/2007.

Transposition measures, statistical data

The reform "Home 2000" (*Heim 2000*) was completed at the end of 2003. This reform focussed on the following issues:

1. District-oriented socio-educational work
2. Appropriate timing (principle: "as long as necessary, as short as possible")
3. System-oriented
4. Setting up networks; as well as
5. Integration of marginal groups.

The focus in the past few years was on the expansion of care services for disabled children and young people. Within the framework of the social assistance scheme an increasing number of mobile, short-term, partially as well as wholly residential care services are offered. These services aim at supporting parents with the care for children with special needs and to relieve them to some extent.

In the field of social education the new preventive model of "family coaching" has been developed: families receive intensive care by social education workers in order to avoid that children have to be taken into residential care. Furthermore, the implementation of principles of gender-sensitive education and diversity has received special attention in the field of social education.

In the past two years there was an increasing demand for residential, socio-educational care, which will be met by a corresponding increase of capacities.

The total number of children and young persons in residential care was 2,943 at the end of 2009, 1,519 of whom were living in foster families (223 of whom with relatives), where they receive guidance and support for their tasks.

In the area of social education *MA ELF* operates a number of facilities, including: 14 crisis intervention centres, one mother-child-facility for minor-age mothers, 65 socio-educational flat-sharing communities, 84 socio-educational assisted-living facilities (*betreute Wohnungen, BEWO*), three low-threshold care facilities (*KIG*), five socio-

educational (small) homes (in two of them young people are offered vocational training) as well as a special institution for the victims of child trafficking and sexual exploitation ("*Drehscheibe*"). In addition, 660 places at care facilities, predominantly in the field of intensive socio-educational care, are offered by independent youth welfare institutions (of whom 175 places are offered for socio-educational care of disabled people) as well as ten low-threshold care places (emergency accommodation, "*Notschlafstelle*"). Independent youth welfare institutions mainly offer care services in the form of socio-educational flat-sharing communities. In addition, the *Fonds Soziales Wien* offers 80 care places for unattended minor refugees.

For the care facilities operated by the Municipal Department 11 - Vienna Youth and Family Offices (*MA ELF*) a dedicated complaint management system for children and young people will be established in 2010. When ordering measures of parenting support, the youth welfare institution has to hear the children's opinion (Section 35 of the Vienna Youth Welfare Act 1990).

In the framework of youth welfare provision of full education, social education workers exercise care and education (including legal representation) on behalf of children and young people, i. e. they are responsible for the entire care and education; this also applies to foster parents pursuant to the Vienna Youth Welfare Act 1990.

Pursuant to Section 6 of the Vienna Youth Welfare Act 1990 only individuals with valid qualifications in social education (socio-paedagogists) may be entrusted with socio-educational tasks; foster parents have to complete a specific seminar before they undergo screening.

Pursuant to the Ordinance on Public Homes in Vienna (*Wiener Heimverordnung*, Vienna State Law Gazette no. 13/1991 as amended) groups at socio-educational facilities are limited to ten children and/or young people; the basic standard of the Vienna Youth Welfare Office, however, determines the size of a group with a maximum of eight children.

Young offenders

In reply to the additional question by the Committee on Social Rights regarding Article 17 in the conclusions XVIII-2 concerning up-dated figures on the number of young offenders sentenced to a term of imprisonment or remanded in custody pending trial and in particular for what type of offences as well as general information on the provision of education to young offenders in detention the following notes are provided:

As of 1 March 2010, 213 young offenders were detained in Austrian prisons. The charges filed against them are listed in Appendix 4 (excel file).

Pursuant to Section 1 of the Juvenile Court Act (*Jugendgerichtsgesetz, JGG*) young people that have completed their fourteenth but not yet eighteenth year of age are considered "juvenile".

Within the Austrian penal execution system juvenile detainees are offered comprehensive schooling adapted to their individual skills and in this context may obtain a leaving certificate from a special needs school, a lower secondary school or a secondary academic school.

Additionally, inmates may learn a large number of trades and complete an apprenticeship programme at journey-level (*Gesellenprüfung*). Among others, the following apprenticeship trades are offered: joiner (carpenter), painter, mason, chef, plumber, locksmith, baker, gardener, car mechanic, hairdresser and wig maker, restaurant specialist as well as electrical engineer, etc.

Further training options include German language classes (for foreign inmates) as well as IT classes (including ECDL certification).

Representation of children in court

In civil law proceedings children are represented by one parent, if the parents do not agree on who will represent the child, the parent who performs the first procedural act is considered to be the representative (Section 154 a *ABGB*). In case of conflicting interests between the parents and the child, the court has to appoint a curator who will assume representation of the child in court for the matter in question (Section 271 Para. 1 *ABGB*). A so-called collision curator is to be appointed, for instance, in the case of maintenance claims of the child against the parent entrusted with custody.

In matters concerning care and education (custody and visitation rights) a child of at least 14 years of age may act in its own name in court (Section 104 Para. 1 first sentence of the Non-Contentious Proceedings Act (*Außerstreitgesetz, AußStrG*)). This ability to act in proceedings includes the initiation of proceedings and other applications as well as resort to legal remedies. However, if a minor lacks the assumed ability to understand and judge, the court may rule in this individual case that the child is not able to represent itself in the proceedings. This decision may be passed on the court's own initiative or upon application by the person entrusted with custody.

Generally, children not having completed their 14th year of age are to be heard in proceedings about care and education as well as visitation rights (Section 105 Para. 1 first sentence *AußStrG*). This hearing may also be executed by the youth welfare office, juvenile legal aid facilities or in any other appropriate way (for instance through experts), if the minor in question has not completed his/her tenth year of age, if this is necessary due to his/her development or state of health, or if he/she cannot be expected to express his/her opinion seriously and free from outside influences (Section 105 Para. 1 first sentence *AußStrG*).

The hearing has to be omitted, if the well-being of the minor may be endangered by the hearing itself or by a delayed injunction resulting therefrom (for instance if the hearing would lead to a loyalty conflict with potentially harmful effects on the development of the minor) or if, with regard to the minor's assumed ability to understand, a reasonable statement concerning the subject matter of the proceedings can obviously not be expected (Section 105 Para. 2 *AußStrG*).

Jurisdiction concerning juvenile offenders

The Federal Act that entered into force on 1 January 2005 stipulated the transfer of the district court Linz-Land to the municipality of Traun. Together with the amendment to the Juvenile Court Act 1988 (Federal Law Gazette I no. 116/2003) these changes resulted in the revocation of the special competence that had previously been reserved to the district court Linz-Land concerning criminal offences of young persons, youth protection cases, criminal cases of young adults as well as custody cases, for the court districts of Linz, Linz-Land and Urfahr-Umgebung. In the course of re-structuring the district courts in Graz (Federal Law Gazette I no. 60/2004

and Federal Law Gazette I no. 66/2005) the special competence for juvenile criminal cases of the Juvenile Court Graz was revoked with effect of 31 December 2004, too.

