EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

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Response

of the Austrian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Austria

from 18 to 28 March 2025

The Government of Austria has requested the publication of this response. The CPT's report on the 2025 visit to Austria is set out in document CPT/Inf (2025) 35.

Strasbourg, 6 November 2025

I. Introduction

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment entered into force for Austria on 1 May 1989. Since then, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has visited Austria eight times: in 1990, 1994, 1999, 2004, 2009, 2014, 2021 and most recently in 2025. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited four residential care homes in Austria, two in Lower Austria and two in Styria, between 18 and 28 March 2025.

Austria appreciates the good cooperation during the visit, takes note of the CPT's recommendations and comments with great interest and uses them as a valuable basis for improvements.

The following Austrian statement is structured in accordance with the CPT report.

II. Recommendations, Comments and Information Requests of the CPT

Living Conditions of the Residents

On Paragraphs 16-18

The residential care homes have an establishment and operating licence, which authorises a certain number of care places within the facility. The allocation of the residents in the various wards is the responsibility of the facility. When accommodating residents, the care facilities are guided by the care and support concept on which the establishment and operating licence is based.

Staffing and Care of Residents

On Paragraph 26

Due to demographic trends and the consequences of the COVID-19 pandemic, there is a noticeable shortage of skilled workers in all sectors. It is the responsibility of the regions (*Länder*) to regulate the establishment, maintenance and operation of care homes. This also includes

regulations regarding staffing, training and continuing education, staff remuneration and specifications regarding the daily organisation of residents [1] . Nevertheless, the Federal Government and governments of the *Länder* have implemented a number of measures to make work in care homes, mobile services and the disability sector more attractive and to provide financial recognition to employees.

- **Federal Subsidy for Pay Increases for Care and Support Staff**

  The Federal Government has made a total of up to EUR 570 million available to the *Länder* until the end of 2023 to increase the remuneration of qualified healthcare and nursing staff, care assistants, specialised care assistants and members of the social care professions as a special purpose grant. The Federal Government covered the costs in full for 2022 and 2023. In total, around 175,000 people benefited from these pay increases in 2023. Since 2024, the pay increases for nursing and care staff have been paid out based on the Long-Term Care Fund Act, with the *Länder* bearing one third of the costs.

  From 2023, EUR 2,460 per full-time equivalent, including employer and employee contributions, will be refunded if the nursing and care staff

  - have completed training in accordance with the Healthcare and Nursing Act (GuKG) or the agreement between the Federal Government and the *Länder* on social care professions in accordance with Section 15a of the Federal Constitutional Law (B-VG), and

  - are employed in hospitals, in semi-inpatient and inpatient long-term care facilities or in mobile care and nursing services in accordance with regulations of the *Länder*, in mobile, semi-inpatient and inpatient facilities for the disabled in accordance with regulations of the *Länder* or in convalescent facilities in accordance with regulations of the *Länder*.

[1] Constitutional Court. 16 October 1992. KII-2/91: *Agreement between the Federation and the Länder pursuant to Art. 15a B-VG on joint measures of the Federation and the Länder for persons in need of care*, including annexes. Federal Law Gazette. No. 866/1993.

In 2024, the final settlement was made by the Federal Government for the Federal Subsidy Scheme for Pay Increases Act (EEZG). The region of Lower Austria (NÖ) accounted for around EUR 85.9 million for the years 2022 and 2023.

- **Training Allowances for Nursing Education and Training subsidy**

  The purpose of the Nursing and Care Education Special Purpose Subsidy Act (PAusbZG) was to provide financial support for people completing training in the fields of nursing and care. People who do not receive a liveable wage from the Public Employment Service (AMS) received a monthly training grant of at least EUR 600. For this purpose, the Federal Government has made a total of EUR 264 million available to the *Länder* for three years to cover two thirds of the costs incurred, with the remaining third being borne by the *Länder*. A long-term guarantee for this measure was ensured by the inclusion of this special-purpose grant in the Long-Term Care Fund Act (PFG) from 2024.

- **Nursing Grant**

  In addition to the Nursing and Care Education Special Purpose Subsidy Act, it was decided to introduce a Nursing Grant. The grant is offered by the Public Employment Service Austria (AMS). It supports people in their training who want to enter or re-enter the nursing profession at a later stage. The grant has been available since 1 January 2023. The minimum amount for 2025 is approximately EUR 1,606.80 per month.

