

LIST OF ISSUES CESCR 2013

I. General information

1. Please provide information on cases in which the Covenant has been invoked by the courts, as requested by the Committee in its previous concluding observations (E/C.12/AUT/CO/3, para.20). In addition, please inform the Committee of any recent initiatives taken to ensure that the provisions in the Covenant are fully given effect by domestic courts.

As the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as "ICESCR") was adopted by the National Council subject to certain reservations it is not directly applicable in Austria; it therefore does not create any subjective rights and obligations of individuals. But as pointed out under "General" in the Report of the State Party Austria, the rights granted under the ICESCR may be deemed to have been implemented to a large extent in Austria. The Austrian courts and authorities therefore use the legal bases which concretise ICESCR rights as a foundation of their regular work.

Within the framework of the basic and further training of judges and public prosecutors, numerous events are offered addressing subjects covered by the International Covenant on Economic, Social and Cultural Rights, e.g. laws dealing with legal custody, hospitalisation and the protection of home residents as well as issues related to the protection of victims, human trafficking and equal treatment. The seminars are financed by the employer and usually take place once a year with an average of 20 participants.

The seminars on the "protection of victims" and "human trafficking" described below are used as examples to illustrate the diversity of events offered within the framework of professional training:

Protection of victims:

Various events providing information on how to deal with victims (in particular of sexual violence) are an integral part of basic training. They are organised in cooperation with officially recognised victims' protection facilities and anti-violence centres and cover issues such as the Act on Protection against Violence (*Gewaltschutzgesetz*) and the respective court injunctions, the Victims' Protection Act (*Opferschutzgesetz*), the Crime Victims' Act (*Verbrechensopfergesetz*), training on dealing with traumatised persons as well as legal and psycho-social support of victims during legal proceedings. Numerous events are also offered in further training programmes, providing more in-depth information on issues relating to sexual violence, domestic violence and stalking, practices to deal with victims in civil and criminal procedures, perpetrator profiles, models of assessing dangerousness, victims' rights as well as support during legal proceedings.

Furthermore, Austrian judges and public prosecutors may participate in numerous international workshops on the aforementioned issues that are offered by the European Judicial Training Network (EJTN) and the Academy of European Law (ERA).

Human trafficking

Within the framework of basic and further training programmes, judges and public prosecutors are regularly offered events which help raise their awareness of child

and human trafficking and facilitate the identification of alleged victims of human trafficking, e.g. the seminar “Trafficking in Human Beings and its Impact on Court Proceedings“, the seminar “Trafficking in Human Beings and the Protection of Victims“, the conference “Judicial Training on Human Trafficking and Domestic Violence“ organised in cooperation with the Council of Europe as well as the seminar “Trafficking in Human Beings – New Challenges Faced by the Judiciary in Combating a Global Problem“.

The seminar “Taking action against human trafficking: international strategies and options from the perspective of criminal law” – held in cooperation with the association “LEFÖ – Counselling, Education and Support for Migrants” and the International Organisation for Migration (IOM) – addressed methods and strategies of investigation into human trafficking and issues such as the protection of victims, support during legal proceedings as well as international cooperation. Besides judiciary experts, the list of speakers also included representatives of the two counselling centres acting as co-hosts as well as the Federal Office of Criminal Investigation (*Bundeskriminalamt*), Europol and Eurojust so as to facilitate multi-disciplinary exchanges. A follow-up seminar was held, where the above issues were explored from the perspectives of all stakeholders.

Apart from taking advantage of in-service training programmes of the judiciary, judges and public prosecutors may participate in national and international events focusing on the subject area “human/child trafficking”.

2. Please provide information on the Austrian Ombudsman Board and its work in relation to the promotion and protection of economic, social and cultural rights. Please also provide updated information on measures taken to strengthen and broaden the mandate of the Austrian Ombudsman Board as well to guarantee its independence, so that it can act as a National Human Rights Institution in line with the Paris Principles.

In accordance with the so-called OPCAT Implementing Act (*OPCAT-Durchführungsgesetz*), the Austrian Ombudsman Board (with its established commissions) was designated as the National Preventive Mechanism under the OPCAT. Since 1 July 2012, the Austrian Ombudsman Board (AOB), or rather its established commissions, has been in charge of inspecting places where persons are deprived of their liberty, including penal institutions. If required, the AOB makes recommendations to the supreme authority responsible. The AOB is advised by a Human Rights Advisory Council in all matters concerning human rights.

Furthermore, the Act clarifies that the Austrian Ombudsman Board (which observes and reviews the lawfulness of decisions by authorities and looks into possible cases of maladministration) is also responsible for examining alleged human rights violations. [Violations of human rights are regarded as the severest form of maladministration]. The previous ex-post control was integrated into a preventive monitoring and control mechanism in order to guarantee optimal protection of human rights. In 2012 15,649 persons contacted the AOB in its capacity as an ex-post control body. The AOB initiated investigations in 60% of all complaints about acts or omissions by public authorities (7,048 cases). More than one quarter of all investigations launched related to the social sector.

As of 22 August 2013, the commissions had carried out 427 monitoring and control visits. 217 visits of social institutions had taken place: 65 facilities for the elderly, 37

facilities for persons with disabilities, 60 children's and youth welfare facilities and 55 psychiatric hospitals or departments.

Acting as the National Preventive Mechanism under the OPCAT, the AOB exercises all essential functions of a National Human Rights Institution. After its re-accreditation, the AOB – in its capacity as the National Human Rights Institution (NHRI) – has been represented on the International Coordinating Committee (ICC) of National Human Rights Institutions with B status. Following the constitutional amendments made after the last review, the AOB complies with the Paris Principles regarding the wide scope of its human rights mandate and cooperation with civil society. There is no intention to establish a new National Human Rights Institution since the independent judiciary plays the central role with regard to the protection of human rights in Austria.

In addition, Austria has three academic human rights institutes performing numerous tasks required under the Paris Principles (e.g. raising public awareness through information and (further) training; assessments; commissioning of research projects): the Ludwig Boltzmann Institute for Human Rights in Vienna, the European Training and Research Centre for Human Rights and Democracy in Graz and the Austrian Institute for Human Rights in Salzburg. These institutes also benefit from public support and public contracts.

3. Please inform the Committee whether the State party intends to adopt a comprehensive National Action Plan on Human Rights to increase awareness and coherence of human rights.

Austria has drawn up National Action Plans covering the following issues, which are continuously evaluated, further developed and reported on:

- gender equality in the labour market
- combating trafficking in human beings
- implementation of UN SC Resolution 1325 (2000)
- integration
- female genital mutilation (FGM)
- persons with disabilities
- nutrition

While there is no intention to replace the existing thematic action plans by a general national action plan, Austria has launched an exchange among the relevant stakeholders to explore in which way an overarching national action plan could complement the existing action plans with a view to strengthening Austria's national system for the promotion and protection of human rights.

II. Issues relating to the general provisions of the Covenant (Arts. 1-5)

Article 2, paragraph 2 – Non-discrimination

4. Please provide information on measures taken to adopt a comprehensive anti-discrimination legislation which would afford the same level of protection with regard to different grounds of discrimination.

The existing anti-discrimination laws are developed on an ongoing basis. By adopting a number of amendments, the substantive law as well as procedural provisions have been modified to ensure a more effective implementation of the principle of equal treatment. With regard to widening the scope of the Equal Treatment Act concerning gender-related issues, please see the information provided in respect of Article 3, sub-para. 7 of the List of Issues.

At the recent Experts' Talks 2012/2013 a discussion was held on widening the scope of the Equal Treatment Act to include the characteristics of age, religion or belief as well as sexual orientation with regard to the access to and supply of goods and services. No agreement was, however, reached at a political level.

Basically, reference may also be made to the information provided in Austria's State Party Report on the CRPD, Article 5 "Equality and Non-Discrimination", in particular paras. 50 and 51 (see also

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session10.aspx>):

"50. On 1 January 2006, the so-called "Disability Equality Package" came into effect. The ban on disability-related discrimination which is regulated by the package was a milestone in Austrian disability policy. The package contains in particular:

- (a) the Federal Disability Equality Act (ban on discrimination in everyday life);
- (b) a comprehensive amendment of the Disability Employment Act (ban on discrimination in employment);
- (c) an amendment to the Federal Disability Act (Federal Disability Ombudsperson).

51. Due to reasons related to the distribution of competences, the protection against discrimination afforded under this Disability Equality Package covers only the spheres of responsibility of the federal government. Within their remit, the federal provinces have enshrined safeguards regarding the protection against discrimination in employment and occupation. Several federal provinces such as Carinthia, Upper Austria, Lower Austria, Tyrol, Vorarlberg and Vienna have additionally adopted anti-discrimination laws."

For more detailed information regarding the Federal Disability Equality Act (*Bundes-Behindertengleichstellungsgesetz/BGStG*) please refer to Article 27, para. 293 of Austria's State Party Report on the CRPD:

"Protection against discrimination and harassment at work is an important part of anti-discrimination legislation for people with disabilities. The essential point is that nobody may be directly or indirectly discriminated against in employment because of a disability. This protection stretches from job applications to ending a job, and covers pay rates, initial and further training, re-training and careers issues. The assertion of claims in court has to be preceded by obligatory conciliation proceedings at the Federal Social Office."

Insofar as they are responsible for this, a uniform level of protection has been ensured in almost all federal provinces (with the exception of Lower Austria).

Examples of laws at provincial level:

The Anti-Discrimination Act of Carinthia (*Kärntner Antidiskriminierungsgesetz/K-ADG*), Provincial Law Gazette No. 63/2004, as amended in Provincial Law Gazette

No. 18/2013, provides for a comprehensive ban on discrimination “in other areas”, i.e. in matters not restricted to a specific group of persons and provided that the matter does not fall within the regulatory competence of the Federal Republic of Austria (compare Section 11, para. 1 of the K-ADG) or that other legal provisions do not take precedence (Section 11, para. 2 of the K-ADG).

An Anti-Discrimination Centre has been set up within the Office of the Carinthian Provincial Government to implement the prohibition of discrimination pursuant to Section 12 as well as to promote, analyse, monitor and support the implementation of equal treatment on grounds of ethnicity, religion or belief, disability, age, sexual orientation or gender (compare Section 32 and Section 33 of the K-ADG).

The Anti-Discrimination Act of Vorarlberg (*Vorarlberger Antidiskriminierungsgesetz*) ensures a uniform level of protection against all types of discrimination. In the wake of the Amendment of the Anti-Discrimination Act in 2012, changes included the scope of protection against discrimination being widened to include cases of discrimination by association.

5. Please inform the Committee of the situation of ethnic minorities in the State party, and any obstacles faced by them to fully enjoy their economic, social and cultural rights, including Roma and the Jenische. In this regard, please provide relevant data, disaggregated by region and sex. In addition, please provide information on mechanisms in place to ensure that minority groups are effectively consulted and have an impact on the decision-making process on issues that affect them, including education, media, culture, use of languages, and regional development.

By way of introduction, it should be mentioned that in conformity with the principle of “freedom of declaring oneself a member of an ethnic minority” (“*Bekennnisfreiheit*”; compare Section 1, para. 3 of the Ethnic Groups Act (*Volksgruppengesetz*) and the Framework Agreement on the Protection of National Minorities (*Rahmenübereinkommen zum Schutz nationaler Minderheiten*) persons are not assigned to ethnic groups in Austria. See also explanations provided in respect of Issue 28.

The Austrian autochthonous minorities (ethnic groups), i.e. the (Burgenland) Croats, the Slovene, Hungarian, Czech and Slovak ethnic groups are, in general, integrated indiscriminately into the remaining population. Measures to support integration are, however, still necessary in respect of the ethnic group of the Roma, in particular in the areas of education and training.

After the last census conducted in line with established practices in 2001, the Federal Chancellery commissioned the study (including evaluation) “Languages of Everyday Life and Social Structure” (“*Umgangssprache und die Sozialstruktur*“). Confirming the successful integration of the speakers of the languages of the Croatian, Slovene, Hungarian, Czech and Slovak ethnic groups, the findings of the study may be summed up as follows: “Today the autochthonous ethnic groups are... a minority in number but they are certainly no longer a minority in the socio-economic system as this concept is also defined by power and prosperity gaps. They even tend to occupy an elitist position in this system.”

This study also came to the conclusion that it was practically impossible to count and identify the Austrian Roma based on the question in the 2001 Census that referred to the use of language (4,300 Austrians stated that they used the Romany language as

their language of everyday life in the 2001 Census; however, “Romany“ was in many cases confused with “Romanian”); outside Burgenland, the number of answers stating that Romany was used as the language of everyday life was statistically insignificant. Thus the 2001 Census regrettably did not provide any useful data on the share of Roma in the Austrian population that were fit for evaluation. As a result, other research methodologies were explored, in particular in the context of the Austrian Roma Strategy (adopted in conformity with the EU Framework for National Roma Integration Strategies for the period up to 2020). Recent studies were therefore conducted by using methodologies applied in the social sciences, e.g. the study of the Federal Ministry of Labour, Social Affairs and Consumer Protection on “Roma in the Labour Market” (*Roma am Arbeitsmarkt*). A study analysing conditions that support and obstruct educational careers is currently being conducted by researchers together with Roma interviewers. It will provide a basis for developing important approaches for future Roma integration policies.

Austria answered the question whether the Jenische are an autochthonous ethnic group of Austria covered by the Ethnic Groups Act in the negative as the Jenische lack an independent settlement area and do not represent a sufficiently large community-based ethnic group speaking a common language which is sufficiently distinctive from other languages. This approach seems to be in line with the currently prevailing international position.

The Ethnic Groups Act stipulates that Advisory Boards on Ethnic Groups shall be set up to provide advice to the federal government and federal ministers on matters concerning the ethnic groups. They shall be responsible for safeguarding and representing the overall cultural, social and economic interests of the ethnic groups. The Advisory Boards on Ethnic Groups shall be consulted in particular before legislation is adopted as well as with regard to the general planning of funding schemes affecting the interests of the Austrian ethnic groups. They may also submit proposals to improve the situation of the ethnic groups and their members. The appointment of the members of the six Advisory Boards on Ethnic Groups is decided by the federal government. The provincial governments may also request the advice of the Advisory Boards on Ethnic Groups. A representative of the respective Provincial Government’s Office will usually participate in the meetings of the Advisory Board on Ethnic Groups.