The amendments and terminological adaptations of the *JGG* necessitated by the Code of Criminal Procedure Reform Act, which entered into force on 1 January 2008, were implemented with the adoption of the Code of Criminal Procedure Reform Accompanying Act (Federal Law Gazette I no. 93/2007). The following changes were introduced:

Sections 2 and 3 *JGG*, providing for a special competence of the criminal courts for passing injunctions with respect to family or youth welfare law in the course of proceedings, were repealed.

Pursuant to the Code of Criminal Procedure Reform Act 2004, settlement of a case by means of diversion has been exclusively reserved to the public prosecution at the stage of preliminary investigations; consequently, Section 7 *JGG* was amended to allow the public prosecution to refrain from prosecution in a juvenile criminal case, irrespective of the maximum fines applicable and competencies defined. If committal of the criminal act resulted in the death of a human being, settlement by means of diversion continues to be excluded also in the case of juvenile offenders. However, Section 7 Para. 2 no. 2 *JGG* stipulates an exception in cases of negligent homicide of a family member by a juvenile offender: settlement by diversion is possible in cases where punishment does not seem appropriate in view of the severe psychological stress caused to the juvenile offender by the death of the family member.

Section 33 *JGG* concerning notification of the custody court as well as the youth welfare office about the initiation of criminal proceedings against a young offender was abridged and explicit mention is made that a notification is also required on the termination of proceedings and has to be provided by the terminating body (court or public prosecution). Simultaneously, an obligation to mutual information of the custody courts and/or youth welfare institutions was incorporated, applicable in cases where several criminal proceedings are pending at different public prosecution offices or courts.

Section 39 *JGG* stipulates the requirement of a defence counsel at district courts as standard and mandatory if a juvenile offender is not accompanied by a legal representative in proceedings.

Section 44 *JGG* was adjusted to reflect the Code of Criminal Procedure Reform Act to the effect that criminal proceedings initiated by a private party may henceforth be prosecuted only with the victim's authorisation if this is necessary for paedagogical reasons or justified interests of the victim. Subsidiary actions (*Subsidiaranklagen*), petitions for resumption of proceedings and petitions to set aside a judgement continue to be inadmissible for private participants (*Privatbeteiligte*) in the case of juvenile offences.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on the number of children placed with foster families and in institutions, the number of children per unit in child welfare institutions;

on the number and age of minors in pre-trial detention or imprisoned or placed in a disciplinary institution.

Minors in full care placed with foster parents, in socio-educational flat-sharing communities, homes and Children's Villages as well as other facilities		
2002	2005	2008
8,995	10,043	10,557
Of whom: foster children		
2002	2005	2008
4,074	4,584	4,481
Of whom: Minors in full care placed in socio-educational flat-sharing communities, homes and children's villages as well as other facilities (not including foster children)		
2002	2005	2008
4,921	5,459	6,076

Parenting support		
2002	2005	2008
14,322	19,357	25,557

Number of juvenile offenders

Number of juvenile offenders sentenced to imprisonment between 1 January 2002 and 31 December 2008 (Source: Statistics Austria; figures from the criminal court statistics for 2009 are not yet available):

	Condi- tional	Uncon- ditiona l	Unconditional monetary fine/ conditional imprisonment (Section 43a Para. 2 StGB)	Partly conditional imprisonment (Section 43a Para. 3,4 StGB)
2002				
Prison term up to 1 month	210	21	0	0
Prison term of more than 1 up to 3 months	413	54	0	0
Prison term of more than 3 up to 6 months	414	66	0	0
Prison term of more than 6 up to 12 months	108	90	0	0
Prison term of more than 1 up to 3 years	17	55	0	0
Prison term of more than 3 up to 5 years	0	2	0	0
Prison term of more than 5 years	0	1	0	0

Partly conditional conviction	0	0	25	207
Total 2002				1683
2003				
Prison term up to 1 month	205	27	0	0
Prison term of more than 1 up to 3 months	431	56	0	0
Prison term of more than 3 up to 6 months	447	74	0	0
Prison term of more than 6 up to 12 months	112	81	0	0
Prison term of more than 1 up to 3 years	21	47	0	0
Prison term of more than 3 up to 5 years	0	7	0	0
Prison term of more than 5 years	0	8	0	0
Partly conditional conviction	0	0	26	266
Total 2003				1808
2004				
Prison term up to 1 month	194	23	0	0
Prison term of more than 1 up to 3 months	400	59	0	0
Prison term of more than 3 up to 6 months	517	78	0	0
Prison term of more than 6 up to 12 months	132	96	0	0
Prison term of more than 1 up to 3 years	24	45	0	0
Prison term of more than 3 up to 5 years	0	4	0	0
Prison term of more than 5 years	0	0	0	0
Partly conditional conviction	0	0	20	388
Total 2004				1980
2005				
Prison term up to 1 month	173	20	0	0
Prison term of more than 1 up to 3 months	341	31	0	0
Prison term of more than 3 up to 6 months	388	74	0	0
Prison term of more than 6 up to 12 months	118	103	0	0
Prison term of more than 1 up to 3 years	44	33	0	0
Prison term of more than 3 up to 5 years	0	5	0	0
Prison term of more than 5 years	0	4	0	0
Partly conditional conviction	0	0	12	244
Total 2005				1590
2006				
Prison term up to 1 month	217	18	0	0
Prison term of more than 1 up to 3 months	377	34	0	0
Prison term of more than 3 up to 6 months	348	54	0	0
Prison term of more than 6 up to 12 months	131	60	0	0
Prison term of more than 1 up to 3 years	20	35	0	0
Prison term of more than 3 up to 5 years	0	5	0	0

Prison term of more than 5 years	0	3	0	0
Partly conditional conviction	0	0	16	209
Total 2006				1527
2007				
Prison term up to 1 month	195	20	0	0
Prison term of more than 1 up to 3 months	394	50	0	0
Prison term of more than 3 up to 6 months	374	59	0	0
Prison term of more than 6 up to 12 months	137	47	0	0
Prison term of more than 1 up to 3 years	37	30	0	0
Prison term of more than 3 up to 5 years	0	8	0	0
Prison term of more than 5 years	0	1	0	0
Partly conditional conviction	0	0	24	182
Total 2007				1558
2008				
Prison term up to 1 month	196	28	0	0
Prison term of more than 1 up to 3 months	407	38	0	0
Prison term of more than 3 up to 6 months	412	38	0	0
Prison term of more than 6 up to 12 months	118	35	0	0
Prison term of more than 1 up to 3 years	27	41	0	0
Prison term of more than 3 up to 5 years	0	6	0	0
Prison term of more than 5 years	0	2	0	0
Partly conditional conviction	0	0	22	168
Total 2008				1538

Which **types of offences** led to the conviction of young persons (generally) in the years 2006 to 2008 (Source: Security Report 2008):

