

**COMMITTEE ON THE
RIGHTS OF THE CHILD**

**WRITTEN REPLIES BY THE GOVERNMENT OF AUSTRIA CONCERNING THE
LIST OF ISSUES (CRC/C/Q/AUT/2) RECEIVED BY THE COMMITTEE ON THE
RIGHTS OF THE CHILD RELATING TO THE CONSIDERATION OF THE
SECOND PERIODIC REPORT OF AUSTRIA (CRC/C/83/Add.8)**

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CRC/C/RESP/75

**Written Replies of the Government of Austria concerning the
List of issues (CRC/C/Q/AUT/2) to be taken up in connection with
the consideration of the second periodic
report of Austria CRC/C/83/Add.8**

Part I

A) Data and statistics

**I A 1 Disaggregated statistical data (by sex, age, minority and ethnic groups)
covering the years 2001 and 2002 and 2003 on the**

I A 1a) Number and proportion of children under 18 living in the State party:

0 – 18 year	Austria	Former Yugoslavi a	Turkey	other	total	% of total population
2000 m	802.110	46.973	23.424	20.772		11,1%
2000 f	765.832	44.088	21.444	19.564		10,6%
<i>2000 total</i>	<i>1.567.942</i>	<i>91.061</i>	<i>44.868</i>	<i>40.336</i>	<i>1.744.207</i>	<i>21,7%</i>
2001 m	795.253	45.787	22.117	20.820		11,0%
2001 f	758.653	43.041	20.248	19.373		10,5%
<i>2001 total</i>	<i>1.553.906</i>	<i>88.828</i>	<i>42.365</i>	<i>40.193</i>	<i>1.725.292</i>	<i>21,5%</i>
2002 m	792.070	45.108	20.702	21.137		10,9%
2002 f	755.575	42.462	19.126	19.609		10,4%
<i>2002 total</i>	<i>1.547.645</i>	<i>87.570</i>	<i>39.828</i>	<i>40.746</i>	<i>1.715.789</i>	<i>21,3%</i>
2003 m	802.110	46.973	23.424	20.772		11,1%
2003 f	750.047	39.389	18.965	25.846		10,3%
<i>2003 total</i>	<i>1.552.157</i>	<i>86.362</i>	<i>42.389</i>	<i>46.618</i>	<i>1.727.526</i>	<i>21,4%</i>

Source: Statistic Austria , see further details in Annex 1

From Jan–Sept. 2004 the number of births amounted to 1.490 constituting an increase by 2,6 % in relation to the same period in 2003.

I A 1b) Number and proportion of children belonging to minorities, refugees

Prior to 2003 no official statistics on **refugees** and **asylum-seekers** under the age of 18 years were available. Beginning with 2003 the first detailed disaggregated statistics of asylum seekers by age (under 14 and under 18 years), countries of origin and by month have been collected and will be available soon. They will be provided to the Committee upon request.

According to official and NGO estimates about 2000 **unaccompanied minors** filed an asylum application in 2003. From January to September 2004 104 unaccompanied minors under the age of 14 years and 858 unaccompanied minors under the age of 18 years requested refugee protection, totalling the number of unaccompanied asylum seekers in 2004 to 962. 245 asylum-seekers who claimed to be of minor age turned out to be older than 18 years during the asylum procedure. 5-6 % of all asylum applicants are under 18 years.

Most of the minor asylum seekers originate from Nigeria.

Pursuant to section 1 paragraph 3 of the National Minorities Act "everyone is free to declare his or her affiliation with a **national minority**. No person belonging to a minority shall be put at a disadvantage as a result of exercising or not exercising the rights to which he/she is entitled as a member of such a minority. No one is under an obligation to show his or her affiliation to a national minority". Therefore affiliation to a national minority is not registered. Another reason for not registering members of minorities concerns undesirable historic connotations with regard to the systematic persecution of minority groups during World War II; minority groups have a rather sensitive attitude towards their registration due to these historic reasons. The basis for Austria's policies for the protection and promotion of autochthon minorities is enshrined in the Austrian Constitution¹ and other laws aiming to give effect to this constitutional commitment.

The statistics regarding enrolment in bilingual schools in Burgenland and Carinthia, however, are interesting in this context. An increasing number of pupils with a monolingual background have attended bilingual courses in recent years. In the course of the EU-enlargement, parents' interest in offering their children a bilingual education has risen given that the minority languages spoken in Austria have become or will be becoming official EU languages. Data the number of students enrolled in bilingual classes are compiled by the school boards of the *Länder* of Burgenland and Carinthia. Upon the Committee's request, the relevant statistics will be made available in Geneva.

The rise in numbers of children with a monolingual background who attend schools jointly with children of a bilingual background is considered as an expression of the good climate between the majority and the minority population promoting mutual understanding and co-operation as well as the increasing attractiveness of minority languages in an enlarged Europe.

I A 2 Data on budget allocations and trends

Most services and programmes relating to health, education and other family support related measures are funded by the Family Burden Equalisation Fund, a federal fund described comprehensively in chapter 8.7 of Austria's Second Report on the implementation of the Convention on the Rights of the Child (hereinafter "Second Report" and "CRC"). The

¹ Article 8 para.2 of the Austrian Constitution reads as follows: "The Republic (the Federation, *Länder* and municipalities) is committed to its linguistic and cultural diversity which has evolved in the course of time and finds its expression in the autochthonous ethnic groups. The language and culture, continued existence and protection of these ethnic groups shall be respected, safeguarded and promoted."

following information below provides for additional information with regard to the relevant budgetary figures in Annex 2.

I A 2 a) Education

Disaggregated data on public expenditure for education is only available for 2001. The following statistics have been compiled for an OECD-Study "Education at a Glance" published in 2004. Unfortunately data for 2002 and 2003 is not yet due to technical reasons but can be provided upon availability and request.

	2001
Reference Statistics	
GDP - Gross Domestic Product, Mio. €	212.511
Public Expenditure (1), Mio. €	110.841
Public Expenditure for Education (1)	
Pre-primary Education	
Mio €	921
as share of GDP	0,4%
as share of public expenditure	0,8%
Primary Education	
Mio €	2.415
as share of GDP	1,1%
as share of public expenditure	2,2%
Secondary Education (2)	
Mio €	5.656
as share of GDP	2,7%
as share of public expenditure	5,1%
Tertiary Education	
Mio €	2.907
as share of GDP	1,4%
as share of public expenditure	2,6%
All Levels of Education (3)	
Mio €	12.295
as share of GDP	5,8%
as share of public expenditure	11,1%

Notes: 1) expenditure of central + regional + local level government, incl. transfers to the private sector.

2) incl. post-secondary non-tertiary education

3) incl. expenditure not allocated by level

Source: Statistik Austria - UOE-finance 2001; OECD Education at a Glance 2004.

Figures for 2002 and 2003 not yet available.

I A 2 b) Health care

The Austrian Health service provides for different services and programmes for children which are included in the general budgets for all beneficiaries in Austria. See for detailed information on the Austrian health and social services chapter 8 of Austria's Second Report. Data is available for the following programmes:

- The Mother-Child-Pass Scheme, a preventive health care programme provides health examinations for the mother and the child from the beginning of the pregnancy until school age. The scheme is funded by the Family Burden Equalization Fund (FLAF) (see also for further information below question A 2c): The costs of these health services amount to about € 30.000.000 a year, costs for public information tools such as a booklet on the programme amount to approx. € 60.000 per year.
- The annual cost for preventive health programmes in schools, such as the GIVE-Service Centre for Health Education (GIVE stands for the German acronym for health education, information, networking, development) amount to € 160.000 (see for details below replies to question I A 7 and III 2.3)
- The Austrian Network of Health Promoting Schools (German acronym "ÖNGS") – project 2002-2005: annually € 92.400 (see for details below replies to question I A 7)
- Vaccination programme: € 23 mio each year (see for details replies to question I A 7)
- For the health co-insurance for dependants (general social insurance), no detailed data on budgetary expenses can be provided, because the self-administered social security agencies have only collected up to now information on expenses paid to service providers (doctors, dentists etc.) not in relation to the beneficiaries of health services. Co-insurance for family members serves mainly to ensure full health coverage that includes not only individuals insured through their gainful employment but also their dependants. Children as the dependants of insured persons have full health insurance coverage without additional contributions having to be paid until they are 18. Such coverage can be extended until the age of 27 if they receive vocational training or are enrolled in full-time education.
 - Non-contributory accident insurance for (school) students: € 4.36 mio per year
- The federal social welfare office bears the total costs for vocational training assistance for disabled persons aimed to provide for training places at private enterprises. In the first half of 2004, about € 400,000 were spent on these services. In addition, the support service for people in integrative vocational training includes further (standard) integration measures (e.g. financing of modification/adaptation of workplaces, job-coaching, etc). These integration measures, which are generally applied in the assistance of disadvantaged or disabled people, cannot be accounted for integrative vocational training alone.

I A 2c) Support programmes for families

The federal Family Burden Equalization Fund (FLAF) finances many different measures in support of families. In total in 2001 € 4,419 billion; in 2002 € 4,486 billion; in 2003 € 4,896; in 2004 € 5,3 equalling 2,2 % GNP were spent.

Please see for detailed figures in Annex 2 and a comprehensive description in the brochure "Children need Love..." Annex 3 as well as in the Background report for the OECD-Mission in Austria: Family friendly Policies in Austria. Focus – Reconciliation of Family and Work, Annex 4 and examples of expenditures of the *Länder* in Annex 5.

I A 2d) Children with disabilities

See the Second Report, chapter 8.1 for detailed information on the Austrian services for disabled children. As regards statistical data on budgetary expenses, no comprehensive nation-wide collected disaggregated data on payments to children with disabilities is available. There is an agreement in Austria that registering people with disabilities is not desirable or, for that matter target-orientated, for the following reasons:

First, there is a certain unease or heightened sensitivity with regard to the registration of persons with disabilities which relates to historic connotations relating to the registration and labelling of disabled persons as "life unworthy of life" during the National Socialist regime. Secondly, there are technical reasons due to the fact that disability law in Austria is a so-called cross-sectional matter. Numerous federal and regional laws include provisions which are of importance to people with disabilities. Since these laws have different objectives, they contain numerous different definitions of disability. The labour market service, for example, strives to support people who have difficulties entering the labour market on account of their disabilities. Other institutions try to compensate for disadvantages arising from a disability, which affect life as a whole, with different measures such as financial support. In this respect it makes sense to provide for different definitions of disability. For this reason it is not possible to create a uniform term for disability which may be subject to certain legal consequences. Due to the lack of a uniform definition, no comprehensive disaggregated data on payments to children with disabilities is available. It is, however, estimated that about 10 % of the population is in one way or the other disabled.

In the context of the European Year of People with Disabilities in 2003, the European Commission commissioned in 2002 a EU-wide survey on the number of disabled persons in employment. In Austria, the survey was undertaken in June 2002 in the framework of a special programme ("disabilities and impairment") to the Microcensus. The survey includes only persons living in private households and does not encompass persons accommodated in institutions. In Austria, 1,26 mio persons or 15,8% of the populations living in private households indicated that they suffered from permanent health problems or disabilities. The following statistics refer only to the figures for persons under 20 years.

Age	Persons with permanent health problems 1)			Percentage of the population in private households		
	total	men	women	total	men	women
	in 1.000			in %		
0 to 14 Jahre	46,3	22,2	24,0	3,5	3,3	3,7
To 4	11,7	6,4	5,3	2,9	3,2	2,7
5-9	15,2	6,1	9,1	3,3	2,6	4,1
10-14	19,4	9,7	9,7	4,1	4,0	4,3
15-19	23,7	14,6	9,1	5,0	6,0	3,9
0- 19 total	70,0	36,8	33,2			

Source: Microcensus June 2002. - 1) Not including persons in institutions and community accommodations

It is noteworthy to mention that the Austrian government published its first comprehensive report on the situation of persons with disabilities in Austria in 2003, the "Report on Persons with Disabilities". This report touches upon all legal, political, socio-economic and cultural aspects. A special chapter is dedicated to children and their special needs. This comprehensive survey is the basis for further policy developments for the benefit of persons with disabilities.

In Austria different funds, most of them at regional (9 *Länder*-) level, fund a variety of measures for children with disabilities. As explained above, therefore no comprehensive

national-wide data is available with regard to all these programmes. By way of example, the provision of care und rehabilitation of disabled people is for the most part funded out of the youth-welfare budgets of the *Länder*. Data regarding the expenditure on youth welfare programmes or data on funding according to the regional laws on long-term care are not disaggregated by age, sex, etc. (see Annex 5)

As regards public expenditure paid out of the (federal) Family Burden Equalization Fund the following figures can be provided: annually approx. € 100 mio are spent for about 61.000 (figure as of 2001) to 63.500 (figure as of 2003) severely disabled children². This amounts to € 138,30 per child/month.

I A 2 e) Protection of children who are in need of alternative care including the support of care institutions

As the protection of children who are in need of alternative care is within the competences of the 9 *Länder* no comprehensive data is available regarding budgetary expenditure for this category of children. However some examples from the *Länder* are given in Annex 5.

I A 2 f) Programmes and activities for the prevention and protection from child abuse, child sexual exploitation and child labour

Austria has paid special attention to the prevention of and the protection against violence in recent years. Austria has ratified numerous international instruments and devised national legislation to combat the abuse of children – whether at home, in the family or in far-away countries.

A variety of programmes and activities in the broader context of domestic violence, violence against children and sexual abuse have been conducted in the different federal States, as well as in cities and districts bringing together NGOs and the relevant authorities, schools, hospitals staff and other (private) actors. It is, however, not possible to provide nation-wide comprehensive figures on the expenditure for programmes and activities in this respect because of the broad range of actors involved.

By way of example, a (non-exhaustive) list of important measures taken by Austria include the following (see also chapter 7.9 and 12 of Austria's Second Report and for new legislation and policies below under Part III.):

- Comprehensive ban on domestic violence, adoption of the internationally acclaimed Violence Protection Act
- Funding of institutions dedicated to the support and protection of victims such as children protection centres, intervention centres against domestic violence and similar institutions (€ 250,000)
- Psycho-social and legal support and assistance during court appearances
- Work with the perpetrators
- Funding (Federal Ministry of Social Security and Generations) of education and training programmes for expert groups: e.g. to assure quality in the assistance during court appearances (3 x € 80,000 for 2001-2004)

² The definition of severe disability as a prerequisite to entitlement to increased child benefit pursuant to section 8 para 5 FLAG (Family Burden Equalisation Act) of 1967 reads as follows: "A child is deemed severely disabled if there is substantial impairment in the child's physical, mental, psychical or sensory ability to function. "Substantial" means an expected period of more than three years. The degree of disability must be at least 50% unless the child is likely to suffer from a permanent earning capacity disability. For the assessment of the degree of disability the provisions of sections 7 and 9 para 1 of the Pension Act for War Victims of 1957, Federal Law Gazette No. 152 in the applicable version and the respective regulation of the Federal Ministry of Social Administration of 9 June 1965, Federal Law Gazette No. 150 in the applicable version shall apply. The severe disability shall be assessed again not later than after a period of five years unless the type and degree of disability rule out any change."

- Quality assurance and development of standards when dealing with victims and perpetrators of domestic violence as well as
- Establishment and support of networks and cooperation agreements such as the “platform against domestic violence“: 31 associations in all of Austria concerned with violence against children, against women, among young people and gender-specific support of boys and men cooperate on an interdisciplinary and cross-functional level. They develop new models and concepts for the prevention of violence, organise seminars, set up a Chat4help for children and young people. These activities have been funded by the Federal Ministry of Social Security and Generations for more than 10 years. This year’s budget included € 200,000 in grants and € 130,000 in project costs.
- 23 groups dedicated to the protection of children professionally work at hospitals in Austria and cooperate on an interdisciplinary level with coordinated actions aimed at the prevention and early detection of violence. Pursuant to the federal skeleton legislation (2004) the *Länder* were obliged to establish child protection groups at hospitals with children’s wards.

Measures relating to awareness-raising aimed at strengthen the family, relieve pressure on the parents to prevent conflicts which turn children into victims included the following:

- Training programmes for parents offered by the Federal Ministry of Social Security and Generations have been intensified during the last few years. By providing information on age-appropriate education and offering possible alternatives to non-violent upbringing as well as strategies to ease stressful situations, psychical and physical violence can be prevented.
- Funding of institutions which offer preventive measures and support regarding educational issues (parents’ training, support of parent-child centres ...) (€ 1,250,000)
- Sex education for self-confident children who are adequately informed about sexuality and are able to express themselves in this respect using the right words – the brochure “Love, Sex and so on ...” serves as a good basis.
- Brochure „(K)ein sicherer Ort (An (un) safe place)“: awareness-raising on forms and consequences of sexual violence as well as information on possible aid for children and young people exposed to violence
- “Code of conduct“ for tourist businesses
- In-flight video entitled “Child abuse is not a peccadillo” (initiated by the Federal Ministry of Social Security and Generations): The video is shown on Austrian Airlines aircraft during flights to Southeast Asia. It should contribute to raising awareness that sexual assaults on children are to be rejected irrespective of the place where they occur and are liable to punishment (Austrian citizens resident in Austria are liable to punishment under Austrian criminal law standards).
- Promotion of the exhibition “Hinschauen statt wegschauen (Don’t avoid it – Face it)” by ECPAT Austria, which calls attention to sexual exploitation of children by tourists and offers strategies to take action. First presented at Vienna Airport, the exhibition will be shown at much-frequented places in Austria at a later point.
- In 2002 the Tourism Department established a bi-annual Round-Table with representatives of Austrian tourism stakeholders (Associations of Travel agents, Chamber of Commerce, Federal Ministry for Social Affairs) in order to raise awareness on the topic of sexual exploitation of children in tourism.
- Two example of specific measures regarding sexual exploitation in the context of development co-operation should also be mentioned. The Tourism Department of the Ministry of Economy and Labour co-funded a project on the implementation of the "Code of Conduct for the Travel - and Tourism industry" in Thailand to prevent and combat the sexual exploitation of children at tourism destinations(in 2002 € 15.000). In 2003 the Austria Development Cooperation funded a project in Kenya with € 11.156,-- for the implementation of the "Code of Conduct" in Kenya , in addition € 10.000,-- were spent on a follow-up project in Kenya in 2004.

The National Plan Action for the Rights of Children and Adolescents provides for the following measures some of which have already been implemented for several years which better adjust instruments for the protection of children against abuse to changing crime patterns.

- The right to psycho-social and legal assistance during court appearances/ victim counsellor free of charge
- Additional information on the summoning of witnesses and
- Improvements in the work of expert groups are being prepared
- Optimising the combat of crime within the framework of the structural law enforcement reform (TEAM 04)
- Programmes which are dedicated to working with perpetrators as a contribution to the protection of victims are further extended
- Increased international cooperation of the registration office for child pornography in the federal bureau of criminal investigation, improvement of equipment, education and training programmes are being planned
- Intensifying police cooperation between Austria and the Czech Republic to combat sex tourism involving minors at the border region
- Cooperation of investigating officers in accordance with the Federal Act on Judicial Cooperation in Criminal Matters with the member states of the EU for the protection against trafficking in children
- Awareness-building and providing information to tourists on sexual exploitation of children by travellers - support of activities

See also for further information on the process of formulation of the National Plan of Action for the Rights of Children and Adolescents

1 A 2 g) Juvenile justice

All judges and public prosecutors working in the field of juvenile justice are offered further education and training courses. Furthermore, a conference for judges of juvenile courts is held once a year in the course of which current problems concerning juvenile jurisdiction are being discussed. However, there is no statistical data available for these training programmes.