As far as the six ethnic minorities that are currently officially recognised (“ethnic groups” within the meaning of the Ethnic Groups Act) are concerned, a well-developed, specific public school system is in place for the Croatian and Hungarian autochthonous minorities in Burgenland and the Slovenian autochthonous minority in Carinthia. Specific school education at private level – but with considerable financial support by the state – is available for the Czech, and to a minor extent also for the Slovak ethnic group in Vienna. Education is offered in the respective languages and may be completed with a school-leaving certificate of a higher secondary school (A-level exam). Moreover, the law provides for a specific school for the ethnic group of the Roma in Burgenland.

Current statistical data on the respective school systems – which are also disaggregated by sex – are not yet available but will be submitted in November at the latest.

The involvement of the ethnic groups in developing the school system and educational policies is ensured by the Advisory Boards on Ethnic Groups set up under the Ethnic Groups Act. They provide advisory services to the federal government and the provincial governments in these matters too, as has been the case on various occasions in the past.

Regarding the non-autochthonous ethnic minorities, compare answer to Issue 29.

Examples from the federal provinces:

Basic statistical data on the composition of the resident population of Vienna – disaggregated by origin (country of birth, nationality, migration background) are provided in the Statistical Yearbook of the City of Vienna (available for download: <http://www.wien.gv.at/statistik/pdf/menschen12.pdf>, tables 5.2.7 to 5.2.9 on pp. 67-69).

Since 2008 the City of Vienna has been trying to monitor the social position of Vienna's immigrants not only based on their foreign nationality but also on their so-called "migration background" (persons born abroad or with at least one parent born abroad). The migration background is also used as a basis for Vienna's efforts to monitor the population's socio-economic position in all spheres of life and to identify social obstacles as well as measures necessary to grant equal access, opportunities and rights regardless of the socio-cultural, ethnic origin and/or background. The monitoring process analyses the integration status of society and the status of diversity management achieved within the different departments of the municipal administration and affiliated organisations in nine areas of life. These nine areas are identical with key task areas of local policies. The nine topics of the 2nd Vienna Integration and Diversity Monitoring System are as follows:

- equality & participation
- education, further education & training
- employment & labour market
- income & social security
- healthcare & care of the elderly
- housing
- infrastructure
- culture & leisure
- public space, neighbourly living & social climate

Multi-lingual children are supported by co-teachers and teachers who are native speakers of the respective language (partly by using team teaching) at schools in Vienna. Their learning processes are also facilitated through specific educational programmes:

In the current academic year 2012/13, 4 teachers (3 teachers for mother-tongue education and 1 teacher for mathematics and mother-tongue education) are active within the sphere of responsibility of the Vienna School Board. They teach Romany and support strategies to facilitate bicultural processes resulting from the specific socialisation conditions of migration as well as the cultural and socio-economic environment.

Roma children are offered remedial lessons in their mother tongue Romany at several primary schools, cooperative middle schools and a centre for special education in several districts of Vienna. In cooperation with the Centre for Language

Promotion of the Vienna School Board (*Sprachförderzentrum des Stadtschulrates für Wien/ SFZ*), the following concepts were developed:

- a training concept for learning assistants in 2011. Training was organised and implemented by the SFZ in cooperation with Romano Centro.
- With the support of the SFZ, a Romany mother-tongue teacher conducted a multi-lingual project within the framework of Kulturkontakt Austria; she received funding for realising the musical “Sunshine is the Same Everywhere” (*“Die Sonne scheint überall gleich“*).
- In cooperation with the Department of Education of the University of Vienna, the multi-lateral EU project “Teacher In-Service Training for Roma Inclusion” (INSETRom) was realised in cooperation with teachers at primary schools in Vienna from December 2007 to December 2009. The aim of the project was to develop curriculum modules for teacher in-service training focusing on the educational situation of Roma pupils and cooperation between the school system and the Roma community with a view to achieving improvements in this area. The project has been implemented very successfully.

It has been an integral part of the funding policy of the City of Vienna to provide financial support for intercultural activities. In 2012 195 intercultural institutions were supported with a budget framework of €655,900.00. The following institutions may be cited as examples: the Hungarian associations “Bela Bartok International Music Association” (*“Bela Bartok Internationaler Musikverein“*), “Napralfogok – Association Promoting Hungarian Folk Dance and Folk Music in Vienna” (*“Napralfogok – Verein zur Förderung von ungarischen Volkstanz und Volksmusik in Wien“*) and “Vienna’s Hungarian Cultural Association Délibáb” (*“Wiener Ungarischer Kulturverein Délibáb“*), the Croatian associations “Austrian-Croatian Society” (*“Österreichisch-Kroatische Gesellschaft“*), “Austrian-Croatian Federation of Education, Culture and Social Affairs – Anno 93” (*“Österreichisch-Kroatischer Dachverein für Bildung, Kultur und Soziales“*), “Association for the Promotion of Croatian Music” (*“Verein zur Förderung der kroatischen Musik“*) and “Hrvatski centar za kulturu, naobrazbu i politiku / Croatian Centre for Culture, Education and Politics” (*“Kroatisches Zentrum für Kultur, Bildung und Politik“*), the Roma associations “Football Club Roma” (*“Fußballclub Roma“*) and “Gipsy Music Association” as well as other intercultural associations such as the “Initiative for Minorities – Association Promoting the Co-Existence of Minorities and Majorities” (*“Initiative Minderheiten – Verein zur Förderung des Zusammenlebens von Minderheiten und Mehrheiten“*), “Balkan Fever Festival”, “Federation of All Austrian-Foreign Societies/PaN” (*“Dachverband aller österreichisch-ausländischen Gesellschaften/PaN“*), “Federation of Intercultural Initiatives in Vienna” (*“Dachverband für interkulturelle Initiativen in Wien – Interkulti-Dach“*), “Viennese-Cracowian Cultural Society” (*“Wiener Krakauer Kultur Gesellschaft“*), “Federation of Kurd Associations in Austria – Feykom” (*“Verband von kurdischen Vereinen in Österreich“*), Cultural and Sport Association of Mesopotamia (*“Mesopotamien Kultur- und Sportverein“*), “Cultural Association (Kulturverein) KlezMORE Festival Vienna”, “Istanbul Cultural Association in Vienna” (*“Istanbul Kulturverein in Wien“*), “Federation of Serbian Associations in Vienna” (*“Dachverband für serbische Vereine in Wien“*) – Zajednica Srpskih Klubova u Becu” and “Federation of Alevi Youth in Austria” (*“Bund der alevitischen Jugendlichen in Österreich“*)/ Avusturya Alevi Genclik Toplulugu”.

Moreover, the “Cultural Association of Austrian Roma – Documentation and Information Centre” (*“Kulturverein österreichischer Roma – Dokumentations- und Informationszentrum“*), “Stones of Remembrance of Jewish Victims of the Holocaust” (*“Steine der Erinnerung an jüdische Opfer des Holocausts“*), “Romano Centro – Association for Roma” (*“Verein für Roma“*) and the “Institute for Artistic, Migrant and Academic Research” (*“Institut für künstlerische, migrantische und wissenschaftliche Forschung“*) received subsidies totalling € 202,000.00 based on resolutions of Vienna’s Municipal Council.

Since 2005 the Department of Culture of the City of Vienna has provided funding for the “Research Centre for the History of Minorities” (*“Forschungszentrum für historische Minderheiten“*) (<http://www.fzhm.at>). The purpose of this association is to study migration movements from a historical perspective, focusing on the history of the Czech and Slovak minorities in Vienna.

In Vorarlberg integration policy has been guided by the integration model “Shaping the Future Together” (*“Gemeinsam Zukunft gestalten“*) adopted by the provincial government (*“Landtag“*). All relevant groups of society – and consequently also minorities – are involved in developing and implementing the respective measures. The aforementioned integration model “Shaping the Future Together” is available to be downloaded from the website: www.vorarlberg.at/integration.

6. In relation to the “National Action Plan on Disability 2012 – 2020” adopted in July 2012, please provide information on the budget allocated for its implementation, indicators to monitor progress, and measures taken to ensure the effective participation of representatives of organizations of persons with disabilities.

Regarding the question on the budget allocated to the “National Action Plan on Disability” (NAP Disability), see the information provided in item 1.1.1, last paragraph (http://www.bmask.gv.at/cms/site/attachments/7/7/8/CH2477/CMS1332494355998/n_ap_behinderung-web_2013-01-30_eng.pdf):

“The measures listed in the NAP have already been included in the budgets of the respective ministries for 2012. The measures which have to be funded from future federal budgets have to be budgeted for according to the financial situation in the individual ministries. The ministries responsible for the respective measures have to make corresponding provisions for this spending in their budgets. The budgets of the Länder are not encumbered by the NAP on Disability, because an action plan of the part of the Federation cannot create obligations for the Länder.”

Regarding the question on indicators, it should be mentioned that the NAP on Disability lists 250 measures used to monitor progress in implementing the NAP on an ongoing basis. New indicators are being developed within the framework of the Monitoring Group for the NAP on Disability.

Regarding the question on participation, please see the information provided in Article 4 “General obligations”, para. 46 as well as para. 4, “Participation and consultation of persons with disabilities”, and in particular para. 24 of the Report of the State Party Austria on the CRPD:

“Article 4: General obligations

46. The umbrella association of the Austrian disability organisations, ÖAR, is involved in the assessment procedure. The ÖAR is also represented in important committees in the Ministry of Social Affairs (BMASK): in the Federal Disability Advisory Board, which has an advisory function in all fundamental issues related to disability policy, in the Working Group on Long-term Care, which issues recommendations and proposals on the further development of long-term care, and in the Advisory Board of the Compensation Tax Fund, which deals with questions of occupational rehabilitation. The ÖAR is also represented in the advisory councils established at the individual social insurance institutions, where it represents the interests of long-term care allowance recipients and recipients of work accident pensions.”

“Ad para 4 – Participation and consultation of persons with disabilities

24. Regarding the issue of involving civil society, para 46 of the State Report explains that – apart from large organisations for persons with disabilities such as the Federation of Austrian Disability Associations (ÖAR) – smaller NGOs advocating the rights of persons with disabilities are also involved to an increasing extent in all discussions and deliberations. The range of participation and consultation covers deliberations and talks on forthcoming changes of legislation (e.g. the talks of the Federal Ministry of Justice with representatives of persons with disabilities about amendments of the insurance contract law in 2011 and 2012), involvement in the review processes of bills, strategic planning as well as the appointment of representatives of persons with disabilities in working, decision making and monitoring groups as well as advisory, surveillance and supervisory bodies. In the process of preparing the State Report on the Implementation of the CRPD (2010) as well as in developing the NAP on Disability (2011/2012), Austria paid due regard to the involvement of representatives of persons with disabilities, in particular by organising several working meetings and information events.”

Article 3 – Equal rights of men and women

7. Given that the Equal Treatment Act of 2004 focuses only on discrimination against women in the field of employment, please inform the Committee of the measures taken to expand the scope of the legislation to include discrimination against women in all other spheres.

The main purpose of the Amendment of the Equal Treatment Act and the Act on the Equal Treatment Commission and the Ombud for Equal Treatment, Federal Law Gazette I No. 98/2008, which came into force on 1 August 2008, was to implement Council Directive 2004/113/EC of 13 December 2004. The scope of the Equal Treatment Act was expanded to prohibit any kind of discrimination on grounds of gender in the access to and supply of goods and services available to the public, including housing. The organisational structure of the Equal Treatment Commission was adjusted accordingly.

Examples from the federal provinces:

The Anti-Discrimination Act of Carinthia (*Kärntner Antidiskriminierungsgesetz*) prohibits – insofar as the federal province has adequate legislative powers – any

discrimination against an individual on grounds of ethnicity, religion or belief, disability, age or sexual orientation in connection with employment or training relationships with the federal province, a municipality and an association of municipalities (Section 5 of the K-ADG) as well as any discrimination of an individual on grounds of ethnicity, religion or belief, disability, age, sexual orientation or gender in “other areas” as well as in the areas covered by Art. 12, para. 1, sub-paras. 1 to 5 of the Federal Constitution Act (Section 28 of the K-ADG).

The Anti-Discrimination Act of Vorarlberg (*Vorarlberger Antidiskriminierungsgesetz*) does not only prohibit discrimination against women in employment and occupation but also discrimination in the areas of social protection (including social security and healthcare services), social benefits, education as well as access to and supply of goods and services available to the public, including housing.

8. Please provide information on the representation of women in senior posts in State bodies, including in the judiciary, the Federal and National Councils, provincial legislative bodies, and in the private sector.

Regarding the political representation of women and men, please see Annex 1.

As of 1 July 2013 the share of women working for the judiciary (as a whole) reached an all-time high, i.e. 53.5%. Peak levels of female employment were achieved among judges (53.8%), public prosecutors (52.2%) and in the higher civil service (62.7%).

Target values for women in the highest salary brackets (management positions) in the Federal Civil Service

The central HRM body – set up within the Federal Chancellery – has defined unified standards in order to measure the percentage of women in “high grade groups” (highest salary brackets) within the different qualification-based pay schemes at federal level. This method allows an efficient, meaningful assessment of the extent to which female staff members have had managerial responsibilities in the federal government over time. The aim of this process was to cover all occupational groups (administrative staff, police, teachers, judges and prosecutors, nurses and school inspectors) in order to focus on the federal civil service as a whole.

Four indicators have been defined to identify persons in higher-grade posts:

Women in the highest salary brackets (all federal staff)

Level of qualification	Salary bracket and function	Proportion of women						
		2006	2007	2008	2009	2010	2011	2012
University degree (I)	A1/7-9 and similar (e.g. directors-general, directors, heads of large subordinate bodies)	15.8%	18.1%	19.1%	21.3%	20.9%	23.2%	24.0%
University degree (II)	A1/4-6 and similar (e.g. heads of unit, deputy heads of unit, heads of departments, heads of relatively large subordinate bodies)	29.8%	30.3%	31.3%	32.7%	33.6%	34.9%	35.1%
Upper secondary school leaving certificate	A2/5-8 and similar (i.e. heads of departments, heads of medium-sized and small subordinate bodies, desk officers in higher-grade posts)	24.4%	25.0%	25.6%	26.2%	26.6%	27.7%	28.3%
Intermediate vocational qualifications	A3/5-8 and similar (i.e. desk officers in higher-grade posts)	29.3%	30.5%	30.8%	31.4%	31.9%	33.2%	33.3%

University degree I = top management

University degree II = middle management

Based on these four indicators, each ministry defines targets for the percentage of women in each category (university degree I, university II, upper secondary school leaving certificate, intermediate vocation qualifications). These targets are not legally binding for the ministries, but represent a clear commitment to increase the percentage of women in managerial positions. The individual ministries set new targets every second year to promote positive developments.