Convicted juvenile offenders	2006		2007		2008	
	Absolute figures	% *)	Absolute figures	% *)	Absolute figures	% *)
In total including convictions on grounds of	2,889	100	3,084	100	2,988	100
Offences against the person Sections 75-95 <i>StGB</i> in total	644	22.3	765	24.8	743	24.9
Bodily harm Section 83 <i>StGB</i>	367	12.7	453	14.7	467	15.6
Negligent bodily harm Section 88 <i>StGB</i>	54	1.9	63	2.0	29	1.0
Offences against property, Sections 125-168b <i>StGB</i> in total	1,334	46.2	1,455	47.2	1,532	51.3
Damage to property, severe damage to property Sections 125, 126 <i>StGB</i>	162	5.6	208	6.7	257	8.6
Theft, Sections 127-131 <i>StGB</i>	760	26.3	806	26.1	836	28.0
Unauthorized use of vehicles, Section 136 <i>StGB</i>	60	2.1	71	2.3	74	2.5
Offences against sexual integrity Sections 201-220a	37	1.3	56	1.8	31	1.0
Offences pursuant to the Addictive	458	15.9	331	10.7	230	7.7

Drugs Act (<i>Suchtmittelgesetz, SMG</i>)						
Other illegal acts	416	14.4	477	15.5	452	15.1

In 2008 juvenile offenders were **sentenced to imprisonment** (without partly conditional sentences) for the following offences:

2008							
Imprisonment	Up to 1 month	More than 1 up to 3 months	More than 3 up to 6 months	More than 6 up to 12 months	More than 1 up to 3 years	More than 3 up to 5 years	Older than 5 years
Offences against the person, Sections 75-95 <i>StGB</i>	65	104	62	4	4	2	1
Offences against freedom, Sections 99-110 <i>StGB</i>	17	45	18	4	0	0	0
Offences against honour, Sections 111-117 <i>StGB</i>	1	0	0	0	0	0	0
Offences against property, Sections 125-168e <i>StGB</i>	89	200	274	119	53	2	0
Offences endangering the public and the environment, Sections 169-187 <i>StGB</i>	0	1	2	4	1	0	0
Offences against marriage and family, Sections 192-200 <i>StGB</i>	2	1	0	0	0	0	0
Offences against sexual self-determination and integrity, Sections 201-221 <i>StGB</i>	0	5	9	3	6	1	0
Cruelty to animals, Section 222 <i>StGB</i>	1	0	0	0	0	0	0
Offences against the reliability of documents and signs of proof, Sections 223-231 <i>StGB</i>	8	10	1	0	0	0	0
Offences against the security of monetary transactions, Sections 232-241g <i>StGB</i>	3	6	6	0	0	0	0
Offences against the state authority, Sections 269-273 <i>StGB</i>	3	13	11	1	0	0	0
Offences against public peace, Sections 274-287 <i>StGB</i>	1	7	7	0	0	0	0

Offences against the administration of justice, Sections 288–301 <i>StGB</i>	5	23	16	1	0	0	0
Criminal violation of official duties; related offences, Sections 302–313 <i>StGB</i>	0	0	1	0	0	0	0
Offences pursuant to supplementary provisions	29	30	43	17	4	1	1

ARTICLE 19

THE RIGHT OF MIGRANT WORKERS AND THEIR FAMILIES TO PROTECTION AND ASSISTANCE

Para. 1 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

Racism, xenophobia and discrimination

In **reply to the additional question by the Committee on Social Rights regarding Article 19 Para. 1 in the Conclusions XVIII-1** the previous report is to be updated as follows:

The Committee notes the information in the 23rd Report, stating that great importance is attached to the subjects of racism, xenophobia and action against discrimination in the basic and continuous training of police officers and requests and wishes to continue to receive updated information on the training of officials and whether the training has indeed led to an improvement in the conduct of law enforcement officials vis-à-vis migrants.

Within the framework of basic and continuous training of Austrian law enforcement officials as well as security administration staff, the subject of human rights and related topics such as racism and intolerance receive a high degree of attention via a

broad basis of training measures and contents. A continuously high standard of all training measures and events conducted by the General Directorate of Public Security is guaranteed by continuing evaluations of all training measures and projects, including the involvement of external experts.

Human rights training within the police aims primarily at promoting an attitude towards police interventions in line with human rights and consequently at influencing the personal conduct of the individual police officers.

Comprehensive measures have also been implemented in the training offers or programmes of the Federal Security Academy (.SIAK). The Federal Security Academy has developed a structural concept for human rights training geared towards establishing the trans-sectoral perception of law enforcement officers as an interdisciplinary human rights organisation.

There is an increased sensitivity for problems in this field (racism, xenophobia, anti-Semitism, intolerance and similar phenomena), which are addressed by various training courses and initiatives. This sensitivity and awareness has triggered numerous activities in the training of police officers designed to provide them with in-depth information and raise awareness.

There are a number of different approaches concerning the entire subject. Increasing awareness with respect to racism and xenophobia has been of particular importance already in the past. Yet, the recommendations of the Austrian Human Rights Advisory Council and NGOs have given additional impetus to including even more comprehensive information with specific focuses into existing training measures.

The curriculum of the basic training of police officers (24 months) provides 56 teaching units in human rights, 48 teaching units in communication and conflict management, 12 teaching units in vocational ethics, 50 teaching units in social studies and 40 in applied psychology.

The project "Police action in a multicultural society" ("*Polizeiliches Handeln in einer multikulturellen Gesellschaft*") deserves particular attention. It promotes close contacts between police officers and minorities and/or persons with origins outside of Austria through confidence-raising measures.

Since 2001 seminars entitled "A World Of Difference" have been organised in cooperation with the Anti-Defamation League in the framework of training for police officers.

These seminars aim at raising police officers' awareness concerning racism and discrimination. Attendance is mandatory in the course of both basic and further training.

One of the major principles of these training seminars is the promotion of empathy and understanding of human beings and their interrelations. Solution approaches and alternative forms of conduct are developed in interactive individual and group work, role plays, case studies, films and simulation games.

The systemic approach as defined in the structural concept of human rights education is realised by imparting legal standards in the course of basic and continuous training of police officers.

Under the central theme of "Human Rights, Ethics and Police Action" a multi-faceted range of topics and issues, which have been focussed on time and again in basic and further training programmes in the past years, is presented on an even broader

basis. The entire subject field has been designated as a “temporary core issue”, which clearly emphasises its importance in ongoing training, where the related contents are implemented through various forms of training measures. This core issue addresses the enormous conflict potential between human rights and police intervention in a multi-faceted approach and also includes the topic of racism in general and within the executive forces.

Furthermore, the structural concept of human rights education is realised within the Austrian Federal Ministry of the Interior, among others, by implementing a human rights manual compiled by a member of the Human Rights Advisory Council.

Human rights were a central training theme in the ongoing training for intervention instructors in 2007. In the training programme for intervention instructors in the years 2009 and 2010 the topic of “human rights and use of languages in official acts” constitutes a central training focus.

In addition, communication with offenders and how to approach them was a focus of intervention training in 2009.

The fact that specialised training is successful in practice is demonstrated by the example of deportation training: focussed further education and training over the past few years has yielded definite improvements and positive developments in the handling and conduct of police officers when involved in deportations.

