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## **EUROPEAN SOCIAL CHARTER**

7<sup>th</sup> National Report on the implementation of  
the European Social Charter

submitted by

## **THE GOVERNMENT OF AUSTRIA**

Article 7, 8, 16, 17, 19 and 27

for the period 01/01/2014 - 31/12/2017

Report registered by the Secretariat on

8 November 2018

**CYCLE 2019**



**REVISED EUROPEAN SOCIAL CHARTER**

**7<sup>TH</sup> NATIONAL REPORT**

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

on measures taken to give effect to

**Articles 7, 8, 16, 17, 19 and 27**  
**for the period 01/01/2014 – 31/12/2017**

submitted by

**THE FEDERAL GOVERNMENT OF AUSTRIA**

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

Austria has accepted the Articles of this group with the exception of Article  
7 § 6, Article 8 § 2, Article 19 §§ 4, 8, 10 and 11, Article 27 § 3 and Article 31.

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

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



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## **ARTICLE 7 - Right of children and young persons to protection**

### **Paragraph 1 – Minimum age of admission to employment**

#### **In response to the first question:**

Reference is made to the previous report.

#### **Reply to the supplementary questions on Art. 7§1 in the Conclusions 2015, relating to sanctions against violation of child labour provisions:**

In general, violations of the Employment of Children and Young People Act (*Kinder- und Jugendlichen Beschäftigungsgesetz, KJBG*) are punishable in the case of a first-time offence by a fine of EUR 72 to EUR 1090, and EUR 218 to EUR 2180 after repeated offences (Section 30 *KJBG*). No statistics are kept on the outcome of administrative penal proceedings initiated in response to reported violations of child labour provisions, hence no details can be given on the sanctions imposed.

#### **Reply to the supplementary questions on Art. 7§1 in the Conclusions 2015, concerning monitoring of work done at home by children under 15 and related findings:**

The *KJBG* prohibits the deployment of children under 15 at work in homes, since such work does not fall under any exemption set forth in Sections 5 and 6 of the *KJBG*. The Central Labour Inspectorate is not aware of any such specific case.

The Agriculture and Forestry Inspections have not reported any violations of the prohibition on child labour during the period under review.

#### **In response to the second question:**

No specific transposition measures in the period under review.

#### **In response to the third question:**

In 2016, the Labour Inspectorate identified one violation of child labour provisions. Seven violations were identified in 2015 and only one in 2014. No detailed descriptions of the identified cases of illegal child labour are available. Sanctions are imposed against violations that are identified, in line with Section 30 of the *KJBG* (see response to the supplementary question under the first question).

The Agriculture and Forestry Inspections have not reported any violations of the prohibition on child labour during the period under review.

### **Paragraph 2 – Higher minimum age in dangerous or unhealthy occupations**

#### **In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 7§2 in the Conclusions 2015, relating to information on the monitoring of the exceptions that apply to young persons in training:**

Separate labour inspectors exist for monitoring child labour and youth protection. Section 17 of the Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*) requires that at every Labour Inspectorate at least one labour inspector responsible for child labour and youth protection is to be appointed, with the duty of monitoring compliance with regulations to protect children and young persons.

Statements by the individual *Laender*:

**Vorarlberg:** When visiting businesses on site, the Agriculture and Forestry Inspection requests evidence of the deployment of young persons and of the persons supervising them at work.

In addition to periodic on-site inspections by the Agriculture and Forestry Inspection, information events are held within the framework of classroom instruction and various courses to inform young persons about prohibitions and restrictions of employment; such events are offered in cooperation with agricultural and forestry schools, apprentice and vocational training centres, and the department of the Chamber of Agriculture representing employees' interests.

During periodic on-site visits by the Agriculture and Forestry Inspection at businesses employing young persons, compliance with all youth protection provisions was monitored. No related surveys are taken.

In the other *Laender* as well, compliance with regulations is ensured through inspections and consultations.

**Reply to the supplementary questions on Art. 7§2 in the Conclusions 2015 relating to the number and nature of violations detected as well as to the sanctions imposed for breach of the regulations prohibiting employment of persons under the age of 18 in dangerous or unhealthy activities:**

When collecting statistics, complaints are not distinguished based on the related prohibition or restriction on youth employment. The statistics record the total number of complaints in response to suspected violations of the Ordinance governing prohibitions and restrictions of employment for young people (*Verordnung über Beschäftigungsverbote und -beschränkungen für Jugendliche, KJBG-VO*).

The official figures for 2017 are not yet available.

Complaints based on the *KJBG-VO* lodged in 2016: 98

Complaints based on the *KJBG-VO* lodged in 2015: 105

Sanctions are imposed against violations that are identified, in line with Section 30 of the *KJBG* (see response to the supplementary question under the first question).

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

In 2016 there were 1,322 cases of violations of the specific provisions aimed at protecting young persons; 328 of those violations concerned retail trade and maintenance and repair of motor vehicles and motorcycles, 317 hotels and restaurants, and 218 manufacturing. In construction 229 (14%) breaches were identified. Violations of the maximum working time accounted for 155 of the cases, while 98 concerned breaches of prohibitions and restrictions of employment. The remaining violations related to general breaches of the *KJBG*: 250; record-keeping obligations: 190; evaluation: 629.

In 2015 there were 1,456 cases of violations of the specific provisions aimed at protecting young persons; 317 of those violations concerned hotels and restaurants, 227 manufacturing, and 353 wholesale and retail trade and maintenance and repair of motor vehicles and motorcycles. In construction 242 breaches were identified. Violations of the maximum working time accounted for 168 of the cases, while 105 concerned breaches of prohibitions and restrictions of employment. The remaining violations related to general breaches of the *KJBG*: 307; record-keeping obligations: 247; evaluation: 629.

In 2014 there were 2,000 cases of violations of the specific provisions aimed at protecting young persons; 578 of those violations concerned hotels and restaurants, 313 manufacturing, and 568 wholesale and retail trade and maintenance and repair of motor vehicles and motorcycles. In construction 282 breaches were identified. A total of 5,100 young persons were affected by the violations, whereas it should be considered that several violations can concern one and the same young person. The largest share, namely 1,216 young persons, was identified among hotels and restaurants. Violations of the maximum working time accounted for 261 of the cases, while 46 concerned breaches of prohibitions and restrictions of employment. The remaining violations related to duties to keep records: 456; and breaks, rest periods, night rest, rest on Sundays and holidays, weekly time off: 536.

Statements by the individual *Laender*:

**Upper Austria:** In the period of 2014–2017, the Agriculture and Forestry Inspection of Upper Austria identified six breaches of prohibitions or restrictions on youth employment. All breaches were resolved by issuing written orders to the respective employers to establish legal compliance.

Other *Laender* reported no instances of related violations.



### **Paragraph 3 – Safeguarding the full benefit of compulsory education**

#### **In response to the first question:**

Reference is made to the previous report.

#### **Reply to the supplementary questions on Art. 7§3 in the Conclusions 2015 concerning whether children subject to compulsory education in 2012 were employed in hotels and restaurants, manufacturing, wholesale and retail trade, repair of motor vehicles and motorcycles, or construction:**

As previously reported, ten violations of child labour provisions were identified between 2010 and 2012. The cases are described in the following. Two cases of illegal child labour were identified in 2010. One case involved a 13-year-old schoolchild who was discovered installing a frame for a double casement window (in Tyrol). The other case involved a joiner's grandchild who was performing minor tasks (in Vorarlberg).

Four cases of illegal child labour, involving six children, were identified in 2011. One case each related to the following economic sectors: food sales and manufacturing, food service activities and hairdressing; two children were employed at a sporting goods store to direct parking.

Four cases of illegal child labour were identified in 2012, specifically in the sectors food sales, technical manufacturing and culture; in two cases children performed work during company visits organised by their schools, with one child suffering a hand laceration as a result of an accident at work.

#### **In response to the second question:**

No specific transposition measures in the period under review.

#### **In response to the third question:**

Section 2 of the Employment of Children and Young People Act (*Kinder- und Jugendlichen-Beschäftigungsgesetz, KJBG*) defines children as minors under the age of 15, or older if compulsory education is completed later. Correspondingly, with reference to the number of identified violations that involved children subject to compulsory education, we refer to the statistics presented in response to the third question relating to Art. 7§1 RESC.

### **Paragraph 4 – Limited working hours of persons under 18 years of age**

#### **In response to the first question:**

Reference is made to the previous report.

#### **Reply to the supplementary questions on Art. 7§4 in the Conclusions 2015 concerning information on limiting the working hours of children between the ages of 15 and 16:**

As mentioned above, Section 2 of the *KJBG* defines children as minors under the age of 15, or older if compulsory education is completed later. Child labour is generally prohibited in Austria (Section 5 *KJBG*). Each and every protection regulation set out in Chapter 3 of the *KJBG*, relating to working hours, applies

to individuals between the ages of 15 and 16 who are no longer subject to compulsory education.

Based on the *KJBG*, young people aged 16 and older are allowed to work during specified hours in certain cases. An example here is when an apprentice or trainee is to gather work experience in a specific working situation and can only do so if that young person's working hours are adjusted to those of adults.

Specifically, Section 11 Para. 2a *KJBG* allows the working day to be extended to ten hours for apprentices or trainees over 16 years of age, to permit them to travel, as passengers and not working, in the company of adults from the same business for the purpose of education or training. Prior to that provision, young people employed in joineries, for example, often could not accompany adults to assemble on site the furniture manufactured at the joinery, since the "passive" travel time, that is as a non-working passenger, would have exceeded previously defined limits on working hours.

**Reply to the supplementary questions on Art. 7§4 in the Conclusions 2015 concerning how working hours in private households are monitored:**

Section 1 Para. 2 no. 6 of the Labour Inspection Act (*Arbeitsinspektionsgesetz, ArbIG*) exempts private households from the scope of labour inspection. Labour Inspectorates are accordingly not authorised to check whether protection regulating the employment of particular groups is observed in private households.

While there is no labour inspectorate specifically dedicated to monitoring of employees in private households, there is a kind of sanctioning mechanism. As soon as they become aware of offences against the Domestic Help and Domestic Employees Act (*Hausgehilfen- und Hausangestelltengesetz, HGHA*), the District Administration Authorities must commence criminal proceedings against the employer, and if violations (or attempted violations) are proven, impose fines of up to EUR 218.

The penal provision contained in Section 23 HGHA lays down sanctions for violation of the following provisions:

- Section 2 Para. 1: Record of the essential rights and duties arising from the employment in an employment document (*Dienstschein*)
- Section 4: Condition of accommodation and provision of adequate food
- **Section 5 Paras 1, 3 and 4:** Maximum working hours, minimum rest periods, minimum rest breaks (for adults and young employees)
- Section 6 Paras 1 and 2: Leisure time and payment for work on public holidays
- Section 7 Para. 1: Protection of young people and minors in employment

- Section 8 Duty of care
- **Section 22:** Ban on employment of minors

The fine for violation of a ban on employment of minors in accordance with Section 22 HGHAG can be up to EUR 290.

Section 22 HGHAG provides that the District Administration Authority may prohibit persons who have been finally convicted by a court of a criminal offence directed against the life, health or physical safety of human beings or offending against morality from employing minors for a particular period or permanently, if in the circumstances of the case there is reason to suspect that such minors would be at risk. Such bans also apply to those living in the same household as the person convicted.

**Reply to the supplementary questions on Art. 7§4 in the Conclusions 2015 concerning how the working hours of young people employed in agriculture and forestry are monitored:**

Within the scope of agricultural labour law, the *Laender* are responsible for implementing and enforcing the fundamental federal acts, specifically the Agricultural Labour Act (*Landarbeitsgesetz, LAG*) and the Vocational Training Act for Agriculture and Forestry (*Land- und forstwirtschaftliches Berufsausbildungsgesetz*), in accordance with Art. 12 Para. 1 no. 6 Federal Constitutional Law (*Bundesverfassungsgesetz, B-VG*).

Accordingly, monitoring compliance with regulations on working hours, including those applying to young persons, is the responsibility of bodies at *Laender* level, specifically the Agriculture and Forestry Inspections established in each of the nine *Laender*.

Section 111 et seq. of the *LAG* sets out the principles governing the establishment, tasks and powers of the Agriculture and Forestry Inspections.

Statements by the individual *Laender*:

**Vienna:** We note that the Agriculture and Forestry Inspection Vienna monitors compliance with regulations on young people's working hours as part of normal inspection activities, in particular by verifying the records of hours worked that are kept by businesses and by interviewing, during inspections, the young people employed by those businesses.

In the other *Laender* as well, compliance with regulations is ensured through inspections and consultations.

**Reply to the supplementary questions on Art. 7§4 in the Conclusions 2015 concerning information on the sanctions imposed in practice on employers**

**for breach of the rules concerning the reduced working time for young persons who are not subject to compulsory education:**

Sanctions are imposed against violations that are identified, in line with Section 30 of the *KJBG* (see response to the supplementary question under the first question).

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

As of 2015, statistics on violations relating to breaks, rest periods, night rest, rest on Sundays and holidays, and weekly time off are no longer listed separately but subsumed under General Violations of the *KJBG*. We refer here to the statistics presented in response to the third question relating to Art. 7§2 RESC.

**Paragraph 5 – Fair remuneration for young workers and apprentices**

**In response to the first question:**

Reference is made to the previous report.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

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 as of 1 November 2017 (monthly wages):

1st year of apprenticeship:	619.36
2nd year of apprenticeship:	830.45
3rd year of apprenticeship:	1,124.23
4th year of apprenticeship:	1,520.14
Skilled workers with final apprenticeship examination	2,159.25
Workers without specific training (unskilled workers)	1,848.08

PETROLEUM INDUSTRY (monthly wages in EUR) as of 1 Feb. 2017:

1st year of apprenticeship:	750.44
2nd year of apprenticeship:	1,000.59
3rd year of apprenticeship:	1,250.70
4th year of apprenticeship:	1,542.78
Skilled workers with final apprenticeship examination:	2,268.57
Workers employed on simple tasks (unskilled workers)	1,877.97

CONSTRUCTION INDUSTRY AND BUILDING TRADE as of 1 May 2017 (monthly wages)

1st year of apprenticeship:	939.03
2nd year of apprenticeship:	1,406.85
3rd year of apprenticeship:	1,876.37
4th year of apprenticeship, if learning two trades:	2,111.97
Apprentices commencing apprenticeship after their 18th birthday:	1,876.37
Skilled workers employed in the trade learned:	2,345.88
Unskilled construction workers	1,996.71

IRON AND METAL MANUFACTURING AND PROCESSING TRADE

as of 1 November 2017 (monthly wages):

1st year of apprenticeship:	619.36
2nd year of apprenticeship:	830.45
3rd year of apprenticeship:	1,124.23
4th year of apprenticeship:	1,520.14
Skilled workers with final apprenticeship examination	2,159.25
Workers without specific training (unskilled workers)	1,848.08

IRON AND METAL PROCESSING TRADE

Plumbers and pipe fitters as of 1 January 2017 (monthly wages, excluding board and lodging for apprentices):

1st year of apprenticeship:	576.65
2nd year of apprenticeship:	773.25
3rd year of apprenticeship:	1,040.38
4th year of apprenticeship:	1,397.65
Skilled workers with final apprenticeship examination	2,072.55
Workers without specific training (unskilled workers)	1,769.47

CARPENTRY as of 1 May 2017 (monthly wages):  
(excluding board and lodging for apprentices)

1st year of apprenticeship:	599.20
2nd year of apprenticeship:	751.54
3rd year of apprenticeship:	883.57
4th year of apprenticeship:	995.29

Apprentices who commence their training after reaching the age of 20 or continue their training after compulsory military service or alternative civilian service receive third-year apprenticeship pay up until the end of that year.

Skilled workers with final apprenticeship examination	1,820.33
Unskilled workers	1,680.04

SAWMILL INDUSTRY as of 1 June 2017 (monthly wages, excluding board and lodging for apprentices)

1st year of apprenticeship:	699.00
2nd year of apprenticeship:	998.57
3rd year of apprenticeship:	1,397.99

Young workers up to the age of 17 receive 80% of the rate for their wage group.

Skilled workers with final apprenticeship examination	1,997.13
Unskilled workers	1,747.07

TEXTILE INDUSTRY as of 1 April 2017 (monthly wages):

4-year apprenticeship:	
1st year of apprenticeship:	614.00
2nd year of apprenticeship:	759.00
3rd year of apprenticeship:	978.00
4th year of apprenticeship:	1,214.00
2-year apprenticeship:	
1st year of apprenticeship:	614.00
2nd year of apprenticeship:	855.00
Skilled workers with final apprenticeship examination	

or trained skilled workers	1,549.76
Unskilled workers	1,381.09

TEXTILE TRADE (embroiders, knitters)

as of 1 June 2017 (monthly wages):

1st year of apprenticeship:	551.00
2nd year of apprenticeship:	682.00
3rd year of apprenticeship:	798.00
Skilled workers after apprenticeship	1,344.03
Unskilled work	1,267.82

PAPER AND PAPERBOARD PROCESSING INDUSTRY (paper packaging workers)

as of 1 March 2017 (monthly wages)

1st year of apprenticeship:	552.85
2nd year of apprenticeship:	754.50
3rd year of apprenticeship:	1,051.89
4th year of apprenticeship (two trades):	1,366.12
Skilled worker	2,246.01
Unskilled workers	1,592.57

CHEMICAL INDUSTRY as of 1 May 2017 (monthly wages)

1st year of apprenticeship:	898.00
2nd year of apprenticeship:	1,122.50
3rd year of apprenticeship:	1,347.00
4th year of apprenticeship:	1,571.50
Workers with completed apprenticeship and up to one year's employment at the business	2,244.72
Semi-skilled workers, up to 6 months	1,926.49
Unskilled workers	1,849.48

FOOD, BEVERAGES AND TOBACCO TRADE – Bakers, Vienna

as of 1 October 2017 (monthly wages, excluding board and lodging)

1st year of apprenticeship:	474.00
2nd year of apprenticeship:	607.00
3rd year of apprenticeship:	863.00
4th year of apprenticeship (two trades):	946.00
Workers after completing apprenticeship in the retention period	1,379.49
Other workers (unskilled workers)	1,446.60

FOOD, BEVERAGES AND TOBACCO TRADE – Butchers, Vienna

as of 1 July 2017 (monthly wages)

1st year of apprenticeship:	692.24
2nd year of apprenticeship:	833.34
3rd year of apprenticeship:	1,177.11
Workers in the 1st year after qualification	
After completing apprenticeship	1,716.00
Semi-skilled workers	1,716.00
Unskilled workers	1,648.00

CONCRETE AND PRE-FABRICATED PRODUCTS INDUSTRY as of 1 May 2017

(monthly wages)

1st year of apprenticeship:	835.67
2nd year of apprenticeship:	1,253.50
3rd year of apprenticeship:	1,671.34
4th year of apprenticeship	1,880.25
Employees in the 1st year after completing apprenticeship	2,122.15
Semi-skilled worker	2,030.47
Unskilled worker	1,937.11

MINIMUM WAGES IN AGRICULTURE AND FORESTRY

**Forestry workers in the private sector**

**(all *Laender* except Tyrol and Vorarlberg)**

Valid as of 1 January 2017

<b>Category</b>	<b>Monthly wages in EUR</b>
1st year apprentices	1,079.66
2nd year apprentices	1,317.08
3rd year apprentices	1,554.50
Vacation workers	1,199.24
Unskilled workers	1,608.22
Semi-skilled forestry workers	1,700.10
Skilled forestry/horticultural workers, with examination	1,743.40
Foremen/Forewomen without skilled forestry/horticultural workers' examination	1,753.80



Foremen/Forewomen with skilled forestry/horticultural workers' examination	1,805.79
Foremen/Forewomen without skilled forestry workers' examination	1,937.49
Skilled forestry workers with examination	1,937.49
Forestry workers employed craftspeople's jobs, for the duration of such employment	1,937.49
Truck and tractor drivers and mechanics	
Foremen/Forewomen with skilled forestry workers' examination	1,996.42
Skilled craftspeople, e.g. bricklayers, mechanics, etc.	1,996.42
Master foresters	2,057.10

### **Farming operations in Lower Austria**

Valid as of 1 June 2017

<b>Category</b>	<b>Monthly wages in EUR</b>
1st year apprentices	619.28
2nd year apprentices	864.93
3rd year apprentices	1,112.30
Skilled workers	1,535.61
Farm workers for house, estate, field and barn	1,420.53

### **Farming operations in Upper Austria**

Effective as of 1 September 2017

Farm workers, monthly: EUR 1,325

Seasonal workers, monthly: EUR 1,283

Apprenticeship pay, 1st of

apprenticeship, monthly: EUR 630  
 Apprenticeship pay, 1st of  
 apprenticeship, monthly: EUR 720  
 Apprenticeship pay, 1st of  
 apprenticeship, monthly: EUR 800  
 Apprenticeship pay, 4th year of  
 apprenticeship (second apprenticeship),  
 monthly: EUR 1,120

<b>Category</b>	<b>Monthly wages in EUR</b>	
	<b>Farm workers dairy</b>	<b>Alpine</b>
1st year apprentices	506.32 935.43	
2nd year apprentices	573.95 1,214.21	
3rd year apprentices	769.95 1,422.64	
Skilled workers	1,623.95 3,012.04	
Farm workers older than 18 years:	1,419.68	-
Farm workers younger than 18 years:	1,231.93	-

**Market gardening operations in  
Vienna, Lower Austria  
and Burgenland**

Valid as of 1 January 2017

<b>Category</b>	<b>Monthly wages in EUR</b>
1st year apprentices	493.00
2nd year apprentices	563.00
3rd year apprentices	763.00
Horticultural workers	1,329.21

Skilled workers from 3rd year 1,651.55

### Market gardening operations in Upper Austria

Valid as of 1 March 2017

Unskilled workers (hourly wage):  
EUR 7.40

Seasonal workers (hourly wage):  
EUR 6.78

1st year apprentices, monthly:  
EUR 610

2nd year apprentices, monthly:  
EUR 715

3rd year apprentices, monthly:  
EUR 820

### Estate and non-farm operations

### Monthly wages in EUR

Category	BGLD	CAR.	LOW. A.	UPP. A.	SBG	STYR.	TYROL	VORARLBERG	VIENNA
<b>Valid as of:</b>	1 March 2017	1 May 2017	1 March 2017	1 March 2017	1 January 2017	1 January 2017	-	-	1 March 2017
<b>Estate, field and horticultural workers</b>	1,620.35 to 1,625.60	1,400.00	1,620.35 to 1,625.60	1,360.00	1,485.00	1,301.06	-	-	1,620.35 to 1,625.60
<b>Day labourers</b>	-	-	-	1,360.00 to 1,481.72	-	1,301.48	-	-	-

## Tyrol

### Forestry workers (valid as of 1 March 2017)

	<b>Apprentice</b>	<b>Unskilled/vacation</b>	<b>Unskilled</b>
Younger than 16 years	6.75	6.75	7.30
From 16 to 18 years	7.65	7.76	8.32
Older than 18 years	9.27	9.49	10.09
	<b>Journeyman</b>	<b>Skilled workers</b>	<b>Master foresters</b>
	11.26	12.15	13.69
After 5 years' service	11.73	12.65	14.21
After 10 years' service	12.10	13.10	14.72

### Farm workers (valid as of 1 January 2017)

	<b>Master craftsmen</b>	<b>Skilled workers</b>	<b>Other</b>	
House and field workers	1,998.00	1,963.00	1,766.00 1,810.00	to
House and field workers	2,183.00	2,158.00	1,867.00 1,946.00	to
Milkers	2,447.00	2,386.00	2,078.00 2,170.00	to
Overseers	2,615.00	2,554.00	2,210.00 2,344.00	to

<b>Apprentice</b>		<b>Young persons and unskilled workers</b>	
1. year of apprenticeship to 1,504.00	839.00	15 years old	1,459.00

2. year of apprenticeship	922,00	16 or 17	years old
	1,563.00 to 1,618.00		
3. year of apprenticeship	1,051.00	From age 18	1,590.00 to 1,686.00

Market gardening (valid as of 1 March 2017)

Vacation workers	405.00
1st year apprentices	481.00
2nd year apprentices	563.00
3rd year apprentices	705.00

Hourly wage in EUR

Horticultural workers	7.15 to 8.35
Horticultural journeymen/skilled workers	1st year: 8.64 2nd year: 9.28 As of beginning of the 3rd year: 9.96
Master gardeners	11.20
Head gardeners with master's certificate	12.19

Professional gamekeepers (valid as of 1 April 2017)

1st year of apprenticeship	654.00
2nd year of apprenticeship	877.00
1st year after qualification	1,664.00
2nd and 3rd year after qualification	1,723.00
4th and 5th year after qualification	1,781.00 to 1,849.00

Cheese-making operations (valid as of 1 January 2017)

1st year of apprenticeship	505.00
2nd year of apprenticeship	667.00

3rd year of apprenticeship	907.00
Unskilled workers	1,912.00
Drivers	2,111.00
Journeyman	2,365.00 to 2,426.00
Master craftsmen	2,537.00 to 2,739.00

Cooperatives (valid as of 1 April 2017)

	<b>Blue-collar workers</b>	<b>White-collar workers</b>
1st year of apprenticeship	569.00	519.00
2nd year of apprenticeship	762.00	656.00
3rd year of apprenticeship	1,024.00	940.00
4th year of apprenticeship	1,372.00	970.00

**Vorarlberg:**

<u>Farming operations (valid as of 1 January 2017)</u>	Gross amounts
EUR/month	
Skilled agricultural workers or domestic workers on farms	1,623.95
Unskilled workers older than 18 years:	1,419.68
Unskilled workers younger than 18 years:	1,231.93
Apprentices	
1st year of apprenticeship	506.32
2nd year of apprenticeship	573.95
3rd year of apprenticeship	769.95
<u>Forestry (valid as of 1 January 2017)</u>	Gross amounts
EUR/hour	

Skilled forestry workers with examination	11.53
Skilled forestry workers without examination	10.60
Unskilled workers older than 18 years and casual workers	8.63
Unskilled workers younger than 18 years	7.80
Apprentices	
1st year of apprenticeship	5.26
2nd year of apprenticeship	5.67
3rd year of apprenticeship	6.36
<u>Market gardening operations (valid as of 1 January 2017)</u>	Gross amounts
EUR/hour	
Skilled horticultural workers	
1st year	8.65
2nd and 3rd year	9.05
4th year after examination	9.84
Horticultural workers	7.17
Apprentices	Gross amounts
EUR/month	
1st apprenticeship year	556.00
2nd apprenticeship year	637.64
3rd apprenticeship year	848.26
<u>Alpine dairy operations (valid as of 1 January 2017)</u>	Gross amounts
EUR/month	
Unskilled alpine dairy workers	2,783.31
Unskilled workers	1,652.15
Apprentices	
1st year of apprenticeship	935.43
2nd year of apprenticeship	1,214.21

3rd year of apprenticeship

1,422.64

**Reply to the supplementary questions on Art. 7§5 in the Conclusions 2015 as to whether the salary indicated for skilled workers corresponds to an adult starting wage and the salary indicated for unskilled workers represents the wage paid to young workers:**

The “unskilled worker” salary group does not represent a salary group for young workers, nor does the “skilled worker” salary group represent a salary group for adults. The difference here instead relates to the skills level of the particular employee and to the differing job profile.

