



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Austria

ILO
TECHNICAL
NOTE

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Outline

CHAPTER I. Country profile: adequacy of social security benefits, income and poverty indicators. Determination of the Standard Reference Wage used for calculating the replacement level of benefits

CHAPTER II. Integrated Management of compliance and reporting obligations of Austria under social security provisions of the ratified international treaties on social rights

CHAPTER III. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

CHAPTER I. Country profile: adequacy of social security benefits, income and poverty indicators. Determination of the Standard Reference Wage used for calculating the replacement level of benefits

- [Country profile by national indicators and minimum standards of social security](#)
- [Table. 1. Eurostat indicators](#)
- [Table 2. National indicators of guaranteed minimum resources](#)
- [Table 3. MISSOC indicators](#)
- [Table 4. ISSA indicators](#)
- [Fig. 1. Article 65: Type of social security schemes and method of benefit calculation](#)
- [Fig. 2. Article 66: Type of social security schemes and method of benefit calculation](#)
- [Fig. 3. Article 67: Type of social security schemes and method of benefit calculation](#)
- [Table 5. Calculation of the reference wage under all options permitted by Articles 65-66 of the C102](#)
- [ILO assessment of the options offered by Articles 65-66](#)
- [Fig. 4. Share of males in paid employment by economic activity in total number of males in paid employment](#)
- [Fig. 5. The average wages of a typical skilled/unskilled manual male employee determined by cross-tabulating of the two classifications](#)
- [Fig.6. Comparison of the reported reference wage to other wage indicators in Austria](#)

Country profile by national indicators and minimum standards of social security

Table 1. Eurostat indicators	2006	2010	2013	2013	2015
At-risk-of-poverty threshold (40%, single person)	€7,142	€8,423	€8,829	€9,284	€9,304
At-risk-of-poverty threshold (50%, single person)	€8,927	€10,529	€11,036	€11,605	€11,630
At-risk-of-poverty threshold (60%, single person)	€10,713	€12,635	€13,244	€13,926	€13,956
At-risk-of-poverty rate –(40%, of median equivalised income)	3.1%	5.0%	4.9%	4.0%	3.8%
At-risk-of-poverty rate –(50%, of median equivalised income)	6.1%	9.1%	8.6%	8.2%	8.3%
At-risk-of-poverty rate after social transfers –(60%, of median equivalised income)	12.6%	14.7%	14.4%	14.1%	13.9%
At-risk-of-poverty rate before social transfers, pensions excluded –(60%, of median equivalised income)	25.1%	26.0%	25.9%	25.4%	25.6%
At-risk-of-poverty rate for pensioners – (60%, of median equivalised income)	13.3%	15.5%	14.6%	14.2%	12.9%
Persistent at-risk-of-poverty rate –(60%, of median equivalised income)		6.5%	8.9%	8.5%	8.8%
Aggregate replacement ratio	0.65	0.57	0.59	0.60	0.62
Severe material deprivation (% of total population)	3.6%	4.3%	4.2%	4.0%	3.6%
Gini coefficient	25.3	28.3	27.0	27.6	27.2

Table 2. National indicators of guaranteed minimum resources. MISSOC (2015)	
Level of sufficient income (single person/single parent)	€827.82
Level of sufficient income (couple)	€1,241.73

Table 3. MISSOC (2015)

Social Security branch	Compensation rate/Level of benefit	Qualifying period
Sickness benefit	50% of gross wage or salary, 60% from 43rd day of illness. Ceiling: €4,650 per month	No qualifying period required.
Unemployment benefit	Basic amount: 55% of daily net income with a lower ceiling of €29.08 if the daily unemployment benefit does not exceed, without the family supplements, 60% of the daily net salary and, with the family supplements, 80% of the daily net salary. Lowest daily rate: €7.79 or €10.39. Highest daily rate: €48.30.	52 weeks of insurance periods within the last 24 months. 26 weeks within the last 12 months for persons under the age of 25.
Old-age benefit	1.78% of the calculation base is credited to the pension account. Minimum pension for Single pensioners: €872.31 per month, pensioners living in the same household with spouse: €1,307.89 per month, increase of the compensation supplement for each child up to age 18 or age 27 for children engaged in vocational training or university education, no age limit in case of children with disabilities: €134.59	180 insurance months within the last 360 calendar months; or 180 contribution months/ 300 insurance months without a framework-period
Employment injury benefit	Annual gross wages or salaries of the year prior to the accident or the cessation of work because of an occupational disease. Maximum amount: €65,100 = 12 x €4,650 + €9,300 for special payments.	
Family benefit	Child benefits amount to €109.70 per child and per month. Child-raising allowance: €14.53 daily until the child reaches 30 months of age, €20.80 daily until the child reaches 20 months of age, €26.60 daily until the child reaches 15 months of age, €33 daily until the child reaches 12 months of age, income-related option until the child reaches 12 months of age.	
Maternity benefit	To the amount of the average net income of the last 13 weeks or 3 months.	No qualifying conditions
Invalidity benefit	Average earned income of the calendar year up to the contributory ceiling. Min pension for a single pensioner - €872.31 per month, for a pensioner living with spouse - €1,307.89 per month	60 insurance months within the last 120 calendar months. the qualifying period is not required if invalidity occurs on the grounds of an employment accident or an occupational disease or before age 27 if there are 6 insurance months
Survivor's benefit	Between 0% and 60% of the invalidity or old-age pension to which the deceased person had or would have been entitled to; 40% (orphans having lost one parent) or 60% (orphans having lost both parents)	

Table 4. ISSA (2014)

Assessment base - insured's adjusted average earnings in the best 26 years up to €4,530

The maximum earnings used to calculate benefits are €4,200 a month.

<i>Social Security branch</i>	RR	Qualifying conditions
Sickness benefit	50% of the insured's assessment base is paid; 60% after six weeks.	Must be in covered employment.
Unemployment benefit	55% of the insured's net earnings is paid for up to 20 weeks; may be extended to 30 weeks with at least 156 weeks of coverage in the last five years; 39 weeks if aged 40 or older with at least 312 weeks of coverage in the last 10 years; or 52 weeks if aged 50 or older with at least 468 weeks of coverage in the last 15 years	At least 28 weeks of contributions in the last 12 months; 52 weeks in the last 24 months for a first-time claim.
Old-age benefit	1.78% of the assessment base	Age 65 (men) or age 60 (women, gradually rising to age 65 from 2024 to 2033) with at least 180 months of coverage in the last 30 years, a total of at least 300 months of coverage, or 180 months of contributions.
Family benefit	Family allowances: €105.40 a month is paid for a child younger than age 3; €112.70 for a child aged 3 to 9; €130.90 for a child aged 10 to 18; and €152.70 for a child from age 19. Child care allowance: €33 a day until the child reaches 12 months of age; €26.60 a day until aged 15 months, €20.80 a day until aged 20 months; €14.53 a day until aged 30 months; or an income-tested benefit of 80% of last income, up to €66 a day until aged 12 months.	The child must be younger than age 18 (age 24 if a student, in training, or severely disabled).
Maternity benefit	100% of the insured's average earnings is paid for eight weeks before and eight weeks (12 to 16 weeks in special cases) after the expected date of childbirth.	Must be in covered employment.
Employment Injury benefit	66.6% of the assessment base is paid for a 100% loss of earning capacity.	There is no minimum qualifying period.
Invalidity benefit	1.78% of the assessment base	At least 60 months of contributions (plus one month for each month from age 50) in the last 10 years (plus two months for each month from age 50), 300 months of coverage, or a total of 180 months of contributions.
Survivor's benefit	Up to 60% of the deceased's old-age pension is paid to a widow(er), depending on the ratio of the widow(er)'s income to the deceased's income. 40% of the spouse's pension is paid to each orphan younger than age 18 (age 27 if a student or in training, no limit if disabled); 60% for a full orphan.	The deceased received or was entitled to receive an old-age or disability pension at the time of death

Exchange rate: US\$1.00 = 0.73 euro (€)

