



03/01/2023

RAP/RChA/AUT/11(2023)

EUROPEAN SOCIAL CHARTER

11th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF AUSTRIA

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

for the period 01/01/2018 – 31/12/2021

Report registered by the Secretariat

on 03 January 2023

CYCLE 2023

REVISED EUROPEAN SOCIAL CHARTER

11th 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 1 January 2018 to 31 December 2021

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 thematic group except Articles 7 § 6, 8 § 2, 19 § 4, 19 § 8, 19 § 10, 19 § 11, 27 § 3 und 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 (*Österreichischer Gewerkschaftsbund*)

the Austrian Federal Chamber of Labour (*Bundesarbeitskammer*)

the Austrian Federal Economic Chamber (*Wirtschaftskammer Österreich*)

the Federation of Austrian Industry (*Vereinigung der Österreichischen Industrie*)

the Presidential Conference of Austrian Chambers of Agriculture (*Präsidentenkonferenz der Landwirtschaftskammern Österreichs*)

Council of Austrian Chambers of Agricultural Labour (*Österreichischer Landarbeiterkammertag*)

Content

Article 7 – The right of children and young persons to protection.....	3
Article 8 – The right of employed women to protection of maternity	15
Article 16 – The right of the family to social, legal and economic protection	17
Article 17 – The right of children and young persons to social, legal and economic protection	32
Article 19 – The right of migrant workers and their families to protection and assistance	45
Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment.....	54

Article 7 – The right of children and young persons to protection

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

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

Please provide information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. In this regard, please provide information on the number of children actually working (either from existing statistics on this issue or from surveys to be conducted to obtain such information), as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally (General question, Conclusions 2019).

Children are defined as minors under the age of 15, or older if compulsory education is completed later. Child labour is generally prohibited (Sections 2 and 5 of the based on the Employment of Children and Young People Act (*Kinder- und Jugendlichenbeschäftigungsgesetz, KJBG*)). As regards the employment of children and youth in the agriculture and forestry sector, the special provisions set out in Section 181 et seq. of the Agricultural Labour Act (*Landarbeitsgesetz, LAG*) 2021 apply. In specific cases children are allowed to work: at public performances (music, theatre or other performances or at photo or film shoots or television or audio recordings) subject to approval by the head of the government of the *Land* in each case or, under certain circumstances, by the District Administration Authority (*Bezirksverwaltungsbehörde*). The application has to be submitted to the Office of the *Land* Government. Where commercial performances are involved, the Labour Inspectorate responsible is a party to the application procedure (Sections 6 and 7 *KJBG*).

The District Administration Authorities are jointly responsible for monitoring compliance with the provisions of the act, in collaboration with the Labour Inspectorates, municipal authorities and school administrations. Teachers, physicians and agents of youth welfare organisations who observe any instances of child labour are required to inform the District Administration Authority responsible (Section 9 *KJBG*). Section 17 Para. 3 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.

In 2020, the Labour Inspectorate identified three cases of violations of child labour provisions. Four violations were identified in 2019 and three in 2018.

See table “Violations child labour provisions”:

Year	2020	2019	2018
No. of cases	3	4	3
Type of work	Film production (2 cases) Construction industry (1)	Hotel and restaurant industry (1) Retail trade (1) Construction industry (1) Trade (1)	Film production (1) Floral retailing (1) Construction industry (1)

Source: Labour Inspectorate 2022

In general, violations of the Employment of Children and Young People Act (*Kinder- und Jugendlichenbeschäftigungsgesetz, KJBG*) are punishable by initial fines of EUR 72 to EUR 1090, and EUR 218 to EUR 2180 after repeated offences (Section 30 KJBG). Unless an offence or violation is subject to a higher fine under another law, the District Administration Authority is the competent body for imposing fines.

In the capacity of a supervisory authority, the Labour Inspectorates play an important role in helping to combat human trafficking in the form of labour exploitation or social security fraud. The Labour Inspectorate is authorised and required to report as soon as possible any well-founded suspicion of such cases to the authorities responsible. The authorities responsible for combating human trafficking/labour exploitation, wage and social dumping, and social security fraud are: the police, the Competence Centre for Anti-Wage and Social Dumping (CWSD Competence Centre), the finance police and health insurance institutions.

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

2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;

No information required.

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

No information required.

4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

Conformity pending receipt of information

Young people from 15 but under 18 years of age generally fall under Section 3 of the *KJBG* 1987, Federal Law Gazette 599/1987, most recently amended by Federal Law Gazette I no. 58/2022. This means that the general provisions for young persons also apply to individuals aged 15 to 16. The protection regulations set out in Chapter 3 of the *KJBG* also apply to minors under the age of 15 if they have already completed compulsory schooling (see response under Art. 7§1).

In domestic employment, persons under 18 residing in their employers' households must **not work more than 100 hours during any two calendar weeks**, in accordance with Section 5 Para. 1 lit. a of the Domestic Help and Domestic Employees Act (*Hausgehilfen- und Hausangestelltengesetz, HgHaG*), Federal Law Gazette 235/1962, most recently amended by Federal Law Gazette I no. 100/2018. Such persons not residing in their employers' households must **not work more than 80 hours during any two calendar weeks**.

Based on Section 5 Para. 3, individuals under 18 **residing in their employers' households** are entitled to a rest period of at least 12 hours that includes the hours between 8 pm and 7 am. Based on Section 5 Para. 4, individuals under 18 **not residing in their employers' households** are

entitled to a rest period of at least 15 hours that includes the hours between 8 pm and 7 am. Based on Section 5 Para. 3, employees **residing in their employers' households** must be allowed breaks amounting to a total of at least three hours per working day, with at least two uninterrupted 30-minute breaks allowed for taking main meals.

Based on Section 5 Para. 4, individuals **not residing in their employers' households** who work each day for more than 4.5 hours are entitled to one or more breaks depending on their daily working hours:

- 4.5–6 hours – 20 minutes
- 6–8 hours – 30 minutes
- 8–9 hours – 45 minutes
- >9 hours – 60 minutes (in general not relevant for individuals under 18 as they must be allowed a daily rest period of at least 15 hours).

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

- a) *Please provide updated information on net minimum wages and allowances payable to persons under 18 years of age.*

In Austria, minimum wage schemes and collective agreements ensure that employees who are particularly vulnerable to exploitation are fairly paid. A minimum wage scheme is in place for domestic workers. The minimum wage scheme does not specify any different minimum wages for persons under 18.

Wage levels for apprentices:

MINING as of 1 November 2021 (monthly wages):

1st year of apprenticeship: 800.00
2nd year of apprenticeship: 1,000.00
3rd year of apprenticeship: 1,325.00
4th year of apprenticeship: 1,750.00

Skilled workers with final apprenticeship examination 2,398.29
Workers without specific training (unskilled workers) 2,089.87

PETROLEUM INDUSTRY (monthly wages in EUR) as of 1 Feb. 2022:

1st year of apprenticeship: 900.00
2nd year of apprenticeship: 1,200.00
3rd year of apprenticeship: 1,500.00
4th year of apprenticeship: 1,850.00

Skilled workers with final apprenticeship examination: 2,615.45
Workers employed on simple tasks (unskilled workers) 2,165.12

CONSTRUCTION INDUSTRY AND BUILDING TRADE as of 1 May 2022 (monthly wages):

1st year of apprenticeship: 1,086.50
2nd year of apprenticeship: 1,628.90
3rd year of apprenticeship: 2,172.99
4th year of apprenticeship, if learning two trades: 2,444.19
Apprentices commencing apprenticeship after their 18th birthday: 2,172.99

Skilled workers employed in the trade learned: 2,981.51

Unskilled construction workers 2,311.98

IRON AND METAL MANUFACTURING AND PROCESSING TRADE as of 1 November 2021
(monthly wages):

1st year of apprenticeship: 800.00

2nd year of apprenticeship: 1,000.00

3rd year of apprenticeship: 1,325.00

4th year of apprenticeship: 1,750.00

Skilled workers with final apprenticeship examination 2,398.29

Workers without specific training (unskilled workers) 2,089.87

IRON AND METAL PROCESSING TRADE Plumbers and pipe fitters as of 1 January 2022
(monthly wages, excluding board and lodging for apprentices):

1st year of apprenticeship: 726.13

2nd year of apprenticeship: 914.37

3rd year of apprenticeship: 1,204.83

4th year of apprenticeship: 1,602.85

Skilled workers with final apprenticeship examination 2,372.19

Workers without specific training (unskilled workers) 2,069.00

CARPENTRY as of 1 May 2022 (monthly wages): (excluding board and lodging for apprentices):

1st year of apprenticeship: 728.00

2nd year of apprenticeship: 881.48

3rd year of apprenticeship: 1,032.86

4th year of apprenticeship: 1,160.84

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 2,206.57

Unskilled workers 1,927.72

SAWMILL INDUSTRY as of 1 May 2022 (monthly wages, excluding board and lodging for apprentices):

1st year of apprenticeship: 858.86

2nd year of apprenticeship: 1,288.30

3rd year of apprenticeship: 1,717.73

4th year of apprenticeship: 1,932.44

Skilled workers with final apprenticeship examination 2,300.53

Unskilled workers 2,013.80

TEXTILE INDUSTRY as of 1 April 2022 (monthly wages):

4-year apprenticeship:

1st year of apprenticeship: 733.00

2nd year of apprenticeship: 893.00

3rd year of apprenticeship: 1,135.00

4th year of apprenticeship: 1,396.00

2-year apprenticeship:

1st year of apprenticeship: 733.00

2nd year of apprenticeship: 998.00

Skilled workers with final apprenticeship examination or trained skilled workers 1,758.00

Unskilled workers 1,624.00

TEXTILE TRADE (embroiders, knitters) as of 1 January 2022 (monthly wages):

1st year of apprenticeship: 643.00

2nd year of apprenticeship: 796.00

3rd year of apprenticeship: 931.00

Skilled workers after apprenticeship 1,951.96

Unskilled work 1,700.29

PAPER AND PAPERBOARD PROCESSING INDUSTRY (paper packaging workers) as of 1 March 2022 (monthly wages)

1st year of apprenticeship: 759.49

2nd year of apprenticeship: 948.19

3rd year of apprenticeship: 1,231.44

4th year of apprenticeship (two trades): 1,655.18

Skilled worker 2,561.84

Unskilled workers 1,835.01

CHEMICAL INDUSTRY as of 1 May 2022 (monthly wages)

1st year of apprenticeship: 1,042.50

2nd year of apprenticeship: 1,303.00

3rd year of apprenticeship: 1,563.50

4th year of apprenticeship: 1,824.00

Workers with completed apprenticeship and up to one year's employment at the business 2,605.17

Semi-skilled workers, up to 6 months 2,235.85

Unskilled workers 2,146.47

FOOD, BEVERAGES AND TOBACCO TRADE – Bakers, as of 1 October 2021 (monthly wages, excluding board and lodging):

1st year of apprenticeship: 527.85

2nd year of apprenticeship: 660.20

3rd year of apprenticeship: 951.78

4th year of apprenticeship (two trades): 1,044.26

Workers after completing apprenticeship in the retention period 1,556.40

Other workers (unskilled workers) 1,560.94

FOOD, BEVERAGES AND TOBACCO TRADE – Butchers, Vienna as of 1 July 2021 (monthly wages)

1st year of apprenticeship: 761.07

2nd year of apprenticeship: 971.17

3rd year of apprenticeship: 1,294.15

4th year of apprenticeship: 1,373.76

Workers in the 1st year after qualification after completing apprenticeship 1,925.55

Semi-skilled workers 1,862.94

Unskilled workers 1,789.14

CONCRETE AND PRE-FABRICATED PRODUCTS INDUSTRY as of 1 May 2022 (monthly wages)

1st year of apprenticeship: 973.56

2nd year of apprenticeship: 1,460.33

3rd year of apprenticeship: 1,947.11

4th year of apprenticeship 2,190.50

Employees in the 1st year after completing apprenticeship 2,433.89

Semi-skilled worker 2,030.47

Unskilled worker 1,937.11

Agriculture and forestry

In the agricultural and forestry sector, the social partners regularly enter into collective agreements which specify a minimum wage for agricultural and forestry employees (and thus also for seasonal agricultural workers and harvest workers).

The minimum wages specified in a number of collective agreements in the agriculture and forestry sector are mentioned below by way of example: Collective agreements generally specify wage levels based on job type rather than age. Because they are in a training relationship, apprentices (usually below 18 years of age) receive apprenticeship pay (previously referred to as apprenticeship allowance/*Lehrlingsentschädigung*). They are entitled to such pay while attending occupational school and working in their vocations as well as during the final examination period. The pay level is increased with every apprenticeship year completed.

The Collective Agreement for Forestry Workers in the Private Sector stipulates a minimum wage of EUR 1,793.66 (EUR 1,435.40 net). Apprentices receive an hourly wage of EUR 6.95 as apprenticeship pay in the first year.

The Collective Agreement for Farming Operations in Lower Austria stipulates a minimum wage for farm workers of EUR 1,334.47 (EUR 1,125.03 net). Apprentices receive EUR 634.14 (EUR 538.26 net) monthly as apprenticeship pay in the first year.

The Collective Agreement for Agricultural Estates in Vienna, Lower Austria and Burgenland stipulates an internship wage level of EUR 750 (EUR 636.60 net). Apprentices also receive that amount in their first year.

As the collective agreements specify gross amounts only, the net amounts given in brackets above were determined using the calculator provided by the Federal Ministry of Finance (available in German); please note that any tax deduction options were not taken into account.

Please provide information on measures taken to ensure that fair remuneration is guaranteed to young workers:

- i) In atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)*
- ii) in the gig or platform economy and iii) having zero hours contracts.*

Most employment relationships, which include apprenticeships, are governed by collective agreements that stipulate minimum wages or salaries, i.e. the minimum amounts of remuneration permitted under law.

Where in the exceptional case no collective agreement applies, the amount of remuneration is governed by the employment contract between the employer and the employee, to which both parties to the contract must consent. If the contract does not stipulate either the amount or that the work will not be remunerated, pursuant to Section 1152 of the Austrian General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*) the employer is liable to appropriately remunerate

the employee, i.e. based on common practice. What is appropriate or common practice in a sector where no collective agreement exists is ultimately subject to review by a court.

Public service:

To be accepted into a contractual public employment relationship with the Federal Government, persons must be at least 15 years of age, as specified in Section 3 Para. 1 no. 4 of the Contractual Public Employees Act (*Vertragsbedienstetengesetz, VBG*) 1948, Federal Law Gazette no. 86/1948. Young persons working as contractual employees in public service generally have the same options as those aged 18 and older, including part-time employment. Nonetheless, in addition to the *VBG*, the Employment of Children and Young People Act (*Kinder- und Jugendlichenbeschäftigungsgesetz, KJBG*) 1987, Federal Law Gazette no. 599/1987, must be respected when employing young persons. The *KJBG* specifically includes regulations aimed at protecting young people.

Section 1 Para. 3 no. 10 *VBG* excludes apprentices from the scope of the Act, and sector collective agreements must stipulate for such employment relationships conditions to help avoid any precarious employment.

The minimum gross remuneration for individuals under 18 as well as apprentices who following training are accepted into federal service ranges between EUR 1,826.80 and EUR 1,935.60 (Section 72 *VBG*).

- b) *Please provide information on measures taken to ensure that this right is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions) (General question, Conclusions 2019).*

Remuneration claims in Austria must be asserted before a court of law. Members of the Chamber of Labour (*Kammer für Arbeiter und Angestellte*) receive legal advice and representation in court when seeking to enforce claims based on employment law. The Chamber of Labour has been set up as a body under law to represent the interests of employees, who are compulsory members of the Chamber. Apart from that, the Austrian Trade Union Federation (*Österreichischer Gewerkschaftsbund*) also offers its members support in enforcing their claims.

Besides the option of enforcing remuneration claims in court, the Anti-Wage and Social-Dumping Act (*Lohn- und Sozialdumping-Bekämpfungsgesetz, LSD-BG*) ensures equal remuneration conditions for employees working in Austria. In accordance with the *LSD-BG*, administrative authorities are required to verify remuneration levels and impose penalties on employers not meeting minimum levels.

Any employer not paying an employee the minimum amount of remuneration as due under law or based on collective agreement, while also considering any classification criteria and including all pay components, commits an administrative offence and is liable to penalty. Alongside remuneration for normal working time and the base rate for overtime, pay components are understood to include all allowances, supplements, special payments and similar items stipulated in the collective agreement. An employer failing to pay minimum remuneration is liable to a fine of up to EUR 400,000, regardless of the number of employees involved in the case. The amount of the fine depends on the total amount of remuneration withheld from employees.

When imposed after a verification of pay levels by the competent authorities (*Lohnkontrolle*), fines may range as high as EUR 40,000, regardless of the number of employees involved in the case. The failure to keep and make readily available pay documents despite a pertinent request by the authorities is also liable to penalty.

Employees receiving less than the remuneration due to them are eligible to quit employment prematurely (without observing the full notice period), on grounds of unjustified pay reduction.