- **Long-Term Care Fund Act**

  The Long-Term Care Fund Act[2] provides the legal basis for the granting of special-purpose grants (financial subsidies) by the Federal Government to the *Länder* and municipalities in the area of long-term care. By granting these special-purpose grants, the Federal Government supports the *Länder* and municipalities

  - in securing and improving the provision of needs-based and affordable care and nursing services for people in need of care and their relatives, in particular with the aim of achieving harmonisation throughout Austria in the area of long-term care services;
  - in securing and expanding their range of care and nursing services in line with demand.

[2] Federal law establishing a long-term care fund and granting a special-purpose subsidy to the *Länder* to secure and expand the range of long-term care and nursing services in line with demand for the years 2011 to 2028 (Long-Term Care Fund Act - PFG) StF: Federal Law Gazette I No. 57/2011

In addition, the special-purpose grants to the *Länder* serve to support care training programmes and increase the remuneration of care and nursing staff.

Lower Austria (NÖ) has introduced subsidies for care training in order to offer interested parties a financial incentive to train in the field of nursing. The aim of the funding is to cover the qualitative and quantitative labour demand in the health and social sector in Lower Austria and thus to ensure the provision of healthcare, care and support for the Lower Austrian population. The Lower Austrian nursing training premium is a monthly subsidy of EUR 420 or EUR 600 and is granted for training in the fields of nursing assistance, specialised nursing assistance, certified social care, specialised social care and certified health and nursing care if the training takes place at a Lower Austrian educational institution. Furthermore, the Lower Austrian education voucher contributes to the tuition fees for training courses at technical colleges for social professions and schools for social care professions as well as at the Higher College for Social Care and Nursing in order to reduce financial barriers and thus make this choice of training more attractive.

In addition to financial incentives, the following measures have been implemented to attract more young people to enter training at an early stage, to make training more attractive in general and to provide guidance:

- Pilot projects to link the mainstream school system with health and nursing schools as well as the implementation of the "health and social care" focus in new secondary schools bring the professions of social care and nursing closer to pupils in times of career decisions.
- New training models, such as a five-year training programme with a high-school certificate and integrated training as a nursing assistant at a higher education institution for social care and nursing, as well as pilot projects for part-time training as a nursing assistant are additional ways of training specialists for the future.
- The modularisation of nursing training courses offers qualifications that can be achieved in stages as a career model for people who want to complete these training courses step by step. The start of training courses as part of the nursing apprenticeship will take place in autumn 2023.

- The creation of the coordination centre[3] for nursing education provides a point of contact for questions about training opportunities in the social and care professions. The coordination office serves as an interface between people interested in training in the care sector, the Public Employment Service of Lower Austria, care organisations, training institutions and the government of Lower Austria.

Despite these measures, the demand for nursing staff cannot be met in the medium and long term by either domestic staff or potential from EU member states. The recruitment of skilled workers from third countries will therefore be not only indispensable for Austria, but for many countries with similar developments in the future. Against this background, the federal state of Lower Austria is implementing the pilot project "Nursing Assistant Vietnam". The Vietnam cooperation project of the International Nursing Centre at IMC Krems offers a total of 150 young people from Vietnam the opportunity to train as nursing assistants and subsequently find employment in Lower Austria. The findings from the pilot project are to serve as a model for the *Land* of Lower Austria as part of a package of measures to secure skilled labour.

In connection with nostrification, the recognition of foreign qualifications, the Austrian Integration Fund (ÖIF) offers comprehensive counselling and support for international skilled workers and their families on topics such as learning German, professional recognition and living in Austria. In addition, free webinars, information events and networking opportunities are offered to facilitate entry and integration. There is a wide range of German courses, especially specialised courses for care workers. In Lower Austria, an additional competence centre for nostrification has been set up at IMC Krems to ensure that procedures are processed quickly.

On Paragraph 27

Oral health is an important indicator of general health, well-being and quality of life. Despite significant improvements in Austria, demographic developments are creating new challenges for therapeutic and care concepts. The elderly, people in need of care, and socially

[3] For more information, see: https://menschenundarbeit.at/projekte/noe-koordinationsstelle-fuer-pflegeberufe

disadvantaged people who are often no longer able to maintain their own oral health are particularly affected.