Skilled workers have usually completed an apprenticeship. Since an apprenticeship takes several years, the employees in this salary group are more likely to be over 18 years of age. Nonetheless, young workers are also to be assigned to this salary group on completion of an apprenticeship.

Unskilled workers, who do not complete an apprenticeship, perform simple tasks. The distinction here is not based on age. It follows that adults also fall under this category. Where a young employee works as an unskilled worker, that person remains in that salary group even once they reach adult age, if their job profile does not change.

**Reply to the supplementary questions on Art. 7§5 in the Conclusions 2015 relating to the request to provide information on the net minimum wage/net starting wage paid out to young workers and adult workers:**

Apart from isolated cases where expressly stipulated in collective agreements, the Austrian system of collective agreements does not generally differentiate between wages paid to young workers and those paid to adults.

Rather, salary groups are differentiated based on the specific type of work and the worker’s qualifications (see above for the differentiation between skilled and unskilled workers).

Due to the differing job profiles and levels of skills required in each case, the “skilled worker” and the “unskilled worker” salary groups are not comparable.

While some collective agreements stipulate pay increases within the particular salary group, such raises are awarded based on seniority and not age. Consequently, young workers with more years at a company could be classified at a higher pay level than recently hired adults.

The salary schedules, defined under law, that apply in the federal public service do not differentiate between contractual employees who are youths and those who are adults.

No statistical material is available on the net wages paid out to persons under 18 or on the minimum net wages for adult employees. We mention here once



again that the gross salaries indicated in collective agreements represent minimum wages. Employers are naturally allowed to pay more than the minimum level, and such “overpayment” is frequently encountered in practice.

The net amount paid out to an employee depends on the individual’s personal situation, so that amounts can vary widely among individuals. This makes it very difficult to arrive at reliable, general figures for net amounts, which is why we are unable to provide any.

Tables showing breakdowns of net annual income by occupation and economic sector can be viewed on the Statistics Austria website (in German). Yet the figures here represent the actual salaries and wages earned by all employees.

[http://www.statistik.at/web\\_de/statistiken/menschen\\_und\\_gesellschaft/soziales/personen-einkommen/allgemeiner\\_einkommensbericht/index.html](http://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/soziales/personen-einkommen/allgemeiner_einkommensbericht/index.html)

#### **Paragraph 7 – Annual holiday with pay of young persons under 18**

##### **In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 7§7 in the Conclusions 2015 concerning the request for information on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding paid annual holidays of young workers under the age of 18:**

Section 26 of the Employment of Children and Young People Act (*Kinder- und Jugendlichen-Beschäftigungsgesetz, KJBG*) requires employers to keep at their businesses records on young workers, showing items including the periods when those employees were on holidays. Failure to comply is liable to sanction in accordance with Section 30 of the *KJBG* (see above).

The Labour Inspectorate does not verify compliance with the regulations on paid holidays for young workers, since related claims are based solely on labour law and enforcement falls under the jurisdiction of the Labour and Social Courts.

In general, the employer and the employee are to agree on the date when the employee will begin holidays, as required by Section 4 of the Annual Leave Act (*Urlaubsgesetz, UrlG*). Should a dispute over holidays arise that cannot be resolved (with the help of the works council), the Labour Courts ultimately decide the matter. At the young person’s request, the employer must agree to allow at least twelve working days of annual leave to be taken between 15 June and 15 September, as set out in Section 32 Para. 2 *KJBG*; any “breach” of this regulation is not liable to administrative sanction. In this case as well, any dispute between an employer and a young worker would have to be resolved

before a Labour Court. No proceedings involving this regulation took place before a Labour Court during the period under review.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No statistics available.

**Paragraph 8 – Prohibition of night work for young persons under eighteen**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 7§8 in the Conclusions 2015 concerning information on the sanctions imposed for breach of the regulations on night work:**

In general, violations of the *KJBG* are punishable by initial fines of EUR 72 to EUR 1090, and EUR 218 to EUR 2180 after repeated offences (Section 30 *KJBG*). No statistics are kept on the outcome of administrative penal proceedings initiated in response to reported violations of child labour provisions, hence no details can be given on the sanctions imposed.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

**Reply to the supplementary questions on Art. 7§8 in the Conclusions 2015 concerning information on the number and nature of violations of the regulations on night work that were detected:**

As of 2015, statistics on violations relating to breaks, rest periods, night rest, rest on Sundays and holidays, and weekly time off are no longer listed separately but subsumed under General Violations of the *KJBG*. We refer here to the statistics presented in response to the third question relating to Art. 7§2 RESC.

The *Laender* reported no instances of related violations.

**Paragraph 9 – Regular medical examination**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 7§9 in the Conclusions 2015 concerning the request for information 1) on the intervals between the medical examinations of young**

**employees working in sectors other than mining, and 2) on the activities of the Labour Inspectorate to monitor compliance in practice with the obligation to submit young workers to regular medical examinations:**

Art. 6(2) of Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work (EU protection of young people at work Directive) requires ensuring an appropriate free assessment and monitoring of young people's health at regular intervals, where an assessment reveals a risk to young people's health or safety. For the purpose of monitoring young people's health, the health insurance providers offer such medical examinations on a yearly basis to members of this group having mandatory insurance, in accordance with Section 132a of the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*).

Art. 6(2) of the EU protection of young people at work Directive is implemented in Section 25 Paras. 1 and 1a *KJBG*. Based on this provision, employers are required to inform young persons about the examinations and to encourage them to participate. Young people are to be allowed the time off necessary for participating in such examinations, with full pay. When the assessment referred to in Section 23 Para. 1 *KJBG* reveals a risk to a young person's safety or health, the employer is additionally required to ensure that the person submits at regular intervals to the examinations for young persons required by Section 132a *ASVG*.

For a young person taking up employment for the first time, such an examination as required by Section 132a *ASVG* is to take place if possible within two months.

The Main Association of Austrian Social Security Institutions evaluates the results of the examinations for young persons in accordance with that body's guidelines (Section 31 Para. 5 no. 17 *ASVG*) and is required to disclose them immediately on availability, to the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, and to the Ministries of Economic Affairs and of Agriculture and Forestry.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

Most frequent examinations	2013			2014		
	Young persons	Total of all workers examined	Percentage of young persons [%]	Young persons	Total of all workers examined	Percentage of young persons [%]
Noise*	1,469	10,984**	13.4	1,094	10,348**	10.6

Welding fumes	210	7,628	2.8	174	6,797	2.6
Xylols	173	8,384	2.1	122	7,223	1.7
Nickel and nickel compounds	55	3,951	1.4	67	3,971	1.7
Isocyanates (excluding MDI)	106	4,980	2.1	89	4,208	2.1
Silica dust	30	3,400	0.9	55	3,571	1.5
Chromium VI compounds	40	2,894	1.4	51	2,995	1.7
Toluene	50	3,864	1.3	48	3,277	1.5
Aluminium	15	2,150	0.7	21	1,918	1.1
Manganese and manganese compounds	16	1,738	0.9	21	1,655	1.3

Most frequent examinations	2015			2016		
	Young persons	Total of all workers examined	Percentage of young persons [%]	Young persons	Total of all workers examined	Percentage of young persons [%]
Noise*	1,225	8,378**	14.6	1,346	9,645**	14.0
Welding fumes	110	5,822	1.9	94	6,160	1.5
Xylols	96	6,476	1.5	79	5,886	1.3
Nickel and nickel compounds	69	4,147	1.7	68	4,308	1.6
Isocyanates (excluding MDI)	86	4,352	2.0	62	4,021	1.5
Silica dust	25	3,501	0.7	54	3,451	1.6
Chromium VI compounds	56	3,031	1.8	56	3,125	1.8
Toluene	30	2,865	1.0	19	2,668	0.7
Aluminium	12	1,916	0.6	19	1,701	1.1
Manganese and manganese compounds	18	1,391	1.3	18	1,318	1.4

Source: Labour Inspectorate

Note: Investigation results continue to be collected even after the reporting date.

\* All examinations are carried out in the form of initial or follow-up medical examinations; in the case of noise, however, it is not compulsory to report results of repeated examinations (follow-up examinations) to the Labour Inspectorate. In this way the methods for collecting

data differ from those applied in the case of chemical agents.

\*\* Figures from the activity reports of the Labour Inspectorate.

## **Paragraph 10 – Special protection against physical and moral dangers**

### **In response to the first question:**

Reference is made to the previous report as well as to the information concerning the negative Conclusion regarding Art 7§10 in the 5<sup>th</sup> report. In addition the following information is provided:

Penal Code Amendment Act (*Strafrechtsänderungsgesetz*) 2015 Federal Law Gazette I no. 112/2015

A wider scope for discretion, aimed at allowing phenomena such as “sexting” to be handled in a manner appropriate to young people, was specified in Art. 8(3) of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council framework Decision 2004/68/JHA. Recital 20 of the Directive states the following in this regard: *“This Directive does not govern Member States’ policies with regard to consensual sexual activities in which children may be involved and which can be regarded as the normal discovery of sexuality in the course of human development, taking account of the different cultural and legal traditions and of new forms of establishing and maintaining relations among children and adolescents, including through information and communication technologies. These issues fall outside of the scope of this Directive. Member States which avail themselves of the possibilities referred to in this Directive do so in the exercise of their competences.”*

In the past as well as during the review process for the bill, child protection organisations such as ECPAT in particular have called for a more flexible solution in this context. For the purposes of section 207a of the *StGB*, it is consequently planned to make use of the scope of discretion to the extent allowed by the Directive.

### Psychosocial institutions

As a result of the Sexual Offence Amendment Act 2013 (Federal Law Gazette no. 116/2013), which entered into force on 1 January 2014, Section 66 Para. 2 of the Code of Criminal Procedure (*Strafprozessordnung, StPO*) was modified to ensure that victims under the age of 14 years whose sexual integrity may have been injured are unconditionally provided with psychosocial assistance during court proceedings.

The scope of the already high level of victim protection specified in the Code of Criminal Procedure was further expanded, as part of the Code of Criminal Procedure Amendment Act I 2016, Federal Law Gazette I no. 26/2016, which entered into effect as of 1 January 2017. The amendment fully implements Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. The criminal police, the public prosecutor and the courts now have the duty to inform all victims about their main rights in proceedings as well as about the option of receiving indemnity or assistance (Section 10 Para. 2 and Section 70 Para. 1 *StPO*). This information must be communicated in comprehensible terms in a language that the victim understands while considering the victim's personal needs (Section 70 Para. 1 last sentence in conjunction with Section 50 Para. 2 *StPO*).

The definitions of the term "victim" in the *StPO* were expanded, the one in Section 65 no. 1 lit. a now also including persons whose personal dependency might have been exploited as a result of an intentionally committed crime, while lit b leg. cit. now also includes persons whose death might have been caused by a criminal offence. This is significant considering that victims as defined in Section 65 no. 1 lit. a or b *StPO* are to be provided on request with psychosocial and legal assistance in court proceedings (Section 66 Para. 2 *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.

In addition, criminal police, the public prosecutor and the courts are required, as a principle in proceedings, to consider victims' special vulnerability, as specified in Section 66 Para. 1 *StPO*. Specifically, victims are entitled to have their special vulnerability to be assessed and identified as soon as possible. Victims of sexual offences or violence in private homes (Section 38a Security Police Act – *Sicherheitspolizeigesetz, SPG*) as well as victims of minor age are always considered to be especially vulnerable, as are other victims who qualify based on criteria defined by law (including age, emotional and physical condition, and nature and circumstances of the offence). Especially vulnerable victims have the special rights enumerated in Section 66a Para. 2 nos. 1 to 6 *StPO*. Such persons are to be informed of their rights as especially vulnerable victims at the latest prior to the first interview, as required by Section 70 Para. 1 *StPO*. Victims who are not granted on request any rights accorded to especially vulnerable persons are to be informed of the reasons for refusal (Section 66a Para. 4 *StPO*).

The public prosecutor and the criminal courts are now obliged to propose the appointment of trustees for victims of minor age, in the cases enumerated in Section 66a Para. 3 *StPO*.

Another change relates to cases where a resident of Austria is the victim of a crime that is committed in another EU Member State and does not fall under Austrian jurisdiction; now the public prosecutor is required to forward to the competent authority of that Member State any offence reports filed by the victim (Section 25 Para. 7 *StPO*).

Victims are now entitled to written confirmation of the reports they file (Section 66 Para. 1 no. 1a and Section 80 *StPO*).

The victim's right to translation assistance now also includes written translations (Section 66 Para. 3 *StPO*). Such assistance is granted based on whether it is necessary for safeguarding the victim's rights and interests.

It is now no longer necessary for the custody court to approve a request for resumption of proceedings filed by a minor (Section 195 Para. 2 *StPO*). In addition, victims of minor age are now exempt from paying a lump-sum contribution in the event that a resumption request is rejected or refused (Section 196 Para. 2 *StPO*).

**Reply to the supplementary questions on Art. 7§10 in the Conclusions 2015 as to whether children as victims of sexual exploitation can be prosecuted:**

When victims of sexual exploitation, children cannot be prosecuted. Nonetheless, a minor aged 14 and over (*mündiger Minderjähriger*) can potentially be an offender, and here the specific case needs to be reviewed in detail.

**In response to the second question:**

Trafficking of children:

To consolidate systematic cooperation between all responsible bodies – the Federal Government and the *Laender*, the law enforcement authorities, child and youth welfare institutions, victim protection organisations etc. – in effectively combating the sale of children, an information and working paper was issued in October 2016 by the Working Group on Child Trafficking under the Task Force on Trafficking in Human Beings (National Referral Mechanism – NRM). Distributed extensively to professions possibly concerned by this issue, this publication aims to provide guidance and focus their activities on identifying and dealing with potential victims of child trafficking.

Domestic violence:

The ministry in charge of family affairs (the Federal Chancellery) makes available the booklet “(Not) A Safe Place. Sexual Violence Against Children” (in German; seventh edition in 2016) as an aid to potential victims and others who are professionally or otherwise confronted with the issue, to help them respond properly to any related indications. In addition, the SeXtalks 2.0 series of workshops (<https://s-talks.at>), for young people and trainers’ trainers, is offered jointly with a team of psychologists. Participants in SeXtalks 2.0 learn how to use the internet as a safe source of information about love and sexuality, and how to avoid risks.

On the occasion of the 10th anniversary of the UN Study on Violence against Children, Austria hosted the High Level Global Conference "Towards childhoods free from corporal punishment!" in Vienna in June 2016. A total of 39 ministers and other high-level states representatives shared their experiences in achieving law reforms and agreed on a resolution to contribute to the universal prohibition and elimination of violent punishment of children in line with Target 16.2 of the 2030 Agenda.

### **In response to the third question:**

The courts report to the criminal records office the provision of law that was cited to determine the penalty and was thus decisive for the court in setting the severity of the sentence. In addition, each and every offence committed is listed separately, so that the items of information for the individual convictions include not only the provision cited to determine the penalty but the specific offences leading to a conviction as well.

In the 2016 reporting year, Austrian courts handed down convictions in 1,141 cases involving offences against others’ sexual integrity and right to self-determination. Such offences were decisive for setting the penalty in 586 of those convictions.

While within this category there was a slight drop in convictions on account of rape (from 11.9% to 9.6%), convictions based on Section 207a *StGB* for pornographic representation of minors rose from the previous year by 3.5% (from 31.8% to 35.3%).

Increases were similarly seen among convictions on account of serious sexual abuse of a person under the age of 14 (from 9.8% to 10.7%) and for sexual harassment and sexual acts carried out in public (from 10.6% to 12.1%).

Comparable figures for 2017 are not available yet.

### **Total offences against sexual integrity and the right to self-determination<sup>1</sup>**

	2014		2015		2016	
	absolute	%	absolute	%	absolute	%
<b>Rape, Section 201 <i>StGB</i></b>	126	13.9%	117	11.9%	109	9.6%
<b>Sexual coercion, Section 202 <i>StGB</i></b>	34	3,7%	51	5.2%	48	4.2%
<b>Sexual abuse of a vulnerable or mentally impaired person</b> Section 205 <i>StGB</i>	25	2.8%	32	3.2%	27	2.4%
<b>Serious sexual abuse of a person under the age of 14, Section 206 <i>StGB</i></b>	105	11.6%	97	9.8%	122	10.7%

<sup>1</sup> Due to rounding the percentages, totals do not necessarily equal 100%.



<b>Sexual abuse of a person under the age of 14</b> Section 207 StGB	101	11.1%	108	11.0%	123	10.8%
<b>Pornographic images of a minor</b> Section 207a StGB	244	26.9%	314	31.8%	403	35.3%
<b>Sexual abuse of a person under the age of 16</b> Section 207b StGB	5	0.6%	17	1.7%	14	1.2%
<b>Sexual harassment and sexual acts done in public</b> Section 218 StGB	108	11.9%	105	10.6%	138	12.1%
<b>Other offences against sexual integrity</b>	160	17.6%	145	14.7%	157	13.8%

Source: Statistics Austria, Criminal Court Statistics

### Comparison of convictions by provision determining the penalty and of all offences underlying one conviction by offender's sex, 2016



Kopie von  
gerichtliche Verurteilu

## **ARTICLE 8 – Right of employed women to protection of maternity**

### **Paragraph 1 – Maternity leave**

#### **In response to the first question:**

Reference is made to the previous report. Developments during the period under review:

The amendment of the Maternity Protection Act (*Mutterschutzgesetz, MSchG*), Federal Law Gazette I no. 149/2015, introduced the improvements described below. The prohibitions on employment specified in Section 3 and Section 5 Paras. 1 and 3 *MSchG* are now applicable to quasi-freelancers as defined in Section 4 Para. 4 of the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*), Federal Law Gazette no. 189/1955; this group had been eligible for maternity benefit even before the amendment. The *MSchG* was also supplemented to include protection against termination of employment and dismissal during the four-week period following a miscarriage (Section 10 Para. 1a *MSchG*). Parents entitled to part-time employment now have a more flexible choice of working hours: weekly working hours should be reduced by at least 20% of the normal time and must not total less than 12 hours. Since the amendment of the *MSchG* published in Federal Law Gazette I no. 162/2015, foster parents are entitled to parental leave.

**Reply to the supplementary questions on Art. 8§1 in the Conclusions 2015 as to whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income:**

Like sick pay, maternity benefit is a form of compensation commonly paid out to dependently employed persons to make up for the employment income lost during periods when their employers are not obliged to remunerate them, specifically in this case when under provisions of maternity law pregnant female employees are not permitted to be employed. Consequently, the amount of maternity benefit is determined based on the individual's income from their socially insured employment, with the person entitled to the net average pay received during the 13 weeks or three calendar months prior to occurrence of the insured event.

No set minimum amount of maternity benefit exists; rather, such a minimum merely arises from the fact that – in terms of health, accident and pension insurance – individuals are fully insured only once their remuneration exceeds a marginal earnings threshold (set for 2018 at EUR 438.05 monthly), which in turn results in eligibility for maternity benefit.

In terms of social and family policy, the function of maternity benefit is to substitute previous net income and is not primarily to combat poverty. Individuals facing poverty as a result of entitlement to only little maternity benefit can apply for benefits from means-tested minimum income.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No specific data available.

**Paragraph 3 – Time off for nursing mothers**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 8§3 in the Conclusions 2015 as to whether nursing breaks are provided during the child's first nine months of life:**

Upon request, employees who are breastfeeding shall be given the required time off to breastfeed their infants. This shall be 45 minutes on days when the employee works for more than four and a half hours; if the employee works for eight or more hours, the time off for breastfeeding shall be split into two breaks of 45 minutes each upon request or, if there is no breastfeeding facility in the vicinity of the place of work, a period of ninety minutes shall be granted for breastfeeding. The periods allowed for breastfeeding do not depend on the

child's age, and mothers are accordingly entitled to breaks to breastfeed their infants not only during the first nine months of life but even longer.

Legislation at *Laender* level contains comparable rules governing time off for nursing.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No statistics available.

**Paragraph 4 – Regulation of night work**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 8§4 in the Conclusions 2015 as to whether the employed women concerned are transferred to daytime work and what rules apply if such transfer is not possible:**

A female worker unable to change to a daytime job is entitled to pay equalling the average amount of remuneration received during the most recent 13 weeks of employment (Section 14 Para. 1 *MSchG*). If she cannot be deployed during the day, she is to be released from duties, either entirely or during the night hours that she previously worked. Women are entitled to the amount of pay specified above in this case as well (Section 14 Para. 2 *MSchG*).

Among federal public service employees, pregnant and nursing mothers are assigned daytime duties where possible. If a job change is necessary due to the prohibition on night work, or the employee cannot be deployed, Section 14 *MSchG* as currently amended requires that the employee continue to receive remuneration at a level equalling the average pay of the most recent 13 weeks; this applies to federal public service employees as well.

Women falling under Section 6 Para. 1 *MSchG* are transferred to daytime work in any case.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No statistics available.

**Paragraph 5 – Prohibition of the employment of pregnant women**

**In response to the first question:**

Reference is made to the previous report.

**In response to the second question:**

No specific transposition measures in the period under review.

**ARTICLE 16 – Right of the family to social, legal and economic protection**

**In response to the first, second and third question:**

Reference is made to the previous report. Developments during the period under review:

At the end of 2015, the Housing Investment Bank (WBIB) was created, which in August 2016 was granted the licence to operate banking business. With the help of a federal guarantee in the amount of EUR 500 million, the bank will be able to raise global loans of up to EUR 700 million. These funds are to be granted in the form of long-term housing loans to non-profit and commercial property developers as well as to municipalities. As a result, an investment volume of EUR 5.75bn is expected, EUR 750m for housing-related infrastructure and EUR 5bn for setting up a total of 30,000 affordable housing units for some 68,000 residents.

Statistics:

Due to missing reports, the results should be interpreted with caution, and it should be noted that - as regards Vienna - data of reconstruction measures and annexes to existing buildings are not included. Not counting Vienna, as mentioned above, a total of 56,359 dwellings (flats) were completed in Austria in 2016; 12,059 of those dwellings were created through building additions or conversions. The housing construction rate in 2016 (i.e. completed dwellings per 1,000 residents) was 5.7 on average for all of Austria (excluding Vienna). A comparison of the housing construction rate among the *Laender* results in the following picture:

Burgenland	6.1
Carinthia	5.5
Lower Austria	6.1
Upper Austria	7.5
Salzburg	7.0
Styria	7.5
Tyrol	8.9
Vorarlberg	6.6

Vienna 4.3 (without data of reconstruction measures and annexes to existing buildings)

Austria 6.4

### Furnishing and equipment

The categorisation of housing amenities that is used in the microcensus, which comprises dwellings serving as the primary residence, results in a classification of dwellings into the following categories:

Category A: Dwelling with bathroom, toilet and central heating

Category B: Dwelling with bathroom, toilet and individual heater

Category C: Dwelling with toilet and water supply

Category D: Dwelling with running water or no installations

The following table shows a classification of dwellings used as primary residence, according to amenities category and Land (federal state) on average over 2016:

Land	Dwellings (primary residence) total	Amenities category			
		A	B	C	D
	in thousands	in %			
Burgenland	122.7	89.8	9.7	x	x
Carinthia	250.3	91.8	7.8	x	x
Lower Austria	711.5	91.3	7.6	x	0.8
Upper Austria	622.3	96.6	2.7	x	x
Salzburg	236.1	94.4	5.4	x	x
Styria	537.5	95.2	4.5	x	x
Tyrol	319.5	89.6	9.8	x	x
Vorarlberg	163.1	93.0	6.5	x	x
Vienna	901.9	93.6	2.6	0.5	3.2
<b>Austria</b> (in thousands)	<b>3,864.8</b>	<b>95.3%</b>	<b>5.3%</b>	<b>0.3%</b>	<b>1.1%</b>

Source: Austrian Microcensus, Annual Results 2016, Statistics Austria

Dwellings used as primary residence against a fee and housing expenditure (excluding garage and parking) by legal arrangement and Land in 2016:

Dwellings used as primary residence against a fee						
Land	Rented dwellings			Condominiums		
	Total (in thousands)	Expenditure (excluding garage and parking) in EUR per		Total (in thousands)	Expenditure (excluding garage and parking) in EUR per	
		Dwelling	m <sup>2</sup>		Dwelling	m <sup>2</sup>
<b>Total</b>	<b>1,474.7</b>	<b>458</b>	<b>6.61</b>	<b>377.8</b>	<b>289</b>	<b>3.47</b>
Burgenland	18.0	402	4.86	2.1	249	2.89
Carinthia	81.1	409	5.67	17.1	243	2.79
Lower Austria	167.2	418	5.97	50.3	302	3.67
Upper Austria	190.6	439	6.33	47.8	311	3.58
Salzburg	77.8	525	8.21	34.1	304	3.97
Styria	149.9	426	6.31	56.9	296	3.70
Tyrol	91.2	503	7.15	45.0	275	3.22
Vorarlberg	46.8	563	7.73	21.0	226	2.76
Vienna	652.2	467	6.77	103.5	291	3.44

Source: Statistics Austria, Microcensus (yearly averages for 2016)

Dwellings used as primary residence in 2016 by type of household and family and number of rooms living space:

	Austria	Burgenland	Carinthia	Lower Austria	Upper Austria	Salzburg	Styria	Tyrol	Vorarlberg	Vienna
Average number of rooms per dwelling										

Household size

1 person	3.2	3.7	3.4	3.6	3.5	3.0	3.2	3.1	3.3	2.8
2 persons	4.1	4.5	4.4	4.4	4.4	4.1	4.1	4.0	4.3	3.5
3 persons	4.5	5.0	4.8	4.8	5.0	4.7	4.5	4.4	4.7	3.7
4 persons	4.9	5.3	5.1	5.2	5.3	4.9	5.1	4.8	5.0	4.0
5 persons and more	5.6	6.1	6.3	6.0	6.2	5.5	5.9	5.5	5.5	4.2

Family households

Single family

households 4.5 4.9 4.7 4.8 4.9 4.5 4.5 4.4 4.6 3.7

Married couple

without children 4.1 4.6 4.5 4.4 4.4 4.1 4.2 4.0 4.3 3.5

Married couple

with at least										
1 child	4.8	5.3	5.0	5.1	5.3	4.9	4.8	4.7	4.9	3.9
Father										
with at least										
1 child	4.6	5.1	5.0	4.5	5.1	4.3	4.8	4.6	4.4	4.1
Mother										
with at least										
1 child	4.2	4.6	4.3	4.5	4.5	4.5	4.4	4.4	4.4	3.6
Multi family										
households	6.2	6.3	7.0	6.6	6.8	6.1	6.7	5.3	6.2	4.0
<b>Non Family Households</b>										
Single households	3.2	3.7	3.4	3.6	3.5	3.0	3.2	3.1	3.3	2.8
under the age										
of 30	2.6	3.0	2.7	3.0	2.8	2.3	2.4	2.6	2.5	2.4
30 to 59 years	3.1	3.5	3.2	3.5	3.4	2.8	3.1	3.0	3.0	2.7
60 years										
and older	3.6	3.9	3.7	3.9	3.8	3.5	3.5	3.4	3.9	3.2
Multi non family										
households	3.7	x	4.4	4.1	4.4	3.5	4.0	3.8	4.6	3.4

Source: Statistics Austria, Microcensus (yearly averages for 2016) Number of rooms included kitchens > 4 m<sup>2</sup>

## Reply to the supplementary questions on Art. 16 in the Conclusions 2015 concerning the steps taken to promote the provision of an adequate supply of housing for families:

### Statements by the individual *Laender*:

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

**Burgenland:** Burgenland continues to actively support associations run by the Roma ethnic group, in particular Roma-Service (<http://www.roma-service.at/>) and Karika (<https://verein-karika.jimdo.com/>), in addition to the Roma Adult Education School and various cultural programmes.