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

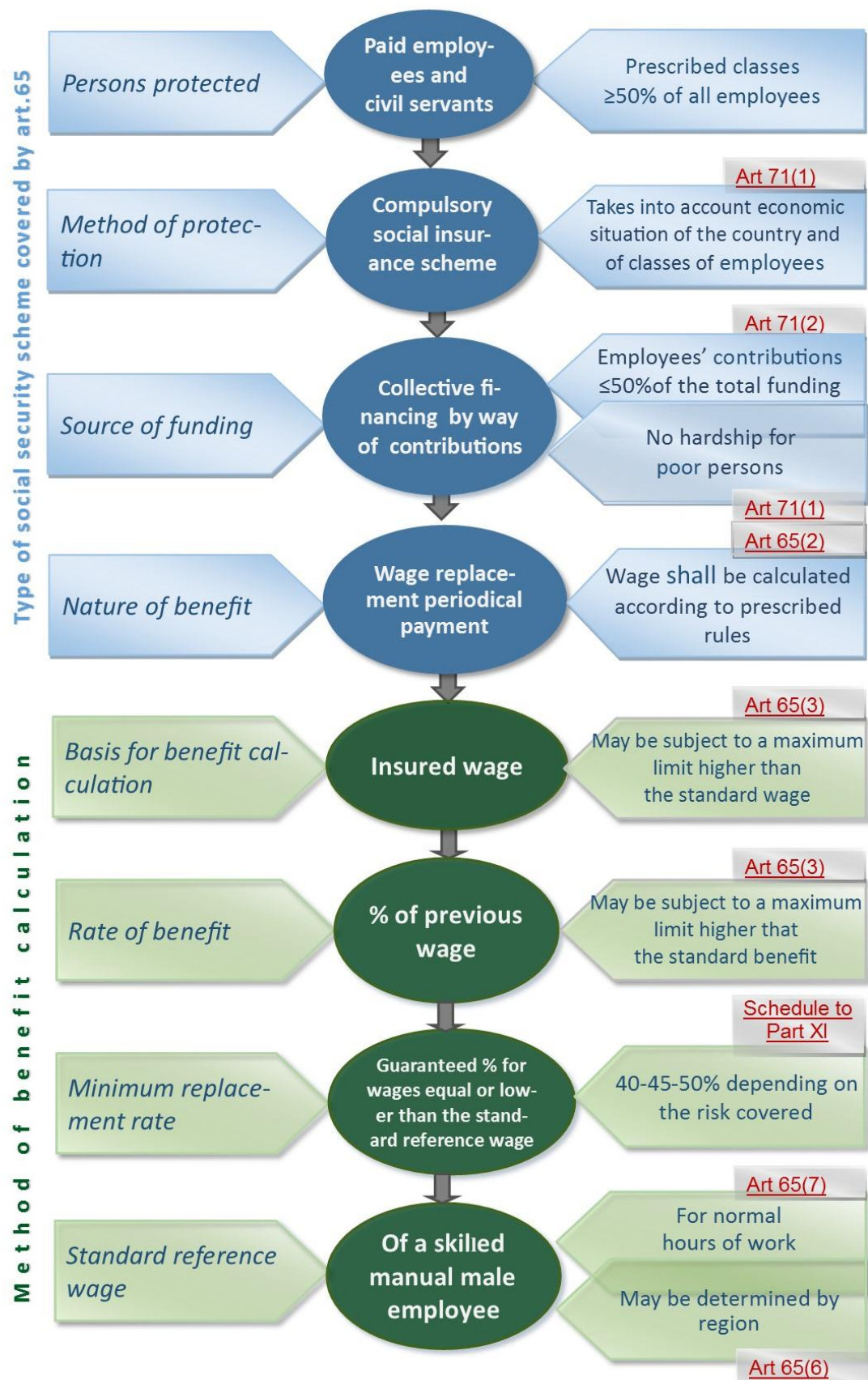


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

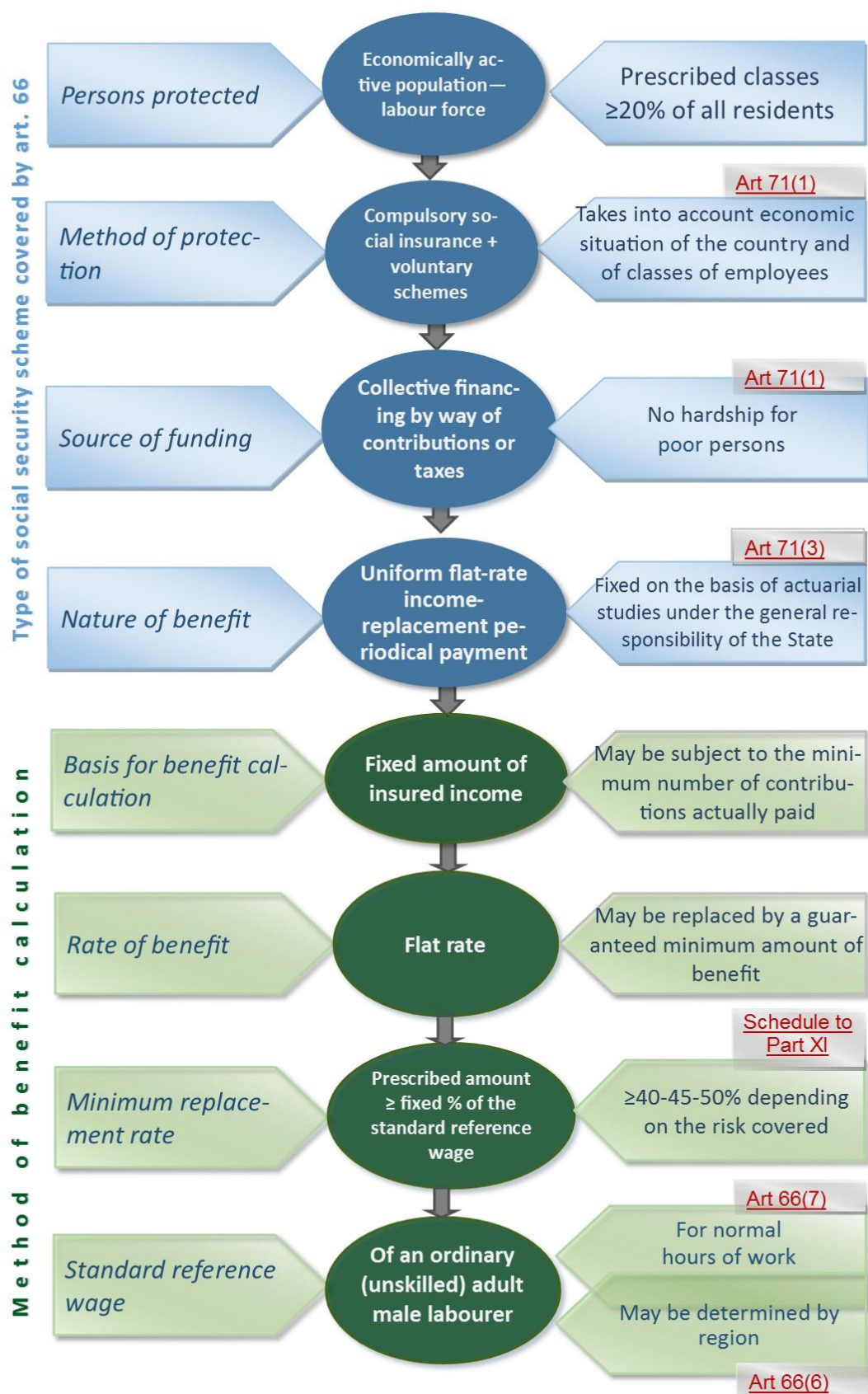


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation

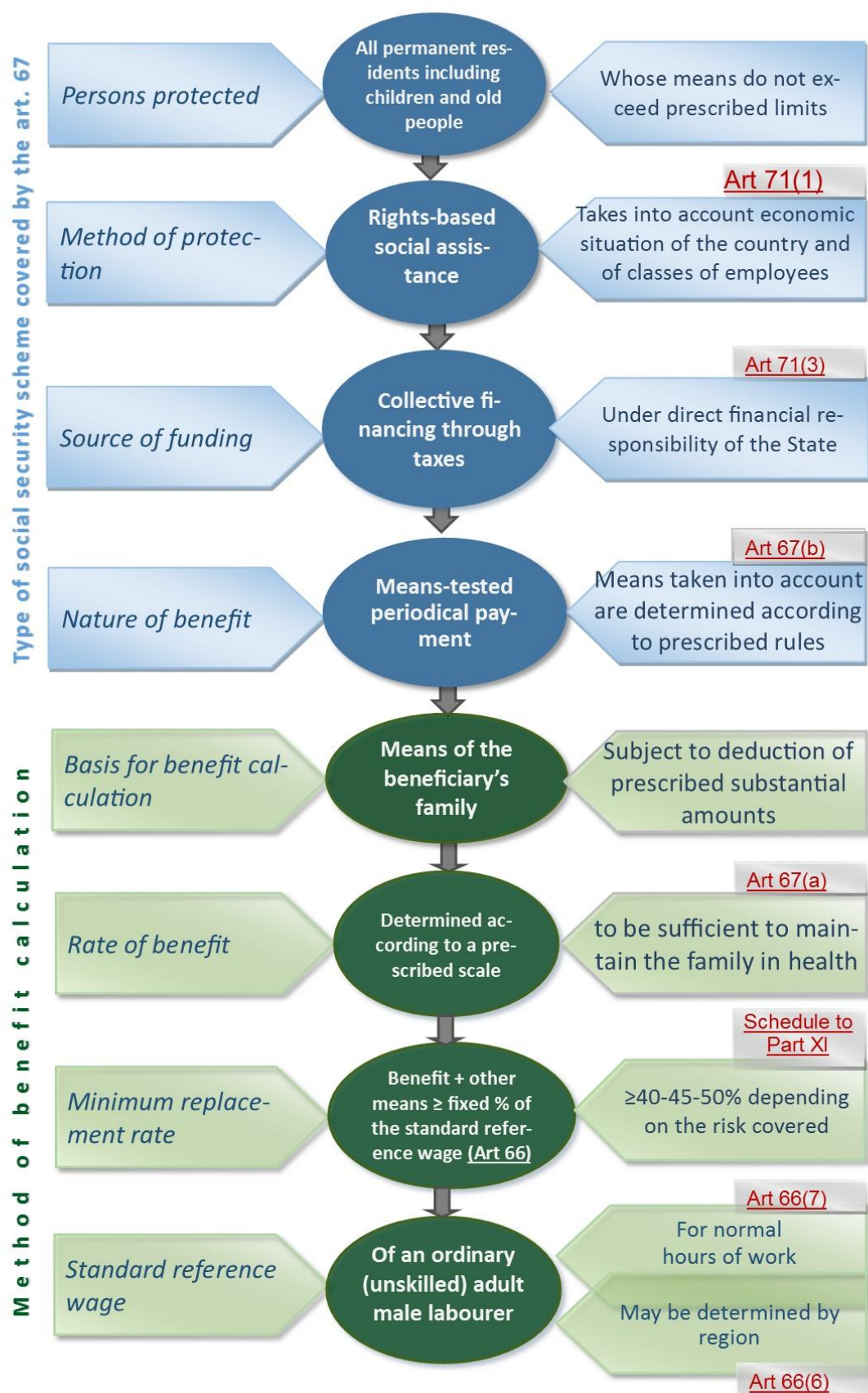


Table 5. Calculation of the reference wage under all options permitted by Articles 65-66 of the C102

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations ¹ -2010	Government ²
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ³ (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ⁴ group with the highest number of male employees: <i>typical skilled male worker in manufacturing</i>	2372 euros	
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	3186.3 euros	
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: <i>typical unskilled male worker in manufacturing</i>	2088 euros	

* Gross wages are used unless stated otherwise

¹ ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

² Reference wage reported by the Government on the application of ECSS and C.102

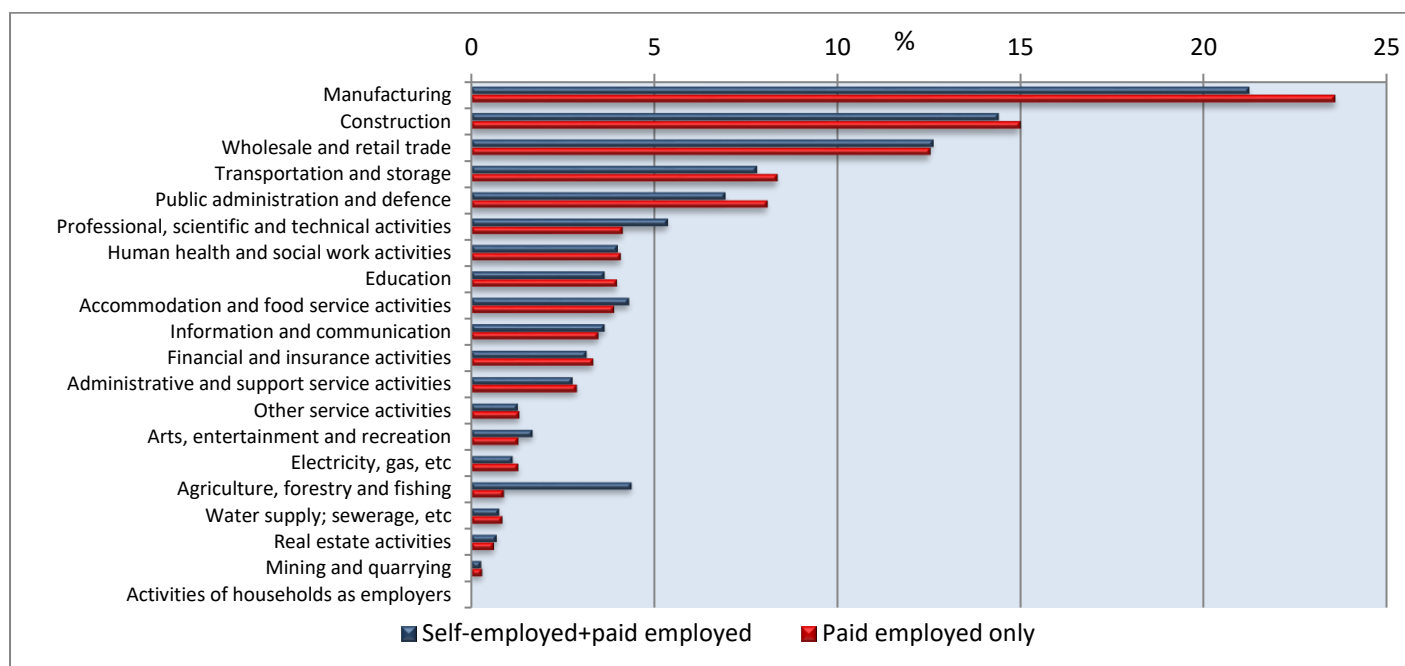
³ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow) <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

⁴ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008
<http://unstats.un.org/unsd/cr/registry/isic-4.asp>

ILO assessment of the options offered by articles 65-66:

OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Manufacturing

Fig. 4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)



Source: Eurostat LFS - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en

Fig. 5. The average wages of a typical skilled/unskilled manual male employee are determined by cross-tabulating of the two classifications:

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

		ISCO 08		
ISIC rev.4	ISCO 08	Total	7. Craft and related trades workers	9. Elementary occupations
	ISIC rev.4			
	Total			
	...			
	C. Manufacturing		skilled	unskilled
	...			

ISCO 08:

ISCO 08: Major group 7

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group require skills at the second ISCO level.

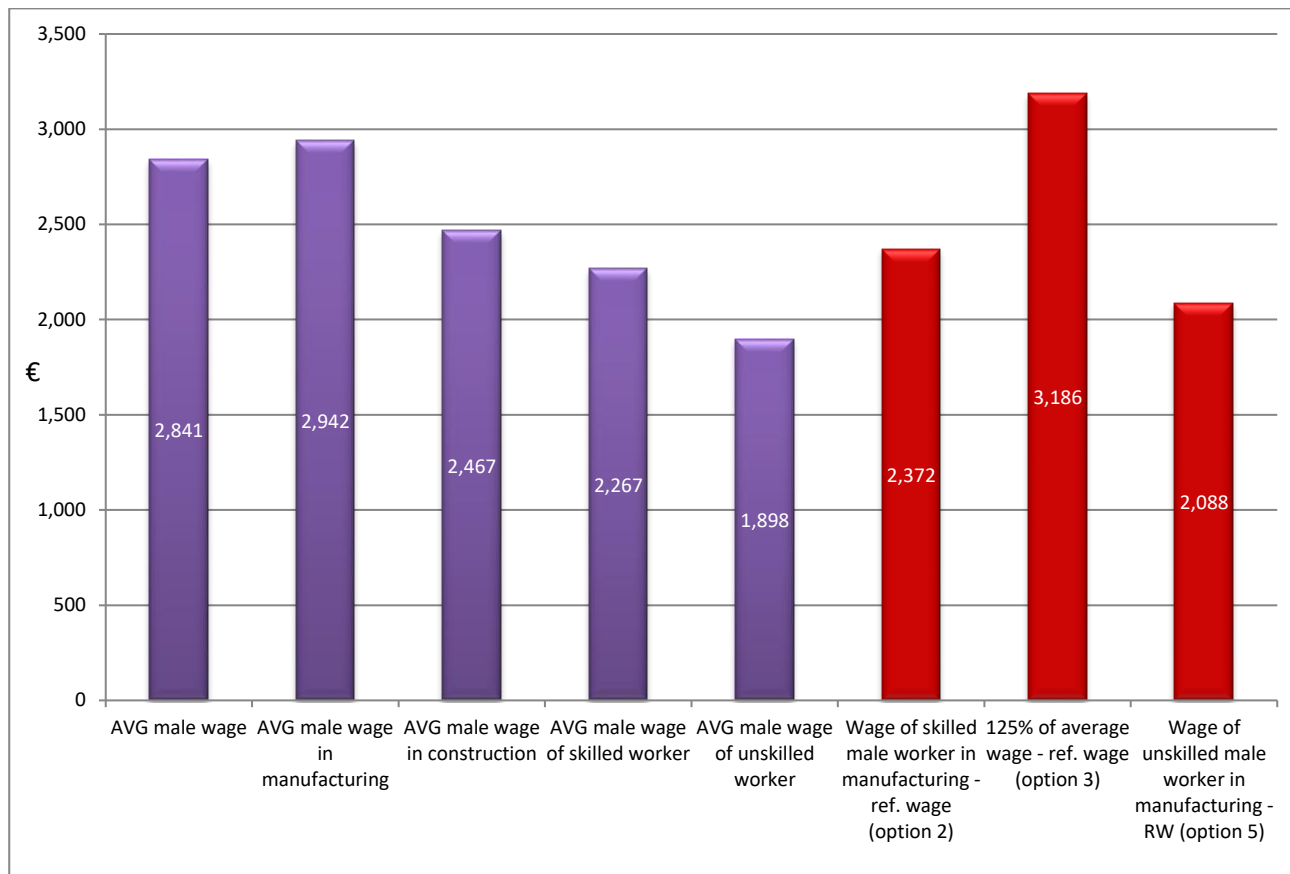
The work is carried out by hand and by hand-powered and other tools.