Officers with special interest are offered the additional opportunity to expand their social and professional competencies with respect to human rights.

The project “Police and Africans” (*“Polizei und Afrikaner”*) aims at fighting possibly arising prejudices and counteracting potential generalisations.

The Federal Office for the Protection of the Constitution and Counter-Terrorism (*Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT*) is currently developing a further training seminar on right-wing extremism for police officers in field service. The seminar is scheduled to be implemented in the framework of the Federal Security Academy in late 2010.

Mentoring for migrants

The programme “Mentoring for Migrants” (*“Mentoring für Migrant/innen”*) was set up in 2008 as a joint initiative of the Federal Economic Chamber (*WKÖ*), and the project partners Austrian Integration Fund (*Österreichischer Integrationsfonds, ÖIF*) as well as the Public Employment Service (*Arbeitsmarktservice, AMS*). Within the scope of this programme qualified persons with migrant background are supported by well-connected business players to manage the entry into the Austrian labour market. “Mentoring for Migrants” is a project unique of its kind in the German-speaking area. Up to now more than 300 mentoring pairs have been formed, and many a mentee was able to gain a foothold in the Austrian labour market, not least due to the support of their mentors.

At present, approximately 1.4 million people with a migrant background live in Austria and mobility and migration both within Europe and globally are on the rise. Over the past five years immigration to Austria has already accounted for 95 % of population growth in Austria. This is why integration becomes ever more important.

One of the major preconditions for successful integration is to start working. Another important aspect is the dialogue between immigrants and the host society, which is of major significance for integration to develop positively and actively.

The programme “Mentoring for Migrants” combines these two approaches by bringing together successful individuals from the business world (mentors) and qualified individuals with immigrant background (mentees). The objective of the mentoring programme is to support mentees when entering the Austrian labour market and to promote the internationalisation of the Austrian economy.

There are many people with a migrant background living in Austria. They have the necessary skills for employment but lack contacts and informal knowledge about the Austrian labour market. Mentors can help close these gaps and facilitate the integration into the Austrian labour market. The importance of informal knowledge for a successful occupational career is evidenced by the fact that in Austria more than 78 % of all job-seekers use personal networks.

In its publication “International Migration Outlook 2009” the OECD also recommends integrating migrants into career networks in order to provide them with better job opportunities. This is exactly the approach of “Mentoring for Migrants”, which enables participants with a migrant background to benefit from the contacts and networks of their mentors.

Especially for international companies language skills, international experience and mobility are important aspects when filling vacancies. Immigrants often meet many of these prerequisites and will be able to contribute their valuable input to the development of the company. In particular, their knowledge of specifics of foreign countries, such as the legal framework, business processes, mentality and culture is attractive for companies. Employing people with immigrant background may also increase the acceptance of an Austrian company in the respective target country. “Mentoring for Migrants” enables Austrian companies to gain a competitive edge through cultural diversity.

The project addresses people with a migrant background who have completed apprenticeship training as a minimum qualification, or a higher level of education, and who have sufficient command of the German language and are allowed to work in Austria. The mentors are business people with sufficient professional experience and social competence.

Matching suitable mentors and mentees is crucial for success:

Matching, i.e. selecting and pairing suitable mentors and mentees, is a central task carried out by the project initiator. Matching the right mentoring pairs is essential for the development of the mentoring relationship and therefore requires particular attention and sensitivity.

In particular, occupational (e.g. industry, educational background) and regional features (e.g. target markets of the company, country/region of origin of the mentee) as well as language skills are taken into account in the matching process. The process aims at a successful mutual exchange.

Two examples for the matching process:

- A migrant with an educational background in IT is matched with a mentor working in the IT industry.
- A manager from a company with many business contacts in Serbia is matched a mentee of Serbian origin.

The time to be spent on the mentoring project is set at approximately five hours per month, the duration is scheduled for six months. Activities may include support in the job application process, for instance by simulating job interviews or providing mentees with contacts. Furthermore, mentors may give valuable feedback in a so-called reality check about the mentee's job opportunities in Austria with respect to their qualifications and professional experience acquired abroad.

Examples of the results of a mentoring relationship:

- Developing a career plan and implementing its milestones;
- Identifying and organising further education and training;
- Networking;
- Optimising job application;
- Getting job interviews;
- Developing confidence in the mentee's strengths;
- Drafting a business plan.

Mentoring creates benefits for all its participants:

- Mentees' benefits:
 - Success in their jobs;
 - Developing potential strengths;
 - Personal development;
 - Occupational orientation;
 - Change of perspectives;
 - Motivation;
 - Self-confidence;
 - Business networking;
 - Reality check;
 - Know-how transfer;
 - Exchange of expertise;
 - Communication;
 - Conflict management and handling criticism.
- Mentors' benefits:
 - Development of communication and coaching skills;
 - Intercultural experience;
 - Change of perspectives;
 - Increased self-reflection;
 - Additional knowledge about the labour market;
 - Expansion of the individual's network;
 - Contact with other mentors.
- Companies' benefits:
 - Promotion of internationalisation;
 - Diversity effects (diversity as an opportunity);
 - Active support of future employees;
 - Access to qualified new staff;
 - Contribution towards corporate social responsibility (CSR);
 - Positioning as a responsible employer;
 - Employer branding/marketing;

- Information about migrants as a target group
- for the company
- Benefits for society
 - Intercultural dialogue;
 - Conflict prevention;
 - Contribution towards economic development;
 - Enhancing the visibility of potential developments.

Results

Up to now approximately 300 mentoring pairs were matched. Each project cycle is evaluated, find below some recent evaluation results:

- 93 % of the mentors appreciate mentoring as a (very) useful instrument for the integration of migrants into the labour market.
- 40 % of the mentees have already been integrated into the labour market.
- 72 % of the mentors found it to be beneficial to them as well.
- 93 % of the mentors were (very) happy with their mentees.
- 82 % of the mentors intend to stay in contact with their mentees even after the project has been completed.
- 82 % of the mentors are interested in participating in a follow-up project.

The programme “Mentoring for Migrants” is continuously developed and extended. For more recent information about the project please see www.wko.at/mentoring (available in German).

Statements by the individual *Laender*

Styria

Since April 2009 the Department of Education, Youth, Women and Families of the Government of the *Land* of Styria has implemented specific measures under the motto “Home countries connect people” (“Heimat verbindet Menschen”) for public administration and cooperating partners of the department. This initiative not only offers training programmes for staff at the Department of Education, Youth, Women and Families but also aims at starting a process of change in Styria.

In this process the position of “we and the others” is to develop into the joint vision of “we”, assessing the diversity of all people living in Styria as an opportunity and added value. Established images and prejudices that obstruct the view on real identities and individual personalities when approaching other people are to be eliminated. The aim is not to make overall society do something to support the groups considered to be minorities, but to raise awareness and evaluate differences along with similarities in a positive way. Based on the principle of diversity, this central theme is focused on a comprehensive understanding of variety and diversity that not only respects differences but also emphasises similarities. Diversity is not based on “traditional” characteristics like gender, ethnic origin, language, nationality, religion, age and sexual orientation but put into a broader context, based on the principle of variable and freely elected identity elements.