For detailed statistics, please see Annex 1A.

The central HRM body compares the target values with the actual values achieved on an annual basis. The ministers and the public are informed about the developments in this field.

Examples concerning provincial legislative bodies:

Salzburg: 15 out of 36 (about 41%) members of the provincial parliament ("*Landtag*") are female. Both the President of the provincial parliament and her deputy are women. Moreover, there is one woman chairperson of a parliamentary group. Women act as chairpersons in three out of ten committees.

49% of employees in the Upper Austrian administration are women. Women hold 15% of the top management positions and represent 26% of middle management (including experts' positions). The provincial government of Upper Austria has 56 members, of whom 25 are women, including the second president (deputy speaker).

Vienna

The city council (which is also the legislative assembly of this federal province) has 100 members; 34 of them are female, 66 male. The provincial parliament has one female president and two male presidents. Vienna has 23 districts with one district council each. These 23 district councils have a total of 460 female members and 652 male members. Each district has one district chairperson and two deputy district chairpersons. There are 10 female and 13 male district chairpersons, along with 14 female and 32 male district deputy chairpersons. The provincial government consists of 13 members, of whom 6 are female. Women holding leadership positions in the City of Vienna (civil servants) accounted for 50.78 percent as of 1 January 2013.

Executive positions of women in the provincial administration of Vorarlberg:

In 2008: 8.3% women (14 women and 155 men)

In 2009: 9.2% women (16 women and 157 men)

In 2010: 8.2% women (14 women and 156 men)

In 2011: 9.9% women (17 women and 154 men)

In 2012: 10% women (17 women and 153 men)

Private Sector:

Women accounted for 13.5 percent of the supervisory board members and 5.6 percent of all management board members (or general management members) in the 200 Austrian private enterprises with the highest turnover in February 2013.

In 2008 the share of women represented on the supervisory boards of state-controlled companies was 16.1 percent, and they held 11.6 percent of the positions in management boards (or in top management). The Austrian federal government adopted a concrete women's quota for the supervisory boards of state-controlled companies. In accordance with this staged plan, the share of women on supervisory boards appointed by the federal government has to be increased to 25 percent by 2013 and to 35 percent by 2018. The goal of 25 percent had already been reached in 2011; the percentage climbed to 33% in 2012.

III. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Article 6 – The right to work

9. Please provide information on how the right to work in relation to asylum-seekers is implemented beyond seasonal work.

Seasonal work comprises a wide field of activities not only in the tourism sector but also in agriculture and forestry. Seasonal work is admissible for up to twelve months within a period of fourteen months. Due to the large number of vacancies in these sectors, employment opportunities open up for asylum-seekers. Moreover, asylum-seekers are explicitly given preferential treatment over other third-country nationals as far as the access to seasonal quotas is concerned.

Employment opportunities for asylum-seekers beyond seasonal work may be summarised as follows: They enjoy free access to unskilled jobs in reception homes or centres (e.g. cleaning, maintenance and kitchen service) and to short-term activities for municipal or regional authorities, e.g. maintenance of parks or sports facilities. Another important step towards the labour market inclusion of asylum-seekers was taken in mid-2012. The admission of juvenile asylum-seekers to vocational training and work in sectors seeking apprentices has been facilitated.

Since March 2013 young asylum-seekers up to the age of 25 have also benefitted from this measure, which allows young asylum-seekers to increase their competitiveness in the labour market.

It should also be noted that the enforcement of labour rights and the fight against labour exploitation was further improved in the wake of the Act Combating Wage and Social Dumping (*Lohn- und Sozialdumping-Bekämpfungsgesetz/LSDB-G*) in May 2011 when the authorities introduced an increasing number of effective control measures. Moreover, information and support tools have been made available to foreign workers (including asylum-seekers).

General remarks on the LSDB-G:

The Act Combating Wage and Social Dumping established a legal basis in Austria for controlling wages and sanctioning inadequate pay through administrative fines. Previously, employees could only file claims for compensation with the labour and social court.

The most important goal of the Act is a “generally preventive effect” to ensure that foreign and domestic employers comply with wage regulations in Austria and that employees receive pay based on Austrian minimum standards. Due to severe sanctions, numerous controls and requests, positive effects have been observed. In most cases foreign companies also comply with Austrian wage regulations.

The Construction Site Database of the Construction Workers’ Annual Leave and Severance Pay Fund (*Bauarbeiter- Urlaubs- und Abfertigungskasse/BUAK*) and Labour Inspectorate (*Arbeitsinspektion*) has been available since 1 April 2012. Including all current construction sites across Austria, this database facilitates inspections. The BUAK inspectors are allowed to perform inspections during weekends as well.

Besides the inspections performed on an ongoing basis by the Financial Police and BUAK, joint inspections were conducted, in which employees of the regional health insurance institutions (*Gebietskrankenkassen/GKK*), the Financial Police as well as the Labour Inspectorate participated.

Inspections cover the following:

- Duty to make available wage-related documents

Foreign employers in Austria are obliged to make wage-related documents necessary for fixing pay available in German. Besides the employment contract and the terms and conditions of employment (*“Dienstzettel”*), these wage-related documents include in particular records on working time and wages or evidence of wage payments (e.g. bank transfer slips).

- Checking basic wages

The Competence Centre for Combating Wage and Social Dumping (*Kompetenzzentrum Lohn- und Sozialdumping Bekämpfung*) – set up within the Regional Health Insurance Institution for Vienna – is in charge of checking the basic wage payable to an employee posted to Austria (by a temporary work agency); the Financial Police is responsible for verifying the facts in situ.

If the Competence Centre for Combating Wage and Social Dumping becomes aware that pay is below the basic wage, it must bring charges against the employer. If pay is only insignificantly below the basic wage and the total outstanding wage is paid, no charges will be brought.

The basic wage of employees working for Austrian employers is checked by the health insurance institution. If – in the course of carrying out its activities – it becomes aware of the fact that basic wage requirements are not being met, the health insurance institution is obliged to bring charges against the respective employer.

Besides the Competence Centre for Combating Wage and Social Dumping and the respective health insurance institution, BUAKE may also check whether basic wage requirements are being met and bring charges in the event of non-compliance.

Past inspections and sanctions – data for July/August 2013:

- To date, BUAKE has conducted wage checks at 9,227 construction sites in 14,282 companies (including 2,072 foreign companies) and with more than 54,208 workers.
- To date, the Financial Police has carried out inspections in more than 62,861 enterprises (including 1,626 companies posting employees and temporary work agencies) with more than 151,683 employees (including 78,460 employees from abroad); however, these checks did not only cover non-compliance with minimum pay requirements but also other responsibilities of the Financial Police (e.g. tax inspection, combat against tax fraud, illegal employment).
- Cases of alleged non-compliance with minimum pay requirements were reported in the case of 979 companies, affecting 4,066 employees – including 518 foreign companies and 2,938 foreign employees.
- To date, charges have been brought for non-compliance with minimum wage requirements in 492 cases – including 326 cases affecting foreign companies. The total volume of charges brought for inadequate pay amounted to €11,489,550. Fines imposed on employers totalled € 3,978,950; 119 administrative decisions (with a total volume of fines of € 2,112,350) have become legally effective. 108 administrative decisions with a total volume of fines amounting to € 1,866,600 have not yet come into effect.
- 179 fines with binding effect were imposed on enterprises for not making wage documents available; 12 fines with binding effect were imposed on employers for refusing the right to inspect wage documents (fines totalling €199,420).
- 5 fines with binding effect were imposed in 5 cases for circumventing inspections by the Financial Police (fines totalling €5,350).
- Enforceable decisions prohibiting companies to provide services in Austria were issued in 10 cases.

Article 7 – The right to just and favourable conditions of work

10. Please provide updated information on the current gender remuneration gap, disaggregated by region and sector, the measures taken to close such a

gap, and the impact of measures adopted thus far, including the National Action Plan for Gender Equality in the Labour Market.

In Austria labour market participation of women (aged 20 to 64) exceeds the EU average: 69.6% (vs. 62.3%); the participation rate of men is 80.8%. With the exception of 2009, active employment of females rose each year between 2001 and 2012, recording an overall increase by 14.3 percentage points. The rate of part-time employment among women (aged 15 plus) is still relatively high at 44.0% (men: 8.9%). As part-time work for women has become a structural characteristic of the Austrian labour market, the issue of quality of employment is decisive in the context of economic growth, employment and the position of women in the labour market.

The (unadjusted) gender pay gap in terms of gross hourly earnings in the private sector came to 23.7% in 2011. The unadjusted gender pay gap by sector ranges from 7.3% in the transportation and storage sector to 34% in professional, scientific and technical activities as well as arts, entertainment and recreation. The gender pay gap (based on average gross income of full-time employees) is lowest in Vienna (21%) and highest in Vorarlberg (31.8%); see graphs below.

UNADJUSTED GENDER PAY GAP IN % IN 2007-2011

	2007	2008	2009	2010	2011
European Union (27 countries)	n.a.	17.3	16.6	16.1	16.2
Austria	25.5	25.1	24.3	24.0	23.7
Source: Eurostat (Structure of Earnings Survey methodology)					

UNADJUSTED GENDER PAY GAP BY NACE SECTORS IN % IN 2010

Industry, construction and services (except public administration, defence, compulsory social security)	24.0
Business economy	25.2
Mining and quarrying	18.3
Manufacturing	24.4
Electricity, gas, steam and air conditioning supply	23.6
Water supply; sewerage, waste management and remediation activities	12.2
Construction	9.9
Wholesale and retail trade; repair of motor vehicles and motorcycles	27.5
Transportation and storage	7.3
Accommodation and food service activities	9.9
Information and communication	21.2
Financial and insurance activities	30.3
Real estate activities	27.0
Professional, scientific and technical activities	34.0
Administrative and support service activities	22.5
Public administration and defence; compulsory social security	n.a.

Education	27.8
Human health and social work activities	12.0
Arts, entertainment and recreation	34.0
Other service activities	32.0
Source: Eurostat (Structure of Earnings Survey methodology)	

GENDER PAY GAP BY FEDERAL PROVINCE IN 2010 (BASED ON AVERAGE GROSS INCOME OF FULL-TIME EMPLOYEES)

	Earnings men	Earnings women	Disadvantage for women in %
Vorarlberg	44,116 €	30,068 €	- 31.8 %
Upper Austria	42,781 €	30,608 €	- 28.5 %
Tyrol	41,342 €	30,110 €	- 27.2 %
Salzburg	43,143 €	31,682 €	- 26.6 %
Lower Austria	45,470 €	34,171 €	- 24.8 %
Styria	41,820 €	31,593 €	- 24.5 %
Austria total	44,119 €	33,415 €	- 24.3 %
Burgenland	42,161 €	31,992 €	- 24.1 %
Carinthia	42,384 €	32,307 €	- 23.8 %
Vienna	48,595 €	38,269 €	- 21.2 %

Source: BKA F (Statistics Austria)

MEASURES TO PROMOTE GENDER EQUALITY IN THE LABOUR MARKET

The National Action Plan (NAP) on Gender Equality in the Labour Market of June 2010 represents an important contribution to improving the situation of women in the Austrian labour market. With the involvement of all ministries, the provincial governments, social partners, NGOs, businesses and scientists/researchers, the NAP on Gender Equality presents a comprehensive package of 55 concrete measures which pursue four strategic objectives: (i) diversifying educational pathways and career choices; (ii) increasing labour market participation and full-time employment among women; (iii) increasing the number of women in leadership positions; and (iv) closing the gender pay gap. Of the 55 measures proposed, 35 (64%) have been realised fully. Another 14 measures have been implemented in part or are in the process of being implemented.

The amendment to the Federal Equal Treatment Act 2011 (GIBG; Federal Law Gazette 7/2011) provides for the gradual introduction of a compulsory pay gap report for businesses. From 2013 onward, this obligation applies to companies with more than 250 employees, and from 2014 all companies with more than 150 employees will have to submit the report. The reports have to present the average income of women and men in each pay grade and year of service.

In addition, the amendment to the Federal Equal Treatment Act stipulates that minimum wages and the willingness to pay more must be indicated in job advertisements. Violations of this provision have been subject to sanctions since 1 January 2012. A wage and salary calculator has been set up which provides up-to-date and easily accessible information about pay customary in a sector/location in October 2011. It is available on the website www.gehaltsrecher.gv.at. The federal

salary calculator has also created greater transparency. This online tool is currently being updated, and the new version has been available since April 2013.

In case of supposed individual pay discrimination the Ombud for Equal Treatment and the Equal Treatment Commission have had the right to be informed by the competent social security institution on income data of persons suitable for comparison since 2011.

In March 2011 the Austrian Council of Ministers passed a resolution in which the federal government committed itself to increasing the share of women in supervisory bodies of enterprises in which the federal government holds a 50% or larger stake to 25% by 31 December 2013. The share of women in those bodies must be raised to 35% by 31 December 2018. The second progress report, which was submitted to the Austrian Council of Ministers in early March, shows that the share of women in enterprises close to the state averages 33% in Austria. Of the 55 enterprises in which the federal government holds a stake of at least 50%, 35 have a proportion of women of 25% or more. Moreover, the management training programme “Future.Women” (*Zukunft.women*) and the database of female supervisory board members are being continued in order to enhance the profile of highly qualified female candidates for supervisory board positions.

In the summer of 2011, the National Council passed the Long-Term Care Allowance Reform Act 2012 and the Care Allowance Act as a necessary step toward promoting (full-time) employment opportunities for women as well as administrative reform, a client-friendly reform of care allowance administration and funding, and ensuring a means-tested development and expansion of care allowance services in long-term care.

The increase in the number of child care places has made another contribution to enhancing (full-time) employment opportunities for women. Over the last ten years the child care coverage rate among 3-year-olds rose substantially from 57.8% in 2001 to 80.2% in 2011. The rate for 4-year-olds showed an increase from 88.3% to 94.2%, and among 5-year olds the rate climbed from 89.7% to 96.3%. The coverage rate for children under 3 years old likewise showed a substantial increase from 8.4% (2001) to 19.7% (2011), or even 21.8% including qualified child-minders. In the years from 2011 to 2014, the federal government is making a total of € 55 million in subsidies available for child care, and the provincial governments will co-fund these efforts with matching contributions. For the years 2012 to 2014, subsidies amounting to € 15 million per year are available. The federal funds are also intended to extend opening times. In particular, support is being provided for full-day and flexible childcare arrangements which are compatible with full-time employment on the part of parents.