Since 2000 the Federal Ministry of Justice has been funding institutions tasked to provide psycho-social and legal support and assistance to victims during court appearances.

Information as to the number of persons supported and the amount of money paid is made available in the following overview:

Year	Persons supported	Total sum of money paid	Estimate of cost
2002	408	€ 384,162.07	€ 727,000
2003	1.493	€ 617,097.70	€ 900,000

While the Federal government estimated costs of € 1 million for the year 2004, 1,140 individuals have received about € 600,000 to date (reference date 9 November 2004). No statistical data is available in relation to the number of children who have benefited from these victims' support measures.

The Juvenile Courts Act provides for the possibility of instructing a lawbreaker falling under these provisions to undergo drug withdrawal, psychotherapeutic or medical treatment. Subject to certain conditions, the federal authorities are to pay the costs, i.e. they bear a so-called subsidiary liability for payment of the costs. The Federal Ministry of Justice can conclude contracts with non-profit therapeutic institutions or associations to an amount which is to be paid by the federal authorities. The Federal Ministry of Justice has concluded such contracts with two institutions based in Vienna. Due to the short time frame for submitting the

written replies relating to the List of Issues, it is not possible to provide more detailed statistics. However, upon the Committee's request, this data may be provided in January 2005. There are additional costs borne by the Federal Ministry of Justice which are not separately accounted as costs in the statistics compiled by the Federal Ministry of Justice and therefore cannot be made available. These costs relate to the subsidiary liability of costs pursuant to the Juvenile Courts Act.

I A 3) Number of children deprived of a family environment and of children separated from parents

- a. separated from their parents; (see Annex 6 – Youth Welfare-Statistics)*
- b. placed in institutions; (see Annex 6 – Youth Welfare-Statistics)*
- c. placed with foster families; (see Annex 6 – Youth Welfare-Statistics)*

I A 3 d) Children adopted domestically or through inter-country adoption

No statistics on adoptions in Austria are available in the reference period 2001-2003. However, with the amendments to the Austrian procedural law entering into force in 2005 it is planned to introduce the collection of statistical data with regard to adoptions approved by Austrian courts.

Regarding adoptions by Austrian citizens outside Austria no statistics are available because there is no legal procedure in place to approve foreign adoptions.

I A 3 e) Children living with the parents deprived of their freedom

In 2001 22 children lived with the parents deprived of their freedom, in 2002 26 and in 2003 32 children.

I A 4) Number of children with disabilities

As explained above, numerous provisions on the federal and regional level aim at assisting persons with disabilities. Due to the diversity of objectives pursued in these laws aiming at catering to the different needs of disabled persons different definitions on disability apply. It was thus considered not to be advisable to provide for a consistent definition of disabilities in Austria. Due to the lack of such an uniform definition no comprehensive figures about handicapped children in Austria are available. Generally speaking, about 60.000 – 65.000 children are entitled to additional family allowance for severely disabled children. (See also replies to question I 2d above.)

Given that the Report on Persons with Disabilities, as described above, is the basis for further policy developments, the lack of figures is not considered to be to the detriment of persons with disabilities. The Report on People with Disabilities contains a special chapter dedicated to children and their special needs

I A 4 a) Children living with their families

About 80 % of all people with disabilities (regardless of their age) are cared for by their family. The Report on People with Disabilities revealed that about 2.500 children and their families were supported by mobile services in the last years. Almost 12.000 counselling services were provided mostly in the home of the disabled person. Approx. 17.500 children with disabilities visit a child care (Kindergarten).

I A 4 b) Children living in institutions

Due to the short time frame for submitting the written replies of the Government of Austria concerning the List of issues, it is has not been possible to gather the relevant disaggregated data regarding the number of disabled children in institutions.

I A 4 c) Children attending regular schools and receiving special professional integration assistance

In the school year 2002/2003 in total 14.905 disabled children attended regular schools and received special professional integration assistance of which 6.455 attended a primary schools (so called “integrated pupils with need for special education and training”); 7.980 were enrolled in secondary schools; and the number of disabled students in polytechnical schools amounted to 470.

I A 4 d) Children attending special schools

70 disabled children attended special schools in 2002/2003.

I A 4 e) Children non attending any school

About 100 disabled children did not attend any school in the school year 2002/2003.

I A 5) Disaggregated data with regard to child abuse

I A 5 a) Number of individual complaints received per year in the last three years;

The following statistics provide an overview of the number of complaints received in 2001-2003 disaggregated by a age and sex of the victim and by a certain offence according to the Austrian Penal Code (“StGB”) and the respective provisions. Some figures below have not yet been collected.

Offences in 2003	under 6		6 –10		10- 14		14 –18	
	m	f	m	f	m	f	m	f
§ 201 StGB - Rape							12	146
§ 202 Abs. 1 StGB – sexual coercion							19	139
§ 202 Abs. 2 StGB - aggravated sexual coercion							2	6
§ 205 Abs. 1,3 StGB –desecration					1	1		20
§ 205 Abs. 2 StGB - aggravated desecration					2	1	4	10
§ 206 StGB – aggravated sexual abuse of minors under 14 years	6	16	21	56	39	146		
§ 207 StGB – sexual abuse of minors under 14 years	16	27	43	91	87	182		
§ 207b StGB – sexual abuse of juveniles					1		4	31
§ 208 StGB – moral endangerment of persons under 16 years								25
§ 211 StGB - incest								
§ 212 StGB – abuse of authority								

Offences in 2002	under 6		6-10		10-14		14- 18		
	m	f	m	f	m	f	m	f	
§ 201 StGB - Rape							5	5	140
§ 202 Abs. 1 StGB – sexual coercion			1	2	2	1	7	15	131
§ 202 Abs. 2 StGB - aggravated sexual coercion							1		6
§ 205 Abs. 1,3 StGB –desecration							1	1	18

I A 6) Disaggregated statistical data with regard to education

I A 6 a) Enrolment in pre-primary, primary and secondary schools

Statistics are only available for 2001 and 2002. Due to technical reasons and the short time frame for submitting the written replies with regard to the Committee's List of Issues, it has not been possible to collect consolidated nation-wide data on the requested numbers disaggregated by minority and ethnic group.

	2001	2002
Pre-primary education		
male pupils	114.580	113.819
male pupils as percentage of population 3 - 5 years	84,9%	86,2%
female pupils	108.786	107.812
female pupils as percentage of population 3 - 5 years	84,4%	85,6%
total, male and female pupils	223.366	221.630
total as percentage of population 3 - 5 years	84,7%	85,9%
Primary education		
male pupils	202.209	199.197
male pupils as percentage of population 6 - 9 years	100,0%	100,0%
female pupils	190.130	187.289
female pupils as percentage of population 6 - 9 years	100,0%	100,0%
total, male and female pupils	392.339	386.485
total as percentage of population 6 - 9 years	103,0%	103,0%
Secondary education (1)		
male pupils	416.763	419.507
male pupils as percentage of population 10 - 19 years	85,3%	85,4%
female pupils	389.842	392.414
female pupils as percentage of population 10 - 19 years	83,7%	83,9%
total, male and female pupils	806.605	811.921
total as percentage of population 10 - 19 years	84,5%	84,7%

Notes: 1) incl. post-secondary non-tertiary education

Source: Statistik Austria - UOE-02enr1/03enr1;

Figures for 2003 not yet available, breakdown by minority and ethnic groups not available.

Children in Child-Care-facilities by age

	2001			2002			2003		
	1	2	3	1	2	3	1	2	3
Age	(0-3)	(3-6 y)	(6-11 y)	(0-3 y)	(3-6 y)	(6-11 y)	(0-3 y)	(3-6 y)	(6-11 y)
Children	240.486	266.387	474.914	233.236	250.972	372.496	233.717	245.268	461.367
In child care	18.563	208.930	35.402	20.662	204.912	35.925	20.022	200.648	39.888
in %	7,81	78,43	7,45	8,8	81,6	9,6	8,6	81,8	8,6

Source: Statistic Austria: Childcare-Statistic (Kindertagesheimstatistik 2003/2004)

Child-Care-facilities for age-groups

Year	1998/99	1999/2000	2000/01	2001/02	2002/03	2003/04
Crèches / Day Nursery 0 – 3 Years	9.699	10.489	11.027	12.092	12.073	12.789
Kindergarden, Play Groups, Child Minder 3 – 5 years	219.904	219.377	219.309	218.439	216.912	211.200
After School Care	32.457	33.671	35.522	36.580	38.580	40.710
Total	262.060	263.537	265.858	267.111	267.565	264.699

Source: Statistic Austria: Childcare-Statistic (Kindertagesheimstatistik 2003/2004)

By implementing the programme "Schule nach Maß" the Ministry of Education will create 10.000 places for after-school-care i.e. an increase of 20 % within the next two years. In addition, the Federal Ministry of Social Security, Generations and Consumers Protection funds model projects aiming at setting up child care facilities that adapt to the needs of mothers and children for who for a variety of reasons the regular facilities are not appropriate (e.g. times, location).

In Vienna about 20 % of the 36.000 children in child care have a mother tongue other than German. They are integrated in the public regular child care facilities.

I A 6 b) Completion of Secondary Education³

The following statistics surveying the youth education attainment level refers to the percentage of the population aged 20 to 24 having completed at least upper secondary education.

	2001	2002	2003
Males	83,9%	85,6%	85,4%
Females	84,3%	84,4%	82,2%
Total	84,1%	85,0%	83,8%

Notes: Source: EUROSTAT
Breakdown by minority and ethnic groups not available;
separate data for primary education not available.

In Austria, all children are obliged to attend school for at least 9 years. Pupils who leave school without having graduated at that time are offered to catch up graduation in equipments of the adult's education mostly free of charge (within the scope of EU purpose 3 projects); about 1.200 persons avail themselves of that opportunity each year.

I A 6 c) Repetition Rate⁴

³ **Ref A 6b) Percentage of children completing primary and secondary education:** Current school statistics do not provide unduplicated data on the number of pupils having completed secondary education, since statistics only count the number of graduations and not that of persons, which would otherwise result in double counts. For this reason there are no proportional figures available. As an alternative, data from the European labour force survey (by Statistics Austria and EUROSTAT) were used, which provide the number of adolescents which have completed secondary education.

⁴ **Ref A 6c) Drop-outs and repetition rate:** Present school statistics do not provide reliable data on drop-outs, again due to double counts. This will only be possible when data from several age-groups will be available according to the Education Documentation Act.

The repetition rate, included in the chart, reflects the percentage of pupils who are enrolled in the same grade as in the previous year. This number is slightly lower to that of pupils who have not successfully completed the school year, since not all of them repeat a grade or school year.

	2001	2002	2003
Primary education			
males	1,3%	1,4%	1,4%
females	1,0%	1,0%	1,1%
total	1,2%	1,2%	1,2%
Secondary education			
males	3,1%	3,3%	3,3%
females	2,5%	2,5%	2,5%
total	2,8%	2,9%	2,9%

Notes: Breakdown by age, minority and ethnic groups not available.

I A 6 d) Ratio teacher per child, by level of education

	2001	2002
Pre-primary education, age 3 - 5 years	18,1	18,2
Primary education, age 6 - 9 years	14,3	14,4
Secondary education, age 10 - 18 years	9,8	10,0

Source: Statistik Austria - UOE-02enr1/03enr1; OECD Education at a Glance 2003/2004.

Figures for 2003 not yet available, breakdown by sex, minority, and ethnic groups not available.

I A 7 Statistical data on early pregnancy and sexually transmitted infections

In 2002, 12 girls under 15 years and 3.244 young women between 15 and 20 years gave birth. In relation to the total number of young women under 18 years the rate of early amounts to 1,2 %.

The international HBSC Study (Health Behaviour in School-aged Children), in which Austria has been participating since 1983, provides important data on the health and well-being and health behaviours of young people aged 11, 13 and 15 years. A survey conducted in 2001 showed that the slightly negative trend in subjective health from the 1990s continues with regard to all analysed age groups and to both sexes. After all, one third to one fourth of all pupils regularly suffers from headaches, irritability, anxiety, insomnia, fatigue or exhaustion. Particularly striking is the fact that prevalence of health problems become higher as children grow older. Overall results of girls are usually worse than of boys. Please see for further information on new and planned policies with regard to health below under Part III.

The surveys undertaken showed that alcohol abuse has decreased since 1998 in all age groups. What is particularly encouraging is the considerable drop in the number of 15-year-olds who have alcohol problems. The continuous increase in the number of adolescent smokers in the 90s has been slowed down since 1998; today, 25% of 15-year-old girls and 20 % of 15-year-old boys smoke on a daily basis.

I A 8 Statistical data on children infected or affected by HIV/AIDS

Due to the low occurrence of HIV in Austria in general and owing to the fact that HIV testing is recommended to all pregnant women, the number of HIV-positive infants has been reduced to a maximum of 1 to 2 per year.

Specialised hospitals offer special treatment to HIV-positive pregnant women.

Comprehensive medical checkups during pregnancy have contributed to minimise the number of infants born HIV-positive, even if the mother is HIV-positive. This is due to a combination of antiretroviral therapy and specific gynaecological treatment. In Austria, there are no incidents of nosocomial infection in infants. Infections of older children resulting from the administration of hemoderivates which have not been sufficiently examined are also a thing of the past.

Since the beginning of the epidemic in 1983, in Austria a total of 26 children contracted AIDS, 16 of which have died in the meantime, the last case occurring in 1996. Due to the absence of statistics reflecting specific risk groups for HIV, there are no figures available. However, it can be assumed that the cumulative number of infected children in Austria since the beginning of the epidemic has been lower than 50.

I A 9 Statistical data with relation to children delinquents

I A 9a) Number of persons below 18 who allegedly committed a crime reported to the police

(see Annex 7 - police statistics on crime rates)

I A 9b) Number of persons below 18 who were sentenced and the nature of sanctions (community service; detention; other types of sanctions)

The Austrian juvenile justice system provides for a variety of sanctions that may be imposed on child delinquents (see comprehensively chapter 11 of Austria's Second Report). The following statistics disaggregated by sex refer to the number of convictions and the different penalties imposed on persons below 18 in the years 2001-2003 pursuant to the Austrian Penal Code only, i.e. do not include data on juveniles sentenced on the basis of other penal provisions outside the Penal Code.⁵ The following statistics do not include partly-conditional sentences (i.e. one part of the sentence has to be served without probation, the remainder may be served under parole). The statistics referring to the numbers of juveniles convicted in 2003 contain convictions based on all penal provisions, including the Penal Code and other penal provisions (see footnote 7). Further more detailed statistics may be provided upon the Committee's request in January 2005.

Statistics for 2001

Criminal offences against life and limb

Convicted: 697 (661 male)

fine: 336 (320 male)

conditional suspension: 77(71 male)

unconditional fine: 218(208 male)

imprisonment:207(195 male)

conditional suspension:169(157 male)

unconditional imprisonment:33(33 male)

conviction without penalty: 23(21 male)

conviction under reserve of a penalty: 117(111 male)

Criminal offences against liberty

Convicted:85 (male)

fine: 51 (44 male)

conditional suspension: 15(14 male)

unconditional fine:24(22 male)

imprisonment:91(84 male)

conditional suspension:71(64 male)

unconditional imprisonment:18(18 male)

conviction under reserve of a penalty: 39(35 male)

conviction without penalty: 2(2 male)

Criminal offences against foreign property

Convicted: 3093(2682 male)

fine: 414(352 male)

conditional suspension:178 (145 male)

unconditional fine: 169(145 male)

⁵ There are numerous penal provisions included in other laws, such as the Austrian Drug Act, the Austrian Constitutional Act Prohibiting the National Socialist German Workers' Party – the Prohibition Act (provides for the legal basis for penalties on account of racist incitement based on (neo-) Nazi ideology).

imprisonment: 1052(959 male)
conditional suspension: 717(635 male)
unconditional imprisonment: 166(164 male)
conviction under reserve of a penalty: 326(268 male)
conviction without penalty:60 (47 male)

Criminal offences against morality

Convicted 36(36 male)
imprisonment: 32(32 male)
conditional suspension: 19 (19 male)
unconditional imprisonment: 7(7 male)
conviction under reserve of a penalty:2 (2 male)
conviction without penalty: 1(1 male)

§ 206 – aggravated sexual abuse of minors

Convicted 9(9 male)
imprisonment: 8(8 male)
conditional suspension: 5(5 male)
unconditional imprisonment: 1(1 male)
conviction under reserve of a penalty:1 (1 male)

§ 207 sexual abuse of minors

Convicted: 4(4 male)
imprisonment: 4(4 male)
conditional suspension: 3(3 male)

§ 207a pornographic representation of minors

Convicted: 1(1 male)
imprisonment: 1(1 male)
conditional suspension: 1(1 male)

Criminal offences against authority (e.g. civil disorder)

Convicted: 61(56 male)
fine:14 (12 male)
unconditional fine: 10(8 male)
imprisonment:42(41 male)
conditional suspension: 34(33 male)
unconditional imprisonment: 6 (6 male)
conviction under reserve of a penalty: 5(3 male)

Total of criminal offences pursuant to the Penal Code committed by juveniles

Convicted:3068(2749 male)
fine: 889(790 male)
conditional suspension:290 (244 male)
unconditional fine: 468(426 male)
imprisonment: 1483(1365 male)
conditional suspension: 1058(951 male)
unconditional imprisonment: 239(237 male)
conviction under reserve of a penalty: 540(458 male)
conviction without penalty: 90(72 male)

Criminal offences against the Austrian Drug Act

Convicted: 688(592 male)
fine:181(151 male)
conditional suspension: 69(55 male)
unconditional fine: 89(77 male)

imprisonment:316 (295 male)
conditional suspension: 196(178 male)
unconditional imprisonment: 52(51 male)
conviction under reserve of a penalty: 168(127 male)
conviction without penalty: 6(6 male)

Statistics for 2002

Criminal offences against life and limb

Convicted: 598 (561 male)
fine: 302 (290 male)
conditional suspension: 86 (83 male)
unconditional fine: 186 (179 male)
imprisonment: : 175 (160 male)
conditional suspension: 133 (122 male)
unconditional imprisonment: 38 (34 male)
conviction under reserve of a penalty: 94 (85 male)
conviction without penalty: 13 (12 male)

Criminal offences against liberty

Convicted: 116 (103 male)
fine: 25 (21 male)
conditional suspension: 8 (4 male)
unconditional fine:: 13 (13 male)
imprisonment: 51 (47 male)
conditional suspension: 42 (38 male)
unconditional imprisonment: 8 (8 male)
conviction under reserve of a penalty: 34 (31 male)
conviction without penalty: 2 (2 male)

Criminal offences against foreign property

Convicted: 1628 (1394 male)
fine: 359 (304 male)
conditional suspension: 135 (107 male)
unconditional fine: 182 (162 male)
imprisonment: 966 (848 male)
conditional suspension: 648 (548 male)
unconditional imprisonment: 179 (170 male)
conviction under reserve of a penalty: 246 (195 male)
conviction without penalty: 41 (31 male)