ISCO 08: Major group 9

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

Fig. 6. Comparison of the reported reference wage to other wage indicators in Austria, 2010, euros



Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (include both full-time and part-time employees)

CHAPTER II. Integrated Management of compliance and reporting obligations of Austria under social security provisions of the ratified international treaties on social rights

- [Table 1. Up-to-date social security standards in force](#)
- [Table 2. Pending comments of the supervisory bodies](#)
- [Table 3. Up-to-date standards on which reports are due in 2016](#)
- [Table 4. Up-to-date standards on which reports are due in 2017](#)
- [Parts of Convention No.102 no longer applicable following ratification of more advanced standards](#)
- [Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards](#)
- [Fig. 2. Example of time management for reporting on social security standards](#)

Table 1. Up-to-date social security standards in force

Social Human Rights	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, Art13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16, 27§1 b, c	Art.8§1	Art.15§1		Art.4§1, Art.13§1, §2, §3, Art 14	
								Art.15§3		Art. 30	
		Right to Social Security Art.12§1§2§3									
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
										C121 Art.19-21, C130 Part III, C168 Art.15,16	C121 Art.22-26, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C017 C018 C042		C103	C037 C038	C039 C040		44 Art.10, C35Art.8-11, C37Art.11-12, C39, Art.13-14
		C056					C003				C C24 Art.6-8, C25 Art.6-8



Social Security Standards in force for Austria



Denounced standards



Social Security Standards not in force

C103 - Automatic Denunciation on 30 Apr 2005 by C183

C102 - Part V is no longer applicable as a result of the ratification of C128

Table 2. Pending comments of the supervisory bodies

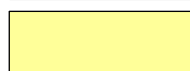
<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11,		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art. 27 §1 b, c	Art.8§1	Art.15§1		🙄 Art.4§1, Art.13§1, Art. 14§1,	
	Art13§1				🙄 Art.3 §2	🙄 Art.16		Art.15§3		Art 13§2, §3	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21,C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C017 C018 C042		C003	C037 C038	C039 C040		C44 Art.10, C35Art.8-11, C37Art.11-12, C39, Art.13-14
		C056					C103				C24 Art.6-8, C25 Art.6-8



Social Security Standards in force for Austria



Social Security Standards not in force



Pending comments of the supervisory bodies



Critical comments or non-compliance

Table 3. Up-to-date standards on which reports are due in 2017

<div>Social Human Rights</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
International treaties											
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, Art13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16, 27§1 b, c	Art.8§1	Art.15§1		Art.4§1,	
								Art.13§1, §2, §3, Art 14			
								Art. 30			
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
										C121 Art.19-21, C130 Part III, C168 Art.15,16	C121 Art.22-26, C130 Part IV, C168 Part VIII
First generation ILO Conventions		C024 C025	C044	C035 C036	C012 C017 C042		C103	C037 C038	C039 C040		44 Art.10, C35Art.8-11, C37Art.11-12, C39, Art.13-14
		C056			C018		C003				C 24 Art.6-8, C25 Art.6-8



Social Security Standards in force for Austria



Social Security Standards not in force



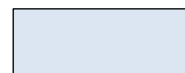
Report in 2017

Table 4. Up-to-date standards on which reports are due in 2018

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICESCR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a §ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, Art.13§1		Art.1§1§3	Art.23	Art.3, Art. 15§2	Art.16, Art. 27 §1 b, c	Art.8§1	Art.15§1		Art.4§1, Art.13§1§2§3, Art. 14	
								Art.15§3			
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
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Advanced ILO Conventions	C130 Part II	C130 Part III	C168	C128 Part III	C121		C183 Art.6,7	C128 Part II	C128 Part IV	C121 Art.19-21,C128 Part V, C130 Part III, C168 Art.15,16	C121 Art.22-26, C128 Part VI, C130 Part IV, C168 Part VIII
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		C056					C103				C24 Art.6-8, C25 Art.6-8



Social Security Standards in force for Austria



Social Security Standards not in force



Report in 2018

Parts of Convention No.102 no longer applicable following ratification of more advanced standards

C102 - Social Security (Minimum Standards)

Article 75

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

C121 - Employment Injury Benefits → C102, Part IV

Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

C130 - Medical Care and Sickness Benefits → C102, Part III

Article 36

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

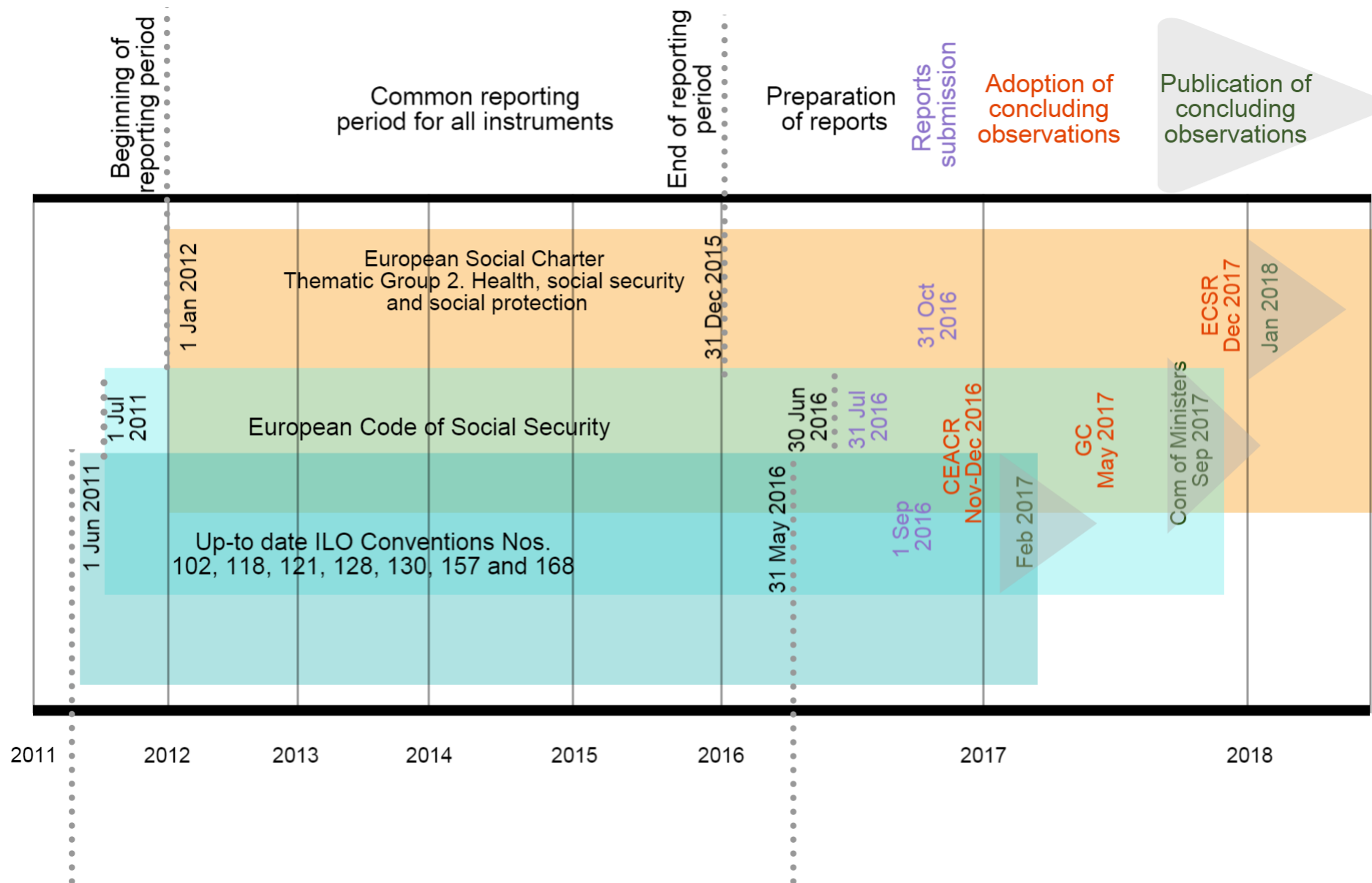
C130, Part II → C102, Part II

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

C168 → C102, Part IV

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Fig. 1. Example of time management of the 5 years reporting cycle on international and European social security standards



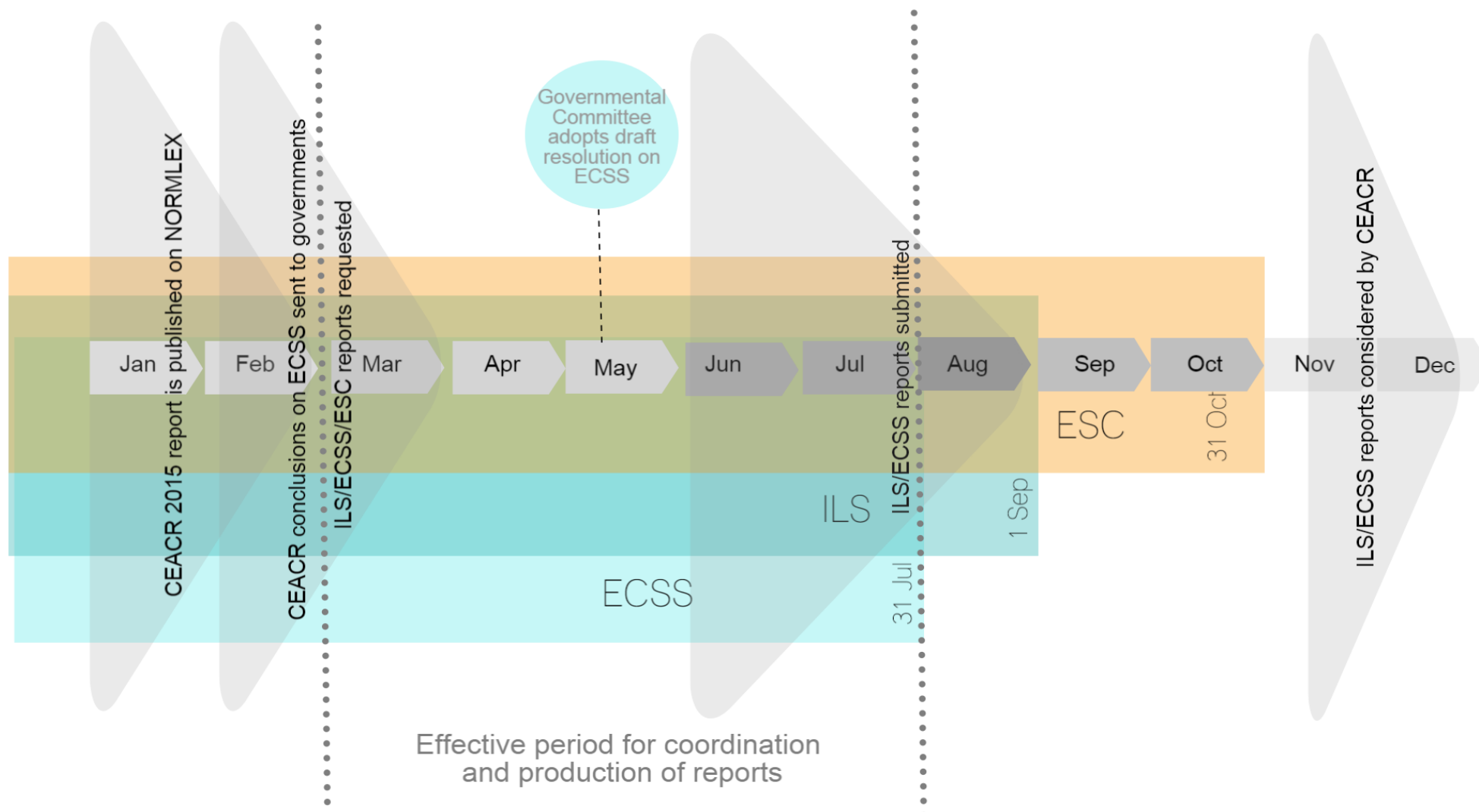


Fig. 2. Example of time management for reporting on social security standards

Chapter III. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by Austria](#)
 - [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)
1. [United Nations](#)
 - [International Covenant on Economic, Social and Cultural Rights](#)
 - [Convention on the Rights of the Child](#)
 - [Convention on the Elimination of All Forms of Discrimination against Women](#)
 - [Convention on the Right of Persons with Disabilities](#)
 2. [Council of Europe](#)
 - [European Social Charter](#)
 3. [International Labour Organization](#)
 - [Invalidity, Old-Age and Survivor's Benefits Convention, 1967 \(No. 128\)](#)
 - [Maternity Protection Convention, 2000 \(No. 183\)](#)
 4. [EU Country-Specific Recommendations](#)

Table 1. In force international treaties on social rights ratified by Austria

Body	International Treaty	Entry into force for Austria	Next report due on
United Nations	International Covenant on Economic, Social and Cultural Rights	10 Sep 1978	30 Nov 2018
	Convention on the Rights of the Child	06 Aug 1992	04 Mar 2018
	Convention on the Elimination of All Forms of Discrimination against Women	31 Mar 1982	01 Mar 2017
	Convention on the Rights of People with Disabilities	26 Sep 2008	26 Oct 2018
Council of Europe	European Code of Social Security		
	European Social Charter	20 May 2011	31 Oct 2016
International Labour Organization	Convention 102	04 Nov 1969	1 Jun - 1 Sep 2017
	Convention 103		
	Convention 121		
	Convention 128	04 Nov 1969	1 Jun - 1 Sep 2017
	Convention 130		
	Convention 168		
	Convention 183	30 Apr 2004	1 Jun - 1 Sep 2018
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

UN Covenant on Economic, Social and Cultural Rights – Concluding observations 2013

[*UN OHCHR website link, Treaty bodies database*](#)

C. Principal subjects of concerns and recommendations

While noting the existence of several action plans on specific issues, the Committee regrets the lack of progress in adopting a comprehensive national human rights action plan from which specific policies and action plans could be developed, as recommended by the Committee in its previous concluding observations (E/C.12/AUT/CO/3, para. 19) (art. 2).

The Committee reiterates its recommendation that the State party consider adopting a comprehensive national human rights action plan, which would increase awareness and ownership of human rights among the general public and bring coherence to the State party's human rights policies, particularly in the context of a federal system.

The Committee is concerned at the lack of coherent and consistent non-discrimination legislation throughout the State party and the high number of institutions involved in the implementation of anti-discrimination and equality legislation, which leads to confusion, legal uncertainty and potential injustice for individuals seeking an effective remedy. Moreover, the Committee regrets the lack of a statistical data collection system which would enable the State party to assess the socioeconomic situation of various linguistic, national, ethnic and religious groups in the State party and to take effective corrective measures (art. 2).

The Committee urges the State party to harmonize its anti-discrimination legislation so as to afford the same level of protection across the different grounds of discrimination and to streamline the administrative bodies responsible for the protection of all individuals against discrimination. It also recommends that the State party establish a statistical data collection system to assess the enjoyment of economic, social and cultural rights situation by minority groups, with due respect for the principles of confidentiality, informed consent and voluntary self-identification of persons as belonging to a particular group.

The Committee regrets that the State party's contribution of its official development assistance decreased from 0.47 per cent of gross national income in 2006 to 0.28 per cent in 2012 (art. 2).

The Committee recommends that the State party increase the level of its contribution of official development assistance to achieve the international target of 0.7 per cent of its gross national income as expeditiously as possible.

The Committee is deeply concerned that the State party's official development assistance provides support to projects that have reportedly resulted in violations of economic, social and cultural rights in recipient countries. It is further concerned that the State party's agriculture and trade policies, which promote the export of subsidized agricultural products to developing countries, undermine the enjoyment of the right to an adequate standard of living and the right to food in the receiving countries (arts. 2 and 11).