Additional stimuli to promote female employment have been provided by the Austrian federal civil service with its model of a “paternity leave month” for public servants. Since January 2011, employment law for all male public servants has provided for the possibility of taking four weeks of unpaid paternity leave during the maternity protection stage. In the course of a relaunch (fall 2012) of the paternity leave campaign originally started in 2010, an advice tour on paternity leave travelled throughout Austria in the first half of 2013. In 2012, workshops were held to provide businesses with training with regard to paternity leave.

The programme to promote the involvement of women in trades and technical professions ("*Frauen in Handwerk und Technik*"/*FiT*) launched in 2006 was extended until 2014. The purpose of the programme is to enable women to take part in non-traditional educational paths and to complete at least an apprenticeship in those areas. Broadening the range of professions for women is intended to help counteract segregation in the labour market. Moreover, the programme "Re-Entering the Workforce – Future Opportunities" ("*Wiedereinstieg mit Zukunft*") and the modular training programme "Systematic Competence" ("*Kompetenz mit System*"; cf. NRP 2012) are designed to make it easier for women to re-enter the workforce after family-related career breaks. At the end of 2012, the pilot project offering specific vocational and training centres for women ("*Frauenberufszentren*", originally launched in April 2010) came to an end. Given the positive evaluation results the programme received, these centres for additional qualifications and the promotion of gender equality will be expanded throughout the country.

For the relevant statistics, please see Annexes 2, 3 and 4.

11. Please provide updated information on instances of sexual harassment at the workplace as well as on the number of cases where such acts have been sanctioned.

Persons feeling sexually harassed at the workplace in Austria do not only have recourse to ordinary courts but also to the Equal Treatment Commission set up within the Federal Chancellery in accordance with the two Equal Treatment Acts.

Equal Treatment Commission (ETC) for the private sector:

The Equal Treatment Commission (*Gleichbehandlungskommission*) Gleichbehandlungskommission has been established as a special institution to support the labour and social courts as well as the civil courts. Employees, employers, representatives of works councils, the Ombud for Equal Treatment, any person affected by discrimination or an interest group represented in the respective Senate of the ETC may submit a request for examining a violation of the principle of equal treatment if they assume that such a violation has occurred. In cases of discrimination the Equal Treatment Commission issues a non-binding expert opinion as to whether sexual harassment occurred or not.

In 1992 "sexual harassment" was enshrined as a discriminatory offence (including claims for compensation) in the Equal Treatment Act. Since then many cases of complaints submitted to the ETC have dealt with this offence; they were predominantly filed by women who had been harassed.

Statistics of cases of complaints about sexual harassment:

2004-2005	16
2006-2007	35
2008-2009	36
2010-2011	44
2012	28
2013 (31 Aug 2013)	13

Federal Equal Treatment Commission:

The Federal Equal Treatment Commission (*Bundes-Gleichbehandlungskommission*) [Bundes-Gleichbehandlungskommission](#) is a special administrative institution of the federal government responsible for complaints about discrimination in connection with employment relationships with the federal government.

The offence of “sexual harassment” has also been punishable in connection with employment relationships with the federal government since 1993. The respective cases may also be examined by the Federal Equal Treatment Commission.

Statistics of complaints about sexual harassment in the federal civil service:

2005	1
2006	4
2007	3
2008	---
2009	1
2010	---
2011	1
2012	4
2013 (31 Aug 2013)	3

Since 1 August 2008 it has been mandatory to publish the complete and anonymised wording of the findings of the examination of complaints by the two Equal Treatment Commissions on the website of the Minister for Women’s Affairs www.frauen.bka.gv.at.

Furthermore, Reports on Equal Treatment providing relevant statistical data are submitted to the National Council every second year; they are also published on the website of the Minister for Women’s Affairs.

Reference may be made to the following court judgments concerning sexual harassment:

- OGH (*Supreme Court of Justice*) 9 ObA 118/11k of 21 December 2011
- ASG (*Labour and Social Court*) Vienna 9 Cga 23/10 of 23 March 2011
- OLG (*Regional Court of Appeal*) Linz 12 Ra 71/10 of 20 October 2010
- OGH 8 ObA 63/09 of 22 September 2010

The Ombud for Equal Treatment (*Anwaltschaft für Gleichbehandlung*) has been set up to provide advice and support to persons considering themselves discriminated against, e.g. on grounds of sexual and gender-related harassment (Sections 6 and 7 of the Equal Treatment Act) in employment and occupation. In general, it should be highlighted that sexual harassment was given as a reason for complaint in the majority of cases in which counselling was provided in the context of discrimination on grounds of gender in employment and occupation. The standard procedure applied in cases of discrimination starts with a personal and confidential advisory session; subsequent measures comprise interventions, negotiations on a possible

settlement of the conflict or applications to the Equal Treatment Commission, as agreed upon with the persons affected.

Number of cases in which the Ombud for Equal Treatment provided advice on sexual/gender-related harassment in the period 2005-2009

Year	Cases
2005	406
2006	406
2007	389
2008	464
2009	563

12. Please provide updated statistical information on work-related accidents and illnesses, disaggregated by occupational sectors, and mechanisms in place to ensure compliance with the Employee Protection Act.

In response to the request to provide statistical information on work-related accidents and illnesses, the following tables of the Activity Reports of the Labour Inspectorate are included in Annexes 5 to 8 (Occupational accidents and occupational illnesses are presented in the annexes as total figures and disaggregated by gender; they are preceded by the number of those with a fatal outcome [in italics]):

- Table – Recognised occupational accidents of employees in a narrower sense (excluding travelling to/from work) in 2011, disaggregated by economic sections in accordance with ÖNACE 2008 and causes of injury
- Table – Recognised occupational illnesses of employees in 2011, disaggregated by economic sections in accordance with ÖNACE 2008
- Table – Recognised occupational accidents of employees in a narrower sense (excluding travelling to/from work) in 2010, disaggregated by economic sections in accordance with ÖNACE 2008 and causes of injuries
- Table – Recognised occupational illnesses of employees in 2010, disaggregated by economic sections in accordance with ÖNACE 2008

Compliance with the Employee Protection Act (*ArbeitnehmerInnenschutzgesetz*) is in general ensured by the Labour Inspectorate – the Austrian authority responsible for enforcing regulations regarding safety and health protection at the workplace. The Austrian Labour Inspectorate meets the requirements of C081 ILO Labour Inspection Convention (No. 81) and the quality criteria defined in it. The ratio of labour inspectors to employees also complies with the ILO recommendations (i.e. 1:10,000). Infringements of provisions governing safety and health protection at the workplace are sanctioned in administrative criminal procedures. Networking with the labour inspectorates of other EU Member States and, in particular, the Senior Labour Inspectors' Committee (SLIC) has facilitated the exchange of information as well as cross-border enforcement in cases in which regulations concerning health and safety at the workplace were violated.

Based on the intensive cooperation among all important Austrian organisations and institutions active in the area of labour protection and the realisation of projects within the framework of the Austrian Occupational Safety Strategy, compliance with and enforcement of relevant provisions have been strengthened.

Representatives of ministries, provincial governments, the social partners, interest groups, universities, enterprises, associations and other institutions dealing with occupational safety issues engage in planning tasks and cooperate within the framework of the Austrian Occupational Safety Strategy. Their work is coordinated by the Central Labour Inspectorate.

Thanks to this collaboration and the optimal use of existing resources, about 100 projects were initiated between 2007 and 2012. Approximately 78 projects have been completed. Moreover, about 40 publications on occupational safety have been released. In the period from 2007 to 2012 the number of occupational accidents decreased by 9.5%, while fatal occupational accidents dropped by 9%; the incidence rate of accidents at work went down by 13%. The Austrian Occupational Safety Strategy has not only played an instrumental role in achieving this reduction but also generated an enhanced value-added through partnerships and networks. Furthermore, it created a sound statistical basis for proving the effectiveness of specific core services of the Labour Inspectorate (e.g. information and advisory inspections) in specific sectors.

Further information on the Austrian Occupational Safety Strategy, the institutions involved as well as ongoing projects are available to be downloaded in German and English on the website of the Labour Inspectorate:

<http://www.arbeitsinspektion.gv.at/Al/Arbeitsschutz/strategie/default.htm>

http://www.arbeitsinspektion.gv.at/Al/Arbeitsschutz/strategie/en_strategy_0010.htm

The following priority campaigns are examples illustrating the fact that the Austrian Labour Inspectorate takes efficient measures against work-related accidents and occupational illnesses:

- Priority campaign focusing on safety and health protection in bakeries (2011-2012)

The aim of this follow-up project of the Labour Inspectorate on the prevention of the occupational disease asthma bronchiale (“baker’s asthma“) was to assess the effectiveness of the campaign “Safety and Health Protection in Bakeries” conducted from 2000 to 2005.

Within the framework of this priority campaign, inspections were conducted in 325 bakeries across Austria in 2011 and 2012. Based on the evaluation of results, the shortcomings detected in enterprises which had been inspected during the first priority campaign from 2000 to 2005 had decreased considerably.

- Priority campaign “Healthy work in the food services sector – prevention of psycho-social and ergonomic stress (2011/2012)“

Within the framework of the bi-annual priority campaign of the Labour Inspectorate (2011/2012), awareness was raised regarding the identification and assessment of causes of physical and mental stress in this sector; moreover, a systematic approach and effective implementation strategy were developed to reduce these strains.

Thanks to intensified public relations work (workshops with social partners, for safety representatives in companies [*“Sicherheitsvertrauenspersonen”*], experts in preventive occupational healthcare [*“Präventivfachkräfte”*], meetings, articles in professional journals, website of the Labour Inspectorate), greater importance has been attached to these issues throughout Austria.

- Continuing the campaign “Employee Protection in Furniture-making Carpentries“
In a targeted priority campaign all furniture makers with up to 50 employees are to be visited, inspected and consulted by 2015. The accident rate in this sector is high, and accidents are usually severe. Besides accident prevention, this campaign will focus in particular on new legislation adopted in the past few years (Workplace Ordinance, Ordinance on Limiting Values, Ordinance on Work Equipment, Ordinance on Noise and Vibrations, Ordinance on Health Monitoring) and the employment of young people.
- Priority campaign “Information and Advisory Services Focusing on the Premises of Construction Companies” (2010/2011)
Within the framework of the Austrian Occupational Safety Strategy 2007-2012, the spotlight was turned on the high-risk area of the construction sector. In this campaign great emphasis was placed on providing information and advice to construction companies directly on their premises. It was considered a top priority to establish contacts with the management of construction and civil engineering enterprises. An explanatory leaflet on accidents in the construction sector was developed to support this campaign.

Article 8 – Trade Union Rights

13. Please provide the Committee with updated information on the current legal status of the right to strike in the State party, under what circumstances the right can be restricted, and relevant jurisprudence in this regard.

As far as the *right to strike* is concerned, there are no new developments to report. In general emphasis should be placed on the fact that the Austrian legal system provides neither for a subjective right to industrial action nor for a general ban on industrial action under criminal or civil law. The right to strike may, however, be derived from the case law of the European Court of Human Rights based on Article 11 of the ECHR (“freedom of assembly and association“).

There are no differences between industrial action led by a coalition and so-called “wildcat” strikes. Furthermore, the principles of governmental neutrality and equality of arms are applicable.

When examining the question whether industrial action is lawful or not it is necessary to distinguish between industrial action as a collective action and individual behaviour in the process of industrial action. Based on the prevailing doctrine, industrial action may be unlawful due to non-compliance with general duties as to conduct; examination of lawfulness should focus particularly on the question whether the respective conduct is *contra bonos mores*. In particular, those strikes are deemed to be *contra bonos mores* where the adverse effects on the opponent are grossly disproportionate to the desired outcome of the strike. As this problem does not have any practical relevance, there is no relevant jurisprudence in this regard to report on.

Since 2005 no strikes have appeared in the statistics on strikes (source: Austrian Trade Union Federation and Chamber of Labour).

Article 9 – The right to social security

14. Please provide information on the social assistance schemes available for the following groups, as well as the conditions that apply: disadvantaged and marginalized groups, including persons working in the informal economy; and non-nationals, including asylum-seekers, refugees and migrants.

The means-tested guaranteed minimum income scheme aims at significantly improving the situation of persons with financial difficulties through the following measures:

- For the first time, a system of uniform minimum standards created the provision of a binding minimum income
- It brought about a clear financial improvement for single parents (higher reference rates) and thus supports a group of persons that is highly exposed to the risk of poverty.
- It includes improvements regarding procedural law aspects, ensuring better access to legal services (written administrative decisions, shorter decision-making periods).
- It helped remove the stigma associated with the persons concerned (electronic health insurance card instead of social welfare sickness forms) and to reduce information deficits regarding the use of services guaranteeing a minimum income.
- The scheme created a better network among authorities, in particular at the interface of the Public Employment Service and social welfare institutions and, as a result, is intended to optimally support the re-integration of unemployed minimum-income recipients.

Means-tested guaranteed minimum income is available not only for citizens but also for people who are to be placed on an equal footing with citizens according to obligations under international law (e.g. recognised refugees, EEA citizens, citizens of third countries after five years of lawful residence, people under subsidiary protection with a view to the core benefits). As to income and assets, the same eligibility criteria apply to foreigners and Austrians. Asylum seekers are excluded from this measure, as their requirements are covered by another instrument of provision (basic welfare support / "*Grundversorgung*").

The following eligibility criteria have to be fulfilled:

- a small or no income from economic activity, social transfers and subsistence payments
- assets must not exceed a free limit of € 3,974.55
- willingness to work; exceptions are as follows:
 - persons unfit for work (medical certificate required)
 - persons taking care of children (until their third birthday)
 - care-giving family members

The minimum standard has been fixed on the basis of the so-called "net compensatory allowance" (i.e. minimum pension guaranteed to single pensioners

through a top-up benefit), amounting to € 794.91 in 2013. The minimum standards are divided into the following groups:

- singles people and single parents – minimum standard of 100% (€ 794.91)
- couples – 2 x 75% (€ 1,192.36)
- adults (>18 years)
 - who live in communal residence (house share) with other adults – 75 %
 - as from the third eligible person living in the household entitled to alimony – 50%
- minors – minimum 18% (different rules in the laws of the federal provinces)

These minimum standards include a share of 25% for housing costs.