Criminal offences against morality

Convicted: 31 (30 male)
fine: 2 (2 male)
unconditional fine: 2 (2 male)
imprisonment: 22 (22 male)
conditional suspension: 15 (15 male)
unconditional imprisonment: 5 (5 male)
conviction under reserve of a penalty: 5 (4 male)

§ 206 – aggravated sexual abuse of minors

Convicted 10(10 male)
imprisonment: 7(7 male)
conditional suspension: 4(4 male)
unconditional imprisonment: 1(1 male)
conviction under reserve of a penalty:2 (2 male)

§ 207 sexual abuse of minors

Convicted 6(6 male)
imprisonment: 6(6 male)
conditional suspension: 5(5 male)
unconditional imprisonment: 1(1 male)

§ 207a pornographic representation of minors

Convicted 1(1 male)
imprisonment: 1(1 male)
conviction under reserve of a penalty:1 (1 male)

Criminal offences against authority (e.g. civil disorder)

Convicted: 46 (44 male)
fine: 14 (13 male)
conditional suspension: 7 (6 male)
unconditional fine:: 7 (7 male)
imprisonment: 29 (28 male)
conditional suspension: 24 (23 male)
unconditional sentence: 4 (4 male)
conviction under reserve of a penalty: 2 (2 male)
conviction without penalty: 1 (1 male)

Total of criminal offences committed by juveniles pursuant to the Penal Code

Convicted: 2615 (2280 male)
fine: 768 (685 male)
conditional suspension: 256 (218 male)
unconditional fine: 429 (394 male)
imprisonment: 1317 (1160 male)
conditional suspension: 927 (792 male)
unconditional imprisonment: 238 (225 male)
conviction under reserve of a penalty: 424 (347 male)
conviction without penalty: 63 (49 male)

Criminal offences against the Austrian Drug Act:

Convicted: 637 (544 male)
fine: 212 (179 male)
conditional suspension: 77 (61 male)
unconditional fine: 102 (90 male)
imprisonment: 326 (291 male)
conditional suspension: 227 (196 male)
unconditional imprisonment: 46 (43 male)
conviction under reserve of a penalty: 83 (60 male)
conviction without penalty:10 (8 male):

Statistics for 2003

Criminal offences against life and limb

Convicted: 642

Criminal offences against foreign property

Convicted: 1453 **Total of criminal offences committed by juveniles, pursuant to the Penal Code and other relevant penal provisions (e.g. Drug Act, Prohibition Act etc.)**

Convicted: 3178
fine: 868

conditional suspension: 287
 unconditional fine: 499
imprisonment: 1782
 conditional suspension: 1216
 unconditional imprisonment: 300
conviction under reserve of a penalty: 83
conviction without penalty: 10

I A 9 c) Number of juveniles (under 18) detained and imprisoned, the location of their detention or imprisonment (e.g. police station, jail or other place) the lengths of their detention or imprisonment, including pre-trial detention

The statistics refer to two types of custody: imprisonment after conviction (*Strafhaft*) and detention pending trial/pre-trial detention (*Untersuchungshaft*). No disaggregated data by sex is available.

Number of detained/imprisoned juveniles in 2001, 2002 and 2003			
	2001	2002	2003
total	703	833	1209
Juveniles in prisons	37	34	25
Juveniles in pre-trial detention	663	797	1180
Other⁶	3	2	4

Juveniles imprisoned since 2001-2003 who are still in prison as of 1 November 2004			
	2001	2002	2003
total	19	18	46
Juveniles in prisons	16	14	34
Juveniles in pre-trial Detention	1	1	3
Other⁷	2	3	5

The following statistics refer to the number of persons whose age was below 18 years upon detention and who have been released from pre-trial detention or from prison between 2001 and 31 October 2004. Numbers are also given for the duration of pre-trial detention and imprisonment until release.

	2001	2002	2003	2004
Total	650	829	1100	1046
From pre-trial detention	424	545	819	674
Up to 1 month	278	355	501	437
1-3 months	94	144	274	199
3-6 months	39	39	41	36
6-12 months	6	7	3	2
12 month – 3 years	7	0	0	0
3-5 years	0	0	0	0
5-10 years	0	0	0	0
10-20 years	0	0	0	0
over 20 years	0	0	0	0

⁶ Custody for an administrative offence, or pending deportation/extradition, or institutionalised.

⁷ See Footnote above

From imprisonment				
total	226	284	281	372
Up to 1 month	17	16	27	59
1-3 months	74	91	98	105
3-6 months	54	82	72	94
6-12 months	38	59	47	69
12 month – 3 years	40	35	30	41
3-5 years	3	1	4	4
5-10 years	0	0	3	0
10-20 years	0	0	0	0
over 20 years	0	0	0	0

The following statistics refer to the numbers of juveniles who have been released from pre-trial detention or from prison between 2001 and 31 October 2004 when they were still below 18 years.

	2001	2002	2003	2004
total	568	731	987	929
From pre-trial detention	402	517	784	649
Up to 1 month	276	347	496	433
1-3 months	83	131	257	187
3-6 months	34	33	30	28
6-12 months	6	6	1	1
12 month – 3 years	3	0	0	0
3-5 years	0	0	0	0
5-10 years	0	0	0	0
10-20 years	0	0	0	0
More than 20 years	0	0	0	0
From imprisonment				
total	166	214	203	280
Up to 1 month	17	16	25	55
1-3 months	66	88	91	96
3-6 months	47	64	55	74
6-12 months	28	38	27	44
12 month – 3 years	8	8	5	11
3-5 years	0	0	0	0
5-10 years	0	0	0	0
10-20 years	0	0	0	0
More than 20 years	0	0	0	0

I A 9 d) Number of persons below 18 detained in adult facilities

In principle, juveniles and adults serve their prison terms in special departments of general penitentiaries. That means that there is hardly any contact between those two age groups. For exceptions of this rule – i.e. when the separation would lead to an isolation of the juvenile –no data is available.

I A 9 e) Reported cases of abuse and maltreatment of persons below 18 occurred during their arrest and detention.

No data on cases of abuse and maltreatment is available. No case of maltreatment or abuse by the prison staff is known. Some insults of inmates towards each other have been reported, the prison staff reacts in these cases in an adequate and professional way. It is considered as a success that juvenile prisoners report insults to the staff and call for help

instead of “solving” the problem within the juvenile subculture.

I A 10) Number of children with reference to special protection measures

I A 10 a) Children involved in sexual exploitation, including pornography, sale and trafficking

See Annex 7 Police Statistics on the crime rates

I A 10 b) Children involved in substance abuse

2003			
Citizenship	serious offence	offence	total
Austrian total	8	1159	1167
male	5	863	868
female	3	296	299
Non Austrian total	37	251	288
male	37	233	270
female	0	18	18
serious offence – age and sex			
	male	female	total
Austrian total	5	3	8
age 16	1	2	3
age 17	4	1	5
Non Austrian total	37	0	37
age 16	5	0	5
age 17	32	0	32
offence – age and sex			
	male	female	total
Austrian total	863	296	1159
age 9	1	0	1
age 12	3	0	3
age 14	8	0	8
age 15	65	44	109
age 16	238	102	340
age 17	548	150	698
Non Austrian total	233	18	251
age 14	4	0	4
age 15	12	0	12
age 16	53	4	57
age 17	164	14	178

2002			
Citizenship	serious offence	offence	total
Austrian total	4	1373	1377
male	3	983	986
female	1	390	391
Non Austrian total	12	228	240
male	12	197	209
female	0	31	31
serious offence – age and sex			
	male	female	total
Austrian total	3	1	4
age 16	1	0	1
age 17	2	1	3
Non Austrian total	12	0	12

age 16	1	0	1
age 17	11	0	11

offence – age and sex			
	male	female	total
Austrian total	983	390	1373
age 13	1	1	2
age 14	10	5	15
age 15	64	34	98
age 16	278	123	401
age 17	630	227	857
Non Austrian total	197	31	228
age 14	2	1	3
age 15	9	2	11
age 16	56	13	69
age 17	130	15	145

2001			
Citizenship	serious offence	offence	total
Austrian total	13	1552	1565
male	8	1085	1093
female	5	467	472
Non Austrian total	13	197	210
male	13	167	180
female	0	30	30
serious offence – age and sex			
	male	female	total
Austrian total	8	5	13
age 15	1	0	1
age 16	0	1	1
age 17	7	4	11
Non Austrian total	13	0	13
age 16	2	0	2
age 17	11	0	11
offence – age and sex			
	male	female	total
Austrian total	1085	467	1552
age 12	1	0	1
age 13	2	0	2
age 14	14	7	21
age 15	72	44	116
age 16	305	150	455
age 17	691	266	957
Non Austrian total	167	30	197
age 14	3	0	3
age 15	8	1	9
age 16	33	9	42
age 17	123	20	143

Recovery and reintegration treatments

The following data has been drawn from the WHO study “Health Behaviour on School-aged children” 2001 (hereinafter HBSC 2001) and from the European School Survey on Alcohol and other Drugs 2003 (authored by Dr. Alfred Uhl 2004, unpublished to date). Data on illegal drugs are available from the report on the drug situation 2004 by the Austrian Federal Institute for Health – *Österreichisches Bundesinstitut für Gesundheitswesen* (hereinafter ÖBIG 2004, unpublished to date), which is based on preliminary data compiled by European

School Survey Project on Alcohol and Other Drugs (ESPAD) as well as data from regional surveys on consumption patterns:

a) Regarding Smoking

- Different studies carried out in the past years have shown that an increasing number of young people start smoking at increasingly younger age: more than 90% of all adult smokers have started smoking before the age of 18.
- In the course of the 2001 HBSC study, 96% of 11-year-olds and 85% of 13-year-olds said they didn't smoke at all, but only 55% of 15-year-olds.
- 11% of 13-year-old boys and 13% of 13-year-old girls said they would smoke occasionally, by age 15, the number increases to 21% for boys and 26% for girls.
- A strong indicator for abusive smoking habits is daily smoking. While, all in all, daily smoking has considerably increased continuing the trend of the 90s, since 1998 no further increase has been recorded, which according to the study authors can also be attributed to the tobacco policy of recent years (in particular, the increase in cigarette prices at the end of 2000). Nevertheless, the number of adolescents who smoke regularly at a very young age is high compared to other European countries: According to HBSC results of 2001, 20% of boys aged 15 smoke regularly, compared with 25% of girls in the same age group.
- At general secondary and polytechnic schools, the prevalence of smoking is the highest: At these schools, 4% of pupils aged 13 and 33% of those aged 15 smoke daily. At general secondary schools of higher education (hereinafter AHS - acronym stands for *Allgemein Höhere Schulen*) half as many pupils smoke (14%), at vocational schools (hereinafter BHS - acronym stands for *Berufsbildende Höhere Schulen*) the percentage is 22%.
- A relatively low percentage - 12% of smoking boys and 15% of smoking girls - gave an affirmative answer to the question "Are you seriously considering quitting smoking?". This is attributed to the socio-cultural attitude in Austria where smoking is generally accepted and its hazards are often played down, which is different to other countries.

b) Regarding Alcohol

Similar to other alpine and Mediterranean countries, the consumption of alcoholic beverages is generally accepted and has a rather positive image among Austrians. Alcohol is an integral part of economic, social and cultural life. Correspondingly, a high percentage of the population, that is to say 94% of men and 83% of women drink alcohol at least occasionally. The prevailing drinking style is called "integrative", i.e. alcohol is consumed regularly and in relative high quantities, while excessive drinking is not as frequent – as opposed to English-speaking and Northern European countries, where people generally drink less but excessive drinking is more frequent.

Approx. one in ten persons living in Austria (one in 16 women and one in 7 men) becomes alcoholic at some point in their lives. On average, 5% of adults (2.5% of women, 7.5% of men) suffer from alcoholism. Another 13% consume alcohol to an extent which in the long term is very likely to lead to damages to their health (alcohol abuse).

Overall, average consumption of alcohol in Austria has been declining for the last three decades. After the average consumption of alcohol strongly increased in the post-war period until the mid-70s, it has shown a continuous decrease by 16% ever since (see Uhl, European School Survey on Alcohol and other Drugs 2003).

Compared with the last decades, the age group during which children have their first relevant experiences with alcohol (around the age of 13) has remained more or less the same. However, adolescents start drinking on a regular basis at a younger age compared with earlier generations (acceleration hypothesis). These habits can particularly be seen in girls ("emancipation effect").

According to HBSC 2001, 3% of 13-year-old pupils drink beer at least each week while 5% drink mixed drinks. By age 15, the number of beer drinkers rises to 18%, while the number of those consuming alcoholic mixed drinks on a weekly basis rises to 29%. Alcoholic mixed drinks are the most popular form of alcohol among both sexes, while the percentage of girls is higher: 32% of 15-year-old girls and 26% of boys at least once a week drink alcoholic mixed drinks. Beer drinking is also highly popular among boys: 25% of 15-year-old boys but only 10% of girls of the same age drink beer at least once a week. Of this age group, 11% of boys and 6% of girls consume spirits and liqueur at least once a week.

As regards alcohol consumption as well as the experience of being drunk, the percentage of boys in all age groups is higher than that of girls: Since 1990, boys have continued to drink more alcohol and have been drunk more often than girls. In 2001, 20% of 15-year-old boys and 16% of 15-year-old girls said they had been drunk at least four times; of 13-year olds, the percentage was 3% for boys and 1% for girls, among 11-year-olds the number was 1% for boys and 0% for girls.

A trend analysis shows that alcohol consumption among 15-year-olds decreased by 5% between 1998 and 2001. Mainly boys account for this reduction, who were 8% less likely to have been drunk 4 times or more often in 2001 than in 1998 (2001: 20%; 1998 28%). At the same time, the percentage gap between boys and girls narrowed (girls: 2001: 16%; 1998: 19%): in 2001, the percentage of boys exceeded that of girls by only 4%.

Pupils attending general secondary schools, polytechnic schools or vocational schools have been drunk more often than AHS pupils. Approx. one in four (22%) pupils aged 15 attending a general secondary school, 19% of pupils attending BHS and 12% of pupils attending AHS said they had been drunk at least four times before.

The fact that children start drinking alcohol regularly at an increasingly younger age is not a short-term development but a trend which has slowly continued over several decades. The HBSC surveys conducted since 1990 (1990, 1004, 1008, 2001) showed no increase in the number of children drinking alcohol on a daily basis despite acceleration.

Daily consumption of beer and wine among boys aged 11, 13 and 15 compared with 4 HBSC surveys in Austria:

	1990	1994	1998	2001
11 years	1%	1%	0%	1%
13 years	3%	3%	3%	2%
15 years	6%	7%	3%	3%

Daily consumption of beer and wine among girls aged 11, 13 and 15 compared with 4 HBSC surveys in Austria:

	1990	1994	1998	2001
11 years	1%	0%	0%	0%
13 years	1%	1%	0%	1%
15 years	0%	2%	1%	2%

These surveys furthermore show that despite starting to drink alcohol regularly at an increasingly younger age, people do not tend to have more alcohol problems in later life than before (see Uhl, European School Survey on Alcohol and other Drugs 2003). The results of the consumption study do not suggest any mayor short-term changes in drinking patterns of young people.

However, an increase in excessive drinking patterns among children and young people can be observed in recent years. Incidents of alcohol poisoning, which result in the hospitalisation

of children and young people, have increased in the past years by 100% among boys aged 15 to 19 and by 200% among girls aged 15 to 19.

The reason for this increase cannot be deduced from currently available data. Many reasons may be possible, or a variety of interacting reasons – from the influence of various artefacts (e.g. changes in diagnostic systems) to an actual increase in abusive alcohol consumption among young people in general, or an extreme segment of young people in particular. Research in this area is necessary and has already been initiated (Uhl 2003). Particular attention is given to prevention measures concerning the alcohol consumption among young people.

There are no incidents of alcohol dependence among children under the age of 14. Alcohol dependence is known among adolescents aged 15, with rates increasing as they grow older, although incidents are infrequent even in 19-year olds (2 to 3 per 1000 of the resident population).

c) Regarding Illegal drugs (data from the Austrian Federal Institute for Health – *Österreichisches Bundesinstitut für Gesundheitswesen* 2000; 2001; 2002; 2003; 2004 unpublished):

Alcohol consumption patterns have undergone changes in recent years. Poly-drug use continues to be dominant among Austrian drug addicts. While opiates, in particular heroin in combination with various substances (including alcohol and benzodiazepine) have played a central role in the past decade, for the period under review this increasingly applies to stimulants (amphetamines and cocaine).

A prevalence of between 20,000 and 30,000 persons with problem opiate use, for the most part showing polytoxicomaniac consumption patterns, is plausible for all of Austria. The number of deaths which can be directly attributed to the consumption of drugs (drug-related deaths) has decreased considerably following a peak in the mid-90s (1996: 195 deaths), however increased in 2003, with 163 deaths, compared with the two previous years (2001 and 2002: 139 deaths respectively). While the HIV prevalence rate was high in the late-80s, it has stabilised on a low level since the mid-90s (5%). Prevalence rates for HCV (between 50% and 80%) and HBV (between 30% and 50%) are high.

In the drug report of 2002, a special chapter was dedicated to drug trends among young people. In Austria, three groups of adolescent drug consumers can be differentiated: By far the largest group are adolescents who try out drugs. Among this group cannabis ranks first, followed by “party drugs”, biogenic drugs and inhalants (which are not illegal but are included in prevention endeavours).

The second, by far smaller group are adolescents who intensively experiment with various drugs over a longer period. Some non-representative studies show high prevalence rates for various substances in specific groups. The smallest group are adolescents who show an abusive use of illegal drugs. The number of these young people generally remains the same, with some increases in some, mostly rural, areas. Massive social and mental problems as well as damages to their health are found among these problem drug users. What is striking is the fact that the gender ratio of this group is almost even, the percentage of girls being slightly higher, while there are more male drug addicts among adults. Young people are an important target group in all areas of demand reduction intervention.

In the course of the 2001 HBSC survey, in addition to inquiries on the consumption of cigarettes and alcohol, data on the use of cannabis were also collected. 86% of 15-year olds negatively answered the question “Have you ever tried cannabis?”. 8% said they had tried cannabis once or twice, 6% said they had taken cannabis three or more times. Different to the smoking of tobacco, the study showed that the consumption of cannabis among AHS pupils was higher than among those of other school types.

The data (preliminary data from the European School Survey Project on Alcohol and Other Drugs (ESPAD); the European School Survey on Alcohol and other Drugs 2004; regional surveys on consumption) of the drug report 2004 of the Austrian Federal Institute for Health (unpublished to date) confirm a trend towards a more varied use of substances among those experimenting as well as among problem users. In particular adolescents and young adults experiment with a variety of different substances; apart from cannabis these include amphetamines, cocaine, biogenic drugs, inhalants and, to a lesser degree, opiates and LSD as well as other hallucinogens.

More than one third of young adults have had experience with cannabis, the percentages for cocaine, amphetamines and ecstasy are up to five percent among adolescents and up to ten percent among adults. Compared with earlier studies, the percentages for ecstasy have remained the same or are lower, while those for cocaine and amphetamines have increased.

According to preliminary hitherto unpublished results of the ESPAD study, the following drugs are most frequently taken by young people aged 13 to 18: cannabis (22.5%), ecstasy (3.1%), cocaine (2.2 %), crack (1,5%), heroin (1,2%), amphetamines (4.7%), GHB (0.8%), LSD (2.2%), inhalants (15.3%), magic mushrooms (3.7%).

