

Answer by Austria to question 6a

Regarding proceedings on custody or personal contacts, the guardianship court has to order measures to safeguard the best interests of the child pursuant to **section 107 para. 3 Non-Contentious Proceedings Act** (Außerstreitgesetz - AußStrG):

Section 107 para. 3 AußStrG reads as follows:

“(3) The court shall order the measures necessary to safeguard the best interests of the child, provided that the interests of a party whose protection the proceedings serve are not endangered thereby or the interests of the other parties are unreasonably impaired. Such measures may include in particular

- 1. Mandatory attendance of family, parenting or educational counseling;*
- 2. Participation in an initial meeting about mediation or about a conciliation procedure;*
- 3. Attending counseling or training on dealing with violence and aggression;*

[...]”

Furthermore, the **child and youth welfare services** assess the need for socio-educational support for the child and his/her family.

The **Vienna Child and Youth Welfare Act** (WKJHG 2013) provides for outpatient and inpatient child protection measures (educational support according to section 29 WKJHG and full education according to section 30 WKJHG). These can also be applied to children who have committed sexual violence and are not of legal age. In this field, socio-therapeutic offers in particular come into consideration. Furthermore, it is stated:

- According to section 3 para. 2 SPEVO 2015 (**Regulation for Social Pedagogical Institutions**) all social pedagogical institutions must have a concept for violence prevention and sexual education.
- For perpetrators of serious sexual transgressions under the age of 14 (few cases), the **Vienna Child and Youth Welfare Center** (WKJH) cooperates with LIMES facilities specializing in sexual violence and with FORENSIS - Therapeutic Competence Center (outpatient services).
- For delinquent children under the age of 14 (under the age of criminal responsibility), an outpatient program (confrontational resource training) is offered by the provider MULTIKULTURELLES NETZWERK.
- For boys between the ages of 13 and 16 who have already become conspicuous due to their behavior, psychotherapeutic group training is offered by the organization MÄNNERBERATUNG WIEN ("Gewaltig anders", individual and group settings, experiential pedagogical settings).

According to the **Vorarlberg Child and Youth Welfare Act** (Vorarlberger Kinder- und Jugendhilfegesetz), the child and youth welfare agency must provide educational assistance in such a case. This can either be contractually agreed with the parents of the child in question or, if the parents do not agree, ordered by the court at the request of the child and youth welfare agency. If necessary, the court may also transfer custody completely or in part to the child and youth welfare agency. In the case mentioned, educational assistance usually consists of support for the parents and the child concerned by specially trained persons.

In the Land **Burgenland** measures are taken individually depending on the context to prevent further acts of abuse. They include:

1. Protection of the other children (e.g. spatial separation),
2. Discussions with those involved and support services (e.g. Therapy offer, etc.).

Section 24 of the Tyrolean Child Education and Care Act (Tiroler Kinderbildungs- und Kinderbetreuungsgesetz, LGBL. No. 48/2010, last amended by LGBL. No. 58/2023) contains regulations concerning the suspension of children. The provision reads as follows:

“Section 24 Suspension

(1) The provider shall, after consulting the management (section 30), suspend a child from attending the childcare facility for the period of time in which the child or other persons that are regularly present in the childcare facility could be endangered. The suspension must be declared in writing.

(2) At the request of the parents, the provider shall declare also the reasons for the suspension in writing and shall bring these reasons to the supervisory authority’s attention.”

According to **section 18 of the Tyrolean Child and Youth Welfare Act** (Tiroler Kinder- und Jugendhilfegesetz, LGBL. No. 150/2013, last amended by LGBL. No. 10/2021) the Land Tirol has to provide for the social services and socio-educational facilities necessary for the performance of the tasks of child and youth welfare. General needs and special problem situations hereby have to be taken into account.

On behalf of Land Tirol, the Tiroler Kinder- und Jugend GmbH – an approved provider of child and youth welfare services – also offers services for victims and perpetrators of sexual abuse in the form of counseling and therapy (cf. also Tyrolean Child and Youth Welfare Act, section 41 para. 2 lit. e). This offer can be taken up by the persons concerned on a voluntary basis. If juvenile sex offenders are already being cared for by the child and youth welfare services, efforts are made within the framework of educational assistance to ensure that the offer is taken up by the juvenile offender. In this context, appropriate information about the services offered is provided. However, these are only carried out in cooperation with the person concerned.

The **Carinthian Child and Youth Welfare Act** (Kärntner Kinder- und Jugendhilfegesetz) contains a number of measures and services aimed at minors. The services are provided irrespective of the age of criminal responsibility. They include, for example, counselling, care, accommodation and therapy. The following services can be highlighted: Psychological-Psychotherapeutic Service for Children, Adolescents and Families, Psychological-Psychotherapeutic Service for Children, Families and Pedagogical Staff of Elementary Child Education and Care Institutions, Child Protection Centers, The Children's and Youth Ombudsman.

Exemplary measures of the child and youth welfare agency according to the **Styrian Child and Youth Welfare Act** (StKJHG) are psychological treatment or psychotherapy.

Moreover, i.a. the **Styrian Child and Youth Welfare Act** provides the following provisions for personnel pursuant to **section 9**:

“(1) Only professionals who are trained and personally suitable for the respective field of activity may be deployed for the provision of child and youth welfare services. The employment of other suitable persons shall be permissible under the guidance of a specialist, provided that the nature and scope of the activity do not require specialist training.

(2) The state government shall determine the training and suitability requirements as well as the number of specialists required. In so doing, consideration shall be given to professional standards, scientific findings, and the population groups receiving the services.

[...]”

Regarding the mandatory criminal record check of all applicants wishing to perform activities with children in the context of application procedures, Austria pointed out in its 2018 questionnaire response that such an obligation only exists with regard to applications for public positions, but not with regard to positions in the private sector.

A distinction between application procedures for public positions and positions in the private sector does not (or no longer) take place in the implementation of the Styrian Child and Youth Welfare Act. On the part of Styria, **section 9 StKJHG** is implemented in practice - in accordance with Art. 5 of the Lanzarote Convention - by the Department of Social Affairs and Employment (FASA) as follows:

When a new employee joins a private facility, the facility is required to send the general criminal record certificate to FASA in addition to the proof of qualification. In addition, the personal suitability is checked ex officio by querying the relevant databases (sex offender, violence protection). The general criminal record certificate must not be older than 3 years and will be queried again by FASA after the expiration of these 3 years. The queries in the databases are then again carried out ex officio.