The entire income received by an applicant (e.g. alimony, income from economic activity, social security benefits...) is deducted from the benefit. The only exceptions are family allowance and long-term care allowance. In assessing the entitlement, the whole household (e.g. spouses, life partners) is taken into account (“benefit unit”).

Long-term care allowance (i.e. an allowance that covers part of the costs arising from the care requirements of a person) is a social benefit granted irrespective of insurance contributions. In May 2013 437,515 persons obtained long-term care allowance based on the Federal Long-Term Care Act (*Bundespflegegeldgesetz/BPGG*), Federal Law Gazette No. 110/1993, as amended. Long-term care allowance was increased by 2.0% in 2005; by 4% (care levels 1 and 2), 5% (care levels 3 to 5) and by 6% (care levels 6 and 7) in 2009.

By introducing a lump-sum hardship supplement in respect of the specific care levels assigned to persons with severe mental or psychological disabilities, in particular dementia illnesses, as well as of children and young people with extremely severe disabilities, a total of 14,519 persons have benefited from higher long-term care allowances under the Federal Long-Term Care Act since 1 January 2009.

Based on the 2012 Long-Term Care Reform Act (*Pflegegeldreformgesetz*), Federal Law Gazette I No. 58/2011, which came into force on 1 January 2012, the federal government has assumed sole responsibility for legislation on long-term care allowance and all matters related to the implementation of this scheme. Thanks to the concentration of competence at federal level, the number of decision-making bodies was reduced from more than 300 to a total of seven institutions. This has helped to create a more simple and efficient structure.

Other social benefits payable regardless of insurance contributions are granted to so-called “favoured persons with disabilities” under the Disability Employment Act (*Behinderteneinstellungsgesetz/BEinstG*) and within the framework of the employment campaign of the Federal Social Office (*Bundessozialamt*). Austrian citizens, EU citizens, nationals of the parties to the Agreement on the European Economic Area, Swiss citizens and their family members as well as recognised refugees and third-country nationals with a long-term permit of residence can qualify as “favoured persons with disabilities”.

15. Please provide updated information concerning the pension scheme in the State party in light of ongoing reforms. In particular, please provide information on measures taken to ensure that low income-workers, as well as women, receive sufficient pension benefits to enjoy an adequate standard of living.

After introducing the new pension account with effect 1 January 2014, all pension credits accrued up to 31 December 2013 will be presented as a single amount in euro and entered as an initial credit in the pension accounts. This rule applies to all insured persons who were born in 1955 or later and earned pension credits during at least one month before 31 January 2004. The re-valued annual partial credits are added up, resulting in the total credit. Hence, pension claims may be checked easily at any time, and objectives of transparency and comprehensibility are met.

Regarding the main characteristics, type and scope of benefits as well as the financing arrangements of the Austrian social security system, reference is made to the “2012 MISSOC Report on Social Protection in the Member States of the European Union” issued by the European Commission as well as to the “Report on Pension Adequacy in the European Union 2010-2050“ (2012).

The equalisation supplement – which is to some extent means-tested – is granted to persons who earned pension credits. This means that low pensions may be increased to the level of the so-called “reference rate for equalisation supplements” (“*Ausgleichszulagenrichtsatz*”). Besides the income of the eligible person, the income of the spouse or partner is taken into account. The reference rate for equalisation supplements (including all health insurance contribution payments) currently (2013) amounts to € 837.63 for single persons and € 1,255.89 for couples (it is paid 14 times a year.)

With regard to the second part of the question, be referred to the explanations under Article 11, sub-para. 23.

Article 10 – Protection of the family, mothers and children

16. While noting the information provided in paragraph 225 of the State party report, please clarify the criteria for family reunification for non-nationals, in particular with regard to income requirements. Please also inform the Committee of measures taken to reduce the waiting time for purposes of family reunification, including initiatives to abolish the quota system for family reunification.

In order to obtain a residence title, family members¹ of third-country nationals who are holders of a residence title in Austria or family members of Austrian nationals, who do not fall within the scope of Council Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States first of all need to fulfil general eligibility

¹ According to the definition in § 2/1/9 Settlement and Residence Act (in German: “Niederlassungs- und Aufenthaltsgesetz”), family members include spouses and registered partners or unmarried minors including adoptive and step children. Spouses and registered partners must be 21 years or older at the time of application.

requirements, e.g. having adequate means of subsistence, health insurance coverage and adequate means of accommodation according to local standards.

- Adequate means of subsistence:

The third-country national (or the sponsor) must have a fixed and regular income or other savings enabling him/her and his/her family member(s) to live without resorting to welfare aid from local authorities. The income needs to be equal to or exceed the standard income rate. In 2013, this standard income rate amounts to € 837.63 for single persons, € 1,255.89 for married couples and an additional € 129.24 for each child.

- Health insurance coverage and adequate means of accommodation:

Furthermore, the third-country national must have health insurance coverage, providing benefits in Austria and covering all risks. Family members of third-country nationals who pursue gainful employment in Austria (e.g. “Red-White-Red Card” holders or holders of the residence title “EU Blue Card”) or family members of Austrian citizens are usually covered by their sponsors’ health insurance (co-insurance). Finally, the third-country national (or the sponsor) must provide evidence of a legal title to accommodation (e.g. by providing a lease contract), considered adequate for his/her family size according to local standards.

In some cases of family reunification, another requirement is an available quota place. The possibility to include such a requirement is consistent with Article 8 of Council Directive 2003/86/EC on the right to family reunification.

Since the latest amendment to the Settlement and Residence Act (in force since 1 July 2011, the quota obligation has applied only to the following persons:

- family members of a third-country national who is the holder of a residence title “Long-term Resident – EC” or a “Red-White-Red Card Plus” (exceptions regarding former Red-White-Red Card holders or EU Blue Card holders) or any kind of settlement permit;
- family members of individuals who have been granted asylum.

During the last few years, there has been in general no waiting time, as sufficient quota has been available.

Quotas have been used up in Austria in the past few years as follows:

2008: 87.6%

2009: 70.0%

2010: 65.2%

2011: 67.3%

2012: 76.7%

2013 (as of 25 August): 43.3%

Accordingly, there are currently no initiatives to abolish the quota obligation for the aforementioned remaining cases of family reunification.

17. Please specify the measures that have been adopted to ensure the highest quality of alternative care institutions and family type alternative care for children in each Länder.

In response to social and legal changes, the Federal Fundamental Act on Youth Welfare (*Bundesgrundsatzgesetz zur öffentlichen Jugendwohlfahrt*), passed in 1989, was superseded by the Federal Act on the Principles of Assistance to Families and Educational Care for Children and Young People – “2013 Federal Children’s and Youth Assistance Act” (*Bundes-Kinder- und Jugendhilfegesetz/B-KJHG*), Federal Law Gazette I No. 69/2013.

In accordance with this Fundamental Act, the federal provinces have to adopt implementing laws defining uniform standards for all of Austria within one year of its entry into force, e.g. for social-pedagogical institutions.

Moreover, the B-KJHG 2013 enshrined legal standards concerning various types of alternative care for children who do not have any realistic chances of growing up in their family of origin, e.g. provisions governing approvals of private institutions, foster carers and adoptive parents. Only trained personnel with adequate (inter)personal skills who are active in fields such as social work, social pedagogy, psychology and psychotherapy may be used. These specialists have to be offered regular further and advanced in-service training as well as supervision. They have to perform their tasks based on professional standards, which are laid down in detail with legally binding effect by the federal provinces.

Alternative care institutions and family-type alternative care for children in the federal provinces:

Burgenland:

In accordance with Section 29 of the Youth Welfare Act of Burgenland (*Bgld. Jugendwohlfahrtsgesetz*), Provincial Law Gazette No. 32/1992, as amended in Provincial Law Gazette No. 75/2009, “comprehensive care” comprises care and education of a minor in a foster family or in a youth welfare institution; babies and infants should be given priority in benefiting from care and education in a foster family.

Youth welfare institutions as well as foster parents require the approval of the competent authority and are under its constant supervision. Foster parents have to undergo training (3 modules with a total of 36 hours) before receiving the approval of the authority. The provincial government grants financial aid towards the further and advanced training of foster parents. If required, foster parents are offered supervision.

The personnel of the youth welfare institutions has to have adequate skills and is required to participate in regular further and advanced training as well as to undergo supervision. The mandatory staffing ratio and the minimum amount of further and advanced training (16 hours/year) are laid down by the authority.

Carinthia:

The Youth Welfare Act of Carinthia (*Kärntner Jugendwohlfahrtsgesetz/K-JWG*), Provincial Law Gazette No. 139/1991, as amended in Provincial Law Gazette No. 89/2012 provides for different types of residential care for children and young people outside their families if this is deemed necessary based on the youth welfare law.

Homes and other institutions that have a legal duty to provide care and education to minors (Section 28) and are open all year round as well as foster parents require the approval of the competent authority. They are also subject to permanent supervision by an authority (Sections 15, 18, 23 and 24 of the K-JWG). In addition to residential care in homes, other institutions or foster families, the federal province provides services under the K-JWG which are suited to the requirements of each individual case so as to support the children and young people as well as the families involved (Section 8 of the K-JWG).

Section 18 of the Act on Guaranteed Minimum Income of Carinthia (*Kärntner Mindestsicherungsgesetz/ K-MSG*), Provincial Law Gazette No. 15/2007, as amended in Provincial Law Gazette No. 17/2013, stipulates that persons exposed to violence by family members or their partners in life must be provided with temporary accommodation as well as support and counselling services allowing them to cope with violent experiences and to develop new prospects for the future. These services must also be provided to their underage children unless measures pursuant to the Youth Welfare Act of Carinthia have to be taken.

Lower Austria

The Lower Austrian Implementing Act regarding the B-KJHG 2013 (*Niederösterreichisches Ausführungsgesetz zum B-KJHG 2013*) is expected to be passed in 2013. The envisioned Implementing Act will grant the provincial government of Lower Austria the “power to issue statutory instruments” (“*Verordnungsermächtigung*”) allowing it to establish and operate educational facilities.

As far as fostering schemes (representing a family-type of care which is particularly suitable for very young children) are concerned, the new Implementing Act of Lower Austria will professionalise the activity of foster parents by offering them qualified training. As in the past, the provincial government of Lower Austria will act as the authority issuing approvals, while the concrete assessment of the suitability of applicants for providing foster care falls within the remit of the competence centres of the provincial government of Lower Austria.

In the future the Youth Welfare System of Lower Austria (*NÖ Jugendhilfe*) will provide various services in cooperation with at least two experts. This will help to improve the quality of risk assessment, assistance planning and the performance of child placement tasks. Another vital step is to change the focus of services available within the youth welfare system (i.e. assistance to children and young people) towards extra-mural and mobile services, as this will enable children to remain in their familiar setting. Different options are developed together with non-governmental social service providers to ensure a wide spectrum of planning assistance.

Salzburg:

The range of child-care facilities in Salzburg covers nurseries, play groups, groups with a wider age mix, groups of pupils, day-care centres and day-care parents. Various laws and ordinances specify the admissible number of children per group, the required personnel, the ratio of children to carers, requirements regarding the necessary amount of time for preparations and premises, etc. Three inspectors are responsible for quality assurance; they monitor the quality of pedagogy and compliance with requirements on the premises of facilities.

Styria:

The 1991 Youth Welfare Act of Styria (*Steiermärkische Jugendwohlfahrtsgesetz/ StJWG*), Provincial Law Gazette No. 93/1990, as amended in Provincial Law Gazette No. 63/2011, contains provisions on foster children as well as residential homes and other facilities for minors. Care places may be assigned exclusively by the district administration or approved institutions of the private youth welfare system. Private youth welfare institutions seeking approval have to meet the requirement that all tasks are performed by adequately trained personnel. Homes and other institutions providing residential care and education to minors (Section 37) may be established and operated only subject to the approval of the provincial government of Styria (Section 29).

Under the Violence Prevention Act of Styria (*Steiermärkisches Gewaltschutz-einrichtungsgesetz/StGschEG*), Provincial Law Gazette No. 17/2005, women, and minors living with them in the same household, are granted assistance in facilities protecting women and children if they are exposed to violence from close family members.

Upper Austria:

Public youth care institutions are approved by the government if they observe quality standards laid down in guidelines for full-time care, foster children and crisis care.

The processes of planning and providing the necessary care are based on workflow descriptions. The social workers responsible for these processes have to meet the children in care institutions twice a year to supervise their care and development. Additionally, professionals are responsible for regulatory auditing of care institutions at least every two years to make sure that quality standards and guidelines are complied with.

Vienna:

The City of Vienna tries to find suitable foster families to make available family-type external care, in particular for very young children who cannot be assured of adequate protection in their families of origin. The suitability of persons willing to provide care and education for a child in an emergency situation for a limited period of time during which risks faced by the child are assessed by the authorities or within the context of “comprehensive care” is examined carefully in each individual case. The mandatory procedure for approving foster parents covers informative talks with the potential foster parents, an examination as to whether they meet the legal, family, social, health and financial conditions for providing care as well as compulsory participation in a modular training programme. The future foster parents must also be willing to cooperate with social workers. Within the framework of care supervision, the social workers responsible for supporting the foster family check regularly whether care and education of the foster child is ensured in an optimal manner. They have personal contact with the child and ensure his/her protection, optimal personal care and support in the family. Further training and supervision programmes are offered to support the foster parents.

In 2012 the telephone number 147 of the telephone counselling centre “Rat auf Draht” was posted on the notice boards of all social-pedagogical facilities to make children and young people aware of this external counselling service for all kinds of problems. Furthermore, a special ombudsperson for children living in social-pedagogical communities was appointed in early 2012. The ombudsperson acts as an independent contact person supporting children and young people in enforcing their rights and asserting their claims.

Vorarlberg:

Vorarlberg's social network in the sphere of youth welfare includes upstream service providers as well as aftercare institutions. Special attention should be drawn to the initiative "Early Helps" ("*Frühe Hilfen*"). The "early.start" project ("*früh.start*") is part of the overall "Early Helps" concept and offers support and advisory services across Vorarlberg. "early.start" offers families with children aged between 0 and 3 years assistance and specialist intervention. It focuses on the healthy development of the children, in particular those whose parents are in difficult life situations.

In Vorarlberg children receiving care and education outside the family are placed predominantly with foster families, while only very few children are accommodated in flat-sharing communities or other facilities, e.g. children's villages.