The first nation-wide survey on the consumption of drugs, alcohol, cigarettes and some other life-style parameters is currently being carried out among the general population. The results will be published in 2005.

Nationwide statistics on treatment data are currently only available for substitution treatment. Acceptance and demand for this type of treatment is generally increasing (2003: 6,413 treatments, of which 891 were first treatments and 5,522 follow-ups; 2002: 5,757, of which 689 were first treatments and 5,168 follow-ups; 2001: 5,437, of which 725 were first treatments and 4,712 follow-ups; 2000: 4,943 of which 822 were first treatments and 4,121 follow-ups), with differences in the various regions.

The percentage of women throughout the years has been between 25% and 30% and is higher among those under 20 than those of other age groups. The increase in first treatments can be mainly attributed to the age groups between 19 and 24, which might indicate to an easier accessibility to treatment for young opiate consumers or to an increasing prevalence of problem drug use with opiates. A nationwide uniform documentation and reporting system on the demand for treatment is currently being implemented for institutions dedicated to the support and assistance of drug addicts. First data will be available in 2006.

I A 10 c) Number of unaccompanied minors and asylum-seeking and refugee children; involved in child labour (formal or informal sectors).

For the number of unaccompanied minors and asylum-seeking and refugee children see replies in question I A 1 b) above

Violations regarding child labour pursuant to Section 5 KJBG⁸ according to industries for 2001-2003 (no disaggregated data by age, sex and minorities is available)			
Industries (ÖNACE)⁹	2001	2002	2003
Agriculture and forestry	1	-	-
Metal production and processing, manufacture of metal products	1	-	-
Manufacture of furniture, jewellery, sports equipment, toys and other products; recycling	-	1	1
Building industry	2	2	3
Trade; maintenance and repair of motor vehicles and commodities	2	2	1
Accommodation and restaurants	3	5	2
Health care, veterinary and welfare	-	-	1
Total	9	10	8

Source: Federal Ministry of Economics and Labour, Labour Inspection

⁸ Federal Law on the Employment of Children and Adolescents (Bundesgesetz über die Beschäftigung von Kindern und Jugendlichen - KJBG)

⁹ ÖNACE is the Austrian version of the NACE Rev.1.1 based on the Commission Regulation (EC) No. 29/2002 of 19 December 2001. NACE is the acronym for « nomenclature d'activité dans la Communauté Européenne » or Nomenclature of Economic Activities.

B) General Measures of Implementation

I B 1 Information on the efforts undertaken by the State party to harmonize domestic law, both at federal and Lander level with the provisions and principles of the Convention.

Upon ratification of the CRC in 1992, Austrian legislation was examined as to its compatibility i.e. compliance with the CRC. Since then, all new legislation has been examined with a view to ascertain that Austrian laws are in compliance with the CRC. In this respect it is noteworthy to mention that the Federal Youth Representation is involved in the law-making process (study of bills by relevant stake-holders) by which they may present their views on amendments relevant to children's rights. The Federal Act on Youth Participation provides that, in matters concerning the interests of Austrian young people, the Federal Youth Representation is on a par with the statutory representative bodies of employees, employers, farmers and the Austrian Senior Citizens' Council (see paras. 181/2 of Austria's Second Report). In addition for information regarding civil society's participation, see information given under question B 7.

Employment of Children and Adolescents

In 2003 the Federal Law on the Employment of Children and Adolescents of 1987 (KJBG) was amended by which the Vocational Training Act (BAG) and the Bakery Workers Act of 1996 (BäckAG) were also amended (Federal Law Gazette BGBl I No. 79/2003) in order to comply with the CRC (See for further information below Part III)

- The KJBG had to be adjusted to the BAG as regards integrative vocational training, in order to enable minors to become get employed subject to certain conditions. The KJBG defines children prohibited from work as minors who have not reached the age of 15 years or have not yet completed compulsory full-time schooling.

Young persons who have not yet reached the age of 15 but who are no longer subject to compulsory full-time schooling may be employed on the basis of an apprenticeship or other training scheme.

Since vocational training according to section 8b paragraph 2 of the BAG (integrative vocational training for young people with special needs in the form of a partial qualification) is not considered an apprenticeship, section 2 paragraph 1a of the KJBG was amended accordingly so that young people under the age of 15 may be employed on the basis of an apprenticeship under section 8b BAG.

- Furthermore, the special assessment as stipulated in section 51 of the Health and Safety at Work Act (ASchG) was replaced in the KJBG and the BäckAG by risk assessment for young people under section 132a of the General Social Insurance Act (ASVG).

Risk assessments for young people which are mandatory under the EU Directive on the Protection of Young People at Work in the case of regular night work between 10 p.m. and 6 a.m. have hitherto been regulated by law as special assessments under section 51 of ASchG.

Practical experience has shown that these separate assessments were unnecessary, since all examinations essential for the assessment of risks incurred by night work were carried out in the course of the annual risk assessments for young people under section 132a of the ASVG).

For the employer, the new provision simplifies administration and saves costs, since costs incurred by the previous special assessments under section 51 of the ASchG were to be paid by the employer. Whereas the ASVG assessments are defined as compulsory benefits of health insurance and are thus financed by the social insurance institutions. Only in those cases in which an assessment in due time under section 132a ASVG prior to taking up night work is not possible, has the employer to provide for comparable initial

assessment. This mainly applies to apprentices to a bakery, who, having completed the age of 15, are permitted to start working at 4 a.m. Also in these cases an assessment under section 51 ASchG (with the employer having to bear the costs) is not mandatory. The assessment must however be comparable to the assessment as stipulated in section 132a ASVG. If the employer sends the adolescent to a panel doctor, as a rule the relevant health insurance carrier bears the cost.

Support and assistance to victims during court appearances

Since 2000 the Federal Ministry of Justice has been funding institutions tasked to provide support and assistance to victims during court appearances. Costs for the psychosocial care/support and for the procuration by a lawyer during criminal proceedings for needy victims who have been exposed to violence. The assistance covers especially legal consulting and procuration at court and for making a complaint. Furthermore it covers the coordination with psychosocial institutions that is necessary for the psychosocial care.

Incorporation of Children's Rights in *Länder* Constitutions

Upper Austria, Vorarlberg and Salzburg have incorporated children's rights in their constitution. Discussions are taking place in Tyrol and for the federal level in the Austrian Convent for the constitutional reform with a view to integrating children's rights in the respective constitutions.

I B 2 The Convention on the Rights of the Child in the jurisprudence of domestic courts

A single case is known to the Federal Ministry of Justice. The Regional Court for Civil Law Cases Vienna in a ruling of 26 October 1996 and the Supreme Court in a ruling of 10 April 1997 (EFSlg XXXIII/4) invoked the Convention on the Rights of the Child by finding that a child is also entitled to visitation rights with the parent not having custody of the child, in which Austrian courts based their jurisprudence directly on the CRC as regards the right of the child to personal contact with the parent not responsible for the care and upbringing of the child (provincial court for civil law cases, Vienna of 26 October 1996 and Supreme Court of 10 April 1997, EFSlg XXXIII/4). At that time the child did not have the right to file an application with the court for a visitation arrangement with the parent not responsible for its care and upbringing. Based on the CRC, the courts have approved the right of the child to file such an application. Subsequently, a legal provision the relevant legislation was amended in order to enable a child to file an application for gaining visitation with a parent not holding the right to custody on the subject has been drawn up (see also 7.4.7 of the Austrian report).

I B 3 National Plan of Action in Austria – „YAP–Young Rights Action Plan“

Since the ratification of the Convention on the Rights of the Child CRC in 1992, children's rights have figured high on the political agenda in Austria.

From the World Summit on Children in May 2002 Austria took the commitment to develop a National Plan of Action (NPA) according to the requirements of UNGASS:

The Austrian government designated the Federal Ministry of Social Security, Generations and Consumers Protection responsible for the development of the NPA (decision of 11 March 2003).

The work started with a **kick-off-meeting** on 26 March 2003. Over 100 experts came together to talk about *how* the NPA should be made. 4 workshops dealt with participation of children; networking, lobbying, public relations; statistics, research, evaluation; legal possibilities and political enforceability.

Right from the beginning the emphasis lay more on the *process* than on the content itself. We wanted to develop the Action Plan in a very open process, it should involve as many institutions, people and media as possible.

In this way children's rights should become better known, the implementation of the CRC should become a matter of national concern and the NPA should have an ownership in the governments and population.

The aim of this process is the creation of a society in which children and young people are respected, a society which offers them security, scope for development, opportunities for participation and a say in the decisions affecting them.

Four tracks to our goal:

- 4 Working Groups
- Online Database for Children's Rights Activities
- Participation of Children – Projects
- Information and Discussion via Internet and Public Relations for Children's Rights and YAP

4 Working Groups:

- Principles of children's rights
- Right to participation
- Right to provisions – scope for development
- Right to protection of violence and exploitation

After the kick-off-meeting 4 working groups have been installed to discuss the Principles of children's rights and what should be done to further implement the 3 Ps: participation, provision and protection. All working groups were reflecting on necessary legislation, effective control instruments, opinion-moulding and provision of information in their cluster. At the end of 2003 the working groups and sub-groups handed over their results to a team of scientists who had to write a report.

Online Database for Children's Rights Activities

Parallel to the working groups we have installed an online Database for Children's Rights Activities. Governmental and Non-governmental Organisations should fill in their plans how they are going to further implement children's rights in their responsibility.

Participation of Children – Projects

All NGOs working with children and adolescents (National Coalition) were invited to hand in projects on CR-work with children. It was up to the experts in the field to decide on the content as well on the methods. It was only asked to work with children with appropriate

methods on children's rights and to tell the government in the end, what children consider important for a future children's rights policy.

Two NGOs working with children applied – *Kinderfreunde Österreichs / Katholische Jungschar* – and were commissioned by the Federal Ministry of Social Security and Generations with respective projects. In the end, they published the results and presented over 25.000 wishes of (17.000) children from all over Austria to the parliamentarians.

Information and Discussion via Internet

Although personal contacts and direct cooperation or instruction is the more efficient way to good results, sometimes it needs an extra route for contributions. For institutions and interested people who couldn't come personally to working groups websites to participate online to the yap were installed: www.yap.at. This site offers information on children's rights and room for contributions to the yap. Two existing websites www.kinderhabenrechte.at (for smaller children) or www.jugendbeteiligung.cc (for disseminators) invited as well to contributions.

Awareness-Raising for Children's Rights

Awareness-raising and sensitising the public for children's rights is a permanent work to accomplish. It takes a great effort to make the spirit of the CRC known to children, parents, teachers, doctors, the police, professionals within courts, the media and politicians. We started off with children themselves. Besides the before mentioned websites, two children's rights brochures for pupils and several articles in children- and youth-related journals were published.

Several public discussions on children's rights – "Listen to Children" – with the Secretary of State responsible for children should contribute to popularise the idea of participation.

Political Coordination

The whole process was accompanied by a Steering Group led by the Federal Ministry of Social Security, Generations and Consumer's Protection with experts from the Government, NGOs and scientists/experts. 4 scientists/experts were commissioned to write a report and a summary of the process. This report was a basis for the NPA, which was adopted by the government on 22 November 2004. A political discussion of the NPA is planned to be held in parliament next spring.

Implementation

As children's rights policy has been on the political agenda in Austria since many years and since the present government has taken great efforts to create a child- and family-friendly society, the NPA contains many measures and strategies which are already coordinated within the government and therefore in the process of implementation.

Many others still have to be discussed more detailed. Therefore, the government has decided to create a "Steering Committee on the Implementation of the Rights of the Child" to ensure a comprehensive follow up on the NPA.

I B 4 Mechanisms to coordinate policies and programmes on children's rights both at federal and Lander level

The implementation of the UN Convention on the Rights of the Child is a cross-sectional matter, since, according to the Austrian Constitution, it falls under the jurisdictions of either the federal government or the *Länder*.

In order to take into account the interests of each of the federal, regional and local authorities as well as those of non-governmental organisations in the enactment of legislation, it has been the practice for decades to disseminate draft bills for written statements before they are debated and passed in the respective law-making bodies.

In order to harmonise executive tasks and future policies, different committees for the exchange of information of the competent federal and regional authorities have been set up, such as the conference of the heads of the regional governments, the conference of the heads of the regional finance divisions, the conference of the heads of the regional social divisions, the conference of the heads of the regional youth divisions, and the conference of the heads of the regional family divisions.

In order to harmonise the legal framework of the federal government and the *Länder* in their respective spheres of action, pursuant to article 15a of the Federal Constitution, agreements may be concluded between the federal government and the *Länder* or between each of the *Länder* on specific subjects such as for example care provisions for people in need of care.

The committee of the ombudsperson – a standing body of the federal and all 9 *Länder* ombudspersons – meets twice a year to debate important topics. They also work together in commenting on drafts of new CRC-relevant laws.

I B 5 Efforts to provide training and awareness-raising on the CRC and on human rights, including dissemination of the CRC in minority languages

Austria is conscious of the fundamental importance of information, dissemination and awareness-raising about issues raised by the CRC. Several brochures on the CRC in several languages have been produced and distributed via schools (see also information below under Part II). There are also numerous (monthly) journals published by the *Länder* and by the 9 Ombudsperson on youth children und family issues which cover the CRC. All information is tailored to the capacity and needs of pre- and primary school children as well as for students in secondary education.

There are also websites addressed to children and people working on CRC-issues providing comprehensive user-friendly information on children's rights, to name the two outstanding initiatives www.kinderhabenrechte.at or www.yap.at. Another initiative by the Federal Ministry of Social Security and Generations to name is a 5 weeks series (Sept/Oct 2004) on children's rights in the biggest newspaper in Austria commissioned by the Federal Ministry of Social Security and Generations to reach the general public. Copies of some CRC-brochures and some copies of journals of the *Länder* Ombudspersons will be provided in Geneva.

Training and awareness-raising is an ongoing important part in the children's rights policy in Austria. Several measures on that topic are proposed in the National Plan of Action.

The **service centre for human rights education**, established and financed by the Federal Ministry of Education, provides for continuous, high-quality education and training on human rights issues at Austrian schools. Owing to the target group, children's rights are given particular attention.

Among the extensive range of services offered by the service centre for human rights education and accompanying measures taken by the department for education and training

on political and environmental issues, are the following:

- A simplified version of the Convention on the Rights of the Child was drawn up, translated into 13 (minority) languages (Albanian, Portuguese, Bosnian/ Croatian/ Serbian, Turkish, Slovak, Chinese, Arabic, Bulgarian, Hungarian, Spanish, Romanian, Polish and German), and is made available by the service centre for human rights education.
- The website of the service centre also provides a link to the full paper of the Convention on the Rights of the Child, translated into minority languages.
- Newsletters Teaching Human Rights, No. 17, entitled „Kind – mit Recht. Kinderrechte (Children are right. Children’s Rights)” (November 2003), supplemented with a diverse electronic newsletter on children’s rights issues of 17 November 2003.
- Distribution of the publication “Wir haben Rechte ... und nehmen sie auch wahr (We have rights ... and make use of them)” (children’s rights projects) by Susan Fountain as well as a folder published by UNICEF on the Convention on the Rights of the Child, and many others.
- Together with the Federal Ministry of Health and Women, the brochure “The Rights of Children and Young People” was drawn up within the framework of the Young Rights Action Plan (YAP), which was presented in schools. The service centre for human rights education has actively participated in the working committees “Fundamental Questions on the Right of the Child” as well as “Information and Awareness-Building”.
- The website www.humanrights.at contains detailed entries on children’s rights issues, to be found under downloads, literature, links – as well as under service >Schwerpunktthemen (focal points) > Kinderrechte (children’s rights).
- The website www.schule.at regularly publishes dossiers on children’s rights (e.g. May 2003, “this week’s subject” on children’s rights issues, which since then has been updated regularly).
- Since the school year of 2001/02, workshops on children’s rights issues are regularly held with school classes. Also within the scope of the workshop series “Recht hat jede(r)?! - Everyone has/is right(s)” children’s rights issues are being dealt with (see module “children’s rights and (self)-respect”).
- The extensive range of services offered by the service centre includes events and the identification of experts, who may be invited to speak at schools. It deals with questions on the subject and offers support in the implementation of projects.

Information technologies guarantee highest possible distribution, while attention is also given to remove possible barriers with adequate measures. Material and services are generally offered free of charge.

Since the service centre for human rights education is integrated in and cooperates with the National Coalition / Network Children’s Rights (<http://www.kinderhabenrechte.at/>), it also exchanges information and cooperates with nongovernmental organisations.

I B 6 Information on the Ombudspersons Offices at the *Lander* level, including the mandate and resources

Ombudspersons offices for children and adolescents – invested with different competencies and tasks in each individual *Land* – provide counselling on questions and problems of concern to children and adolescents. As regards the nature of their tasks, they are exempted from accountability to other administrative bodies or competent politicians, contrary to all other regional agencies. However, they do strongly depend on the regional administrative authorities as regards some issues concerning service regulations (personnel, budget and office organisation). As an independent ombudsman office, they protect the interests of children and adolescents and are subject to regular mandatory reporting to the regional diets. In detail, the tasks and competencies as stipulated in the regional act implementing the Youth Welfare Act (JWG) of 1989 are as follows:

Burgenland: (section 11a Burgenland JWG)

- To counsel minors, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute between persons legally responsible for a child and minors about care and upbringing;
- To assist in cases of disagreement and dispute between persons legally responsible for a child or minors on the one hand, and public authorities or other youth welfare institutions, kindergartens and schools on the other hand;
- To deal with complaints of children and adolescents, persons legally responsible for a child and legal guardians, to point out grievances which affect children and adolescents;
- To accept and evaluate suggestions;
- To provide information;
- To make recommendations or representations to the competent persons or institutions in the interest of children and adolescents;
- To evaluate and initiate legal provisions/regulations concerning children/adolescents;
- To make recommendations, proposals and statements regarding requests of children and adolescents;
- To provide information on the rights and interests of children and adolescents as well as on the tasks of the ombudsperson for children and adolescents.

Carinthia: (section 4 paragraph 1 Carinthia JWG)

- To counsel children and adolescents, the persons legally responsible for them as well as legal guardians in all matters relating to the position of children and adolescents and the tasks of persons legally responsible for them;
- To assist in cases of disagreement and dispute about care and upbringing

Lower Austria (sections 7, 8 Lower Austria JWG)

- To counsel minors, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute about care and upbringing;
- To act as a mediator between youth welfare institutions, the parent(s), the school, the kindergarten and the children and adolescents;
- To organize information events on issues of special importance to children and adolescents;
- To observe administrative proceedings of youth welfare institutions;
- To evaluate and initiate legal provisions, regulations and other legal measures from the point of view of children and adolescents;
- To make recommendations to improve the living conditions of children and adolescents;
- To suggest special inspections of private youth welfare institutions in case of grievances;
- To protect the interests of children and adolescents in all planning and research projects.