In order to establish the basic idea of “learning to live together” in a sustainable way, diversity trainers have been trained and resumed their work throughout the regions of Styria. Since April 2010 diversity management has been established as a separate section within the administration of the *Land* of Styria and is part of the special department “Society and Generations”.

Vienna

Vienna moved towards integration-oriented policies of diversity in 2004.

One in three Viennese has a migration background that means they or their parents immigrated to Vienna. On the basis of these facts, the City initiated a development process in 2002 to develop and reshape its integration policies. This culminated in the acknowledgement that the diversity of Vienna’s population should be considered a standard feature and asset and that the City has to adapt to these changes structurally and with regard to its self-understanding in order to promote the goal of social cohesion. The City of Vienna thus decided to anchor the integration and diversity agenda within the City administration. In July 2004, the Municipal Department 17 - Integration and Diversity (*MA 17*) was founded in order to serve as an interface between migration organisations, NGOs and the City of Vienna. The Vienna Integration Fund, which had up to that time been the main player in Vienna in this area, was dissolved. As a centre of competence *MA 17* has been assisting the Vienna City Administration in achieving the goal of diversity since 2004.

MA 17 also initiates measures and projects to promote equal opportunities and peaceful and respectful relations among the inhabitants of Vienna. The projects supported or financed by *MA 17* are as diverse as the people, groups of people and institutions that submit the projects.

Promoting integration:

Integration aims at incorporating people as equals into society as well as into working life and cultural life. Integration is a complex process that concerns migrant families as well as the receiving country. The integration measures of *MA 17* aim at providing migrants with a good start in their new hometown and include language courses, information about everyday life (e.g. schools and the healthcare system) as well as support in finding work in Austria (e.g. recognition of diplomas). *MA 17*

- analyses needs and demands and develops concepts;
- plans, develops, supports and evaluates integration measures;
- provides funding for integration projects.

The main activities of *MA 17* are:

Initiatives to promote intercultural sensibility and competence such as

- promoting the peaceful coexistence of people from different backgrounds;
- cooperation between different groups;
- raising awareness in the fields of migration/integration/diversity.

Assisting migrants with integration and taking up residence such as

- language learning schemes and programmes with a social focus on women and youth;
- education, training and orientation;
- counselling in specific legal matters such as residence, employment and citizenship.

Supporting participation efforts such as

- measures to increase the willingness and ability of migrants to participate in the social, working, and political lives;
- helping associations and initiatives help themselves.

Managing diversity:

The increasing diversity of Vienna's population is a challenge for the City Administration as well as for other public institutions such as nursery schools, Municipal District Offices or hospitals. *MA 17* is a competence centre and internal service provider which supports the City Administration in providing equal municipal services to all citizens («diversity management»). *MA 17*

- provides advice on individual questions and problems;
- provides support in the further development of integration and diversity;
- initiates model and pilot projects and provides support throughout their evaluation;
- develops systems to introduce and implement diversity management in the individual units and departments of the City Administration.

Main projects:

Start Wien

On October 1st 2008 the City started a wholly relaunched programme for accompanying the resettlement of newcomers including initial coaching for newly arrived immigrants in their mother tongue, which is a service and information package providing individual first advice to get started in Vienna. *MA 17* staff answers questions regarding rights and duties, German language courses, the integration agreement and financial support, school, work, etc. and assists the newcomers to get quick access to the comprehensive package of integration measures available in Vienna. This is, firstly, a whole range of tailored measures for learning German; and, secondly, any support required to get access to the labour market based upon qualifications, acknowledgement procedures and career counselling documented by the Vienna Education Booklet (*Wiener Bildungspass*). In this booklet all the language courses, information events, counselling services and education and further training programmes are recorded which the immigrant attended. It contains vouchers from the City of Vienna for German integration courses worth EUR 300. It also provides the opportunity to attend information events on various useful topics. For more information see: <http://www.start-wien.at>

Neighbourhood work

On-site neighbourhood work in the individual districts and neighbourhoods is one of the main tasks of *MA 17*. The staff of the five regional centres (East, West, Middle, North and South) cooperate closely with migrant associations, district institutions, municipal departments, counselling centres, the police and other public institutions.

MA 17 regional centres:

- create networks among district institutions and migrant associations;
- develop and support projects in cooperation with local partners;
- participate in projects of other district institutions;
- support cross-district projects of the City of Vienna at local level;

- promote measures by MA 17 as well as by other municipal units, institutions and authorities in the migrant associations;
- serve as contact points for associations, institutions and multipliers for any questions, ideas, suggestions and problems that may arise in everyday life in the districts;
- mediate in conflicts between different interest groups.

“Join in!” (“*Sei dabei*”) – Projects supporting social interaction

“Join in!” brings together individuals. In the framework of the “Join in! Vienna for you – you for Vienna” (“*Sei dabei. Wien für Dich - Du für Wien*”) MA17 supports a variety of projects aimed at encouraging and fostering social interaction and integration. People come together, talk to each other, get to know each other and identify similarities. “Join in!” intends to encourage contact between the inhabitants of Vienna with different backgrounds and help tear down barriers and bridge gaps between them.

“Join in!” supports inhabitants of Vienna to get involved and play an active role with a view to integration. Activities and projects include picnics, soccer matches, photo exhibitions, etc. to name just a few. The project office provides counselling and information, acts as a platform for exchanging ideas and experience or provides material support.

“Advice and help” (“*Rat und Hilfe*“)

„Advice and help” (advice and help) is based on the community policing strategy, which includes joint visits by MA 17 staff, local police officers and prevention officers to migrant associations and religious communities (for example mosques) as well as information events and debates on selected topics such as safety and security in the neighbourhood.

The project is carried out in cooperation with the Vienna Police.

Pilot project „Voluntary Conflict Workers”

In this project voluntary workers commit themselves to preventing conflicts and mediating between the conflict parties. For example, they may enable and encourage the residents of an apartment building to actively promote a better way of living together in their residence building or in the neighbourhood.

Association platforms

Association platforms as forums for integration bring together migrant associations and district institutions at a local level. The meetings enable migrant associations to create networks and initiate or maintain contacts with the district councils and institutions. With these platforms MA 17 wants to promote migrant participation in everyday life in the districts.

For more information see: <http://www.wien.gv.at/integration>

3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

See Appendix 5: 2009 annual average of citizens from Contracting Parties to the European Social Charter legally employed in Austria (source: Main Association of Austrian Social Security Institutions).

These figures do not only comprise non-Austrian citizens from Contracting Parties to the European Social Charter holding work permits but also those who have free access to the labour market.

The Main Association only updates the nationality data in the case of new registrations, which is why slightly more than 100,000 employment relationships still have the nationality information of “former Yugoslavia”, “former Czechoslovakia” or “Serbia and Montenegro”.

Para. 2 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

See Article 19 Par. 1, question 3 above.