Employees can also claim any outstanding remuneration in court while still in employment. Any

employer failing to pay adequate remuneration must bear the court fees for such litigation.

Public service:

Several specific acts of law set out the conditions applying to employment relationships in federal public service. Employees are accordingly enabled to assert their rights before either the Labour and Social Court (*Arbeits- und Sozialgericht, ASG*) or the Federal Administrative Court (*Bundesverwaltungsgericht, BVwG*), and subsequently before the higher courts. In addition, staff representation bodies are in place to supply advice and support to employees and apprentices. Apprentices can also receive appropriate assistance from the applicable economic chambers and the trade unions.

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

Not accepted.

7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;

No information required.

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

No information required.

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

No information required.

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

- a) *Please provide updated information on the measures taken to strengthen the protection of children, including migrant, refugees, and displaced children, from sexual exploitation and abuse (in particular in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.*

With the **Austrian Protection Against Violence Act 2019** (*Gewaltschutzgesetz 2019*, Federal Law Gazette I no. 105/2019), which entered into force on 1 January 2020, the **protection from violent crimes and sexual offences, especially for the purpose of sexual exploitation, was strengthened**. The minimum penalty for rape (Section 201 of the Criminal Code, *StGB*) was

increased from one year to two years. In addition, it is no longer possible to suspend the full term of prison sentence imposed (Section 43 Para. 3 StGB). Furthermore, it was stipulated in the law that female genital mutilation (FGM) is always an assault that constitutes grievous bodily harm according to Section 85 StGB.

The Protection Against Violence Act 2019 also further broadened the group of victims of domestic violence and also included victims who have experienced violence in any form in their close social environment such as victims of persistent stalking (Section 107a StGB) or victims of conflict situations in their neighbourhood.

Additionally, the provision on the **occupational ban** (Section 220b StGB) was amended. Most importantly, under the conditions set out in Section 220b Para. 1 StGB a ban disqualifying a person from exercising activities in employment or in another occupation in an association or another institution involving the education, training, or supervision of minors or other intensive contact with minors **must now be imposed for an indefinite period** if there is a risk that the perpetrator may commit similar offences with more than minor consequences by exploiting the opportunities associated with such activities. The court has to examine whether this risk still exists at least every five years.

Section 220b StGB reads as follows:

“(1) If the perpetrator has intentionally committed an offence against life and limb or against liberty punishable by imprisonment for more than one year or an offence against the sexual integrity and self-determination of a minor, and if the perpetrator at the time of committing the offence was engaged in or intended to engage in employment or in another occupation in an association or another institution involving the education, training, or supervision of minors or other intensive contact with minors, a ban disqualifying the person from exercising these and similar activities must be imposed for an indefinite period if there is a risk that the perpetrator will commit similar offences with more than minor consequences by exploiting the opportunities associated with such activities.

(2) If the perpetrator has committed an offence under Para. 1 to the detriment of a person who is vulnerable due to frailty, illness or a mental disability and if the perpetrator at the time of committing the offence was engaged in or intended to engage in employment or in another occupation in an association or another institution involving the care or other intensive contacts with such vulnerable persons, a ban disqualifying the person from exercising these and similar activities must be imposed for an indefinite period if there is a risk that the perpetrator will commit similar offences with more than minor consequences by exploiting the opportunities associated with such activities.

(3) The duration of the occupational ban commences when the decision in which the ban was ordered obtains legal force. The court must establish at least every five years whether the risk that gave rise to the occupational ban is still present. The court must lift the occupational ban if circumstances arise or become known that would not have led to an occupational ban had they been known at the time of the judgment.

(4) Any person engaging in an occupation knowing that the person is banned from exercising the occupation under the previous paragraphs is liable to imprisonment for up to six months or a fine not exceeding 360 penalty units.”

Moreover, the **rights of particularly vulnerable victims** (victims of sexual offences, of violence in residential dwellings, **victims under the age of 18 years**, other victims that are granted this status under certain circumstances) were **further extended**. These victims were granted the additional right to demand that interpreting services be provided by a person of the same sex during interrogations in preliminary proceedings and in the trial (Section 66a Para. 2 no. 1a Criminal Procedure Code, StPO). Particularly vulnerable victims were explicitly included in the provision of Section 250 Para. 3 StPO which allows questioning in a manner set out in Section 165 Para. 3 StPO in the trial (questioning via a video link or pre-recorded video of a witness in order to avoid secondary victimisation and the direct contact of the witness and the defendant – *kontradiktorische Vernehmung*). In addition, it was clarified that witnesses who meet the criteria mentioned in Section 66a StPO may be heard via video link or pre-recorded video (Section 165 Para. 3 StPO) on their request or on the request of the public prosecutor's office.

Section 70 StPO about the victims' right to information was structured in a more understandable way. The phrase "against a particular accused" in the first sentence of Section 70 StPO was removed in order to make it explicitly clear that this applies to victims regardless of whether a preliminary investigation is conducted against known or unknown accused persons. Moreover, providing information to the victim only at a later point of time is now only permissible if there are special reasons to fear that the purpose of the investigations would otherwise be jeopardised.

It was also clarified that victims have the right to receive a written confirmation of their report and the transcript of their interrogation free of charge.

There were also changes in the Criminal Records Act (*Strafregistergesetz*) with the intention of further protecting vulnerable persons. For example, a new Certificate of Criminal Records ("*Strafregisterbescheinigung Pflege und Betreuung*") was provided for persons who want to carry out a certain professional or organised voluntary activity, which mainly comprises the care and support of vulnerable persons.

The **Hate on the Net Combat Act** (*Hass-im-Netz-Bekämpfungs-Gesetz, HiNBG*), which entered into force on 1 January 2021, further expanded the psycho-social and legal support for criminal proceedings for victims of hate on the net, but also for **minor witnesses of family violence** in accordance with the Istanbul Convention and made it significantly easier for **victims of hate on the internet** to enforce their rights.

- b) *Please provide information on the impact of the Covid-19 pandemic on the monitoring of the exploitation and abuse of children, as well as measures taken to strengthen monitoring mechanisms.*

During the COVID-19 crisis, the **prosecution of perpetrators and access to justice for all victims** – and thus also for minor victims– was **guaranteed at all times**. Also, the protection that was provided by protection orders was and remains unchanged during the pandemic; there were and are no restrictions in the court system in this regard. Rather, improvements were implemented, so that, for example, persons in quarantine could file an application for a protection order via the police.

- c) *Please provide information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).*

In Austria, there are several rights and **measures of protection for child victims** in criminal proceedings:

- **Appointment of a curator** (special representative) **for the minor victim** if a legal representative of the minor victim is suspected of having committed the criminal offence or if there is otherwise the risk of a conflict of interests between the minor victim and their legal representative, or if no legal representative can assist the minor victim in criminal proceedings (§ 66a Para. 3 Criminal Procedure Code, StPO);
- **Information on the escape and recapture** as well as the **first unmonitored release** from the institution or on a pending or an actual release **of the prisoner** including any instructions given to them in order to protect the victim (Sections 106 Para. 4, 149 Para. 5 of the Prison Act (*Strafvollzugsgesetz*));
- **Psycho-social and legal support for the proceedings** that is free of charge, if this is necessary to preserve the rights of the victim, taking into account their personal concerns. Some victims are afforded this support in any case (victims whose sexual integrity might have been violated and who are under the age of 14). Psycho-social support for the proceedings includes the preparation of the person concerned for the proceedings and for the emotional stress associated with the proceedings as well as accompanying the person

to questioning during investigation proceedings and the trials; legal support for the proceedings includes legal advice and representation by a lawyer (Section 66b Para. 2 StPO). The Federal Ministry of Justice is authorised to delegate, by contract, the provision of assistance to victims during criminal proceedings to suitable experienced institutions and has to finance the provision of psycho-social and legal assistance by these institutions. In 2019, **47 NGOs provided psycho-social and legal assistance** by order of the Federal Ministry of Justice. Many of these institutions, such as child protection centres, violence prevention centres and intervention centres, are specialised in working with children.

- **Questioning by video link or pre-recorded video of a witness** in order to **avoid secondary victimisation** and the **direct contact of the witness and the defendant**. The participation at the interrogation of other participants in the proceeding may be limited by the use of technical means of audio and visual transmission for following the interrogation and the right to ask questions being exercised without being present at the interrogation. Moreover, in some cases it is possible to appoint an expert to conduct the interrogation (Sections 165 and 250 StPO);
- If such video-based questioning has taken place, the witness is **released from the obligation to further testify** and the record of the video questioning can be read out in the trial (Section 252 Para. 1 no. 2a StPO);
- **Protection of the identity of the witness** (Sections 10 Para. 3, 161 Para. 1, 162 StPO)
- **Protect the victim's privacy** (Section 228 Para. 4 StPO - TV and radio recording as well as taking pictures or filming of the trial are inadmissible; Section 7a Para. 1 no. 1 of the Media Act (*Mediengesetz*));
- Provide for the possibility for a witness **to be interrogated at home or at another place** (e.g. in cases of ill health, frailty, reasonable circumstances Section 160 Para. 1 StPO and Section 247a StPO).
- Victims under the age of 18 years are considered to be **particularly vulnerable** in any event and have **special rights** during the criminal proceedings in addition to the general victims' rights, specifically:
 - to be interviewed during the investigation proceedings by a person of the same sex if the victim so wishes and if possible;
 - to require that interpretation services are provided by a person of the same sex during questioning of the victim in the preliminary proceedings and in the trial, if possible;
 - to refuse to answer specific questions as far as they go into detail of the criminal act and the victim considers the answer unbearable, or which concern circumstances of the victim's intimately personal area of life;
 - upon request, to be interviewed during the investigation and the trial phase in a protecting manner (Sections 165, 250 Para. 3 StPO), specifically a minor victim who could have been injured in their sexual sphere by the offence the accused person is charged with, in any event in the manner described in Section 165 Para. 3, if necessary by an expert.
 - upon request to exclude the public from the trial (Section 229 StPO);
 - to be immediately informed ex officio of the release or escape of the accused person from custody and provisional custody (Sections 172 Para. 4, 177 Para. 5, 181a StPO);
 - to be interviewed in the presence of a person of their trust (Section 160 Para. 2 StPO);
 - to be notified of their special rights prior to their initial interrogation (Section 70 Para. 1 StPO).

Since 1997, child-friendly interrogation rooms have been set up in all the courts in which criminal proceedings take place.

As already mentioned in the answer to question a), the **Hate on the Net Combat Act** (*Hass-im-Netz-Bekämpfungs-Gesetz, HiNBG*), which entered into force on 1 January 2021, further expanded the psycho-social and legal support for criminal proceedings inter alia for victims of **hate on the net** and made it **significantly easier for victims of hate on the internet to enforce their rights**.

The **measures in the Criminal Code** include:

- an extension of the provision of “cyberbullying” (Section 107c StGB) in order to make even single cyberbullying postings punishable;
- an extension of the provision of “hate speech” (Section 283 StGB) by also including insults that offend the human dignity and are directed against individual members of protected groups;
- the introduction of a new criminal offence against unauthorised image recording in Section 120a StGB (including in particular the offence of upskirting).

The **measures in the Code of Criminal Procedure** are aimed at strengthening the position of victims of online hate speech and similar hate crimes committed on the internet and in social media. In particular, these victims now are entitled to free psycho-social and legal court assistance (Section 66b StPO). Furthermore, victims of defamation and libel committed on the internet or in social media are entitled to apply at court for investigative measures to obtain data on the identity of the suspected perpetrator (Section 71 Para. 1 StPO).

d) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

Deferred Conclusion

In reply to the question whether the Austrian legislation is compliant with the standards of the Lanzarote Convention, the following information is provided:

As regards Art. 20 Para. 3 second indent of the Lanzarote Convention, of Paras. 3-5 of the Opinion on sexually suggestive or explicit images and/or videos generated and received by children, and of the implementation report “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs), the Austrian Criminal Code includes the following provisions:

Section 207a Para. 5 no. 1 StGB requires that

1. the pornographic image is of a **minor of or above the age of 14**,
2. the image is/was produced or is possessed with the **consent of the minor of or above the age of 14** and
3. the image is/was produced or is possessed **for use by the minor of or above the age of 14** or for the **own private purpose** of the person who produces or possesses the image.

If the production and possession of the image involved any abuse, such conduct is criminal.

Section 207a Para. 5 StGB also does not refer to criminal conduct according to Section 207a Paras. 2 and 3a StGB. However, there is no requirement in Section 207a Para. 5 StGB that the adult is of a similar age and maturity as the child depicted on the sexual image.

For the sake of completeness, it should be noted that as it is not indicated otherwise, Austria understands the term “persons” in **Art. 8(3) of EU Directive 2011/93** to cover adults as well. Art. 8(3) has been transposed into national legislation by Section 207a Paras. 5 and 6 StGB. Austria is convinced to have transposed the EU Directive 2011/93 correctly and entirely into

national legislation; our understanding of Art. 8(3) of the Directive has never been criticised by the EU Commission.

Concerning the request of the Commission to provide information on children at risk of child labour please consult the information provided above (Art. 7§1)

In reply to the question concerning trafficking in children, the following information is provided:

Within the Federal Chancellery, a Working Group on Child Trafficking (*AG Kinderhandel*) has been set up under Division VI – Family and Youth. The following are represented in the working group: the Federal Ministry for Europe, Integration and Foreign Affairs, the Federal Ministry of Justice, and the *Laender* governments, as well as international organisations, research institutions and non-governmental organisations (ECPAT Austria, IOM, LEFÖ-IBF, MEN VIA, BIM, UNHCR, and SOS Children’s Villages).

To provide information and raise awareness about the challenge of child trafficking, and as an aid in identifying potential victims, the Division of Family and Youth within the Federal Chancellery publishes a brochure for the relevant units at federal and *Laender* level as well as for civil society organisations working in this area. The brochure, also made available for workshops addressing child trafficking, includes information aimed at people working for police or asylum and immigration authorities, child and youth welfare services or in other areas, advising of the action that can be taken to help children affected by the issue.

In 2021, the Working Group on Child Trafficking drafted a plan for a federal institution for victims of child trafficking, to ensure the protection of future victims as well as shelter and care in a special facility for all of Austria. This envisaged pilot project, one of the subjects of the Sixth National Action Plan to Combat Human Trafficking (2021–2023; target III.16f), is currently under review by the responsible staff in the ministries affected, to clarify division of responsibilities and funding.

Data:

Each year, the Federal Ministry of the Interior publishes the Austrian Police Crime Statistics (*Polizeiliche Kriminalstatistik, PKS*), which includes the number of human trafficking victims identified, and makes the data available also to the Working Group on Child Trafficking.

Year	Section 104a StGB – trafficking of children	Section 217 StGB – transnational prostitution trade
2018	8 (1 male / 7 female)	9 female
2019	14 (4 male / 10 female)	14 female
2020	10 (6 male / 4 female)	3 female

As child trafficking is carried out covertly, it can be assumed that unrecorded cases exceed the number of identified victims as published in crime statistics. How to improve the underlying data is an issue that will be addressed by the Working Group on Child Trafficking, which includes representatives from the Federal Ministry of the Interior, the Federal Ministry of Justice, and the Federal Criminal Police Office (*Bundeskriminalamt*), as well as officials from child and youth welfare services.

Article 8 – The right of employed women to protection of maternity

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

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

a) *Please provide information whether the Covid-19 crisis had an impact of on the right to paid maternity leave (in particular whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave during the Covid-19 crisis).*

The COVID-19 crisis did not impact the absolute prohibition of employment applicable during the eight weeks before and after childbirth, as accorded under the Maternity Protection Act (*Mutterschutzgesetz, MSchG*) 1979, Federal Law Gazette no. 221/1979, most recently amended by Federal Law Gazette I no. 87/2022 and the Agricultural Labour Act (*Landarbeitsgesetz, LAG*) 2021, Federal Law Gazette I no. 78/2022, most recently amended by Federal Law Gazette I no. 115/2022.

During the COVID-19 crisis, a special entitlement was introduced to exempt from work, beginning with the fourteenth week of pregnancy, expecting mothers whose work requires physical contact and whose working situation cannot be modified or for whom no alternative job can be arranged. Such women were exempted from work while entitled to continued remuneration from their employers (Section 3a *MSchG* 1979).

2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

Not accepted.

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

No information required.

4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;

a) *Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.*

Section 6 Para. 1 *MSchG* prohibits, as previously, expecting or nursing mothers from working at night. They must not work between 8 pm and 6 am (unless the conditions for one of the exceptions under law, such as theatre performances, apply). Where it is necessary to rearrange working conditions in response to a pregnancy (e.g. discontinuing night shifts), a pregnant employee is entitled to remuneration equal to the average amount received during the 13 weeks prior to altering the conditions, in accordance with Section 14 *MSchG*.

Section 174 Para. 1 *LAG* 2021 prohibits, as previously, expecting or nursing mothers employed in agriculture from working at night. They must not work between 7 pm and 5 am. Where it is necessary to rearrange working conditions in response to a pregnancy, a pregnant employee is entitled to remuneration equal to the average amount received during the 13 weeks prior to altering

the conditions, in accordance with Section 180.