Upper Austria (section 10 paragraph 4 Upper Austria JWG):

- To counsel children and adolescents, parents, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the parents or persons legally responsible for the child;
- To assist in cases of disagreement and dispute about care and upbringing;
- To make, in the interest of children and adolescents, representations to courts, administrative and other authorities;
- To evaluate and initiate bills and draft regulations in as far as they concern the interests of children and adolescents;
- To inform and make recommendations on the rights and duties and on the interests of children and adolescents as well as on the tasks of the Upper Austrian children and adolescents' ombudsman office;
- In performing its tasks, the ombudsman office shall regard the rights and welfare of the child. The Convention on the Rights of the Child is the legal basis for the activities of the ombudsman office.

Salzburg (section 14 Salzburg JWG)

- To protect the rights and interests of minors;
- To counsel and support minors, parents, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the parents or persons legally responsible for the child;
- To assist in cases of disagreement and dispute about care and upbringing of minors mediating between the children, adolescents, parents, persons legally responsible for the child and public and private youth welfare institutions;
- To make, in the interest of minors, representations to courts, administrative and other authorities;
- To represent the rights, interests, needs and requests of minors in the public;
- To promote the collaboration of youth welfare institutions and youth-related services with the respective branches of science, to encourage or conduct relevant studies and to participate in research projects aimed at improving the living conditions of minors;
- To collaborate in the youth welfare advisory council;
- To participate in the preparation of the Salzburg contribution to the report under article 44 of the Convention on the Rights of the Child;
- To collaborate in the evaluation of relevant bills and draft regulations as well as of drafts of Community-law standards;
- To recommend actions to all regional authorities which are in the interest of children and to submit proposals for improving children's and young people's overall living conditions and their opportunities for further development.

Styria (section 13b Styria JWG)

- To make recommendations on improving living conditions for children and adolescents;
- To inform the public about matters of particular importance to children and adolescents;
- To evaluate legal provisions, regulations and other legal measures with regard to the needs and rights of children and adolescents;
- To consider the interests of children and adolescents in planning and research projects which also affect the living conditions of children and adolescents;
- To coordinate different activities of public and private youth welfare institutions for the welfare of children and adolescents;
- To counsel children and adolescents, persons legally responsible for a child and legal guardians in all matters relating to the position of children and adolescents and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute between persons legally responsible for a child and children and adolescents about care and upbringing;
- To act as a mediator in cases of disagreement and dispute between persons legally responsible for a child or children and adolescents on the one hand, and authorities or other youth welfare institutions on the other hand;

- To address the youth welfare institution in cases where steps might need to be taken in the care and upbringing of children and adolescents who are exposed to a threat. The authority concerned with the case is obliged to inform the ombudsperson for children and adolescents on the steps taken.

Tyrol (section 6a Tyrol JWG)

- To counsel minors, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute between persons legally responsible for the child and minors about their care and upbringing;
- To act as a mediator in cases of disagreement and dispute between persons legally responsible for a child or minors on the one hand, and authorities and private youth welfare institutions called to execute this law on the other hand;
- To assist young people who have not completed the age of 21 in dealing with their problems as regards personal and social development;
- To submit proposals for improving the living conditions of children and young people with regard to similar activities of other institutions of the region and to point out grievances concerning this matter,
- To evaluate bills and draft regulations of the *Land*, in as far as they concern the interests of children and adolescents.

Vorarlberg (section 26 Vorarlberg JWG)

- To counsel minors, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute between persons legally responsible for the child and minors about their care and upbringing;
- To act as a mediator in cases of disagreement and dispute between persons legally responsible for a child or minors on the one hand, and authorities or other youth welfare institutions on the other hand.

Vienna (section 10 Vienna JWG)

- To counsel minors, persons legally responsible for a child and legal guardians in all matters relating to the position of the minor and the tasks of the persons legally responsible for the child;
- To assist in cases of disagreement and dispute about care and upbringing,
- To make recommendations in as far as they concern the interests of children and adolescents;
- To evaluate and initiate legal provisions and regulations in as far as they concern interests of children and adolescents;
- To provide information on the rights and duties and on the interests of children and adolescents as well as on the tasks of the ombudsman office for children and adolescents.

According to the size of the respective *Land* and the financial resources available, the individual institutions are provided with the following personal staff (without secretary's office) and financial resources, with the majority of the institutions being multi-disciplinary:

Land	Population under 18	Staff (VBÄ¹⁰)	Annual Budget (€)¹¹
Burgenland	50.463	1	3.300
Kärnten	110.684	2	25.500
Niederösterreich	314.291	4	70.000
Oberösterreich	298.165	3	215.000
Salzburg	109.483	4	97.200
Steiermark	227.803	3	70.000
Tyrol	146.347	2	46.500
Vorarlberg	81.369	1	30.400
Vienna	280.720	4	73.000

I B 7 Information on the role of civil society, including nongovernmental organizations in the implementation of the Convention as well as in the process of preparation of the State party report

Experts with practical experience are often involved in the development of policies. This has also been the case with the Austrian NPA (National Plan of Action for the Rights of Children and Adolescents) for the establishment of which over 100 experts from ministries, regional governments and many others from associations which work for and with children participated in working committees. As mentioned under I B 3, children and young people were also asked for their opinion and had a say in the choosing of subjects for the NPA.

Within the framework of the project "Klasse:Zukunft", an initiative for promoting development and raising quality in Austrian schools, which was initiated by the Federal Ministry of Education, Science and Culture, NGOs and experts with academic and practical backgrounds as well as the general public were invited to contribute to the development of different policies.

Another example are programmes in the context of "violence against children", such as assistance during court appearances, are developed in advisory boards comprised of representatives of all relevant institutions. But also other policy fields (i.e. in the health sector) are worked out together with the civil society and experts from different institutions.

For the purpose of Austria's Second Report on the implementation of the CRC, all ombudsman offices for children and adolescents as well as other associations represented in the National Coalition were asked to comment on the issue. The comments are to be found on pages 188-219 of the Second Report.

School Partnership

The Austrian school partnership is exemplary when compared to other countries. The School Education Act defines individual rights and duties of the school partners as well as the participation and co-determination rights of its representatives in the school-partner committees (class forum, school forum, school community committee). The school community committee is based on equal representation of pupils, parents and teachers and has important decision-making competencies.

In order to guarantee the interaction of the school partners in organizing school-related issues, they are entitled to have a body representing their interests. On the federal level, the pupils' interests are represented by the federal pupil representative body.

¹⁰ VBÄ stands for *Vollbeschäftigungsäquivalente* (equivalents to full employment); personal without secretariat

¹¹ = costs for projects; does not contain costs for staff but includes to some extent costs of materials (e.g. rent, office expenses)

This body is to protect the rights of pupils against the Federal Minister of Education, Science and Culture, other authorities, the upper and lower house of the Austrian parliament as well as legal representatives. The Federal Ministry of Education, Science and Culture provides the federal pupil representative body with the infrastructure and financial resources necessary for the accomplishment of its legal tasks.

At general education schools, the right of parents to have a representative body is exercised by the class parent representatives, at all other schools by the representatives of parents in the school community committee.

Within the Federal Ministry of Education, Science and Culture a parents advisory board was set up, which is comprised of representatives from parent and family associations. All important changes in legislation and fundamental issues of the Austrian school system are discussed in this committee. The comments, recommendations and requests of the advisory board facilitate decisions taken as regards quality assurance and development of the Austrian school system.

Code of Conduct Agreements

With code of conduct agreements, school partners are able to determine rules for the fair and positive interaction between each of the partners. The democratic principle lies in the participation of those concerned in finding solutions for issues which concern them and in the joint responsibility of consequences resulting from the answers they came up with. School democracy, which establishes code of conduct agreements, subsists on places where those involved get together in order to closely cooperate to accomplish tasks, with a maximum of communication and conflict resolution competence.

Monitoring Procedure for School Partnership

To evaluate the school partnership, the federal pupil representative body, together with the parents advisory board, developed a monitoring procedure of school democracy. This measure aims at examining the practical implementation of the school partnership at the individual schools at regular intervals.

In the school year of 2000/01, parent and pupil representatives from all secondary school types were asked in a written inquiry to evaluate the general conditions and implementation of their representative tasks. Particular attention was given to the climate in school partner committees. The elicitation of responses confirmed what is known from experience: the level of information passed on to the school partners on part of the headmaster's office represents the most important indicator for a well-functioning school democracy. The complete research result was published in February 2002 in the report No. 59 published by the Centre for School Development (Zentrum für Schulentwicklung – ZSE). In the school year of 2004/05 a first review study is planned.

Federal Youth Promotion Act

Since the EU Presidency of Austria in 1998, during which the discussion paper for the EU Council Resolution on the participation of young people of 15 Dec 1998 was developed on the initiative of Austria (see Annex 14.3 of the Second Report), young people have been participating in all official and unofficial committees of the Federal Ministry of Security and Generations as well as in the *Länder* (resolution of the political conference of the heads of the regional youth divisions of 1998).

The Federal Youth Representation Act of December 2000 provided for the establishment of the Austrian federal youth representation, which protects the interests of young people against political decision-making bodies at the federal level. The Federal Youth Representation is on equal terms with other legal representations. Furthermore, it has a

voice in the granting of subsidies under the Federal Youth Promotion Act (section 6 para 4 F).

In addition to participation in selective cases or entire projects, there are also forms of direct participation in Austria, characterized by continuity and formal structures. Mention shall be made of municipal councils and regional diets for children and adolescents, youth advisory boards, pupils' parliaments, youth representatives of the political parties etc.

Furthermore, there are also legal provisions to integrate young people into municipal decision-making processes, such as the establishment of youth representatives with the Salzburg youth promotion act or the lowering of the voting age in municipal elections to 16, effective in several Austrian *Länder*.

Recent inquiries and statistical surveys have shown that young people are particularly interested in actively participating in politics – not affiliated with any political party –, if they have positively experienced participation in projects where they had a say in determining and developing ideas as well as in implementing them. In order to encourage and promote such projects, the Federal Ministry of Security and Generations and the regional youth divisions are currently elaborating training modules for the heads of youth institutions, among other things. The website www.jugendbeteiligung.cc, financed by the Federal Ministry of Security and Generations, serves as an information platform on model projects and information and counselling institutions.

I B 8 Information on the issues affecting children that the State party considers to be priorities requiring the most urgent attention with regard to the implementation of the Convention. (BMSG)

The creation of a child friendly society where all children are protected, cared for and have a say is one of the priorities of the Austrian government. The NPA („YAP–Young *Rights* Action Plan“) approved on 23rd November 2004, contains the strategies and measures which the government considers requiring most urgent attention.

To name three priorities:

- Incorporation of children's rights in the Austrian Federal Constitution
By incorporating children rights in the Constitution the Austrian legislation (on the simple law level) must be adapted so as to conform with the constitutional demands.
The Constitutional Court may also review the constitutionality of these provisions/ administrative decisions in a given case. These improvements in the legal protection of children's rights aim to give better effect of children's rights and thus to an improvement of the lives of all children in Austria.
- Violence against children in all its forms: on the one hand, the government aims to enhance the sensitivity also for the occurrence of violence in all its subtle forms by constant awareness-raising in schools and outside the school as well as by parental education. On the other hand, it is planned to support parents by establishing the general conditions conducive to further relieving parents from pressure in order to provide them with alternative methods of education other than violence.
- Enhancing and promoting education and vocational training in order to address youth unemployment effectively and efficiently. The observations in this respect contained in the NPA elaborate on the methods planned that to some degree have already been successfully used.

Part II

See also reply to question I B 5 above. The text for the CRC has been translated into German (as the official language). There are no dialects spoken in Austria entirely distinct from German. A simplified version of the Convention on the Rights of the Child was drawn up, translated into 13 (minority) languages (Albanian, Portuguese, Bosnian/ Croatian/ Serbian, Turkish, Slovak, Chinese, Arabic, Bulgarian, Hungarian, Spanish, Romanian, Polish and German), and is made available by the service centre for human rights education. Copies of the text of the Convention on the Rights of the Child in other languages or dialects of the State party will be provided in Geneva on 14 January 2005, when available/upon request?? Copies of the CRC in the languages mentioned above are made available via the Website <http://www.humanrights.at> > "Downloads" > "Kinderrechte" (scroll down))

The compilation of these translated versions was announced by means of decree. The 1st edition (3,000) was distributed within one month. From the unchanged 2nd edition (likewise 3,000 pieces) up to now about 1,000 pieces were dispatched on inquiry. Besides the application in schools (from 3rd grade) they are also used in the teachers training. (A copy will be provided in Geneva on 14 January 2005)

As the CRC is primarily used for educational purposes, child-friendly versions of the CRC are disseminated by the Ministry of Education and the Ministry of Social Security and Generations in schools.

Part III

Up-date of the information provided in the Second Austrian Report with regard to:

1. *new bills or enacted legislation*
2. *new institutions*
3. *newly implemented policies*
4. *newly implemented programmes and projects*

A) FAMILY POLICY

Ad 1, 3, 4) New Legislation, policies, programmes

Family allowance (*Familienbeihilfe*) and Multiple-child bonus (*Mehrkindzuschlag*)

Family-Related Benefits have been increased in recent years in the course of which the scope of the **benefits of family allowance and the multiple-child bonus** (supplement for several children, see Chapter 8 of the Second Report) have been **extended**:

Concerning the family allowance a **supplementary age grade** has been introduced since 1 January 2003 : the family allowance has been increased by € 7,3 per month from the month on in which the child completes his/her third year of age (Federal Law Gazette Vol. I No. 20/2002). The Family Burden Equalisation Fund provides annually approx. € 130 mio for these contributions.

In addition, the **supplementary contribution to the family allowance for severely disabled children** (*Erhöhungsbetrag zur Familienbeihilfe für erheblich behinderte Kinder*) has been increased by € 7,3 (monthly supplement per family allowance: € 138,3) per month (Federal Law Gazette Vol. I No. 20/2002). The Family Burden Equalisation Fund provides annually approx. € 5 mio for these contributions.

Families with many children will receive a **means-tested multiple-child bonus** (supplement for several children, *Mehrkindzuschlag*) in addition to the family allowance; this supplement has been increased since 1 January 2002 und amounts to € 36,4 for the third child and any further child eligible to receive family allowance (Federal Law Gazette Vol. I No 1003/2001). The family income subject to tax may not exceed a certain annual threshold (for 2004: € 41.400). If family allowance is obtained for two children, the total amount for family allowance will be increased by monthly € 12,80, for more than three children by monthly € 25,50 per child.

In average, approx, 1,1 mio. Persons entitled to family allowance have received the benefit in relation to 1,80 mio. Children.

Child-Care benefit for multiple births (*Kinderbetreuungsgeld*)

The system regarding the child-care benefit has been described in chapter 8.6.3 of the Second Report. Since the beginning of 2004, the child-care benefit has been extended in relation to families with multiple births (twins, triplets etc) in order to compensate for the higher maintenance burden.

The child-care-benefit has been **increased** since 1 January 2004 by daily € 7,27 **for multiple births**, that is by approx. € 218 per month for each further twin, triplet etc., this amounts to an increase by 50 %.

In addition, the general legal framework regarding social security issues and the child-care benefit has been further improved during the reporting period. The

contributions to severance pay of persons obtaining child-care benefit and during part-time work (*Elternteilzeit*) will continued to be paid by the Family Burden Equalisation Fund.

Furthermore, the **applicable law regarding pensions has been improved:**

The first 24 months following the birth of the child is fully accounted for the qualifying periods necessary for the pension scheme, thus persons receiving child-care receive full pension credits during this time.

The amendments to the law relating to pensions applicable from 2004 (harmonisation of statutory pension schemes, „*Pensionsharmonisierung*“) will bring about a better weighting of the pensions credits due to child care. This should contribute to a higher societal recognition of the periods during which parents care for their children.

Another improvement in Austria's policy of promoting families has been achieved by creating the opportunity to receive unemployment benefits (*Arbeitslosengeld or Notstandshilfe*) during or after the period during which child care-benefit may be obtained.

Tax incentives for families

The situation of sole earner- and lone parent-families has been particularly taken into account when passing the fiscal reform.

A lone parent is entitled to a certain tax credit, by which sum the wage tax payable in a calendar year is reduced (Lone parent's tax credit). The lone parent's tax credit has been increased by € 130 for one child, by € 175 child for the second and € 220 for each further child.

In addition, in order to benefit from the income lone parent's tax credit the threshold for a second income (*Zuverdienstgrenze*) has been raise from € 4.400 to € 6.000.

Two objectives have been achieved: first, the objective to take into account the situation of families who only dispose of one income and secondly, to take into account the number of children.

Furthermore, the raise of the threshold for the family's second income in relation to the tax incentive of the lone parent's tax credit has been equally important to the benefit of mostly women – as they may secure an independent income without losing tax privileges for the family.

The tax relief for families will be effective as of 1 July 2004 .

Commuting Grants für School Internships (*Fahrtenbeihilfe für Schulpraktika*)

Students who have to serve a compulsory internship according to the curriculum of a vocational school *berufsbildende höhere Schulen* (e.g. *school of hotel management*) will for the first time from the school year 2004/2005 on benefit from commuting grants. The amendment to the Act governing Federal Burden Equalisation provides equal treatment of all students by introducing a lump sum payment. The introduction of a commuting grant for students of schools for health and nursing services will support the training in those occupational areas that are most needed these days.

On average, the expenditure for free school commuting benefits amounts to € 340

mio for approx. 910.000 transports per school year. An average of approx € 14 mio is spent on 80.000 apprentices obtaining free commuting benefit whereas 45.000 beneficiaries avail themselves of commuting grants for students and apprentices with costs amounting € 8,3 mio.

Free School Text Books Scheme (*Schulbuchaktion*)

Since 2003 supplements to existing text books can be **downloaded from the internet** (SbX). By extending the Text Books Scheme to modern information- and communication technologies the range of digital learning aids may also be used in school instruction („e-Learning“)

Following a pilot phase, during which schools may order the internet-supplements without prejudice to the text book-limit, these SbX-supplements will be integrated regularly in the Text Books Scheme from the school year 2004/05 onwards and have their own prices such as books.

€ 360.000 were spent for financing the SbX in 2003 whereas approx. € 2 mio were spent in the school year 2003/2004 in addition to the costs for text books within the Campaign on Text Books.

Furthermore, digital text books for disabled, vision-impaired and blind students are being developed in a pilot project.

Family-related Policies

Austria has put particular emphasis on facilitating the reconciliation of work and family obligations in addition to combating family and child-poverty.

Two objectives are being pursued, that is On the one hand the implementation of the EU- Community Framework Strategy on Gender Equality (Council Decision 2001/51/EC; for the period 2001-2005) on the other hand supporting the important concerns of children who have explicitly articulated in surveys that they wish to spend more time with their parents.

The Federal Ministry of Social Security, Generations and Consumer's Protection had taken over the project management for the EU project funded by the European Commission entitled "*Vereinbarkeitsmaßnahmen von Familie und Beruf anhand des Modellprojekts einer nationalen Koordinierungsstelle*" (measures with a view to reconciling family and work on the basis of a model project of a national coordination centre) undertaking an analysis of different successful national instruments for the reconciliation of work and family.

Other project such as Audit FAMILY & WORK (Audit FAMILIE & BERUF) or the nation-wide competition "most women- and family-friendly company" in cooperation with the economy aim at achieving a more family- and child friendly work environment in Austria.