The prevalence of edentulism and tooth loss in Austria is generally on the decline. This was demonstrated by a population-representative (social) epidemiological study[4] on the oral health of the adult population in Austria, commissioned by the Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK) and financed through the Health Promotion Agenda. The target groups for this survey were the resident population aged 35 to 44, 65 to 74 and over 75. However, people in nursing and care facilities were not part of the target group, which means that no reliable data on their oral health status is currently available. Against this background, the data situation should be improved and a well-founded analysis of prevention and, in particular, oral health care concepts in nursing and care facilities should be conducted to lay the groundwork for concrete action. As part of the work of the Competence Centre for Oral Health, which is based at Gesundheit Österreich GmbH (GÖG), the target group of older and vulnerable people, including people in need of care, will continue to be taken into account and the recommendation of the CPT delegation will be implemented in the best possible way.

According to Section 7 Article 5 of the Lower Austrian Care Home Regulation (NÖ PHV), the legal entity responsible of a residential care home must allow residents a free choice of physician and guarantee the necessary medical care by general practitioners and specialists at all times. However, on-site medical care is not mandatory. Dental treatment in particular requires structural, personnel and hygiene conditions that are not available in long-term care facilities, which are primarily to be regarded as the residents' place of residence. In addition, the willingness of dentists is also required for home visits.

On Paragraph 28

The BMASGPK has promoted the development and dissemination of safety-orientated tools such as guidelines, lists and information platforms and supports interdisciplinary work to reduce polypharmacy and potentially inadequate medication (PIM). Via the health portal, the

[4] Schwarz, T. & Schulze, E. (2022). Oral health and oral health-related quality of life in Austria. Health Austria, Vienna.

BMASGPK provides quality-assured and independent information for patients and practitioners, with drug safety being a central topic. In addition to general information, the portal also provides medication plans that are intended to contribute to drug safety. These materials raise awareness of the risks of polypharmacy in the healthcare sector, among doctors, pharmacists, nursing staff and other professionals, especially among older people.

In addition to providing information, the introduction of e-medication as part of the electronic health record (ELGA) is a key measure for minimising risk. It provides doctors, pharmacists and hospitals with a complete overview of prescribed and dispensed medication and thus helps to systematically recognise and avoid interactions or duplicate prescriptions.

As part of the "Health 2024-2028" target management agreement, the Federal Government, *Länder* and social insurance organisations have agreed to collect indicators on the quality of medication prescriptions. One of these indicators is the prevalence of polypharmacy among persons aged over 70, defined as beneficiaries with more than five simultaneously prescribed active ingredients per 1,000 beneficiaries. In 2024, this figure was between 166 in Vorarlberg and 307 in Burgenland, while the average for Austria as a whole was 244. A reduction in the prevalence rate was agreed as a target. Compared to the previous year, the prevalence of polypharmacy[5] among over 70-year-olds has already been reduced by around ten per cent.

In its work programme, the Federal Government has also provided for a mandatory overall medication analysis for polypharmacy patients prior to hospital discharge. This should be carried out by clinical pharmacists and/or pharmacologists and, if necessary, anchored in the Hospitals and Rehabilitation Facilities Act (KAKuG). This measure is intended to provide an important contribution to preventing polypharmacy in the future.

Social insurance institutions, which are responsible for the provision of medicines in the private practice sector, have been focussing on the issue of polypharmacy for many years. An information campaign for doctors and patients was launched in 2014 under the title "Vorsicht

[5] Haindl, A., Bachner, F., Carrato, G., & Gredinger, G. (2024). *Monitoring Report on Health Target Management: Monitoring in accordance with the agreement between the Federal Government and the Länder pursuant to Art. 15a B-VG Health Target Management and Target Management Contract*. Health Austria.

Wechselwirkung" ("Caution interaction"). With the aim of raising awareness among general practitioners in particular, the so-called "polyquota" was calculated, which depicted the extent of polypharmacy in a practice and was communicated to the contractual partners for information.

A pilot project for structured medication analyses is currently underway, which is being conducted in cooperation between the Austrian Chamber of Pharmacists, the Medical University of Vienna and the umbrella organisation of social insurance providers. Pharmacists are systematically analysing the medication of affected patients in order to identify risks such as interactions or misuse. The project is being carried out in collaboration with the Austrian Institute of Health Technology Assessment (AIHTA) and aims to identify further options for action.

