



European
Social
Charter

Charte
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EUROPEAN SOCIAL CHARTER

Answers to additional questions related to the

12th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

Articles 2, 3, 4, 5, 6, and 20

CYCLE 2024

Reply to the additional question concerning Austria's 12th report

Article 3.2

Please provide information on:

- *the measures taken to ensure that self-employed workers are protected by occupational health and safety regulations;*
- *the number of domestic workers classified as self-employed under national law and the extent to which they are protected by occupational health and safety regulations (also in light of discussion on this point in Conclusions 2021, Austria).*

The Workers Protection Act (ASchG) and its regulations apply to the employment of workers. Employees are defined as all persons who work within the framework of an employment or training relationship.

As already explained in the 12th report, this **broad definition of employee under the ASchG includes also freelance employees** (i.e. those working under a freelance employment contract, freier Dienstvertrag, i.e. **self-employed workers**) **within the meaning of Section 4 Para. 4 General Social Insurance Act (Allgemeines Sozialversicherungsgesetz, ASVG).**

Section 4(4) of the ASVG defines freelance employees as persons who undertake to provide services for a definite or indefinite period on the basis of freelance contracts if they receive remuneration for this activity, provide the services essentially in person, and do not have any significant operating resources of their own. The scope of the regulation is not to be extended to freelance employees who are exempt from compulsory insurance under Section 4 (4) ASVG. This applies, for example, to tradespeople who are already insured under Section 2 (1) (1) to (3) GSVG. This is to ensure that only **freelance workers who are similar to employees are included.**

As already reported under Article 6.2, freelance employees will be included in collective agreements as of January 1, 2026.

Domestic workers:

As of November 2024, there were 66,000 self-employed 24-hour caregivers (with a trade license), of whom 8,000 have suspended their business (i.e., no longer work in Austria). That is 99% of all caregivers.

Independent self-employed cleaners and self-employed caregivers providing 24-hour care in private households are not subject to the Domestic Workers Act, just as **self-employed persons in other sectors are not subject to labour law.**

However, if a cleaner or caregiver classified as self-employed assumes that an employment relationship actually exists, they can sue for the labour law claims they have been denied before the labour and social court, which must first assess whether an employment relationship exists.

(Independent) Self-employed persons

The large majority of businesses and self-employed persons in Austria are subject to industrial and trade laws.

The Austrian Industrial Code includes specific regulations that protect business license holders. Special provisions to protect self-employed workers also exist for mining and for the construction sector. These regulations have been explained in detail in previous reports.

The Workers Protection Act, which regulates safety and protection for employees, also applies to the self-employed persons whenever they work side by side with the workers they employ.

Apart from these regulations and circumstances it would contradict the nature of self-employment to make it subject to the same legal regulations as dependent employment.

Self-employed individuals normally structure their working conditions autonomously and are not dependent on others.

It also raises the question as to whether applying strict regulations would be consistent with the freedom of trades and crafts as set forth in the Austrian constitution.