A review of the past 20 years reveals that the living situation of Roma in Burgenland has improved in every way, while especially social inequality has been successively reduced. Effective programmes visibly mark the changes achieved through this process; examples include the social and learning guidance programme, the language project, and the educational programmes offered by the Roma Adult Education School of Burgenland (<http://www.vhs-roma.eu/index.php>). The living situation of the Roma ethnic group has also successively improved, mainly through support from the Burgenland social housing programme (involving housing subsidies and allowances granted by the government of Burgenland). We wish to expressly mention the initiative

taken by the municipality of Oberwart in providing continued funding to cover the expense of the *Roma-Siedlung* (Roma settlement) dwellings, almost 30 in number, with residents only required to pay ongoing expenses (such as sewer, water and power), as the municipality of Oberwart reports.

**Carinthia:** In funding the building of rental housing by not-for-profit building associations, the main goal pursued by the Carinthia Housing Subsidies Act (*Kärntner Wohnbauförderungsgesetz*) 2017 is to ensure a supply of modern, affordable housing for Carinthian residents, while considering factors including social, economic and environmental sustainability, increased quality of living, and aspects of spatial planning. In keeping with this goal, the creation of high-quality, affordable rental flats and living space in residences is to be promoted in urban and rural areas while considering demand for new dwellings, with such housing aligned with the accommodation needs of tenants and residents in various life situations. In doing so, the aspects of sustainability, economic feasibility and effectiveness are to be taken into account in investment and follow-up costs so as to limit the burden of housing expense for residents to a socially tolerable level. Residential standards, and residents' satisfaction with housing, are to be enhanced through: the use of renewable energy sources, a focus on functional architecture as well as on high-quality green space and leisure areas, a varied selection of dwelling types, common spaces and meeting areas, and access to key social and leisure facilities as well as to environment and climate-friendly modes of mobility, including cycle paths, local public transport, and facilities for alternative forms of mobility (such as e-bikes).

**Lower Austria:** The *Familien Wohnen* ("Family Living") housing subsidy was introduced in 2016. This type of subsidy focuses on the architectural aspects of a flat making it suitable for family living (such as division of space, at least four rooms and free areas).

At a total of 5,484 owner-occupied homes and flats, an adequate supply of living space was made available in 2016. The supply of housing is gauged on demographic developments and/or estimates of residential space needs.

In distinction to housing and flat subsidies provided by the *Land*, and comparable federal programmes, benefits can also be provided in the legal form of private sector administration as part of social assistance.

**Upper Austria:** Within the scope of Upper Austria's housing subsidy programme, assistance is provided for building and refurbishing flats for households of varying size. No information or enquiries have been submitted by housing applicants or developers that would suggest an inadequately structured subsidy programme for family dwellings.



**Salzburg:** The housing subsidy system was radically modified in 2015. One-time, non-repayable grants were introduced to replace loan subsidies as the form of assistance for owners purchasing or building housing as well as for refurbishment works and the building of residences. Construction of rental flats is subsidised through repayable and non-repayable grants.

Alongside the new system, income-dependent subsidies continue to be paid out to partially cover annuities on the loans that remain from the previous system under law.

Under certain conditions the Salzburg government can also grant a housing allowance, in the form of a non-repayable subsidy, to tenants who are subject to an unreasonable burden due to housing expense.

Both in the case of subsidised owned and rented accommodation, a growing family is equated with a four-person household when determining income limits and the amount of living space eligible for subsidy. A single parent with one child is considered a three-person household, one with two children a four-person household, and so on.

The basic subsidy amount paid out to owners purchasing or building homes was increased for young families, single parents and families with three or more children.

Taken together, all of the cited measures contribute towards enabling families to find suitable dwellings within Salzburg's subsidised housing system.

**Styria:** A special grant programme has been in place since 1 January 2018 that allows social rental housing to be built for young families. Assistance is provided by the *Land* in the form of building loans. The loans with a term of 32.5 years are subject to an interest rate of 1% p.a. Not-for-profit developers and municipalities can apply for such loans. The maximum floor space for such rental flats is 60 m<sup>2</sup>, while leases are to be signed for a maximum of 10 years. Such flats are to be leased only to young families (applicants must be under 35 years of age) who acquire an appropriately sized flat as a family home for the first time. The rent paid by main tenants must not exceed 60% of the reference rate set by the government of Styria (currently EUR 4.62/m<sup>2</sup>).

The Housing Subsidies Act (*Wohnbauförderungsgesetz*) provides for subsidies for the building of flats, residences and owner-occupied homes, for the initial acquisition of condominiums and for refurbishment, in addition to subsidies for young families when acquiring a flat on first establishing a household. The latter type of assistance, introduced for applicants under the age of 35 to allow them to acquire common housing for the first time, consists of subsidies for the

interest on loans and term loan facilities. Here families with three or more children are considered equal to young families,

as are families who have one child with a disability as defined in the Family Allowance Act (*Familienlastenausgleichsgesetz*) 1967 and subsidy applicants under the age of 35 with a serious disability (whose ability to earn a living is impaired by at least 80%).

In 2017, subsidies were granted in 679 cases in the context of supporting young families towards establishing a household. Subsidies for owner-occupied homes also benefit families in the majority of cases.

**Tyrol:** An adequate supply of dwellings for families has been ensured through new subsidised housing projects, with a total of 6,300 new flats built between 2014 and 2017.

**Vorarlberg:** During the period under review, two items were introduced especially for families: an additional “child bonus” added on to the amount of the housing grant, and a “child supplement” as a subsidy to assist in later loan repayment.

Rental housing built by not-for-profit building companies is also subsidised, with the budget further increased since the last report to allow 750 new flats rented out on a not-for-profit basis to be built each year. Since 2015 flats are now awarded throughout Vorarlberg in accordance with uniform guidelines based on objective urgency.

For the purpose of refurbishing old buildings, the Vorarlberg Government grants one-off sums or low-interest loans (1% interest for a 20-year term). This is on condition that the building to be refurbished is inhabited year-round and original construction was approved at least 20 years earlier. It is important for household income to be below certain limits and for the applicant to qualify as being eligible for subsidy. The one-off grant in such cases is between 10 and 40% of the approved costs of refurbishing, while subsidised loans were adjusted and now amount to between 20 and 90% of approved costs.

The housing allowance is a grant paid to supplement rental payments or repayment of loans for condominiums or owner-occupied homes, where the recipient’s income is low relative to the burden of housing expense. This type of grant is not repayable. The amount is determined based on the difference between the apportionable housing expense and the reasonable housing expense. The decisive factors are the level of income, the amount of monthly rent payments or loan instalments, the family size and the size of the dwelling. Specifically for families, a “multiple-children bonus” is granted for three and

more children, while children's income is considered only to a limited extent in assessment.

**Vienna:** To ensure an adequate supply of housing for families, the principle of awarding housing based on household size is applied in the subsidised sector. Within the council flat segment, one person is entitled to one living room or bedroom, two people qualify for two living rooms or bedrooms, and so on. Vienna's housing counselling service (*Wohnberatung*) awards subsidised flats based on the formula of "number of persons plus one". This means that families can on request register for larger flats, allowing for potential additions to the family (in future) to be considered in advance.

Families having too few rooms in their flats, for example where three people share two living rooms or bedrooms, can obtain a Vienna housing ticket (*Wohn-Ticket*) on which "too many household members" is given as the reason for housing need. Such a ticket provides access to council flats with the number of rooms appropriate for the household size, as well as to subsidised flats such as very reasonably priced SMART flats.

Families seeking housing can also directly contact the various building associations or not-for-profit cooperatives, which award most of the subsidised housing, and register for a subsidised flat.

Following the principles of careful urban renewal, the City of Vienna also invests continually in refurbishing historic residential buildings, in order to ensure an adequate housing standard for families living in such buildings. As a result, the share of substandard flats has been reduced from 42% in the early 1970s to less than 3% today.

Yet the City of Vienna also invests in subsidising individual families.

A proportionate share of building costs and property costs is payable when purchasing a subsidised flat. To cover these expenses, the City of Vienna – in its capacity as a *Land* – can grant a form of credit referred to as an equity surrogate loan, or a one-per cent government housing loan.

The housing allowance is the City of Vienna's vehicle for supporting low-income households. Housing allowances are disbursed both for flats erected or refurbished using subsidies and for non-subsidised (privately owned) rental flats.

Vienna's housing subsidy system is a key instrument for ensuring that families will have continued access to an adequate supply of affordable housing on into the future, despite rising demand. Each year through the housing subsidy system, the City of Vienna invests funds in the erection of subsidised housing and the refurbishment of existing buildings, as well as in direct assistance to

tenants.

The experienced staff at Vienna's housing counselling service provide information on the supply of available housing in the city, free and without charging broker's fees. Based on uniform, transparent guidelines, applications submitted by parties interested in acquiring housing are assessed to determine whether the specified criteria are met. Approved applications are issued a Vienna housing ticket, providing families seeking housing with access to a selection of flats meeting their individual needs.

The housing commission (*Wohnungskommission*) is a body set up to deal with cases involving housing seekers who do not meet the required conditions or whose needs cannot be considered. The commission can revise approval decisions and recommend that a flat be awarded. Housing seekers not able to be issued a Vienna housing ticket for a council flat have the option of submitting their case to the housing commission.

The tenants' assistance service (*Mieterhilfe*) has been set up to provide all Vienna residents with assistance in issues relating to housing and rental laws. The service has been available for years to provide competent assistance to residents of subsidised flats and to tenants living in either council or privately owned flats. Those seeking advice find assistance here, quickly and easily.

Among the services provided, tenants can have their annual statements of building operating expenses checked by staff experts. The staff also handle issues such as whether the most recent rent increase or the actual amount is indeed justified. Similar tools, covering operating costs and rent amounts, are available online in the form of calculators, to help assess whether charges are appropriate. The tenants' assistance service also prepares sample rental agreements, to support both tenants and landlords in conforming to legal requirements.

The Vienna *Wohndrehscheibe* also provides targeted assistance in locating private rental housing. Here low-income residents of Vienna who face special challenges in finding housing receive free assistance on the path to locating a suitable, privately owned rental flat.

**Reply to the negative conclusion of the ECSR on Art. 16 in the Conclusions 2015 concerning the granting of housing subsidies to nationals of other State Parties:**

Reference is made to the Austrian Statement which presented during the 134<sup>th</sup> meeting of the governmental committee:

As is explained in the working document, the nine Austrian provinces (or Laender) are responsible for legislation and enforcement in the field of direct financial support for housing construction and refurbishment through

subsidised loans, annuity and interest subsidies and for the general housing allowance.

Pursuant to legislative changes, the situation in seven out of nine *Laender* now seems to be in conformity with the Charter. The Housing Subsidies Acts of Burgenland, Carinthia, Upper Austria, Styria, Salzburg, Tyrol and Vorarlberg provide for equal treatment of foreign nationals who are entitled to the same rights as Austrian citizens on the basis of an international treaty. Since the European Social Charter is an international treaty, this legislative change in our view has now solved the problem in these seven *Laender*.

There remain two *Laender*, which still differentiate at least up to a certain extent between Austrians and EEA-nationals on the one hand and third country nationals on the other hand.

The legal situation in Lower Austria is a complex one, but equality of treatment of nationals of other States Parties is guaranteed in the following areas: There are no restrictions on renting dwellings owned by not-for-profit building companies or municipalities and there are, similarly, no restrictions in subsidies for the refurbishment of owner-occupied dwellings.

Additionally, foreign and Austrian citizens can make use of housing subsidies for the purpose of housing construction or refurbishment on the same basis in Vienna.

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 land and construction costs upon the acquisition of a subsidised flat.

In Lower Austria and in Vienna, a distinction is still made, however, in the context of housing allowance.

Whether housing allowance is granted or not always depends on family size, family income, size of the accommodation and housing costs.

In Lower Austria and in Vienna, nationals of other States Parties from outside the EEA are eligible to this allowance only after completion of a legitimate residence period of five years in Austria.

Since available funding is limited, there are no plans at present to further expand the eligibility criteria for the housing allowance in these two *Laender*.

New developments: Vienna is currently preparing a new law that will “merge” rental assistance and housing allowances, the Vienna Housing Funding Act (*Wiener Wohngeldgesetz*) scheduled to become effective as of 1 January 2019.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 concerning the outcome of measures to implement the National Roma Integration Strategy by 2020:**

In general, the housing situation in Austria is satisfying. There are no ghettos, neither in rural areas, nor in conurbations. This is ensured by a well established social housing policy. Shelter and space to live is provided to the homeless too.

Roma prefer council flats, according to the qualitative study entitled “Roma in Austria: employment, housing, leisure activities and other aspects of integration” (*Roma in Österreich: Beschäftigung, Wohnen, Freizeitaktivitäten und weitere Integrationsaspekte*). Housing ownership is hardly a factor here except perhaps in rural areas. According to the focus group surveyed, access to rental flats or condominiums and houses in rural areas is generally easier than in urban areas. Participants rated housing costs as high on the whole.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 concerning the measures relating to refugee housing:**

Refugees who have applied for international protection and are not able to provide for their own subsistence are entitled to basic welfare support under Section 2 Para. 1 of the Basic Welfare Support Act – Federal Government (*Grundversorgungsgesetz – Bund, GVG-Bund*) in conjunction with Art. 2 Para. 1 of the Basic Welfare Support Agreement (*Grundversorgungsvereinbarung, GVV*) – Art. 15a Federal Constitutional Law (*Bundesverfassungsgesetz, B-VG*). As part of basic welfare support, refugees are provided with housing, in the form of organised or individual accommodation, while considering the need to safeguard private and family life. Within this context, until a refugee is admitted to the asylum procedure, housing is provided in the form of organised accommodation in federal reception facilities. Individuals can also move into individual accommodations once admitted to the asylum procedure. In this case the expense of renting quarters is paid out directly to the asylum seeker on presentation of the lease.

Once their procedure is completed with a positive decision and they are granted asylum, refugees are entitled to benefits under basic welfare support, including accommodation, for an additional four months, based on Art. 2 of the *GVV* – Art. 15a *B-VG*). Otherwise, in terms of access to housing, the same conditions apply to refugees as to Austrian citizens.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 concerning the request for information on the rights and obligations of spouses in respect of reciprocal responsibility, ownership, administration and use of property:**

In Austria the issue of which spouse owns property brought into or acquired during the marriage falls under matters relating to spouses’ property, which is the subject of

Section 1237 of the General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*). The property regime defined there for marriages is separation of goods, meaning that each spouse retains ownership of any property brought into or acquired during the marriage. Couples wishing other terms can stipulate another arrangement in a marriage contract, which must be signed as a notary deed in order to be valid. Marriage contracts frequently stipulate the community of goods. This can take the form either of a community of goods among living persons, meaning that each spouse owns a one-half share of all property, or a community of goods in the event of death, meaning that the separation of goods under law continues as long as the marriage is valid. Only once one of the spouses deceases does the other spouse acquire one half of all property, with the other half falling under the deceased spouse's estate.

The 2004 Act to Amend Family and Inheritance Law (*Familien- und Erbrechtsänderungsgesetz*) has confirmed the legal right of inheritance between relatives even if the fact of their being relatives was not established while they were alive. This serves especially to avoid issues frequently arising in patchwork families, where after changes in the line of descent children were disadvantaged as a result of losing their right to inherit from their fathers.

Yet the legal property regime has no effect on how property is divided up in the event of divorce. If spouses are unable to agree on the property each will receive on separation, the matter is resolved based on Section 81 et seq. of the Marriage Act (*Ehegesetz*). The provisions here are aimed at apportioning the property as fairly as possible and not based on the share of individual goods owned by either party. It is assumed that both spouses have contributed towards acquiring certain goods, while the spouse managing the household also contributes by raising their common children or by allowing the other spouse to devote themselves fully to their profession. In principle, the following are to be apportioned: the commonly used property, that is, all physical goods used by both spouses during marital cohabitation; the common savings, which are investments accrued during the marriage and are normally to be realised, including cash, savings account balances and securities; and the common dwelling. On the other hand, the Marriage Act also enumerates certain pieces of property that are not to be apportioned. Specifically, these are objects that either spouse brought into the marriage, acquired through another's death or received from another as a gift. Also not subject to apportionment are goods that are only for one of the spouse's personal or professional use or that belong to a company. The common dwelling as well as household goods that one of the spouses is dependent on for meeting their needs in life are to be apportioned even if brought into the marriage by one of the spouses, acquired through another's death or received from another as a gift.

### Family counselling offices

Austria operates a network of some 385 family counselling offices funded on the basis of the Austrian Family Counselling Promotion Act (*Familienberatungsförderungsgesetz, FBFG*) that offer free, anonymous counselling for those seeking advice.

In 2017 a total of some 312,000 hours of counselling were provided at the funded family counselling offices. Of the total, around 145,000 hours were

provided by social workers or marriage and family counsellors, about 77,000 by psychologists, roughly 45,000 by educators and about 30,000 by legal experts.

In 2017, 230,000 persons were recorded to have used family counselling services resulting in a total of 474,000 counselling sessions. Yet, due to the anonymity of the clients, it cannot be excluded that these figures entail double counting.

From the socio-demographic client data, a slight increase from the previous period under review can be identified in the number of male clients at family counselling centres (2017: 31.7%; 2008: 28.9%).

Compared with the previous period under review, the number of counselling centres changed slightly and is now 383. This was a result of merging locations as part of the process of enabling accessibility, which has since been completed. The various specialisations have not changed since the last period under review. In terms of content, minor increases have been seen for counselling related to domestic violence (2017: 9.9%; 2013: 9.3%; 2008: 8.4%) as well as for cases relating to parenting issues, childcare or school (2017: 14.5%; 2013: 14.3%; 2008: 15.6%) and to psychological problems (2017: 11.1%; 2013: 11%; 2008: 10.4%), while minor declines have been recorded for counselling involving separation or divorce (2017: 18.5%; 2013: 18.8%; 2008: 17.1%), cases involving partnership conflicts, communication, role distribution or sexuality (2017: 13.1%; 2013: 13.9%; 2008: 15.6%) and for counselling on pregnancy and related conflicts (2017: 5.6%; 2013: 5.9%; 2008: 6.2%).

As of 31 December 2015 all family counselling offices receiving Federal Government funding have been fully accessible.

The funding budget for family counselling offices was increased to EUR 13.1 million in 2017.

### Parental education

The goal of parental education is to support parents in developing their competence and parenting skills, thereby avoiding conflicts in parent-child relationships. Consequently, parental education is also in the interest of preventing violence. As a form of adult education, parental education relies on voluntary participation. It is a guided and accompanied educational activity in a group setting.

The legal basis for providing funding for parental education programmes from the Family Burdens Equalisation Fund was established in 2000.

The funding budget available in 2017 was EUR 1.5 million.



This grant money is used to support the not-for-profit organisations that provide parental education, to lower the threshold of access and allow parents to participate in events at minimal expense. The organisations providing parental education are educational institutions, parent-and-child centres, family organisations, public-sector providers and numerous private initiatives.

In 2017, 110 organisations all over Austria received funding for parental education projects.

The funded institutions recorded 268,936 participants (the majority of which was female) in parental education events in 2016.

Summary of changes among measures aimed at heightening awareness:

Apps on parenting under development for mobile devices: The FamilienApp for mobile devices using iOS or Android operating systems has been available free of charge since 2014. The app provides information on stages of child development and challenges to parenting, from pregnancy until adolescence, while additionally covering these special topics: late parenthood, patchwork families and single parenting. The interactive checklists included provide the additional opportunity to reflect on and record personal experiences. The features of the app supporting its use as a guide were expanded in early 2017. In addition to important upcoming dates – such as postnatal appointments at public offices and application deadlines for family benefits – the reminder feature now shows a summary of all completed and pending checkups listed in the Mother-Child-Booklet; the Austrian vaccination schedule has also been inserted among the reminders. To ensure data privacy, data are stored only locally on the mobile device.

### 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. The Registered Partnership Act (*Eingetragene Partnerschaft-Gesetz, EPG*), Federal Law Gazette I 135/2009, became effective as of 1 January 2010, allowing same-sex couples to have their partnerships recognised under law. In a ruling handed down on 4 December 2017 (G 258-259/2017), the Constitutional Court repealed as unconstitutional the wordings “of different sexes” (*verschiedenen Geschlechts*) in Section 44 ABGB, and “of same-sex couples” (*gleichgeschlechtlicher Paare*) and “of the same sex” (*gleichen Geschlechts*) in Sections 1, 2 and 5 of the EPG. The modified provisions take effect immediately after the 31 December 2018. This means that both institutions, marriage and the registered partnership, would be open to homosexual and heterosexual couples after that date. Another far-reaching change to safeguard Austria’s modern system of family law can be reported here: the Act Amending Parent and Child Law and Name Law (*Kindschafts- und Namensrechts-Änderungsgesetz, KindNamRÄG*) 2013, Federal Law Gazette I 15/2013. This legislation abolished without exception the distinction between legitimate and illegitimate

children, while addressing parents' responsibility for their children by facilitating joint child custody and guardianship, independent of the marriage and even after parents' separation.

### Mediation services

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

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.

As of 31 December 2017 there were 2,472 registered mediators in Austria, 1,484 women and 988 men. About 40% of the mediators (899 individuals) are registered in Vienna.

In line with Article 1 of the Federal Constitutional Act on the Rights of Children enshrining in law the best interests of the child, the 2013 law amended child custody and the right to a name (Section 138 Austrian Civil Code – ABGB-child's welfare) and key criteria for the best interests of the child have been set out in law for the first time in the form of a checklist. Regulated by twelve items in this catalogue of criteria, the best interest of the child has thus become the priority for all matters concerning underage children, in particular in relation to custody and access.

Translation of this legislative step into practice to protect the best interests of the child in court proceedings for custody or access means that the courts have been obliged since 2013 to order appropriate measures such as compulsory attendance of family, parent or child upbringing counselling where the interests of the child are disregarded in relation to custody or contact. Other measures include participation in an initial mediation meeting or an arbitration hearing or enrolment in counselling or therapy to deal with violence and feelings of aggression (Section 107 Subsection 3 Non-Contentious Proceedings Act (*Außerstreitgesetz, AußStrG*)) – where this does not impair the rights of other persons involved to an unreasonable degree.

In an effort to turn legal standards into practice, provisions governing the consequences of divorce also require parents (petitioning for divorce by consent) to present the court with certain documentation confirming that they have seen a competent consultant for advice about the specific needs of their underage children in the case of divorce (Section 95 Subsection 1a *AußStrG*). Since the introduction of mandatory counselling for parents prior to divorce in 2013, the initial statistical impact on the behaviour of couples has already become apparent: a 20% reduction of the divorce rate involving parents with small children aged from 0 to 3.

To offer access to such counselling and assistance to parents with children with different ethnic backgrounds affected by divorce or separation, this service is made available in 24 languages via a web portal with a pool of around 2,000 counsellors who are accredited according to relevant quality criteria developed by a panel of experts. The aim here is to simultaneously provide assistance to protect and safeguard the welfare of all children affected by the divorce or separation of their parents without making any distinction in terms of their language.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 concerning the options available for families in need to receive mediation support:**

Based on the current fee schedule, no deductible is required to be paid by couples who have: one child and a maximum net family income of EUR 1,300 monthly, two children and a maximum net family income of EUR 1,800 monthly, or three children and a maximum net family income of EUR 2,300 monthly. Above these limits, an income-based deductible beginning at EUR 8 per hour and couple is due. This ensures that couples in financial need can also access mediation services.

Protection from domestic violence

Reference is made to the previous report.

Expansion of violence protection centres incl. regional service points:

	<b>Budget of violence intervention/protection centres</b>	<b>Increase in %</b>	<b>Cases handled at violence intervention/protection centres</b>
<b>2013</b>	EUR 6,765,888.12	+2.4%	16,258
<b>2014</b>	EUR 7,139,525.88	+5.5%	16,732
<b>2015</b>	EUR 7,317,280.31	+2.5%	17,105
<b>2016</b>	EUR 7,307,775.16	+0.9%	17,682
<b>2017</b>	EUR 7,753,739.92	+6.1%	17,971

Important publicised action during the period under review:

“Living non-violently” (“*GewaltFREILEben*”), a campaign to prevent (serious) violence against women and children, from December 2013 to mid-December 2015, total funding of EUR 399,999, 80% EU-funded. Measures included: information for the general public on violence against women and

where to get assistance (including publicity for the women's helpline); support for third parties in carrying out anti-violence projects; workshops with five specific target groups and information materials for these groups: healthcare management staff, practitioners working with high-risk cases, migrant women, young people and journalists;

information campaign in 2016 entitled "Don't Give Violence a Chance" ("Der Gewalt keine Chance"), using ads and billboards to publicise more stringent criminal laws against sexual harassment and serious sexual violence.

With the fem:HELP app for Android and iPhone devices, multi-language support was updated and expanded (Bosnian-Croatian-Serbian, Turkish and English). The purpose is to support women who fall prey to violence, helping them document their experiences of violence as well as contact the police and aid organisations quickly and easily.

The campaign to inform the public about knock-out drops was continued; the initiative, launched in 2012, is in cooperation with the Women's Affairs Department of the Federal Chancellery and with the Federal Ministry of the Interior/Federal Criminal Police Office. In particular, leaflets were distributed at youth events, in some cases by prevention officers, and posters were placed at effective locations to inform the public.

New issues of the booklets "Women Have Rights" ("Frauen haben Rechte") and "Tradition and Violence Against Women" ("Tradition und Gewalt an Frauen") appeared in 2017. In addition, important information and contact addresses are published in German and English on an ongoing basis on the website of the Women's Affairs Department of the Federal Chancellery.

The women's helpline is advertised periodically, to raise awareness about domestic violence and to publicise this service, which is available 24/7 free of charge. On the occasion of the 16 Days of Activism against Gender-Based Violence, a publicly funded video spot advertising the women's helpline was shown about 1800 times at 30 cinemas in Austria between 17 November and 7 December 2017: <http://www.frauenhelpline.at/de/tv-spots>

The organisation of African women in Vienna, which has received long-term public funding, is active in combating female genital mutilation and has coordinated the preparation of a training kit first presented in 2015: "Prevention and Elimination of Female Genital Mutilation among Immigrants in Europe" (EU Daphne Project). Focusing on a transdisciplinary approach, the FGM teaching kit demonstrates how the issue can be resolved systematically while emphasising that victims need to be part of the solution.

To mark the International Day for the Elimination of Violence against Women, the “Break the Silence!” #Tabu project, launched by nationwide children’s helpline RAT AUF DRAHT, highlighted the problems of physical, mental and sexual violence against children and adolescents. In an effort to sensitise children and to guard them against potential risks of victimisation, posters dealing with this topic were distributed to 2340 schools nationwide. The video entitled “Your laughter” has been submitted to and accepted by the NYC Independent Film Festival running from May 7–13, 2018.