Finally, it should be noted that there are currently no specific measures to prevent polypharmacy in retirement and care homes that fall under the responsibility of the *Länder* or the respective provider organisations.

On Paragraph 29

In principle, some care facilities in Lower Austria offer the opportunity to take advantage of supervision programmes. However, it should be considered that supervision depends on the voluntary participation of the participants, as its success is largely dependent on their willingness to open up. Voluntariness is a basic prerequisite for a constructive and appreciative discussion of professional pressures and challenges. It should be noted that, in contrast to the Lower Austrian Hospital Act (NÖ KAG), the Lower Austrian Social Welfare Act 2000 (NÖ SHG) does not provide for the possibility of mandatory in-service supervision.

On Paragraph 30

In principle, it is the nursing staffs own responsibility to fulfil their obligation to undergo further training. Nevertheless, the inspections carried out by the authority routinely check whether the fulfilment of the statutory obligation to provide further training for nursing staff is demonstrably monitored by the managers.

On Paragraph 31

Individualised and appropriate engagement of residents is essential in order to ensure resource and orientation promoting care and support and to prevent consequences such as loneliness, emotional withdrawal or the accelerated loss of motor and cognitive skills. For this reason, inspections are conducted to check whether appropriate services are available and, if necessary, measures are prescribed.

With regard to the lack of engaging activities in the Beer care home described in the visit report of the Committee for the Prevention of Torture (CPT), it can be stated that during the most recent specialist inspection the official nursing experts (Amtssachverständigen für Pflege) established that support and animation staff are present in this facility. Participation in everyday life is generally encouraged and the daily activities are posted in the facility.

On Paragraph 33

The Federal Ministry of Justice (BMJ) has no jurisdiction over the care facilities mentioned, as there is no agreement pursuant to Section 179a Article 3 of the Penal Enforcement Act (StVG) with either the Beer care home or the Margarethenhof of Sanlas Holding. Only in such cases would the prison administration be authorised in principle to provide the specific services of the selected facilities.

With regard to the suggestion that "such facilities should employ adequately trained psychologists and ideally social workers in order to meet the rehabilitation needs of conditionally released persons", it should be noted that the residents concerned are generally instructed to receive support from the probation service in connection with their conditional release. This means that, in principle, specially trained social workers are also available to assist them in facilities such as the Beer care home or the Margarethenhof of Sanlas Holding, particularly with regard to aspects of rehabilitation and reintegration.

Concerning the absence of individual rehabilitation plans for residents who have been conditionally released from prisons or forensic therapy centres, as described in the visit report of the Committee for the Prevention of Torture (CPT), it can be stated that, contrary to the statements in the visit report, there is a therapeutic team offering occupational and psychotherapy in the Beer care home. The therapeutic staff is sufficiently present. During the

last unannounced specialist inspection on 14 November 2024, activities were taking place in the therapy and animation rooms. In general, several offers for meaningful activities for residents with psychosocial indications were observed.

However, during the case analysis carried out by the official nursing experts on 14 November 2024, it was noted that no measures to create a structured daily concept could be observed in the case of the resident under review. There was no planning of activities aimed at preserving or enhancing cognitive performance, promoting independence and verbal and non-verbal communication. In a hearing of the parties on 30 December 2024, the legal entity of the Beer care home was instructed to ensure that residents are provided with individual and appropriate activities. This is necessary to ensure resource- and orientation promoting care and support and to avoid consequences such as loneliness, emotional withdrawal or accelerated loss of motor and cognitive abilities. Before issuing a decision, the legal entity submitted an evaluated care plan for the analysed resident and was able to prove that planning is now in place to ensure that the resident in question receives care and support that promotes their resources and orientation. It was therefore no longer necessary to impose the aforementioned requirement.

On Paragraph 34

If death is not due to natural causes, in particular due to old age or illness, reference is drawn to the existing provisions of Section 128 of the Code of Criminal Procedure (StPO).