A number of studies have been commissioned and awareness raising measures taken to encourage men to take up their role as fathers in order to correspond to the wish and the right of children to both parents. These measures pursued the objective to encourage fathers to be more present in intact families as well as to facilitate better arrangement when it comes to conflict-laden divorces/separations,

Audit family- and children-friendly municipality

The Federal Ministry of Social Security, Generations and Consumer's Protection has commissioned the elaboration of so called "Audit family- and children-friendly municipality" in order to support municipalities in their endeavours to continue to

work and improve a family- and children-friendliness in their own interests. It is a simple and independently applicable consulting tool for municipalities enabling them to review their family- and children-friendliness and further expand on it according to the specific needs.

Municipalities who have successfully implemented the Audit receive the certificate “family- and children-friendly municipality”, a nation-wide acknowledged proof of quality for municipal family policies. Since June 2004 the Audit is available to all municipalities and cities in Austria.

B) EMPLOYMENT

ad 1) New legislation

In 2003 the Federal Children and Young Persons Employment Act of 1987 (KJBG) was amended by which the Vocational Training Act (BAG) and the Bakery Workers Act of 1996 (BäckAG) were also changed amended (Federal Law Gazette BGBl I No. 79/2003) (see for more details above replies to question IB1)

ad 4) Newly implemented programmes and projects

Apprenticeship without impediments with “integrative vocational training”

“**Integrative vocational training**” shall improve integration into the labour market of disadvantaged young people with personal placement difficulties.

Within this framework, two new vocational training programmes for people with special needs have been available since September 2003:

- “**extended apprenticeship**”, whereby the apprenticeship period can be extended by a maximum of one year, in exceptional cases by two years, or
- **partial qualification** in a profession within a period of one to three years, during which the apprentice receives training for parts of one or several professions.

Target groups of integrative vocational training are persons who have one or several disabilities or are in need of special education and training or did not successfully complete secondary school, or persons who are unlikely to find a regular apprenticeship place in the near future due to unsuccessful placement in a regular apprenticeship.

Companies which train young people with special needs are supported by **vocational training assistants** during the entire integrative vocational training. This vocational training assistance is to be carried out by the labour market service, by the federal social welfare office, or by a local authority or institution of a local authority. They can consign an institution with relevant qualification in the field of social-pedagogic support and assistance to carry out the vocational training assistance.

An important prerequisite for the support service of the vocational training assistants is that the “**clearing**” resulted in confirming the aptitude of the respective adolescent for integrative vocational training. “Clearing” is a scheme of the “disability billion” programme and is to be seen as an interface between school and work with complex networking and cross-reference functions. A multi-professional and mobile clearing team, together with parents, teachers and labour market experts, develops and agrees upon an individual career plan for the respective adolescent.

The **federal social welfare office** is a central contact point for information and counselling on “integrative vocational training”.

The vocational training assistants provide companies with the following services: information on sponsorship; counselling and support with legal and social issues of integrative vocational training; mediation to resolve arising conflicts and difficult situations.

The adolescents on the other hand are offered the following support services: counselling in establishing a training plan, in case they want to acquire partial qualifications; close cooperation between adolescents, their relatives, the company and authorities; continuous assistance and support throughout the entire period of training.

As regards costs arising from this vocational training assistance, mention has to be made to the fact that companies which enable young people to complete integrative vocational training do not have to bear the costs for the vocational training assistance. All costs arising from the vocational training assistance are paid directly by the regional offices of the federal social welfare office or by the labour market service.

Furthermore, there is a cooperation agreement between the labour market service and the federal social welfare office: The federal social welfare office (disability billion) provides and coordinates vocational training assistance for training places at private enterprises, while the labour market services is responsible for providing and coordinating vocational training assistance for training places in special independent training institutions.

The federal social welfare office (disability billion) bears the total costs for vocational training assistance for training places at private enterprises. In the first half of 2004, about € 400,000 were spent on these services. In addition, the support service for people in integrative vocational training includes further (standard) integration measurements (e.g. financing of modification/adaptation of workplaces, job-coaching, etc). These integration measurements, which are generally applied in the assistance of disadvantaged or disabled people, cannot be accounted for integrative vocational training alone.

As regards vocational school attendance, the duty or the right to attend a vocational school shall apply if the training objectives require it and if the personal capabilities and needs allow it. The training objectives are determined jointly by the contracting parties, i.e. the apprentice (or the legal guardians) and person entitled to the training, as well as by the vocational training assistance, the school authority of first instance and the competent federal or regional authority.

There are two possibilities to successfully complete integrative vocational training: to pass the final apprenticeship examination for a certain profession after having completed the extended apprenticeship or to pass a final examination on the know-how and skills acquired in the course of the partial qualification.

In the course of a partial qualification, during the last weeks prior to completion of the training, a final examination is to determine the level of training achieved. The acquired qualification is determined by experts of the respective professions and a vocational training assistant. The apprenticeship office of the Economic Chamber shall issue a certificate on the final examination. With the amendment to the Vocational Training Act of 2003, which provides for integrative vocational training, an important step was taken towards offering young people customized educational opportunities. These opportunities allow for the integration of the latent potential of disabled young people and are an important stimulus for their integration into the labour market.

Survey of the existing apprenticeships in integrative vocational training							
Integrative vocational training of apprenticeship places as of 31 July 2004	Land total	§ 8b para. 1 BAG (extended apprenticeship)			§ 8b para. 2 BAG (partial qualification)		
		§ 8b (1) total	in companies	in institutions	§ 8b (2) total	in companies	in institutions
Burgenland	4	2	2		2	2	-
Carinthia	34	14	14	-	20	20	-
Lower Austria	12	8	8	-	4	4	2
Upper Austria	119	58	49	9	61	9	52
Salzburg	9	5	2	3	4	4	-
Styria	141	60	47	13	81	34	47
Tyrol	36	31	6	25	5	5	-
Vorarlberg	9	-	-		9	9	
Vienna	359	357	3	354	2	1	1
Austria total	<u>723</u>	<u>535</u>	<u>131</u>	<u>404</u>	<u>188</u>	<u>86</u>	<u>102</u>

Comparative figures for ref. date 30 June 2004	500	364	88	276	136	77	59
Comparative figures for ref. date 31 March 2004	402	330	41	289	72	49	23

The number of apprenticeships in integrative vocational training shows an encouraging development. Compared with the reference date of 31 March 2004, i.e. compared with the last quarter, the number of apprenticeships has increased by 300.

The increase in the number of apprenticeships in companies from 90 at the end of March to 217 at the end of June is particularly gratifying (of which 131 are extended apprenticeships und 86 are trainings with partial qualification).

Evaluation of integrative vocational training

The provisions on integrative vocational training are limited to the end of 2008 for the time being. The Vocational Training Act stipulates that the Federal Minister of Economics and Labour shall evaluate the integrative vocational training and its effects by 31 Dec 2006.

The Federal Ministry of Economics and Labour will henceforth initiate an evaluation process starting at the beginning of 2005 in order to examine the accuracy and implication of the new training scheme. This evaluation primarily aims at analysing the effectiveness of the vocational training assistance, the implementation of the duty or the right to attend vocational schools as well as the implementation of integrative vocational training in the individual companies and independent training institutions against the background of an effective

integration into the working life and the labour market, deducing possible improvements

C) HEALTH

Ad 1) New Laws, Regulations etc.

Tobacco: Maximum permissible yield of toxic constituents per cigarette and regulations on the labelling of tobacco products – Health warnings on smoking were stiffened (Tobacco Act, Federal Law Gazette Vol. I No. 74/2001, to implement the Directive 2001/37/EC (concerning the manufacture, presentation and sale of tobacco products). Ordinance Federal Law Gazette Vol. II No. 217/2004 sets out the procedure to measure carbon monoxide concentrations in the vapour phase in tobacco smoke.

As of 1 January 2005, another amendment to the Tobacco Act will enter into force. In implementing the Directive 2003/33/EC in connection with the Council recommendation 2003/54/EC as well as the WHO Framework Convention on Tobacco Control WHA56.1, in 2004 a draft document was submitted to parliament for consideration which provides for an extensive ban on advertising, marketing and sponsoring of tobacco products as well as further measures to control smoking. In particular, the sale and distribution of single stick cigarettes or packages containing fewer than 20 cigarettes shall be prohibited. This provision is directed at children and adolescents who are particularly price sensitive and are likely to be incited to buy, apparently cheap, small packages on offer. The amendment also provides for the extension of non-smoker protection: In the future, smoking will be generally prohibited in closed public spaces, with only few exceptions (mainly restaurants).

Illegal drugs: In implementing several international and EU resolutions by passing regulations published in Federal Law Gazette Vol. II No. 144/2001, 145/2001, 136/2004, 137/2004 and 606/2003, 607/2003, various substances were made subject to the regime of narcotic drugs (4 MTA, 2C-B, PMMA) and the regime of psychotropic substances (GHB). The limit amount of heroin was reduced from 5g to 3g.

Pursuant to section 15 of the Narcotic Substances Act, the Ministry of Health, following a respective quality assessment, promulgated in Federal Law Gazette No. II No. 465/2003 and 371/2004 concerning further institutions offering support to drug addicts.

ad 3) Health – Policies, Programmes and Projects

Tobacco: For the period under review, the Ministry of Health has focused on measures aimed at controlling tobacco consumption. In addition to the amendment to the Tobacco Act 2001 and the provisions resulting thereof (see above), the Ministry of Health and the Ministry of Education commissioned a study on “The role of national policies in controlling smoking habits in adolescents and the influence of school and home” and developed the project “smoke-free school”. In May 2004, the following five-point programme was started, implementing the WHO Framework Convention on Tobacco Control:

1. For the first quarter of 2005, a campaign aimed at preventing young people from starting to smoke is being prepared.
2. “The Last Cigarette” campaign, which addresses people willing to stop smoking, aims at helping 55% of quitters in their endeavour. The campaign, carried out in cooperation with the Austrian radio station Ö3, is based on a website (www.isch.at).
3. Improvement of non-smoker protection and
4. Implementation of existing smoking prohibitions: see above (2).
5. Non-smoking sections in restaurants – An agreement has been concluded with restaurant businesses that by the end of 2004 30% of all restaurants (by 2005 60%, by 2006 90%) will have non-smoking areas seating a minimum of 40% of all guests.

Alcohol: During the period under review, the focus is and has been on alcohol consumption among young people. Existing data on prevalence rates are further updated by two studies, the results of which allow for better preventive measures to be taken. a) In 2003, Austria for

the first time participated in a European survey carried out among pupils aged 15 to 16, who were asked about their alcohol and drug consumption (ESPAD study). Following publication of the international report in English, the results will be published at the beginning of 2005. b) Furthermore, the first survey on alcohol and drug consumption will be carried out among the Austrian population at the end of 2004. The results will be presented in 2005.

A scheme of strategies is currently being elaborated by order of the Federal Ministry of Health and Women to raise awareness for problems concerning alcohol consumption; the strategies are to be presented to the public in 2005. Particular attention will be given to alcohol consumption among young people. To initiate and encourage widespread public debate, the Coordination and Information Centre for Alcohol-related Issues (*Alkohol Koordinations und Informationsstelle*, short "AKIS") – initiated and funded by the Federal Ministry of Health and Women) organised two symposiums on the alcohol consumption of young people in 2001 and 2004 respectively, which involved all relevant expert and business groups.

"Alcopops" have been the subject of recent public debate. Politicians and scientists currently work on measures counteracting this trend. Experts are of the opinion that tax increases, limitations of advertisement, bans on the sale or distribution in supermarkets, petrol stations, etc. as well as increased observance of youth protection regulations are likely to lead to a decrease in consumption.

Austrian health policies mainly focus on problem drinkers and promote sensible drinking in the sense of being harmless to health. Against this background particular importance has been attached to primary prevention, which is based on the WHO initiative on health promotion, aimed at strengthening children's and young people's personalities making them less susceptible to develop problematic consumption and dependence patterns. This also includes the consumption of alcohol.

Another objective involves alcohol abstinence in specific situations, in particular in the workplace, while driving or during pregnancy. In Austria, alcoholism is regarded an illness, medical costs are covered by social health insurance or social welfare. Austria has sufficient capacity to offer nation-wide therapy treatment. Alcohol-related treatment has a long tradition influenced by psychiatry. Self-help groups complement the service on offer.

Austria participates in the EU project "ENCARE", which provides support to children and young people living in families with alcohol problems. Experts from therapeutic, preventive, advisory, research and administrative sectors are integrated in the project.

Illegal Drugs: (The following report is based on the drug reports of the Austrian Federal Institute for Health (hereinafter "ÖBIG") 2000; 2001; 2002; 2003; 2004 – still unpublished)

Austria's current drug policy is based on a four-pillar approach (prevention, therapy, harm reduction and enforcement). On the federal level, objectives and principles are provisions regulated by law or by ordinance.

During the period under review, regional-specific drug and addiction programmes were initiated in several *Länder*. In the meantime, all 9 *Länder* have developed respective statements of principle. In recent years, there has been a trend to deal with legal and illegal substances through coordinated systems. Austrian drug policy follows a comprehensive and balanced approach trying to find strategies which differentiate between drug addiction and drug trafficking. In the context of drug consumption and drug addiction special emphasis is laid on the principle "therapy instead of punishment".

The aim of drug policy is a society as free of addiction as possible. In addition to intensifying preventive measures, the government programme of 2000 provided for stronger pursuit and

punishment of drug trafficking, which in 2001 resulted in the reduction of the so-called "limit amount" for heroin (from 5g to 3 g) as well as the increase of the maximum penalty for leading members of drug gangs to life long imprisonment. With the 21st amendment to the Road Traffic Act, as of 1 January 2003 blood testing is now permitted if impaired ability to drive due to drug influence is suspected. This provision aims at improving the collection of evidence and reducing the number of drug-related road accidents in the long term.

In Austrian drug policy, particular attention is given to the prevention of addictions, i.e. primary prevention. The prevention programmes are not specific to substances but generally aim at strengthening children's and young people's personalities making them less susceptible to develop problematic consumption and dependence patterns. This includes non-substance-related forms of addiction, such as an addiction to games, the internet etc., as well as eating disorders. Secondary prevention approaches have also been increasingly promoted for several years. In recent years particular attention has been given to addiction prevention in companies. The new media (Internet) play an increasing role in preventive work. Low-threshold and outreach services have also been extended.

Measures related to drug prevention are increasingly targeted at young people. Emphasis is given to "integrative" approaches which try to avoid stigmatising young people with drug problems. New schemes and methods of early intervention have been developed, which show positive results.

Two studies, initiated by the ministries responsible for health and youth-related issues, specifically dealt with drug-related problems and the need for preventive measures among young people (ÖBIG 2001) as well as with the role of non-school youth welfare services for young people at risk of drug use (ÖBIG 2002). These studies identified a cumulation of problems and, at the same time, a lack of competencies and resources (protection factors). This pointed to the significance of primary prevention measures which aim at strengthening living competencies.

In recent years, emphasis has been laid on establishing secondary prevention measures, in particular outreach programmes. In practical work, great importance is attached to the above mentioned integrative approach. An increasing number of special services is now offered to young people with drug problems.

Addiction treatment is well established in Austria. In-patient as well as ambulatory care is highly developed and well organised throughout the country. Addiction is regarded an illness in the psycho-social context, treatment expenses are covered by national health insurance or the public welfare system. Numerous self-help groups complement in-patient and ambulatory treatment.

In addition to abstinence-oriented approaches, in recent years there has been increasing need for continuous assistance to addicts aimed at risk minimisation and harm reduction. The health policy's aim is to offer a differentiated and multi-professional service network with integrated measures of prevention, treatment and social re-integration as well as risk-minimising measures and assistance to addicts on an ongoing basis.

Such as in the past, drug-policy measures have also been taken in the period under review to respond to epidemiological developments. Due to the federalist structure of the area of health and social affairs, measures of prevention, therapy, harm reduction and risk minimisation have been primarily set up on the regional level (based on demand and need). Experience from practical work influences further development of the prevention and support system for drug addicts. In response to epidemiological trends, new services have been set up for chronic addicts with multiple impairments and cocaine addicts and the service for in-patient substitution treatment has been extended.

In recent years, endeavours have been made at the federal level to improve and intensify drug monitoring. The improved data situation shall allow a better and more objective evaluation of the drug situation in the future. It will also facilitate the coordination of services to actual needs (see above in the section on “alcohol”).

Quality assurance has also been continuously improved. The Ministry of Health had plans and curricula developed for drug-related further training for five relevant occupational groups. At the national, regional and local levels numerous advanced training programmes have been initiated. Quality assurance measures (elaborating guidelines, quality management, preparing organisational profiles etc.) have been promoted by the federal ministries and regional governments in all areas of support to drug addicts.

Ad 3) Austrian Health Plan for Children

On 23 April 2004, Federal Minister for Health set up the working group “Austrian Health Plan for Children” in a constituent session. The working group was to evaluate the needs of children as part of a project for an integral and comprehensive health reform. This evaluation was to include an analysis of the actual situation and problems as well as the elaboration of objectives. In addition to defining the ideal situation, the working group was to elaborate realistic implementation strategies. This subproject was concluded in August 2004. The elaboration as well as the ranking of the position papers according to priority was done in accordance with the president of the Austrian Society for Paediatrics and Adolescent Medicine.

Another subproject now involves the implementation of the proposals elaborated in the individual position papers. Priority was first given to projects involving little cost and time in their implementation as well as projects which only require organisational measurements of little cost. Cost-intensive projects were ranked further down the list, to be implemented at a later point although planning can start now. Priority ranking:

1. Position paper on paediatric training of general practitioners, paediatricians and adolescent health physicians.
2. Position paper nationwide centres for liver transplantation
3. Position paper nationwide centres for dialysis and kidney transplantation
4. Position paper nationwide centres for paediatric reconstructive genital surgery
5. Position paper nationwide centres for paediatric haematopoietic stem cell transplantation
6. Position paper nationwide centres for children/adolescents with burn injuries
7. Position paper nationwide centres for epilepsy surgery
8. Position paper of accident and emergency attendance in urban and rural areas
9. Position paper interface management: hospital/outpatient clinic/medical practices
6. Position paper challenges in paediatrics
7. Position paper children’s rehabilitation in Austria
8. Position paper on parents accompanying their child to hospital

Health certificate for young people

In 2003 the Federal Ministry of Health and Women started a health promotion programme, themed “Conquer your Weaker Self”. This programme included the development of a health certificate for pupils of 8th grade (14-year olds), which was put to the test and which shall be made available to all pupils of this age group in spring 2005, together with an international vaccination record sheet.

An accompanying booklet provides information on how to live a healthy life and the importance of preventive medicine. Due to the fact that 14-year olds can be reached through school-based prevention and young people of this age, according to law, already assume some self-responsibility, it is important to comprehensively inform all adolescents of this age. In 2004, a total of € 100,000 has been estimated for the elaboration of health certificates.

Breastfeeding: Breastfeeding is the most natural way of nurturing one's child. In order to emphasize the significance of breastfeeding, in September 2004 a commission on breastfeeding was established which is to look into scientific aspects of breast milk and breastfeeding as well as implementing breastfeeding promotion schemes. The commission is comprised of paediatricians, gynaecologists, counsellors on breastfeeding, midwives, nursing staff and representatives of the public health system.