18. Please provide disaggregated statistical data over the past five years on the number of women and children trafficked for sexual exploitation and forced labor. Please also provide information on the implementation of laws criminalizing trafficking in persons and forced labor and the protection afforded to victims.

In Austria, there are various criminal offences concerning trafficking in human beings: Section 104 of the Criminal Code ("Slavery"), Section 104a of the Criminal Code ("Trafficking in Human Beings") and Section 217 of the Criminal Code ("Transnational Prostitution Trade") as well as Section 116 of the Aliens' Police Law ("Exploitation of an Alien").

Section 104a of the Criminal Code has been amended recently. The amendments came into force on 1 August 2013 and entailed more severe penalties for some offences (e.g. offences in accordance with Section 104a, para. 1 as well as penalties in cases where the victims are aged between 14 and 18 years). In addition, the scope of the concept of "exploitation" was widened to include begging and different criminal activities.

Furthermore, Section 217 of the Criminal Code ("Transnational Prostitution Trade") punishes persons procuring another person to become a prostitute or recruiting another person for prostitution in another country different from that whose nationality he/ she has or where he/she has his/her usual place of abode, regardless of whether this person is already engaging in prostitution or not.

Under the Aliens' Police Law, the exploitation of an alien (Section 116) is punishable.

Statistical data:

Cases reported	Offences according to Section 104a of the Criminal Code	Offences according to Section 104a of the Criminal Code	Section 217 of the Criminal Code
2008	4	-	46
2009	16	16	43
2010	16	2	47
2011	14	6	52

2012	20	2	48
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Suspects identified		Offences according to Section 104a of the Criminal Code	Offences according to Section 104a of the Criminal Code	Section 217 of the Criminal Code
2008	male	3		55
	female	1		19
	total	4	-	74
2009	male	11	10	68
	female	4	9	31
	total	15	19	99
2010	male	11		35
	female	5		13
	total	16	-	48
2011	male	10	7	39
	female	5	2	8
	total	15	9	47
2012	male	15	6	64
	female	7	3	21
	total	22	9	85

Victims		Offences according to Section 104a of the Criminal Code	Offences according to Section 104a of the Criminal Code	Section 217 of the Criminal Code
2008	male	2		1
	female	2		31
	total	4	-	32
2009	male	11		
	female	4	7	87
	total	15	7	87
2010	male	2		2
	female	11	1	46
	total	13	1	48
2011	male	4	2	1
	female	12	5	46
	total	16	7	47
2012	male	9	-	2
	female	11	8	73
	total	20	8	75

The data of the Judicial Criminal Statistics (conviction statistics) from 1976 onwards are provided free of charge in the Statistical Database on the website of Statistics Austria (Statistik Austria) (http://www.statistik.at/web_de/services/datenbank_superstar/index.html) – (visit website→login→statistics→social data→crime→criminal statistics).

In this context, it should be pointed out that in the vast majority of cases the victim has to give testimony to clear up and investigate these criminal offences. Hence, the quality and usability of witness evidence is determined to a large extent by the willingness of the victim to give evidence as well as his/her availability to the prosecuting authorities.

The Austrian Code of Criminal Procedure (*Strafprozessordnung/StPO*) provides a number of measures to protect and support the victim, especially in connection with the aforementioned criminal offences (e.g. Section 66, para. 2 of the StPO – Victims' Right to Support during Court Procedures, Section 162 of the StPO – Anonymous Statements, Section 165 of the StPO – Separate Hearing of Witnesses).

With a view to improving cooperation between the prosecuting authorities and victims' protection facilities, the Federal Ministry of Justice initiated regular "round tables" at the provincial courts. The aim of these gatherings is to facilitate exchanges between judges and public prosecutors on the one hand and representatives of victims' protection facilities on the other hand. These round tables have been well received by the target groups as they promote cooperation and mutual understanding of the respective task areas.

Moreover, public prosecutors with special training are responsible for dealing with human trafficking and criminal offences against victims' sexual integrity and self-determination.

In view of the special needs of victims of human trafficking, the Federal Ministry of Justice – together with the Federal Ministry of the Interior, the public prosecutors' offices and special protection facilities for victims of human trafficking – developed a concept to improve cooperation in cases of human trafficking between the prosecuting authorities and the victims' protection institutions in September 2012. It focuses on an ongoing exchange between the prosecuting offices and victims' protection associations as well as regular further training in this area for judges and public prosecutors.

In implementing this concept, the Federal Ministry of Justice organised the first exchange of experience and views between the prosecuting authorities and the victims' protection associations on 23 May 2013. Furthermore, another training workshop on human trafficking was organised for judges and public prosecutors by the Federal Ministry of Justice on 20 June 2013. The lectures were given by representatives of the Ministry and of victims' protection associations.

19. Please provide information on the number of registered cases of domestic violence, including marital rape and sexual abuse of women and children in the family, and the sanctions imposed on perpetrators.

No judicial data are available on these offences. Regarding crime statistics of the Austrian police, see Annex 9. As the Judicial Criminal Statistics do not distinguish whether offences (e.g. rape) were committed in the victim's social context or not, no specific information can be provided on the sanctions imposed on perpetrators. The penalties under the law are basically the same; this means that the law does not

allow for any circumstances giving rise to a more favourable treatment of domestic violence.

In 2012, 7748 barring orders/evictions were issued, 442 barring orders were revoked, 751 administrative offences were sanctioned and 6825 cases were settled out of court (as a de-escalating measure).

The objectives of different preventive measures taken in the context of various services for victims of child maltreatment as well as of domestic violence (besides any other prevention programmes of different ministries) were taken into account in particular by establishing child and victim protection groups under Section 8e of the Federal Hospital and Sanatorium Act (*Bundesgesetzes über Krankenanstalten und Kuranstalten/KAKuG*).

Perpetrators of violence may be banned from places specified in a court injunction. They may also be ordered to avoid meeting and contacting the victim. The prerequisite for issuing such an injunction is that further meetings with the perpetrator would be unacceptable for the victim and that the injunction does not prejudice any substantial interests of the perpetrator.

20. Please clarify the definition of “light work” for children and provide information on monitoring mechanisms in place to ensure that children who engage in such work are effectively protected.

1. With regard to the scope and definition of “light work“ in the 1987 Children and Youth Employment Act (*Kinder- und Jugendlichen-Beschäftigungsgesetz/KJBG*), Federal Law Gazette No. 599/1987, as amended, we would like to clarify: in accordance with Section 5a, para. 1 of the KJBG, light work shall be permissible for children having reached their 13th year outside regular school hours only, subject to the proviso that

- individual tasks are performed in enterprises which employ exclusively family members of the owner of the enterprise or
- individual tasks in the (family’s own) private household or
- the tasks consist of running errands, giving a helping hand on sports fields or playgrounds or occasionally collecting flowers, herbs, mushrooms and fruit as well as individual activities equivalent with the aforementioned tasks.

Such individual tasks are not regarded as “light work” if their fulfilment exceeds the individual scope of performance deemed reasonable for a child in accordance with his/her age and personal skills. This is for example the case in terms of average values if a load weighing more than one fifth of the body weight of the child is moved or transported without mechanical aid (Section 5a, para. 2 of the KJBG).

Furthermore, these individual tasks pursuant to Section 5, para. 3 of the KJBG shall not be regarded as “light work” if

- they are likely to impair the physical and mental health, development or morals of the child,

- the child is exposed to accident risks or harmful effects of heat, cold or damp as well as to harmful effects of substances or rays detrimental to health, or to dust, gases or vapour,
- the child is hampered in attending school and in deriving appropriate benefit from education at school and if she/he is obstructed in exercising his/her religious rights and duties,
- the child spends more than two hours on school days and school holidays doing this work; the total number of hours spent having lessons at school and devoted to light work must not exceed seven hours.

Furthermore, it is generally forbidden to engage children in light work on Sundays and public holidays as well as between 8 p.m. and 8 a.m. (Section 5a, para. 4 of the KJBG). In accordance with Section 5a, para. 1 of the KJBG, the consent of the child's legal representative is a prerequisite for the admissibility of light and occasional work. He/she has to make sure that this occupation will not have any negative consequences on the child's health and school attendance (Section 5a, para. 5 of the KJBG).

2. Regarding monitoring mechanisms:

In accordance with Section 9, para. 1 of the KJBG, the following authorities are responsible for monitoring compliance with the provisions of the KJBG concerning child labour:

- the district administrations (acting as administrative penal authorities) in cooperation with the Labour Inspectorates (acting as supervisory authorities),
- the district authorities and
- the management of individual schools.

The Labour Inspectorates employ special staff responsible for matters relating to the protection of children and young people at work (labour inspectors for child work and youth protection). If the Labour Inspectorate detects inadmissible child labour, the case is reported to the district administration if an official request to restore lawfulness is not complied with.

Teachers at schools, physicians and representatives of the private youth welfare system as well as all local authorities responsible for youth welfare matters have a legal duty to report any observations concerning the violation of youth labour regulations to the competent district administration. On request of this authority, they have to provide information on child labour in general as well as on individual cases of child labour (Section 9, para. 2 of the KJBG).

Inadmissible child labour is sanctioned; the district administrations act as administrative penal authorities. In accordance with Section 30 of the KJBG, fines amounting to between € 72 and € 1,090, or in the event of repeated infringement between € 218 and € 2,180, are imposed on persons violating child labour protection regulations by the district administration, unless a more severe punishment is required under other laws.

21. Please provide information on the results of the 2012 study on violence against older persons, measures taken to address the problem, and the results achieved.

The studies "Harassment, Violence and Aggression against Older Persons. The Experience of Experts in Austrian Counselling and Support Facilities" ("*Übergriffe*,

Gewalt und Aggression gegen ältere Menschen. Die Erfahrungen von Experten und Expertinnen in österreichischen Beratungs- und Hilfeeinrichtungen) by Josef Hörl, Department of Sociology of the University of Vienna, Federal Ministry of Labour, Social Affairs and Consumer Protection 2009) and “Prevention and Intervention in Cases of Violence against Older Persons. Concepts and Measures in the International Context and Legal Aspects in Austria” (*Prävention und Intervention bei Gewalt gegen ältere Menschen. Konzepte und Maßnahmen im internationalen Kontext und rechtliche Aspekte in Österreich*) by Josef Hörl, Department of Sociology of the University of Vienna, Federal Ministry of Labour, Social Affairs and Consumer Protection, June 2012) have inter alia shown that only very few older victims of violence seek help. Rather than turning to victims’ assistance facilities, they tend to address these problems in contacts with medical professionals or representatives of the elderly. In autumn 2011 and 2012 workshops were held in all federal provinces to develop counselling expertise on violence against older persons within existing structures. Besides victims’ assistance facilities, mobile services, residential homes for the elderly and nursing homes as well as senior citizens’ representations participated in these events. Moreover, a central contact point was established within Pro Senectute Österreich (<http://www.prosenectute.at/>) on behalf of the Federal Ministry of Labour, Social Affairs and Consumer Protection in 2011. The “Counselling Hotline” (*Beratungstelefon*) offers information and counselling regarding all types of violence against older women and men. The series of folders “Recognising Violence” (*Gewalt erkennen*) raises public awareness of violence against the elderly and deals with different prioritised issues, such as dementia and violence or the situation of older persons in institutions. They are in high demand by the public and the expert community.

According to the controlling reports of the associations “Hilfswerk Salzburg – Legal Guardianship and Home Residents’ Representation”, “VertretungsNetz – Legal Guardianship, Patients’ Ombudsperson, Home Residents’ Representation”, “IfS – Legal Guardianship, Home Residents’ Representation and Patients’ Ombudsperson”, as well as the Lower Austrian Association of Legal Guardianship and Home Residents’ Representation (“NÖ Landesverein für Sachwalterschaft und Bewohnervertretung”), a total of 181 requests for review in accordance with the Act on the Protection of Home Residents (*Heimaufenthaltsgesetz*) were filed with Austrian courts by the representatives of home residents in 2012.

Within its sphere of responsibility, the Federal Ministry of Health has responded to the objective of reducing abuse of the elderly by initiating the appropriate legislation, in particular provisions on the representatives of home residents in Sections 8ff of the Act on the Protection of Home Residents.

22. Please provide information on measures taken to ensure that migrant women and girls have access to information concerning their rights and on assistance available to victims of domestic violence, forced marriage and female genital mutilation.

Numerous specific agencies support migrant women and girls, such as the protection centres against domestic violence, the crisis centres for cases of sexual violence, shelters, counselling agencies (particularly for migrant women) and the 24-hour Helpline, all of which offer information in various languages. Relevant information (in German and English) on legal issues and numerous support agencies throughout

Austria can be found on the website of the Federal Minister for Women and the Civil Service.

In general, victims of violence have to be informed of their rights as soon as they are identified as victims by the police (or other relevant official institutions). This includes information on their right to psychological support and court accompaniment.

Furthermore, efforts have been intensified to train medical staff to detect cases of violence against women and to inform potential victims about the assistance available to them. Numerous measures have been taken to provide information on violence against women to girls at school, such as using workshops, exhibitions and the website of the Ministry of Education.

Between 2004 and 2013 the following activities and measures were implemented:

2004	- In the context of establishing the Women's Service within the Ministry for Health and Women, a special service for vital issues affecting migrant women was set up.
2005	- Since 2005 great importance has been attached to taking measures against Harmful Traditional Practices (HTP). The goal of this campaign was to ensure basic human rights to those women who face risks of forced marriage, genital mutilation or honour crimes. - Starting with expert talks, several groups of professionals with influence on the situation of the persons affected were informed about current problems as well as possible solutions in Austria. - Planning of emergency housing for women or girls at risk of forced marriage was begun.
2006	- Activities regarding HTP issues were documented in several brochures.
2007	- The Report on Migrant Women was published; it served as a basis for further efforts concerning the rights of women with migrant background.
2008	- The "Gender-Days" for pupils provided information on harmful traditional practices against women in an exhibition and workshops titled (Motive for the Crime: Honour" ("Tatmotiv Ehre"). In parallel, the film "Das andere ich" was shown to raise awareness of this subject. - In order to raise awareness of the topics of FGM, forced marriage and honour killing, the study "So far and yet so close – harmful traditional practices affecting women") ("So fern und doch so nah - Traditionsbedingte Gewalt an Frauen") was published on the website of the Minister for Women's Affairs. Further legal information and an overview of counselling centres and shelters in Austria for (potential) victims of harmful traditional practices were listed on this website. A short version of the study has been reprinted in the booklet "Tradition and Violence" (" <i>Tradition und Gewalt</i> ") in German and English.
2009	- The aforementioned brochure was reprinted. - The brochure "Women's Guide" (" <i>Frauenratgeberin</i> ") was reprinted. The brochure includes information for victims of domestic violence and forced marriage.