If structural deficiencies or shortcomings in oversight become apparent in this particularly sensitive area of care and in view of the special need for protection of the residents of care facilities, any criminal proceedings to be initiated would generally be of particular public interest and supra-regional significance and would therefore be classified as requiring a preliminary report in accordance with Sections 8 Article 1 and 8a Article 2 of the Public Prosecutor's Act (StAG), which means that it would be subject to special monitoring by the supervisory authorities.

If a resident dies under suspicious or unnatural circumstances, the competent investigating authority is informed by the respective facility or the authority.

Restrictive Measures

On Paragraph 36

A list of measures has the disadvantage compared to the definition in Section 3 Article 1 of the Nursing and Residential Homes Residence Act (HeimAufG) that it is not possible to provide an exhaustive list. The relevant case law fulfils this requirement better because it is issued on a case-by-case basis and can account for new possibilities. However, the proposal will be considered and reviewed.

On Paragraph 38

Section 7 Article 2 of the Nursing and Residential Homes Residence Act (HeimAufG) stipulates that all restrictions on freedom must be reported, including restrictions on freedom involving medication, as the HeimAufG makes no distinction between restrictions on freedom. The enforcement of Sections 1 to 7 HeimAufG is the responsibility of the Ministry of Health. It was suggested to the Ministry of Health that the application of the HeimAufG by Gesundheit Österreich GmbH (GÖG) should be documented, as is the case with the Hospitalisation and Placement Act (UbG).

The legally defined area of responsibility of the residents' representatives consists in particular of reviewing restrictions on freedom under the HeimAufG in nursing and care facilities. Thus, they suggest possible alternatives and - if necessary - submit an application to the competent district court for a review of the restriction of freedom. They also represent the interests of residents in judicial review proceedings. Thereby, they make an important contribution to a life in care and support facilities that is as self-determined as possible.

The regular exchange between the residents' representatives and the staff working there - and especially the residents themselves - about the restrictions on freedom applied in nursing and care facilities is undoubtedly of great importance and is also guaranteed by the legal provisions of the HeimAufG and the therein provided control mechanisms. In particular, the residents' representatives appointed for a facility are entitled under Section 9 HeimAufG to visit the respective facility unannounced, to gain a personal impression of the residents, to discuss with the authorised decision-makers and staff the prerequisites for restrictions of liberty, to consult with the residents' representatives and to inspect the care documentation, medical history and other records of the residents to the extent necessary to conduct their duties. As part of the

unannounced professional supervision, key figures on the reported measures that restrict freedom and the mitigating measures that have been implemented are requested. If necessary, the authority will prescribe measures, such as the creation of a guideline for reporting measures that restrict freedom.

On Paragraph 40

The Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (BMASGPK) is aware of the uncertainties that exist in some nursing and care facilities and the resulting differences in the application of the HeimAufG regarding the reporting and documentation of (medication-based) measures that restrict freedom. In order to counteract this development as quickly and efficiently as possible, an event was organised on 10 June 2025 in cooperation with the Federal Ministry of Justice (BMJ). To this event, representatives of all *Länder* were invited, which are responsible for the establishment and operation of care and nursing facilities subject to the HeimAufG according to the distribution of competences under the Federal Constitutional Law (B-VG).

The purpose of this event was to form a cross-institutional working group to discuss practical problems in the application of the HeimAufG and to develop appropriate solutions. The main focus of the exchange with the representatives of the *Länder* was to ensure a standardised application practice in connection with restrictions of liberty under the HeimAufG. In addition to alternative measures for the restriction of liberty, the problem raised by the CPT of the inconsistent handling of (medication-based) restrictions of liberty in some care and nursing facilities was also discussed in detail. In connection with ensuring the uniform application of the law, the importance of training programmes for staff working in care and nursing facilities was particularly emphasised. As part of the joint event, a survey of existing programmes at state level and their acceptance in practice was therefore initiated. Furthermore, there was an intensive exchange of ideas for the development of further training concepts in the area of responsibility of the *Länder* in order to create the most targeted and low-threshold training and further education opportunities possible for the staff entrusted with the application of the HeimAufG and thus ensure the standardised and legally compliant application of the HeimAufG.