In the case of Federal Government employees, if due to the prohibition of night work a job change is necessary or the employee cannot be deployed, the same provisions apply as in the case of private sector employees (Section 14 *MSchG*) in relation to continued remuneration, i.e. normally the average amount received during the previous 13 weeks is due. Where an expecting mother's employment is prohibited prematurely, in the case of public-service employees the entitlement to payments based on Section 13d of the Salary Act (*Gehaltsgesetz, GehG*) 1956, Federal Law Gazette no. 54/1956, and, in the case of contractual public employees the entitlement based on Section 24b *VBG*, takes priority over the entitlement set out in Section 14 *MSchG*. This means that female public-service employees normally continue to receive their average salaries, while contractual public employees - where they do not receive maternity benefits from a social security institution - are paid salary supplements to top up the amount to match the previous average.

5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

- a) *Please provide updated information to confirm that no loss of pay results from the changes in the working conditions or reassignment to a different post and that the women concerned retain the right to return to their previous employment at the end of the protected period.*

The same conditions continue to apply, so that a female employee who as an expecting mother is not permitted to work for workplace-related reasons as set out in Section 4 *MSchG* and Section 171 *LAG* 2021 is entitled to remuneration equalling the average amount received during the 13 weeks prior to the change, in accordance with Section 14 *MSchG* and Section 180 *LAG* 2021; the same similarly applies to a female employee who as a nursing mother is not permitted to work for workplace-related reasons as set out in Section 4a *MSchG* Para. 2 and Section 173 Para. 2 *LAG* 2021.

The maternity leave periods do not entail any changes to the employment contracts. Employers are consequently required to employ returning female workers at the jobs originally stipulated in the particular employment contract and actually held previously, thereby complying with women's right to return to the same or equal employment.

In the case of Federal Government employees, if due to the types of prohibited work listed above a job change is necessary or the employee cannot be deployed, the same provisions apply as in the case of private sector employees in relation to continued remuneration, i.e. normally the average amount received during the previous 13 weeks is due (Section 14 *MSchG*).

During a prohibition or restriction of work the employment relationship continues to be in force, and once the temporary change is no longer in effect the employee must be employed at the job held before the change occurred.

Article 16 – The right of the family to social, legal and economic protection

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

- a) *Please provide updated information on measures taken to reduce all forms of domestic violence against women including information on incidence and conviction rates.*

The fight against gender-based violence has been high on the political agenda of the Austrian government. This is also reflected in the current government programme 2020-2024. Accordingly, Austria has sent a clear signal by drastically increasing the women's budget in recent years:

- 2019: EUR 10.2 mio.
- 2020: EUR 12.2 mio. (+ ~20%)
- 2021: EUR 14.7 mio. (+ ~20%)
- (2022: EUR 18.4 mio (+ ~25%))

Most of the budget is allocated to measures combating violence against women and girls. Moreover, additional financial resources (amounting to EUR 24.6 mio., known as “Violence Protection Package 2021”) were allocated by the Minister of Women, the Minister of the Interior and the Minister of Justice to the fight against violence and victim protection in 2021. Please find some of the recent measures taken by the Minister of Women below. Further information on measures taken is to be obtained from the implementation report of the Istanbul Convention, please see <https://www.bundeskanzleramt.gv.at/agenda/frauen-und-gleichstellung/gewalt-gegen-frauen/istanbul-konvention-gewalt-gegen-frauen.html>. The implementation report was prepared by the National Coordination Body, which is located within the Division for Women and Equality.

Measures concerning counselling services

Following a public tender in 2013, Violence Protection Centres were established in each of the Austrian *Laender* and commissioned for an unlimited period of time (*please see previous reports*). The “Violence Protection Package 2021” led to an increase in funding up to 50% (together with the Minister of the Interior). In autumn 2021, the respective contracts were adjusted to include additional counselling services, including:

- cooperation with regard to security police case conferences and victim protection-oriented perpetrator work
- cooperation with the newly established “Counselling Centres for Violence Prevention”
- counselling services covering the augmented aspect of cyber violence and
- the pro-active aftercare (i.e. actively contacting victims after the counselling has been completed to ensure a sustainable impact of the support)

Also, the budget of the “Intervention Centre for Trafficked Women” was increased by 50%.

In 2019, an additional four specialist counselling services sites for victims affected by sexual violence were established in those *Laender* in which no specific counselling service had been available previously (Burgenland, Carinthia, Lower Austria and Vorarlberg). Thus, there is at least one specialised support service point for victims of sexual violence in each of the Austrian *Laender*.

Also, a new “Counselling Centre for Women affected by Forced Marriage” was established in the western part of Austria.

Additionally, a one-year pilot phase of cross-border admission of high-risk victims in women’s shelters started in January 2021. The Division for Women and Equality led the related negotiations.

Public relations activities including awareness raising campaigns and information

As a result of the Russian attack on Ukraine, the brochure “Violence against Women – Support Organisations” was updated, translated into Russian and Ukrainian and uploaded on the website of the Ministry for Women, please see <https://www.bundeskanzleramt.gv.at/agenda/gewalt-gegen-frauen/>

[frauen.html](#).

A media campaign was conducted as part of the international campaign “16 Days Against Violence” in November 2021. The aim of the campaign was to put the service of “Violence Protection Centres” on the map. The campaign was implemented in print media as well as on info screens in public transport or bus stops and stations.

In 2020 and 2021, two “Summits on the Protection of Violence against Women” were held. The meetings served as a platform for exchange and discussion with the overarching goal of bringing together all relevant stakeholders. The Summit in year 2021 focused on the importance of clinical forensic medicine for violence prevention and protection.

In Summer 2019, a joint social media campaign (Facebook, Twitter, Instagram) on knockout drops was implemented (together with the Minister of the Interior). The campaign primarily targeted girls and young women. Overall, 30,000 people were reached.

COVID-19 pandemic

In order to draw attention to the increased risk of domestic violence due to exit restrictions and the support services available, press conferences were regularly held by the Minister of Women, the Minister of Family Affairs and the Minister of Justice. Additionally, counselling services were advertised via information flyers distributed at retail chains, police stations, supermarkets, pharmacies and medical practices. Also, an information campaign was launched in daily newspapers and digital media.

Project calls

The Ministry of Women launched public tenders in the amount of EUR 1.25 mio. in 2020 and of EUR 1.6 mio. in 2021 for projects on the “protection and prevention of women and girls against violence”. Numerous projects throughout Austria were selected and implemented in the years 2020 to 2022.

Furthermore, there was another project grant of EUR 2 mio. for projects improving the integration of migrant women and girls with a focus on violence protection in 2021.

Research studies

Austria will be among the first countries in the EU to finish the prevalence study “gender based violence 2020/2021” (Gender based violence survey) in autumn 2022. The “Pretest” was conducted in the years 2018 and 2019.

A qualitative and quantitative research study on all homicides against women of the past 10 years (2010-2020) was commissioned to acquire knowledge of the circumstances under which murders were committed and take targeted measures as a consequence. First data was presented at the “2nd Violence Protection Summit” in November 2021 (*please see information above*). The final results are expected in autumn 2022.

Additionally, Austria participated in the EIGE prevalence study „Estimation of the number of girls at risk of female genital mutilation in the EU“ 2020/2021, which estimated the risk to become a victim of FGM in Austria.

Moreover, the Minister of Women is a cooperation partner in the study “No room: Cyber violence against women in (ex)-partnerships” 2020/2021, which aims to analyse the specific form of cyber domestic violence.

Information on incidence and conviction rates

The National Coordination Body of the Istanbul Convention is responsible for preparing subject-specific data for the public. To this end, a specific website has been set up. The co-ordinating body collects data from various sectors, compares the data on an annual basis and publishes the outcomes online, please see <http://www.coordination-vaw.gv.at/daten/>

The following topics are covered:

- Violence against women in Austria and the EU
- Women's shelters
- Women's helpline

- Violence protection facilities
- Criminal data (incl. physical violence, sexual violence, psychological violence, etc.)
- Data from the justice sector, for example data on convictions or statistics of the justice department on specific crimes

In response to the request for information on the frequency of domestic violence and corresponding sentencing rates, it needs to be noted that **no all-encompassing or standard definition exists in Austria for the term “domestic violence”**; elements of domestic violence can refer to, involve and be part of a number of various specific offences enumerated in the Austrian Criminal Code (e.g. criminal offences against life and limb, offences restricting freedom or crimes in violation of an individual’s sexual integrity or right to self-determination). Current data do not allow us to distinguish by specific offence the **number of cases involving crimes committed within the immediate social environment (and specifically in the context of a partner relationship)**.

Future annual evaluations could utilise the **definition of family (FAM) offences first standardised in late 2021** through Decree 2021-0.538.674 (Policy Guideline governing the Criminal Prosecution of Offences in the Immediate Social Environment, 3rd edition; *Richtlinien zur Strafverfolgung bei Delikten im sozialen Nahraum, 3. Auflage*), i.e. “violence in the immediate social environment or criminal offences committed within the family”. Yet it nonetheless needs to be noted that entering cases as “FAM” in the Justice Ministry’s case database depends on how conscientious the particular unit or official responsible for deciding the case is, so that in the future it will probably still be difficult to supply precise data on domestic violence.

In Austria, the **Istanbul Convention of the Council of Europe** has been in force since August 2014 and we are trying our best to meet the related requirements as good as possible. In 2016, Austria was one of the first countries to undergo a country review with regard to the implementation of the Istanbul Convention. The **report** on the review emphasised that **Austria has played a pioneering role in the protection against violence** for 20 years and recognises Austria's commitment to combating violence against women. The prohibition of entry (“barring order”, *Betreuungsverbot*) for perpetrators of domestic violence and also the legal and psycho-social support for victims of violence during proceedings are mentioned as particularly successful measures.

During the last few years, **numerous measures** have been taken to **combat domestic violence in Austria**. In addition to the regular exchange in the **interministerial working group “Protection of Women against Violence”**, the Ministry of Justice is continuously working on improvements for victims of (gender-specific) violence.

In Austria, **victims of domestic violence** can rely on efficient **protection measures in criminal proceedings and a variety of victims’ rights** as improving the related measures has always been a key issue and matter of utmost importance for Austrian authorities. Even before the implementation of the Victims’ Rights Directive, the national level of victim protection was particularly high, which is why the Republic of Austria has always played a leading role in terms of strengthening victims’ rights and is making great efforts to implement the provisions of the Istanbul Convention” and the corresponding GREVIO recommendations.

As a result of the **Criminal Procedure Code Amendment Act I 2016**, all **victims of domestic violence** are considered **particularly vulnerable in any event**, which means that according to Section 66a Para. 2 of the Austrian Code of Criminal Procedure (*Strafprozessordnung, StPO*) they have special rights during the criminal proceedings in addition to the general victims’ rights. These rights include for example to be interviewed in a protecting manner (Sections 165, 250 Para. 3 StPO) in the investigation and the trial phase upon their request. This means that the public prosecutor, the accused person and their lawyer are not present in the room where the interrogation takes place, but can follow the interrogation via video equipment. Moreover, victims of domestic violence must be given adequate time to respond before prosecution is terminated.

Victims of violence also have the right to **free psycho-social and legal assistance in criminal proceedings**, where this is necessary to preserve the rights of the victim, taking into account their personal concerns.

The **Protection Against Violence Act 2019** introduced numerous **stricter penalties** (e.g. for the offences of continued use of violence, rape or stalking) and improved the existing protection order system. It further **broadened the group of victims of domestic violence** and also included victims who have experienced violence in any form in their close social environment such as victims of persistent stalking (Section 107a StGB) or victims of conflict situations in their neighbourhood. It also led to further improvements of victims' rights through clarifications in the Code of Criminal Procedure (e.g. the right to information, the right to receive a free confirmation of report/interrogation record, the right of certain victims/witnesses to request questioning via a video link or pre-recorded video in the investigation proceedings and the trial) and amendments to the Criminal Records Act (*Strafregistergesetz*) (including the introduction of a new "Criminal Records Certificate for Care and Support", *Strafregisterbescheinigung Pflege und Betreuung*).

Most recently, the Hate on the Net Combat Act (*Hass-im-Netz-Bekämpfungsgesetz, HiNBG*), came into force on 1 January 2021. It further extended the **psycho-social and legal assistance in criminal proceedings** for victims of hate on the internet and for **minor witnesses of family violence** in accordance with the Istanbul-Convention and made it significantly easier for victims of hate on the internet to enforce their rights (for details please see the answer to Art. 19§1).

During the **COVID-19-crisis**, the prosecution of perpetrators and access to justice for all victims – and thus also for victims of violence – was guaranteed at all times. Also, the protection that was provided by protection orders was and remains unchanged during the pandemic; there were and are no restrictions in the court system in this regard. Rather, improvements were implemented, so that, for example, persons in quarantine could file an application for a protection order via the police.

Currently, at the **EU level** the **proposal for a directive on combating violence against women and domestic violence** is being discussed, which aims to effectively prevent and combat violence against women and domestic violence and includes measures in the areas of

- Criminalisation of and sanctions for relevant crimes,
- Strengthening victim protection and access to justice,
- Victim assistance,
- Prevention and
- Coordination and cooperation.

The proposal for a directive is currently being discussed in a subgroup of the Council working group COPEN set up specifically for this purpose.

Furthermore, the following practical measures have been introduced:

1. Decree "Guidelines for the Prosecution of Domestic Violence"

The Federal Ministry of Justice has issued the Decree "Guidelines for the Prosecution of Domestic Violence" for the public prosecutor's offices in cases of violence against women or domestic violence on 3 April 2019. The Decree focuses on the comprehensive collection of evidence, the cooperation between the public prosecutor's office and the criminal police, the question of detention including the assessment of the accused's dangerousness as well as the special features of the public prosecutor's stand-by duty.

After more than one year of application of the Decree, it was revised taking into account the experience gained and suggestions made by the public prosecutor's offices, the police and the victim protection institutions and published in a second edition on 17 December 2020 including a **checklist** to be used to determine the factors relevant for a risk assessment. The latter is relevant especially to the stand-by duty prosecutors in public prosecutor's offices and the question of whether pre-trial detention is deemed necessary.

On 1 October 2021, the third edition of the decree "Policy Guideline governing the Criminal Prosecution of Offences in the Immediate Social Environment" came into force, which focused, firstly, on further emphasising the principle of immediacy and the direct taking of evidence by the public prosecutor's office by stipulating the goals of direct questioning of suspects by the public prosecutor's office and participation of the public prosecutor's office in case conferences of the police. The second focus of the new edition was on improving the data collected on domestic violence. For the first time, the Decree provided for a uniform definition of violence in the social

environment throughout Austria in order to close existing data gaps and to be prepared for international comparisons. On this basis, scientific work and considerations on further measures in the field of prevention can begin.

2. Federal exchange of experience on the topic of "Violence in the social environment"

On 29 September 2021, the Federal Ministry of Justice organised a meeting for the **exchange of experience on the topic of "violence in the social environment"** between representatives of the public prosecutor's offices, the courts, the Federal Criminal Police Office, the Federal Ministry of Women, Family, Integration and Media as part of the Federal Chancellery, victim protection institutions, the probation support organisation NEUSTART and the lawyers' organisation. This exchange at the federal level is planned to take place annually in the future and serves to improve communication and networking between the institutions involved as well as to jointly develop best practices at the federal level and to discuss upcoming challenges and problems on the basis of previous cases.

3. Study "Investigation of female homicides 2010-2020 – a quantitative and qualitative analysis"

In autumn 2021 the Institute for Conflict Research (IKF) was commissioned to conduct a study entitled **"Investigation of female homicides 2010- 2020 – a quantitative and qualitative analysis"** in order to improve the related data and knowledge base, to identify and analyse gender-specific differences and motives, and to gain insights into additional prevention and intervention options. The first results of this comprehensive study were presented at the violence protection summit at the Federal Criminal Police Office on 23 November 2021. The study is expected to be completed by the end of 2022. Its goal is to provide starting points for further measures in the field of law enforcement.

4. Establishment of outpatient clinics for victims of violence (*Gewaltambulanzen*)

Especially in proceedings involving domestic violence, the earliest possible and well-founded objectification of injuries is a central topic of evidence. Meaningful expert forensic medical reports can significantly increase the likelihood of convictions.

In order to effectively combat the shortage of forensic medical experts that has prevailed in Austria for years and to enable the expansion of outpatient clinics for victims of violence (*Gewaltambulanzen*), talks are currently underway between the relevant ministries, including the Federal Ministry of Justice, to establish the status quo in the field of clinical forensic examinations of victims of violence and to establish 24/7 outpatient clinics for victims of violence on the basis of **Article 25 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)**.

Since 1 July 2022 courts have had the option to order those found guilty of violent crimes to participate in violence prevention counselling. As a prerequisite, the court ruling in a case involving protection from violence in dwellings (Section 382b Enforcement Code, *Executionsordnung, EO*) or general protection from violence (Section 382c *EO*) must previously have issued an interim injunction and the subject of the injunction must not previously have taken part in violence prevention counselling under the Security Police Act (*Sicherheitspolizeigesetz, SPG*). Within five days after the injunction is issued, the subject of the injunction must contact a counselling centre to make an appointment, and later actively participate in violence prevention counselling. First counselling must take place no later than 14 days after the individual contacts the centre.