Para. 3 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

In reply to the additional question by the Committee on Social Rights regarding Article 19 Para. 3 in the Conclusions XVIII-1 the following notes are provided:

The Committee repeats its request for updated information regarding social service cooperation suited to individual circumstances of migrant workers, whether through public or through private agencies.

The Austrian Federal Government as well as the Governments of the *Laender* support NGOs that specialise in the assistance of migrant workers and cooperate with welfare institutions in the countries of origin, in particular within the fields of family reunion and emigration.

For instance, the activities of the Austrian branch of the International Social Service (ISS) have been financed by public funds to a large extent. The ISS is active in most European countries, including ex-Yugoslavia and Turkey, where about 85% of migrant workers in Austria are from, with a network of national branches, affiliated bureaus and correspondents, and is in close contact with all of them.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, including the patterns of emigration and immigration between States party for employment purposes.

See Article 19 Par. 1, question 3 above.

Para. 4 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

- a) remuneration and other employment and working conditions;**
- b) membership of trade unions and enjoyment of the benefits of collective bargaining;**
- c) accommodation;**

Not ratified by Austria.

Para. 5 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

No substantial changes.

Para. 6 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Previous reporting is replaced with the following text:

I. Introduction of the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*)

The Aliens' Law Package 2005 (*Fremdenrechtspaket 2005*, entry into force: 1 January 2006) clearly separated the law enforcement competencies between the aliens' police (*Fremdenpolizei*) and the authorities responsible for settlement (formerly governed by *FrG* 1997). This was achieved by separating the content in legislation and setting forth the relevant stipulations in the **Settlement and Residence Act** (*Niederlassungs- und Aufenthaltsgesetz, NAG*) on the one hand, and the Aliens Police Act (*Fremdenpolizeigesetz, FPG*) on the other hand.

Hence, a stay of up to three (in certain cases six) months of a foreigner is subject to the provisions of the *FPG*, while the *NAG* governs the residence and settlement of aliens in Austria for a period longer than six months as a rule.

The European Union exerted its legislative competence concerning the immigration of third-country nationals and passed the relevant directives, which entered into force successively and had to be transposed into national law. Settlement and residence therefore required a fundamental revision and restructuring.

In the framework of two new laws, the residence title of third-country nationals was re-defined and new provisions were introduced concerning the documentation confirming the rights of residence and settlement according to Community law.

The *NAG* provides for the following types of residence titles (Section 8 Para. 1 *NAG*):

- **Settlement permit** (for settlement in Austria other than only temporary, limited and for a specific purpose), including the option to be awarded a residence title "permanent residence – EEC" later on.

(Types of settlement permits: NB - key employee, NB – excluding employment, NB – unlimited, NB – limited, NB – family member).

- **Residence title “family member“** for granting settlement for a limited period of time, including the option to be awarded a residence title of “permanent residence – family member“ later on.
- **Residence title “permanent residence – EEC“** for documenting the right of residence for an unlimited period, irrespectively of the validity date of the document.
- **Residence title “permanent residence – family member“** for documenting the right of residence for an unlimited period, irrespectively of the validity date of the document.
- **„Residence permit“** (*Aufenthaltsbewilligung*) for granting a temporary residence for a limited period for a specific purpose (Sections 58a to 69a NAG), including the option to be awarded a settlement permit later on, if applicable.

and the following types of documentation concerning the right of residence according to Community law:

- **Registration certificate** (*Anmeldebescheinigung*) for EEA citizens residing in Austria for more than three months;
- **Residence card** (*Aufenthaltskarte*) for third-country nationals being family members of EEA citizens eligible for residence according to Community law (**from 01 January 2010**);
- **Certificate of permanent residence** (*Bescheinigung des Daueraufenthaltes*) for EEA citizens, having obtained a permanent right to stay (**from 01 January 2010**);
- **Permanent residence card** (*Daueraufenthaltskarte*) for third-country family members of an EEA citizen having obtained the right to permanent residence.

II. Amendment to humanitarian residence law

The NAG was amended on 1 April 2009. The amendment mainly included a reform of the residence rights for humanitarian reasons (entry into force: 1 April 2009, Federal Law Gazette I no. 29/2009). This amendment introduced completely new provisions concerning “humanitarian residence”. In order to conform with Article 8 ECHR the new law principally provides for the award of the residence title “settlement permit – limited” pursuant to Section 44 Para. 3 in conjunction with Section 44b NAG as well as the “settlement permit – unlimited” pursuant to Section 43 Para.2 NAG. **These two titles are not subject to the quota system.**

The prerequisites and procedures are the same for the two types of residence title, with the exception that German language skills are required and have to be evidenced for the award of a “settlement permit – unlimited” pursuant to Section 43 Para.2 no. 2 and/or Section 14 Para.5 no. 2 to 5 or 7 NAG. If command of the German language is not evidenced, the award of the “settlement permit – limited” is possible.

III Aliens’ Law Reform Act 2009 (*Fremdenrechtsänderungsgesetz, FrÄG 2009*)

The *FrÄG 2009* – which entered into force on 1 January 2010 – provided for further amendments of the Aliens’ Police Act and the Settlement and Residence Act. Some of the new provisions are related to family reunion. With respect to the residence status of family members holding a settlement permit it is pointed out that such family

members are entitled to settlement in their own right without the need to derive such right from their right to stay for the first five years (Section 27 NAG).

IV The following regulations currently apply to family reunion (including changes effected by the *FrÄG* 2009)

The requirements for a family reunion of third-country nationals depend on the legal residence status of the person requesting reunion in Austria. In this context three different situations are identified in accordance with the laws of the European Community.

1. The person requesting family reunion is an Austrian national or EEA national or Swiss citizen, making use of his/her right of free movement (Section 54 NAG);
2. The person requesting family reunion is an Austrian national or EEA national or Swiss citizen, not making use of his/her right of free movement (Section 47 NAG);
3. The person requesting reunion is a third-country national (Section 46 NAG).

Ad 1.: The person requesting reunion is an Austrian national or EEA national or Swiss citizen, making use of his/her right of free movement

The residence of EEA citizens and their family members (pursuant to Section 52 Para. 1 NAG) for a period of more than three months is regulated in Chapter 4 of Part 2 NAG (Sections 51 et seq. NAG). In these stipulations Directive 2004/38/EC was transposed.

EEA citizens are entitled to residence for more than three months, if they are employed or self-employed in Austria or have sufficient financial means to support themselves and their family members. Additionally, they must have health insurance in order to be able to live without social assistance benefits during the time of their stay. If EEA citizens stay in Austria for the purpose of education and training, they must have sufficient financial means and adequate health insurance cover (Section 51 NAG). Pursuant to Section 53 NAG the right of residence according to Community law will be documented by means of a "registration certificate" upon application. Following five years of lawful and uninterrupted residence in Austria, EEA citizens acquire the right of permanent residence and may apply for a certificate of permanent residence (Section 53 a NAG).