Coordination/cooperation:

In keeping with Art. 10 of the Istanbul Convention, a national coordination mechanism was established as of 2014 under the leadership of the Women’s Affairs Department of the Federal Chancellery. The mechanism currently consists of an inter-ministerial working group (IMAG) and a national coordination point, both for the protection of women against violence. The IMAG is responsible for information exchange among Austrian experts in the field, and for support in implementation. The body prepared and oversaw implementation of the 2014–2016 NAP for the protection of women against violence. The national coordination point for the protection of women against violence supplements the IMAG’s efforts by preparing specific related information and statistics for the general public as well as by coordinating the country evaluation(s) stipulated in the Istanbul Convention.

Statements by the individual *Laender*:

Reference is made to the previous report. Developments during the period under review:

**Salzburg:** The Master Plan to Prevent Domestic Violence was supplemented in 2017 to consider the special needs of female refugees. This was preceded by a survey to identify refugees’ and specifically female refugees’ needs as well as existing programmes, in order to include in the Master Plan the measures required for this target group.

**Styria:** The right to legal protection of the family has been implemented in Styria through the Styrian Act on Violence Protection Institutions. This legislation takes a new approach:

1. At the focus are women, along with their children, who experience acute psychological, physical or sexual violence: such women are now legally entitled to assistance at women’s shelters, thereby ensuring that they receive benefits from public sources. No obligation to repay benefits has been specified.
2. The second chapter of the act enshrines in law the responsibility for funding child protection institutions: falling under a public mandate, tasks relating to violence prevention are to receive more attention, thus allowing victims and

others affected by violence, and minors in particular, to receive immediate assistance, anonymously and free of charge.

3. The third chapter of the act includes a commitment to intervene among perpetrators, both to the end of preventing violence and by providing follow-up care to this group.

Violence prevention represents a key aspect of efforts for women. The aim pursued here is to provide programmes and services focusing on sexism and the prevention of violence against adult and minor females in Styria, and to tightly coordinate such offerings and make them more easily accessible to the public. Examples of such programmes include: the projects taking place within the 16 Days of Activism against Gender-Based Violence, funding for the SXA Streetwork project, information and counselling for sex workers and multipliers, an experts' conference on "Victim protection requires working with perpetrators", and local round tables on working with perpetrators.

**Vienna:** In cooperation with the Austrian Institute for Applied Telecommunication, the Women's Department of the City of Vienna in 2017 has published a manual on cyber stalking. This publication aims to provide staff of women's organisations with background information and practical guidance for assisting women clients who have experienced cyber-stalking. The main focus of this publication is on safety planning and on securing evidence in order to enable women to undertake legal steps against cyber-stalkers.

The Vienna City Councillor for Women Affairs convenes a regular meeting, bringing together experts and stakeholders on the issue of violence against women including representatives from the health sector. This informal forum serves to exchange information on existing procedures and modes of operation, to discuss good practices and challenges and to identify needs of improvement.

The City of Vienna is proud to host one of the tightest victim protection networks nationwide and is frequently cited as a good practice example in the international arena. Since 1996, the Women's Department of the City of Vienna has been running the 24-Hour Women's-Emergency- Helpline ("24-Stunden Frauennotruf der Stadt Wien"). The helpline provides phone, face-to-face and e-mail counselling to women and girls aged 14 and older who experienced physical, sexual or psychological violence. The services are free of charge, confidential and include legal, psychological and social counselling, crisis intervention, and accompanying clients to hospital, to the police and to court. In 2017, the 24-Hour-Women's Emergency Helpline had a total of 9.550 counselling contacts. This number includes 1.141 face to face counselling sessions, 6.749 counselling contacts by phone and 1.660 online counselling contacts.

This service is complemented by the Women's Helpline ("Frauentelefon der Stadt Wien"), which offers legal and social counselling on family law. The Women's Helpline, which is also operated by the Women's Department, City of Vienna, offers phone, face-to-face and e-mail counselling. The services are free of charge and confidential. In 2017, the Women's Helpline had a total of 1.556 counselling contacts, including 209 face-to-face counselling sessions, 1.179 counselling contacts by phone and 168 e-mail counselling contacts. While the Women's Helpline specialises in counselling on the topics of divorce, separation, child custody and maintenance entitlements, 23% of all counselling contacts counted in 2017 addressed the issue of gender-based violence.

Besides actually operating services, the Women's Department of the City of Vienna also provides funding to NGOs offering targeted services for women in Vienna. Ever since the establishment of the first women's shelter in 1978, the City of Vienna has been fully funding NGO-run shelters providing safe accommodation and support to women and children affected by violence. The number of shelters has gradually increased since the establishment of the first shelter in 1978 and since 2002 four women's shelters have been available in Vienna. Currently (as of December 2017), 229 places in women's shelters and transition apartments are funded in total. The shelters and transition apartments as well as a counselling centre for women and children affected by violence, are all operated by the Association of Viennese women's shelters.

Thus, with a population of 1.867.582 inhabitants (1 January 2017), Vienna fulfils the recommendation of the Council of Europe Istanbul Convention (Article 23, Explanatory report p. 25) and of the European Parliament (1987) of one shelter place per 10,000 inhabitants.

Since 1 January 2018, the Women's Department has additionally provided core funding to 25 women's NGOs based in Vienna. This includes eight NGOs that are specialised in the field of prevention of violence as well as support and counselling of women survivors. The other women's NGOs funded by the Women's Department work on the topics of health, employment, sex work, education or culture, and/or with specific target groups, such as migrant women, girls or women with disabilities. Several of those organisations also address violence within their respective areas of work. In acknowledging the need of continuous and sustained funding, the Women's Department is providing core funding to these organisations through awarding one-year or three-year funding contracts.

### Family allowance

Family allowance is paid on a monthly basis.

The following amounts are applicable per child and month (status as of 31 December 2017):

- 0-3 years: EUR 111.80
- 3-9 years: EUR 119.60
- 10-18 years: EUR 138.80 and
- 19 years and older: EUR 162.

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

- with two children EUR 6.90 per child
- with three children EUR 17.00 per child
- with four children EUR 26.00 per child
- with five children EUR 31.40 per child
- with six children EUR 35.00 per child
- with seven and more children EUR 51.00 per child.

The supplement for a significantly disabled child is EUR 152.90 per month.

A multiple-child supplement of EUR 20 per child and month is paid out as a supplement to family allowance for the third and each additional child.

The family's annual income during the previous year may not, however, have been more than EUR 55,000. The multiple-child supplement has to be applied for each year when filing the annual income tax return.

### 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 and payment of family allowance for the child
- The parent applying for childcare benefit and the child have their centre of vital interests in Austria
- The parent applying lives with the child in one household and is registered at the same place of residence
- the additional-income limit is not exceeded



- legal residence in Austria and
- completion of all examinations required for the Mother-Child-Booklet

As of March 2017 parents can now choose between two systems: the childcare benefit account, offering 481 different options for collecting the fixed-level benefit; and an income-based childcare benefit.

The system and the related option must be selected when filing the initial application for childcare benefit and also apply to the other parent.

For collecting a fixed-level benefit, the childcare benefit account is now available in the place of the previous four options. The entitlement period can be flexibly selected according to individual needs and within a specified framework, which ranges between 365 and 851 days from the child's birth when one parent collects benefits, and between 456 and 1,063 days from birth when both parents take leave.

The amount of childcare benefit per day is EUR 33.88 when the shortest period is selected and EUR 14.53 for the longest option. The amount therefore depends on the entitlement period selected by the parents according to individual needs. Of the entire entitlement period selected, 20% is reserved for the other parent and cannot be transferred. This is intended to motivate more fathers to participate in childcare and to reinforce the relationship between fathers and their children early on, during infancy, as well as to make it easier for mothers to return to their jobs sooner if they so choose.

Parents may switch roles as recipients twice but must collect childcare benefit for at least 61 days each time. Parents now also have the option of receiving childcare benefit simultaneously for up to 31 days when one parent takes over as recipient from the other the first time.

With the childcare benefit account, an individual additional-income limit applies: while collecting a flat rate of childcare benefit, the parent may earn additional income amounting to as much as 60% of the most recent previous income but no more than EUR 16,200 per calendar year.

"Additional income" is generally defined as the total of all taxable income earned while receiving childcare benefit, with only the income of the parent actually drawing childcare benefit being counted. If this annual additional-income limit is exceeded, the excess amount has to be paid back.

Income-related childcare benefit, which may be claimed for a maximum of 365 days after birth (or a maximum of 426 days after birth where the other parent also takes parental leave), is 80% of the most recent previous income but no more than EUR 66 per day (roughly EUR 2000 per month); apart from

meeting general prerequisites, for at least 182 days prior to the child's birth or to maternity leave, the mother must have been employed at a job subject to mandatory health and pension insurance. Income-related childcare benefit is intended as an income substitute, so that the amount of additional income that recipients are allowed to earn is limited to EUR 6,800 per calendar year (in 2017). The income-related childcare benefit scheme gives income-oriented parents a better choice, primarily with the goal of reconciling work and family life, and more actively involving fathers in the care of children.

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 must also be paid.

For healthcare policy reasons, the payment of childcare benefit is tied to the examinations set forth in the Mother-Child-Booklet (five check-ups of the mother during pregnancy and five check-ups of the infant). Where these examinations do not verifiably take place as scheduled, childcare benefit is generally reduced by EUR 1,300 per parent.

The "partnership bonus" ("Partnerschaftsbonus") is a new feature valid for parents of children born since 1 March 2017. When both parents collect childcare benefit for roughly equal periods (with ratios ranging from 50:50 to 60:40) and for at least 124 days in each case, each is entitled on request to a one-off payment of EUR 500 at the end of the total benefit period.

The "family time bonus", amounting to EUR 22.60 per day, was also introduced as of 1 March 2017. This is intended as a financial incentive for working fathers to take family time, that is, to take time off from employment directly after their child's birth to devote themselves intensely and exclusively to their families, for an uninterrupted period of 28, 29, 30 or 31 days. The incentive is based on the recognition of how important the family-founding stage is for developing family cohesion early on, by enabling the new-born infant to rapidly establish a close emotional bond with its father while allowing the latter to best assist his partner in nurturing and caring for the child.

The health insurance institutions are responsible for administrating the Childcare Benefit Act.

Parents receiving childcare benefit as well as the child are covered by health insurance during the entitlement period. No separate application is required.

Parents born as of 1 January 1955 have compulsory insurance within the pension insurance system for periods of parental leave as of 1 January 2005 that are taken during the first four years after the child's birth (during the first

five years in the case of multiple births). This enables parents to accumulate contribution periods.

All changes to the legal situation introduced since the last report on Article 16 became effective as of 1 March 2017, so that no statistics are yet available to provide with this report.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 relating to the request for information on the steps taken to ensure that vulnerable families, such as Roma families, receive financial protection.**

Generally, the issue of ensuring financial protection for vulnerable families falls within the measures of poverty reduction. It should be noted that any measures already in force (such as minimum income, family allowance, etc.) are certainly also available to Roma families provided that they meet the relevant requirements for eligibility.

**Reply to the supplementary questions on Art. 16 in the Conclusions 2015 relating to the question whether stateless persons and refugees are treated equally with regard to family benefits:**

For the duration of their asylum procedure, refugees in need of help are entitled to basic welfare support benefits. The maximum cost limits are set out in Article 9 of the Basic Welfare Support Agreement (*Grundversorgungsvereinbarung*) - Art. 15a of the Federal Constitutional Law (*Bundes-Verfassungsgesetz, B-VG*). Refugees entitled to asylum or subsidiary protection enjoy the same treatment as Austrian citizens with regard to the access to social benefits (including family benefits).

Stateless persons and recognised refugees are subject to the same eligibility requirements as Austrian citizens with regard to family allowance, childcare benefit and family time bonus. If the relevant requirements are met, the family is entitled to family allowance, childcare benefit and family time bonus.

## **ARTICLE 17 – Right of minors and children to social and economic protection**

### **Paragraph 1 - Assistance, education and training**

#### **In response to the first question:**

Reference is made to the previous report. Developments during the period under review:

#### Adoption

The different minimum age for adoptive mothers and fathers was repealed by the Act to

Reform the Law of Parent and Child (*Kindschafts- und Namensrechtsänderungsgesetz 2013, KindNamRÄG 2013*) and replaced by a uniform age limit of 25 years. Adoptive fathers and adoptive mothers must be older than their adoptive child (Section 193 of the Austrian General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*)).

The Act to Reform the Law of Adoption (*Adoptionsrechts-Änderungsgesetz*) 2013 lays down the right of registered partners to adopt the biological child of their partner (stepchild adoption). They also have a right to apply for joint adoption and successive adoption.

### Protection from ill-treatment and abuse

On the occasion of the 10th anniversary of the presentation of the report of the UN Study on Violence against Children to the General Assembly in 2006, Austria hosted the HIGH LEVEL GLOBAL CONFERENCE “Towards Childhoods free from Corporal Punishment!”, in Vienna on 1-2 June 2016. Recognising that the prohibition and elimination of violent punishment of children is fundamental to the states’ fulfilment of Target 16.2 of the 2030 Agenda (“End abuse, exploitation, trafficking and all forms of violence against and torture of children”), the participants of the Vienna Conference in the RESOLUTION committed themselves – inter alia – to establish a reliable data collection system and to encourage, and where appropriate commission, research to measure progress towards the elimination of violent punishment of children and towards full respect for their status as individual people and rights holders.

In addition, valuable research and data on the issue of violence affecting children was collected within the scope of the 2009 study into the ban 20 years ago on domestic violence in Austria "*Familie – kein Platz für Gewalt!(?): 20 Jahre gesetzliches Gewaltverbot in Österreich*", comparing Austria, Germany, Sweden, France and Spain, the study on the prevalence of violence The "*Gewaltprävalenz-Studie 2011*" and the study commemorating the double anniversary 25 Years of the Convention on the Rights of the Child and 25 Years of the Prohibition of Violence in Austria": "THE RIGHT TO AN UPBRINGING FREE OF VIOLENCE: 25 years of prohibition of violence by law – an interim review" (2014).

### Children in public care

**Reply to the supplementary questions on Art. 17§1 in the Conclusions 2015 relating to the question whether children can be taken into care solely on the basis of inadequate resources of parents:**

Placing children in a home outside their family is permissible only if the child’s well-being is put at risk by the child staying in his/her family of origin. The risk assessment involves looking into the child raising situation. The child’s well-being is deemed to be at risk, for instance, if there is physical or sexual violence or if the child’s educational needs are neglected. A situation of financial need is not sufficient to justify taking a child into care. In such a case, the family must

receive adequate support in the form of social assistance to ensure the child's well-being.

**Reply to the supplementary questions on Art. 17§1 in the Conclusions 2015 relating to the request for information on the number of children placed in foster care or residential care and the maximum number of children in a single institution:**

According to the statistics published by the child and youth welfare services at federal level for 2016, 34,053 children and young persons were provided with parenting support within the family, 8,423 children and young persons were taken care of in socio-pedagogical institutions and 5,223 children and young persons were taken care of by foster parents. The maximum number of children in a single institution is determined by the individual *Laender* rather than by federal law. Care in socio-pedagogical institutions mainly takes place in flat-sharing communities (mostly 8-10 young persons maximum) or in facilities divided into flat-sharing groups (mostly 8-10 young persons maximum).

#### Young offenders

**Reply to the negative conclusion on Article 17§1 relating to the maximum length of pre-trial detention of minors:**

Given the wording of Art. 17§1 RESC, it is not entirely clear why Art. 17§1 RESC allows for the conclusion that the maximum length of pre-trial detention for young offenders must not be up to one year. Even if this provision allowed for such a conclusion, the Austrian solution would still comply with this requirement in the average case. Section 35 Para. 3 of the Juvenile Court Act (*Jugendgerichtsgesetz, JGG*) provides for the maximum length of one year only in special (extreme) cases (for instance, in the event of Jihadism/terrorist attacks); however, in such cases, pre-trial detention must always be imposed in line with the principle of proportionality. Normally, a young offender must be released after three months or, if the offence falls within the competence of the regional court sitting as a panel including lay judges (*Schöffengericht*) or with a jury (*Geschworenengericht*), after six months. Even then, pre-trial detention may exceed six months only in specific cases enumerated in the JGG.

#### New developments in the period under review from 1 January 2014 to 31 December 2016:

The Federal Act amending the Juvenile Court Act 1988, the Criminal Code and the Probation Service Act and Introducing a Federal Act on the Erasure of Convictions under Sections 129 I and 129 I lit. b, Section 500 or 500a Criminal Code of 1945 as well as Sections 209 or 210 Criminal Code (*Bundesgesetz, mit dem das Jugendgerichtsgesetz 1988, das Strafgesetzbuch und das Bewährungshilfegesetz geändert werden und mit dem ein Bundesgesetz zur Tilgung von Verurteilungen nach §§ 129 I, 129 I lit. b, 500 oder 500a Strafgesetzbuch 1945 sowie §§ 209 oder 210 Strafgesetzbuch (StGB) erlassen wird, JGG-ÄndG 2015*), Federal Law Gazette I no. 154/2015, entered into force on 1 January 2016.

The main purpose of this act was to ensure that young persons should be detained only if and only for as long as absolutely necessary - a goal backed by large parts of the general

public. The entering into force of this act was yet another step towards implementing the United Nations Convention on the Rights of the Child.

Several measures were taken, for instance, the principle of proportionality was enshrined particularly in criminal proceedings involving juvenile offenders. This means that in cases where only a very mild punishment is provided for (district court jurisdiction), no pre-trial detention can be imposed, or that, even after the young offender has been charged with a criminal offence, the legality of pre-trial detention is to be assessed at regular intervals. Public prosecutors and judges were given alternatives to detention in the form of social group conferences (*Sozialnetzkonferenzen*) as well as a statutory basis for such alternatives. These conferences, which are modelled after “family group conferences”, involve the social environment of an accused person including family members, teachers, social workers and/or employees of the youth welfare office in an attempt to re-organise the life of a juvenile or young adult and to ultimately create circumstances where pre-trial detention can be avoided. For instance, some juvenile and young-adult accused persons are instructed to live in socio-therapeutic living facilities, a step which very often can be highly beneficial for the young person but generates costs; the regulations under the new act provide for such costs to be borne by the state already at investigation stage.

Further changes in the act take account of the fact that the adolescent crisis, during which most of the criminal offences are committed by young persons, affects young persons up to the age of 21. Given the marked decline in delinquency when young people get older, it is both more important to look at a young offender’s personality structure rather than to focus on general deterrence and necessary to extend certain rules applicable to juvenile offenders also to this age group. The changes also provide for a broader range of sanctions available for young adults. The minimum punishments for young adults were lowered to match those applicable to juveniles, the maximum penalty which can be awarded to young adults was reduced from 20 years to 15 years of imprisonment and the main focus of punishment shifted towards specific deterrence. The possibility to make a conviction without punishment or with punishment reserved has been extended to young adults to allow for a broader range of options specifically for cases of very low-threshold offences where diversion is no longer possible for various reasons.

Additionally, it is now possible to postpone punishment to allow for completion of job training programmes also in the event of prison sentences of up to three years instead of prison sentences of up to one year only.

Another result of the amendment is the broadening of the basis for decision-making for public prosecutors and judges working with young offenders. The act laid down the statutory basis for the Juvenile Legal Aid Service (*Jugendgerichtshilfe*), a new institution available all over Austria, which supports the court and public prosecutor by, for instance, gathering information on the living situation of juvenile and young-adult accused persons and by making suggestions for instructions. The Juvenile Legal Aid Service also supports the court or public prosecutor in determining the length of young offenders’ detention by providing alternatives to pre-trial detention.

The average time which juvenile offenders spend in prison while serving a sentence has gone down since 2013. Over the past four years, the average detention period of young offenders was 91 days.

**Reply to the supplementary questions on Art. 17§1 in the Conclusions 2015 relating to the question whether young offenders are always separated from adults both in prisons as well as during pre-trial detention:**

The separation of juveniles and adults while in state detention has high priority. Both in pre-trial detention and while serving a prison sentence, young offenders are to be detained separately from adults. Separation can be suspended only if there is no risk of any detrimental influence or any other kind of discrimination.

In addition, the maximum number of prisoners per cell has been reduced to 2 for young offenders and the method of choice is imprisonment with unsupervised day release and accommodation in the form of flat-sharing groups. Juvenile detainees have access to rooms for group and leisure activities. Moreover, social pedagogues have been hired and prison staff for juvenile prisons need special qualifications and specific training on a regular basis. Law enforcement authorities cooperate with youth welfare organisations (such as the Youth Ombuds Office, adolescent psychiatry institutions), and the Juvenile Legal Aid Service is now provided all over Austria. Also, more and better work and job options have been created for young prisoners while at the same time collaboration with Youth Coaching was started to find job opportunities for young people after their release from prison.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

Development of convictions according to groups of persons:

In 2016, Austrian courts issued 30,450 legally effective convictions under the Austrian Criminal Code or other criminal laws. Of all convicted persons, 85.7% were male and 14.3% female. They included 6.5% young persons, 11.6% young adults and 81.9% adults.<sup>2</sup> 58.9% were Austrians and 41.1% were foreign nationals.

Compared to the previous year, convictions decreased by 5.2%. Convictions of men decreased by -5.3%, those of women went down by -4.7%. Convictions of foreign nationals decreased by 2.6%, those of juvenile offenders declined by 7.5%.

While in the last decade a new all-time high of 45,691 convictions was reached in 2005, the

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<sup>2</sup> The age categories given refer to the offenders' age at the time of committing the offence. Pursuant to Section 1 no. 2 JGG, juveniles are defined as young persons who have completed their fourteenth but not yet eighteenth year of age. Pursuant to Section 36 StGB, young adults are persons who committed an offence prior to completion of their 21st year of age.

number of convictions in 2016 was the lowest ever. Compared to 2005, the number of convictions decreased by 33.4%. In the last decade, the percentage of women among the convicted persons remained at about the same level (between 14% and 15%), the percentage of juvenile offenders fluctuated between 6.5% (2005) and 8.3% (2009) and, at 6.5% in 2016, was at the same level as in 2005. Since 2002, the age category of criminal young adults has been included in the statistics. The percentage of this group rose sharply in the beginning before reaching its all-time low at 3,534 convictions in 2015.<sup>3</sup>

The percentage of convicted foreign nationals rose from 23.6 to 30.8% between 2001 and 2005, was slightly below 30% between 2006 and 2009 and reached a peak of 41.1% in 2016.

A total of 47,645 offences and crimes were ruled upon in a total of 30,450 convictions, i.e. each judgment involved 1.5 offences on average. For young offenders this number is slightly higher (1.9 offences per judgment).

Compared to the previous year, the total number of offences committed was down by 1,565 offences, which corresponds to a percentage of -3.2%. What is remarkable for all offences committed is that there was a decline in almost all groups of persons, with the decrease in percent being strongest in female offenders (-5%). In foreign offenders, there was a slight increase (+0.9%), while the number of offences committed by Austrian nationals went down (by -5.9%).

A conclusion on the number of criminal acts committed that ended in a conviction cannot be derived from the number of judgments or from the number of offences.

#### Convictions according to persons and groups of offences:

If we look at the convicted persons by sex, age or nationality, the number of convictions involving certain offences and groups of offences is different. 87% of all offences ending in convictions in 2016 were committed by men. The offenders who were found guilty of offences against sexual integrity are almost exclusively male (98.3%), as is the case for offences against the person (90.2%), while the percentage of men who committed offences against property was below average (81.4%).

8% of all offences ending in convictions in 2016 were committed by young offenders. They are slightly overrepresented in the category of offences against property (9.3%) and offences against the person (7.1%); however, in the other offence categories, especially in connection with convictions under the Narcotic Substances Act (*Suchtmittelgesetz, SMG*) (7.4%) and offences against sexual integrity (10.2%), the proportion of young offenders is below average. Compared to that, adults are convicted for sexual offences in an above-average number of cases (81.9%).

In the group of young adults, the number of convictions for drug offences (18%), but also for offences involving aggressive behaviour (13.8%), is above average, whereas the proportion of offences against sexual integrity (7.9%) committed by young adults is comparably low.

The number of convictions is of course lower than the number of the offences ending in convictions. However, the percentages of the individual groups of offences and persons are almost identical.

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<sup>3</sup> This information seems to be incomplete in the years before 2004. The inclusion of the additional age category of young adults has resulted in a decrease of the percentage of convicted adults in the past decade.



### Convictions of young offenders:

In 2016, 1,988 young offenders were found guilty in final (non-appealable) judgments. Compared to the previous year, this is a decline of 7.5%. A total of 3,792 offences ending in convictions were committed by young offenders. 1,494 of these convictions relate to offences against third-party property, which corresponds to a decline of 11% compared to the previous year. Young offenders were convicted for offences against the person in 600 cases: a decline of 6.1%.


Compared to the figures (counting also the offences that are listed only as secondary to another offence that is taken as the basis for the ruling on the scope of punishment) of the previous year, one can notice a decline of 4%, also in the case of offences against third-party property (11%), offences against the person (-6.1%) and offences under the Narcotic Substances Act (*Suchtmittelgesetz, SMG*) (1.4%). There has been a sharp increase in offences against sexual integrity (90.2%).

A conclusion on the number of criminal acts committed that ended in a conviction cannot be derived from the number of judgments or from the number of offences.

### Convictions of young adults:

Young adults are persons who have completed their 18<sup>th</sup>, but not their 21<sup>st</sup> year of age. As in the previous year, the percentage of convictions for offences against third-party property committed by young adults was than in the group of juveniles (juvenile offenders: 1,827, young adults: 1,494). The percentage of convictions for criminal offences against the person committed by juveniles was 600, whereas the percentage of young adults was at 1,165.

If the figures for all young adults are compared to those of the previous year, offences of young adults have not shifted significantly. With 5,993 convictions in 2016, there was a slight decrease compared to the previous year (6,209 convictions). Convictions for criminal offences against the person (-10.2%) and against third-party property (-1.9%) also went down for young adults. There has been a sharp increase, however, in the convictions for offences against sexual integrity (26.8%).

[http://www.statistik.at/web\\_de/statistiken/soziales/kriminalitaet/verurteilungen\\_gerichtliche\\_kriminalstatistik/](http://www.statistik.at/web_de/statistiken/soziales/kriminalitaet/verurteilungen_gerichtliche_kriminalstatistik/) 

## **Paragraph 2 – Free primary and secondary education**

### **In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 17§2 in the Conclusions 2015 relating to the request for information whether vulnerable groups are provided assistance for hidden costs such as for books or uniforms:**

### Benefits and grants for schoolchildren

School grant and school boarding grant: In accordance with legal requirements (specifically social need; 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 are whose status is equal to Austrian citizens (including convention refugees, EEA citizens, and, to the extent his 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, orphans, etc.) For disabled students, this increase may be up to EUR 1,298.

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 2016/2017 a total of 33,970 applications for school grant were filed, 27,100 of these were approved resulting in a total amount of EUR 30 million.

Apart from these school grants, subsidies for cases of hardship may be granted pursuant to Section 20a SchBG 1983. In addition, subsidies for participating in school events are granted if the relevant prerequisites are met; such prerequisites are laid down in Circular 4/2017 (Legal framework: Section 13 of the School Education Act (*Schulunterrichtsgesetz, SchUG*), Federal Law Gazette no. 472/1986; School Events Ordinance (*Schulveranstaltungsverordnung, SchVV*) 1995, Federal Law Gazette no. 498/1995).

### 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 1.1 million children at 6,000 schools).

Apart from printed and digital 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 109 million.

For each pupil/student 7-8 school books worth approximately EUR 96 are ordered on average.