As part of an overall reform of enforcement laws, taking effect as of 1 July 2021, victim protection organisations were granted (limited) statutory powers of representation (Section 382f Para. 1 *EO*), as described in the following. The endangered party can opt for representation by a victim protection organisation when petitioning for the issue of an interim injunction to protect them from violence (Sections 382b and 382c *EO*) or to prevent interference with their privacy (Section 382d *EO*) or when submitting additional documents in appeal proceedings (Section 25 Para. 3 *SPG*).

In addition, child and youth welfare services and the custody court are to be informed immediately if it is evident from the case documentation that a minor is living in the dwelling addressed by the interim injunction (Section 382h Para. 2 no. 2 *EO*). These parties must be informed of the details of the court decision on the petition seeking the issue of an interim injunction to protect from violence or to prevent interference with privacy, as well as of any decision lifting the injunction.

The Austrian Protection Against Violence Act (*Gewaltschutzgesetz*) 2019 widened the scope of a

general injunction to protect against violence through a supplementary clause banning the subject of the injunction from going near the petitioning party or certain designated places within a designated radius (Section 382c Para. 1 no. 3 EO). Similarly, the scope of an injunction to protect against stalking was broadened, now banning perpetrators from going near victims as described above, as well as prohibiting the publication (for example on the internet) of details or images from the victim's intimate private life as well as stipulating the requirement to remove such content (Section 382d Para. 1 no. 7 and 8 EO).

b) *For States Parties not having accepted Article 31, please provide updated information on the availability of adequate affordable housing for families.*

Due to the war in Ukraine, there was a strong need for housing in the short to medium term. The amendment to the Ordinance governing the financial management of limited-profit housing associations (*Gebungsrichtlinienverordnung, GRVO*), which came into force on 14 September 2022, allows for the cost-effective and short-term housing of displaced persons by limited-profit housing associations (*gemeinnützige Bauvereinigungen*).

Generally, reference is made to the previous report and, by way of example, to specific provisions applicable in individual *Laender*:

Vienna:

Roughly 6,200 new SMART flats (i.e. newly built flats with ideal use of space and comparatively low rents) and about 750 council flats (*Gemeindewohnungen*) were built in Vienna in the past five years. These flats can be awarded without restriction to third-country nationals. Residents of SMART flats (with an average of 65 square metres living space) must put up a one-time financing contribution of EUR 60 per square metre living space as well as a monthly gross rental fee of EUR 7.50 per square metre living space, while council flats are not subject to a financing contribution.

Families under the care of the Vienna child and youth welfare services who urgently need accommodation (*dringender Wohnbedarf*) can request assistance from the child and youth welfare services when applying for council housing or emergency housing (*Notfallwohnung*). The Vienna child and youth welfare services can also issue a recommendation for families previously refused by Wiener Wohnen, the city housing agency thereby assisting such families in finding affordable housing.

Upper Austria:

Upper Austria ensures the availability of affordable housing through two avenues, the non-profit housing system as well as supplementary regulations relating to the construction of affordable living space under the housing subsidies system. These regulations apply to aspects including structural or furnishing standards, maximum construction costs and maximum rental fee components that tenants are charged as a financing contribution to building costs.

Subsidised housing projects involve an annual building programme that results in about 2,000 new subsidised rental units each year on average. Despite rapidly rising building and energy costs, thanks to supplementary spending by Upper Austria's housing government department construction output was able to be kept at a level comparable to previous years.

In addition to constructing rental units, flat ownership is also supported through mortgage subsidies for both private flats and owner-occupied houses.

Tyrol:

Between 2012 and 2021, under its housing subsidy system the *Land* of Tyrol erected in total 21,480 new flats. Rental fees charged for subsidised flats are substantially lower than market averages. Experience has shown that these flats are affordable even for socially disadvantaged population groups. Subsidised housing is awarded foremost to families.

The Tyrol Government also grants housing allowances to families whose incomes are unreasonably burdened by housing expenses.

Vorarlberg:

The Vorarlberg Housing Subsidies Act (*Vorarlberger Wohnbauförderungsgesetz, V-WBFG*), State Law Gazette 31/1989 as amended, is the basis for granting subsidies for the purpose of erecting and refurbishing housing and for granting housing allowances.

This Act also serves as the legal basis for the policy guideline governing the award of non-profit rental housing, with and without an ownership option, as well as assisted-living units. The guideline, originally issued in 2015, was revised in 2021. Such flats are awarded at municipality level, in accordance with uniform guidelines for all of Vorarlberg and based on objective criteria for assessing urgency. These criteria mostly consider the previous housing situation, i.e. the reasons for an application, but also applicants' social circumstances and here in particular their income situations.

In the case of families, special consideration is given to: whether the previous dwelling offers adequate space and a sufficient number of rooms, the number of children (including children with visiting rights or subject to shared custody rights), and whether a single parent is involved.

Non-profit housing comprised a total of 21,409 flats as of 31 December 2021, with the local municipality in each case entitled to allocate the housing.

Under a building programme agreed between the *Land*, municipalities and non-profit building associations, this number will be supplemented each year through additional new units, at least 350 and as many as 800. When tenant fluctuation among existing units is added to the new flats built, roughly 1,600 dwellings can be awarded each year to registered applicant households.

Supplementary to awarding flats at municipality level, the Vorarlberg-wide project referred to as SNW (*Soziales Netzwerk Wohnen, Social Housing Network*) targets the homeless as well as individuals in precarious housing situations.

Vorarlberg also provides residential assistance to the homeless, emergency accommodations, and mobile housing advice and care.

A coordination office has also been set up to prevent evictions. The office coordinates communication and activities between building associations, municipalities, courts, public authorities, and mobile housing advice and care services.

To supplement non-profit housing, through the Landlord/Landlady Security (*Sicher Vermieten*) programme the Vorarlberg Government provides security guarantees to private landlords/landladies for the case of rental payment defaults and for refurbishing expenses. In exchange, they agree to lease previously empty flats at agreed maximum fees to people registered with municipalities as applicants for non-profit rental flats. Under this programme, an additional approx. 40 affordable flats are awarded each year from the private housing market.

Salzburg:

As specified in Section 1 Para. 1 no. 1 of the Salzburg Housing Subsidies Act (S-WBFG) 2015, the goal of housing subsidies is to allow the population of the *Land* of Salzburg to procure, through financial aid (subsidies) and under affordable conditions, quality accommodation that is located in healthy surroundings designed to offer variety.

Construction of residential homes is subsidised through one-off non-repayable grants. 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.

Only individuals recognised as eligible in accordance with the Salzburg Housing Subsidy Act (*Wohnbauförderungsgesetz*) can apply for a housing purchase or construction subsidy or for a housing allowance. To be eligible, applicants must fulfil the conditions that are enumerated under Section 11 of the act referred to above, including: proof of housing need (Para. 1 no. 2); an income

level below a defined maximum (no. 5); and Austrian citizenship or **equal status**, based on EU law or a **bilateral State agreement**, or asylum status (the latter does not apply to rental flats).

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.

Funding for subsidised housing is limited, so that access to housing subsidies is limited in Salzburg's system, for example based on maximum income, while this is the case in most of the other *Laender* as well. Yet as mentioned above, nationals who based on EU law or a **bilateral State agreement** or asylum status are considered equal to Austrian citizens are not in a less favourable position when applying for housing subsidies.

On the other hand, subsidy laws do not require applicants for rental flats built using subsidies to be Austrian citizens or have equal status. In this regard, full equality exists for all non-Austrians, even beyond the requirement of the Social Charta.

Such absolute equality also applies when granting housing allowances for subsidised housing to individuals, since tenants of subsidised flats are the subjects of special funding. The same applies to housing subsidies granted for refurbishing flats.

Styria:

Regulations for determining the amount of housing subsidy awarded for constructing privately owned flats and rental units in Styria distinguish based on amount of living space and number of persons per household. Here, the eligible amount of usable floor space is 90 square metres for one to four household residents, increasing by 10 square metres for each additional person. The maximum flat size is 150 square metres.

Additional funding is available for privately owned flats and rental units as well as residential homes constructed under consideration of ecological aspects (Section 7c Implementing Ordinance governing the Styrian Housing Subsidy Act). Here, annuity subsidies are granted for capital market loans, other third-party funds and own funds, where such financing has a term of 30 years based on the outstanding capital, at a general rate of 1.5% and 2.5% for rental flats (Section 7 Para. 2 lit. b leg. cit.). These subsidy amounts can be granted for funding that is invested in the project to cover building costs, with a maximum of EUR 2,100 granted per square metre of usable floor space under the condition that cost per square metre of space does not exceed EUR 2,600. The cost per square metre of usable floor space can be a maximum of EUR 2,850 in the case of projects involving innovative energy technologies, wooden structures and small-scale buildings (with a maximum of nine dwellings), or which (potentially) support assisted living.

The Housing Subsidies Act (*Wohnbauförderungsgesetz*) provides for subsidies for the building of flats, residential homes and owner-occupied houses, 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%).

c) Are family or child benefits provided subject to a means-test? If so, what is the percentage of families covered?

No. Families are entitled to these benefits irrespective of the financial circumstances of the parent applying for the subsidy.

d) *Please provide information about the amounts paid in child/family benefit as well as the median equivalised income for the reference period.*

The level of **family allowance** varies according to the child's age and number of children.

The following amounts are applicable per child and month:

- 0-2 years EUR 114
- 3-9 years EUR 121.9
- 10-18 years EUR 141.5
- 19 years and older EUR 165.1

Based on the progressive scheme for each additional child, the monthly family allowance is increased as follows:

- a) 2 children: EUR 7.10 per child
- b) 3 children: EUR 17.40 per child
- c) 4 children: EUR 26.50 per child
- d) 5 children: EUR 32 per child
- e) 6 children: EUR 35.70 per child
- f) 7 or more children: EUR 52 per child
- The supplement for a with **significant disabilities** is EUR 155.9 per month.

Along with the family allowance, a tax credit for children of EUR 58.40 per child monthly is granted (no separate application required).

School start benefit: A school start benefit of EUR 100 for each child between the ages of 6 and 15 is paid out along with the family allowance for September. No separate application is required.

Child benefit supplement: A one-time child benefit supplement (*Kinderbonus*) of EUR 360 was paid out along with the family allowance in September 2020.

A **multiple-child supplement** of EUR 20 per month has been due for the third and each additional child for whom family allowance is granted. This supplement is granted only if the taxable family income did not exceed EUR 55,000 in the calendar year preceding the year for which the application is filed.

Childcare benefit (*Kinderbetreuungsgeld, KBG*)

Lump-sum option ("KBG account"): Under the option with the shortest term, parents receive EUR 33.88 each day until day 365 following their child's birth (roughly EUR 1,000 monthly). The benefit period is extended to day 456 if the other parent shares in care leave. Under the option with the longest term, parents receive EUR 14.53 each day until day 851 after their child's birth (until day 1063 if the other parent shares in care leave). Parents are free to choose the preferred entitlement period (365–851 or 456–1063 days), the amount depending on the chosen benefit period.

Under the income-dependent option, parents receive 80% of the entitled parent's most recent income before the child's birth, limited to EUR 66 a day (roughly EUR 2,000 a month) and until day 365 after birth at most, or day 426 where the other parent shares in care leave.

A “partnership bonus” can be collected in addition to the childcare benefit: 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 to a one-off payment of EUR 500 at the end of the period for which the benefit was granted.

A family time bonus of EUR 22.60 per day is available for the entitlement period chosen by the child’s father of 28 and 31 days.

e) *Is there a length of residence requirement imposed on nationals of other States Parties lawfully resident in your country for eligibility to child/family benefits?*

No. Once the parent and the child have lawfully settled in Austria in accordance with the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz*), the parent is entitled to childcare benefit and to the family time bonus from the first day onward.

f) *What measures have been taken to ensure that vulnerable families can meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services)?*

Vulnerable individuals and families can apply for a heating allowance, available everywhere in all Austrian *Laender*. This annual benefit is intended to compensate the additional financial burden arising from heating bills. The amount varies among the *Laender*, as responsibility for the benefit lies with them (and not the Federal Government). Payment is contingent on maximum income levels.

	Lower Austria	Salzburg	Styria	Vorarl-berg	Upper Austria	Burgen-land	Carinthia	Tyrol	Vienna
maximum 2022	EUR 150	EUR 180	EUR 170	EUR 330	EUR 175	EUR 165*	EUR 230	EUR 250*	EUR 200/500*

* Independently researched (Vienna: *Energiebonus* and *Energieunterstützung Plus* programmes)

The Ministry of Social Affairs has introduced a “Housing Umbrella” (*Wohnschirm*). The programme provides assistance to tenants no longer able to meet rental payments, for example as a result of unemployment or temporarily reduced working hours, and at risk of eviction or losing their flats. The umbrella covers rent payments that became due after 1 March 2020 and were not met due to the COVID-19 pandemic.

At 28 contact points throughout Austria, the Housing Umbrella offers free advice, thereby supplementing existing other rent-related support afforded at *Laender*, cities/towns and municipal levels.

The Federal Minister of Social Affairs, Health, Care and Consumer Protection (BMSGPK) provides an additional EUR 24 million for the period of 2021 to 2023 to tackle the impact of poverty in the wake of the pandemic. An “Energy Umbrella” (*Energieschirm*) is currently under consideration. See Wohnschirm (in German)

In addition, reference is made, by way of example, to specific provisions applicable in individual *Laender*:

Upper Austria:

Vulnerable families are among those eligible for social assistance, granted in accordance with the Upper Austria Social Assistance Implementing Act (*Oberösterreichisches Sozialhilfe-Ausführungsgesetz, OÖ. SOHAG*). Social assistance also covers energy-related needs: As stated in Section 2 Para. 1 OÖ. SOHAG, social assistance benefits are aimed on the one hand at helping to cover general living costs, but also at assisting in housing needs. Section 2 Para. 3 defines housing needs to include heating, electricity and other general operating costs.

By way of additional support for low-income households (including low-income families) the Upper Austrian Government pays out annual heating allowances. This benefit, extended since the 2021/2022 grant period, amounts to EUR 175 per year, which is paid out to about 15,000 households on average.

Lower Austria:

The Lower Austrian Government has in recent years approved heating allowances for socially vulnerable individuals, EUR 135 for the 2018/2019 and 2019/2020 heating seasons, EUR 140 for the 2020/2021 season, and EUR 150 for 2021/2022.

Another programme involves assistance for families. This programme is aimed at helping families maintain their households and a structured family life, as well as at social integration of families. In addition to advice and counselling, assistance is provided in the form of programmes for creating and maintaining living space. Social assistance is extended through repayable interest-free loans or through non-repayable benefit payments.

Salzburg:

Measures have been taken as follows:

1. Increased heating allowance:

To compensate the added financial burden arising from heating expense during cold months, Salzburg residents receive assistance in the form of an annual supplement. The heating allowance was increased from EUR 150 to EUR 180 as of 1 January 2022.

An additional hike is to be implemented as of 1 January 2023.

2. Increased reference rates for minors receiving social assistance:

An increase in the monthly reference rate for minors receiving social assistance became effective as 1 July 2022, from the previous 21% (EUR 205.37) to 25% (EUR 244.49) This corresponds to increasing the assessment base by EUR 39.12 monthly. The amendment introducing the changes was adopted by the Salzburg Parliament on 1 June 2022 and was subsequently promulgated on 8 June 2022 (State Law Gazette no. 43/2022).

The amendment is intended as a major step toward easing the burden on vulnerable families and combating child poverty in the *Land* of Salzburg. It is specifically aimed at mitigating the financial challenges posed by the pandemic and recent inflation, especially due to increased living costs related to energy and electricity needs.

3. Increase of the maximum permissible housing expense (*höchstzulässiger Wohnungsaufwand*) under to social assistance:

The rates set for the maximum permissible housing expense were also increased by EUR 1.00 per square metre. The increase, which took effect as of 1 July 2022, responds to the growing financial pressure on households, particularly through rising energy prices.

The related amendment to the Ordinance governing social assistance for housing (*Sozialunterstützungsverordnung-Wohnen*) was promulgated on 30 June 2022 (State Law Gazette no. 46/2022).

In detail, the component of the maximum permissible accommodation cost allotted for electricity and heating costs, previously EUR 2.00 per square metre, was increased to EUR 3.00.

The following measures are currently pending implementation.

4. Establishment of an emergency fund (*Land* Government assistance):

In line with tried and trusted practice, the emergency fund will be managed under *Land* Government assistance, thus avoiding red tape and ensuring ready access. This assistance will be allocated a separate budget for the fund. The group targeted by the fund is more or less identical with the individuals falling within the scope of *Land* Government assistance: people experiencing a temporary and exceptional emergency situation, and those acutely threatened by such a situation, will be eligible for benefits from the emergency fund (including outstanding rental payments, electricity bills or rental deposits, temporary aid to meet living costs). A related policy guideline governing emergency fund assistance is planned, which is to set out eligibility criteria and requirements for receiving benefits.