The information brochure published by the BMASGPK and the BMJ in the wake of the last major amendment to the HeimAufG in 2019 is also available to clarify many questions about

the HeimAufG that arise in practice, which summarises the main content of the law and its amendments for users in an easily understandable way. It also contains detailed explanations on the classification and delimitation of measures that restrict freedom, their documentation and reporting to resident representatives, as well as the judicial legal protection system. This should also ensure that the HeimAufG is enforced uniformly and in strict compliance with the requirements for reporting and documenting measures that restrict freedom. Although the brochure[6] was primarily aimed at facilities for the care and supervision of minors, to which the scope of application of the HeimAufG was extended with effect from 1 July 2018, its content is relevant for all facilities in which the HeimAufG is applied.

Protective Measures

On Paragraph 43

Subject to a more detailed examination, there is much to suggest that the actions of the care home provider in question do not comply with the legal requirements. The provisions of the Consumer Protection Act, particularly Section 27b, (§ 27b KSchG ff) which regulate the civil law issues of care home contracts, stipulate mandatory formal requirements for the conclusion of such contracts.

Care and nursing home contracts must be concluded in writing, signed by hand, as stipulated in Section 27d Article 5 of the Consumer Protection Act (KSchG). Fixed-term contracts must be concluded by the time the resident is admitted. In the case of care home contracts that are concluded for an indefinite period, it is permissible for the contractual document to be drawn up and signed retrospectively, but at the latest within three months of the resident's admission. This is intended to take cases into account in which residents need to be admitted to a retirement or nursing home quickly, but the contractual details first need to be clarified. The care home provider must provide a copy of the contract to the resident and their representative or person of trust.

[6] For more information, see: https://www.justiz.gv.at/service/patientenanwaltschaft-bewohnervertretung-und-vereinsvertretung/praxisbroschuere-zum-heimaufenthaltsgesetz.ab.de.html

Section 15 of the Lower Austrian Care Home Regulation (NÖ PHV) also stipulates that the care home operator must conclude a care home contract with each resident, which must be drawn up in writing.

Unlawful practice of neither concluding nor handing over contracts in writing can be challenged by qualified associations authorised to file class action. This form of action enables certain organisations - such as the Association for Consumer Information - to take legal action against violations of the law in the interests of all consumers. For example, a provider of a facility for persons with disabilities who disregarded the written form requirement was ordered by the court to draw up written care home contracts.

The authority took the visit report of the Committee for the Prevention of Torture (CPT) as an opportunity to order the Beer care home to immediately conclude a written care home contract for all residents and to subsequently inform the authority of the status of the implementation of this measure.

In the event of judicial proceedings, the relevant evidence would have to be provided, in particular by submitting the CPT report and witness testimony, such as the video recording of evidence or, under certain circumstances, written questioning of the persons present during the investigation.

In the context of this statement, the CPT Torture Committee is hereby requested to report back on whether the report can be submitted in the event of legal action and whether the persons present during the inspection are available as witnesses.

On Paragraph 45

Pursuant to Section 128 Article 3 no. 1 of the Non-Contentious Proceedings Act (AußStrG), in the proceedings concerning the renewal of the adult representation, the court must obtain a personal impression of the person concerned and may, if it deems necessary, instruct the adult protection association with the clarification. The Purkersdorf District Court was informed of the criticism in the visit report.

With the Budget Accompanying Act 2025, an amendment on adult protection law entered into force on 1 July 2025. Court-appointed adult representatives are now no longer appointed for

three years, but for five years. This amendment also applies to existing adult guardianships that would have expired after three years. In these cases, the court can extend the existing adult representation by two years without conducting its own renewal procedure - and therefore without hearing the person concerned in person.

With regard to other renewal procedures, a mandatory personal hearing of the person concerned is still required. If no personal hearing has taken place, it is possible to lodge an appeal against the appointment decision with the court of second instance.

On Paragraphs 46 and 47

The provisions of Sections 252 to 254 of the Austrian Civil Code (ABGB) also apply to persons in care facilities. Before undergoing medical treatment, the patient must be informed about – inter alia - the purpose, procedure, alternatives, benefits and risks of the treatment. Only when this information is available can the patient give their informed consent. The duty to provide information about medical treatment and the duty to obtain consent for treatment generally lies with the attending physician. Although consent can usually also be given verbally, it is advisable or mandatory for some treatments to be given in writing.

In addition, Section 14 Article 2 no. 5 of the Lower Austria Care Home Regulation (NÖ PHV) stipulates that the operator of a care home must take appropriate measures to ensure that the resident's expressions of will are documented, in particular the omission of treatment or a specific treatment method in the event of loss of capacity.