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.

**Reply to the supplementary questions on Art. 17§2 in the Conclusions 2015 relating to the information provided on compulsory education up to the age of 18:**

On 6 July 2016, the Austrian Federal Government enacted a law to ensure compulsory education after the completion of compulsory schooling of nine years to give everyone below the age of 18 the chance to complete education or training beyond compulsory schooling ("*AusBildung bis 18*"). This goal is to be reached, according to the government programme, primarily by providing sufficient low-threshold offerings, by restricting unskilled work by juveniles and, in addition, by imposing an administrative penalty.

Interfaces with the education system: Generally speaking, the "*AusBildung bis 18*" programme works at the interface of labour market policy and education policy, with the advantage of compulsory education as opposed to simply longer compulsory schooling being the broad range of opportunities and the focus on practical training (apprenticeships at company level and supra-company level, production school) as well as intensive counselling by Youth Coaching, the co-ordinating agencies and the Public Employment Service (*Arbeitsmarktservice, AMS*). A large part of the young population, however, completes compulsory education in the school system (including occupational school).

Early-School-Leavers (ESL): When it comes to early school leavers (ESL), i.e. young people who have not finished upper secondary education or an apprenticeship and do not undergo education or training, Austria is clearly below the EU average (10.9%) with a percentage of 6.9 percent for the age class from 18 to 24 years in 2016<sup>4</sup>. Nevertheless, there is urgent need for action because an analysis of the risk distribution of early school leavers shows that,

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<sup>4</sup> [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=edat\\_ifse\\_14&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=edat_ifse_14&lang=en) (Update 12 January 2018)

on the one hand, the families' social and educational background is an important factor and, on the other hand, there are massive implications on the labour market in the medium and long run.

In preparation for the Compulsory Education Act (*Ausbildungspflichtgesetz, APfIG*), the national strategy preventing early leaving from education and training (*Nationale Strategie zur Verhinderung von (Aus-)Bildungsabbruch*), first published in 2011, was reviewed with an emphasis on prevention and on target-group-specific interventions. With this strategy, the Federal Ministry of Education, Science and Research aims to implement the "AusBildung bis 18" initiative and to continue in significantly reducing early school leaving and to increase the number of young people who successfully complete their education.

The amendment of Section 32 of the School Education Act (*Schulunterrichtsgesetz, SchUG*) carried out in the course of the Education Reform Act (*Bildungsreformgesetz*) 2017 provided for the extension of the voluntary 11th and 12th school years for students with special educational needs. In the interest of inclusion, the government thus created the statutory prerequisites for students with special educational needs to continue attending a regular school in a voluntary 11th and 12th school year instead of going to a school catering for special needs.

To ensure a successful implementation of the "AusBildung bis 18" initiative, the act provided for further reforms on pre-vocational schools and the 9th grade as well as intermediate vocational schools.

Early leavers from education and training (ELET): The group of early leavers from education and training relevant for the monitoring of "AusBildung bis 18" is actually composed of two groups of young people. For one thing, the term "early leavers" refers to young people who leave the education system immediately after completing compulsory schooling, for another thing, to young people who do begin training at the level of upper secondary education but leave their training before completing and without changing to another type of education or training<sup>5</sup>. Both are important target groups for the "AusBildung bis 18" initiative.

For the purpose of monitoring compulsory education, the ELET indicator has a clear advantage over the NEET concept used so far: The NEET (not in education, employment or training) indicator refers to a specific point in time and employment status. While the decisive element in NEET is the non-participation in employment or education/training, the decisive element in

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<sup>5</sup> Steiner et.al. (2015): "Ausbildung bis 18 – Grundlagenanalyse zum Bedarf von und Angebot für die Zielgruppe"

ELET is the low level of education and/or training. What is more, the NEET target group may include young people who have completed upper secondary education. On the other hand, young people employed without any qualifications do not fall within the NEET group while they are clearly part of the target group of “AusBildung bis 18”.

Current ELET figures are available until mid-December 2017. According to such figures, in 2015, a total of 21,907 persons aged 15-17 were early leavers from education and training, an increase of 3,994 persons compared to 2014. The ELET rate, i.e. the percentage of early leavers from education and training compared to the general population of the same age, was 8.0% in 2015 (compared to 6.7% in 2014). Young men (58%) account for a higher share of early leavers in this age group than young women (42%).

Migrant background clearly is a negative factor when it comes to the risk of being an early leaver from education and training; the figures suggest that young persons with migrant background tend to leave early more often than young native Austrian nationals. In the age group from 15 to 17 years, the figures for persons without Austrian citizenship or with a place of birth outside of Austria rose significantly, while they decreased substantially for young people with Austrian citizenship or Austria as place of birth.

Divided by regions, the highest percentages of early leavers from education and training can be found in Vienna (13%) and Lower Austria (10.7% male early leavers), both with two-digit ELET figures. Forecasts for 2016 predict a further increase of absolute figures, in particular in young men, and an increase in the ELET rate. “AusBildung bis 18” will counter this trend.

Youth coaching: The Youth Coaching offered by the Service Centre of the Ministry of Social Affairs (*Sozialministeriumservice, SMS*) is a key instrument in implementing education and training up to the age of 18 (“AusBildung bis 18”). Among other things, it plays a key role, together with AMS, in providing counselling and assistance to young people covered by the compulsory education obligation in terms of perspectives and career planning starting from the 9th school year. The numbers of participants in the Youth Coaching programme has increased steadily since the programme was introduced on a federal level.

<b>Year</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017 (as of 1 January 2017)</b>
Participants in Youth Coaching:	9,693	39,360	45,132	51,529

Production schools:

The production schools offered by the Service Centre of the Ministry of Social Affairs (SMS) also play a key role in the passage from compulsory schooling to further education and training. In these schools, young people who might lack certain social skills, literacy and numeracy receive appropriate training to ensure a smooth transition to further training such as apprenticeships, etc.

<b>Year</b>	<b>2015</b>	<b>2016</b>	<b>2017 (as of 1 January 2017)</b>
Participants at production schools	2,207	3,108	3,776

January 2018 will also see the start of the pilot project “Pre-Production-School Module” (*Vormodul der Produktionsschule, VOPS*), which is a low-threshold preliminary stage for the production school tested in four *Laender*: Vienna, Salzburg, Lower Austria and Carinthia. The potential target group consists of young people who would in principle attend a production school, but do not currently meet all the requirements. The aim of this pilot project is to test whether low-threshold access to production schools will make it more attractive to a broader target group. An accompanying evaluation will assess effectiveness at the end of the 1st half-year of 2018.

Reporting system within “AusBildung bis 18”: By July 2018, all institutions where young people can complete education and training under the Compulsory Education Act will provide information on all young people enrolling in and leaving the institution. This will allow for a clear picture on which young person currently is not in education or training. The co-ordinating agencies and/or Youth Coaching will then contact this young person directly.

This information is of key importance also on a strategic level, to ensure improved education and training systems and to avoid early leaving from education and training.

The reporting system will be set up by Statistics Austria. So far, data interfaces have been set up with AMS, SMS, the Austrian Federal Economic Chamber (*Österreichische Wirtschaftskammer, WKO*) and the federal schools.

For the first time in Austria, the co-ordinating agencies have contacted young persons who do not comply with their compulsory education obligations starting in late February 2018.

Administrative penalties: Since 1 July 2018, it has been possible to impose fines for non-compliance with the compulsory education obligation. Such fines should be imposed only as a last resort. When parents or guardians make an effort to comply with compulsory education but fail because of the young person’s inability to understand, there will be no punishment. Only when

parents or guardians clearly take no responsibility and/or make no efforts regarding their children's educational career, a report will be filed against them. Fines range from EUR 100 to EUR 500 the first time and from EUR 200 to EUR 1,000 in the event of repeated incidents.

Co-ordination agencies and service line of "AusBildung bis 18": The "Ausbildung bis 18" initiative streamlined the co-ordinating agencies' system, which had been in place in the *Laender* so far on the transition from school to employment, and created nine co-ordinating agencies in the *Laender* as well as a federal co-ordinating agency (BundesKOST) "AusBildung bis 18". The task of these agencies is, among others, to coordinate the support provided to young people in helping them to find the right job or training and in providing targeted counselling services.

Evaluating and monitoring "AusBildung bis 18": The "Ausbildung bis 18" initiative will be accompanied by scientific evaluation carried out by a working group composed of the Institute for Advanced Studies (IHS) & the Austrian Institute for Research on Vocational Training (öibf). A first interim report was presented in January 2018.

Additionally, a monitoring and evaluation system for the initiative's interventions will be set up in cooperation with Statistics Austria. The data prepared for the Monitoring of Education-related Employment Behaviour (*Bildungsbezogenes Erwerbskarrierenmonitoring, BibEr*) allow for monitoring the further employment and training career of those persons who participated in intervention measures offered by "AusBildung bis 18".

In addition to that, the "AusBildung bis 18" monitoring also assesses early leaving from education and training (ELET) on a regular basis.

Programmes aiming to promote the integration of young people into the education system and the labour market: The programmes aiming to promote the integration of young people into the education system and the labour market in Austria go from apprenticeship funding at company level to AMS funding schemes offered to individuals and programmes focused on managing the transition from school to working life, currently a field of great interest.

In 2017, a total of some EUR 864 million was allocated to youth-specific measures in labour market and employment policy. The budget for these measures has been increasing steadily every year since 2011.

The key elements of the Austrian model are – in addition to the introduction of "AusBildung bis 18" – the training guarantee for young people between 15 and 19 years of age (see supra-company apprenticeship training, *Überbetriebliche Lehrausbildungen*) and the training guarantee for young people up to the age of 25 ("Ausbildungsgarantie bis 25").

The training guarantee up to the age of 25 is a package of measures focusing on acquiring qualifications and completing training programmes, which is covered by a broad range of funding instruments into which additional funds are channelled. In the context of the “Ausbildungsgarantie bis 25” initiative, trainings are eligible for public funding if they end in a recognised apprenticeship examination or an examination regulated under school acts.

For this purpose, AMS has been granted additional annual funds in the amount of EUR 37 million since 2017.

Apprentice training on the job: The dual apprentice training scheme, particularly renowned for its practical approach, is a pillar of the Austrian education system and as such the strongest branch of secondary education. The training lasting for two to four years is completed by the final apprenticeship examination. It takes place at a company or vocational school. This dual system is open to young people after completing a compulsory schooling period of nine years. This model of dual education is currently offered for approximately 200 apprenticeships in trade, industry and service, regulated by vocational training guidelines.

Company-based apprenticeship funding under Section 19c of the Vocational Training Act: On 9 July 2015, Section 19c et seq. of the Vocational Training Act (*Berufsausbildungsgesetz, BAG*) that provides for new regulations concerning the support of companies offering apprenticeship programmes entered into force; these regulations aim particularly at creating new training opportunities for disadvantaged young people, strengthening the quality of training provided, promoting permeability and improving the final apprenticeship examinations.

On 1 July 2017, the Ministry of Economic Affairs and the Ministry of Social Affairs agreed on further public funding to make apprenticeships even more attractive to young people. Since that time, it has been possible to take over the costs for language courses, travel and accommodation for apprentices during internships abroad lasting up to two weeks.

On 1 January 2018, a new regulation entered into force with Section 9 Para. 5 BAG, which provides for the person authorised to train apprentices to pay for the costs of boarding school for their apprentices. Such costs can be reclaimed from the Apprenticeship Offices of the Economic Chamber.

Incentives are generally 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 funding of apprenticeships. 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 has been commissioned to take over the tasks of administering the funding, which thereby may be executed in a concerted way at federal level. For this purpose the division “Inhouse Förderservice (IFS)” was founded within the Inhouse GmbH in 2008.

The entire volume of apprenticeship funding outside the AMS amounted to EUR 165 million in 2017.

Basic funding: In Austria, companies offering apprenticeship training are entitled to graded basic funding. Following completion of one year of apprenticeship the basic funding may be applied for and amounts to:

- 1st apprenticeship year: 3 apprenticeship allowances
- 2nd apprenticeship year: 2 apprenticeship allowances
- in the 3rd and 4th apprenticeship years: 1 apprenticeship allowance per year, or half an apprenticeship allowance in the case of a training time of 3.5 years.

Generally, apprenticeships are eligible for funding if they lasted the entire apprenticeship year or were completed in line with apprenticeship regulations.

Further quality-oriented incentives in company-based apprenticeship funding: The Vocational Training Act provides for further funding and support measures, which mostly aim at improving the quality of on-the-job training. The following incentives are available:

- Promoting initiatives among companies and at a level above company level (e.g. additional qualifications of apprentices superseding the legally required job profile and thereby raising the qualification standards)
- Promoting further training measures for the trainers to ensure high technical and pedagogic-didactical standards
- Supporting young people with learning difficulties, for instance by refunding the costs for repeating a year in occupational school, preparatory courses for re-examinations and tutoring at compulsory school level
- Promoting equal access to different apprenticeships for young women and men
- Incentives for final apprenticeship examinations passed with excellent (EUR 250) or good (EUR 200) success.

- Promoting corporate measures to enhance equal access to different apprenticeships for young women and men
- Promoting apprenticeships for adults (i.e. people who are 18 years or older when they begin their apprenticeship) by increasing the basic amount refunded to companies if such people are paid the wage of an unskilled worker instead of an apprenticeship allowance.
- Paying a single premium of EUR 1,000 for training young people from supra-company-level training institutions for a period of at least one year

Coaching for apprentices and companies offering apprenticeship training: The coaching for apprentices and companies offering apprenticeship training is financed from funds provided for under Section 13e of the Insolvency (Guarantee of Remuneration) Act (*Insolvenz-Entgeltsicherungsgesetz, IESG*) (company-based apprenticeship funding). The major aim is to support both apprentices and companies offering apprenticeship training, increase the number of apprentices who successfully complete their final apprenticeship examinations and reduce the number of persons failing to complete their education or training.

The figures of participants show a positive trend: as of 30 June 2017, 2,062 apprentices and 186 companies have been coached since the launch of the programme in November 2015.

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

Groups of persons eligible for this type of incentive:

Girls in apprenticeships with a low percentage of women (women's share less than 40% in the previous training year)

Young persons facing disadvantages on the labour market due to handicaps, social problems or lack of success at school (also apprenticeship dropouts)

Participants in an apprenticeship with an extended training period or partial qualification programme under Section 8b BAG (formerly known as "integrative vocational training"): Persons over the age of 18 with difficulties on the labour market for lack of qualification whose problems can be solved by attending apprenticeship training or early school leavers.

The amount received by eligible companies is up to EUR 400 per month for girls in apprenticeships with a low percentage of women, disadvantaged young persons or participants in a training programme under Section 8b BAG. Training institutions receive up to EUR 453 per month for these target groups. Young people over the age of 18 who receive a higher apprenticeship allowance or the wage of an unskilled worker are supported with up to EUR 900 per month both at company level and at supra-company level.

For the year 2017, funds amounting to some EUR 27.7 million are available for person-related apprenticeship funding by the AMS.

Apprenticeship training above company level: Apprenticeship training at supra-company level (ÜBA) and the related training guarantee offered by AMS are key instruments of youth labour market policies and the “AusBildung bis 18” initiative. Young people who do not find an apprenticeship in a company can receive apprenticeship training at institutions for apprenticeship training at supra-company level.

On-the-job training, i.e. an apprenticeship with a company, always has first priority: Only if this is not possible can the young person attend supra-company-level training. Also while in this programme, it is a desirable goal for the young person to change for a company offering apprenticeship training as soon as possible, a goal supported by internships and outplacement activities. The young people who stay in the supra-company training programme until the very end are usually young people with learning difficulties. Without the supra-company training scheme, they would never have a chance to complete an apprenticeship.

In 2016, 70% of all participants in supra-company-level apprenticeship training successfully completed their apprenticeship. Compared to the success rate of apprentices working in companies (80%), this is a considerable achievement of AMS, the competent institutions and the young people.

An evaluation of the supra-company programme carried out all over Austria in 2011 showed a positive picture of the labour market situation of the young people who completed their apprenticeship outside a company: in the first half-year after they left the programme, half of them worked predominantly as apprentices in a company, another 16% were in employment and a quarter of the young people were mostly unemployed or outside the labour force.

There is need for action in the case of programme dropouts, who make up for about a quarter of the participants, whose employment history after the apprenticeship programme very often is one of precarious work only. Important improvements suggested by the evaluation report, such as the

optimisation of measures targeted at the period before starting supra-company-level training, have been implemented in the past years. On a systemic level, new labour market policy measures were developed and successfully implemented on a large scale: individuals are successfully supported in planning their educational career by Youth Coaching services and the production schools offer low-threshold education aimed at enhancing young people's trainability. Both initiatives of the Service Centre of the Ministry of Social Affairs are expanded and developed on a continuous basis with additional funding for the "AusBildung bis 18" initiative to adequately meet young people's needs.

Furthermore, within the scope of "AusBildung bis 18", AMS was provided with additional funding for quality improvement in supra-company-level apprenticeship training in the amount of up to EUR 14 million for 2018. This allows for promoting additional offers for initiatives before and after apprenticeships, learning support services, training the trainers, etc. with the aim of reducing the dropout rate while at the same time increasing the success rate. All additional offers will be evaluated to assess their impact on the labour market and will be extended if required.

Apprenticeship with an extended training period and partial qualification: In Section 8b, the Vocational Training Act provides for an extension of the apprenticeship or partial qualification. Target groups for this type of extended training are:

- Graduates from schools catering for special needs
- Juveniles without or without a successful leaving certificate from lower secondary school
- People with special needs as defined under the Disability Employment Act (*Behinderteneinstellungsgesetz, BEinstG*)
- Persons for whom AMS cannot arrange regular apprenticeship training for other reasons.

A partial qualification provides for the training of selected parts of the job profile for one or several apprenticeships within one to three years. The exact school and on-the-job content as well as the training objectives and duration will be agreed upon in a training contract concluded at the beginning of the training. The training is completed by passing a final examination with specific requirements, which will be confirmed by a final certificate.

In the case of an extended training period, the regular training period will be extended for a maximum of one year (in special cases for up to two years) and completed with the regular final examination. Attendance at vocational school is mandatory.

Both options offer vocational training assistance of the Service Centre of the Ministry of Social Affairs (Sozialministeriumservice) that will provide social education, didactic and psychological care to the young person and is an important success factor of this measure.

On 1 December 2017, a total of 3,625 apprentices were in a training programme under Section 8b BAG. Of those, a total of 2,738 apprentices had extended training periods (1,831 of those in companies and 907 of those in training institutions). Of a total of 887 apprentices in partial qualification programmes, 276 persons completed their apprenticeship in companies and 611 persons in training institutions.

Apprenticeship including a secondary school-leaving certificate: In place since autumn 2008, the “*Lehre mit Matura*” programme allows for apprentices to obtain, in addition to their training on the job or in a training facility and in occupational school, by taking the university entrance qualification examination, a secondary-school-leaving certificate qualifying them for admission to universities, universities of applied sciences and further post-secondary education courses.

The programme can be attended starting from the first apprenticeship year. There is no admission procedure and the preparatory courses for the secondary-school-leaving certificate are open to anyone.

Preparatory courses can be attended in the apprentice’s free time (accompanying model) or can be counted as working time in part or in whole (integrative model).

The university entrance qualification examination consists of four partial examinations (German, mathematics, a modern foreign language and a specialist exam). Each partial exam requires a preparation course lasting 2 semesters.

Course costs eligible for public funding are course fees, costs for teaching materials and exam fees.

If course time is counted as working time within the scope of the integrative model, the company offering the apprenticeship training is refunded the apprenticeship allowance including taxes and incidental wage costs for such course time.

**Reply to the supplementary questions on Art. 17§2 in the Conclusions 2015 relating to the request for information on what measures are taken to guarantee equal and effective access to education to children of Roma origin as well as children from vulnerable groups:**

In Austria, access to the public school system is granted to everyone irrespective of factors such as citizenship or migrant background. The School Organisation Act (*Schulorganisationsgesetz, SchOG*) expressly states that public schools are generally accessible without discrimination on any ground such as

birth, sex, race, social standing, class, language or religious beliefs. Just like compulsory schooling (a prerequisite for which is permanent residence in Austria, among others), the opportunity to attend school (on a voluntary basis) in the event of a merely temporary stay in Austria is not linked to criteria such as citizenship, ethnic origin or migrant background.

In order to meet the heterogeneous needs of Roma as a target group, Austria (in line with its current National Roma Integration Strategy published by the Austrian Federal Chancellery in 2017), in its attempts to achieve inclusion, focuses mainly on general and structural policy measures within a broader social inclusion policy. Education is a decisive factor for social and economic integration of Roma people and thus constitutes a key area of the Austrian National Roma Integration Strategy.

In this context, the numerous structural measures of Austrian education policy aimed at improving equal opportunities for all and providing targeted support to groups with socio-economic disadvantages (such as more places in all-day schools, the introduction of the new secondary school (*Neue Mittelschule*) type of school, improvement of the initial orientation phase at school, language support to multilingual pupils/students in German and their first language, inclusive model regions, etc.) play a decisive role in improving the educational results of Roma and Romnija too. In addition to that, there are numerous measures specifically targeted at Roma children (such as learning support services, employment of mediators at school, etc.).

As regards education, the current (2017) National Roma Integration Strategy provides for the following measures:

- Providing early childhood education through compulsory education in the last year of nursery school
- Improving language support
- Improving the initial orientation phase at school
- Increasing cooperation of nursery schools and primary schools
- Promoting all-day schooling
- Expanding inclusive model regions
- Offering learning support services
- Employing Roma mediators at school
- Offering bilingual instruction in Burgenland and instruction in the children's native language
- Offering a broader range of careers guidance and educational guidance
- Creating adult education services.

The strategy highlights in particular the importance of efforts to combat prejudices, racism, discrimination and xenophobia (for instance, by political education and by educating teachers). A specific contribution to the National Roma Integration Strategy is the development of teaching materials based on the exhibition “Romane Thana – Places of the Roma/Romnija and Sinti/Sintize”. The materials have been available online since September 2016: [www.romane-thana.at](http://www.romane-thana.at).

The results of a study on the education and training situation of Roma in Austria point towards a lower level of formal education among Roma compared with the overall population. Likewise, the information collected in the study reveals a lower nursery school attendance rate, a higher pre-school attendance rate and a higher percentage of early school leavers among the Roma respondents.

All in all, there has been a marked increase in the level of education across the generations of autochthonous Roma. The results of the study reveal a higher level of formal education among Roma women and girls, with a higher percentage of Roma girls achieving secondary-school qualifications. The percentage of Roma with vocational training and recognised qualifications is constantly increasing. The considerable degree of bilingualism and multilingualism is particularly significant.

Overall, it would appear that educational achievements in Austria are still very much dependent on socio-economic background. The school drop-out rate for pupils with a migration background is more than three times as high as that of pupils without a migration background.

Consequently, efforts are being made to build upon the progress achieved in the key area of education and ensure the continuous improvement of educational achievements among Roma school pupils and Roma men and women in adult education.

#### Objectives:

- Improved equal opportunities and gender equality
- Greater use of early childhood education facilities
- Higher level of education among disadvantaged groups
- Lower drop-out rate from schools and training courses

To ensure that these objectives are met, Roma will benefit mainly from structural measures that aim to improve equal opportunities and bring about the systematic advancement of socio-economically disadvantaged groups as part of an inclusive educational policy. These measures include first and

foremost the expansion and qualitative improvement of measures to promote the inclusion of pupils with a migration background. Certain measures with a specific focus on Roma are also envisaged.

Measures:

- Offer compulsory early childhood education in the final year of nursery school
- Develop and expand language tuition
- Improve school entry phase
- Build upon the existing cooperation between nurseries and primary schools
- Scale up all-day schooling
- Develop more inclusive model regions
- Offer learning support programmes
- Appoint Roma school mediators
- Offer bilingual education in Burgenland and lessons in pupils' native languages
- Expand career guidance and educational counselling services
- Offer services in the field of adult education
- Actively involve representatives from Roma civil society in the work of the minority education forum (*Forum Minderheitenschulwesen*)

**Reply to the supplementary questions on Art. 17§2 in the Conclusions 2015 relating to the information whether unlawfully present children have a right to education:**

Under national law, children who stay in Austria only temporarily are entitled to the same rights to attend school as Austrian children (Section 17 of the Compulsory Schooling Act (*Schulpflichtgesetz, SchPflG*)). In this connection, we would like to point out the introduction of "bridging classes" in the federal reception centres whose aim it is to facilitate entry into the Austrian school system. In addition, in some selected federal reception centres, there are school pilot projects involving teachers from the local communities. School materials and costs for travelling to and from school are covered by basic welfare support (Article 6 Para. 1 no. 10 of the Basic Welfare Support Agreement).

It should be mentioned, however, that participation in the regular school system may be problematic in the case of an obligation to leave the country insofar as children first need to integrate into a social system, which they then need to leave again after only a short time.

With Circular no. 21/2017 and the enclosure on refugee children and adolescents in Austrian schools issued by the Federal Ministry of Education,



Science and Research (BMBWF), the school boards for the individual *Laender* and for the City of Vienna as well as the competent offices of the *Laender* governments were informed about issues such as inclusion in school, compulsory schooling and the right to attend school, thus ensuring that all children - irrespective of their residence status – have the right to go to school:

Children subject to compulsory education: All children who are subject to compulsory schooling because of their age and who are permanently resident in Austria have the right and the obligation to attend school (cf. Section 1 Para. 1 of the Compulsory Schooling Act). Children who stay in Austria only temporarily are entitled, but not obliged, to attend school, subject to the same prerequisites applicable to children subject to compulsory schooling (cf. Section 17 of the Compulsory Schooling Act).

A person qualifies as permanently resident if such person resides in a place until further notice and discernibly intends to stay in this place. (Children of) asylum seekers are deemed to intend to stay in a place if they applied for asylum in this place.

The schools responsible for a specific catchment area thus have to admit all children subject to compulsory schooling – i.e. also children of asylum seekers and children whose residence status is unclear – and, as far as possible, have to put such children in the appropriate grades according to their age.

If a particular school does not have enough space because, for instance, there is a large reception facility nearby, the competent school board would have to be called upon without delay and asked to find a solution.

School-age children can also attend the lower level of academic secondary schools (AHS) to complete compulsory schooling. AHS, however, are under no obligation to admit external students. It is for the school management to decide whether the individual student has all the qualifications required for successful attendance of the AHS.

Young persons who are no longer subject to compulsory education: Section 32 Para. 2a of the School Education Act (*Schulunterrichtsgesetz, SchUG*) is a new legal provision introduced in the course of the Education Reform Act (*Bildungsreformgesetz*) 2017 and provides that students who, in the 9th year of their compulsory schooling, attended a lower secondary school (*Hauptschule*), a new secondary school (*NMS*) or a pre-vocational school (*Polytechnische Schule*) as external students, can now voluntarily attend the above schools as external or internal students for a 10th school year, provided that the school's funding body and the competent school authority give their formal approval.

The students benefiting from this new regulation are students who are not eligible for attendance as internal students, for instance at a new secondary school, because of poor language skills (migrants or refugees) (Section 4 Para. 2 lit. a SchUG).

### **Measures for minors who are no longer subject to compulsory education (refugees/migrants) with poor German skills**

Introduction of transition stages for young refugees starting from the school year 2015/16: This offer was introduced specifically for young persons with poor knowledge of German (as a language of instruction) who are no longer of school age (from the age of 16) but could have the chance to attend middle or upper secondary education in Austria based on their educational biography. The aim is for participants to qualify for upper secondary education. Funding is provided by the Federal Ministry of Education, Science and Research.