Styria:

Heating allowance:

Styrian households threatened by poverty receive, on request and once a year, a EUR 170.00 contribution to heating expenses.

Vorarlberg:

Vulnerable families unable to fully meet their energy needs are generally eligible to apply for social assistance benefits under the Vorarlberg Social Benefits Act (*Sozialleistungsgesetz, SLG*). Social assistance takes the form of monetary benefits and benefits in kind, including benefits to help meet housing needs. Housing needs – which have to be covered, as this is a legal entitlement – comprise the recurring expenses required for an appropriate living environment, i.e. rent, household goods, heating and electricity and other general housing maintenance charges and duties. Where advisable in specific cases in order to avoid demonstrable and exceptional hardship, vulnerable families can be granted additional benefits in kind to help them meet exceptional living expenses. In addition, the heating allowance for the 2022/2023 season was increased by EUR 60 from the previous season and now totals EUR 330. The heating allowance is paid out once a year to low-income families. In this connection, the maximum income levels for the various household types were also raised to match the at-risk-of-poverty thresholds as determined by EU-SILC. As a result of the adjustment, a total of 17,000 Vorarlberg households are expected apply for the heating allowance. In the previous season, 12,000 households collected the heating allowance.

- g) *If specific temporary measures were taken to financially support vulnerable families during the Covid-19 pandemic, will they or are they expected to be maintained or withdrawn? If they have been withdrawn, what effect is this expected to have on vulnerable families?*

Corona Family Hardship Fund (Corona-Familienhärtefonds): Support for families affected by unemployment, reduced working hours or drawing on the hardship fund (self-employed) as a result of the pandemic. **Applications able to be submitted from 15 April 2020 to 30 June 2021**, the benefit amount was calculated individually in relation to the financial loss for each family for a maximum of three months. All together about 101,300 families were supported with an average benefit amount of EUR 1,300 (total volume: EUR 132.079 mio).

Family Crisis Fund (Familienkrisenfonds): Support for families who were already receiving unemployment benefit or unemployment assistance on the reference date of 28 February 2020 (EUR 17 million, BKA/VI) for children in families receiving social assistance or minimum income support (EUR 13 million, BMSGPK). This was a **one-off payment of EUR 100** provided for each child in the affected families.

The measures were introduced to support families affected by the COVID-19 pandemic (e.g. lockdowns). As the situation in Austria is stable (as regards, e.g., the level of unemployment) again, the Corona Family Hardship Fund and the Family Crisis Fund have ended.

In addition, reference is made, by way of example, to specific provisions applicable in individual *Laender*:

Upper Austria:

As a part of housing subsidies, the Upper Austrian *Land* Government adopted “COVID-19 housing assistance” on 23 March 2020, a temporary measure involving a grant in the amount of a maximum of EUR 300, depending on a household’s income situation and monthly housing expense. To reflect the varying accommodation situations during the crisis, this immediate aid was available to residents of both rental flats and privately owned flats and owner-occupied houses, and especially when after a lay-off or business shutdown they were suddenly deprived of their monthly incomes or no longer received maintenance payments, so that immediate assistance became imperative in order to meet rental payments or, in the case of private flats and houses, mortgage payments. The initiative, launched in response to acute needs caused by the pandemic, was limited to three months (April–June 2020, with applications accepted until 31 October 2020). The programme was discontinued after the introduction of various types of federal COVID aid, thus avoiding potentially overlapping assistance.

Styria:

Styrian households especially hard-hit by the financial repercussions of the COVID pandemic were eligible for immediate benefits under an existing scheme for aid in special life situations.

Vorarlberg:

After the onset of the COVID-19 pandemic, the government department responsible for housing subsidies approved deferments of instalments for subsidised mortgages in 143 cases, as an aid in bridging income gaps caused by temporarily reduced working hours or unemployment. The assistance measure, proving effective, was maintained even after corresponding federal provisions expired and continues to be applied where justified in individual cases.

- h) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

Conclusions 2019

I. Non-Conformity:

Lower Austria:

Alongside property-based subsidies for construction and refurbishment of residential properties, the Lower Austria Government also grants applicant-based subsidies (housing benefit, housing allowance) to families and individuals if property-based subsidies do not take adequate account of the individual social situation. The Lower Austria Parliament passed the following amendment to the Lower Austria Housing Subsidies Act (*NÖ Wohnungsförderungsgesetz*), State Law Gazette 105/2016:

1, on 17 November 2016. Para. 4 is inserted after Section 4 Para. 3 as follows:

(4) The applicant must have been continuously registered as resident in Austria for at least five years immediately preceding the application for applicant-based subsidies. To prevent social hardship, the *Land* Government can waive this requirement in light of the personal or family circumstances of the applicant. All proceedings relating to granting of applicant-based subsidies which were not yet concluded as of 1 January 2017 are subject to the requirements for subsidies in force until 31 December 2016.

These rules are modelled on Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, which establishes an entitlement to social benefits for these individuals. The recitals of this Directive state that the main criterion for acquiring the status of long-term resident should be the duration of residence in the territory of a Member State. Residence should be both legal and continuous in order to show that the person has put down roots in the country. Under Article 4(1) of the Directive, Member States must grant long-term resident status to third-country nationals who have resided legally and continuously within their territory for five years immediately prior to the submission of the relevant application. Lower Austrian law also makes granting of housing subsidies conditional on integration and individual contribution to the development of the country in the previous five years. From that perspective this period appears to be appropriate. To shorten it would require a statutory amendment, and there are no plans for that at present.

As concerns **Vienna**, reference is made to the previous report. The situation remains unchanged.

II. Deferred Conclusion:

Reference is made to the previous report and, by way of example, to specific provisions applicable in individual *Laender*:

Salzburg:

In Salzburg, rental flats erected using subsidies are also accessible by refugees. Housing allowance, as an applicant-based subsidy payable to tenants of subsidised housing, is also awarded on the basis of absolute equality. Eligibility for housing allowance is based on income (thresholds are applicable that are not allowed to be exceeded). In principle, it is irrelevant whether a recipient's entitlement to basic welfare support (*Grundversorgung*) ends.

The broadest possible group of persons entitled to receive social assistance is set out in the relevant fundamental law. In Salzburg, Section 4 Para. 2 no. 4 of the Salzburg Social Assistance Act (*Salzburger Sozialunterstützungsgesetz, SUG*) includes those who have been granted refugee status in the group of persons entitled to receive assistance. These persons are entitled to social assistance benefits covering both subsistence costs and housing needs from the date on which asylum status is granted. The Salzburg Social Assistance Act defines "housing needs" as necessary expenditure on rent, household goods, heating, electricity, general housing maintenance charges and duties.

Individuals entitled to asylum are not entitled to social assistance benefits as long as they remain in organised accommodation. An entitlement arises when the notice granting asylum has become final and binding and the individual has moved out of the accommodation provided to them. Individuals entitled to asylum who are living in private housing (i.e. not in organised accommodation) and still receiving basic welfare support are entitled (from the date on which the decision to grant them asylum becomes final and binding) to receive top-up social assistance payments for the month they still receive basic welfare support.

Additionally, with regard to the aforementioned "social housing", the Salzburg social services department reports that social assistance recipients are free to move into privately rented or cooperative homes (*Genossenschaftswohnungen*). In Salzburg, help and advice on finding suitable accommodation is provided, inter alia, by social advice services.

Styria:

In Styria, persons entitled to asylum are generally eligible for housing assistance under Section 2 Para. 1 no. 4 of the Styria Housing Assistance Act (*Steiermärkisches Wohnunterstützungsgesetz, StWUG*).

Lower Austria:

Under Section 5 Para. 2 no. 3 of the Lower Austria Social Assistance Implementing Act (NÖ Sozialhilfe-Ausführungsgesetz, NÖ SAG), persons entitled to asylum are eligible for social assistance benefits.

Vorarlberg:

Under the Vorarlberg Housing Subsidies Act (*Wohnbauförderungsgesetz*) and the requirements governing housing allocation, recognised refugees are regarded as equivalent to Austrian citizens in terms of entitlement to housing allowance and social housing regardless of how long they have been resident.

Article 17 – The right of children and young persons to social, legal and economic protection

1. With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;**
- b) to protect children and young persons against negligence, violence or exploitation;**
- c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;**

a) Please provide information on measures taken by the State to:

i) reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth) and

Austria is a signatory to the Convention on the Reduction of Statelessness (original text: Federal Law Gazette no. 538/1974). A special provision allows stateless persons born in Austria to acquire citizenship if their primary residence has been in Austria for at least ten years (Section 14 Para. 1 of the Austrian Nationality Act (*Staatsbürgerschaftsgesetz, StbG*) 1985). Under current practice, this provision is redundant, as stateless persons as defined in the Nationality Act 1985 must be accorded equal treatment to persons with a foreign citizenship, and Section 11a Para. 4 no. 3 StbG 1985 provides that persons born on Austrian territory can acquire citizenship after six years.

ii) facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation. (General question posed in Conclusions 2019).

As a civil status event occurring in Austria, any birth in Austria must be recorded at the registry office (*Standesamt*) under Section 9 of the Civil Status Act (*Personenstandsgesetz, PStG*) 2013 and entered by the registry office into the Central Civil Register under Section 10, Section 35 Para. 1 PStG 2013. Registry offices and registry office associations (*Standesamtsverbände*) comply with this requirement fully. A birth certificate is issued for every birth registered, regardless of whether the individual concerned is an Austrian citizen, a foreign national or a stateless person (Section 52 Para. 1, Section 53 Para. 1 and Para. 3 no. 1 PStG 2013). Births of stateless persons abroad are also recorded in the Central Civil Register if those persons have their habitual residence in Austria (Section 35 Para. 2 no. 2 PStG 2013). The same applies to persons entitled to asylum (Section 35 Para. 2 no. 3 PStG 2013). No special measures are required on this point, at least as regards implementation.

b) *Please provide information on measures taken to:*

- i) child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc.) and*
- ii) combat discrimination and promote equal opportunities for children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.*
- iii) States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.*

Reference is made to the previous report and to the 9th report concerning Article 13.

Additional information, by way of example, by individual *Laender*:

Vienna:

Facilities and services to combat child poverty provided by the Vienna child and youth welfare services:

Services provided by the Vienna family centres (*Familienzentren*):

- Low-threshold access, i.e. free of charge and can be used anonymously Parenting skills for expectant parents and parents of small children
- Advice on parenting-related issues
- Advice in case of financial problems and specific assistance for families with children (clarification of whether emergency grants are payable, facilitating access to charitable funds)
- Advice on/after parental separation/divorce – advice for parents: multidisciplinary team (social workers, social education workers and a medical doctor)
- Objective: Early identification of interaction disorders, failure to thrive and developmental disorders, preventive healthcare for babies and small children, strengthening of parenting skills. Health checks (including vaccinations) including for uninsured children.

These preventive services are aimed in particular at families with limited social and/or financial resources.

- “Vienna Youth Holidays” initiative (*Wiener Jugenderholung*) – subsidised holiday trips for children, families and foster children in Vienna
- Financial assistance (income-dependent) for relatives who have been awarded custody of a child by the *local court (Bezirksgericht)*
- Consultations with the Psychology Service (*Psychologischer Dienst*) of the Vienna child and youth welfare services, opportunities for determining children’s therapeutic needs

and arrangement and funding of places in suitable therapeutic parenting support programmes – costs not paid by health insurance are covered

- Full residential care away from the family home for children and young people in risk situations, in socio-pedagogical institutions and foster care (vetting of foster parents, foster placement and support for foster families)
- Support to live independently (housing applications and furnishings for first home)
- Care and support for young adults up to their 21st birthday
- Housing references and housing applications for families in need and young adults
- Representation of children in child maintenance proceedings and proceedings relating to parentage
- Legal representation for unaccompanied refugee minors in asylum proceedings
- Parental responsibility for unaccompanied refugee minors
- Childcare models for children with disabilities provided by social services, psychology and inclusion section
- Subsidised meals in childcare facilities/nursery schools, childminders, after-school supervision in schools
- Mother and child accommodation for minor-age mothers
- Funding for various child support and protection facilities in Vienna (private parent-and-child centres, Child Protection Centre (*Kinderschutzzentrum*), Institute for Marriage and Family Counselling (*Institut für Ehe- und Familienberatung*), Child Guidance Clinic (*Institut für Erziehungshilfe*), Rainbows, etc.)

Upper Austria:

The key instrument for combatting child poverty is social assistance benefit, which in Upper Austria is governed by the Upper Austria Social Assistance Implementing Act (*Oberösterreichisches Sozialhilfe-Ausführungsgesetz, Oö. SOHAG*). Under Section 6 Para. 1, 2 Oö. SOHAG, social assistance benefit is targeted not only at individuals who are unable to cover their own subsistence and housing needs, but also those who are unable to cover the subsistence and housing needs of dependent relatives living in their households; including children who are not capable of supporting themselves.

As an additional support for single parents, Section 7 Para. 3 Oö. SOHAG provides for the single parent supplement (*Alleinerzieherbonus*). This is a monthly supplement to social assistance benefit which is paid to individuals who share a household only with other persons for whom they have parental custody or for whose care and upbringing they are responsible.

In 2020, a study entitled “Life situations of families at risk of poverty in Upper Austria – approaches to offsetting and combatting the causes” (*Lebenssituation armutsgefährdeter Familien in OÖ - Ansätze zur Kompensation und Ursachenbekämpfung*) was commissioned as a first step to enable planning of measures to offset and combat child poverty.

The objective of the study was to identify poverty-related issues and identify approaches for counteracting them. The study collected reliable, scientifically generated information on the subject of poverty in Austria and compiled the latest research. It also involved collecting specific case histories from affected children and their parents. These specific case histories were included in order to raise awareness and create visibility around the impacts of poverty on opportunities for development and living conditions of children in particular. Through discussion of the findings with experts, potential recommendations for action were identified and examples of good practice gathered.

Based on the research findings, the next step, i. e. consideration and planning of specific measures, is now underway.

On the basis of the Upper Austria Equal Opportunities Act (*Oö. Chancengleichheitsgesetz*), Upper Austria offers diverse forms of support for children with disabilities, such as personal assistance and mobile care. Dedicated children and youth competence centres provide advice and treatment

options to families. An early learning/instruction service focusses on early identification and support for those affected.

There is also an extensive range of treatments, including combined treatment programmes comprising both educational and therapeutic aspects.

For people with visual impairments, there are dedicated training programmes directed towards rehabilitation and integration. An outpatient clinic provides support for deaf and hearing impaired people. It offers both medical and psychological care as well as support with day-to-day living. In addition, the Institute for Sensory and Linguistic Neurology (*Institut für Sinnes- und Sprachneurologie*) offers similar support for hearing impaired people, deaf-blind people, and people with mutism, hearing loss, and sensory processing disorders.

The following measures are intended to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, including ethnic minorities, Roma children, children with disabilities, and children in foster families:

- Focus on integrated sports offers for children with and without disabilities during the first public meeting of the Upper Austria Monitoring Committee (*Oö. Monitoringausschuss*)
- Sports Day in Pichling with the theme of "inclusion in sports" brought together around 100 young people with and without disabilities
- "Reverse integration" of children with special educational needs via integration classes at schools catering for special needs

Vorarlberg:

Measures taken to combat child poverty (including non-monetary measures such as ensuring access to high-quality and affordable services in the areas of health, education, housing, etc.):

Family supplement:

The family supplement provides financial support for families with small children. It is paid for a maximum period of 18 months immediately after payment of childcare benefit ends. Since 1988, families in Vorarlberg have received well over EUR 100 million in family supplement payments.

Sliding scale of parental contributions in elementary education:

To make childcare affordable for parents in Vorarlberg, parental contributions are charged on a sliding scale subject to certain conditions. For families in receipt of minimum income benefits or housing allowance, or with a similarly low net household income, the parental contribution for childcare for up to 25 hours per week can be reduced to EUR 20 per month. The organisation providing the childcare in such cases is reimbursed for the resulting shortfall in revenue by the *Land* authorities.

Sliding scale of parental contributions for school care services (*Schulkindbetreuung*):

The *Land* provides generous subsidies towards the staff costs incurred by school-maintaining bodies in providing school care services, i. e. care during intra-day breaks, after-school and school holiday care. To ensure that socially disadvantaged children can access school care services - both care which is integrated into the school curriculum, and that which is provided separately, the parental contributions charged by the school-maintaining body must be geared towards the financial situation of the children and their parents or guardians. Subsidies for provision of school care services are conditional on parental contributions being structured on a sliding scale.

"Vorarlberg Leave No Child Behind" (*Vorarlberg lässt kein Kind zurück*) initiative:

Vorarlberg wants to enable all children to thrive. All children should have the same opportunities to develop their interests and talents, to feel healthy and content, to be part of a community and to contribute actively to it.

The municipalities and regions in Vorarlberg provide child-oriented environments which promote development and health and take an inclusive approach to access to and participation in social, health and education services for all children and young people and their families, particularly those in difficult circumstances.