Austrian network of health-promoting schools and GIVE Service Centre: During the reporting period, the Federal Ministry of Education, Science and Culture, together with the Federal Ministry of Health and Women has carried on the projects "Austrian Network of Health-promoting Schools" (*Österreichisches Netzwerk Gesundheitsfördernder Schulen* hereinafter "ÖNGS") and the GIVE Service Centre for Health Education (GIVE stands for the German acronym for health education, information, networking, development). GIVE serves as an information and documentation platform supporting teachers and those working in education and health institutions in their pedagogical work as regards psychosocial health, nutrition, exercise, communication, etc.

The ÖNGS, which is currently supported and financed by the Federal Ministry of Health and Women and the Federal Ministry of Education, Science and Culture, between 2002 and 2005 has been emphasizing on health-promoting school development with the aim to incorporate health promotion into the curriculum and school life. To further broaden the effect of the project of health-promoting schools, the network is currently undergoing regionalisation plans.

Vaccination programme for children, funded by the federal and *Land* governments and the Head Association of Austrian Social Insurers

In 1998 a vaccination programme for children and young people was resolved at the highest political level. The programme primarily aims at providing children with vaccinations free of charge to those receiving the vaccinations and their legal guardians. Since then, the vaccinations programme has met the costs arising from generally recommended vaccinations, with costs being equally distributed between the federal and *Land* governments and the Association of Austrian Social Insurers. The *Land* governments additionally bear the costs for the administration of the vaccinations.

In Austria, the vaccination programme always takes into account the latest vaccines on the market. For this reason, at the end of a development period, only thiomersal-free vaccines are used at present. The vaccines used in new-born children were changed to hexavalent products with diphtheria, tetanus, acellular pertussis, Haemophilus influenzae b, polio and hepatitis B. For measles, mumps, rubella vaccination, exclusively trivalent MMR vaccines are used, with 2 injections given at the age of 2.

In schools, diphtheria, tetanus and IPV immunization is currently administered to school starters in the course of three vaccinations, while diphtheria, tetanus, acellular pertussis immunization is administered to school leavers, also in a series of three vaccinations. Since 2004, a pneumococcal vaccine conjugate is available free of charge to high-risk children.

Since the beginning of the programme, vaccination rates have continuously increased. As regards immunizations given in a series of six vaccinations, the vaccination rate is currently over 95 %. In the case of measles, mumps, rubella vaccination the Austrian average for MMR1 is 85 %. In the individual *Länder*, rates are significantly above 95 %. In 2004, total costs for the vaccination programme amounted to about €14 million for materials, in addition to administration costs of about €9 per vaccination.

Coordination of nation-wide measures

Illegal drugs: Due to the federalist structure and the interdisciplinary nature of the drug problem, coordination of drug-related strategies is of particular importance in Austria. Each *Land* has a drug/addiction coordinator, while on the federal level there is an inter-ministry federal drug coordination headed by the Federal Ministry of Health. A coordination committee on the federal level (federal drug forum) regularly coordinates all drug-relevant matters between the federal and regional levels.

On the federal level, the competence for the prevention of addictions rests with three federal ministries: the Ministry of Health, the Ministry of Education and the Ministry of Generations. The Ministry of Health deals with addiction prevention in general, while the Ministry of Education is concerned with addiction prevention in schools and the Ministry of Generations with addiction prevention aimed at young people in a non-school setting.

Implementation and financing of local and regional measures related to the prevention of addictions mainly rests with the *Länder*. In order to assume this responsibility, competence centres for addiction prevention have been set up in all *Länder* in recent years, which base their strategies on the Ottawa Charter for Health Promotion (WHO 1986). The same applies to the prevention strategies of the Ministries of Health and Education. The competence centres in particular deal with the initiation, development, counselling and assistance of local and regional projects and offer training for multiplier groups and specific training for various professional groups.

An important task of these centres is to professionalise and assure the quality of measures for the prevention of addictions. In implementing prevention activities, they cooperate with local partners and relevant occupational groups.

Cooperation and networking play an important role in the prevention of addictions, which is encouraged by the Ministry of Health with the annual financing of a symposium of the Austrian centres for addiction prevention. The centres are also represented in the federal drug forum. A large group of experts has furthermore joined up to form ARGE *Suchtvorbeugung*, the Austrian working committee for addiction prevention.

D) Family Law and Law of Succession Reform

ad 1) New Legislation

As to chapter 6.1.2, paragraphs 186-187 (Descent) of the Second Report the following is to be added:

With the 2004 Family Law and Law of Succession Amendment Act (FamErbRÄG 2004), which will enter into force on 1 January 2005, the law regarding legal parentage has been amended for the most part (some amendments entered into force 1 July 2004).

Furthermore, with the Non-Contentious Proceedings Act, which will also enter into force on 1 January 2005, the procedure for the establishment of paternity henceforth is subject to non-contentious proceedings (application instead of formal lawsuit). The legal precedent for the amendment of the law regarding legal parentage was the decision of the Constitutional Court of 28 June 2003, G 78/00, according to which articles 156, 157, 158 and 159 paragraph 1 second sentence of the Austrian Civil Code (ABGB) were repealed on grounds of being unconstitutional with effect from 1 July 2004. The Court justified its decision stating that the repealed provisions violated the right, guaranteed under constitutional law, to respect for family life pursuant to Article 8 of the European Convention on Human Rights (ECHR), since they did not entitle the child to contest its descent from its mother's husband (i.e. to refute the assumption of legitimacy) although it is strongly affected by it. (Prior to the amendment only the mother's husband and the public prosecutor were entitled to file a claim refuting the assumption of legitimacy, if such verification was either in the public interest or in the interest of the child or its descendants). The Constitutional Court did not consider the right of the public prosecutor to challenge the child's state of parentage as sufficient in safeguarding the interest of the child.

The amendment of the law regarding legal parentage primarily provides for the following:

- Create a right, under constitutional law, of the child to establish that it is not descended from the mother's husband (as of 1 July 2004);
- Eliminate the authority of the public prosecutor to institute proceedings aimed to establish paternal affiliation (as of 1 July 2004);
- Change the rules regarding the legal capacity of minors concerning issues of paternal affiliation (the child having "sufficient understanding" can perform legal acts – i.e. file an application with the court - with the consent of its legal representative; conversely, the legal representative requires the consent of the child having "sufficient understanding" in order to take action; for the specific case, a judgement has to be made as to whether the child has "sufficient understanding", i.e. if he or she is capable of understanding the meaning and consequences of the respective proceeding aimed to establish paternal affiliation; in case of doubt, a child which has attained the age of 14, is to be regarded as having "sufficient understanding");
- Establish a balanced regulation safeguarding the right of the child to establish paternal affiliation as well as the protection of the intact family;
- In the course of proceedings aimed to establish paternal affiliation of a child born out of wedlock henceforth evidence has to be presented to prove that the child is descended from the respective person (positive proof of paternity by means of serological blood or DNA testing). Cohabitation during the critical time (sexual intercourse with the mother of the child) is no longer sufficient proof.

The Hague Convention of 15 Nov. 1965 on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions (Federal Law Gazette No. 581/1978), mentioned in chapter 7.7 of the Second Report, at paragraph 302 was terminated by Austria and the two other states parties (United Kingdom of Great Britain and Northern Ireland, Switzerland). The reason was that all three contracting states of the aforementioned Convention are at the same time states parties of to the Hague Convention of 29 May 1993 on Protection of

Children and Cooperation in Respect of Intercountry Adoption, which renders the former Hague Convention of 1965 obsolete.

E) VIOLENCE AND ABUSE OF CHILDREN

Ad 1) New legislation

The criminal law on **sexual offences** has been reformed several times in recent years (see chapter 12 of the Second Report).

The **Criminal Law Amendment Act of 2002**, Federal Law Gazette Vol. I No. 134/2002, repealed Section 209 of the Austrian Penal Code ("StGB") and replaced it with the new criminal provision of Section 207b StGB (Sexual abuse of minors). According to Section 207b para. 1 StGB any person performing a sexual act on a person who has not completed his or her 16th year of age and who, for certain reasons, is not yet sufficiently mature to understand the meaning of this act or to act according to this understanding, or having a sexual act performed on him- or herself by such a minor or inducing such a minor to perform a sexual act on a third party or to have a sexual act performed on him- or herself by a third party, thereby exploiting the minor's lack of maturity as well as his or her own superiority based on age, shall be sentenced to a term of imprisonment of up to one year or to a fine of up to 360 daily rates. According to para 2 of this provision any person performing a sexual act on a person who has not completed his or her 16th year, having a sexual act performed on him- or herself by such a minor or inducing such a minor to perform a sexual act on a third party or to have a sexual act performed on him- or herself by a third party, thereby exploiting the minor's situation of distress shall be sentenced to a term of imprisonment of up to three years. Any person who directly induces a person who has not completed his or her 18th year to perform a sexual act on him- or herself or on a third party or to have a sexual act performed by him- or herself or by a third party by directly offering the minor money shall be sentenced to a term of imprisonment of up to three years according to Section 207b para 3.

That means that **Section 207b StGB** provides for the following punishable behaviours:

1. Sexual acts with girls or boys under 16 years of age, if the older (male or female) partner exploits the individual developmental immaturity of the person under 16 and his (her) own superiority based on his (her) age.
2. Sexual acts with girls or boys under the age of 16 if the (male or female) offender exploits a situation of distress of the person under 16 (for instance drug addiction, illegal stay, homelessness).
3. Sexual acts with girls or boys under the age of 18 if the sexual contact is performed for remuneration. Therefore, a person paying for sexual contacts with juvenile prostitutes is now liable to criminal prosecution.

The adoption of Section 207b StGB brought about the introduction of a uniform "age of consent" which is 14 years for heterosexual, male and female homosexual contacts. The new offence of special abuse regarding certain age groups, like the existing ones (cf Sections 208, 212, 213), is not limited to any particular sexual orientation. The introduction of Section 207b StGB also took into account Items 16 and 18 of the Concluding Observations on the Committee on the Rights of the child.

Until 6 March 2001 leaving and/or abandoning a minor without the intention to jeopardize the minor's life was subject to sanctions under Section 197 StGB. The **Federal Act Amending the Juvenile Court Act of 1988, the Criminal Code and the Court Organisation Act** (Federal Law Gazette Vol. I No. 19/2001) **repealed** the criminal offence pursuant to **Section 197 StGB** without substitution. So-called "**baby flaps**" or "**baby nests**" had been established in order to make it possible to anonymously abandon a new born child in a special institution, for instance a hospital. For this purpose, it was necessary that the

“abandonment of a minor” was no longer penalized. The introduction of the “baby flaps” offered young mothers in situations of serious distress who wanted to stay anonymous to put their newborn child in the safe care of a hospital.

The reform of Austrian penal law with regard to sexual offences has been continued by enacting the **Criminal Law Amendment Act 2004** (Federal Law Gazette I No. 15/2004). This Act attaches particular importance to the protection of minors against sexual exploitation and provides for the broadening of the scope of offences relating to child pornography and abuse of a position of authority as well as penal provisions against encouraging the prostitution of minors and the involvement of minors in the production of pornographic materials. In addition the Aliens Act contains various provisions criminalising the (sexual) exploitation of children. By enacting the Criminal Law Amendment Act 2004 Austria implemented several relevant international instruments of the Council of Europe, the European Union, in particular the Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography and the United Nations, in particular the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Optional Protocol entered into force for Austria on 7 June 2004.

The following major amendments have to be pointed out:

With **Section 104a StGB** a new general **criminal provision against trafficking in human beings** for the purpose of sexual exploitation, exploitation by removal of organs and exploitation of labour was created.

According to para. 1 of this provision any person who recruits, houses or otherwise accommodates, transports or offers or passes on to a third party, a minor or a person of full legal age (in the case of the latter with the use of unfair means) with the intention to exploit that person sexually, by removing his or her organs or his or her labour. Unfair means are defined as deceit regarding the facts, exploitation of authority, of situations of distress, of mental disease or any condition rendering the person defenceless, the intimidation or the granting or accepting of an advantage for surrendering control over that person. Any person committing such an offence using violence or serious threat shall be sentenced to a term of imprisonment ranging from six months to five years. Any person committing such an offence against a minor person, in the course of a criminal conspiracy, using serious violence or in such a manner that the offence, either with intent or gross negligence, jeopardises the person's life or the offence results in a particularly severe disadvantage for the person, shall be sentenced to a term of imprisonment ranging from one to ten years.

As an accompanying measure against trafficking in human beings, **Section 194 StGB (“Prohibition of Arrangement of Adoption“)** provides for criminal sanctions for the arrangement of adoptions in the course of which the child is “bought” from the person entitled to consent, which so far has not been a punishable offence. That means that anyone who causes a person entitled to consent, by granting an advantage to that person or to a third party, to consent to the adoption of a minor by another person shall be sentenced to a term of imprisonment of up to two years. If the offender commits this offence in order to derive a pecuniary advantage for him- or herself or for a third party the offender shall be sentenced to a term of imprisonment of up to three years. The adopting persons and the adopted children between whom the adoption is being arranged, shall not be punishable as parties involved. This is a specific step towards the implementation of the second Optional Protocol to the UN Convention on the Rights of the Child.

Section 201 StGB (“Rape“) was amended by abolishing the former distinction between rape involving severe violence and/or threatening of a serious danger for the victim's life and limb and rape involving non-severe violence, deprivation of freedom and/or threatening of danger to the victim's life and limb. A uniform range of punishments from six months to ten years of

imprisonment is now available for rape offences. If the rape results in a pregnancy of the victim, the offence shall be punished with a term of imprisonment of 15 years. Against the background of increasing sensitivity towards the personal identity of individuals and their right to sexual self-determination during recent years, the privilege of rape and sexual coercion within a marriage or partnership was eliminated without substitution.

The former version of **Section 207a StGB** provided for criminal sanctions for the production, import, transport, export for the purpose of dissemination, offering, procuring, leaving for use, presentation or otherwise granting access to pornographic material involving persons under the age of 14. However, only the representation of sexual acts performed on these minors was punishable. The old version of Section 207a did not cover pornographic material showing persons between the ages of 14 to 18 on the one hand and stimulating pictures clearly taken with a sexual motivation showing minors under the age of 14 on the other hand.

The Criminal Law Amendment Act of 2004 extended the criminal elements constituting an offence pursuant to **Sec. 207a StGB (“Pornographic representations of minors”)** in various ways. First, the impossible criminal sanctions were increased considerably: Anyone who produces or imports, transports or exports for the purpose of dissemination or offers, procures, leaves for use, presents or otherwise makes accessible to a third party pornographic material involving a minor, shall be sentenced to a term of imprisonment of up to three years. This was a significant aggravation compared to the former version of this provision, which provided for a term of imprisonment of up to two years only.

According to para. 2 anyone who commits such an offence on a commercial basis shall be sentenced to a term of imprisonment ranging from six months to five years. Any person who commits such an offence as a member of a criminal conspiracy or in such a manner that it results in a particularly serious disadvantage for the minor shall be sentenced to a term of imprisonment of one to ten years; the same punishment shall be imposed on anyone who produces pornographic material involving a minor by using serious violence or who, either with intent or gross negligence, jeopardises the life of the depicted minor when producing the pornographic material.

The criminal sanctions for the possession of child pornography were extended as well, namely to up to two years of imprisonment for the possession of pornography depicting minors under the age of 14 and to up to one year of imprisonment for the possession of pornography depicting minors under the age of 18. This was also a considerable aggravation.

Apart from the criminal sanctions described here, the age of consent for pornography was raised from 14 to 18 years. That means that Section 207a StGB now not only provides for criminal sanctions for pornographic material involving minors up to and including the age of 14, but also minors between the ages of 14 and 18. Finally, Section 207a StGB was also extended to cover depictions of the genitalia or the pubes of minors which were clearly produced with a sexual motivation.

Section 212 StGB, which provides for criminal sanctions for the **abuse of a position of authority**, was generally extended to relatives in ascending line. In addition, this provision was extended to include practicing physicians, psychotherapists and healthcare and nursing personnel, if they exploit their position of authority for the performance of sexual acts.

According to **Section 212 para. 1 StGB**, anyone who performs a sexual act on a minor related to him or her in descending line, with his or her minor adopted child, step child or foster child or with a minor entrusted to him or her for upbringing, education or supervision, by using his or her position vis-à-vis this minor, or who has a sexual act performed on him- or herself by such a minor or who induces such minor to perform a sexual act on the minor him- or herself in order to sexually arouse or satisfy him- or herself or another person, shall be sentenced with a term of imprisonment of up to three years.

According to this provision, anyone who, as a physician, clinical psychologist, health psychologist or psychotherapist or as any other member of the healthcare and nursing profession, with a person entrusted to him or her in a professional capacity, as a person employed by or otherwise active for an educational institution, with a person entrusted to that institution, or as a civil servant, with a person entrusted to his or her professional custody, by using his or her position vis-à-vis that person, performs a sexual act on that person or has such person perform a sexual act on him or her, or induces such person to perform a sexual act on him- or herself in order to sexually arouse and satisfy him- or herself or another person, shall be punished in the same manner.

With **Section 215a StGB** a new criminal provision combating the **promotion of prostitution and pornographic representations involving minors** was introduced. It prohibits the recruiting, offering and procuring for such purposes and/or the exploitation of minor prostitutes and/or porn actors.

That means that anyone who, pursuant to paragraph 1 of this provision, recruits or offers or procures to a third party, a minor person, regardless of whether such person already engages in prostitution, to engage in prostitution or to participate in a pornographic presentation, or offers or procures such person to another person for that purpose, shall be sentenced to a term of imprisonment of up to three years. The same punishment shall be imposed on anyone who exploits a minor person engaged in prostitution or participating in a pornographic presentation in order to obtain a pecuniary advantage for him- or herself or for a third party.

Anyone who commits such an offence in the course of a criminal conspiracy, using serious violence or in such a manner, that the offence, either with intent or gross negligence, jeopardises the life of the person or results in a particularly severe disadvantages for the person, shall be sentenced to a term of imprisonment ranging from six months to five years. Anyone who commits such an offence against a minor under the age of 14 shall be sentenced to a term of imprisonment ranging from one to ten years.

A participant in a pornographic presentation is any person who performs a sexual act, which is reduced to itself and independent from any other expressions of life and serves the sexual stimulation of an observer, on him- or herself, on another person or with an animal, has such a sexual act performed on him- or herself by another person or presents his or her genitalia or pubes in such manner.

Children and juvenile victims of sexual offences often tend to **forget and repress the abuse**. Juvenile victims of a sexual offence often start dealing with their experience when they reach adulthood or even later – in most cases between the ages of 20 and 30 – and only then are in a position to report the incident to the police. In the past, this has been problematic as the **criminal offences often had already been time-barred** and the offenders could no longer be punished.

In recent years, this was changed by an amendment of Section 58 StGB, one of the provisions on the statute of limitations contained in the Penal Code, by providing that, in the case of certain sexual offences committed to children and adolescents, the period of limitation shall begin to run when the victim attains majority. Therefore, such criminal offences against minors can still be prosecuted for a sufficiently long period of time after the minor victims of the criminal offence have reached adulthood.

As these victim-orientated considerations apply to all types of abuse punishable under Section 207b StGB, the **period of limitation was also extended in the case of sexual abuses of minors pursuant to Section 207b**. That means that, like with other sexual offences, the period of limitation for sexual abuses of minors only begins to run when the victim attains majority.