The Committee calls upon the State party to adopt a human rights-based approach to its policies on official development assistance and on agriculture and trade, by:

Undertaking a systematic and independent human rights impact assessment prior to making funding decisions;

Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures; and

Ensuring that there is an accessible complaint mechanism if violations of economic, social and cultural rights occur in the receiving countries.

The Committee reiterates its deep concern at the situation of asylum seekers, who receive inadequate social benefits, live in poor housing conditions and only have access to employment in certain activities during the first three months of their asylum proceedings. Moreover, while the Committee notes that asylum seekers below 25 years of age are eligible to obtain work permits for vocational training in areas where there is a shortage of trainees, it is concerned that there is limited choice for asylum seekers to select their profession. The Committee is also concerned that when places are available, preference is given to Austrians or third-country nationals who are already integrated into the Austrian labour market (arts. 2, 6, and 11).

The Committee recommends that the State party take concrete measures to guarantee asylum seekers' right to an adequate standard of living by allowing them full access to the formal labour market, to promote their independence and self-sufficiency, and to facilitate their access to the means-tested minimum income scheme if they are unable to find work. It also urges the State party to remedy the current housing conditions for asylum seekers, including by ensuring that adequate standards of hygiene and habitability are met, as set out in general comment No. 4 (1991) on the right to adequate housing.

While the Committee welcomes the introduction of paternity leave of one month's duration in January 2011 as part of the State party's efforts to combat gender stereotypes and promote gender equality, the Committee is concerned that paternity leave is currently limited to civil servants. Moreover, despite the efforts made by the State party to increase the number of childcare facilities, the Committee is concerned that such facilities remain insufficient and with inadequate opening hours to enable parents, in particular women, to fully exercise their right to work (arts. 3, 6 and 7).

The Committee encourages the State party to continue its efforts to enable working parents to reconcile their professional and family responsibilities, in particular by extending paternity leave to the private sector, promoting incentives for fathers to take parental leave, and ensuring the availability of high quality, affordable childcare facilities for young children from birth to compulsory school age.

The Committee is concerned that the youth unemployment rate remains 60 per cent higher than the unemployment rate of adults, despite the introduction of apprenticeship and vocational training opportunities. It is also concerned about the high number of individuals who face long-term unemployment, and that the conditions under which unemployment benefits can be suspended may not respect the right of everyone to gain his or her living by work which he or she freely chooses or accepts (arts. 6, 7 and 9).

The Committee recommends that the State party adopt long-term policies and strategies with an effective monitoring and evaluation mechanism to address the root causes of youth unemployment, paying particular attention to disadvantaged and marginalized groups, while continuing its efforts to increase the quality, diversity and number of apprenticeship and vocational training opportunities. It also urges the State party to

ensure that the suspension of unemployment benefits does not violate the right of everyone to gain his or her living by work which he or she freely chooses or accepts, as set out in article 6 of the Covenant, and that there is a regular and open dialogue between the Public Employment Service and unemployed persons to take individual needs and concerns into account.

While noting the adoption of the means-tested minimum income scheme in 2010 to combat poverty, the Committee is concerned at the lack of its consistent application across the nine Länder, as well as its inadequacy in ensuring an adequate standard of living for the beneficiaries. Moreover, it expresses concern that, in 2011, 12.6 per cent of the population was considered at risk of poverty, and that 4 per cent of the population was severely deprived financially, amounting to approximately 1.4 million persons who are considered to be at risk of poverty and social exclusion. It is further concerned by the increasing number of people who are in need of food assistance (arts. 9 and 11).

The Committee urges the State party to take effective measures to ensure that the means-tested minimum income scheme corresponds to the actual cost of living and is guaranteed to all those in need in a consistent and efficient manner throughout the State party, taking into account its general comment No. 19 (2007) on the right to social security. It also recommends that the State party adopt a comprehensive, long-term strategy to combat poverty, based on a thorough examination of its root causes. The Committee further recommends that the State party guarantee the right to adequate food for people living in poverty, as set out in its general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted by the Food and Agriculture Organization.

The Committee expresses deep concern that, in spite of the adoption of the Disability Equality Package in 2006, persons with disabilities still face significant obstacles in their enjoyment of economic, social and cultural rights, including access to employment, education, housing and social security benefits. In particular, the Committee expresses concern that persons with disabilities who perform occupational therapy activities receive little or no compensation for their work and are unable to contribute to an independent old-age pension scheme (arts. 2, 6, 7, 9 and 11–14).

The Committee recommends that the State party take concrete measures with specific targets to ensure that persons with disabilities can fully enjoy their economic, social and cultural rights as equal members of society, taking into account general comment No. 5 (1994) on persons with disabilities. In particular, the Committee calls upon the State party to ensure that persons who work in the context of occupational therapy have access to a diverse range of activities with sufficient pay, and are able to benefit fully from social security schemes so as to enjoy an adequate standard of living.

While noting that the State party has commenced collecting some data on the number of homeless persons in the State party, the Committee regrets the lack of information on the extent and causes of homelessness. Moreover, while the Committee notes the commitment expressed by the State party delegation to increasing the availability of social housing, the Committee is concerned at the number of disadvantaged and marginalized individuals who cannot afford to pay for housing, and that the majority of eviction cases are due to non-payment of rent (arts. 2 and 11).

The Committee recommends that the State party develop a systematic data collection mechanism on the extent and causes of homelessness, and adopt a national strategy or programme to address the problem. It also calls on the State party to ensure that sufficient resources are allocated to increase the availability of social housing units and to provide appropriate forms of financial support, such as adequate rental subsidies for disadvantaged and marginalized groups, taking into account its general comment No. 4 (1991) on the right to adequate housing. The Committee also requests the State party to provide, in its next periodic report, information on measures taken in this regard, as well as on the extent of homelessness in the State party, disaggregated by sex, age, ethnicity and rural-urban population.

The Committee expresses concern at the shortage of physicians and nurses to provide adequate health-care services to meet the growing demand for treatment, including in areas of psychosocial and adolescent health. Moreover, while noting the introduction of “video interpretation” in hospitals to assist non-citizens in communicating with health-care personnel, the Committee remains concerned that migrants and asylum seekers continue to face obstacles in accessing health-care services, primarily due to lack of access to information, language barriers and certain treatments that have to be financed in advance (arts. 2 and 12).

The Committee recommends that the State party take effective measures to ensure that there are sufficient health - care professionals to meet the growing demands in medical treatment, particularly in areas such as psychosocial and adolescent health, taking into account its general comment No. 14 (2000) on the right to the highest attainable standard of health. It also recommends that the State party take further measures to increase access to adequate and affordable health - care services by non-citizens, including by ensuring the availability of translation services and information on health - care services, as well as by addressing their underlying risks to health.

Convention on the Rights of the Child – Concluding observations 2012

[*UN OHCHR website link, Treaty bodies database*](#)

Allocation of resources

16. The Committee regrets the lack of information on the level of resources allocated to children as well as on mechanisms for the identification, tracking and protection of strategic budget lines designated for the implementation of the Convention.

17. The Committee requests the State party to provide information in its next periodic report on relevant procedures in its budgeting process to implement article 4 of the Convention in order to ensure that funds are allocated to the maximum extent of available resources for the implementation of the rights recognized in the Convention, and are easily identifiable and presented in a transparent way. It also recommends that the State party clearly state on a yearly basis its priorities with respect to child rights issues and identify the amount and proportion of the budget spent on children, especially those in vulnerable and disadvantaged situations, at the Federal, Länder and municipal levels in order to make possible an evaluation of the impact of expenditures on children and of their effective utilization and provide such information in its next periodic report. In doing so, the State party should take into account the recommendations of the day of general discussion of 21 September 2007 on "Resources for the rights of the child - responsibility of States".

Data collection

18. The Committee notes that the Austrian statistics institution publishes data disaggregated by age, sex and geographic location on the population, labour market, youth employment, education, culture, health and social affairs on a regular basis. However, it is concerned that such data is not sufficiently disaggregated for all areas covered by the Convention, particularly with regard to migrant children, refugee and asylum-seeking children, as well as other children in vulnerable and disadvantaged situations.

19. The Committee encourages the State party to set up a comprehensive data collection system with the support of its partners and to analyse the data collected as a basis for assessing progress achieved in the realization of child rights and to help design policies and programmes to implement the Convention. The data should be disaggregated by age, sex, geographic location, nationality, migration status and socio-economic background to facilitate analysis of the situation of all children.

Abuse and neglect

35. While taking note of the special training that the State party provides to law enforcement officers on violence against children, as well as of the nationwide child helpline "Rat auf Draht", the Committee is concerned that measures to encourage child victims to report instances of violence, abuse and neglect, in particular in alternative care institutions, care institutions for children with disabilities and holding centres for migrants, remain insufficient.

36. The Committee calls on the State party to strengthen its measures to encourage child victims to report instances of violence, abuse and neglect, in particular in alternative care institutions, care institutions for children with disabilities and holding centres for migrants, and to prosecute and punish the perpetrators of such acts.

Children deprived of a family environment

40. The Committee is concerned that no adequate statistical data is available to ensure the quality control of alternative care institutions and family type alternative care. It notes that the monitoring of such institutions falls under the competence of the Länder which have different methods and practices. The Committee is also concerned that the right of children to quality standards of care and placement was not included in the Federal Constitutional Law on the Rights of Children.

41 . The Committee recommends that the State party take into account the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of 20 December 2009, adopt measures to regularly monitor and evaluate the conditions in alternative care settings, including by collecting adequate statistical data, disaggregated by sex, gender and geographic location. The Committee also recommends that the quality standards in alternative care settings be strictly regulated by law and effectively enforced.

F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26 and 27 (paras. 1-3) of the Convention)

Children with disabilities

44. The Committee welcomes the recent adoption of a National Plan of Action for Persons with Disabilities (2012-2020) and that article 6 of the Federal Constitutional Law on the Rights of Children provides for the equal treatment, care and protection of children with disabilities. However, it notes with concern that children with disabilities continue to be excluded from participation in various aspects of public life in the State party due to the limited accessibility of their physical environment, and the lack of appropriate services and information. The Committee is also seriously concerned about the high number of children with disabilities in institutional care in the State party. While noting the decrease in the percentage of children with disabilities attending special schools, the Committee is concerned that the decision whether a child with disabilities should attend a special school or an inclusive school rests with the parents, which may conflict with the best interests of the child. The Committee also expresses concern about the paucity of information on education for minority children with disabilities.

45. In light of its general comment No. 9 (2006) , the Committee urges the State party to:

- (a) Take measures to fully integrate children with disabilities in all areas of public life;**
- (b) Ensure that their environment, including, buildings, transportation and other public areas, is physically accessible for them;**
- (c) Take measures to de-institutionalize children with disabilities and further strengthen support to families to enable them to live with their parents;**
- (d) Ensure that children with disabilities have full access to information, communications and other services;**
- (e) Give priority to inclusive education of children with disabilities and ensure that the best interests of each child are a primary consideration in decisions concerning his/her school enrolment;**
- (f) Provide in its next periodic report information on education for minority children with disabilities.**

Health and health services

46. While noting the high quality of paediatric services, the Committee is concerned about the absence of systematic monitoring of children's health. It is further concerned about the over-prescription of medication such as Ritalin for children with attention deficit and hyperactivity disorder.

47. The Committee recommends that the State party establish a countrywide system for monitoring children's health status. It also recommends that the State party carefully examine the phenomenon of over-prescription of psycho-stimulants to children and take initiatives to provide children diagnosed with attention deficit and hyperactivity disorder, as well as their parents and teachers, with access to a wide range of psychological, educational and social measures and treatments.

Breastfeeding

48. The Committee is concerned at the low rate of exclusive breastfeeding for the first six months, and at the absence of a mechanism for systematically monitoring violations of the International Code of Marketing of Breastmilk Substitutes. The Committee is further concerned at the low number of hospitals that are certified as baby-friendly.

49. The Committee recommends that the State party:

(a) Strengthen its awareness-raising efforts on the importance of breastfeeding and promote exclusive breastfeeding of children up to the age of 6 months;

(b) Strengthen the monitoring of existing marketing regulations relating to breast-milk substitutes and ensure that such regulations are monitored on a regular basis and action is taken against those who violate these regulations; (c) Increase the number of maternity hospitals that meet the required standards and are certified as baby-friendly under the Baby-Friendly Hospital Initiative (BFHI).

Adolescent health

50. While noting the State party's preventive, curative and substitution programmes, the Committee is concerned at the high rate of alcohol, tobacco, cannabis and other illicit substance abuse, as well as depression and obesity, among children in the State party, often due to poverty, violence, dysfunctional families and inability of parents to cope with their children. It is also concerned at the lack of care and rehabilitation programmes, to address those situations and support the children affected by them.

51. The Committee recommends that the State party increase its efforts to address the needs of children from dysfunctional families and take measures to minimize the psychological effect of such family situations, and strengthen care and rehabilitation programmes for children suffering from alcohol, tobacco, cannabis and other illicit substance addiction, depression and obesity. With reference to its general comment No. 4 (2003) , the Committee recommends that the State party develop specialized and youth-friendly drug-dependence treatment and harm reduction services for children.

Administration of juvenile justice

66. While noting that, according to the State party, the average length of pretrial detention of juveniles is 49 days and that the number of juveniles detainees has decreased, the Committee is concerned that under the law of the State party, the maximum length of pretrial detention for juveniles is one year, that prisons where juveniles are deprived of their liberty are reportedly overcrowded and juveniles not always separated from adult prisoners, and that a high

percentage of juveniles on remand suffer from psychological or psychiatric disorders without access to adequate health care.

67. The Committee recommends that the State party bring the juvenile justice system fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) . In particular, the Committee urges the State party to:

- (a) Ensure that juveniles below the age of 18 who are deprived of their liberty are separated from adults in all circumstances and are detained in adequate conditions;**
- (b) Ensure that detention, including pretrial detention, of juveniles is used as a measure of last resort and for the shortest possible period of time;**
- (c) Provide juvenile detainees with adequate access to medical and psychological treatment;**
- (d) Take the necessary measures to provide juvenile detainees with perspectives for their future, including their full reintegration into the society;**
- (e) Proceed with the feasibility study for the construction of a new centre for juveniles deprived of their liberty in Vienna, with a view to reducing overcrowding in existing facilities.**

J. Cooperation with regional and international bodies

69. The Committee recommends that the State party cooperate with the Council of Europe towards the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2013

[*UN OHCHR website link, Treaty bodies database*](#)

Employment and economic empowerment

36. While noting the efforts to improve the pension scheme for those who take care of children, the Committee is concerned that pension entitlements for women continue to be lower than for men because pension-scheme contributions are affected by women's childcare career breaks and part-time employment, which phenomenon pushes them into poverty after retirement.