Guided by the principle of child-centred thinking, the approach involves, firstly, gearing municipal and regional policies towards the needs of children and young people and, secondly, involving children and young people consistently on subjects that concern them. Stakeholders and services in health, education and social domains are linked to form networks promoting positive growth and development (“chains of prevention”), enabling them to work preventively and in coordination with one another.

Integration assistance under the Opportunities Act:

Integration assistance is usually provided according to the principle of subsidiarity. If a child or young person with disabilities in Vorarlberg requires particular support, there are various services in the areas of health rehabilitation, participation in education and vocational training, participation in working life, participation in society, and measures and services to relieve the burden on families. In complex cases, a support planning worker organises a tailored package of assistance in collaboration with all relevant systems (parents, environment, school, nursery school, etc.).

The Land Ombud Board (*Landesvolksanwalt*) and the Vorarlberg Monitoring Committee are key partners on matters of discrimination and anti-discrimination, and were involved e.g. in the development of the “Vorarlberg Model for Inclusion” (*Vorarlberger Leitbild für Inklusion*).

- c) *Please provide information on any measures adopted to protect and assist children in crisis situations and emergencies.*

Reference is made to the previous report and to the 9th report concerning Article 13.

Additional information, by way of example, by individual *Laender*:

Upper Austria:

To protect the child’s best interests, a range of services providing varying degrees of intervention are available, ensuring, however, that the mildest measure possible is used in each case. Crisis situations requiring an immediate safety plan to be put in place can arise in any setting.

In crisis situations, the counselling offices work very closely with the child and youth welfare services team, which then takes over case management and plans next steps with the family.

The following is a list of bodies and services where crisis situations involving children and young people typically occur: The figures cited are from 2021.

- Streetwork

Streetwork is a low-threshold social work outreach service operating in public spaces for adolescents and young adults. It is aimed at socially disadvantaged individuals and groups (including those from a migrant background) who do not or cannot use the existing support system (parenting support, *Erziehungshilfe*) or who cannot be reached adequately or at all by services provided by existing institutions. These groups are often perceived as conspicuous and often “offending” cliques and subcultures.

- School social work

In Upper Austria, school social work is provided by the child and youth welfare services. The child and youth welfare services and the school administration decide together which schools will receive support during the school year. In the selected schools (referred to as “on-site support schools” - *Präsenzschulen*), social workers are present during fixed hours and can be easily accessed by pupils and teaching staff alike.

This scheme reaches almost 50,000 pupils attending compulsory school each year.

- Child guidance and family counselling

Depending on the region, family counselling offices offer psychological, social work-related, medical and legal advice.

Upper Austria operates child guidance and family counselling offices, which are integrated into the District Commission (*Bezirkshauptmannschaft*), in eight districts.

- Child protection centres

Child protection centres are specialised facilities providing counselling and therapy for all forms of violence against children and young people, such as abuse, mistreatment or neglect.

- Assistance for families in difficulty

Assistance for families in difficulty means the individual services provided on a case-by-case basis by the child and youth welfare services in situations where a need for advice and assistance is identified during social diagnosis, the prognosis for development of the children is unfavourable but there is no risk to their well-being, and the family has an adequate awareness of the problem and willingness to change and voluntarily accepts the help offered.

- Mobile support: Therapeutic and/or socio-educational support

Non-residential/mobile support is agreed with the family if the risk to the well-being of the child or young person can be expected to be averted without removing them from their family or other living environment.

- Full care: Foster families and residential living facilities

If the risk to a child's well-being is such that they cannot remain in the family environment and the risk can only be averted by removing the child from the family or other previous living environment, they must be placed in full care (*volle Erziehung*). Full care means that the child is placed – normally on a long-term basis – with close relatives or foster carers or in a “socio-pedagogical institution”. Socio-pedagogical institutions are either residential or day-care facilities.

- Crisis foster care and residential crisis support

If there is an acute risk to the child's well-being (due to maltreatment, cruelty, neglect or sexual abuse), the child and youth welfare services ensure that a binding framework to protect the child/young person in question is put in place.

In crisis foster care (*Familiäre Krisenbetreuung*), babies and small children whose parents are temporarily or permanently unable to care for them for various reasons are placed with foster families.

In residential crisis support (*stationäre Krisenbetreuung*), children and young people at acute risk are placed in living groups, which provides immediate protection for the child or young person and facilitates de-escalation within the family system.

Emergency accommodation (*Notschlafstellen*) for young people/young adults, apartments and houses for mothers with children:

Mother and child houses are assisted accommodation facilities for homeless pregnant women, or mothers and their children, of full age in emergency situations a, sometimes providing intensive individual casework support for mothers, support and guidance in practical life skills, and sometimes one-on-one and group support for their children.

The emergency accommodation for young people in Linz is a low-threshold resource providing living support for adolescents and young adults aged 14-24 in a situation of acute or imminent homelessness. It provides residents with an opportunity to retreat, put some physical and emotional distance between themselves and the stressful situation of being homeless and reorient themselves. Working in cooperation with other social services bodies, they offer young people advice and support to help them into appropriate housing and living conditions, e.g. via voluntary job training.

Vorarlberg:

Under the Vorarlberg Child and Youth Welfare Act (*Kinder- und Jugendhilfegesetz, KJH-G*), Vorarlberg is required to provide the following support services for minors in crisis situations and emergencies:

Residential care for expectant mothers and mothers with children in emergency situations in accordance with Section 13 lit. e KJH-G: In Vorarlberg, this is provided by the Mother and Children House (*Haus Mutter und Kinder*).

Residential care for children and young people in emergency situations in accordance with Section 14 lit. e KJH-G:

This statutory duty is fulfilled by the following measures and facilities:

- Emergency foster families via the Vorarlberg Children's Village (*Kinderdorf*);
- *Auffanggruppe* - temporary residential care for children in crisis situations provided by the Vorarlberg Children's Village;
- *WG Kompass* - short-term residential care for young people in acute crisis provided by the Institute for Social Services (*Institut für Sozialdienste*);
- *anker* - emergency accommodation for young people operated by the Open Youth Work and Development Coordination Office (*Koordinationsbüro für Offene Jugendarbeit und Entwicklung, koje*).

Tyrol:

Under the Tyrol Child and Youth Welfare Act (*Tiroler Kinder- und Jugendhilfegesetz, TKJHG*), public child and youth assistance services must be provided to minors who have their primary residence, or failing that their habitual residence, in Tyrol. In accordance with Section 40 Para. 2 TKJHG, these services comprise in particular parenting support offerings subdivided into mobile, day-care and residential services. This parenting support can be provided over the short, medium or long term.

Parenting support is of two types: parenting support within the family (*Unterstützung der Erziehung*) or full care in an external setting (*volle Erziehung*). Parenting support within the family comprises all types of support and assistance that can be provided to minors in order to alleviate problems, allow minors to remain in the family home and avert any risk to their well-being.

By contrast, children in "full care" are looked after outside the family home. This is the preferred option if a child's parents or guardians are unable to care for them as necessary for their well-being, and parenting support within the family is not sufficient to ensure this.

Alongside these support measures, the child and youth welfare services also provide social services support in crisis situations. Social services comprise advisory and mobile services and residential and day-care services. Emergency accommodation, temporary housing and advice centres catering specifically to minors in crisis situations and emergencies are available, and minors can seek them out at any time.

All of the aforementioned services provided by the child and youth welfare services serve to protect and support minors in crisis situations and emergencies.

Vienna:

Measures adopted to protect and assist children in crisis situations and emergencies:

- Expansion of mobile parenting support services that help alleviate crisis situations affecting children and young people in the family home (parenting support within the family)
- Expansion of residential socio-pedagogical services
- Creation of a specialist crisis centre – temporary coeducational accommodation for children aged 11-15 and expansion of places in residential socio-therapeutic and socio-psychiatric facilities

Situation of Roma children and young persons:

To implement the EU Roma strategic framework for equality, inclusion and participation for 2020-

2030, the National Roma Contact Point (*Nationale Roma Kontaktstelle*) will devise and implement the National Roma Strategy in close cooperation with Roma civil society by 2030.

There is regular discussion with both civil society and representatives of the competent authorities at Roma dialogue platform events organised by the National Roma Contact Point.

The current National Roma Strategy defines seven priorities, including education, empowerment of Roma youth and combatting antigypsyism.

To build networks between key stakeholders and members of Roma civil society and foster constructive dialogue between them, regular dialogue platform meetings are held on topics including those referred to above. For instance, the 28th dialogue platform in September 2021 focussed on “Roma health and social inclusion” and included the presentation of initiatives such as “Early Help” (*Frühe Hilfen*), “AmberMed”, the “Migrants for Health” (*MigrantInnen für Gesundheit*) project run by Volkshilfe, the intercultural health promotion organisation AFYA *Interkulturelle Gesundheitsförderung* and services provided by the Austrian Integration Fund (ÖIF). The 24th Roma dialogue platform event in November 2019, which was staged in cooperation with the Human Rights Office (*Menschenrechtsbüro*) of the City of Vienna, focussed on empowerment of Roma children and young people. There were presentations on important education and inclusion projects such as the Roma school mediation project run by the association Romano Centro. In this project, native-speaking mediators work in Vienna schools with a high proportion of Roma pupils to support pupils’ learning, help teachers understand the children’s cultural background and living situation, and help parents take a positive approach to school. The work of the Burgenland association Roma Service, which provides free learning support services for Roma pupils, was also presented. Both projects receive funding from the Federal Chancellery’s financial support for ethnic groups (*Volksgruppenförderung*) programme.

The subject of the 29th Roma dialogue platform meeting, which was held in March 2022 in cooperation with the Federal Ministry of the Interior (BMI), was “Combatting hate crime”. There were accounts of discrimination experienced by members of Roma civil society, while the BMI and police representatives talked about options for criminal prosecution.

Dialogue platform meetings bring together representatives of civil society and the authorities, facilitating fruitful discussion, generating awareness and mutual understanding, and providing an opportunity to present information on key concerns and available services to affected individuals and those involved.

- d) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

Non-Conformity

It continues to remain unclear why the Austrian law – stipulating in the Juvenile Court Act (*Jugendgerichtsgesetz, JGG*) that the maximum term of pre-trial detention for up to one year may be imposed only in special (extreme) cases (such as jihadism/acts of terrorism) and stipulating the applicability of the principle of proportionality for imposing pre-trial detention in general; further stipulating that young offenders must be released from pre-trial detention after a maximum period of three months or, for offences falling within the competence of the regional court (*Landesgericht*) sitting as a panel including lay judges (*Schöffengericht*) or with a jury (*Geschworenengericht*), after six months – is not compliant with Art. 17§1a RESC.

The previous position on this question is therefore unchanged.

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

-
- a) *What measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention? (General question, Conclusions 2019).*

The Federal Ministry of Education, Science and Research propagates the approach of "zero tolerance against bullying or violence" as bullying and violence must have no place in schools. Where bullying occurs, consistent intervention is required. Therefore, close cooperation between schools and the psychosocial support system is fostered. The organisation of school life is anchored in cf. inter alia §§ 44 and 64 School Instruction Act. Behavioural agreements are thus part of the house rules provided by law for all schools. This is not only about rights and duties of pupils, but also about establishing a framework of action for all school partners to agree on how to deal with each other. An important strategic goal of the Federal Ministry of Education, Science and Research in this context is to improve the psychosocial support of schools, especially in critical situations.

The Federal Ministry of Education, Science and Research together with the Insurance Institution for Public Employees, Railways and Mining (BVAEB) and the Fund Healthy Austria (FGÖ), has therefore launched a corresponding initiative in the school year 2020/21. The initiative "Well-being zone school" supports teacher training colleges and school actors in the field of health promotion and prevention in carrying out and accompanying school development processes related to psychosocial health and (cyber) bullying prevention at schools. The aim is to make the school environment safe for everyone involved. The spectrum of numerous activities ranges from teachers' qualifications, strengthening the emotional and social competences of pupils through appropriate measures in the classroom to a targeted use of the multi-professional support system.

- b) *What measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children's specific learning environments)? (General question, Conclusions 2019).*

The current government programme stipulates that the participation of young people in social and democratic processes should be promoted. Thus, the Austrian Youth Strategy was established. It ensures that young people are given the necessary instruments and expertise for participation. The instrument of "Reality Checks", among others, contributes to the promotion of young people's participation. The Federal Ministry of Education, Science and Research contributes to a total of 7 youth goals and implements a total of 18 measures, i.e.

- Education and employment:
 - Goal: Pupils leaving the education system have at least core basic competences through compulsory education.
 - Measure: Compulsory education

- participation and engagement:
 - Goal: Through civic education and education for sustainable development, a contribution to the political engagement of youth and young adults is provided in the classroom.
 - Measure: Education for Sustainable Development, Civic Education and Environmental/Political Competences in the 2020 Curriculum Concept (to come into force 2023/24).
 - Goal: Children, youth and young adults are empowered through participation in science and research (Citizen Science) and they actively participate in science and research.
 - Measures:
 - Sparkling Science 2.0

- Children's and youth universities
- Quality of life and togetherness
 - Goal: By promoting social-emotional competences and making school a safe place to learn, the psychosocial health of young people is supported.
 - Measure: Well-being zone school
- media and information:
 - Goal: To enhance young people's digital competences and skills in the classroom and to strengthen their media literacy. So young people leave the education system with the competences that will enable them to use technology.
 - Measures:
 - Media Literacy Award
 - Digi.check Dashboard
 - DigiKomp Free Radios
 - Implementation of compulsory digital literacy in lower secondary education
 - Digital Learning - Making Digital Devices Available to Pupils
 - Goal: Designing framework conditions and structures to support and strengthen young people to actively face crises and to experience themselves as self-effective and capable of taking action. (cross-departmental crisis goal)
 - Measures:
 - Establishment of a nationwide telephone hotline for school psychology.
 - Increasing the number of school psychology staff
 - Offer a buddy academy as part of the summer school
 - Increasing staff in the psychological student counselling service
 - Promotion of entrepreneurship education for children and young people
 - Increase in school and home allowances for pupils
 - Initiation of "A healthy exit from the crisis"
 - Goal: Sufficient financial support for young people to achieve higher educational goals.
 - Measure: annual valorisation of study grants

c) *What measures have been taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children)?*

Numerous measures were taken by the Federal Ministry of Education, Science and Research to counteract any effects caused by the pandemic. In order to compensate for any learning deficits, all schools have been and will be provided with additional support lessons, supplementary lessons were made possible in the 2020/21 school year during the semester break and the summer school offer was established.

In the summer school, targeted support is provided in the subjects German, mathematics and subject matter in the primary level, German, mathematics and English in the secondary level I, German, mathematics, foreign languages and type-forming subjects in the secondary level II. Summer School 2022 also created the opportunity to specifically prepare students for the transition from lower secondary level to upper secondary level schools and colleges. In addition, school-autonomous focus programmes could have been offered for all subjects.

The concept of an inclusive and barrier-free summer school has also been implemented for the first time in the 2022 summer school. The possibility of differentiating the offers into school-autonomous programmes and individual course systems enables an optimal adjustment of the offers to the needs of the registered students.

Furthermore, the strengthening of inclusive educational offers is an essential feature of the quality

of educational offers as well as a component of the long-term strategy for the further development of the education and training system. The contribution of the Federal Ministry of Education, Science and Research to the National Action Plan Disability 2022-2030, which was developed in a participatory process, therefore includes corresponding measures and objectives.

In addition, an expansion of support in the digital field is planned, among other things through the increased use of assistive technologies.

The Federal Ministry of Education, Science and Research is also implementing a series of measures to strengthen pupils' language skills in the interest of educational success and social participation. Knowledge of German as a language of instruction and the gradual development of educational language skills in all subjects is particularly central to this.

Furthermore, in the course of the education reform, the Department of Inclusion, Diversity and Special Education (FIDS) was established in the Education Directorates, whose task includes the provision and coordination of needs-based support.

In order to strengthen the resilience of pupils, but also to counteract possible adverse effects on their educational careers, the Federal Ministry of Education, Science and Research decided to offer motivating, self- and resilience-building online services, especially for pupils at upper secondary level, during the lockdown period in the school year 2020/21. In addition, school psychology was expanded and a nationwide school psychology hotline was established.

Finally, it is pointed out that pre-primary education has also taken place during the lockdown periods for

- children whose parents did not have the opportunity for teleworking,
- children from socio-economically disadvantaged backgrounds
- children with special need for support

Appropriate measures were also taken at schools to reduce the risk of infection so that classes could take place in attendance, including:

- extensive and nation-wide Covid testing (free antigen and PCR tests),
- provision of hygiene materials (mouth-nose protection and FFP2 masks, disinfectants, etc.)
- Provision of air filters

In cooperation with the relevant health authorities, information campaigns on Covid 19 vaccination were conducted at schools and access to vaccination was provided for all age groups for which corresponding vaccines were licensed and available.