2010	<ul style="list-style-type: none"> - The new information folder (in five languages) of the Platform “Stop FGM” was presented at a press conference. It directly addresses parents considering having harmful traditional practices performed on their daughter. - Staff members of Women's Counselling Centres were invited to take part in training organised as “FGM Workshops”. - Two projects, organised and realised by “Orient Express”(an advice centre for women with migrant backgrounds and an NGO specialising in providing counselling for victims of forced marriage), were begun. They especially focused on forced marriage, FGM and inter-generational conflicts: <ol style="list-style-type: none"> 1. Training sessions concerning forced marriage, FGM and inter-generational conflicts, aimed at multiplier persons like teachers, social welfare workers, the staff of Youth Facilities, family law judges and so on. These training sessions were provided in all federal provinces except Vienna. 2. Training sessions on how to become a multiplier, inter alia in the field of Harmful Traditional Practices, were begun. Via this project young women with migrant backgrounds belonging to the 2nd and 3rd generation are able to acquire further qualifications and thus enhance their prospects in their professional development.
2011- 2012	<ul style="list-style-type: none"> - The project “training of and training to become multipliers” was continued.
2013	<ul style="list-style-type: none"> - The first emergency accommodation for women or girls at risk of forced marriage was opened and presented to the public.

Since 1 January 2012 Austria has had extraterritorial jurisdiction over female genital mutilation and forced marriage committed abroad, regardless of the legal situation in the country where the offence has been committed, if the victim or the offender is an Austrian national or resident.

According to the Austrian Code of Criminal Procedure, victims, irrespective of their status as private parties joining the proceedings to claim damages, have a special legal standing in criminal proceedings. They are entitled to receive comprehensive information about the proceedings and their legal status; they are admitted as parties to the proceedings and may demand the reinstatement of proceedings stopped by the public prosecutor's office.

In addition, persons who are victims of violence or whose sexual integrity has been violated on the one hand, or dependants of a person whose death might have been caused by a criminal offence on the other hand, are entitled to psychosocial and legal assistance during the proceedings. The Federal Ministry of Justice may instruct victims' support organisations to provide psychosocial and legal assistance to victims (Section 66, para. 2 of the Code of Criminal Procedure). Legal assistance is provided by lawyers contracted by victims' support organisations. They may represent the victims in criminal proceedings to safeguard their rights as well as (if requested) their status as civil claimants (see Section 66 and 67 of the Code of Criminal Procedure). Psychosocial assistance is in practice given by specially trained persons. Their services include the psychological preparation of the victim to face the emotional stress of criminal proceedings as well as accompanying the victims as confidential persons to interrogations and trials. In practice, coordination between persons

providing psychosocial assistance and the criminal police, public prosecutor as well as with the court is ensured.

In 2011 75 women and 3 children and in 2012 95 women and 7 children received psychosocial and legal assistance from “LEFÖ – Counselling, Education and Support for Female Migrants”.

According to Section 10, para. 2 of the Code of Criminal Procedure, the criminal police, the public prosecutors’ office or the court have to take into account the victims’ rights and interests. They also have to inform victims about their rights in criminal proceedings as well as the possibility of receiving compensation and support. This obligation includes providing the information in a manner which may be understood by the victim; language or other barriers have to be taken into account. If the victim does not have an adequate command of the German language, an interpreter has to be called in.

According to Section 70 of the Code of Criminal Procedure, upon initiating investigative proceedings against a person accused, the criminal police or the public prosecutor’s office shall inform the victims of their essential rights (Sections 66 and 67). This may only be omitted if the purpose of investigations is jeopardised. Victims, as defined under Section 65, sub-para. 1(a) or 1(b) (victims of violent acts, threat or sexual abuse as well as their next of kin) shall be informed of the prerequisites of procedural assistance no later than before their first examination. Section 70, para. 2 of the Code of Criminal Procedure provides that victims whose sexual integrity could have been impaired, shall be informed of their rights no later than before their first examination, namely: to request to be examined, if possible, by a person of the same sex during investigative proceedings, to refuse to give answers to questions about their most private sphere of life or questions about details of the criminal offence if they find it unacceptable to be expected to describe them (Section 158, para. 1m subpara. 2), to request to be examined with consideration during investigative proceedings and during the main trial (Sections 165, 250 para. 3), to request that the main trial be closed to the public (Section 229, para 2).

The victims’ support organisation “White Ring” (“Weisser Ring”) operates a helpline for victims of crime on behalf of the Federal Ministry of Justice. This helpline gives people emotional support and informs them of their rights and how to assert them. Victims are also referred to the relevant organisations that are free and available around the clock.

Article 11 – The right to an adequate standard of living

23. In the light of paragraphs 237 to 242 of the State party’s report, please provide updated information on the impact of measures taken to combat poverty, as well as on the number of persons living in poverty in the State party, disaggregated by ethnicity, nationality, sex and region.

Relevant figures about people who are deemed to be at risk of poverty, about population groups, income and living conditions are available at http://www.bmask.gv.at/site/Soziales/Allgemeine_Sozialpolitik/Armut .

To further develop the existing social security systems of the federal provinces, the means-tested minimum income scheme was introduced in all federal provinces by October 2011.

Within the framework of the EU’s “Europe 2020 Strategy”, Austria adopted a national target to reduce the number of individuals living in poverty or social exclusion by at least 235,000 persons within ten years. All relevant measures taken are listed in the

Austrian National Reform Programmes (http://ec.europa.eu/europe2020/europe-2020-in-your-country/osterreich/national-reform-programme/index_en.htm) and the National Social Report (<http://ec.europa.eu/social/BlobServlet?docId=8731&langId=de>).

The “means-tested equalisation supplement (“*Ausgleichszulage*”) may – on a partly means-tested basis – apply to people who are, in principle, eligible for a pension. This means that pensions below a specific limit may be raised to the so-called “equalisation supplement reference rate” in cases of financial hardship. Apart from the pensioner’s income, the income of spouses or partners is taken into account (but not assets). The overall net annual equalization supplement reference rate (taking into account health insurance contributions) currently amounts to € 837.63 for single persons and € 1,255.89 for couples.

For further details, please also see the answer to Issue 14.

24. Please provide updated information on the measures taken to prevent forced evictions, arrangements made for alternative housing, and the extent of homelessness in the State party.

The extent of homelessness in Austria had previously only been documented inadequately. Data on registered homelessness (in the form of national indicators on social inclusion) have now become available. About 12,300 persons were affected by homelessness in 2010; this represents 0.15% of the population.

Based on a legal provision, the court has to inform the municipality about the initiation of eviction proceedings. In most cases social institutions providing support to persons facing eviction are then informed. As a consequence, a large proportion of impending evictions can be prevented.

An eviction – just like any other enforcement action – may be delayed based on the general provision of Section 42 of the Enforcement Regulation (*Exekutionsordnung/EO*). Moreover, Section 35 of the Tenancy Act (*Mietrechtsgesetz /MRG*) stipulates that enforcement of an eviction may be delayed if the tenant whose tenancy agreement was terminated with binding effect faces homelessness after eviction from the flat or accommodation and if the delay is deemed acceptable to the landlord according to the circumstances. The delay of eviction must not exceed three months. In cases of exceptional circumstances, another delay may be granted; eviction may not be delayed more than twice and the respective delay granted may not exceed a period of three months

Number of evictions enforced:

Year	Number of evictions enforced (rounded)
2012	4,900
2011	5,300
2010	5,500
2008	5,600
2005	6,800

Examples from the federal provinces:

Carinthia:

In accordance with Title VIII. of the 1997 Housing Subsidies Act of Carinthia (*Kärntner Wohnbauförderungsgesetzes/K-WWFG*), Provincial Law Gazette No. 60/1997, as amended in Provincial Law Gazette No. 79/2011 and the 2011 Implementing Ordinance of the Housing Subsidies Act (*Wohnbauförderungsgesetz – Durchführungsverordnung*), Provincial Law Gazette No. 89, the tenant of an apartment may apply for a housing subsidy if the housing expenses of a rented apartment would impose an unreasonable burden on him/her. The aim of the housing subsidy is to reduce the financial burden on low-income tenants – and it is therefore a measure to combat poverty and homelessness.

The guaranteed minimum income scheme pursuant to Section 12 of the Act on Guaranteed Minimum Income of Carinthia (*Kärntner Mindestsicherungsgesetz/K-MSG*), Provincial Law Gazette No. 15/2007, as amended in Provincial Law Gazette No. 17/2013, also covers adequate accommodation. In addition, Section 13 of the K-MSG provides for guaranteed social minimum transfers for housing to avoid risks of social hardship. Subsidies may be granted to help the person affected to pay rents in advance, rent arrears or any other amount due to obtain or maintain housing. Furthermore, Section 20 of the K-MSG defines guaranteed social minimum transfers for persons facing homelessness and other highly precarious situations. This scheme of guaranteed social minimum transfers preventing homelessness also covers special types of temporary accommodation, particularly in urban areas.

Salzburg

Persons entitled to permanent residence in Austria, i.e. Austrians, employees from EU Member States and their dependants, persons holding a permanent residence permit and those eligible for asylum may apply for means-tested guaranteed income.

Transfers from the scheme preventing homelessness are as follows:

- living support (expenses related to food, clothes, household goods, etc.)
- housing support (adequate housing expenses, including running costs)
- inclusion of eligible persons in the statutory health insurance scheme
- support in exceptional life situations in individual cases subject to prior examination and irrespective of receipt of guaranteed minimum income (assistance to maintain, procure and furnish accommodation with a view to safeguarding a long-term basic life support system).

The following counselling and accommodation centres preventing homelessness are supported on the basis of the aforementioned Act:

- “Centre for Persons at Risk of Homelessness” (*Fachstelle Gefährdetenhilfe*) (information about possibilities of financing rent arrears, negotiations with and mediation between the parties affected, landlords and lawyers, long-term stabilisation of the household);
- “Railway Station Social Service” (*Bahnhofsozialdienst*) and “General Integrative Social Counselling” (*Allgemeine integrative Sozialberatung*); first referral to emergency shelter after clarifying the present situation, referral to other institutions and authorities, development of an assistance plan together with the person affected);

- “Caritas Emergency Shelter” (“*Caritas Notschlafstelle*”); minor personal contribution of € 2; besides sleeping accommodation, provision of basic amenities, breakfast, evening meals, personal hygiene, emergency supply of clothes);
- “St. Vincent de Paul Society” (“*Vinzenzgemeinschaft*”)
 - Requests for help are forwarded via point of contact (person, parish)
 - Accommodating homeless persons in a flat of their own
 - Intensive support after moving in

Upper Austria

Based on the Upper Austrian Social Assistance Act 1998 (*Oberösterreichisches Sozialhilfegesetz*), the Department for Social Affairs – in cooperation with the Department for Housing Subsidies – takes measures against these problems in its project “Affordable Housing” (“*Günstiger Wohnraum*”). The project provides affordable housing to persons facing eviction and persons evicted. At the initiative of the Department for Housing Subsidies, non-profit house builders provide affordable housing to persons affected by eviction in order to prevent homelessness. The Department for Housing Subsidies does not have any data on homelessness in Upper Austria.

Vienna:

Wiener Wohnen – the property management organisation of the social housing owned by the City of Vienna – had the following evictions enforced:

Evictions enforced	2005	2006	2007	2008	2009	2010	2011	2012
Non-payment of rent	*	571	596	898	927	973	1.017	955
Inheritance procedures	*	30	26	33	30	27	88	68
Other reasons	*	42	54	61	57	100	48	48
Total evictions	606	643	676	992	1,014	1,100	1,153	1,071

Disaggregated by

Flats	*	*	*	*	*	*	995	936
Other rented property	*	*	*	*	*	*	158	135
Total evictions	606	643	676	992	1,014	1,100	1,153	1,071

Note: *) disaggregation not possible

Eviction prevention is offered mainly by centres for parent and child support. The families affected are informed in writing about the planned eviction and invited to a counselling meeting. Subsequently, an assistance plan is developed to enable the tenant(s) to continue living in the flat if possible. If the flat cannot be kept, social workers will advise the persons affected on the available services of the Homelessness Assistance Centre of the City of Vienna (*Wiener Wohnungslosenhilfe*) (*Social Vienna Fund/Fonds Soziales Wien*).

8,580 homeless persons were accommodated in facilities of the City of Vienna in 2011 (transitional housing, housing for specific target groups, mother-child facilities, assisted living, housing with social assistance). No reliable data are available on the number of homeless persons who have not contacted any institutions for the homeless.

In 2012 a law was introduced to prevent forced evictions from flats in social housing estates owned by the City of Vienna. The implementation of the new “Vienna Act Preventing Homelessness” (“*Wiener Wohnungssicherungsgesetz*”), Provincial Law Gazette No. 33/2012 improves cooperation between municipal institutions to prevent forced evictions and to help people solve social, financial and health problems in connection with their flats.

Night shelters provide homeless people with a place to sleep without bureaucratic requirements. There are 362 beds in night shelters run by the Social Vienna Fund. Transitional accommodation is provided in temporary residential facilities for up to two years, preparing persons for re-housing in flat of their own or suitable long-term accommodation. A total of 1,237 places are currently available in this service sector. Transitional accommodation for specific target groups provides housing and social support suiting the needs of certain groups of people (e.g. persons with mental health problems, alcohol problems; 426 places).

Mother-child facilities are designed particularly for homeless mothers of legal age and pregnant women requiring support to stabilise their situation (305 places). Within the framework of assisted living arrangements, social workers provide mobile services to enable their clients to move into their own homes within a maximum of two years and to keep their flat in the long run (1,138 places, May 2013).

Vorarlberg:

The federal province of Vorarlberg entrusted the following social institutions with performing advisory and assistance programmes offered within the framework of the assistance system for the homeless:

- Caritas Counselling Centre Existence & Housing (Caritas Beratungsstelle Existenz & Wohnen)
- Counselling and Advisory Centre “DOWAS”
- Kaplan Bonetti housing projects and counselling centre
- Institute for Social Services – Eviction Prevention and Social Network Housing (*Institut für Sozialdienste – Delogierungsprävention und Soziales Netzwerk Wohnen*)
- Kolpinghaus Götzis
- Kolpinghaus Bregenz
- IFS crisis flats
- IFS women’s emergency flat

Within the framework of mobile support services for the homeless, social workers offer advice and mobile housing assistance. The main tasks are to make available decent and affordable housing, to prevent loss of housing, to safeguard housing on a long-term basis, provide secure living conditions and engage in public relations work.