37. The Committee recommends that the State party:

(a) Continue to evaluate its pension system with a view to identifying its impact on women and men and rectify any disparities to ensure an equal impact on women and men resulting from their roles in the provision of child care; and

(b) Intensify its efforts to facilitate the re-entry of mothers into the labour market after child birth, create more opportunities for women to gain access to full-time employment and encourage men, including through awareness-raising, to share responsibility for child care.

Health

38. The Committee is concerned that abortions, albeit legal, are not reimbursed under the medical insurance scheme and that data fail to show the impact of this policy on economically disadvantaged women and girls. It is also concerned at the lack of information on the impact of the financial crisis and austerity measures on the provision of health care for women, and the risk that privatization may downgrade the quality of health services accessible to women.

39. The Committee recommends that the State party provide financial support to economically disadvantaged women and girls needing an abortion who cannot afford it. It should also conduct a study on the impact of the economic crisis, and austerity measures, and potential privatizations, on women's health and take counter-measures, if required.

Disadvantaged groups of women

44. The Committee is concerned at variations in the application of the Citizenship Act by Länder in the granting of permits for migrant women affected by domestic violence, and for naturalization. It is also concerned that migrant women may have more difficulties fulfilling the various requirements for residence permits, such as income limits, health insurance and/or German language skills, despite the claims of the State party's delegation that these are not absolute requirements. It is particularly concerned at the lack of data on the number of migrant women that could not meet these requirements.

45. The Committee calls upon the State party to intensify its efforts to ensure a unified implementation of the requirements tending to the granting of long - term residence permits or citizenships for victims of domestic violence.

Women with disabilities

48. The Committee appreciates the adoption of a far-reaching National Action Plan on Disability for 2012–2020 and the inclusion therein of a chapter on women with disabilities. It is, however, concerned that women with disabilities continue to suffer multiple forms of discrimination in education, employment and political participation.

49. The Committee recommends that the State party pursue its efforts under the current National Action Plan on Disability to address the multiple forms of discrimination suffered by women with disabilities in education, employment and political participation.

Convention on the Right of Persons with Disabilities – Concluding observations 2013

[*UN OHCHR website link, Treaty bodies database*](#)

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

While the Committee recognizes women's right to reproductive autonomy, the Committee notes that under Austrian law a foetus may be aborted up to the onset of birth, if serious damage to the health of the foetus can be expected. The Committee is concerned at the apparent link between this provision and the fact that, according to statistics from the Organisation for Economic Co-operation and Development, birth rates of children with Down syndrome in Austria fell by 60 per cent between 1995 and 2006. The Committee notes that discussions on this matter are under way.

The Committee recommends that the State party abolish any distinction, allowed by law, in the period within which a pregnancy can be terminated based solely on disability.

Accessibility (art. 9)

The Committee commends the State party for its achievements in the area of accessibility to buildings, transportation and information. The Committee notes that various cities and Länder have developed plans for improving accessibility to facilities. However, it is concerned that accessibility is poor in some areas, particularly outside of larger cities in the State party. It is particularly concerned that in at least one Länd, a minimum number of people is required for the establishment of barrier-free accessibility to public facilities. The State party should also ensure barrier-free information-communication accessibility to Austrian media, in particular the Austrian broadcasting corporation, ORF.

The Committee recommends that the State party develop an overarching inclusive approach to accessibility in accordance with article 9 of the Convention on the Rights of Persons with Disabilities. Accessibility standards for buildings should not be restricted by minimum size or capacity, but should apply to all public facilities in accordance with article 9 of the Convention. The Committee also recommends that the timelines for the staged plans currently being implemented in some cities and Länder as well as the plan for subtitling ORF program me s be decreased.

Situations of risk and humanitarian emergencies (art. 11)

While taking note of the efforts by the State party to develop a plan on disaster preparedness and its contributions to development cooperation and humanitarian aid, the Committee is concerned at the lack of information on the State party's preparedness to provide persons with disabilities with the necessary support in the event of a disaster.

The Committee urges the State party to provide information in its next periodic report on specific measures taken to ensure its preparedness to provide persons with disabilities with the necessary support in the event of a disaster. The State party should also step up its efforts to implement the twin-track approach in order to fully achieve disability inclusion in all spheres of Austrian Development Cooperation (OEZA).

Equal recognition before the law (art. 12)

The Committee notes with concern that in 2012, approximately 55,000 Austrians were under guardianship, half of whom were under guardianship in respect of all aspects of life. The Committee is concerned particularly because Austrian guardianship laws appear to be old-fashioned and out-of-step with the provisions of article 12 of the Convention. The Committee welcomes the launch of the model pilot project on supported decision-making, under the National Disability Action Plan.

The Committee recommends that the State party replace substituted decision - making with supported decision - making for persons with disabilities, and do more to ensure that persons with disabilities have access to supported decision-making and are not placed under guardianship. The Committee recommends that supported decision - making structures respect the person's autonomy, will and preferences, and be in full conformity with article 12 of the Convention, including with respect to the individual's right, in his or her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work and to choose his or her place of residence. The Committee also recommends that disabled persons' organizations be involved in all aspects of the pilot project on supported decision-making. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels, for all actors, including civil servants, judges and social workers, on recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.

Liberty and security of the person (art. 14)

The Committee is deeply concerned that Austrian law allows for a person to be confined against his or her will in a psychiatric institution if he or she has a psychosocial disability and is considered to be a danger to himself or herself or to others. The Committee is of the opinion that the legislation is in conflict with article 14 of the Convention because it allows a person to be deprived of liberty on the basis of actual or perceived disability.

The Committee urges the State party to take all necessary legislative, administrative and judicial measures to ensure that no one is detained against their will in any kind of mental health facility. It further urges the State party to develop de - institutionalization strategies based on the human rights model of disability.

The Committee also urges the State party to ensure that all mental health services are provided with the free and informed consent of the person concerned. It recommends that the State allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure that there are sufficient community - based outpatient services to support persons with disabilities.

Work and employment (art. 27)

The Committee notes with concern that approximately 19,000 Austrians work in sheltered workshops outside of the open labour market and receive very little pay.

While noting that Austria has a quota system for employing persons with disabilities, the Committee is concerned at reports that the majority of employers prefer to pay a fine rather than comply with the quota requirement. It notes that only 22 per cent of employers actually fulfil their obligations under the Disability Employment Act which governs this quota system.

The Committee notes with concern that there is a significant gender gap in the employment and income of women with disabilities, compared to men with disabilities.

The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market. The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

While noting the launch of a new reporting forum on women's issues, the Committee is concerned at reports that data are rarely collected on matters affecting women with disabilities.

The Committee recommends that the State party systematize the collection, analysis and dissemination of data on women and girls with disabilities, and enhance capacity-building in this regard. It should develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring, and report on progress made with regard to the implementation of the various provisions of the Convention.

National implementation and monitoring (art. 33)

The Committee notes the creation of the Independent Monitoring Committee — at the federal level — to promote, protect and monitor the implementation of the Convention, in fulfilment of the provisions of article 33, paragraph 2, of the Convention. However, the Committee is concerned that the monitoring committee does not have its own budget and appears to lack the independence required by the principles relating to the status and functioning of national institutions for protection and promotion of human rights (the Paris Principles).

The Committee recommends that the State party guarantee full independence of the Independent Monitoring Committee, in accordance with the Paris Principles. The Committee further recommends that the Länder create their own independent monitoring mechanisms to further coordinate disability policies and practices throughout Austria.

The Committee recommends that the State party allocate a transparent budget for the Independent Monitoring Committee and give it the power to administer said budget autonomously.

2. Council of Europe

European Social Charter

[*Official website of the Council of Europe, link to conclusions*](#)

Article 1 - Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment situation

The Committee notes from Eurostat that the GDP growth rate in Austria fell from 3.7% in 2007 to 2.3% in 2010, above the EU-27 average (2.0% in 2010). The financial and economic crisis pushed the economy into the deepest recession for decades. Overall, real GDP contracted by almost 4% in 2009. Nevertheless, since the third quarter of 2009, the economy started steadily recovering.

As regards the employment and unemployment rates, Austria performed better than the EU-27 on average – the employment rate amounted to 71.7% in 2010 (vs. 64.1% in the EU-27 on average).

The unemployment rate was the lowest in the EU-27, with 4.4% in 2010 against 9.7% in the EU-27 on average. Youth unemployment, standing at 8.8% in 2010, was the second lowest rate in the EU-27 that year. As regards the long-term unemployment rate as a percentage of all unemployed persons, it amounted to 25.2% in 2010, a decrease from 26.8% in 2007.

The employment rate of older workers (aged between 55 and 64) remained below the EU average in Austria (42.4% compared to the EU-27 average of 46.3% in 2010).

The Committee notes that despite a contraction of the economy during the reference period, the labour market in Austria continues to exhibit positive features, characterised by relatively high participation rates and low unemployment.

Employment policy

The main goal of employment policy pursued by the Austrian Government is to increase the employment rate to 77-78% (women and men in the age group of 20 to 64 years), the focus being mainly on reaching a higher employment rate among older employees, to be achieved especially by raising the effective retirement age. Further attention is to be directed to the quality of jobs, as well as to the employment of women and (juvenile) migrants.

The report mentions that in response to the economic crisis, the Government adopted stimulus packages as well as three labour market packages, the last of which focused on education and training measures for both employees and jobseekers. The budget for active labour market policy in 2009 was increased by more than € 250 million (an increase of 23.5% compared to the previous year).

The report gives an overview of the labour market measures which were in place during the reference period. A scheme for a reduction in working hours was one of the most important measures in terms of budget and number of participants. It involved a temporary reduction in normal working time based on an agreement with social partners as a means of maintaining employment in times of economic difficulties. In 2010, short-time work benefits were granted to 23,632 persons. A youth action plan entered into force in April 2009, offering young people with difficulties in entering the labour market a job, a tailored training measure or subsidised employment within their first six months of registration with the public employment service. In 2010, around 145,173 young persons took up employment and 80,532 made use of a training measure.

Other active labour market measures described in the report are: (i) apprenticeship training: the total number of young people completing training during 2010 amounted to 10,578; (ii) "Action 4,000" initiative which promotes employment opportunities for long-term unemployed in municipalities or charitable organisations. 5,433 persons participated between July 2009 and June 2010; (iii) training leave for periods between 2 months and 1 year, with 6,473 persons obtaining a training allowance in 2010; and (iv) integration initiative for immigrants, with over 21,500 persons receiving German language courses in 2010.

The Committee asks to be kept informed on the outcome of measures aiming at increasing labour market participation of older people, women and young people.

The Committee notes from Eurostat that the activation rate in Austria, that is, the number of persons taking part in an active measure as a percentage of the unemployed, was 34.3% in 2009. This was above the EU-27 average that year, which stood at 28.9%.

According to Eurostat, public expenditure on active labour market policies in Austria amounted to 0.86% of GDP in 2009, which was also above the EU-27 average (where the average public spending on active labour market measures as a % of GDP that year was 0.78%).

The Committee considers that labour market policies implemented in Austria satisfy the obligations under Article 1§1 of the Charter, as shown by the comparatively high number of participants in such policies and the relatively low levels of unemployment in the country. It nevertheless asks whether the employment policies in place are monitored and how their effectiveness is evaluated.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 1§1 of the 1961 Charter.

Paragraph 3 - Free placement services

The Committee takes note of the information contained in the report submitted by Austria.

The Committee notes from the website of the Public Employment Service (AMS) that ensuring an efficient, economical and targeted matching of labour supply and demand is the most important task of Austria's public employment service. For this reason, an action plan (Betreuungsplan) is drawn up with every job-seeker, which includes his/her skills and aspirations, further counselling and assistance measures.

The Committee asks for confirmation that all services provided by AMS remain free of charge.

The AMS promotes Internet use as it provides clients with greater self-help potential. AMS services offered on the Internet are constantly being upgraded. The AMS eServiceZone is an online service enabling both job-seekers and employers to access the employment service outside opening hours.

In 2007, 369,569 vacancies were notified to the employment services, i.e. a significant rise from the year before (an increase of 33,961 vacancies or 10.1% in 2007). A total of 319,876 notified vacancies were filled in 2007, which gives a placement rate of 86.5%. Most of the vacancies notified or registered by the AMS were filled within a very short period of time: 90% within three months.

As neither the report nor the AMS website provide performance data on AMS for all the years of the reference period, the Committee asks that data in the next report covers the whole reference period.

Concerning staff, the report states that an additional 200 AMS advisers were appointed in 2009. Additional staff were recruited in 2010 to facilitate labour market integration of recipients of minimum income.

Monitoring and supervision of private placement services is ensured by the Federal Ministry of Economics and Labour. Private for-profit employment services saw substantial growth in

placement activities in 2007. According to a survey conducted in 2007, private placement services filled 10,286 vacancies that year.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 1§3 of the 1961 Charter.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Austria.

This is the first time the Committee examines Austria's national policy framework on occupational health and safety under the Revised Charter.

General objective of the policy

The report indicates that many draft regulations to implement Act No. 450/1994 of 17 June 1994 on Workers Protection, which establishes the relevant framework and transposes the Community acquis, were discussed during the reference period. According to an official source, Act No. 450/1994 was amended during the reference period, particularly by Act No. 51/2011 of 27 July 2011. ILO Convention No. 187 on the Promotional Framework for Occupational Safety and Health (2006) was ratified on 20 May 2011. The report also points out that the Government adopted a Health and Safety at Work Strategy for 2007-2012, modelled on the Community strategy 2007-2012 on health and safety at work, and whose aims are to exchange knowledge, set up networks and discuss topical issues with the ILO and EU institutions. The purpose of the 2007-2012 Strategy is to adapt the legislation and improve its application, incorporate occupational health and safety into training programmes and improve access to preventive services with the aim of reducing accident rates and the number of occupational diseases. The report also states that the National Network for Occupational Safety and Health, which brings together the central labour inspectorate and the other main players in this area, has supported the specialist conferences and promotion campaigns of the European Agency for Safety and Health at Work (OSHA).

The Committee takes note of this information. It notes that there is a national policy which is intended to foster and preserve a culture of prevention in the occupational health and safety field.