A specific curriculum was prepared for these courses. (Excerpt from the table of subjects: 10 hours of German as a foreign language, 4 hours of English, 4 hours of mathematics, 2 hours of personal development, 2 hours of history and geography, 2 hours of basics in natural sciences, 2 hours of ethics, 3 hours of practical training)

A maximum of 12 to 20 participants per course.

Acceptance into the transition stage is regulated by the school offering courses.

In the school year 2015/16, 838 young persons attended 44 transition stages at intermediate vocational schools (*berufsbildende mittlere Schulen, BMHS*).

In the school year 2016/17, 1521 young persons attended 105 transition stages at BMHS and academic secondary schools (*allgemeinbildende höhere Schulen, AHS*).

In the (current) school year 2017/18, some 1,450 young persons attend 98 transition stages at BMHS and AHS.

Basic education for young refugees: Since 2016, with public funding earmarked for integration, an additional 3,000 places in basic education and 400 places in compulsory education have been created for young refugees aged 16 to 19. The target group consists of those young refugees whose educational biography does not provide for any links to the Austrian higher education system and who were not included in AMS programmes or *Laender* initiatives. There is a special focus on increasing the percentage of girls in this training segment.

## **ARTICLE 19 – Right of migrant workers and their families to protection and assistance**

### **Paragraph 1 – Assistance and information on migration**

#### **In response to the first question:**

Reference is made to the previous report. Developments during the period under review:

Around a quarter of those born abroad and currently employed in Austria are working in jobs for which they are overqualified, with more women than men holding such jobs. With a view to facilitating their participation in the Austrian labour market and fostering employment that matches peoples' training, education and skills, it was necessary to improve the existing conditions for recognition of professional qualifications.

The Recognition and Assessment Act (*Anerkennungs- und Bewertungsgesetz, AuBG*) entered into force on 12 July 2016. The Act allows the target group to gain access to recognition and assessment procedures of their qualifications. Specific conditions apply to persons entitled to asylum or subsidiary protection who cannot provide documentation of their qualifications.

The aim is to promote real labour market integration, in particular at a medium- and high qualification level. It is still too early to assess the concrete results since their evaluation will only be possible after the expiration of the first statistical reference period. Besides improvements relevant to the procedure, improving the practical use of the service facility the redesign of the online portal was another important step. The online portal can be accessed at [www.berufsanerkennung.at](http://www.berufsanerkennung.at). The recognition portal recorded about 150,000 visits in the period from January to June 2017. Throughout the whole year of 2016, there were 232,958 and in 2015 a total of 160,163 visits to the website. The figures prove how important it is to make service facilities user-friendly and which positive outcomes can be achieved as a result.

<https://www.bmeia.gv.at/en/the-ministry/press/announcements/2016/04/recognition-and-evaluation-act-adopted-by-the-ministerial-council/>

#### **In response to the second question:**

Measures taken to provide free service and assistance to nationals wishing to go abroad

Individuals planning to move to another country or planning a stay in another country are well-advised to obtain information about any permits required for the host country from the authority representing that country in Austria. Otherwise they might run the risk of having to return immediately upon arrival at their destination if they do not hold the required permits thus being unable to begin their studies or employment as planned. Au pair placements are subject to specific rules and regulations; in most cases, the visa must be obtained before leaving Austria.

To receive effective support quickly, Austrians residing in another country for a lengthy period have to have first contacted the competent Austrian embassy or consulate general. The representing authority in the particular country can be notified by registering online, by email or fax or by personal appointment; individuals should give precise details if possible concerning items such as the place of residence in the foreign country, the length of their stay, contact information and phone numbers in the host country, and contact data of relatives in Austria for emergency cases.

While no obligation whatsoever exists for such a “registration” with the competent authority representing Austria in the other country, it is in the interests of the individual and can also ensure that efficient support can be provided in the event of a crisis or disaster.

In many countries, Austrian citizens living there have founded associations, and the authority representing Austria there (embassies, consulates, honorary consulates) will provide the contact data on request. Important information concerning things such as service points, associations of Austrians living abroad, issues related to citizenship, voting rights of Austrians abroad and social benefits can be viewed at the following website of the Foreign Ministry: <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland>.

#### Racism, xenophobia and combating discrimination

Since 2015, there has been a **hotline against discrimination and intolerance** (+43 50 11 50 – 4242) run by the Federal Ministry for Europe, Integration and Foreign Affairs, which acts as a clearing agency, ensuring that those affected are supported in finding their way around the complex issue of anti-discrimination. In addition, the aim of the hotline is to remind people that discrimination is by no means a trivial offence in Austria and to help in raising awareness for the various anti-discrimination bodies. So far, some 580 persons affected have contacted the hotline via telephone or email and were forwarded to the person in charge of their concern.

**Reply to the supplementary questions on Art. 19§1 in the Conclusions 2015 requesting further information on implementation of the integration plan:**

The National Action Plan for Integration (NAP.I) was initiated in 2010, laying the foundation for the Federal Government's integration efforts as well as for strengthening cooperation with the *Laender*, the social partners, bodies representing group interests as well as major non-governmental organisations involved in integration. Adoption of NAP.I established Austria's first-ever national integration strategy. Integration was defined in 2011 as a ministerial portfolio at federal level as well.

As of 2011 the Expert Council for Integration (*Expertenrat für Integration*) has published an annual integration report, available to be downloaded both in German and English from the website of the Federal Ministry for Europe, Integration and Foreign Affairs: <https://www.bmeia.gv.at/en/integration/integration-report/>

The annual integration reports describe the current status in implementing NAP.I while presenting a comprehensive summary of integration activities in Austria and focusing on different topics each year. An example is seen in the pre-integrative measures initiated in migrants' countries of origin, which was a focus topic beginning around 2013. Due to the small number of cases, the target group of individuals entitled to asylum or subsidiary protection did not receive detailed attention in the 2013 and 2014 reports. The situation changed abruptly in 2015, when the numbers seeking protection in Austria rose to a level surpassing even that seen after Yugoslavia dissolved between 1990 and 1992. Integrating those refugees has faced Austria with tremendous challenges, some of them novel. In mid-2015 there was a growing need for a supra-institutional strategy to respond to these exceptional challenges to integration, a plan allowing coordinated, (resource-) efficient and targeted joint action as well as active structuring of measures to cope with the crisis. To close this critical strategy gap, a 50-Point Plan towards integration of those entitled to asylum or to subsidiary protection in Austria was prepared with the support of members of the Expert Council for Integration and presented in November 2015 by the Federal Ministry for Europe, Integration and Foreign Affairs. The plan included recommendations aimed at enabling members of this target group to become integrated and support themselves as soon as possible.

2017 was an especially significant year for integration efforts in Austria. Building on NAP.I, the Integration Act (*Integrationsgesetz, IntG*) went into effect on 9 June 2017, enshrining in law a comprehensive definition of "integration" for the first time. The *IntG* is intended to both support and require integration, with both aspects set on a structured institutional basis.

The act sets out the central framework for the integration of third-country nationals residing in Austria who intend to settle in Austria in the long term. In doing so it defines the integration process in terms of clear responsibilities on the part of the state and detailed steps towards integration to be taken by immigrants.

The *IntG* sets out in particular a consistent model for promoting language acquisition among persons entitled to asylum or to subsidiary protection, completely covering all levels up to and including at least level A2 in the Common European Framework of Reference for Languages; the act also specifies the rules governing the integration agreement (*Integrationsvereinbarung*) for third-country nationals residing legally in Austria.

[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Integration/Integrationsgesetz/20171006\\_IntG\\_Gesetzestext\\_UEbersetzung\\_final.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Integrationsgesetz/20171006_IntG_Gesetzestext_UEbersetzung_final.pdf)

**Reply to the supplementary questions on Art. 19§1 in the Conclusions 2015 requesting information on the implementation and effects of the National Roma Integration Strategy up to 2020:**

This platform brings representatives of Roma civil society and the authorities of the Federal Government, the *Laender*, cities, towns and municipalities as well as experts from academia and research together on a regular basis. The aim of the Roma dialogue platform is to enable an open, inclusive dialogue, with the perspective of the Roma taking centre stage.

Furthermore, the Roma dialogue platform supports the active citizenship of Roma by promoting their social, economic, political and cultural participation in society and raises awareness among Roma of their rights (notably in relation to discrimination and the possibilities of seeking redress) and of their civic duties. The ultimate goal is to increase Roma empowerment.

From 28 September to 28 November 2016, the National Roma Contact Point carried out an ONLINE participation procedure consisting of a survey module and a consultation module (<https://www.romadialogplattform.gv.at/romadialog/de/home>). The kick-off event took place in the presence of the State Secretary of the Federal Chancellery as well as media representatives. The kick-off was accompanied by a publicity and public relations measures of the State Secretary's press office. In the survey, three questions called for action on Roma inclusion from the point of view of the Roma population and the benefits of the Roma Dialogue Platform for Roma. To participate, no registration was required. During the consultation process, Roma civil society was able to comment on and evaluate

the draft of the updated Roma Strategy, prepared by the National Roma Focal Point on the basis of the study results and the results of the Dialogue Platform Meetings. To participate in the consultation, registration was necessary. Many of the civil society comments that were received were included into the final strategy. For example, as a result of the consultation process, following the suggestions of Roma associations, the policy areas of women and youth were incorporated. The updated strategy will be adopted by the Council of Ministers in May 2017. In terms of participation, there is an increase in the number of participants in the meetings of the Roma Dialogue Platform of the National Roma Contact Point. This successfully addressed one of the major challenges the National Roma Contact Point faced, namely to involve Roma in the policy making process.

**Reply to the supplementary questions on Art. 19§1 in the Conclusions 2015 requesting information on funding of activities by the Ombudsman Board:**

Since 2012 the Ombudsman Board has been mandated by the UN with responsibilities under the OPCAT (preventive human rights protection in institutions of deprivation or limitation of liberty) and with the tasks under Art. 16(3) of the UN Convention on the Rights of Persons with Disabilities. The Ombudsman Board has adequate financial and personnel resources for these responsibilities.

**Reply to the supplementary questions on Art. 19§1 in the Conclusions 2015 requesting information on funding in relation to combating racial and xenophobic prejudice and discrimination:**

Combating racial and xenophobic prejudice and discrimination falls under the activities of the association known as ZARA – Civil Courage and Anti-Racism Work (*Zivilcourage und Anti-Rassismus-Arbeit*). The association receives funding from the Federal Ministry for Digital and Economic Affairs, the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, the Vienna Municipal Department (MA) 17 – Integration and Diversity, and the European Commission.

**In response to the third question:**

The 2017 annual average of citizens from all over Europe and from signatory countries to the European Social Charter in particular legally employed in Austria (source: Main Association of Austrian Social Security Institutions) is listed in the following:

Dependently employed Austrian citizens: 2,956,784.

Europe (ESC signatory countries with the exception of Austria, with the addition of: Belarus, former Czechoslovakia, Faeroe Islands, Gibraltar,

Kazakhstan, Kosovo, Liechtenstein, Monaco, San Marino, Serbia and Montenegro, former Soviet Union, Svalbard, Switzerland, Vatican City, former Yugoslavia): 491,680.

ESC signatory countries only (without the additional countries mentioned above): 415,806.

Signatory countries with the addition of former Czechoslovakia, Serbia and Montenegro, former Soviet Union, former Yugoslavia: 482,982.

Note: These figures include both those non-Austrian citizens from signatory countries to the European Social Charter who hold work permits as well as those who have free access to the labour market.

The Main Association records nationality data only in the case of new registrations, which is why about 67,176 employment relationships are still registered with the nationality as former Czechoslovakia, Serbia and Montenegro, former Soviet Union or former Yugoslavia (66,945 excluding the former Soviet Union). As such individuals possess the citizenship of the successor country in each case, which are similarly signatory countries, their number needs to be included in the figure for the ESC signatory countries (giving the ESC total of 482,982).

## **Paragraph 2 – Departure, journey and reception**

### **In response to the first question:**

Reference is made to the previous report.

### **Reply to the supplementary questions on Art. 19§2 in the Conclusions 2015 requesting further information on the content and implementation of the Settlement and Residence Act as amended:**

It should be noted in general that legal residents of Austria are ensured access to public healthcare, even during periods of unemployment, for example. Financial support such as unemployment benefit, unemployment assistance and means-tested minimum income as well as access to council housing are matters falling exclusively under the jurisdiction of the Public Employment Service (AMS), the *Laender* and the municipalities.

The requirements for obtaining a residence permit as defined in the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*) include accommodation to local standards and a health insurance plan valid in Austria that covers all risks. Proof of accommodation can be provided in particular through a lease for a flat or an agreement on entitling the particular individual to accommodation at no cost. With the beginning of employment in Austria, migrant workers are subject to statutory social security, thereby meeting the



requirement for a health insurance plan covering all risks. The same applies to the worker's family members, who can be voluntarily co-insured under the compulsory statutory insurance scheme.

The Federal Ministry of the Interior has revised the forms made available to applicants and has especially ensured that the language used is easy to understand. The [www.migration.gv.at](http://www.migration.gv.at) website is similarly being consistently improved to facilitate readability and to ensure that this special target group is better able to understand the details made available on the site.

**Reply to the supplementary questions on Art. 19§2 in the Conclusions 2015 as to whether there are limits or restrictions on the access of migrant workers to state welfare provision and, if so, what those limits are:**

Migrant workers entitled to permanent residence in Austria are granted full access to means-tested minimum income.

**Reply to the supplementary questions on Art. 19§2 in the Conclusions 2015 concerning measures, if any, taken in regard to collective recruitment:**

Austria has no agreements concluded under government supervision that pertain to group migration. Departure and entry of migrants take place individually, by train, car or plane. Trains, planes, airports and motorway rest areas are very well organised and offer exceptional hygiene conditions, and such areas are kept up to the most current standards.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

See Article 1 Paragraph 1, question 3 above.

**Paragraph 3 - Right of migrant workers and their families to protection and assistance**

Reference is made to the previous report.

**Paragraph 5 – Equality regarding taxes and contributions**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 19§5 in the Conclusions 2015 regarding the circumstances under which duties to pay contributions or to register, or entitlement to benefits may arise, and requesting confirmation that the rules apply equally to Austrian and other nationals under the same circumstances.**

The Austrian social security system makes no distinction based on the nationality of insured persons, hence no special arrangements exist for Austrian citizens. Consequently, equal treatment of non-Austrian citizens is ensured.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No statistics available.

**Paragraph 6 – Reunion of the family**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the negative conclusion on Art. 19§6 concerning family reunion:**

Third-country nationals who wish to move to Austria under the family reunification scheme and whose spouse is already living in Austria need to be at least 21 years of age. Other EU Member States have a higher age limit for family reunification purposes. This approach is in line with EU rules (Art. 4 para 5 Family Reunification Directive). In line with ECJ jurisdiction and the Austrian Constitutional Court, Austria believes these measures are justified to prevent forced marriages. Persons under the age of 21 are in a particularly vulnerable situation and it is therefore at the discretion of the Austrian legislator to specify such an age limit. At the age of 21, a person is presumed to have acquired sufficient maturity not only to refuse to enter into a forced marriage but also to choose voluntarily to move to another country with his or her spouse, in order to lead a family life with him or her there (see ECJ Noorzia, C-338/13, VfSlg 19.414/2011). Sufficient maturity of the persons concerned is also a relevant factor for successful integration, which was another consideration in introducing the age threshold of 21. Individual cases where this rule might result in unfair or seemingly unjustifiable treatment must be considered against the background of a large number of “average cases”, where the age limit is justified. Therefore Austria does not plan to amend the law in this case.

The minimum age of spouses does not hinder another family member from moving to Austria or taking up legal residence but only represents an additional security level for a potentially vulnerable group. Individuals who prior to marriage already had a residence title for Austria do not lose that right, and to this extent it is not true that individuals are forced to leave Austria.

**Reply to the negative conclusion on Art. 19§6 referring to families providing proof of a residence period exceeding the one-year period allowed under the Charter:**

There are no limitations on the granting of residence titles to family members of individuals holding a Red-White-Red Card or an EU Blue Card, to family members of Austrian citizens, or to researchers.

Beyond that, family reunification of third-country nationals with third-country nationals already residing in Austria generally falls under a quota requirement for a maximum of three years. After this time, the application no longer requires a quota allotment. Furthermore, in each individual case the right to private and family life – as guaranteed by Art 8 ECHR – has to be taken into account. If the authority finds that delaying the family reunification due to a lack of a quota allotment would violate Art 8 ECHR, the authority can grant a residence permit for family reunification irrespective of a quota allotment. Allotments in the quota system are assigned based on objective criteria (time of application). In practice, it takes one year at most for families to be included in the reunification process as the authorities will – in case no quota allotment is available for the current year – include the application in the quota allotment for the following year. A corresponding clause has recently been included in the Austrian Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*).

Austria would like to inform the Committee that the quota requirement has not led to any cases of undue hardship in the past years. Since 2011 there have been hardly any cases that could not be assigned a quota space in the year of application and had to be transferred into next year's quota. The quota allotments have been set at such a level as to meet the expected demand for family reunification in any given year. Together with the current number of quota allotments foreseen, a third-country national applying for family reunification hardly has to wait for a free quota allotment and at the most has to wait for one year for a free quota allotment. The quota system does not lead to any restriction in cases of family reunification in the current situation but might be an important tool in the future.

**Reply to the negative conclusion on Art. 19§6 in the Conclusions 2015 concerning the requirement of A1-level German for family members:**

In certain cases family members wishing to join their family in Austria, have to provide proof their proficiency of the German language on A1 level of the Common European Framework of Reference for Languages (CEFR). A1 is the lowest level foreseen in the CEFR. It can be expected of persons choosing to voluntarily move to a different country with his or her spouse, in order to lead a family life with him or her there, to learn the language of the country of destination. This is a crucial factor in the integration of the third-country national concerned. Austrian law provides sufficient hardship clauses for persons who cannot learn German due to physical or mental health problems.

Furthermore, the right to private and family life in accordance with Art. 8 ECHR has to be taken into account by the authority when deciding on any application involving family reunification. Upon duly justified application, the authority can waive the German language requirement in case not granting the residence permit would result in a violation of Art. 8 ECHR. The possibility to request a waiver of the German language requirement has to be explained in an accessible way upon application according to Section 21a (5) NAG. Once again these rules are also in line with European law (Art. 7 Family Reunification Directive). A number of other EU Member States also have language skills requirements before approving a residence permit. It has to be additionally noted that there was no sharp decline of residence permits involving family reunification since the requirement of German language proficiency was introduced.

**Reply to the additional question raised by the Governmental Committee at the 134th meeting, as to whether any financial support is provided for participating in German courses and, if so, what kind:**

To best be able to contribute their qualities and skills to society and to the labour market, it is necessary for third-country nationals to have a command of the German language. The provisions under Section 21a of the NAG, which require German prior to immigration, ensure that, before moving to Austria, third-country nationals are able to demonstrate rudimentary knowledge of the German language, at the lowest level specified under the Common European Framework of References for Language (CEFR). The aim here is to help such individuals at this early point in time to lay the groundwork for later successful integration in Austria – which is in the interests both of Austria and of third-country nationals immigrating to the country. This provision ensures that third-country nationals wishing to reside longer than just temporarily in Austria can from the start communicate in simple situations of everyday life and are thus able to participate in social life in Austria at least at the level absolutely necessary.

Third-country nationals are free to choose how they acquire German language skills as defined in Section 21a Para. 1 NAG; hence Austria has no legal provisions setting the amounts of course or examination fees or specifying contributions to expenses. There is no obligation to participate in a German course, and it is up to third-country nationals to decide how they will learn German to the required extent. Fees are set by each individual organisation, and third-country nationals who regard a course as necessary can select the most appropriate course and the most reasonably priced examination programme for them. Fees are listed below by way of example.

The Austrian Integration Fund (*ÖIF*) has set a fee of EUR 130 per candidate sitting the examination to complete the language requirements for level A1 of the CEFR. Depending on the country, Goethe-Institut charges various levels of fees for the CEFR A1-level German exam:

- BAM 210 in Bosnia and Herzegovina (equal to roughly EUR 107)
- MKD 1,800 in Macedonia (equal to roughly EUR 30)

- RSD 8,000 in Serbia (equal to roughly EUR 65)
- TRY 270 in Turkey (equal to roughly EUR 83)

These countries represent the main countries of origin of Austrian immigrants.

**Reply to the additional question raised by the Governmental Committee at the 134th meeting, as to which specific categories of individuals are exempt from tests:**

Section 21a Para. 4 *NAG* defines three exemptions from the requirement to provide evidence of language proficiency as set out in Section 21a Para. 1 leg. cit. The requirement does not apply to third-country nationals who are minors under the age of 14 when the application is made (no. 1) or who because of their state of physical or mental health cannot be reasonably expected to provide such evidence (no. 2). Proof is also not required from family members of holders of a residence title as referred to in Section 41 Para. 1 (Red-White-Red Card for highly skilled third-country nationals/key workers), Section 42 (EU Blue Card), Section 43c (Settlement Permit – Researcher) or Section 45 Para. 1 *NAG* (Permanent Residence – EU), in the latter case where the person reunifying the family originally held one of the residence titles: Red-White-Red Card, EU Blue Card or Settlement Permit – Researcher (no. 3 leg. cit.). Other groups exempt from demonstrating German proficiency are third-country citizens who belong to the families of individuals entitled to asylum and who apply for the Red-White-Red Card Plus residence title under the circumstances referred to in Section 46 Para. 1 no. 2 lit. c, or who irrevocably waive the right to submit another application for renewal following the first application for renewal, as referred to in Section 9 Para. 5 no. 3 *IntG*.

The exemptions enumerated in Section 21a Para. 4 nos. 1 and 2 *NAG* take into consideration the special situations of minors under 14 and of individuals in a correspondingly poor physical or mental condition. For members of the latter groups, it would seem disproportionate to require, as in the general case, evidence of a certain level of language proficiency, and it should be assumed that the requirement will often be waived in the individual case in order to maintain the individual's private and family life, as referred in Art. 8 of the European Convention on Human Rights (ECHR), (cf. the rule in Section 21a Para. 5 *NAG*).

To claim an exemption based on the individual's state of health, the third-country national must provide evidence, in the form of an opinion by a medical officer or an opinion by a physician recognised as trustworthy by an Austrian representation authority, showing that due to the individual's state of physical or mental state of health that person could not be reasonably expected to provide proof of language acquisition. If no suitable trusted physician is available, the third-country national must provide such evidence by obtaining an opinion from another physician or medical institution designated by the Austrian representation authority.

Furthermore, Section 21a Para. 5 *NAG* requires the authorities to waive, upon a justified request, the obligation to provide proof of German proficiency under Section 21a Para. 1 leg.cit., if necessary to maintain the individual's private and family life in accordance with Art. 8 ECHR or – where an unaccompanied minor is concerned – to safeguard the child's best interests.

**Reply to the additional question raised by the Governmental Committee at the 134th meeting, as to whether the requirement also applies to temporary residence:**

When residing only temporarily, applicants do not have to learn German before immigrating, nor must they fulfil the integration agreement. The same applies to other types of residence permits, such as for students, intra-corporate transferees and their family members.

There is also no obligation to demonstrate the most rudimentary knowledge of German if an individual stays in Austria for not more than two years and waives the right to submit an application for renewal of the residence permit (see the details given above).

When taking an integration course to prepare for the test to complete module 1 of the integration agreement, certain family members are reimbursed for half of the expenses (or a maximum of EUR 750) on condition that they attend the course 75% of the time and pass the integration test offered by ÖIF within 18 months; those eligible are family members as referred to in Section 47 Para. 2 *NAG* as well as family members of legally settled third-country nationals in the cases enumerated in Section 46 Paras. 1, 3 and 4 *NAG*. Reimbursement of course fees is intended as an incentive for migrants to acquire the knowledge sooner than required under law. It should be noted, however, that migrants are not required to attend an integration course.

In response to the questions as to which specific groups of individuals do not have to sit the test and whether the requirement also applies to temporary residence, the following should be noted.

The requirement to complete module 1 of the integration agreement applies to all individuals who are granted any one of the residence titles expressly referred to in the Integration Act (cf. Section 9 Para. 1 *IntG*). It conversely follows that individuals with these types of residence status are exempt:

- holders of an EU Blue Card residence title,
- a Settlement Permit – Researcher residence title,
- a residence permit for a temporary, limited stay in Austria for a specific purpose (such as for students),
- or asylum or subsidiary protection status.

In addition, holders of the Red-White-Red Card are automatically considered as having completed module 1 of the integration agreement, based on law.

Naturally, individuals are exempt who cannot be expected to meet the requirements due to their physical or mental condition.

Where, based on their particular residence title, individuals would be subject to the integration agreement but do not intend to stay in Austria for longer than 24 months within a three-year period, such individuals can waive the right to submit an application for renewal of the residence title; the obligation to complete module 1 does not apply here either.

While individuals entitled to asylum or subsidiary protection are not subject to the integration agreement, as of June 2017 the Integration Act requires such persons to sign an “integration declaration” and commit to attending a values and orientation course as well as German courses covering as far as level A2. Such courses are funded by the Federal Government and attendance is free of charge for this target group.

**Reply to the supplementary questions on Art. 19§6 in the Conclusions 2015 as to whether an application for leave to remain (right to establishment) may be rejected on the basis that the integration agreement test has not been passed:**

The integration agreement was amended in 2017, and since 1 October 2017 the terms of the agreement have been set out in the Integration Act (*Integrationsgesetz, IntG*). The agreement, which is aimed at third-country nationals who have legally settled in Austria, consists of two modules.

Module 1 of the integration agreement is intended to help such individuals acquire German language proficiency, corresponding to level A2 of the Common European Framework of Reference for Languages, as well as the fundamental values of the legal and social system of the Republic of Austria. Module 1 must be completed within two years after obtaining the residence title (an extension can be granted for personal reasons). To meet the requirements, individuals can pass the A2 integration test, while other options for providing evidence exist, for instance by demonstrating completion of upper secondary education. Individuals not providing evidence of completing module 1 within the specified period can apply for renewal, and in the subsequent procedure the authorities may refrain from requiring such evidence if necessary to maintain the individual's private and family life in accordance with Art. 8 ECHR.

Integration courses, which are offered by organisations including certified course providers, are intended to help individuals prepare for the A2 integration test. Family members can be reimbursed with 50% of the course fees to a maximum of EUR 750.

Module 2 of the integration agreement is intended to help individuals acquire German language proficiency, corresponding to level B1 of the Common European Framework of Reference for Languages, as well as deeper knowledge of the fundamental values of the legal and social system. Although there is no obligation to complete module 2, it is a prerequisite for the Permanent residence – EU title. Besides passing the B1 integration test, there are several other ways of demonstrating fulfilment of module 2; examples include school attendance and a final apprenticeship examination certificate.

In general, an application for the right to establishment may be rejected because the applicant fails to pass the integration agreement test. Such cases are referred to the Federal Office for Immigration and Asylum (*BFA*) and evaluated in detail to determine whether an expulsion decision would be lawful in the light of Art. 8 ECHR. Thus, failing to provide evidence of the required language proficiency does not result in “automatic” rejection of the application.