On Paragraph 48

The operator of a care home is obliged to provide interested customers with sufficient information upon request prior to the conclusion of the contract to facilitate their decision-making.

The information obligation regulated in Section 27c of the Consumer Protection Act (KSchG) covers all aspects of the conclusion of the contract that are relevant for interested parties when deciding on a particular facility. It includes information on basic legal framework conditions, such as the form of contract conclusion, representation options and central provisions of the

regulations relevant to residents under home law. In addition, it encompasses, in particular, information on the services offered, such as the furnishings in the rooms and the quality and quantity of the care and nursing services, as well as the fees to be paid by the resident. This also includes, for example, information on the corporate philosophy of the facility, its non-profit or profit-orientation and any denominational affiliation.

This information must be provided in writing, in clear and comprehensible language - for example in the form of a brochure, leaflet or document. Such an information obligation only exists if the interested parties request it and there is a realistic prospect of admission, such as a free care place. In addition, all advertising media must indicate where this information can be requested.

Compliance with this obligation can be enforced both individually and by associations authorised to bring legal action through a class action.

The provision of information brochures is welcomed by the supervisory authority, but it is up to the legal entities of the facilities to design such brochures.

On Paragraph 49

In order to effectively support people in need of care and protect their rights, low-threshold and secure on-site complaint options are of central importance. According to Section 17 of the Lower Austria Care Home Regulation (NÖ PHV), every resident or their representative has the right to report special incidents, serious deficiencies and deviations from the agreed services to the home director without delay or to submit a complaint to the supervisory authority or the Lower Austria Patients' and Care Advocacy Service. For this purpose, the name, address, contact details and telephone numbers of the supervisory authority and the Lower Austria Patients' and Care Advocacy Service must be clearly displayed in a generally accessible place in the care home. It is the responsibility of the care facility operators to introduce their own complaints register.

Based on this legal basis, the supervisors in the care homes regularly check whether posters with the details of the supervisory authority and of the Lower Austria Patients' and Care Advocacy Service are displayed in the care homes. A poster with the data of the supervisory authority was sent to all legal entities of the Lower Austrian care facilities for display in the

facility. Furthermore, a check is being conducted to see whether a complaints letterbox and a written regulation for dealing with complaints are available in the facilities.

An internal complaints management system or register is part of quality assurance measures. The reference to the National Quality Certificate for Retirement and Nursing Homes (NQZ) therefore appears to be relevant.

The National Quality Certificate for Retirement and Nursing Homes (NQZ) is an Austria-wide standardised procedure for assessing quality in retirement and nursing homes. Specially trained, independent experts with industry experience regularly review the continuous development of quality in the homes. Only measures that go beyond the fulfilment of state legal requirements are assessed. Certification is voluntary and is an award for those retirement and care homes that demonstrate a special commitment to the quality of life of residents and the quality of the workplace for employees and can prove that they have implemented these measures.

The certificate recognises the dedicated work of homes that are characterised by a strong commitment to a respectful and positive culture. Values of dignity, compassion and openness are lived, creating an atmosphere in which mistakes are seen as valuable learning opportunities and chances for improvement. These retirement and care homes actively promote open dialogue, transparency and the sharing of experiences and best practices in order to continuously improve quality within their sphere of influence and sustainably increase the well-being of their residents and employees.

As part of the certification process for the NQZ, the certification body, which is responsible for the preparation, implementation and standardised certification process, and selected certifiers analyse the retirement or nursing home, particularly with regard to defined quality criteria and its efforts to achieve continuous improvement. At the same time, they analyse the strengths and development opportunities together with the retirement and nursing home. The insights gained lead to quality-assuring and quality-enhancing developments for the future, such as feedback management (praise and complaint management) - and thus lead to further improvements in the retirement and nursing home. Regular on-site visits and monitoring also take place, during which an exchange on quality developments are conducted.

A model of the continuous improvement process must be, inter alia, comprehensibly documented and demonstrably implemented in the retirement and nursing home in order to be able to apply for certification in accordance with the NQZ. Continuous quality improvement is applied to all processes and activities. In this respect, the NQZ can make a contribution in line with paragraph 49 of the visit report.