Organisation of occupational risk prevention

The Committee previously noted (Conclusions XIX-2) that Act No. 450/1994 offers an overall approach to health and safety policy by informing and consulting workers on the subject and that it makes provision in particular for identification and assessment of risks by employers.

The report lists a number of information campaigns, conferences, research projects and compilations of good practices organised as part of the 2007-2012 Strategy and the European Campaign on Risk Assessment.

The Committee takes note of this information. It notes that at federal and company level, there is a system for the assessment of occupational risks, preventive measures geared to the nature of the risks involved, and information and training measures for workers.

The Committee asks for information in the next report on whether the organisation of occupational risk prevention was affected by the amendments to Act No. 450/1994 which were adopted during the reference period. It also asks for information on the organisation of occupational risk prevention for workers employed by Länder and municipal government departments and in the agricultural and forestry sectors, which are covered by the legislation of

the Länder. It further asks for information on the measures taken by the Labour Inspectorate to develop an occupational health and safety culture among employers and employees and share its experience in implementing instructions, prevention measures and consultations.

Improvement of occupational safety and health

The report shows that the 2007-2012 Strategy includes occupational health and safety in education and research, preparation of guidelines, publication of practical guides, commissioning of applied research projects and thematic campaigns.

The Committee takes note of this information. According to another source, some complementary bodies such as Humanware (Institute for Health, Safety and Ergonomics in the Workplace), Gesundheit Österreich (Austrian Health Institute), the Austrian Academy for Occupational Medicine and the Austrian Federation to Promote Safety take part in training and devising training modules and certification systems for occupational health and safety. The Committee asks for information in the next report on the mode of involvement of these bodies along with the authorities. The Committee also asks for details of the institutions involved and the activities carried out in the field of scientific and applied research on occupational health and safety, including in sectors which come under the jurisdiction of the Länder.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 2 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Austria.

This is the first time that the Committee has examined the occupational safety and health legislation and regulations under the Revised Charter.

Risks covered by the regulations

The Committee previously examined the scope of the risks covered by safety and health legislation and regulations (Conclusions XIV-2 and XVIII-2 on Article 3§1 of the 1961 Charter).

Act No. 450/1994 of 17 June 1994 on Workers Protection, which sets out the basic legal framework in the field of occupational safety and health, was amended during the reference period to introduce a system for collecting data on construction sites. The report lists the laws and regulations issued and/or amended during the reference period.

On the basis of this information, the Committee considers that occupational safety and health regulations comply with the general obligation in Article 3§2 of the Revised Charter to provide specific coverage of the great majority of the risks enumerated in the general introduction to Conclusions XIV-2 (pp. 37-38).

Establishment, alteration and upkeep of workplaces

The report states that Order No. 368/1998 on workstations has been amended in the matter of first aid and fire and evacuation services, and that Order No. 164/2000 on work equipment has been brought into line with current legislation and technical standards. According to another source, measures have been taken by some Länder to incorporate Directive 2009/2104/EC of the Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work, which was adopted during the reference period.

The Committee takes note of this information. It asks that the next report indicate the international or EU standards which the legislation and regulations issued and/or amended

during the reference period are designed to incorporate. It also asks that the next report detail the measures falling within the jurisdiction of the Länder.

Other types of workers

The Committee previously concluded (Conclusions XVI-2, XVIII-2 and XIX-2) that the situation in Austria was not in conformity with Article 3§1 of the 1961 Charter on the grounds that self-employed workers are not sufficiently covered by occupational health and safety regulations.

The report reiterates that, under the Industrial Code (Gewerbeordnung), approval of industrial or craft production sites is subject to the adoption of technical measures to preserve the owner's safety and health, including, where appropriate, measures to protect safety and health at work. The report states that Act No. 66/2010, which came into force on 19 August 2010, extended the Code's scope to construction sites in order to transpose Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites. The report also reiterates that social partners and social insurance funds organise information campaigns and preventive actions on health and safety at work aimed at self-employed workers.

The Committee notes that, although the protection of self-employed workers by occupational safety and health regulations may be better in industrial or craft production or on construction sites, it still does not cover all workers, all workplaces and all sectors, as required.⁵ It notes that the situation has barely improved in relation to the previous periods and concludes, therefore, that the situation is still not in conformity with Article 3§2 of the Revised Charter.

Conclusion

The Committee concludes that the situation in Austria is not in conformity with Article 3§2 of the Charter on the ground that self-employed workers are not sufficiently covered by occupational health and safety regulations.

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Austria.

This is the first time the Committee has examined the conformity of the occupational health and safety regulations with the Revised Charter.

Occupational accidents and diseases

The Committee previously noted (Conclusions XIX-2) that, since the large number of fatal work accidents published included commuting accidents and did not comprise any time limitation following the accident, the situation was in fact in conformity with Article 3§2 of the 1961 Charter.

The report distinguishes sectors coming under the Labour Inspectorate and the specialised inspectorates (transport and agriculture/forestry). It shows that the number of work accidents (excluding commuting accidents) in the sectors coming under the general inspectorate is decreasing overall (from 116 407 in 2008 to 92 954 in 2010) as compared with the previous reference period. The number of accidents in the transport sector is also decreasing (from 3 873 in 2008 to 3 652 in 2010), whereas it is increasing in agriculture and forestry (from 7 061 in 2008 to 7 227 in 2010). These trends are corroborated by the declining rate of incidence for work accidents (excluding commuting accidents) published by EUROSTAT (from 2 348.39 in 2008 to 1 795.53 in 2010). Austria's rate of incidence remains higher than the average rate in the EU-15, but is similar to the average rate in the EU-27 (from 2 269.42 in 2008 to 1 582.71 in 2010) at the end of the reference period.

The number of fatal accidents is continuing to decrease in the sectors coming under the Labour Inspectorate (from 115 in 2008 to 84 in 2010), in the transport sector (from 6 in 2008 to 5 in 2010), and in agriculture and forestry (from 97 in 2008 to 92 in 2010). These trends are corroborated by those in the rate of incidence of fatal accidents published by EUROSTAT (from 4.32 in 2008 to 1.77 in 2010). Austria's rate of incidence remains higher than the average rate in the EU-15, but remains below the average rate in the EU-27 (falling from 2.36 in 2008 to 1.87 in 2010) at the end of the reference period.

The report states that the number of cases of occupational disease is increasing as compared with the previous reference period in the sectors coming under the Labour Inspectorate (from 1 477 in 2008 to 1 446 in 2010) and agriculture/forestry (from 175 in 2008 to 185 in 2010). The number of fatal cases, which has fallen (from 63 in 2008 to 46 in 2010), confirms the trend noted during the previous reference period. The report contains no information on occupational diseases in the transport sector.

The Committee takes note of the explanation set out in the report to the effect that the temporary increase in the statistics for 2008 were caused by a delay in the declaration of work accidents and occupational diseases. The Committee notes the generally positive evolution of numbers of work accidents and occupational diseases. It asks that the next report provide information on the situation of immigrant workers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Austria is in conformity with Article 3§3 of the Charter.

Paragraph 4 - Occupational health services

The Committee takes note of the information contained in the report submitted by Austria.

This is the first time that the Committee has examined the progressive development of occupational health services under Article 3§4 of the Revised Charter.

The report states that Act No. 450/1994 of 17 June 1994 on Workers Protection requires all employers to provide access to occupational health services. Where such services cannot be provided in-house, the employer must call on either self-employed occupational physicians or accredited centres for occupational medicine. Employers with fewer than 50 staff can enlist the services of accident prevention centres, which arrange for workplace inspections to be carried out by occupational physicians and health and safety officers at intervals prescribed by law.

The report also states that occupational physicians participate with health and safety officers and staff representatives in the assessment of hazards related to the health and safety of workers. They must report any deficiencies noted and make proposals for remedial action to the employer and staff representatives, as well as to each individual worker if there is a serious and immediate hazard. If the employer fails to take remedial action, they can refer the matter to the health and safety committee, or contact the Labour Inspectorate. Occupational physicians are also tasked with giving advice to employers, workers, health and safety officers and staff representatives. In certain instances, consultation is required by law. Occupational physicians devote a certain minimum number of hours, which may vary in accordance with the number of employees and the hazards identified, to various forms of preventive action stipulated by law. They keep records of their activities and make proposals for improving working conditions in the annual report to the employer. Specially authorised physicians carry out the initial medical examinations and the recurring medical examinations of workers employed at workplaces which involve exposure to specific hazards.

According to the report, occupational physicians from the Labour Inspectorate take part in inspection visits at undertakings. The inspection report may, where appropriate under penalty

of administrative or criminal proceedings, request the employer to call in the occupational health services or to take any other remedial measures.

The report states that there are 1 780 occupational physicians in Austria (2011), i.e. 0.415 physicians per 1 000 workers, according to ILO statistics on the labour force (2010). Approximately 40% of employers with fewer than 50 staff do not provide access to occupational health services. Information campaigns, together with the efforts of the labour inspectorate, are aimed at encouraging companies to rectify this situation. The head of the department of occupational medicine and hygiene at the Labour Inspectorate is working closely with training centres to improve the training of physicians and the quality of medical care.

The Committee takes note of this information. In order to ensure that all workers in all branches of the economy have access to occupational health services, the Committee asks that the next report provide information on access to occupational health services for workers who are not covered by Act No. 450/1994, in particular in the sectors governed by the legislation of the Länder or in the farming or forestry sector. It also asks to receive information on access to occupational health services for temporary and agency workers as well as workers on fixed-term contracts, self-employed workers and domestic or home workers. It further requests that the next report indicate whether the initial medical examination is also carried out when rehiring temporary workers, agency workers or workers on fixed-term contracts.

In view of the progressive nature of the requirement in Article 3§4 of the Revised Charter, the Committee asks how many workers are monitored by the occupational health services and what the care rate by occupational health services is among employers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Austria is in conformity with Article 3§4 of the Charter.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

The Committee takes note of the information contained in the report submitted by Austria and in the reply of 30 June 2014 to its request for additional information.

It deferred its previous conclusion (Conclusion XIX-3 (2010)) pending receipt of information about the scope of the framework agreement entered into on 2 July 2007 by the Austrian Trade Union Federation and the Federal Economic Chamber on the implementation of a minimum wage of €1 000 in industry-specific collective agreements, and about the policy measures taken by public authorities to ensure that workers not covered by the collective agreements in force actually receive a minimum wage of €1 000.

In reply, the report indicates that the vast majority of employees (94%) are covered by collective agreements. The lowest coverage rates are found in the tourism and leisure sector (90%), the information and consulting sector (85%), and among businesses not belonging to the Federal Economic Chamber, particularly in education, health care and social and personal services (82%). All existing collective agreements provide for a gross minimum wage of over €1 000, except for the agreement covering newspaper workers in dispatch and related areas, which stipulates a gross minimum wage of € 807.84.

According to the comments of the Federal Chamber of Labour, to which the report refers, the framework agreement of 2 July 2007 is extensively applied, but shortcomings remain in some sectors and/or occupations (information and consulting; and chiropodists, beauticians and masseurs). When an employer is not bound by existing collective agreements, the definition of an “appropriate remuneration” in accordance with Article 1152 of the General Civil Code

(ABGB) raises problems in the absence of a general minimum wage or a statutory definition of "appropriate". Furthermore, the increase in atypical forms of employment, such as non-voluntary part-time work, also contributes to a decrease in remuneration.

The report contains no information concerning minimum net wages and the average net wage. According to the Court of Auditors (Rechnungshof, Bericht über die durchschnittlichen Einkommen der gesamten Bevölkerung 2012, Wien: Rechnungshof 2012), the average gross annual wage for all employed workers (excluding apprentices) was €24 843 in 2011 (table 4); for manual workers (excluding apprentices), who are the lowest paid, it was €18 157 (table 6); the average net annual wage was €18 529 for all employed workers (excluding apprentices) and €14 402 for manual workers (table 22). According to Statistik Austria figures (table "unselbständig Erwerbstätige") for 2011, the average gross annual wage (apprentices excluded) was €29 017 (all employed workers); € 53 498 (tenured civil servants); €30 707 (contractual staff in the civil service); and €18 743 (manual workers). The corresponding average net wage was €20 197 (all workers); €35 291 (tenured civil servants); €21 676 (contractual staff in the civil service); and €13 891 (manual workers). In the least well paid sectors, the average gross annual wage for manual workers was €7 205 (farming, forestry and fisheries); €6 130 (education); €10 471 (accommodation and catering); and €10 113 (financial services and insurance). The corresponding average net wage was €5 709 (farming, forestry and fisheries); €4 967 (education and teaching); €8 273 (accommodation and catering); and €8 415 (financial services and insurance).

According to EUROSTAT data (table "earn_nt_net") for 2011, the average annual income of single workers without children (100% of the average worker) was €39 262.62 gross and €26 156.67 net of social contributions and tax deductions.

The Committee points out that, to ensure a decent standard of living under Article 4§1 of the Charter, remuneration must be above the minimum threshold set at 50% of the average net wage. This is the case when the minimum net wage is more than 60% of the average net wage. When the minimum net wage is between 50% and 60% of the average net wage, it is for the State Party to demonstrate that this wage is sufficient to guarantee a decent standard of living (Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1). The Committee establishes in the present case that the remuneration of tenured civil servants and contractual staff in the civil service is 70.59% and that of blue collar workers is 68,78% of the average net wage. It notes that these values are in conformity with Article 4§1 of the Charter.

The Committee notes, however, from Statistik Austria figures that the average net wage of blue collar workers in farming, forestry and fisheries; education and teaching; accommodation and catering; and financial services and insurance is far below the minimum threshold set at 50% of the average net wage. According to the reply to the request for additional information, this situation can mainly be attributed to the seasonal and part-time character of employment in those sectors of the economy, and to figures omitting other revenue such as tips or social or tax transfer payments. The Committee notes from the reply that, even if adjusted to full time, the blue collar workers' remuneration in those sectors is generally lower than in other sectors and the coverage by collective agreements is generally low in those sectors. The Committee also notes from the reply that, even if adjusted to full time, the average wage paid in those sectors is generally lower than that in other sectors, and the coverage by collective agreements is generally low in those sectors. Moreover, the reply does not establish any correlation between seasonal activities in various sectors and/or any social or tax transfer payments, to establish that wages paid to blue collar workers in those sectors of the private industry are sufficient to ensure a decent standard of living.