Third-country nationals being family members of EEA citizens entitled to residence in accordance with Community law (Sections 51 and 53a NAG) are also entitled to stay in Austria for more than three months. They will be issued a residence card upon application (Section 54 NAG). Following five years of lawful and uninterrupted residence they will acquire the right of permanent residence, which is documented by means of a permanent residence card.

Any of the above mentioned documents (registration certificate, certificate of permanent residence, residence card, permanent residence card) evidence the existence of a right of residence according to Community law, **and are therefore not subject to the quota system.**

Ad 2.: The person requesting family reunion is an Austrian national or EEA national or Swiss citizen, not making use of his/her right of free movement (Section 47 NAG)

Pursuant to Section 2 Para. 1 no. 9 NAG, the following persons are considered family members: spouses, registered partners or minor children (including adoptive or stepchildren) (nuclear family); the definition of minority depends on the national laws.

The general requirements for obtaining a residence title (Section 11 NAG) have to be met (i.e. the alien's residence must not be in contradiction to the public interests; accommodation as is customary locally must be available; sufficient health insurance must be available; the alien's residence must not be a burden on a territorial corporate body (*Gebietskörperschaft*)).

Family members pursuant to Section 2 Para. 1 no. 9 NAG, have to be awarded the residence title “family member”, certain other relatives may be awarded a “settlement permit – family member” (Section 47 Para. 3 NAG).

The award of the above mentioned residence titles is **not subject to the quota system**.

Ad 3.: The person requesting family reunion is a third-country national (Section 46 NAG)

Pursuant to Section 2 Para. 1 no. 9 NAG, the following persons are considered family members: spouses, registered partners or minor children (including adoptive or stepchildren) (nuclear family); the definition of minority depends on the national laws.

According to the provisions of the NAG, the legal residence status of the person requesting family reunion serves as the starting point/orientation point for a procedure regarding family reunion of third-country nationals.

Third-country family members may immigrate on condition that they meet the general requirements for obtaining a residence title (Section 11 NAG - the alien's residence must not be in contradiction to the public interests; accommodation as is customary locally must be available; sufficient health insurance must be available; the alien's residence must not be a burden on a territorial corporate body (*Gebietskörperschaft*), etc.).

In addition, the person requesting family reunion must meet certain requirements: He/she has to be the holder of a “permanent residence – EEC”, “settlement permit – unlimited” – or another type of settlement permit.

If the anchor person (i.e. the person requesting family reunion) holds a residence permit, the possibilities for a family reunion are more restricted. In this case family reunion will only be possible for specific purposes: Job rotation, artists, special cases of employment, students, researchers as well as Section 69a NAG (special protection). Furthermore, a derived residence permit may be granted if the family has not yet existed in the home country but was created in Austria.

The award of a residence permit – also for family members – is **not subject to the quota system**.

With the *FrÄG* 2009 (and the accompanying amendment of Section 27 NAG) the legal residence status of family members holding a settlement permit has been further improved. Although in the case of a family reunion a potential immigrant relies on another person living in Austria on a permanent basis, i.e. the person requesting family reunion (for this reason, the legal residence status of the person requesting family reunion always serves as the starting point/orientation point for a procedure

regarding family reunion), family members enjoy an independent right of settlement. In the case of a prolongation of the permit, they therefore have to be granted a corresponding settlement permit, provided that they meet the general requirements (Section 11 Para.2 NAG), even if the conditions for a family reunion are no longer fulfilled. Therefore the purpose of the stay during the first five years is not derived. In case the family member meets the requirements for obtaining a permit pursuant to Section 11 Para.2 NAG and there is no obstacle for him/her to obtain the permit, a settlement permit will be awarded for the same purpose of residence as previously.

V. Quota system (Section 12 NAG):

Certain residence titles can be exempted from the quota system (as already described above).

Some of the residence titles, however, are subject to the quota system, i. e. a title may only be granted if the corresponding quota for the *Land* concerned has not yet been used up in the relevant calendar year.

The quota for each calendar year are specified in the annual Settlement Ordinance (*Niederlassungsverordnung, NLV*; Section 13 NAG). This order is issued by the Federal Government upon mutual agreement with the Main Committee of the National Council.

Before making a decision, the Federal Ministry of the Interior obtains the expertise of the Austrian Institute of Economic Research (*Wirtschaftsforschungsinstitut, WIFO*), on which further consultations will be based.

In this context, the Federal Government has to ensure the development of a well-regulated labour market and to allocate the permits that are the subject of the Ordinance to the various *Laender* according to their needs and requirements.

Before the Ordinance is issued, the opinion of the Austrian Federal Economic Chamber, the Austrian Federal Chamber of Labour, the Presidential Conference of Austrian Chambers of Agriculture, the Austrian Association of Municipalities, the Austrian Association of Cities and Towns, the Austrian Trade Union Federation, the Federation of Austrian Industry, as well as the Austrian Institute of Economic Research will be heard.

The *Laender* have to be given the opportunity to make definite proposals concerning the number of required settlement permits.

In issuing the Settlement Ordinance, the Federal Government has to consider the integration capacities of the domestic labour market as well as the proposals made by the *Laender*. The numbers proposed by the individual *Laender* can be exceeded only upon approval of the concerned *Land* (constitutional provision).

Residence titles subject to the quota system may generally only be awarded if the relevant quota of the respective *Land* has not yet been filled in a particular calendar year.

Applications for family reunion pursuant to Section 46 Para. 4 NAG which would normally have to be approved but cannot be awarded a title due to a lack of quota must not be denied. The decision (award) has to be postponed up to a time when the quota is not exceeded.

As described already above, EEA citizens and Swiss nationals entitled to free movement enjoy a right of residence according to Community law, which only has to be evidenced by the relevant document. Titles subject only to documentation are not subject to a quota.

Furthermore, some residence titles are exempt from the quota system (see Section 47 Paras.1 and 2 NAG – in cases, where the person requesting family reunion is an Austrian national living in Austria permanently, an EEA or Swiss citizen.)

Furthermore, the award of residence permits to family members is also exempt from the quota system.

However, applications that cannot be awarded a title because the quota has already been filled must not be rejected, but the decision (award) has to be postponed up to a time when the quota is not exceeded. Three years following the date of application the decision must not be postponed any further. The quota is extinguished, i.e. the family member will be awarded a residence title after a maximum period of three years (no matter if the quota is exceeded or not). This provision is in conformity with Community law (see Article 8 of Directive 2003/86/EC of 22 September 2003 on the right to family reunification).

Furthermore, the amendment of 1 April 2009 has introduced - on grounds of Article 8 ECHR – the option to apply for the residence title “settlement permit – limited” pursuant to Section 44 Para. 3 NAG as well as “settlement permit – unlimited” pursuant to Section 43 Para. 2 NAG. **Both titles are not subject to the quota system** (an application while staying in Austria is possible in these cases).

All in all, the possibilities of family reunion are sufficiently safeguarded, and the relevant provisions are – as described above – in conformity with Community law.