Rather, the specific circumstances of the individual case always have to be weighed – since the authority’s decision is subject to review by the administrative courts and might be considered unlawful in this respect.

**Reply to the supplementary questions on Art. 19§6 in the Conclusions 2015 as to whether further assistance is available to migrants who are in financial difficulty, and requesting statistics on the percentage of migrants who pass and receive reimbursement of costs:**

With reference to the costs of integration courses, we wish to point out that there is no obligation to attend a course in preparation for the integration test or for completing module 1 or module 2 of the integration agreement. To help candidates prepare for the integration tests, the Austrian Integration Fund (ÖIF) offers at its language portal a separate app as well as a variety of materials free of charge: <https://sprachportal.integrationsfonds.at/english>

Regardless of the residence title requested and a person’s nationality, everyone is free to sit an integration test. No details are consequently available on the percentage of migrants subject to the integration agreement who pass the test.

**Reply to the supplementary questions on Art. 19§6 in the Conclusions 2015 as to whether a means requirement applies, and if so, what the criteria are and how it is calculated:**

Adequate financial means are a condition for obtaining any residence title, including titles granted to allow family reunification. As set out in Section 11 Para. 2 no. 4 *NAG*, a foreigner’s stay must not result in a financial burden on a territorial corporate body. Para. 5 leg. cit. defines this condition as met when the individual in question has a regular, fixed personal income that allows the person to live without having to claim any social assistance benefits provided by the territorial corporate bodies and where that income corresponds to the reference rates specified in Section 293 of the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*). Evidence of means can be provided in particular in the form of statements of income or savings. Details on evidence of adequate financial means are provided for applicants as well as authorities in a booklet made available by the Federal Ministry of the Interior. The publication is available at: [http://www.bmi.gv.at/302/files/Beilage Unterhaltsbroschuere fuer das Jahr 2018.pdf](http://www.bmi.gv.at/302/files/Beilage_Unterhaltsbroschuere_fuer_das_Jahr_2018.pdf) (in German)

An application for a residence title may not, however, be rejected solely because of failure to provide evidence of adequate means. In such a situation as well, each individual case has to be examined in light of Art. 8 ECHR. A residence title could, for example, be issued even though the applicant is



unemployed at present, in winter, and without sufficient income but is able to provide evidence of employment in summer, so that on the basis of a positive outlook the employee is expected to have adequate financial means in future, even to cover the employee's family as well. A residence title can ultimately be granted even in the absence of proof of financial means, if required after a weighing of interests based on Art. 8 ECHR (right to respect for private and family life).

**Reply to the supplementary questions on Art. 19§6 in the Conclusions 2015 requesting information on the appeal mechanisms that exist to challenge decisions in matters of family reunification:**

The 2012 amendment of administrative jurisdiction introduced fundamental changes to Austria's public administration as of 1 January 2014. The administrative courts of the *Laender* now replace the independent administrative tribunals and other authorities competent to hear appeals. As of 2014 the administrative court of the particular *Land* now decides on appeals against decisions issued by the competent authority on whether to grant residence titles. This arrangement ensures that a complete review of the official decision is carried out by an independent court, not only in matters of family reunification but in every other issue related to right of residence under the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*). Such an appeal is not tied to any specific formal regulations (in particular, representation by an attorney is not mandatory) and has suspensive effect.

If a ruling by the administrative court involves a legal issue of fundamental importance, an appeal on point of law can be brought before the Federal Administrative Court, or if the ruling is alleged to breach any rights guaranteed under the constitution (such as the right to respect for private and family life), an appeal can be lodged with the Constitutional Court. Appropriate instructions on the right of appeal must be provided with any decision by a first-instance administrative authority and any ruling by an administrative court at *Laender* level.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

**Reply to the supplementary questions on Art. 19§6 in the Conclusions 2015 concerning statistics:**

Statistics on the residence titles granted during the period under review on grounds of family reunification are provided with the report.



Statistik  
Familiennachzug 2013

No statistics are available on rejected applications.

### **Paragraph 7- Treatment no less favourable in respect of legal proceedings**

#### **In response to the first question:**

Reference is made to the previous report.

#### **Reply to the supplementary questions on Art. 19§7 in the Conclusions 2015 concerning legal aid:**

To qualify for legal aid in Austria, a party must not necessarily be lacking means. The consideration instead is whether the party is in a position to pay the costs of conducting proceedings without limiting his or her ability to meet necessary living expenses. Necessary living expenses are those expenses required by the party and his/her family for whose livelihood he/she is responsible so that they can lead a simple way of life.

Thus, a party's material resources must be limited in order to qualify for legal aid. In regard to maintenance obligations, the term "family" includes all persons whom the party requesting benefits is actually responsible for supporting. This also includes individuals who, seen from a legal perspective, would not be dependents.

Based on court rulings, the necessary living expense is regarded as higher than the minimum subsistence level and lower than the person's normal level of expense. When calculating necessary expenses, consideration is to be given to the circumstances of the individual case, including factors such as the party's health and ability to pursue employment. It is precisely for this reason that no amounts have been defined under law: to allow the circumstances of the individual case to be considered, as well as the expected cost of proceedings.

In cases involving other countries, the conditions in the party's country of residence normally are a factor when determining the amount required by the party to maintain a simple standard of living.

When determining whether the costs of conducting proceedings would limit the party's ability to meet necessary living expenses, any current financial liabilities are to be considered in addition to the party's income and other assets.

In the case of individuals who are dependently employed, when determining the party's income, all net amounts received are usually to be taken into

account, including overtime pay, any and all allowances, holiday pay and Christmas bonus, as well as any payments in kind.

With self-employed persons, the amount of income is to be considered that actually remains after deducting all business expenses, taxes and public contributions.

Where in addition to employment income a party has investment income (including savings account interest, or income from securities or property rental), such income could also be used for meeting living expenses and is also to be taken into account. "Appropriate" reserves (such as savings) are not required to be liquidated.

In addition to maintenance obligations, consideration is to be given to the requesting party's other financial liabilities, while the absolute amount is not the decisive factor here. What matters instead are the payments due or made regularly, an aspect which is particularly important with instalment loans.

The party is required to complete a special standardised form to provide the court with details of the party's income and property as well as financial burdens (including maintenance obligations, debt and other liabilities).

#### Explanation of the calculation method:

The objective pursued in Austrian legislation is to allow the circumstances of the individual case to be fully considered in detail, in light of both the party's financial situation and the expected cost of proceedings. For this reason, no method of calculation exists. The competent court makes an assessment of each individual case, with the result potentially reviewed if the ruling is appealed.

#### Legal aid for refugees and asylum seekers

Refugees and asylum seekers receive legal aid subject to the same conditions as other applicants. Individuals belonging to this group who do not have sufficient financial means and are not adequately proficient in German are additionally provided with an interpreter for assistance.

#### Legal counselling in asylum procedures:

The arrangements for legal counselling that apply in procedures based on asylum and aliens law have been extensively modified in the Asylum Act (*Asylgesetz, AsylG*), which was revised through the 2011 Act Amending the Aliens Law (*Fremdenrechtsänderungsgesetz, FrÄG*), Federal Law Gazette I no. 38/2011. The provisions affecting the former Federal Asylum Office (*Bundesasylamt*; cf. Sections 64 to 66a *AsylG*) became effective as of 1 October 2011. When the new Federal Office for Immigration and Asylum

(BFA) was established, the provisions of the *AsylG* governing legal counselling (Sections 64 to 66) were transferred to Sections 48 et seq. of the Federal Office for Immigration and Asylum Procedures Act (*BFA-Verfahrensgesetz, BFA-VG*), entering into force as of 1 January 2014. The rules for legal counselling were later expanded, particularly to reflect recasts of various EU Directives, as a result of the *FrÄG* 2015, which became effective as of 20 July 2015.

Section 49 of the *BFA-VG* requires authorities to provide all asylum seekers in the admission procedure with a legal advisor, at no charge and as part of official duties. Legal advisors are obliged to participate in all interviews during the admission procedure and to provide asylum seekers with counselling on their asylum procedures. Asylum seekers are also provided with interpreters if required.

Once the procedure has been admitted before the Federal Office for Immigration and Asylum (*BFA*), free counselling assistance can be made available. There is no legal entitlement to such assistance, however.

Legal counselling was later expanded as of 1 October 2016 to include appeal proceedings; this resulted from the Act Amending the Asylum Act (*Asylgesetz-Änderungsgesetz, AsylG-ÄG*) 2015, whereas Section 52 of the *BFA-VG* became effective only later. Now free legal counselling is available for appeals filed against any decisions issued by the *BFA*, with an interpreter provided if needed, except for appeals against decisions concerning costs (Section 53 *BFA-VG*; Sections 76–78 General Administrative Procedure Act, *Allgemeines Verwaltungsverfahrensgesetz*). Such legal assistance entails the filing of the appeal and, on request, legal representation even during any hearings, for the entirety of proceedings before the Federal Administrative Court. Legal counselling is also to be provided if a complaint is brought before that court on grounds of delay (due to the authority's failure to issue a timely decision).

Legal aid can also be granted in cases before the highest appellate courts (the Federal Constitutional Court and the Federal Administrative Court). Such aid is extended if the party has little property and a low income, and where the party's prospects for winning the case are favourable (in cases of *außerordentliche Revision* or extraordinary appeal).

#### Legal aid in other civil or criminal proceedings

Asylum seekers have the same rights to request legal aid as Austrian citizens. This means that they are entitled to apply to the competent court for legal aid in the event of a legal dispute.

In order for legal aid to be approved, it must not be possible to otherwise conduct the proceedings without limiting the party's ability to meet necessary

living expenses and the proceedings must not be wilful or likely to be lost (e.g. Sections 63 et seq. Code of Civil Procedure, *Zivilprozessordnung, ZPO*).

Whether legal aid is granted depends on the individual case, and no general method of calculation exists. A person living alone must in any case be left with EUR 950.00 monthly to cover necessary living expenses (Marital and Family Law Ruling no. 111.939 = Vienna Regional Court for Civil Law 2005/04/25, 44 R 222/05f). No legal aid is granted where the applicant's remaining income is EUR 1,100.00 monthly (Marital and Family Law Ruling no. 111.940). Where EUR 1,300.00 monthly remains for the applicant and the applicant's four-person household, legal aid to cover even EUR 200.00 in court fees is to be granted (Marital and Family Law Ruling no. 111.9419).

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No data available.

**Paragraph 9 – Transfer of earnings and savings**

**In response to the first question:**

Reference is made to the previous report.

**Reply to the supplementary questions on Art. 19§9 in the Conclusions 2015 as to whether there are any restrictions on the transfer of movable property belonging to a migrant worker:**

There are no restrictions on the transfer of movable property belonging to a migrant worker.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No data available.

**Paragraph 12 – Promotion and facilitation of the teaching of migrant workers' mother tongues to their children**

**In response to the first and second question:**

Reference is made to the previous report.

**In response to the third question:**

Number of teachers and pupils (2015/2016 school year)

a) By language

	Language	Number of teachers	Number of pupils
1	Albanian	21	2,069
2	Arab	21	1,437
3	Bosnian-Croatian-Serbian	128	10,233
4	Bulgarian	4	272
5	Chinese	2	75
6	Dari	2	91
7	French	2	53
8	Greek	1	15
9	Italian	3	50
10	Kurdish (Kurmanji)	3	36
11	Nepalese	1	20
12	Pashto	1	60
13	Persian (Farsi-Dari)	4	437
14	Polish	9	883
14	Portuguese	2	78
15	Romani	3	178
16	Romanian	3	402
17	Russian	8	519
18	Slovak	4	236
19	Slovenian	1	28
20	Somali	1	36
21	Spanish	6	212
22	Czech	2	25
23	Chechen	8	546
24	Turkish	155	14,680
25	Hungarian	9	235
	total	404	32,906

b) By *Laender*

	<i>Land</i>	Number of teachers	Number of pupils
1	Burgenland	5	264

2	Carinthia	8	588
3	Lower Austria	28	2,337
4	Upper Austria	43	4.007
5	Salzburg	18	1,579
6	Styria	34	2,808
7	Tyrol	20	1,531
8	Vorarlberg	18	2,093
9	Vienna	230	17,699
10	total	404	32,906

Detailed statistics for the 2015/2016 school year can be viewed at [http://www.schule-mehrsprachig.at/fileadmin/schule\\_mehrsprachig/redaktion/hintergrundinfo/info5-15-16.pdf](http://www.schule-mehrsprachig.at/fileadmin/schule_mehrsprachig/redaktion/hintergrundinfo/info5-15-16.pdf) (in German) The current statistical analysis of mother-tongue education will be available online shortly.

## **ARTICLE 27 - Right of workers with family responsibilities to equal opportunities and equal treatment**

### **Paragraph 1 - Measures**

#### **In response to the first question:**

Reference is made to the previous report. Additional information:

Employees can sign a written agreement with their employers that stipulates non-paid full-time or part-time leave for a maximum period of three months for the purpose of caring for a close relative, on condition that the employment relationship has previously existed for three successive months; this option is provided for in Sections 14c and 14d of the Employment Contract Law Adaptation Act (*Arbeitsvertragsrechts-Anpassungsgesetz, AVRAG*). When taking part-time care leave, the employee's normal weekly working time must be at least ten hours.

An agreement stipulating full-time or part-time care leave presupposes that the close relative requiring care receives long-term care benefit at a minimum of level 3 as defined in Section 5 of the Federal Long-Term Care Benefit Act

(*Bundespflegegeldgesetz, BPGG*). Level 1 long-term care benefit is sufficient where the close relative suffers from dementia.

Generally, during one employment relationship, only one agreement stipulating full-time or part-time leave to care for one and the same close relative is allowed. A one-time renewal of the agreement on full-time or part-time care leave is permitted only where the amount of care required by the patient increases substantially by at least one care level.

The relative taking leave to care for the patient is entitled to care leave benefit – or a pro-rated share if applicable – for the entire leave period, in accordance with Section 21c *BPGG*. Care leave benefit corresponds to the amount of unemployment benefit as defined in Section 21 of the Unemployment Insurance Act (*Arbeitslosenversicherungsgesetz*) in addition to any child allowance supplements but at a minimum the monthly marginal earnings threshold defined in Section 5 Para. 2 of the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz, ASVG*).

Recipients are principally entitled to care leave benefit for a maximum of six months per care-dependent person. (Due to labour regulations, at least two close relatives have to take full-time or part-time care leave in such cases.) Where the patient's care needs increase by at least one care level, after a renewal of the agreement stipulating full-time or part-time care leave, the relative administering care is entitled to renewed care leave benefit for that patient.

Individuals taking full-time care leave have health and pension insurance coverage, since the related contributions are paid by the Federal Government.

No additional health insurance coverage is required by employees who sign a part-time care leave agreement with their employers and continue to have health and pension insurance coverage under their employment relationships, since coverage continues based on employment. To ensure employees' continued entitlement under the pension insurance scheme, contributions are paid by both the employer on the basis of the pay for employment and the Federal Government, according to an additional contribution base equal to the pro-rated amount of care leave benefit.

#### Data on active labour market policy for persons re-entering the labour market

The high level of support paid out for individuals re-entering the labour market could be maintained in recent years. In 2017, some 44,870 people were assisted by means of AMS support measures and grants, which is an increase of 7% over the previous year, and of 25% over 2010.



Supported persons	2014	2015	2016	2017
Women	39,979	38,300	38,274	40,951
Men	4,162	3,499	3,639	3,919
<b>Total</b>	<b>44,140</b>	<b>41,799</b>	<b>41,913</b>	<b>44,870</b>

AMS support measures and allowances for persons re-entering the labour market by sex, unique counting of persons

During the entire period under review, a focus was put on improving the skills levels of individuals re-entering the labour market. In the last four years, that is from 2014 to 2017, an average of more than 70% of the persons benefiting from AMS funding each year participated in a training programme to enhance their qualifications.

The budget to support re-entrants was increased in 2017 by roughly 26% compared with 2010. More than 92% of the financial resources earmarked for persons re-entering the labour market are used for women.

Support budget	2014	2015	2016	2017
Women	93,413,700.33	86,954,154.18	93,378,788.43	106,509,956.19
Men	8,576,422.55	7,357,624.64	8,536,571.93	9,110,561.55
Share of women/Total	91.59%	92.20%	91.62%	92.12%
<b>Total</b>	<b>101,990,122.88</b>	<b>94,311,778.82</b>	<b>101,915,360.36</b>	<b>115,620,517.75</b>

AMS support budget for persons re-entering the labour market by sex; 2014 to 2017

The “Businesses for Families” (*“Unternehmen für Familien”*) network was launched in March 2015, in a move to build on the “Reconciliation of Family Life and Work” (*“Vereinbarkeit von Familie und Beruf”*) charter, a public commitment to the relevance that measures promoting families have for businesses and organisations; the charter had been signed by the social partners and the Federation of Austrian Industries back in 2012. The campaign invites Austria’s businesses and municipalities to actively support the “Businesses for Families” network and to ensure that living and working conditions within their scope of influence are favourable for families. The roughly 450 organisations participating in the network maintain contact and exchange information through the platform [www.unternehmen-fuer-familien.at](http://www.unternehmen-fuer-familien.at) and by attending periodic networking meetings.

The Austrian “Businesses for Families” Award is presented with high public visibility, in recognition of Austrian businesses that within their scope of

responsibility have created special programmes and benefits to promote families.

**Reply to the supplementary questions on Art. 27§1 in the Conclusions 2015 concerning the extent to which periods of leave due to family responsibilities are taken into account for determining the right to pension and for calculating the amount of pension:**

As of 1993, up to 48 calendar months of periods of child-rearing following the birth of one child are counted towards pension insurance, with no contribution required. Up to 60 calendar months are counted in the event of a multiple birth.

This arrangement for counting periods of child-rearing is intended to compensate gaps between pension insurance periods that arise as a result of bringing up children. It is the parent or individual who actually rears the child the majority of the time who is entitled to have the child-rearing period counted towards pension insurance benefits (the arrangement is gender-neutral). The period of child-rearing, which is a maximum of four years (or five years with a multiple birth), can be divided between the two parents if this reflects the actual situation prevailing when the child is brought up; however, only one person can claim any one given calendar month as a period of child-rearing. Child-rearing periods affect both pension entitlements and the amount of pension benefits. Child-rearing periods overlapping with other insurance periods are counted only once towards a pension entitlement, that is, when determining the waiting period for pension eligibility. Yet months of child-rearing that overlap in time with other insurance months are additionally taken into account in the form of a fixed assessment base when determining the amount of pension benefits.

“Pension-splitting”: The pension account allows parents (born since 1955) to “split” or divide among themselves child-rearing periods they have accrued since 2005.

Pension-splitting means that the one parent not mainly devoted to child-rearing may transfer to the other, child-rearing parent up to 50% of the amount of pension credit acquired in the particular calendar year as recorded in the pension account. Pension credit for up to seven years can be transferred for each child. The credit must be transferred by the child’s tenth birthday at the latest, and thus potentially with retroactive effect.

Childcare facilities

In 2016/2017 there were 9,267 childcare institutions (not counting seasonal day care facilities), including 4,574 nursery schools, 1,882 crèches, 1,080 after

school care facilities and 1,731 mixed-age care institutions. Over the past five years the number of crèches has risen sharply by 48.5%. The slight decline of 0.5% in nursery schools can be attributed to the fact that an increasing number of institutions are being operated as mixed-age care facilities. The number of mixed-age facilities increased by 40.5% over the past five years, with more and more childcare facilities also offering after school care.

Altogether, 85.5% of all three-year-olds were in childcare, while the rate was 96.1% for four-year-olds and 97.6% for five-year-olds.

<b>Year</b>	<b>Number of crèches</b>	<b>Number of children</b>
2012/13	1,349	25,539
2013/14	1,450	27,835
2014/15	1,651	30,558
2015/16	1,760	33,500
2016/17	1,882	35,758

Source: Day care centre statistics 2016/2017, Statistics Austria

Since 2008 the Federal Government has been funding expansion of basic childhood education and childcare programmes, having invested a total of EUR 390 million as of the end of 2017. The *Laender* and municipalities have made available almost EUR 235 million in co-funding. As a result of the expansion initiative, Austria has met the Barcelona target for the group of children aged three to six and has doubled the care rate for children under age three.

Federal participation in the aforementioned expansion measures resulted in 65,459 additional childcare places between 2008 and 2016, with 38,467 places added for the group under three years of age.

The Austria-wide childcare rate for under-three-year-olds was 27.9% in 2016, with the rate varying significantly among regions at levels ranging from 17.4% to 45.8%. There has also been a sharp increase in the number of residents within this age bracket, which accounts for why the targeted childcare rate was not met last year despite concentrated efforts to expand facilities. The childcare rate for the group of three-to-six-year-olds was 94.6%.

As Austria has still been unable to meet the Barcelona target for children under three years, the Federal Government adopted a resolution to continue sharing in the costs of expanding basic childhood education and childcare programmes in 2018. The Federal Government will contribute EUR 52.5 million and the *Laender* will provide EUR 18.375 million in co-funding in 2018.

In the period of 2015 to 2017 a total of EUR 60 million (EUR 20 million per year) was made available for early language instruction of three to six-year-olds at childcare institutions. The Federal Government and the *Laender* shared in co-funding at a ratio of 2:1. Here language instruction was given by nursery school teachers and other qualified staff members as part of the daily schedule, using methods involving play that are adapted to the age group as well as to the individual.

In the period of 2009 to 2017 the Federal Government made available EUR 70 million per year to enable public and private nursery schools to provide free pre-school education during the final year before primary school (compensating parents' contributions). Since September 2009 this has allowed children in this age group throughout Austria to attend nursery school for half a day free of charge, while attendance has been compulsory since September 2010.

As of the 2016/2017 nursery school year, counselling interviews are required to be held with parents whose children are within two years of compulsory schooling and do not yet attend or are not yet registered for nursery school. Such interviews, conducted by qualified experts, are aimed at clarifying the positive effects that attending nursery school would have on the child. Parents are particularly made aware of the potential for acquiring social skills, enhanced language proficiency and communication skills, and for learning creative behaviour.

**Reply to the supplementary questions on Art. 27§1 in the Conclusions 2015 requesting a detailed list of the number of places in crèches and other childcare institutions broken down by age bracket and the number of rejected applications:**

The numbers of children cared for in education and childcare programmes during the 2016/2017 nursery school year are given below (most recent statistics). No data are collected on the number of available places.

<b>Type of institution</b>	<b>Age of children</b>	<b>Number of children</b>
Crèche ( <i>Krippe</i> ) / baby/toddler group ( <i>Krabbelstube</i> )	0 years - 3 years	35,758
Nursery school	2.5/3 years until school entry	219,336
Day home	School-age	57,489
Mixed-age facility	0 to 16 years	48,027

Childminder	0 to 16 years	11,855
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Statements by the individual *Laender*:

**Burgenland:** Statistics on care of children and pupils in Burgenland (2017/2018 nursery school and school year):

Age groups	Children	Available places	Type of institution	Number of groups	Number of institutions
0-3 years	1,119	263	Crèche groups	92	75
3-6 years	6,599	1,931	Nursery school groups	350	114
1.5-10 years	2,203	801	Mixed-age nursery school groups	117	78
7-10 years	889	57	Day home groups	37	21
7-10 years	4,376		All-day primary school		114
11-14 years	1,933		All-day new secondary school		32
7-14 years	88		All-day general school catering for special educational needs		7

At present, there are 43 childminders in Burgenland who take care of 152 children. The *Land* Burgenland supports the *Tagesmütter Burgenland* project (operating organisation) by granting an annual subsidy.

**Lower Austria:** According to Statistics Austria, compared over a ten-year period, Lower Austria shows the strongest increase in the number children cared for, while the number of under-three-year-olds receiving care has more than tripled. This situation can be attributed to factors including the availability of nursery schools to all children already as of age 2.5 as well as free care during morning hours, as required by Section 2 no. 1 of the Lower Austrian Nursery School Act (*Kindergartengesetz*) 2006.

The *Land* Lower Austria also supports the municipalities in their responsibility for maintaining nursery schools by making educational staff available for the roughly 52,000 children attending the over 1,050 state nursery schools in Lower Austria.

To assist families, the *Land* Lower Austria provides daily after-school supervision for about 17,000 pupils. Specifically, all-day forms of schooling were offered at more than 480 locations during the 2016/2017 school year, so as to ensure the widest possible geographic coverage with after-school supervision.

To enable supervision and care of schoolchildren during school holidays, the *Land* disburses subsidies to some 250 organisations and municipalities to support local programmes.

**Upper Austria:** As of 15 October 2016, 60,430 children were registered at childcare institutions in Upper Austria. Of that total, 1,012 were in baby/toddler groups, 42,857 in nursery schools and 12,561 pupils attended day homes. The care rate for children aged five years was 97.9% (including those five-year-olds who started school early).

The Upper Austria Department of Education invested EUR 227.4 million in childcare in 2017, among other things for group funding, nursery school transport, language instruction,

professional integration counselling, and investment contributions to municipalities and private entities.

Based on current figures as of 15 October 2017, a total of 22,000 children will receive care or supervision at various institutions or by childminders in the *Land* of Salzburg during the reporting year of 2017/2018:

- Public nursery schools: 12,238
- Private nursery schools: 1,703
- Public day homes: 687
- Private day homes: 315
- Public baby/toddler groups: 915
- Private baby/toddler groups: 1,204
- Public mixed-age groups: 2,281
- Private mixed-age groups: 1,426
- Childminders: 1,184

The number of children in care or under supervision continues to rise on the whole. The number in daytime care has risen very sharply, especially among children under age three.

**Tyrol:** Three age groups are defined in the Tyrol Childhood Education and Childcare Act (*Tiroler Kinderbildungs- und Kinderbetreuungsgesetz, TKKG*):

- Children under three years of age (crèche)
- Children as of their third birthday and until school entry (nursery school)
- Children subject to compulsory schooling (day home)

Detailed list of the number of places in crèches and other childcare institutions broken down by age bracket:

Places and children in childcare institutions		
<b>2017/2018*)</b>		

	<b>Approved places</b>	<b>Children enrolled</b>
Crèche	4,349	5,968
Nursery school	23,571	21,386
Day home	2,885	3,217
<b>Total</b>	<b>30,805</b>	<b>30,571</b>
<b>2016/2017</b>		
	<b>Approved places</b>	<b>Children enrolled</b>
Crèche	5,491	5,551
Nursery school	22,677	20,813
Day home	3,014	3,035
<b>Total</b>	<b>31,182</b>	<b>29,399</b>
Source: Statistics for <i>Land</i> Tyrol, childcare statistics		
*) preliminary numbers		

**Vorarlberg:** Childcare institutions (excluding play groups and nursery schools): As of October 2016, 125 childcare institutions were available to families in Vorarlberg for providing care to children ranging in age from about one year to nursery school age, and also for school-age children at some facilities. A total of 4,320 children received care at childcare institutions in Vorarlberg as of October 2016.

Play groups: As of 15 October 2016, 57 play group initiatives in total had applied for regional funding in 2016. The children participating in those play groups numbered 1,117.

Childminders: As of the end of 2016, 344 children were placed with childminders under the private entity Vorarlberger Tagesmütter gGmbH, with 112 childminders available to provide services.

Set up in 2009, the *Kindernest* childminding programme has since been expanded to create additional places with superior conditions for toddler care. In 2016, 50 *Kindernest* childcare facilities existed.