Conclusion

The Committee concludes that the situation in Austria is not in conformity with Article 4§1 of the Charter, on the ground that it has not been established that the lowest wage paid is sufficient to ensure a decent standard of living.

Article 8 - Right of employed women to protection of maternity – Conclusions 2015

Paragraph 1 - Maternity leave

Right to maternity leave

According to the report, the situation which the Committee previously found to be in conformity with Article 8§1 (Conclusions XIX-4, 2011) has not changed: the Maternity Protection Act provides for 16 weeks maternity leave, including a compulsory leave of eight weeks immediately prior to the presumed date of confinement and another compulsory leave of eight weeks following childbirth. The same rules apply to women employed in the public sector. The report furthermore indicates that comparable regulations exist for public employees of the Länder and for the agricultural and forestry sector through sections 96a to 108 of the Agricultural Labour Act.

Right to maternity benefits

The Committee previously noted that all women insured under the General Health Insurance Act may qualify for daily maternity benefits. It previously noted that women engaged in “marginal employment”, whose wages are below the threshold for compulsory insurance contributions are entitled to some maternity benefits if they are voluntarily insured (Conclusions XV-2, 2001). Furthermore, it notes from another source (Rille-Pfeiffer, C. and Dearing, H. (2014) ‘Austria country note’, in: P. Moss (ed.) International Review of Leave Policies and Research 2014 – available at Leavenetwork.org) that unemployed women are eligible for maternity payment if they have completed three months continuous employment or have been compulsorily health-insured for 12 months within the last three years.

Maternity benefits are paid during the whole duration of the maternity leave (16 weeks) and correspond to 100% of the average daily wage earned over the last 13 weeks (or 3 months) preceding the maternity leave. The same rules apply to employees of the public sector.

The Committee refers to its Statement of Interpretation on Article 8§1 (Conclusions 2015) and asks whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 8§1 of the Charter.

Article 11 - Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

Right to the highest possible standard of health

The Committee notes from WHO that life expectancy at birth in 2010 (average for both sexes) was 80.91 (the EU-27 average that same year was 79.0).

The death rate (deaths/1 000 population) was 9.2 in 2010, this indicator remaining quite stable during the reference period.

In its previous conclusion (Conclusions XIX-2) the Committee noted that deaths due to drug dependence and addiction were higher in Austria in comparison to other European countries, and asked what measures were being taken in this respect. In reply the report firstly states that caution is advisable when making comparisons among countries, on account of the differences with regard to both the manner of reporting and data sources used (i.e. level of completeness and idiosyncrasies of national statistics, case definitions).

The report underlines that prevention efforts in the field of drug addiction include measures aimed at reducing risk and raising awareness of high-risk patterns of substance use. Specific programmes exist which give priority to providing information and counselling services. Emergency aid, i.e. crisis intervention and observation, also plays a vital role. Hence, the Federal Government and the Laender continue giving high priority to establishing (and expanding) a qualified and diversified system of counselling and care facilities, covering all of Austria, as well as a prevention infrastructure that is aligned with the most recent research findings on drug-related mortalities.

Infant mortality increased slightly since the last reference period. In 2010 the rate was 3.9 per 1 000 live births (the EU-27 rate in 2010 was 4.1 per 1 000). The main causes of infant mortality are listed in the report but in German (the Committee asks future reports to present information in an official language).

In 2010 the rate of maternal mortality was 1.27 per 100 000 live births (a significant decrease from 4 deaths per 100 000 live births in 2005). The main causes of maternal mortality are listed in the report but also in German.

Right of access to health care

In its previous conclusion, the Committee noted that health services provided by the state and by local government were generally free of charge. It also noted that a system of co-payment of prescription charges was in place, and that access to health care was guaranteed equally to foreign nationals residing and working lawfully in Austria (Conclusions XIX-2).

The report mentions some legal amendments introduced during the reference period. As regards the periodic agreements between the Federal Government and the Laender governments on the organisation and funding of healthcare (on the basis of Article 15a of the Federal Constitutional Act, Bundes-Verfassungsgesetz, B-VG), the current agreement covers the period from 2008 until 2013. Hereunder, the contracting parties are committed to providing comprehensive medical care for all persons, regardless of age and income. In this context, the following principles apply: a funding system based on solidarity, equal and low-threshold access to services, and providing services in keeping with high levels of quality and efficiency. Through the agreement, the parties also jointly commit to the goal of defining healthcare processes based on patients' needs so as to ensure that prevention, diagnosis, treatment, rehabilitation and nursing care services are provided in an expedient order and by the proper body as well as within an appropriate period of time, according to assured quality standards and with the best possible outcome.

The report refers to the Structural Health Plan (ÖSG) which was initially agreed in 2006 as a framework plan for achieving an integrated healthcare structure. ÖSG 2010, the third, expanded version of the plan, encompassing a planning horizon up to 2020, represents a further major step towards comprehensive planning of the entire healthcare system.

In reply to a question by the Committee, the report states that the ÖSG does not specifically focus on access to healthcare, but rather contributes to ensuring that equal care of comparable quality is available to all patients. The specifications included in the ÖSG have to be

implemented in each of the Regional Health Care Structure Plans (RSGs) at the Laender level and subsequently adhered to by the respective service providers.

The report provides the information previously requested by the Committee on waiting lists and waiting time management in the healthcare system. It indicates that for elective surgery and invasive testing for diagnosis at hospitals, a waiting list management system has been established that is comprehensible and transparent for patients. The system is the result of an amendment to the Federal Hospitals and Sanatoriums Act (Bundesgesetz über Kranken- und Kuranstalten, KAKuG). Legislation at the Laender level must now require those bodies maintaining public and private hospitals in the non-profit sector that are affected, depending on the type of hospital and services provided there, to establish a transparent, anonymous waiting list system for elective operations and for cases of invasive testing for diagnosis, in the least for the specialities of ophthalmology and optometry, orthopaedics and orthopaedic surgery as well as neurosurgery, provided that the waiting time for the particular speciality exceeds four weeks. The report recalls that already prior to this amendment the previous KAG (Hospital Act) specified that public and private non-profit hospitals were required to provide their services exclusively in the interests of patients' well-being.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 11§1 of the Charter.

Paragraph 2 - Advisory and educational facilities

Education and awareness raising

The report recalls that the Fund for a Healthy Austria (Fonds Gesundes Österreich), a body responsible for implementing the Federal Act Governing Measures and Initiatives to Promote and Inform about Health (Bundesgesetz über Maßnahmen und Initiativen zur Gesundheitsförderung, -aufklärung und -information), continued to foster health promotion projects and primary preventive health care. The Fund also carried out successful awareness-raising campaigns under the motto "More awareness – better living". The campaigns in 2008 and 2009 focused on heart health. In a first phase, the aim was to sensitise the public on the issue, and in 2009 the focus was put on physical exercise.

An anti-alcohol and anti-tobacco information campaign by the Federal Ministry of Health targeting primary schools was conducted in 2011. The goal of the campaign was to make children aware, already at an early age between six and ten, of the effects of alcohol and tobacco consumption on health.

As regards health education at schools, the Committee noted in its previous conclusion (Conclusions 2009) that the Healthy School project (Gesunde Schule) had been launched in 2007 with the aim of fostering sustainable, high-quality health promotion in schools. The current report describes the main results obtained by this project.

The Committee notes that the Federal Ministry for Education, the Arts and Culture, the Federal Ministry of Health, and the main association of Austrian social security institutions continue to run a website (www.gesundeschule.at), which provides information related to the topic of health and school.

In reply to a question by the Committee, the report indicates that in the Austrian school system, health promotion is defined as a principle to be conveyed by teachers in all subjects. As to the actual inclusion of health topics in school curricula, at primary level, the subjects of general studies (Sachunterricht) and physical education include health promotion as an element. At lower secondary schools and general secondary schools (as well as institutions for nursery

school and social education), contents of health promotion represent a major element in many subjects: biology and environmental studies, home economics and nutrition, physical education, psychology, educational studies, health studies and handicrafts. Moreover, schools can define additional health topics through elective subjects and exercises. For example, an elective exercise called “promotion of interests and talents” (“Interessen- und Begabungsförderung”), offered at primary schools and lower secondary schools, also provides an opportunity for health promotion.

Counselling and screening

The report provides the requested information on what counselling and screening services are available for pregnant women and children. It states that a programme of examinations of mothers and their children has been in place since 1974. The prescribed examinations provide an opportunity for early recognition and timely treatment of any illness as well as for monitoring the child’s development. The programme requires five gynaecological and one internal medical examination as well as two sets of laboratory tests during pregnancy and five examinations of the child (such as an orthopaedic, an ENT and an eye examination) during the first 14 months. Undergoing these examinations is a prerequisite for being granted the full amount of childcare benefit after the child reaches the age of 21 months. Mothers may also take advantage of three ultrasound scans during pregnancy, two ultrasound scans of the infant’s hip and four additional examinations, until the child reaches the age of 62 months.

As regards health checks for children, the School Health Service (Schulgesundheitsdienst) takes specific measures towards protecting the health of pupils and students up to the secondary level, while the Health Service of the Austrian National Union of Students (ÖH) serves the same function for the post-secondary sector.

Section 66 of the School Education Act (Schulunterrichtsgesetz, SchUG) regulates healthcare at school. Section 66, para. 1 entrusts school physicians with the task of counselling teachers on any of students’ health issues that affect classroom teaching and school attendance and to carry out any examinations of students that are required for this purpose. Generally, every school in Austria has a school physician.

Section 66, para. 2 requires students to undertake a school medical examination once every school year, apart from any examination on school admission. Additional examinations are allowed with the consent of the student. School medical examinations are free of charge for students.

With regard to screening for the population at large, the report provides updated figures on the number of persons that benefited from the available free of charge checkups: in 2010, 854 413 persons participated in such precautionary checkups, showing an increasing trend.

In reply to a question by the Committee, the report indicates that screening for mental illness and psychological disorders is a controversial issue among experts and, according to the available findings, no evidence-based screening models exist.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 11§2 of the Charter.

Paragraph 3 - Prevention of diseases and accidents

Healthy environment

The Committee takes note of the different pieces of legislation and regulations adopted by Austria during the reference period for the reduction of environmental risks, in particular in the field of protection against ionising radiation and water management.

The report mentions that the Environmental Impact Assessment Act 2000 has become an effective tool of preventive environmental protection. Several amendments were made to this Act during the reference period, to implement two European Union Directives as well as with a view to simplifying assessment procedures. An amendment in 2009 established the Environmental Senate, which has become a generally recognised appellate body, with an increasing scope and quantity of activities.

Immunisation and epidemiological monitoring

As the report does not address this question, the Committee asks for up to date information on the national vaccination programme, as well as the vaccination coverage rate.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Austria is in conformity with Article 11§3 of the Charter.

Article 12 - Right to social security - Conclusions 2013

Paragraph 1 - Existence of a social security system

Risks covered, financing of benefits and personal coverage

The Committee notes that there have been no substantial changes as regards risks covered, financing of benefits and personal scope.

As regards medical care, according to the report, employed persons, self-employed persons, public service employees, the unemployed, pensioners and their family members are covered. Only self-employed persons in a few liberal professions (e.g. authors, lawyers and civil engineers) are not protected under the Austrian health insurance scheme. However, all persons residing in Austria have the right to voluntary insurance. According to the report, on average, 8.3 million persons (99.3% of the population) were protected by health insurance in 2010.

The report states that employed persons compulsorily insured under the General Social Insurance Act and unemployed persons are entitled to sick pay or maternity benefit. 88.2% of all contributing insurees were protected in 2007. Public service employees protected under the civil service welfare regulations are entitled to the continued payment of salary in the event of incapacity for work because of sickness or maternity.

Accident insurance covers 100% of all economically active population. As regards pension insurance, the statutory pension system provides old-age pensions, survivor's pensions as well as invalidity pensions. It covers all people in gainful employment. Under the General Pensions Act all gainfully employed persons are covered, including public service employees at federal level. This system is organised on a PAYG basis and is financed by insurance contributions. The Committee notes that in 2010 3.3 million employed persons, 415 000 self-employed persons and 4 million public service employees were covered. In 2011 the average of 1.2 million persons received old-age benefit, whereas 234 671 persons received equalisation supplement to reach the threshold value (equalisation supplement reference rate).

As regards unemployment benefit, the scope of persons eligible for unemployment insurance was expanded as of 1 January 2008 to include quasi-freelancers. Moreover, as of 1 January 2009 all persons whose income is equal to or exceeds the marginal earnings threshold, are also

included in unemployment insurance. In 2011 the average of 2.9 million persons received unemployment benefit.

Adequacy of the benefits

The Committee notes from Eurostat that in 2011 the at-risk-of-poverty threshold calculated on the basis of 50% of the median equivalised income stood at €888 (40% stood at €711).

Old age benefit

The Committee notes from the report that the average total pension in 2011 amounted to €959.80 whereas the maximum pension after 40 insurance years to €2 997.

According to the report in 2011 a standard pension rate for single pensioners, including equalisation supplement, where applicable, amounted to €793 in 2011. The Committee also notes from MISSOC that the monthly minimum pension, including the supplement amounted to €793.40 in 2011.

The Committee observes that the level of minimum old-age benefit falls between 40% and 50% of the Eurostat median equivalised income. In its previous conclusion the Committee also noted that the level of minimum pension benefit was at the borderline of the at-risk-of-poverty threshold.

In this connection, the Committee notes from the report on Article 12§3 that by virtue of the amendment Federal Law Gazette I No. 129/2008, a socially graded one-off payment is made to all recipients of an old-age pension having a total pension income of up to €2 800. With the amendment Federal Law Gazette I No. 1407/2009, 1 January 2010 a socially graded one-off payment will be made to all recipients of an old-age pension having a total pension income of up to €1 300. Besides, according to the report, a supplement for energy costs is paid to all recipients of the equalisation supplement. The Committee also notes from another source¹ and from the supplementary information provided by the Government that a single pensioners on minimum pension receives equalisation supplement 14 times a year. The Committee thus notes that the minimum level of pension benefit is adequate.

Unemployment benefit

In its previous conclusions (Conclusions XIX-2 and XVIII-1) the Committee held that the level of unemployment benefit was manifestly inadequate as long as the minimum level of this benefit fell below the at-risk-of-poverty threshold.