In order to strengthen the competences and support of pupils in general and to compensate for learning arrears in particular, the Federal Ministry of Education, Science and Research has made additional resource packages available in the school years 2020/21, 2021/22 and 2022/23 in view of the effects on the school system caused by the COVID 19 pandemic, in particular through longer phases of distance learning. In principle, the offers should or are intended to benefit all pupils, but especially those who are particularly behind in their learning due to the COVID 19 pandemic. In general, the school locations could or can use already existing instruments anchored in school law, in particular division into subjects, small group lessons, remedial lessons and support and accompanying teachers. Remedial lessons:

In order to strengthen the competences and support of pupils in general and to compensate for learning deficits in particular, the Federal Ministry of Education, Science and Research has made additional resource packages available in the school years 2020/21, 2021/22 and 2022/23 in view of the effects on the school system caused by the COVID 19 pandemic, in particular through longer phases of distance learning. In principle, the offers should or are intended to benefit all pupils, but especially those who are particularly behind in their learning due to the COVID 19 pandemic. In general, the school locations could or can use existing instruments that are anchored in school law, especially division into subjects, small group instruction, remedial instruction and support and accompanying teachers.

- d) *Please provide information on the measures taken to ensure that state allocation of resources to private education does not negatively impact on the right of all children to access free, quality public education (based on a Statement of Interpretation from Conclusions 2019).*

- e) *If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.*

Conformity pending receipt of information

Situation of Roma children and young persons:

As described above, the Roma school mediation project, which is run by the association Romano Centro and receives funding from the Federal Chancellery, contributes significantly to the elimination of prejudice in schools and the inclusion of Roma pupils.

Important contributions are also made by other learning support projects, such as the learning support service provided by the association Roma Service, free tutoring provided by the City of Vienna, individual learning support provided by Romano Centro, the *Romblog* project run by the association Lovara Roma Österreich, which aims to teach media skills to Roma young people, and the *Rombus* project of the Burgenland-based association Roma Service, a classroom on wheels and an reply to the question concerning mobile space for providing advice and intensive learning support.

In reply to the question concerning enrolment rates the following information is provided:

		Total net enrolment rate, both sexes (%)			
		2017	2018	2019	2020
Austria	Primary	99,95%	99,96%	99,94%	99,74%
	Secondary	99,84%	99,69%	99,20%	98,78%

Quelle: <http://data.uis.unesco.org/>

		Total net enrolment rate, both sexes (%)			
		2017	2018	2019	2020
Austria	Primary	88,60%	-	-	-
	Secondary	87,00%	-	-	-

Quelle:

<https://data.worldbank.org/indicator/SE.PRM.NENR?locations=AT>

The reason for the relatively low net enrolment rate in the second table: The age-typical group for elementary school (6 to 9-year-olds) is compared with the age group in the resident population.

Since Austria has a kindergarten enrolment rate of about 40% for 6-year-olds due to compulsory schooling (since in most of these cases, compulsory schooling has not yet started), we also have only a quota of 60%. This follows for all 4 age cohorts and results in a quota of approx. 88%. The same principle can be assumed for secondary school.

Information on fines for non-compliance with the compulsory education obligation:

Fines are difficult to name, because in Austria they are not imposed by the schools or school authorities, but only reported by them to the district administrative authorities. The school administration does not know whether the district administrative authorities actually impose fines in a specific case or whether they leave it at a warning, etc. The school administration is not

informed about the fines.

Measures taken to improve educational outcomes for Roma and migrant children, including information on enrolment, drop out and completion rates:

In order to meet the diverse needs of Roma, Austria (in line with the current Austrian Roma Strategy, BKA 2017) focuses its inclusion efforts predominantly on general and structural measures as part of a broader policy to promote social inclusion. Education is a crucial key to the social and economic integration of Roma and consequently a priority area of the Austrian Roma Strategy.

In line with the strategy, the BMBWF focuses on structural measures aimed in particular at improving needs orientation and increasing equity in the education system as well as raising the performance and educational level of pupils and target groups in adult education. In order to better address the different strengths, talents and needs of students in Austria as well as to counteract educational inequalities, comprehensive measures have been implemented for several years and expanded in line with specific demands (e.g. further development of offers in the area of adult education, implementation of the strategy for digitization of school education, strengthening of basic competencies and cultural techniques, strengthening of language competence in German as an educational language in elementary educational institutions as well as improvement of educational transitions and of interface management, strengthened promotion of potentials and talents through systematic diversity management, introduction and implementation of a uniform quality management system at all levels of the school system including an external school evaluation).

These measures play a crucial role in improving the educational outcomes of Roma and Romnja as well. In addition, several measures explicitly targeting Roma and Romnja (e.g. learning assistance programs, use of school mediators) have been and are being implemented and supported.

The current Roma Strategy (2017) provides for the following measures in the field of education:

- Make early childhood education mandatory in the last year of kindergarten
- Expand language support
- Improve the school entry phase
- Expand cooperation between kindergartens and elementary schools
- Expand all-day schooling
- Offer learning assistance programs
- Make use of Roma school mediators
- Offer bilingual education in Burgenland as well as mother-tongue education ("Muttersprachlicher Unterricht")
- Expand career guidance and educational counselling
- Provide offers in the field of adult education.

Special attention is also paid to combating prejudice, racism, discrimination and xenophobia (e.g. through civic education as well as in teacher education and training).

The online teaching material "Romane Thana - Places of the Roma and Sinti" (www.romanethana.at), which was developed on behalf of the BMBWF by the Romano Centro association in cooperation with Wien Museum, counts as an example of success. Within the framework of the Austrian Roma Strategy, the project provides an important impulse to give Austrian pupils and students a better insight into the lives of Roma and Sinti as well their history and stories.

The BMBWF also promotes national and international remembrance and educational work on the genocide of Roma and Sinti. It also promotes the strengthening of the identity and resilience of Roma and Sinti through the IHRA working definition of antiziganism. Furthermore, _erinnern.at_ contributes to the prevention of antiziganism through education. _erinnern.at_, i.a. operates the European learning website www.romasintigenocide.eu, which is now available in 12 languages, including two Roma languages.

In the areas of minority education and mother-tongue teaching, the BMBWF supports the implementation of the Roma strategy with several measures. As an example, it has commissioned

the Board of Education of Burgenland to develop and pilot analogue as well as digital interactive learning materials for competence-oriented language teaching in Romanes at elementary and lower secondary schools (expected project end in 2023).

Information on enrolment, dropout and graduation rates of Roma children is not available, as the ethnic affiliation of members of ethnic groups and minorities in Austria is not collected for historical reasons, as well as for reasons of international law and data protection (cf Roma Strategy BKA 2017).

Further information: *polis* aktuell 2019/08, Roma in Österreich. Emanzipation einer Volksgruppe (https://www.politik-lernen.at/pa_romainoesterreich)

Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

- 1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;**
- 2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;**

3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;
4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:
 - a) remuneration and other employment and working conditions;
 - b) membership of trade unions and enjoyment of the benefits of collective bargaining;
 - c) accommodation;
5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;
6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;
7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;
8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;
9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
10. to extend the protection and assistance provided for in this article to selfemployed migrants insofar as such measures apply;
11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;
12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

No information required. However, if the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

Conclusions 2019 – Article 19 § 1

I. Deferred Conclusion

Information on results and implementation of the Recognition and Assessment Act:

Since 2016, the Federal Ministry of Labour (previously including the areas of social affairs and consumer protection, BMA(SK)) has had a statutory duty under Section 5 Para. 1 of the

Recognition and Assessment Act (*Anerkennungs- und Bewertungsgesetz, AuBG*) to establish a nationwide advisory service and set up advice centres on matters concerning recognition and evaluation and assessment of diplomas and qualifications obtained abroad.

The contact points for persons with qualifications acquired outside Austria (AST) constitute advice centres in accordance with Section 5 Para. 1 AuBG and are financed out of the labour market policy budget. The statutory objective of these contact points is to give information and advice in various languages to migrants and to provide support in procedures relating to recognition and assessment of qualifications acquired outside Austria. This is done in order to accelerate migrants' access to employment commensurate with their qualifications and to exploit the full potential of the skilled workforce.

Advice on recognition of qualifications is provided by four established organisations operating at five main locations across Austria, and via regional consultation days, which have been expanded over recent years. As a result of the COVID-19 pandemic, advisory services are now also provided over the telephone and via video.

Between 2018 to 2021, the numbers served by the AST contact points were as follows:

Year	AST Upper Austria/Salzburg	AST Tyrol/Vorarlberg	AST Styria/Carinthia/Southern Burgenland	AST Vienna	AST Lower Austria/Northern Burgenland	AST - Austria total
2018	1,725	1,020	1,232	3,158	1,050	8,185
2019	1,820	958	1,222	3,204	1,000	8,204
2020	1,421	751	901	2,401	789	6,263
2021	1,552	845	1,018	2,365	919	6,699

Table 1: Number of individuals advised

In **2018**, advice was provided to 8,185 people across Austria – a year-on-year increase of +3.4%. Around 6 out of 10 of those receiving advice (61%) were women. At around 42%, those aged 30 to 39 were by far the largest age group represented. Over half (54%) of those seeking advice had a tertiary degree and a further third (34%) held a university entrance qualification – meaning that almost 9 out of 10 those using AST contact point services had a higher or academic education background.

Sixty-one percent of those receiving advice came from third countries and 39% from EU or EEA countries. The most frequent countries of origin (by nationality) were Syria, Romania, Iran, Hungary and Bosnia and Herzegovina. Almost 4 out of 10 users (38%) lived in Vienna and accessed advice on recognition of qualifications there. Translations of required documents were organised for just under a third of users (32%); one in four users (25%) received help with an application to the Federal Ministry of Education, Science and Research (BMBWF) for assessment of qualifications.

In **2019**, advice was provided to 8,204 people across Austria – a year-on-year increase of +0.2%. Just under two-thirds of those receiving advice (65%) were women. At around 44%, those aged 30 to 39 were once again the largest age group represented. Over half (54%) of those seeking advice had a tertiary degree and a further third (34%) held a university entrance qualification – meaning that almost 9 out of 10 those using AST contact point services had a higher or academic education background.

Fifty-eight percent of those receiving advice came from third countries and 42% from EU or EEA countries. The most frequent countries of origin (by nationality) were Syria, Romania, Hungary, Bosnia and Herzegovina and Iran. Almost 4 out of 10 users (39%) lived in Vienna and accessed advice on recognition of qualifications there. Translations of required documents were organised for just under a third of users (32%); one in four users (26%) received help with an application to the Federal Ministry of Education, Science and Research (BMBWF) for assessment of qualifications.

In **2020**, advice was provided to 6,263 people across Austria – a year-on-year reduction of 24% which was due to COVID-19. There were 8,412 face-to-face advisory contacts. A further 13,432 contacts were made by telephone, email or online, totalling 21,844 advisory contacts. Just under two-thirds of those receiving advice (66%) were women. At around 42%, those aged 30 to 39 were once again the largest age group represented. Over half (55%) of those seeking advice had a

tertiary degree and a further third (34%) held a university entrance qualification – meaning that almost 9 out of 10 users had a higher or academic education background.

Fifty-eight percent of those receiving advice came from third countries and 42% from EU or EEA countries. The most frequent countries of origin (by nationality) were Syria, Hungary, Romania, Bosnia and Herzegovina and Iran. Almost 4 out of 10 users (38%) lived in Vienna and accessed advice on recognition of qualifications there. Translations of required documents were organised for 41% of users; just under one-third of users (32%) received help with an application to the Federal Ministry of Education, Science and Research (BMBWF) for assessment of qualifications. In **2021**, advice was provided to 6,699 individuals – a slight rise (+7%) compared to 2020, the first year of the pandemic. There were 8,816 face-to-face advisory contacts. In addition to these, almost the same number of contacts (8,718) took place over the telephone, by email or online, totalling 17,534 advisory contacts

Just under two-thirds of those seeking advice (66%) were women. At 43%, those aged 30 to 39 were once again the largest age group represented. Over half (53%) of those receiving advice had a tertiary degree and a further third (35%) held a university entrance qualification – meaning that almost 9 out of 10 users had a higher or academic education background.

Around 57% of those receiving advice came from third countries and 43% from EU or EEA countries. The most frequent countries of origin (by nationality) were Syria, Romania, Bosnia and Herzegovina and Hungary. Around 3 out of 10 users (35%) lived in Vienna and accessed advice on recognition of qualifications there. Translations of required documents were arranged for 45% of those seeking advice; almost a third of users (30%) received help with an application to the Federal Ministry of Education, Science and Research (BMBWF) for assessment of tertiary or secondary education diplomas.

The importance of the supporting role played by the contact points is evidenced not just by the consistently high demand for their services, but also by feedback from users, which was gathered as part of a **scientific evaluation** covering the period 2017 to 2020. Almost half of those questioned for the purposes of this evaluation reported that they would not have attempted to obtain recognition/assessment without the assistance of the contact points. Almost 60% of those whose qualifications had been successfully recognised/assessed felt that they would not have achieved this without advice from the contact points.

Overall, the advice on recognition of qualifications provided by the AST contact points was rated extremely highly: Over 90% of those questioned were satisfied or very satisfied with the advice they received and the skills of their advisors.

Detailed findings of this research project and the annual monitoring report are available for download from the website of the Federal Ministry of Labour and the Economy (BMAW) ([Arbeit und Migration \(bma.w.gv.at\)](https://www.arbeitundmigration.at) – [Anerkennung von beruflichen Qualifikationen](https://www.arbeitundmigration.at/berufliche-qualifikationen) (in German)).

In 2019, the AST contact points, represented by the Migrant Advice Centre (*Beratungszentrum für MigrantInnen*) in Vienna were awarded the VINCE Validation Prize for best European project for validation of prior learning. Link: [VINCE Validation Prize 2019](https://www.vince-validation-prize.eu/).

Information on the measures taken to combat hate speech and racist and xenophobic statements:

Combating hate speech and hate crime is a key objective for Austria in general and the Federal Ministry of Justice in particular. Thus, Austria has included this topic as a priority in its current government programme. Over the past years, Austria has already adopted several national measures to prevent and combat hate speech and hate crime. Most recently, a **comprehensive national legislative package against "hate on the net"** entered into force on 1 January 2021, which aims to further improve measures against incitement and hate crime on the internet and in social media (for more detailed information please see below).

Austria appreciates the European Commission's initiative to include hate speech and hate crime in the list of "EU criminal offences" under Art. 83 (1) TFEU, which is a strong signal for the fight against hate speech and hate crime. From our point of view, the explanations to justify the extension in the recitals of the draft decision are absolutely reasonable and are in line with the

considerations that were at the basis of our national legislative package against "hate on the net". Moreover, Austria has already been instrumental in the successful achievement of Framework Decision 2008/913/JHA, and we recognise the need for a common approach at EU level, especially due to the increase in cases of online hate and hate crimes with a cross-border dimension.

In order to improve protection against violence and hatred online, Austria passed the **Hate on the Net Combat Act** (*Hass-im-Netz-Bekämpfungs-Gesetz, HiNBG*) (Federal Law Gazette I Nr. 147/2020), which entered into force on 1 January 2021.

The measures taken to improve protection against violence and hatred online include the following:

The measures in the **Austrian Criminal Code StGB** include:

- an **extension of cyberbullying** (Section 107c StGB) in order to make even single cyberbullying-posts punishable;
- an **extension of hate speech** (Section 283 StGB) by including insults that offend human dignity and are directed against individual members of vulnerable groups;
- the **introduction of a new criminal offence against unauthorised image recording** in Section 120a StGB (offence of upskirting).

In September 2017, the Ministry of Justice published a guideline regarding the crime of hate speech (Section 283 StGB) including case law which was amended and updated in 2019. This guideline is primarily intended as information for the courts and public prosecutor's offices. It is accessible online to the general public.

In order to strengthen networking and cooperation between the federal ministries and other initiatives, the Federal Government also set up the National Committee "No Hate Speech", which was founded to implement the Council of Europe's "No Hate Speech" youth initiative, and to foster the exchange of information and knowledge between representatives of the federal ministries and the NGOs. The national "No Hate Speech" committee aims at raising awareness about hate speech on the internet and addressing the causes and backgrounds in order to counteract the acceptance of hate speech and thus fight racism, sexism and discrimination on the internet. Young persons should be strengthened in their commitment to democracy and human rights and joint action against hate speech is to be taken on the internet.

The measures in the **Austrian Code of Criminal Procedure** (*Strafprozessordnung, StPO*) include:

- extending the psycho-social and legal support in criminal proceedings to include victims of hate on the internet as well as minor witnesses of family violence;
- facilitated investigation of perpetrators of offences that are prosecuted only at the request of an authorised person including the offence of defamation (Section 111 StGB), accusation of prior offences for which the sentence has been served, suspended or waived (Section 113 StGB) or the offence of insult (Section 115 StGB) if the offence was committed by means of telecommunication or using computer systems;
- eliminating the risk of having to bear the legal costs in the case of an acquittal or a discontinuation of investigation proceedings when the offence is prosecuted at the request of an authorised person including the offence of defamation (Section 111 StGB), accusation of prior offences for which the sentence has been served, suspended or waived (Section 113 StGB) or the offence of insult (Section 115 StGB) if the offence was committed by means of telecommunication or using computer systems with the exception of cases where false accusations were made intentionally;
- ensuring legal protection for the accused in the event of excessive access to files; and
- explicitly including "other service providers" (corresponding to Section 3 Para. 2 of the E-Commerce-Act) in the provision of Section 76a StPO in order to ensure that information on subscriber and access data can also be obtained from internet services, in particular OTT services, which are not providers of communications services.