Access to the labour market:

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

After the transitional provisions on free movement of persons in the Accession Treaty of Athens became valid on 1st of May 2004 and 1st January 2007, family members of integrated workers from the new Member States have had free access to the Austrian labour market provided they had been legally resident in Austria on 1 May 2004 or 1 January 2007 (days of accession of EU-8 nationals and Bulgaria and Romania) or as soon as they have been legally resident in Austria for 18 months or

immediately after 1 May 2006 or 1 January 2009. After they have submitted a declaration to this effect to the Public Employment Service, they may be issued with a special document called confirmation certificate (according to Article 32a of the Act Governing Employment of Foreign Nationals) which gives proof of their status.

Reply to the additional questions on Para. 6 of Article 19 of Conclusions XVIII-1:

Family reunion regarding children up to the age of 21 years:

The legal situation in Austria corresponds with the requirements of the revised Charter, which determines the end of minority in accordance with the laws of the host country as the age limit for family reunion.

Quota system – request by the Government Committee for additional information:

“...that the quota system does not deprive migrant workers who are nationals of a country not party to the EEA or Switzerland the right to family reunion, in which year the quota number has been exhausted.”

Settlement subject to quota system

Section 12. (1) ...

(4) If at the time of application or the time of deciding on the application the quota in the register (pursuant to Para. 2) has been exhausted for the year in question, the application is to be denied without any further procedure - except in cases of family reunion pursuant to Section 46 Para. 4 – whereby the rejection order has to include details concerning the ranking number of the application, as well as the total number of applications submitted in the quota year up to the time of the decision and the available quota; there is no right of appeal concerning this decision.

...

(7) If in cases of a family reunion pursuant to Section 46 Para. 4 the quota in a *Land* has been exhausted, the authorities have to defer the decision on the application up to a time when the quota is not exceeded, unless the application has to be denied or dismissed for any other reasons. Such deferral will block the expiry of deadlines pursuant to Section 73 of the General Administrative Procedure Act (*Allgemeines Verwaltungsverfahrensgesetz, AVG*) and Section 27 of the Administrative Court Act 1985 (*Verwaltungsgerichtshofgesetz, VwGG*), Federal Law Gazette no. 10. On the effective date of the deferral the alien or person requesting reunion is entitled to receive information concerning the position in the ranking of the register. Upon request by the alien the information concerning the position in the ranking is to be communicated once in the form of an administrative decision; an appeal is not permitted. Other information concerning the ranking may also be submitted by other, technologically feasible means ensuring the protection of personal data. Three years following application a further deferral is no longer permitted and the quota obligation pursuant to Para. 1 will be extinguished.

(8) Settlement permits for children who do not need a visa pursuant to Section 30 Para. 4 *FPG* as well as for aliens who were denied their asylum status in a legally effective way pursuant to Section 7 Para. 1 no. 2 *AsylG* 2005 but who are still residing on Austrian territory are not subject to the quota system. This also applies to

children born in the period between the time when their mother submitted the application and the time when the settlement permit was granted.

Regarding Section 12 *NAG* it has to be added that only the initial award of a settlement permit and a change of the purpose of a valid residence title are subject to the quota system, if the settlement permit that is the subject of the application would be subject to the quota when awarded for the first time.

The following categories are not subject to the quota system:

- Documentation concerning the right of residence according to Community law;
- Awards of residence titles pursuant to Section 47 Para. 2 and 3 *NAG*;
- Residence permits.

Furthermore, applications that cannot be awarded a title because the quota has been exceeded may not be rejected, but the decision (award) has to be deferred up to a time when the quota is not exceeded. Three years following the date of application the decision must not be postponed any further and the quota is extinguished, i.e. the family member will be awarded a residence title after a maximum period of three years (no matter if the quota is exceeded or not) – see Section 13 Para. 7 *NAG*. This is in conformity with Community law (see Article 8 of Directive 2003/86/EC of 22 September 2003 on the right to family reunification).

Furthermore, the amendment of 1 April 2009 has introduced – in order to retain family life (Article 8 ECHR) – the option to apply for the residence title “settlement permit – limited” pursuant to Section 44 Para. 3 *NAG* as well as “settlement permit – unlimited” pursuant to Section 43 Para. 2 *NAG*. **Both titles are not subject to the quota system and an application while staying in Austria is possible.**

Pursuant to Article 18 *B-VG* (principle of legality) the administrative authorities are bound by law when enforcing it. Therefore, the options of a family reunion are safeguarded by the provisions of the *NAG*. The provisions concerned are, as described above, in compliance with Community law.

Health

Pursuant to Section 11 Para. 7 of the *NAG*, an alien has to submit a health certificate upon initial application, if such certificate pursuant to Section 23 *FPG* would also be required for obtaining a visa (Section 21 *FPG*).

<http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004241> (in German)

The Ordinance of the Federal Minister responsible for social affairs and generations concerning the Medical Certificate under Alien Law (*FrG-GZV*), Federal Law Gazette II no. 481/2002, last amended by Federal Law Gazette II no. 464/2003, expired at the end of 31 December 2005 (see the Ordinance of the Federal Minister of Health and Women repealing the *FrG-GZV*), Federal Law Gazette II no. 180/2006).

http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2006_II_180/BGBLA_2006_II_180.html (in German)

No new ordinance has been issued since then.

In reply to the additional question by the Committee regarding the subject matter covered by the ordinance which was revoked in the meantime it should be noted that the World Health Organization (WHO) is managed by its main bodies, the World Health Assembly, the Executive Board and the Secretariat. The World Health Assembly (WHA) is the supreme decision-making body for WHO. The WHO relies on three instruments: international treaties, regulations immediately based on the Constitution of the WHO and non-binding recommendations. The WHO regulations the Committee refers to are the International Health Regulations (IHR), which were already created in the early days of the World Health Organization. They were adopted in 1951 as the "International Sanitary Regulations (ISR)" and were revised three times since, with the last revision taking place in 2005.

WHO's IHR were outdated due to the growth in international travel and trade and the related possible international health risks. The IHR were therefore revised in 2005 based on the current state of scientific and technical knowledge. Thus, the IHR 2005, which were adopted by the Fifty-eighth World Health Assembly on 23 May 2005, constitute a modern and sound basis for international health protection. One of the major modifications is that the IHR do not only apply to expressly named diseases but also to public health risks in general, thus also encompassing newly emerging diseases (e.g. SARS, Influenza/H5N1, Influenza A/H1N1, etc.). The mentioned ordinance, which was repealed in the meantime, reflected the assessment of current developments prevailing at that time.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate, in particular concerning the number of applications for family reunion and the percentage of approved as well as rejected applications

Such data are not available because statistics are only based on the number of awards and not on the number of procedures.

Para. 7 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

Not ratified by Austria.

Para. 8 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

Not ratified by Austria.

Para. 9 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

No substantial changes.

2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No substantial changes.

3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

No substantial changes.

Para. 10 of Article 19

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply.

Not ratified by Austria.

In addition, the comments of the Austrian Federal Chamber of Labour regarding Articles 7, 8, 16, 17 and 19 are attached.(Appendix 6).