According to Section 64 StGB certain criminal offences committed abroad can, under certain conditions, **be prosecuted by Austrian courts even if they are not punishable in the country in which they were committed**. Even before the Criminal Law Amendment Act of 2004 had entered into force, Austrian citizens were punishable for instance for committing sexual abuses of **minors under the age of 14** abroad as sex tourists.

However, there was a gap in the Austrian criminal law on sexual offences which made it possible that Austrians who “**bought**” sexual contacts with **minor prostitutes** abroad without punishment but meeting all elements of the offence defined in Section 207 StGB, could not be brought before a court in Austria. This gap was closed by the Criminal Law Amendment Act of 2004: Austrian “sex tourists” who have their regular place of abode in Austria are punishable, as if the offence was committed in Austria, if they use the services of a minor prostitute under the age of 18 years abroad as so-called sex tourists (Section 207b para. 3), exploit a situation of distress of a person under the age of 16 for a sexual abuse (Section 207b para. 2), and also if they promote prostitution and/or the pornographic presentation of minors (Section 215a). It is therefore no longer possible for Austrians to “buy” sexual contacts with minors abroad without being punished, even if this would be possible under the laws of the country in which the sexual contact takes place. This was another step towards an improvement of the protection of minors from sexual exploitation, in particular in the poorer countries of the world, by supplementing international criminal law.

Finally, the Criminal Law Amendment Act of 2004 also brought about an amendment and/or aggravation of **Section 218 StGB** against sexual acts in public. According to the former version of Section 218 a person could only be prosecuted under criminal law if such person performed a sexual act in public – meaning seen by a larger number of persons – and under circumstances under which this behaviour was suitable to cause a justified nuisance for persons directly perceiving it. The majority of convictions under this provision was for exhibitionist acts, for instance, public sexual intercourse or public onanism. Because of this criterion of publicity, an exhibitionist could not be punished if he presented himself to a woman who was alone in a train compartment or in a dark street at night. However, the victim would find such a situation much more irritating and threatening than if something like that had happened to her in the presence of many people, when she did not have to feel like the direct and only addressee of the exhibitionist behaviour of the offender. The new wording of Section 218 StGB now also covers such behaviours, provided that the offender acts with the intention of harassing and under conditions under which his behaviour is suitable to cause a justified nuisance. Apart from harassment and exhibitionist acts, the legislator also wanted to provide for criminal sanctions for individual sexual encroachments of specific persons, in particular in the non-public area, in order to guarantee improved protection from certain material sexual offences.

According to the new Section 218 StGB, a sexual act constitutes a criminal offence if it is performed with the intent to harass another person. This could be sexual manipulation by the offender of his or her own body, such as onanism, on the one hand, or a sexual act performed on the body of the victim on the other hand. Such a sexual act would be the touching of clearly sexual parts of the victim’s body. It is sufficient that the offender thinks that it is possible that his or her sexually motivated act creates a considerable negative feeling with the victim, for instance, fright, disgust and annoyance and nevertheless performs the act.

In addition, the Federal Act on Judicial Cooperation in Criminal Matters with the Member States of the European Union entered into force in Austria on 1 May 2004. Sections 60 et seq. of this Act provide for the possibility of setting up joint investigation teams for the purpose of carrying out criminal investigations between the competent authorities of Member States of the European Union. If a joint investigation team becomes active in Austria, it will be headed by the investigating judge.

Joint investigation teams are set up for a specific purpose and for a limited period of time and have to be approved by the judicial authorities in advance. They are a very efficient instrument for police authorities to flexibly react to national and cross-border incidents and phenomena. If required, such joint investigation teams can also be set up for combating trafficking in children. The law enforcement members of the team would be recruited from the relevant expert areas of the security authorities and divisions.

Federal Act on Protection Against Violence in the Family

The Federal Act on Protection Against Violence in the Family was already described in the Second Report. With the 2003 amendment to the Execution of Orders Act (Federal Law Gazette I No. 31/2003), which came into effect on 1 January 2004, the provisions regarding injunctions for protection against domestic violence (Section 382, letters b) and d) EO) have also been improved, based on the experiences made with the existing legislation

Victim's Rights

In addition, the improvement of the **position and the rights of the victim** in criminal proceedings was another major concern of the comprehensive reform of the investigation in criminal proceedings by the Federal Act Restructuring the Code of Civil Procedure of 1975 (**Criminal Procedure Reform Act**), Federal Law Gazette Vol. I No. 19/2004. As a rule, it grants all victims the right to be actively informed about the proceedings and their rights in the proceedings and to participate in the taking of evidence open to the parties and in the trial.

Victims who decide to actively participate in the proceedings and who want to assert a claim for compensation can join the proceedings as a **civil party claiming damages** and in that position are granted special rights of influence and participation such as, for instance, the right to request the taking of evidence.

Victims who are strongly affected emotionally, which include, without limitation, persons who, by means of a criminal offence, might have been exposed to violence, dangerous threat or infringement of their sexual integrity, have a **special standing in the proceedings** which has to be respected by the prosecuting bodies *ex officio*. They are entitled to assistance during the proceedings which shall be granted upon request if and to the extent that psychosocial and legal assistance during the proceedings is required in order to make the stresses and strains of the proceedings bearable for the victim and to guarantee at the same time that the victim can exercise his or her procedural rights. Victims shall be informed about their essential rights and the prerequisites for assistance during proceedings at the latest prior to their first interrogation.

Victims who might have been violated in their sexual integrity shall be informed, at the latest prior to their first interrogation, about their right to request that, if possible, a person of the same sex interrogates them during the investigation. Upon their request, they shall be interrogated with special care during the investigation and the trial. In order to prevent secondary traumatising, the possibility of interrogation with special care was introduced in 1993 (in a separate room without the physical presence of the parties, in particular the accused, perhaps interrogation by a psychologist instead of a judge) which is compulsory for witnesses who have not completed their fourteenth year of age and who might have been violated in their sexual sphere by the criminal offence the accused is charged with.

Victims are to be informed about the suspension and resumption of the proceedings and may request the continuation of an investigation by the public prosecutor's office if the criteria for a suspension of the proceedings were not met or new facts or evidence are submitted which seem to be suitable to justify a punishment of the accused or a measure of diversion. In any case, the victims are to be summoned to the trial and have to be given the opportunity to inspect the files in order to understand the charges.

Victims whose emotional stains are particularly strong and victims of violence in apartments shall be informed without delay and *ex officio* if the accused is released from pre-trial detention before the first instance verdict is passed, stating the reasons and the more lenient means imposed on the accused, all other victims shall be informed accordingly upon their request.

The possibilities of **psycho-social and legal assistance during court proceedings** have already been dealt with in the replies above in I B 1.

Ad 2 and 3) New Institutions and newly implemented programmes and projects

Since 28 October 2004, an **inter-ministerial task force against trafficking** has been set up in order to better coordinate Austrian policies against trafficking and share information on questions relating to trafficking, including international developments. The Austrian "intervention centre for victims of trafficking" an independent NGO of experts in victim's rights participates in the meetings as a regular member of the task force.

As described in the Second Report, in March 1997, the **Report Centre for Child Pornography** was set up in the Federal Ministry of the Interior in order to take into account the increasing phenomenon of child pornographic presentations, in particular on the Internet. This Report Centre, which is now situated at the Federal Bureau of Criminal Investigation, accepts hints and information about pornographic material involving children from domestic and foreign law enforcement authorities and from Internet users and carries out the required police investigations some of which result in a complaint being filed with the public prosecutor's office.

In the years 2002 and 2003, the report centre emphasised on the establishment and expansion of contacts with similar organisational units in other Member States of the EU. In particular, it was tried to establish contacts with the EU accession countries by organising information meetings and attending international work meetings. Based on this reinforced cooperation, an increasing number of hints from foreign law enforcement authorities regarding alleged Austrian offenders were received and the constant exchange of information provided the authorities with a much better insight in the international scene.

The investigating officers attend further education seminars on a regular basis. In particular, they take part in trainings offered by INTERPOL and EUROPOL which do not only offer expert knowledge but are also a good occasion for an intensive and international exchange of information with representatives of foreign law enforcement authorities. An important aim of the Report Centre for Child Pornography is to intensify international contacts/cooperation, in particular within the framework of the extended EU and the Interpol Specialist Group on Crimes against Children.

The Federal Bureau of Criminal Investigation/Report Centre for Child Pornography places special emphasis on international police cooperation in identifying the victims of abuse in connection with child pornography. The cooperation with INTERPOL and their registers of identified victims and offenders has proven very efficient.

The information and knowledge obtained in the course of international seminars are passed on to the investigating officers of the subordinated divisions by means of training courses which are organised on a regular basis.

Every effort is made to keep pace with the fast technical developments in the IT-area and the technical equipment is adapted accordingly.

For many years, the Report Centre for Child Pornography at the Federal Bureau of Criminal Investigation has been successfully cooperating with the Association of Austrian Internet Service Providers (ISPA), which operates the STOPLINE hotline. Users who come across

child pornographic material on the Internet can report this to STOPLINE. STOPLINE then reports on to the Report Centre.

In addition, the Federal Bureau of Criminal Investigation is represented in the Hotline Advisory Council and attends its meetings on a regular basis.

In recent years, contacts with national and international NGOs were intensified.

Representatives of the Federal Ministry of the Interior participated in the inter-ministerial work group set up by the Federal Ministry for Social Security and Generations which has formulated its priority project goal as "Acceptance of Careful Treatment of Children in Court". By means of cooperation with members of other professions, measures for the careful treatment of children and juvenile witnesses are to be developed and implemented from which, in the long run, all victims of sexual abuse will benefit. The main emphasis will be on the improvement of psychosocial assistance of victims and witnesses.

The counselling and assistance of victims and witnesses and their relations is conceptualised as a "holistic system". Its aim is to guarantee that victims of abuse no longer have to address several institutions until they are finally granted adequate assistance.

The following offers should be available:

- Preparation of the complaint and personal accompaniment to the police where the complaint is filed
- Preparation of the contradictory interrogation and accompaniment to the hearing
- Preparation of the trial and accompaniment to the trial
- Aftercare

In order to reach as many persons concerned as possible, the project was presented to the public in a press conference. In addition, the leading social workers of the Austrian youth welfare offices, the youth police and the public prosecutor's offices were requested to pass on any relevant information.

Knowing about the dynamics and the consequences of sexual abuse for children and adolescents and their entire families and about how this affects the system of helpers, it was clear that there is not a single profession that can uncover and stop child abuse and handle the consequences on its own.

This awareness has meanwhile become a standard when working with people concerned, although there are still some practical problems. Cooperation and team work are also central starting points of the team of the model project for reaching their project goal of "acceptance of careful treatment".

This project is presently being implemented by the Federal Ministry of the Interior by providing the brochure on the issue of Assistance during Proceedings of Children and Adolescents as Victims of Sexual/Physical Violence – Cooperation as a Challenge which has been published in cooperation with the Federal Ministry for Social Security and Generations. This brochure is to be made available to all civil servants employed with the Federal Ministry of the Interior and all subordinated authorities dealing with this topic.

At the same time, officers working in this field shall be provided with an information leaflet, tailor-made for each of the Austrian *Länder*, which contains basic information for parents or other persons having care and custody of victims of sexual/physical violence about the possibility of psychosocial and legal assistance during proceedings and on institutions offering such services in the respective Land.

When school started in autumn 2002, around 1.2 million copies of the "It's in your hands" folders were distributed in cooperation with the Federal Ministry for Education. This folder wants to raise awareness regarding the detection and prevention of acts of violence against children within families. It is addressed to adults, witnesses and persons perceiving anything suspicious, e.g. traces of injuries, and offers possible solutions.

The “It’s in your hands” folder was distributed at meetings of parents’ associations, parents’ evenings at schools, class forums and other occasions. In many cases, the folder was sent out together with the invitations to the parents’ evening.

F. Juvenile Justice

In addition to the information already mentioned in the Second Report (chapter 11, pages 114 et seq.) concerning special rules for juveniles in conflict with the penal law the Juvenile Court Act provides the public prosecutor’s offices and courts with a variety of measures which can be imposed as an **alternative to a conviction**.

- Exemption from punishment of minors (up to 13 years of age) and adolescents who have not yet reached the level of maturity typical for their age and therefore are not in a position to understand the unlawful nature of their actions and to act according to this understanding.
- Abandonment of prosecution: In the case of juvenile criminal offences, the public prosecutor’s office shall refrain from prosecution if no further measures with a deterrent effect for the individual offender are required in order to prevent him or her from committing further criminal acts and if the criminal sanction imposable for the offence is a fine or a term of imprisonment not exceeding 5 years.
 - If it seems required to illustrate the unlawfulness of the action and its consequences to the juvenile offender in a more impressive manner, the public prosecutor’s office may request the court of tutelage to issue a formal instruction.
- Diversion: As already mentioned briefly in the Second Report (at pp. 115 et seq., chapter 12) there is the possibility of diversion, meaning that a behaviour punishable by a court does not necessarily have to entail formal criminal proceedings or that the initiated criminal proceedings may be diverted from the usual form of settlement by means of a conviction by the criminal court. In particular in the area of less severe offences, traditional criminal sanctions should be avoided and the conflict situation that the criminal offence has created within society should be remedied by other methods.
- The possibility of diversion is mainly used by the public prosecutor’s offices. When the matter is pending before a court, and therefore in a somehow subordinated manner only, the courts also have to check whether the criteria for diversion are met. The following measures of diversion are possible:
 - Payment of an amount of money – only if it can be assumed that the amount is paid from funds the suspect is entitled to dispose of freely and without impairing his or her advancement.
 - Services of public benefit
 - Determination of a probation period of one to a maximum of two years, possibly in conjunction with parole assistance or imposition of certain obligations.
 - Out-of-court Settlements (Victim-Perpetrator Mediation) for Juveniles: The first priority of an out-of-court settlement is to remedy the damage and to compensate for the consequences of the offence. The victim plays an important role because – provided that he or she is prepared to do so – he or she should be involved in the out-of-court settlement. The discussions between the juvenile suspect and the so-called “mediator” should, if possible, take place in the presence of the injured party who should be involved in the out-of-court settlement efforts but whose consent is not required.

If the diversion is successful, the complaint is to be withdrawn or the proceedings are to be discontinued. Matters settled by way of diversion are entered in a register kept at the public

prosecutor's office and saved for a period of 5 years. They are not entered in any other official registers, in particular not in the record of criminal convictions. They are no convictions by a court.

The Juvenile Court Act also provides for other possibilities in criminal proceedings before a court, for instance for a verdict of guilty without punishment or a verdict of guilty imposing a suspended punishment if it is assumed that the verdict and/or the threatening of criminal sanctions is sufficient to prevent the juvenile offender from committing further criminal acts. In the latter case, a probation period of one to three years has to be imposed.

Both at courts and at the public prosecutor's offices, juvenile criminal matters are dealt with by specially trained judges and public prosecutors.

All the above mentioned provisions are applicable for all criminal proceedings against juveniles. Therefore, in respect of the position and treatment of juveniles in substantive as well as procedural law, nothing has changed after the dissolution of the **Juvenile Justice Court in Vienna**. This dissolution has been decided because of organisational reasons:

The Juvenile Justice Court was on one hand district court for all minor criminal offences committed by juveniles, on the other hand under certain circumstances also court of tutelage. As court of appeal he had to decide on remedies against decisions of another judge of the same court. In addition, in its function as "Landesgericht" the Juvenile Justice Court was competent to try (indictments because of) all criminal offences – other than minor – committed by juveniles. Already in 1999 there has been an evaluation report which recommended that all cases concerning decisions as court of tutelage should be transferred to the general district courts normally competent for such matters.

Furthermore, the court prison of the juvenile court did not have enough space in this building, so that many juveniles had to be accommodated in other prisons. That caused organisational problems. In the prison of the general criminal court of Vienna (Landesgericht für Strafsachen Wien) a separated – completely adapted – wing for all juveniles was established, where prison conditions are generally better than they used to be in the former Juvenile Court prison.

Because of all these circumstances a parliamentary decision on reorganisation and on dissolution of the Juvenile Court in Vienna was taken. As everywhere else in Austria, juvenile criminal matters are integrated in the (criminal) courts organisation, but dealt with in specialized departments. Guardianship matters concerning minors, juvenile criminal matters and youth protection cases must be allocated to the same (specialized) judges.

G) Asylum

ad 1) New legislation

The 1997 Asylum Act as amended by Federal Law Gazette I No 101/2003 (the Asylum Act) contains the following provisions aiming to take into account the special needs of children. For the full text of the provisions cited in the following please See Annex 8 (Asylum Act as amended 2003), Annex 9 (Basic Welfare Support Agreement) and Annex 10 (Federal Care Provision Act as amended 2004).

Pursuant to Section 1 paragraphs 6 and 7 of the Asylum Act defines the concepts of "family" and "unaccompanied minors". Section 2 paragraph 3 of the Asylum Act governs the legal status of family members of asylum seekers and persons enjoying a complementary (subsidiary) form of protection (i.e. protection from refoulement contrary to the European

Convention on Human Rights). They acquire the same legal status as the alien from whom the right is derived. Section 4 a paragraph 3 of the Asylum Act provides that the criterion “protection in a safe third country” is irrelevant. If asylum or subsidiary protection has been granted in Austria to the parents of children.

Section 10 of the Asylum Act governs the extension of asylum or subsidiary protection to family members within the family procedure (one single procedure for all family members) aiming to favour family members of a person who was granted refugee status or subsidiary protection. An applicant is entitled to asylum or subsidiary protection if it is not possible to continue an existing family life within the meaning of article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms with the family member in another country. Pursuant to Section 16 of the Asylum Act applications in family procedures may be filed by family members of a person having entitlement to asylum with an Austrian diplomatic or consular authority in whose sphere of administration the applicants are resident. In the family procedure if an appeal against a negative decision is lodged solely by one affected family member, the decisions on the other family members shall be deemed to be jointly contested; none of those decisions may thus become final pursuant to Section 32 paragraph 7 of the Asylum Act.

Another improvement facilitating the application of asylum for children born in Austria of asylum seekers is governed by Section 24 paragraph 7 of the Asylum Act. Section 24 b paragraph 3 of the Asylum Act refers to the principle of family unity as enshrined in Council Regulation (EC) No. 343/2003 of 18 February 2003 (Dublin II).

Sect. 25 of the Asylum Act governs the legal competency to act of minors and in conjunction with Section 39 a para. 3 of the Asylum Act the conditions for appointing legal advisers as legal representatives in the admission procedure, in the normal procedure the locally competent youth welfare agency. A person under the Asylum Act is considered to be of full age at age 18. Pursuant to Section 27 of the Asylum Act asylum seekers under full age may be interviewed only in the presence of a legal representative. In the case of unaccompanied minors no interview can be conducted with the legal advisor assigned to the child.

The Federal Act Regulating the Provision of Federal Care for Asylum seekers (Federal Care Provision Act) entering into force on 1 January 2005 refers to the special needs of children (see section 2 paragraph 2 of the Act). Special rules to children are applicable in the provisions of the Basic Welfare Support Agreement – an agreement between the Federal State and the constituting federal states (provinces) pursuant to Art. 15a of the Federal Constitution. Section 7 of the Agreement provides for special support measures for their care and assistance, their integration, access to education including vocational training as well as the possibility for family reunification. Section 9 of the Agreement governing the costs of social assistance for asylum seekers acknowledges that the costs for the care and assistance of children are usually higher.