Due to the Amendment of the Ordinance governing the implementation of the Public Prosecution Act (*Änderung der Verordnung zur Durchführung des Staatsanwaltschaftsgesetzes (DV-StAG)*), Federal Law Gazette II Nr. 325/2016) as of 1 January 2017 public prosecutor's offices have to have specialised units/prosecutors for the prosecution of hate crimes and offences related to the law banning National Socialist activities when appropriate (Section 4 Para. 3 DV-StAG).

Measures in the **Media Act** include:

- increasing the damages for the insult suffered up to a maximum amount of EUR 40,000, in special cases up to a maximum amount of EUR 100,000;
- extending the scope of withdrawal from circulation (Section 33 MedienG) and confiscation (Sections 36 and 36a MedienG): The new provision provides for enforcing the withdrawal and confiscation against host providers, if the media owner's registered office is abroad or the media owner cannot be prosecuted due to other reasons. Host providers are obliged to delete the relevant parts of the website.
- extending the scope of psycho-social and legal support for the proceedings for victims of online hate speech: The new provision guarantees psycho-social and legal support to victims of online hate speech not only in civil and criminal proceedings but also in proceedings under the Media Act.

Finally, in the area of **civil law**, the Act contains the following amendments:

- provisions to protect personal rights, the scope of the claimant's standing to sue and to be sued;
- simplified injunction procedure for hate posts including the possibility of immediate enforceability;
- introduction of a non-contentious application for the release of user data in accordance with Section 18 Para. 4 of the e-Commerce Act (*E-Commerce-Gesetz*).

Furthermore, the following information on **practical measures** can be provided:

1. Decree "Information and deletion requests to Facebook, Instagram, WhatsApp and Google"; establishment of a SPOC

In the area of investigations, measures were taken for a uniform approach to orders issued to foreign operators and a SPOC was established. The trial operation of the Central Enquiry Office for Social Media & Online Service Providers (Zentrale Abfragestelle für Social Media und Online-Provider, *ZASP*) at the Federal Ministry of the Interior/Federal Criminal Police Office, which has been in place since 1 September 2020, was rolled out to full nationwide operation on 15 February 2022.

Another Central Enquiry Point for Social Media & Online Service Providers will be established for the area of responsibility of the Directorate for State Security and Intelligence Services (DSN) as well as the organisational units of the regional police directorates (LVT) responsible for state security in the Federal Ministry of the Interior/Directorate for State Security and Intelligence Services.

In their now fully developed stage, the Central Enquiry Offices are to solve problems in communication with social media providers and clarify legal misunderstandings in the respective organisational area of responsibility. In addition to the standardised approach (in particular) when prosecuting foreign operators of social networks (currently Facebook, Instagram, WhatsApp), newly established SPOCs at the Federal Criminal Police Office and at the Directorate for State Security and Intelligence Services will contribute to harmonising and simplifying the processes for serving orders of the prosecution and of courts on Facebook.

To this end, the **decree of 16 February 2022 "Information and deletion requests to Facebook, Instagram, WhatsApp and Google"** was drafted by the Federal Ministry of Justice to also deal with the possibilities of deletion requests to selected social media operators. The decree specifies the technical possibilities for submitting deletion requests. However, the investigating authority

must examine the substantive and procedural bases and prerequisites for deletions on the basis of the specific case.

2. Project „Dialogue instead of Hate“ (*Dialog statt Hass*)

The project "Dialogue instead of Hate" was transferred from trial operation to regular operation in September 2019. The project is an intervention programme for perpetrators of hate postings offered by the probationary services association Neustart, which consists of classic probationary services and special modules individually tailored to clients. The modules are to be completed as individual or group work and focus on media competence with a focus on social media, expressing criticism without contempt, introducing the victim's perspective, history lessons including political education etc. The aims are to raise awareness of the issue of discrimination, to create an awareness of these issues and to reflect on one's own behaviour. The application by public prosecutors' offices and courts takes place in cases where diversion is to be granted, as a duty to be completed during the probationary period, or as an instruction in the case of a suspended prison sentence, in each case combined with probationary assistance.

3. Seminar „Violence and Hate Crimes on the Internet“

The seminar "Violence and Hate Crimes on the Internet" for judges, public prosecutors and police investigators was held at the Federal Ministry of Justice in early October 2021. In addition to the presentation of the legal basis and current case law, the seminar focused in particular on the practical investigative work of judges, public prosecutors and police investigators working in this area.

Information on the implementation of the Integration Act:

The Integration Act (*Integrationsgesetz, IntG*) aims at fostering and facilitating the rapid integration of third-country nationals legally residing in Austria including their participation in the social, economic and cultural life in Austria.

During the reporting period, the Integration Act covered the following target groups: persons entitled to asylum or subsidiary protection and other legally residing third-country nationals.

According to the Integration Act, integration affects and concerns the whole of society, which means, on the one hand, that the Federal State and other responsible civil actors have to systematically offer integration measures, and on the other hand, individuals of the target group have to actively participate in the integration process.

Persons entitled to asylum or subsidiary protection

The Federal Minister in charge of integration matters must provide German courses for persons entitled to asylum or subsidiary protection from the age of 15 that enable them to become literate in the Latin script, if required, and reach a language level of at least B1 pursuant to the CEFRL (until 2019 up to level A2). In addition, values and orientation courses (duration during the reporting period: 8 hours) have to be offered. The courses are free of charge.

At the same time, persons entitled to asylum and subsidiary protection have to declare that they comply with the basic values of Austria's legal system and society and actively participate in the offered German language as well as values and orientation courses.

In general, unemployed persons in Austria who are receiving unemployment benefits or social assistance and are able to work, may be required to take part in upskilling initiatives. Correspondingly, persons entitled to asylum and subsidiary protection who are able to work have to take part in the courses defined in the Integration Act as "qualification measures" in order to facilitate integration into the labour market.

Information on the adoption and implementation of the updated Roma Strategy:

The National Roma Strategy was updated in 2017 in line with the guidelines set out in the EU Roma strategic framework for equality, inclusion and participation for 2010-2020, and carried forward by the Council of Ministers on 7 April 2021, as it already contained all of the priorities set

out in the EU Framework for 2020-2030. The national strategy is currently being evaluated by a study team from the University of Vienna.

The results of this evaluation will be published as soon as they are available. A new strategy for Roma equality, inclusion and participation in accordance with the framework for 2020-2030 will be developed in light of those results and in close consultation with Roma civil society.

The current National Roma Strategy comprises seven priorities:

1. Education
2. Labour market
3. Combatting antigypsyism
4. Empowerment of Roma women and girls
5. Strengthening of organised Roma civil society
6. Empowerment of Roma youth
7. Participation

On 26 and 27 November 2018, an Austrian EU Council Presidency **Conference on Antigypsyism** organised by the National Roma Contact Point took place in Vienna. The outcome of the conference was a document containing expert recommendations on tackling antigypsyism following expiry of the EU framework for Roma equality, inclusion and participation 2010-2020.

The National Roma Contact Point has incorporated these results into its work and is driving them forward, chiefly by raising awareness via the Roma dialogue platform. The 29th dialogue platform was dedicated to the subject of combatting hate crime, and it was noted that since 1 November 2020, hate crimes have been documented by victim group and police officers have received comprehensive training on recognising, investigating and recording hate crimes.

At the dialogue platform event, attendees were also made familiar with the support services provided by the associations ZARA (Civil Courage and Anti-Racism Work, *Zivilcourage und Anti-Rassismus-Arbeit*) and the *Weisser Ring* association supporting victims of crime, as well as the "Countering Hate Crime" (*Hate Crime Kontern*) project of the "Early Help" (*Frühe Hilfen*) initiative.

II. Conformity pending receipt of the information requested

Information concerning assistance to migrant workers in emergency situations

It has to be noted that if the statutory conditions in accordance with the principle of compulsory social insurance are met, workers whose earnings exceed the marginal threshold (*Geringfügigkeitsgrenze* - 2022: EUR 485.85) are automatically covered by health, accident and pension insurance.

Migrant workers are also covered by unemployment insurance, and can claim unemployment assistance (unemployment benefit, unemployment assistance) if their earnings are above the marginal earnings threshold amount. To do so, the general eligibility criteria must be satisfied; in particular, a worker must be unemployed and able and willing to work, must have been insured for a certain qualifying period, and must be available to the employment services for job placement.

Information concerning requirements for ensuring medical insurance, safety and social conditions in cases of large scale recruitment

The national admittance scheme does not contain any specifications for large-scale recruitment of migrant workers. As regards individual migrants, checks on compliance with wage and working

conditions and provisions of social insurance law, including compulsory medical insurance, are carried out.

Non-conformity unless further information is provided

Regarding the information on means requirement requested according to which the level of funding required by states for the reunification of family or certain family members should not be so restrictive as to prevent family reunification (Conclusions XVII-1 (2004), Netherlands):

In this regard, detailed information about the means requirement can be provided in the form of a brochure on maintenance requirements (*Unterhaltsbroschüre*), which can be downloaded in German language under the following link: [Informationsbroschüre über die Unterhaltsberechnung im Niederlassungs- und Aufenthaltsgesetz \(bmi.gv.at\)](http://bmi.gv.at). As stated in the conclusions, it should be highlighted again that a residence permit nevertheless has to be granted if the required means of subsistence cannot be proven, provided a claim to family reunification derived according to Art. 8 ECHR exists. In this context, it should be mentioned that the cited MIPEX report is viewed very critically due to the fact that competent bodies have not been contacted and involved in the preparation of this report.

Negative Conclusions

*The Committee concludes that the situation in Austria is **not in conformity with Article 19§6 of the Charter** on the grounds that:*

- age threshold of 21 which is above the age at which a marriage may be legally recognised in the host state is an undue hindrance to family reunion;*
- the fact that certain categories of sponsored family member need to prove knowledge of the German language hinders the right to family reunion;*
- requirement to pay fees for the necessary language tests and language courses may impede rather than facilitate family reunion;*
- families may be required to wait for more than a year before being granted reunion under the quota system, a delay which is excessive.*

Regarding the negative conclusions to Art. 19§6point 1 and 4, it can be stated that the legal situation did not change and change in legislation is planned. Reference should therefore be made to the comments on that question made so far (in particular those on the 134th meeting of the Governmental Committee).

Regarding the negative conclusions to Art. 19§6point 2 and 3, the following can be stated:

Third-country nationals legally residing in Austria

Other third-country nationals legally residing in Austria based on specific residence permits according to the Settlement and Residence Act (NAG) are obliged to fulfil the Integration Agreement, consisting of two modules. The details of the Integration Agreement have already been outlined in the 7th National Report.

Module 1 of the Integration Agreement is intended to help individuals with specific residence permits to acquire German language proficiency corresponding to level A2 of the CEFRL as well as knowledge of the fundamental values of the legal and social system of the Republic of Austria. Module 1 has to be completed within two years after obtaining the residence permit. Individual circumstances can, upon application, provide for an extension for another twelve months. There are several options for fulfilment, one of which is passing the A2 integration test. However, other options include proof of domestic or foreign school-leaving certificates or university qualifications. Exemptions are made, for example, for health-related reasons.

In order to support language acquisition, family members can be reimbursed with 50% of the course fees up 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 CEFRL, as well as deeper knowledge of the fundamental values of the legal and social system in Austria. There is no obligation to complete module 2, however, it is a prerequisite for the Permanent residence – EU permit. Exemptions for health-related reasons are possible. Besides passing the B1 integration test, there are several other ways of demonstrating fulfilment of module 2; examples include school attendance in Austria and a final apprenticeship examination certificate.

Deferred Conclusion

Concerning the deferred conclusion and the reference to the MIPEX report it should be mentioned once more that this report is viewed critically for the reasons mentioned above. Family members of migrant workers who have a right of settlement have an autonomous right of residence according to Section 27 Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*). This means that family members of migrant workers have an independent right to settlement.

If the requirements for family reunification do not exist any longer, a residence permit has to be issued to the family member; this residence permit corresponds to the previous purpose of residence, provided that no impediment exists and the general granting requirements for the issuance of residence permits are fulfilled. In case general granting requirements are not fulfilled, Art 8 ECHR is always taken into account. Furthermore, for vulnerable groups like victims of domestic violence, the general granting requirements are not to be checked and an autonomous residence permit is granted in any case.

The MIPEX summary is wrong in this regard and does not differentiate between settled migrant workers and their families (which are within the scope of the Social Charta) and other groups who only have a temporary right of stay but not settlement. To summarise, the Austrian legal situation is very favourable for the persons concerned.

Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

1. to take appropriate measures:

- a) to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;**
- b) to take account of their needs in terms of conditions of employment and social security;**
- c) to develop or promote services, public or private, in particular child day care services and other childcare arrangements;**

a) Please provide information on whether the Covid-19 crisis had an impact in particular on the possibilities for and the consequences of remote work on the right of workers with family responsibilities to equal opportunities and treatment.

Remote work, and in particular the possibility of working from home, has grown in importance since the start of the COVID-19 crisis. It can be assumed that, even after the crisis, remote working and working from home – where and to the extent that employers/employees can accommodate these forms of work – will be used much more widely than they were before the pandemic.

It is for this reason that the package of measures relating to working from home introduced in 2021 aimed at setting up the statutory framework for such work, bringing legal clarity to this area. Working from home must be voluntarily and mutually agreed between the parties to the employment contract (Section 2h of the Employment Contract Law Adaptation Act (*Arbeitsvertragsrechts-Anpassungsgesetz, AVRAG*). The AVRAG was amended to include a definition of “working from home”, rules relating to provision of digital equipment and payment of costs by the employer, and conditions for premature termination of an agreement on working from home. Additionally, a provision allowing the arrangements for working from home to be laid down in a company-specific voluntary works agreement was introduced to the Labour Constitution Act (*Arbeitsverfassungsgesetz, ArbVG*). A provision prohibiting representatives of the Labour Inspectorate from entering an employee’s private residence was inserted into the Workers’ Protection Act (*ArbeitnehmerInnenschutzgesetz, ASchG*).

The time saved by workers who no longer have to travel between home and work is without doubt beneficial in terms of reconciliation of work and family responsibilities. The extent to which the additional burden of working from home while also caring for family members will be sustainable for employees is the subject of a study commissioned by the Federal Ministry of Labour and the Economy (BMAW).

As men and women have the same access to the option of remote working and working from home, these forms of work have only indirect impacts in terms of equality of opportunity and equal treatment.

Public service:

The statutory provisions relating to remote working (Section 36a of the Civil Service Act (*Beamten-Dienstrechtsgesetz, BDG*) 1979, Federal Law Gazette no. 333/1979, and Section 5c of the Contractual Public Employees Act (*Vertragsbedienstetengesetz, VBG*) were amended a number of times in response to the COVID-19 crisis.

The Federal Public Sector Employment Amendment Act (*Dienstrechts-Novelle*) 2020, Federal Law Gazette I no. 153/2020, modified the scope of the rule regarding ad hoc remote working to permit working from home to be ordered or agreed for an extended period where circumstances so require (e.g. where operations are significantly restricted due to measures to contain the spread of COVID-19) (see Section 36a Para. 7 BDG 1979 and Section 5c Para. 7 VBG).

In light of experience acquired during the COVID-19 crisis, the provisions relating to remote working were revised once again in the Federal Public Sector Employment Amendment Act (*Dienstrechts-Novelle*) 2021, Federal Law Gazette I no. 136/2021. The changes introduced included a possibility of deviating from the principle that the technical and other equipment required for remote working must be provided by the Federal Government. If the technical equipment required for remote working is provided by employees themselves, they must be compensated for necessary additional costs incurred in accordance with the provisions regarding expenses set out in Section 20 of the Salary Act (*Gehaltsgesetz (GehG)*) (cf Section 36a Paras. 4 and 5 BDG 1979 and Section 5c Paras. 4 and 5 VBG).

Where workers take on employment which is subject to social security contributions and this work exceeds the marginal earnings threshold, they have full health, accident and pension insurance cover. During the COVID-19 pandemic, it was legislated that accidents occurring in an employee’s home at a time or in circumstances relating to the insured occupation, i.e. when an employee is carrying out his or her work at home, are deemed accidents at work.

2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;

- a) *Please provide information on whether the Covid-19 crisis had an impact on the right to parental leave.*

The COVID-19 crisis has had no impact on the right to parental leave.

Regarding help for employees to reconcile work and family life by provision of education and childcare programmes, it should be noted that the contribution of the Federal Government towards expansion of elementary education programmes, non-contributory nursery schools and early language learning support has been extended to the end of August 2027 and the amount funded by the Federal Government has been increased from EUR 142.5 million to EUR 200 million per year. This is intended to further increase the number of small children attending childcare facilities and ensure that the Barcelona target of 33% is exceeded.

3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Not accepted.