#### 8.6 Children by age and type of childcare institution as of 1 September 2016

Years of age completed	General childcare inst.	Play groups	Nursery schools	Institutions for pupils	Childminders	Total
Under 1	72	-	-	-	9	81
1 to (under) 2	906	71	-	1	62	1,040
2 to (under) 3	1,747	449	25	-	66	2,287
3 to (under) 4	1,298	531	1,832	1	33	3,695
4 to (under) 5	115	37	3,931	5	26	4,114
5 to (under) 6	92	16	3,978	16	23	4,125
6 to (under) 7	18	5	33	1,227	30	1,313
7 to (under) 8	16	4	-	1,315	26	1,361
8 to (under) 9	26	2	-	1,339	27	1,394
9 to (under) 10	18	-	-	1,270	16	1,304
10 to (under) 11	8	-	-	1,461	11	1,480
11 to (under) 12	1	-	-	1,533	10	1,544
12 to (under) 13	2	1	-	1,366	2	1,371
13 to (under) 14	-	-	-	1,150	1	1,151
14 and older	1	1	-	641	2	645
<b>Total</b>	<b>4,320</b>	<b>1,117</b>	<b>9,799</b>	<b>11,325</b>	<b>344</b>	<b>26,905</b>

Source: Nursery school statistics 2016/17, Office of the Vorarlberg *Land* Government, Statistics Department.

As many children in Vorarlberg attend a care facility on only two or three half-days each week, one place in a childcare institution or play group is potentially shared by several children. The table above lists the number using each of the various types of facilities broken down by age bracket. A total of 5,437 children were in care or under supervision in childcare institutions and play groups, according to the day home statistics (*KTHS*) for 2016/2017. There were 4,741 approved places in total.

**Vienna:** In 2014, 98,996 places were available in civic and private institutions: 23,661 of them for children from birth to age three, 56,128 for three to six-year-olds and 19,207 places for pupils aged six to ten (in day homes and family groups).

In 2015, 103,032 places were available in civic and private institutions: 25,562 of them for children from birth to age three, 57,911 for three to six-year-olds and 19,559 places for pupils aged six to ten (in day homes and family groups).

In 2016, 104,694 places were available in civic and private institutions: 27,347 of them for children from birth to age three, 58,816 for three to six-year-olds and 18,531 places for pupils aged six to ten (in day homes and family groups).

In 2017, 103,550 places were available in civic and private institutions: 27,514 of them for children from birth to age three, 58,443 for three to six-year-olds and 17,593 places for pupils aged six to ten (in day homes and family groups).

**Reply to the supplementary questions on Art. 27§1 in the Conclusions 2015**



**relating to information on the requirements placed on the qualifications of staff working in childcare facilities, and on how qualifications of personnel and the quality of childcare services in general are monitored:**

The principles relating to the professional requirements applying to the care staff to be employed by *Laender*, municipalities and municipal associations are set out at federal level in the Federal Act of 13 November 1968; this legislation specifically concerns nursery school teachers, educators at day homes and educators at school boarding houses designated exclusively or mainly for pupils at compulsory schools. Other requirements relating to staff qualification are set out in *Laender* legislation.

Quality assurance falls within the scope of *Laender* jurisdiction as defined in constitutional law.

Statements by the individual *Laender*:

**Burgenland:**

1. Nursery school and crèche:

- a) for teaching staff, graduation from the Federal Institute of Elementary Education (*Bundesbildungsanstalt für Elementarpädagogik, BAfEP*) or from a post-secondary course at that institution;
- b) for auxiliary staff, completion of training complying with the Burgenland Assistant Training Ordinance (*Burgenländische Helferinnen- und Helferausbildungsverordnung*).

2. Day home

- a) for teaching staff, graduation from the Federal Institute of Elementary Education (*Bundesbildungsanstalt für Elementarpädagogik, BAfEP*) or from a post-secondary course at that institution with additional training in day home teaching;
- b) for auxiliary staff, completion of training complying with the Burgenland Assistant Training Ordinance (*Burgenländische Helferinnen- und Helferausbildungsverordnung*).

3. After-school supervision:

teachers, educators, educators in learning support, recreation teachers and individuals qualified based on the School Recreational Care Ordinance (*Schulische-Freizeit-Betreuungsverordnung*, Federal Law Gazette II no. 159/2015).

Officers under the *Land* teaching inspection are responsible for monitoring standards of education and care in nursery school, crèche and day home facilities. The quality of after-school supervision is monitored by federal teaching inspection officers (compulsory school inspectors).

**Upper Austria:** Staff members must be of full legal age and capacity and must be physically and personally suited to and professionally qualified for their particular work. To be hired as auxiliary staff, individuals must have attended at least 60 hours of basic training (equal to 80 instruction units).

Childminders must also be professionally qualified to perform their duties. They are required to attend a training course recognised by the *Land* of Upper Austria and take a 16-hour first-aid course. To care for children with disabilities that qualify the children's families for increased family allowance, or with enhanced care needs, childminders are required to complete additional, specialised training recognised by the *Land* of Upper Austria.

For employment as teaching staff at childcare institutions, the professional qualifications listed below are required by the Upper Austrian Childcare Service Act (*Kinderbetreuungs-Dienstgesetz*):

Professional qualification requirements for employment:

1. Teaching staff in baby/toddler groups:

a) passing of the school leaving and diploma exam for nursery schools as referred to in Section 98 Para. 1 of the School Organisation Act (*Schulorganisationsgesetz, SchOG*) and additional qualifications in early childhood education, or

b) a diploma exam in completion of a post-secondary course as referred to in Section 95 Para. 3a *SchOG* and additional qualifications in early childhood education.

2. Teaching staff in nursery school groups:

a) passing of the school leaving and diploma exam for nursery schools as referred to in Section 98 Para. 1 *SchOG*, or

b) a diploma exam in completion of a post-secondary course as referred to in Section 95 Para. 3a *SchOG*.

3. Teaching staff in nursery school remedial education groups: passing of the school leaving and diploma exam for special nursery schools and early childhood education as referred to in Section 98 Para. 3 *SchOG*.

4. Teaching staff in day home groups:

a) passing of the school leaving and diploma exam for nursery schools and day homes as referred to in Section 98 Para. 1 *SchOG*,

b) passing of the school leaving and diploma exam for social pedagogy as referred to in Section 106 *SchOG*,

c) passing of the diploma exam in completion of a post-secondary course as referred to in Section 95 Para. 3a or Section 103 Para. 3 *SchOG*, or

d) a university-level degree in teaching.

5. Teaching staff in day home remedial education groups:

a) passing of the diploma exam for special needs teachers, or

b) passing of the university-level exam for teachers at special needs schools.

Training or education defined as equivalent in school or university laws is recognised as meeting professional qualification requirements.

Professional qualification requirement for directing a childcare institution:

To direct a childcare institution with one form of group structure, the additional professional qualification requirement is evidence of at least two years of professional teaching

experience in a childcare institution with the same form of group structure (Section 6 Upper Austrian Childcare Act, *Kinderbetreuungsgesetz, KBG*).

To direct a childcare institution with varying forms of group structure, the additional professional qualification requirement is evidence of at least two years of professional teaching experience in a childcare institution with varying forms of group structure (Section 6 Upper Austrian *KBG*).

In regard to educational and legal matters, childcare institutions and childminders in Upper Austria are under the oversight of the *Land* Government. The *Land* Government has the duty of monitoring both the legal entities maintaining childcare institutions as well as childminders, to ensure that they meet their responsibilities as set out in the Upper Austrian *KBG* while complying with requirements under law and performing their duties in accordance with approvals.

For the purpose of performing educational monitoring of childcare institutions and childminders, the *Land* Government is required to appoint suitably qualified officers having sufficient practical experience in the profession and to define the duties, responsibilities and principles of action for such officers.

**Salzburg:** The qualification requirements listed below apply to individuals caring for children at childcare institutions in the *Land* Salzburg:

Nursery school groups: nursery school teachers are to be qualified professionals as defined in Section 20 of the Salzburg Childcare Act (*Kinderbetreuungsgesetz, KBG*) 2007, State Law Gazette 41/2007 as currently amended.

Day home groups: day home educators, educators, nursery school teachers and teachers, as defined in Section 54 *KBG* 2007.

Daytime care and supervision (crèches or baby/toddler groups, groups for wide age groups, and groups of pupils): nursery school teachers, day home educators, educators, teachers, teaching degree graduates, social workers, psychologists, infant care and childcare workers, paediatric nurses, and family assistants, as defined in Section 17 of the Salzburg Daycare Ordinance (*Tagesbetreuungs-Verordnung*), State Law Gazette 66/2002 as currently amended.

Unit 2/01 (Childcare, Primary Education and Families) of the Salzburg *Land* Government is responsible for professional oversight of all institutional childcare facilities, in accordance with Sections 7, 25 and 61 of the Salzburg *KBG* 2007, State Law Gazette 41/2007 as currently amended. Compliance with quality requirements as defined in the *KBG* 2007 is verified during inspections of the facilities. The qualifications of individuals caring for children are additionally verified as part of awarding funding, in accordance with the *KBG* 2007.

**Styria:** Section 16 Para. 1 of the Styrian Childhood Education and Childcare Act (*Steiermärkisches Kinderbildungs- und -betreuungsgesetz*), State Law Gazette no. 22/2000,

as amended in State Law Gazette no. 136/2016, distinguishes between educational specialists, auxiliary educational staff, and untrained primary cleaning and domestic staff.

Para. 2 provides that staff in childcare facilities must be trained for the role in which they are deployed, and refers to the Recruitment Requirements for Nursery School Teachers and Educators at Day Homes and School Boarding Houses (*Gesetz über die fachlichen Anstellungserfordernisse für Kindergärtnerinnen bzw. Kindergärtner und Erzieherinnen bzw. Erzieher an Horten und Schülerheimen*), State Law Gazette no. 105/2008 as amended.

The recruitment requirements for educational specialists, i.e. managers, nursery school teachers, special needs nursery school teachers and educators working at day homes are laid down in the aforementioned Recruitment Requirements Act:

Section 2 specifies that the professional recruitment requirements are as follows:

1. for nursery school teachers: successful completion of the vocational qualification examination for nursery school teachers or nursery school work, the school-leaving and diploma examination at the institute of early years education or the diploma examination at the institute of early years education – college of early years education;
2. for special-needs nursery school teachers: successful completion of the vocational qualification examination for special-needs nursery school teachers, the vocational qualification examination in nursery school work and special-needs early learning or the diploma examination in specialised nursery school work at the institute of early years education;
3. for educators working in day homes and school boarding houses intended exclusively or predominantly for pupils in compulsory education are:
  - a) successful completion of the vocational qualification examination for nursery school teachers and educators at day homes, the school leaving and vocational qualification examination in nursery school and day home work, the school leaving and diploma examination in nursery school and day home work at the institute of early years education or
  - b) successful completion of the vocational qualification examination for educators, the school-leaving and vocational qualification examination for educators, the school-leaving and diploma examination at an institute of social pedagogy or the diploma examination at the institute of social pedagogy – college of social pedagogy;
4. for educators working in special needs day homes and school boarding houses intended exclusively or predominantly for pupils at special needs schools: successful completion of the vocational qualification examination for special needs educators or the diploma examination for special needs educators at the institute of social pedagogy.

General requirements for the training of childcare workers, who are classed as auxiliary education staff, are specified in Section 26 of the Styrian Childhood Education and Childcare Act, State Law Gazette no. 22/2000, as amended in State Law Gazette no. 136/2016. Details of the qualification requirements for childcare workers are given in the Ordinance of the Government of the *Land* of Styria on Training Courses for Childcare Workers and Childminders (*Verordnung der Steiermärkischen Landesregierung über die Ausbildungslehrgänge für Kinderbetreuerinnen bzw. -betreuer und Tagesmütter bzw. -väter*),

State Law Gazette no. 54/2010. This ordinance specifies inter alia the requirements for accreditation of training courses and the areas of study and the hours of study for each.

Compliance with these statutory provisions is reviewed by the *Land* Government by means of the annual childcare facility data report and applications for staff funding from the *Land*. Staff qualification data is relevant for funding purposes, and compliance with qualification requirements is mandatory for the granting of funding.

Additionally, the quality of educational and childcare facilities is reviewed by the *Land* Government on an ongoing basis by means of unannounced inspections by the authorities. In addition, the *Land* of Styria offers a wide range of free professional development courses for staff working in these facilities. To supplement this, quality assurance and development is provided by the educational advice service, which was established specifically by the Styria *Land* Government for this purpose.

**Tyrol:** In accordance with Section 31 Para. 1 of the Tyrol Childhood Education and Childcare Act (*Tiroler Kinderbildungs- und Kinderbetreuungsgesetz, TKKG*), the professional recruitment requirements are as follows:

a) for educational staff in crèches, successful completion of

1. the school leaving and diploma examination in nursery school work,
2. the diploma examination in nursery school teaching,
3. the vocational qualification examination for nursery school teachers or
4. the school leaving and vocational qualification examination in nursery school work,

in each case with additional training in early years education;

b) for educational staff in nursery school groups, successful completion of

1. the school leaving and diploma examination in nursery school work,
2. the diploma examination in nursery school teaching,
3. the vocational qualification examination for nursery school teachers or
4. the school leaving and vocational qualification examination in nursery school work;

c) for educational staff in day home groups and in public residential schools intended exclusively or

predominantly for pupils in compulsory education excluding pupils in special needs schools, successful completion of

1. the school leaving and diploma examination in day home work,

2. the diploma examination in social pedagogy,
3. the school leaving or vocational qualification examination for educators
4. a teaching qualification (*Lehrbefähigungsprüfung* or *Lehramtsprüfung*);
  - d) for educational staff in crèches and nursery school groups offering integrated care for children including children with disabilities, successful completion of the diploma examination in specialised nursery school work and special needs early learning and instruction;
  - e) for educational staff in day home groups offering integrated care for children including children with disabilities and at public school boarding houses intended exclusively or predominantly for pupils of special needs schools, successful completion of
    1. the diploma examination for special needs educators in day homes or
    2. a teaching qualification (*Lehrbefähigungsprüfung* or *Lehramtsprüfung*) for special needs schools.

Under Section 32a *TKKG*, childcare workers in childcare facilities who do not meet the recruitment requirements specified in Section 31 Para. 1 must complete a course of study leading to a qualification and submit proof of training within three years of taking up their role.

Pursuant to Section 33 Para. 2 *TKKG*, managerial educational staff must complete a training course in childcare facility management within five years of taking up their role.

As regards the monitoring of qualifications of childcare workers and quality of childcare, Section 41 Para. 2 lit. b *TKKG* provides that the State Government must exercise supervision to ensure that workers educate, supervise and care for children in childcare facilities in accordance with the educational principles provided for in law (educational supervision); educational supervision includes in particular provision of advice to educational specialists and regular reviews of educational activities. In addition, employers are required to check the qualifications of care workers as specified in Section 31 *TKKG* before employing them.

**Vorarlberg:** In addition to achieving small groups, a special commitment has been made to the training of childcare providers. To safeguard and improve the quality of childcare, such facilities require qualified staff. For this reason, the authorities at *Land* and municipal level jointly developed a blended modular training course which has been available since September 2014. This course gives childcare workers a basic qualification in education, psychology and

teaching which equips them to work as childminders, in playgroups, in the childcare field or as an assistant in a nursery school. In the childcare field, a more advanced qualification as an educational specialist (*Pädagogische Fachkraft*), which qualifies holders to manage childcare groups, is also available.

Childcare facility managers must hold an educational qualification (e.g. nursery school teaching, social pedagogy, advanced qualification as an educational specialist), and the aforementioned course of study is available for those wishing to work as assistants in childcare facilities or as playgroup managers.

Care staff qualifications are checked by way of the notification submitted in accordance with Section 31 Para. 3 of the Vorarlberg Child and Youth Services Act (*Kinder- und Jugendhilfegesetz, KJH-G*). Accordingly, the operator must provide proof of the qualifications of the staff deployed.

According to Section 31 Para. 6 of the Child and Youth Services Act, childcare facilities are subject to supervision by the *Land* Government. To date no facility for which notification has been submitted has been prohibited from operating.

Alongside supervision, support is also provided by way of advisory consultations, support with conceptual work, organisation of training and development courses and currently, the development of educational guidelines for childcare facilities in Vorarlberg. The objective of these guidelines is to provide facilities with an evaluation tool enabling them to review and improve quality.

**Vienna:** Qualification requirements for nursery school, specialised nursery school, day home and specialised day home teachers appointed by the municipality of the City of Vienna are found in Section 7 Para. 3 of the Employment Code (*Dienstordnung, DO*) 1994 and Section 3b of the Contractual Public Employees Regulations (*Vertragsbedienstetenordnung, VBO*) 1995, State Law Gazette for Vienna no. 50, which refer to specific sections of the Vienna Nursery School Act (*Wiener Kindergartengesetz, WKGG*), Vienna State Law Gazette no. 17/2003.

The qualification requirements for childcare workers in children's groups are laid down in the Vienna Daycare Ordinance (*Wiener Tagesbetreuungsverordnung*).

Theoretical training must reflect current knowledge and include the specified number of hours of instruction in the areas specified below; special attention must be paid to inclusiveness and gender-sensitive teaching in every area of study:

1. Educational theory / pedagogy, at least 120 hours;

2. *Prinzipien des Wiener Bildungsplans* (“Principles of the Vienna Education Plan”, ISBN 978-3-85493-133-1) and practical implementation, minimum 10 hours;
3. Methodological and didactic structure, minimum 30 hours;
4. Developmental psychology, minimum 20 hours;
5. Diversity, minimum 10 hours;
6. Personal development and communication, minimum 30 hours;
7. Legal and organisational aspects of work as a children’s group carer or childminder, minimum 10 hours;
8. Health and nutrition, minimum 10 hours.

In addition to the theoretical training, students must complete a total of 160 hours’ practical work experience during the course. This work experience / internship must be divided into blocks spent in a nursery school, a children’s group and with a childminder.

Details of the work experience must be documented by the work experience provider and the work experience student him/herself. Evidence of successful completion of the work experience in the form of positive assessments from all work experience providers must be submitted.

In addition to their vocational training, childcare workers in children’s groups and childminders must also provide evidence that they engage in regular relevant professional development training of at least 20 teaching units per year.

In addition to their vocational training, childcare workers in children’s groups and childminders must also complete a mandatory child first aid course of at least eight hours’ duration every five years and provide proof of this.

If a student has already covered any of the subjects specified in paragraph 1 above in a previous vocational training course (e.g. nursery school teacher, social education worker), these must be counted towards his or her current course of training. The decision regarding whether to count previous training towards a current training course is taken by the municipal authorities.

The qualification requirements for nursery school care workers are laid down in the Vienna Nursery Schools Ordinance (*Wiener Kindergartenverordnung*).

Childcare workers in nursery schools and the operator of the facility – if this is a legal entity, the individuals having a significant influence on the operation of that legal entity’s business – must be capable of ensuring the best possible



physical, emotional and mental development of the children under their care. In particular, none of the following circumstances may be present:

1. physical or mental illness capable of endangering the well-being of the children under their care,
2. convictions for offences capable of endangering the welfare of the children under their care.

The particular recruitment requirements for nursery school teachers, special needs nursery school teachers, day home teachers and special needs day home teachers appointed by the City of Vienna are laid down in the Act of the State of Vienna on Public Sector Employment Law and Pay Reform (*Landesgesetz für Wien, Dienstrechts- und Besoldungsreform*), State Law Gazette no. 33/2017 in conjunction with the provision of the Vienna Nursery School Act (*Wiener Kindergartenengesetz, WKGG*), State Law Gazette no. 17/2003 as amended, and specify that for day home teachers successful completion of a teaching qualification (*Lehrbefähigungsprüfung* or *Lehramtsprüfung*) is sufficient and for special needs day home teachers successful completion of the special needs school teaching qualification (*Lehramtsprüfung für Sonderschulen*) is sufficient.

The staff group of assistants is required to attend a seminar for assistants following an initial induction period.

The Vienna municipal department responsible for nursery schools (MA 10) has defined comprehensive measures that regulate quality management in operations. The Vienna Education Plan (*Bildungsplan*) serves as the basis for day-to-day educational activities. The Education Plan is a vehicle for conveying a clearly defined concept of education to professionals working in this area, requiring them to deal with both intramural and extramural quality standards while at the same time insisting on quality management at the nursery school level.

Nursery schools prepare an annual situational analysis which covers the spatial, temporal and personal dimensions and takes into consideration the interests, needs and abilities of the children and which serves as the basis for all further teaching activities. As a self-evaluation of compliance with their educational and care mandate, nursery schools under the MA 10 plan and evaluate educational activities as part of a PDCA (Plan-Do-Check-Act) cycle.

This framework additionally supports nursery school principals, as part of their management responsibilities, in reviewing and ensuring compliance with quality standards for education and care.

The MA 10 also has defined for its nursery schools quality assurance standards that apply with regard to teaching and operations, currently in these areas

especially: movement, spatial design, gender-sensitivity in caring and teaching, language, cultural and religious sensitivity in teaching, meal preparation, nature-supported teaching and safety.

The quality levels of education and care at nursery schools under the Vienna municipal department as well as compliance with the department's standards are instructed and reviewed by regional management periodically.

**In response to the second question:**

No specific transposition measures in the period under review.

**In response to the third question:**

No other statistics available.

**Paragraph 2 – Parental leave**

**In response to the first question:**

Reference is made to the previous report. Developments during the period under review:

The principal changes during the period under review (2013-2017) were introduced by the following amendments:

The amendment to the Maternity Protection Act (*Mutterschutzgesetz, MSchG*), Federal Law Gazette I no. 149/2015 established a bandwidth for parental part-time working hours: Working hours should be reduced by at least 20% of standard weekly working hours and must not be less than 12 hours per week.

The amendment to the Maternity Protection Act in Federal Law Gazette I no. 162/2015 introduced an entitlement to parental leave for foster parents.

Even if a parent is entitled to part-time working, the exact form of the arrangement (beginning and duration of the part-time employment, number and scheduling of working hours) must be agreed with the parent's employer.

Public service

In June 2015, the "daddy's month" (*Papamonat*), or parental leave for fathers immediately following the birth of a child, was renamed "baby month" (*Babymonat*), as it is also available to women and men in same-sex relationships (as well as to fathers).

The father, registered civil partner or cohabiting partner may determine the start date and duration of this leave at any time during the period between the birth of the child and the end of the period during which the mother is not permitted to work (usually eight weeks). This type of leave does not reduce the paternity leave (*Babymonat*) pursuant to the Parental Leave for Fathers Act.

Public service employees who adopt a child under the age of 2 are also entitled to take early parental leave. Such leave starts when the child is adopted or taken into the unpaid care of the prospective adoptive parents with a view to adoption, and again can last up to four weeks.

Early parental leave may be taken only if the father, civil partner or cohabiting partner lives in the same household as the mother and child. The employer must be notified of the start and duration of parental leave no later than one week prior to the planned starting date and any circumstances establishing the entitlement as well as those terminating the entitlement must be submitted without delay.

Social insurance protection remains in effect throughout this period, with the employer paying all contributions.

For children born on or after 1 March 2017, the Family Time Bonus Act (*Familienzeitbonusgesetz, FamZeitbG*), Federal Law Gazette I no. 53/2016, provides that fathers taking family time leave (including a four-week “baby month”) will receive a family time bonus of EUR 22.60 per day. This is then offset against any childcare benefit claimed by the father subsequently.

Between the start of 2011 and 31 December 2017, a total of 2,521 fathers working in the public sector took the “baby month” option; 609 of them in 2017 alone.

Public-service employees may also take unpaid parental leave under public-sector employment law for other reasons, e.g. in order to care for a child until school entry. Public service employees are entitled by law to paid leave (e.g. Section 75c *BDG* 1979) in order to care for children with disabilities until their 40th birthday or for relatives in need of long-term care who are entitled to long-term care benefits of level 3 at least. Since 2014, it has also been possible to take care leave of between one and three months in order to care for a relative with dementia or for a relative under the age of 18 who is entitled to long-term care benefit allowance at level 1 at least. In addition, it is also possible to take part-time care leave in order to provide care for relatives requiring long-term care (e.g. Section 50e of the Civil Service Act (*Beamten-Dienstrechtsgesetz 1979, BDG*) 1979).

### Childcare benefit

Alongside the general framework under labour law, the Childcare Benefit Act (*Kinderbetreuungsgeldgesetz, KBGG*), Federal Law Gazette I no. 103/2001 as amended, also contains stipulations to allow parents to remain in employment and/or to re-enter the labour market. Since 1 March 2017, the *KBGG* has

provided for two systems: the income-related childcare benefit scheme and the flat-rate childcare benefit account with a total of 487 schemes to choose from, which gives parents an even bigger choice; the diverse and flexible childcare benefit options allow parents to plan their lives individually according to their wishes and ideas and thus contribute to a better reconciliation of family life and work.

The income-related childcare benefit scheme (parents in employment relationships receive 80% of their latest salary in childcare benefit, until the child has 426 days old at the most) is particularly favourable for mothers and fathers with higher incomes, and they have to interrupt their careers only for a short period of time. Besides, this replacement of income increasingly encourages fathers to take a brief time-out to care for their child; after all, it is not only the children who benefit from an increased participation of fathers, but indirectly also the women, as they can better concentrate on their careers. The possibility to earn an additional income while receiving childcare benefit facilitates an earlier re-entry into the labour market especially for mothers; additionally, by generating additional income, mothers and fathers can contribute more to their own retirement provision and, in doing so, reduce the risk of poverty in old age.

Additionally, for births from 1 March 2017, an additional “partnership bonus” in the form of a one-time payment of EUR 500 was introduced for parents who have received approximately equal portions of the childcare benefit (50:50 to 60:40 schemes).

The family time bonus (*Familienzeitbonus* or *FZB*) of EUR 22.60 per day was also introduced on 1 March 2017. Working fathers receive financial assistance if they dedicate themselves intensively and exclusively to their family immediately after the birth of their child and take a break from work of 28, 29, 30 or 31 consecutive days to do so. This recognises the fact that the period following the birth of a child is important for rapid development of a close emotional bond with the father, for the father to provide the best possible support for his partner in relation to care of the baby, and for strengthening the family bond from the outset.

As parents receiving childcare benefit are automatically covered by health insurance, their social protection is also provided for.

As all those changes in the law (since the last report on Article 27) only entered into force on 1 March 2017, there are as yet no statistics available to submit with this report.

For more information regarding childcare benefit (particularly possibilities for simultaneously earning additional income) and the family time bonus, we refer to the response to Article 16.

**In response to the second question:**

To help parents with children plan and share parental leave, childcare benefit and (parental) part-time working entitlements, the online information tool [www.gleich-berechnet.gv.at](http://www.gleich-berechnet.gv.at) was published in 2016. This tool was developed in the course of a cooperation project (coordinated by the Ministry of Social Affairs, co-financed by the EU) and gives users a quick overview of available joint monthly income, frequently asked questions and important points of contact. It also provides a simple and user-friendly tool for calculating the effects of a change in weekly working hours. A supplementary calendar module for planning the division of parental and family time leave was published in December 2017. The online tool is aimed at parents in employment in Austria and is intended to encourage greater involvement in child rearing by fathers and quicker re-entry to the labour market by mothers. The website logged over 200,000 users in the first 12 months after it was published in November 2016.

**In response to the third question:**

Reference is made to question 1 and question 2.