Special attention should be drawn to eviction prevention in close cooperation with the municipalities, district courts, non-profit housing institutions and social institutions. The project “Social Network Housing” (“*Soziales Netzwerk Wohnen*“) provides people experiencing acute homelessness with access to non-profit housing.

Within its system of residential assistance to the homeless, the federal province of Vorarlberg has about 300 places. Even distribution over the territory of Vorarlberg and easy access for persons seeking assistance has been ensured. In addition, the federal province has three emergency night shelters with a total capacity of 21 beds.

25. Please provide information on the measures taken to ensure that accommodation facilities for asylum-seekers meet adequate living standards throughout the State party.

The agreement between the Federal Republic of Austria and the federal provinces pursuant to Art. 15a of the Federal Constitution Act (B-VG) on joint measures to provide temporary basic welfare support to foreign nationals in need of help and protection (asylum-seekers, those eligible for asylum, displaced persons and other persons who cannot be expelled from Austria due to legal or factual reasons) in Austria (Agreement on Basic Welfare Support, Federal Law Gazette I No. 80/2004 – Article 15a of the B-VG) came into force on 1 May 2004.

Number of persons receiving basic welfare support (BWS):

	Number BWS 2005	Number BWS 2006	Number BWS 2007	Number BWS 2008	Number BWS 2009	Number BWS 2010	Number BWS 2011	Number BWS 2012	Number BWS 2013
01.01.	27,438	29,118	27,910	24,563	23,468	21,751	18,273	18,376	20,379
01.09.									20,669

The implementation of this so-called “Agreement under Section 15a” ensures that all asylum-seekers in need of help and protection are provided with the necessary accommodation, food, medical and social services.

Moreover, Austria transposes Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers in the Member States in a comprehensive manner and meets all other obligations under international law.

Article 12 - The right to physical and mental health

26. Please provide information on the impact of the Government health policy programme from 2008 to 2012 referred to in paragraph 266 of the State party’s report in ensuring affordable and high quality health services to disadvantaged and marginalized groups. Please also provide data on those who still face obstacles, if any, in accessing affordable and quality healthcare services.

With a view to ensuring the financial viability of the Austrian health insurance system, the federal government has adopted different measures, e.g. by allocating substantial funds from the federal government budget to the health insurance institutions and supporting debt reduction. As a prerequisite for these budgetary measures of the federal government the health insurance institutions had to commit themselves to a financial consolidation concept comprising measures that aim at outcome-oriented management and at safeguarding balanced budgeting for the social health insurance system on a long-term basis. Thanks to the financial consolidation and extensive debt reduction of the regional insurance funds, the quality of services provided by the health insurance institutions has been ensured, while creating room for manoeuvre for the further development of the system based on a modern approach.

Moreover, the Federal Republic, the federal provinces and the statutory social insurance system agreed as equal stakeholders to establish a healthcare governance system based on partnership. Its aim is to control the structure, organisation and financing of the Austrian healthcare system (“governance of the

healthcare sector“). With a view to realising this concept, the Healthcare Governance Act (*Gesundheits-Zielsteuerungsgesetz*) was adopted within the framework of the 2013 Act on the Reform of the Healthcare Sector (*Gesundheitsreformgesetz*), Federal Law Gazette I No. 81/2013.

The expected increase in public healthcare expenditure up to the year 2016 will be aligned, and subsequently coupled, with the projected nominal GDP growth (currently 3.6 percent). This mechanism ensures the continuous further development of the Austrian healthcare system and its future financial viability. The implementation of the partnership-based healthcare governance system is expected to lead to various improvements in supplying the population with healthcare services, e.g. by improving accessibility of the healthcare sector through better coordination between the hospitals and private practices, enhancing the quality of treatment through health technology assessments (HTA), strengthening patient-orientation in the healthcare sector through integrated supply, in particular at interfaces; inter-disciplinary supply models may facilitate access to health services and help to close supply gaps.

The Federal Act on Strengthening Mobile Public Healthcare Services (*Bundesgesetz zur Stärkung der ambulanten öffentlichen Gesundheitsversorgung*), Federal Law Gazette I No. 61/2010 allowed doctors to cooperate in group practices organised in the legal form of a limited liability company, i.e. *Gesellschaft mit beschränkter Haftung (GmbH)*. Mobile services are more easily reached as they are provided closer to the patients' homes. Patients also benefit from a widened range of services and longer surgery times.

The aforementioned Act also provided accident insurance coverage for children attending nursery school during (compulsory) nursery school attendance in the year preceding school entry. In accordance with the 2010 Second Amendment of the Social Insurance Law (2. *Sozialversicherungs-Änderungsgesetz/SVÄG 2010*), Federal Law Gazette I No. 102/2010, persons with disabilities who are active in institutions of occupational therapy recognised by the federal provinces benefit from partial insurance coverage within the accident insurance system. Based on an ordinance (Federal Law Gazette II No. 262/2010), recipients of guaranteed minimum income as well as their eligible dependants were granted partial insurance coverage within the statutory health insurance system based on an agreement between the Federal Republic and the federal provinces on a countrywide means-tested guaranteed minimum income. Compulsory insurance is provided for the period during which the person is eligible to means-tested minimum income. In this context, attention should be drawn to the fact that to date almost the entire Austrian population (with very few exceptions) benefits from protection under the Austrian statutory health insurance system.

An annual average of more than 32,000 social welfare recipients were included in the statutory health insurance scheme upon introduction of the means-tested guaranteed minimum income (compare Social Report for 2011/2012 of the BMASK, Chapter 8).

In accordance with the 2012 Amendment of the Social Insurance Law (*Sozialversicherungs-Änderungsgesetz/SVÄG*), Federal Law Gazette I No. 123/2012, the maternity allowance for self-employed women and female farmers was raised from € 26.97 (value for 2012) to € 50.00 per day. The aforementioned Amendment also introduced an allowance supporting self-employed persons suffering from long-term illnesses. Persons are eligible for this allowance if the continued existence of their enterprise depends on their personal work and if they have no, or fewer than 25, employees. Amounting to € 27.73 per day (value for 2013), the allowance is granted

in respect of the same illness as from the 43rd day of their incapacitation for work and for a maximum period of 20 weeks.

Pursuant to the 2012 Amendment of Social Law (*Sozialrechts-Änderungsgesetz/SRÄG 2012*), Federal Law Gazette I No. 3/2013, a new benefit was created within the framework of statutory health insurance for persons affected by temporary invalidity (incapacity for work) for at least six months, with effect from 1 January 2014, i.e. the rehabilitation allowance. Receipt of this is subject to the condition that occupational rehabilitation measures are not deemed appropriate or reasonable. During the period of entitlement to rehabilitation allowance, the insured person has to undergo reasonable medical rehabilitation measures. The amount of rehabilitation allowance corresponds to that of sickness allowance.

Other changes introduced were as follows: in accordance with the 2012 Amendment of the Social Insurance Law, Federal Law Gazette I No. 123/2012 insured persons were exempted from the fee (€ 10.00-/year) charged for the use of the electronic health insurance card for their dependants.

The 2012 Amendment of Social Law, Federal Law Gazette I No. 3/2013 introduced free self-insurance for the parents of children with disabilities in the statutory health insurance system.

As far as improvements in the area of dental medicine are concerned, the following has to be pointed out: in Austria, outpatient clinics for dental medicine run by the statutory health insurance institutions were allowed to provide only a specific range of services detailed in the overall agreement. Thus essential services of modern dental medicine, in particular those relating to dental prostheses, were reserved for private doctors and patients were forced to use these private services. With effect from 1 January 2013, this restriction was lifted under the 2012 Amendment of the Social Insurance Law, Federal Law Gazette I No. 123/2012. The spectrum of services of outpatient clinics for dental medicine now also includes fixed crowns and bridges, braces as well as aesthetic fillings and oral hygiene treatment. Luxury services, i.e. measures of a purely cosmetic nature and without any health benefits, are excluded. Comprehensive fixed denture construction, involving high risks due to the large size of the entire structure, is excluded as well. The insured persons only have to pay a contribution covering the costs of non-contractual services. This measure plays an important role in improving the dental health of the population.

Furthermore, mention should be made of the fact that the range of services in psychotherapy and vaccinations for children and adults was not affected by any major changes. However, other measures were taken in the interest of the insured parties and the population, some of which are highlighted in the following: Psychotherapy: despite several attempts made in the past few years, the parties affected failed to reach an agreement on the conclusion of an overall agreement for this sector. However, the health insurance institutions found regionally differing solutions for establishing a system based on non-cash performance. Within this framework, psychotherapy is available as a service based on non-cash performance ("*Sachleistung*"), not requiring any cost contributions, in particular from socially weak persons and/or persons with severe mental illnesses. Due to the lack of an overall agreement, a statutory cost contribution of € 21.80 per therapy session is refunded to an insured person undergoing psychotherapeutic treatment provided by a registered psychotherapist (if it is deemed to be treatment of an illness and if a medical examination took place within the period stipulated) after submission of an invoice. As the overall agreement is concluded under private law, the respective parties cannot be forced to enter such an agreement.

Vaccinations: in this context, attention should be drawn to the vaccination concept of the Federal Ministry of Health, which was approved in 1998. This vaccination scheme jointly financed by the aforementioned ministry, the federal provinces and the social insurance provides free vaccinations for children and juveniles up to the age of 15 years. In 2013 the Vaccination Schedule was updated in close cooperation between the Ministry of Health and experts of the National Vaccination Board (*Nationales Impfgremium*).

In the past, twelve free vaccinations were offered to children. Two free vaccinations were added to the vaccination concept for children (pneumococci and meningococci). Another important change of the 2013 Vaccination Schedule was to widen access to free measles, mumps and rubella vaccinations now made available to all persons up to the age of 45 years within the framework of the WHO Measles/Rubella Eradication Programme.

27. Please inform the Committee regarding the impact of measures outlined in paragraph 246 of the State party's report to reverse the increasing rates of obesity.

The Federal Ministry of Health cannot yet provide any information on the impact of the National Action Plan on Food as it consists of long-term measures and the period since its adoption has been too short to report on tangible results.

Articles 13 and 14 – The right to education

28. Please provide statistics concerning the number of Roma children and children of migrant background in special needs schools. Please also provide information on the impact of measures taken to reduce school drop-out rates, in particular among Roma students and children of migrant background.

No statistical data based on ethnic origin are available; attention is drawn to the fact that with regard to the principle of the “freedom of declaring oneself member of an ethnic minority” (compare Section 1, para. 3 of the Ethnic Groups Act and the Framework Agreement on the Protection of National Minorities) persons are not assigned to ethnic groups in Austria.

A governmental inquiry whether an individual belongs to an ethnic group is precluded as a matter of principle in Austria (in this connection compare Section 1, para. 3 of the Ethnic Groups Act). Moreover, no generally recognised clear definition of the concept of “ethnic group” based on concrete indicators is currently available, and there is no unanimous reply to the question for how long the period of holding Austrian citizenship (by the person affected or his/her ancestors) is considered relevant for a “migration background”. Therefore, educational statistics do not, at least at present, provide for any categories of “ethnic belonging” and “migration background”.

In 2008 binding “Guidelines on the Differentiation and Classification Measures Relating to the Assessment of Special Educational Needs” (*Richtlinien für Differenzierungs- und Steuerungsmaßnahmen im Zusammenhang mit der Feststellung des sonderpädagogischen Förderbedarfs*) were created to ensure inter alia that persons who could be classified as belonging to one of the relevant groups at risk due to their physical appearance do not suffer disadvantages in their school careers based on the unjustified assessment that they require “special education”

(Decree No. 19/2018 of the Minister of Education). They highlight the fact that “the mere failure to master the language of instruction...may by no means be used as a criterion for assessing eligibility for special education”.

The target group of juveniles at risk of dropping out of school or of social exclusion is described in a very general manner and not limited to clearly definable groups of persons. Based on instructions issued by the Minister of Labour and Social Affairs and in cooperation with the Federal Ministry of Education, Arts and Culture, the Federal Social Offices are responsible for realising measures within the programme of “youth coaching” which have been designed to reduce the drop-out rate and facilitate a smooth transition from school to work.

Austria attaches great importance to supporting educational careers but in principle avoids measures of segregation in the educational system. In general, the Austrian educational system strives to optimise learning processes by providing remedial support. Additional support is granted to Roma associations which use Roma mediators or take measures to meet the acute, short-term demand for intensive learning assistance and counselling in everyday school life (e.g. in the project “RomBus” conceived as a “rolling classroom”). If Roma children require intensive remedial support, specialised Roma associations or Roma mediators contact school headmasters, school psychologists and other public or private institutions to initiate access to tailored support.

By way of conclusion, we may report that different Roma associations have offered publicly funded assisted learning programmes for Roma for about 16 years to achieve the goal of completed educational pathways. As a consequence, only three Roma children requiring special pedagogical support attend special needs centres or integration classrooms in the autochthonous settlement area of the Roma in Burgenland.

Article 15 – Cultural rights

29. Please provide information on the measures adopted by the State party to enhance the enjoyment of cultural rights by non-autochthonous national, ethnic, religious and linguistic minorities who are not covered by article 8, paragraph 2 of the Constitution.

Non-autochthonous ethnic minorities – not qualifying as “ethnic groups” (see Issue 5) - benefit from special educational programmes consisting of “mother tongue education” (“*muttersprachlicher Unterricht*”). In recent years mother tongue lessons were given by a total of about 400 teachers to more than 30,000 pupils in more than 20 languages.

As far as religious minorities are concerned, it should be highlighted that based on the Austrian Constitution everybody may as a matter of principle practise his/her religion alone or together with others, privately or publicly. Moreover, “non-autochthonous” religious communities that migrated to Austria in various periods of the past may be granted special legal status. In May 2013 recognition was granted to the “Islamic-Alevist Religious Community in Austria”; hence, this community enjoys legal equality with Churches having a long-standing tradition in Austria, in particular the Catholic and Protestant Churches. (For the Alevites full equality with other Churches in a country – and not only in individual provinces or cantons – is unique worldwide.)