In this connection, the Committee notes from the report of the Governmental Committee (Governmental Committee, Report concerning Conclusions XIX-2, Doc. T-SG (2011)²final, §§57-61) that the Austrian system consists of two pillars which secure that noone is with a minimum income below the poverty line: the unemployment insurance system and the minimum income scheme guaranteeing an adequate minimum income. The second pillar of the social protection system takes effect and a supplement is paid in addition to the unemployment insurance benefit.

As regards the minimum level of unemployment benefit the Committee notes from the report that the income equal to or exceeding the marginal earnings threshold (€367.26 in 2012) is subject to insurance. Therefore, the unemployment benefit calculated on the basis of the marginal earnings, can only be less than the level of the marginal earnings. Therefore, it cannot be higher than the median equalised income. The Committee assumes that the persons whose income from gainful occupation does not exceed the marginal earning threshold are not in full-time employment. Therefore, they are not considered in the assessment of the situation under this provision. However, persons earning the minimum wage, such as, according to the previous

national report of Austria, a gross salary of €1 000 per month, are included in the Committee's assessment of the situation.

The representative of Austria indicated that by September 2010 Austria would introduce new means-tested minimum income for a single person.

The Committee notes from the report that pursuant to Federal Law Gazette I No. 63/2010, entered into force as of 1 September 2010 regarding the adaptation of the minimum income elements of unemployment assistance in the course of the introduction of the means-tested minimum income scheme, the Unemployment Insurance Act (Arbeitslosenversicherungsgesetz, ALVG) was amended to reflect the provisions governing unemployment assistance, which pertain to the amount of unemployment assistance granted.

The Committee notes from the supplementary information provided by the Government that the means tested minimum income scheme guarantees that there is a legal entitlement for a benefit at least as high as the equalisation supplement rate. The level of the equalisation supplement rate is identical to the minimum level of the means tested minimum income scheme. If the unemployment benefit calculated on the basis of 55% of the average net income of the employee is lower than the equalisation supplement rate, the unemployed person is entitled to receive additional benefits up to the amount of the equalisation supplement rate.

The Committee recalls that to assess whether the level of income-replacement benefit is adequate, it examines its minimum level. In its conclusion XVIII-1, the Committee noted that the maximum limits for cash benefits for subsistence correspond to the standards of the equalisation supplements under the pension insurance schemes. The Committee thus understands the minimum level of unemployment benefit will never fall below the equalisation supplement rate (e.g. €793 in 2011).

The Committee observes that the minimum level of unemployment benefit falls between 50% and 40% of the median equivalised income. As regards additional benefits paid, the Committee notes from the supplementary information provided by the Government that the flat-rate minimum benefit level already includes some housing support. However, if housing costs exceed 25% of the minimum benefit level, the Länder grant additional benefits to cover housing costs. The Committee considers that the level of unemployment benefit, together with housing aid is adequate.

As to whether there is a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefit, the Committee notes from the supplementary information provided by the Government that during the first 100 days of unemployment, placement in jobs other than those previously held is considered unreasonable if such placement makes it much more difficult for the job-seeker to find in the future a job in her/his previous occupation.

Sickness benefit and maternity benefit

As regards the minimum amounts of sickness and maternity benefits, the Committee notes from the supplementary information provided by the Government that there is no minimum level of benefit set by law as it depends on the earnings of the person concerned (50% of average earnings until the 42th day of incapacity to work, rising to 60% from the 43rd day). However, as in case of unemployment benefit, if the amount of the sickness or maternity benefit is lower than the amount of the minimum standard, fixed by the respective Land (which is equivalent to the equalisation supplement rate: €793), then the recipients are entitled to a top-up.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 12§1 of the Charter.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee notes that Austria has not ratified the European Code of Social Security. Therefore the Committee can not take in consideration other sources such as the resolutions of the Committee of Ministers on the compliance of the states bound by the European Code of Social Security and has to make its own assessment.

The Committee recalls that Article 12§2 obliges states to establish and maintain a social security system which is at least equal to that required for ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No. 102 relating to social security; six of the nine contingencies must be accepted although certain branches count for more than one part (medical care counting per two and old-age counting per three).

The Committee notes that Austria has accepted parts II, IV, V, VII and VIII of ILO Convention No. 102 on Minimum Standards of Social Security which are respectively: medical care benefits, unemployment benefits, old age benefits, family benefits and maternity benefits. As a result of the ratification of ILO Convention No. 128 (Austria has accepted Part III on old age benefits) and pursuant to Article 45 of that Convention, part V (old age benefits) of Convention No. 102 are no longer applicable.

The Committee recalls that in order to assess whether the social security system stands at a level at least equal to that necessary for the ratification of the Code, it has to be provided with a thorough information regarding the branches covered, the personal scope and the level of benefits offered.

Concerning the personal scope and the level of benefits the Committee refers first to its conclusion on Article 16 as concerns family benefits (Conclusions XIX-4). It notes that it found the situation to be in conformity with the Charter in this respect. The Committee also refers to its conclusions under Articles 12§1 and 12§3. The Committee also notes that the ILO Committee of Experts on the Application of Conventions and Recommendations decided to wait for information on Articles 43 (conditions for the entitlement to family benefit) and 65 (maximum limit of unemployment benefit) of the Convention No. 102 before assessing the situation (CEACR: Individual direct request concerning Social Security – Minimum Standards – Convention, 1952, No. 102, adopted in 2008 and published at the 98th ILC session, 2009). The Committee notes from the report that in 2011, nearly 80% of the economically active population was covered by one form or another of unemployment insurance. It also notes that according to MISSOC, basic unemployment benefit is 55% of the net daily wage and this exceeds the requirements of the Code of Social Security.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 12§2 of the Charter.

Paragraph 3 - Development of the social security system

The Committee takes note of the information contained in the report submitted by Austria.

The Committee takes note of the legislative amendments during the reference period.

As regards old-age benefits, in 2010 the reforms carried out aimed at an adaptation of different forms of early retirement and indexation of benefits. In the course of 2009-2012 several changes were made to the indexation method, depending on the level of pensions whereby the pensioners receiving relatively low pensions were adjusted according to the

consumer price index. Besides, the pensioners eligible to low benefits also received an additional one-time lump sum payment of up to a maximum of 4.2% of the monthly benefit in 2010. As part of this reform process, as of 2009 the group of caring family members whose contributions for old-age insurance are covered by the state has been expanded.

As regards amendments to the health insurance system, the Committee takes note of the amendments introduced in 2007 concerning the financing the health care system. It further notes amendments affecting the insurance of family members who receive payment in the form of a service check and are not quasi-freelancers, who have been included in the compulsory insurance system. Due to their marginal part-time employment, these individuals only have compulsory accident insurance, yet they have the option of taking out self-insurance under the health insurance and accident insurance schemes, for a minimal contribution of €53.10 monthly (as of 2012), thereby acquiring health insurance coverage and accumulating contribution months in the pension insurance scheme.

By availing themselves of this option, such individuals are eligible not only for benefits in kind (as is the case among those who are merely co-insured as family members) from their health insurance institution but are entitled to monetary benefits as well, such as a sick pay amounting to €4.50 per day, a set rate of maternity benefit amounting to €8.22 per day (as of 2012) on occurrence of the insured event of maternity.

The Committee further notes that any individual not related to the insured person can now obtain co-insurance if he/she has lived with the insured person in the same household for at least ten months and during this period has run the household free of charge.

The Committee also takes note of the measures taken in view of ensuring sustainable funding of the regional health insurance funds.

As regards the unemployment benefit, the Committee takes note of various amendments aimed at expanding the personal scope of this benefit. As of 1 January 2008 quasi-freelancers who earn an income above the marginal earning threshold are now required to be included in unemployment insurance. Besides, all persons working more than just on a marginal basis can be included in unemployment insurance as of 1 January 2009.

Moreover, persons who were not eligible for unemployment assistance, because the income of the individual's spouse or cohabiting/registered partner was taken into account and no hardship existed, but would otherwise meet the conditions for drawing unemployment assistance, were previously insured under the pension insurance scheme but not under health insurance. Health insurance is now provided to these individuals in addition to pension insurance coverage, and the health insurance institutions are reimbursed with the expenditure incurred in such cases.

The Committee considers that the legislative and policy measures taken during the reference period have contributed improving the system of social security.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 12§3 of the Charter.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

Types of benefits and eligibility criteria

The Committee notes the entry into force in December 2010 of Article 15a of the Federal Constitutional Act on the introduction of means-tested minimum income, which harmonised the acts governing social assistance in the various Länder as regards the minimum standards and eligibility criteria. The corresponding Acts at Länder level entered into force between September 2010 and October 2011.

With the introduction of the means-tested minimum income, the concept of social assistance has been reviewed and it comprises now two major types of benefits at Länder level: open social assistance (provided to private households) and residential social assistance (provided to individuals needing nursing care in residential homes, which they could not afford otherwise). The report provides details on the benefits system, its funding and the procedure applied in the different Länder.

According to the report, the Länder minimum income laws stipulate a legal entitlement to benefits as defined by Article 13§1 of the Charter for those in need or in emergency situations. Eligibility to means-tested minimum income can only arise if the income and realisable assets of the person are not sufficient to cover subsistence. In addition, those seeking assistance should be willing, as far as compatible with their physical condition, age and family environment, to perform reasonable work.

Additional social assistance benefits (in pecuniary form, in kind or as personal support) beyond those needed to secure subsistence can also be granted in case of special life situations, putting the person at social risk.

Minimum standard amounts covering all regular needs are applied as review criteria for deciding whether a person has adequate resources to cover the regular necessities of life. Applicants whose income is below this minimum standard amount will be granted benefits in the framework of the means-tested minimum income scheme to cover subsistence (75% of the minimum standard amount) and the need for accommodation (25% of the minimum standard amount). The minimum standard amounts are adjusted annually by the same percentage as the compensation supplement reference rate of pension insurance and are due 12 times a year. Benefits are not subject to taxation and are granted for as long as the need subsists (compliance with the eligibility requirements is periodically assessed). Recovery of benefits is subject to certain criteria, including that it should not cause a situation of need.

Given that Austria has not accepted Article 23 of the Charter, (the right of elderly persons to social protection), the Committee assesses the level of non-contributory pension paid to a single elderly person without resources under this provision. According to "Social Protection in Austria, 2012" (published by the Ministry of Labour, Social Affairs and Consumer Protection), the main systems for the provision of retirement income are based on contributory pension schemes. In case of indigence, the law provides however for an equalisation supplement to reach a threshold value (equalisation supplement reference rate – Ausgleichszulagenrichtsatz), which was set at €793.40 per month for single persons in 2011, but was paid 14 times a year. The equalisation supplement is a non-contributory special benefit granted only to persons having their habitual residence in Austria. Its value corresponds to roughly 60% of the median per capita net income (in 2011, on average, it was €282). Furthermore, elderly persons having reached the statutory retirement age (60 years for women and 65 years for men) without resources and not qualifying for the contributory pension schemes are entitled to the means-tested minimum income benefits and are exempted from the requirement to be willing to work.

Level of benefits

To assess the level of social assistance during the reference period, the Committee takes note of the following information:

- Basic benefit: according to MISSOC, the minimum standards (Mindeststandards) were in 2011 €752.94 for a single person or a single parent (€773 for 2012) and €1 192 for a couple (€1 160 for 2012). The minimum standard for minor children was at least €135.53.
- Additional benefits: a 25% share of housing costs is included in the minimum standards. If the actual housing costs exceed this amount, additional benefits (e.g. housing or rent allowance) can be granted. The heating costs are integrated in the minimum standards and in some Länder covered by an additional heating allowance. The report indicates in this respect that any benefits beyond those that are required to cover special and additional needs (e.g. accommodation) can be granted by the Länder as before. In order to assess whether the level of social assistance is adequate, the Committee needs to know whether the supplementary benefits provided to a single person (including elderly single persons), combined with the minimum standard benefit, are sufficient to bring the person's income to a level compatible with the poverty threshold value. It asks therefore the next report to provide such information.
- Medical assistance: people without health insurance who receive means-tested minimum income are registered for statutory health insurance by the Länder and are entitled to the same benefits as the recipients of the compensation supplement.
- Poverty threshold (defined as 50% of median equivalised income and calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €888 per month in 2011. Roughly 138 000 persons claimed means-tested minimum income benefits in December 2011.

The Committee observes that the level of basic benefit falls between 40% and 50% of the Eurostat median equivalised income. It asks the next report to indicate whether the combined value of basic and additional benefits reaches the poverty threshold level (calculated as indicated above). Pending receipt of this information, it reserves its position on this issue.

Right of appeal and legal aid

The appeal (Regress) provisions of the different Länder, which were already in conformity with the Charter, have been harmonised.

Personal scope

The above-mentioned official publication Social Protection in Austria (2012) indicates that the entitlement to the benefit is linked to the right of permanent residence in Austria, in order to prevent social tourism. Relatives of Austrian (nuclear family), EEA nationals and persons with residence and work permits living in Austria for five or more years, as well as recognised refugees under the Geneva Convention and persons granted subsidiary protection status are entitled to means-tested minimum income benefits.

The Committee recalls that, under Article 13§1, equality of treatment of foreign nationals legally residents in the state concerned should be guaranteed in matters such as access to assistance. This implies that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners and that additional conditions such as length of residence, or conditions which are harder for foreigners to meet may not be imposed on them. In view thereof, the Committee considers that the situation in Austria is not in conformity with Article 13§1 on grounds that the granting of social assistance benefits to foreign nationals of other States Parties, other than EU and EEA nationals, legally residing in Austria, is subject to an excessive length of residence condition.

Conclusion

The Committee concludes that the situation in Austria is not in conformity with Article 13§1 of the Charter on the ground that the granting of social assistance benefits to foreign nationals of other States Parties, other than EU and EEA nationals, legally residing in Austria, is subject to an excessive length of residence condition.

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee takes note of the information contained in the report submitted by Austria.

It notes that the situation which it has previously found to be in conformity with the 1961 Charter has not changed. It asks nevertheless the next report to provide updated information confirming that no restrictions apply, in law or in practice, to the civil and political rights of the beneficiaries of social and medical assistance.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 13§2 of the Charter.

Paragraph 3 - Prevention, abolition or alleviation of need

The Committee takes note of the information contained in the report submitted by Austria, as well as of the additional information provided in an addendum to the report.

The Committee notes from the additional information provided that the right to social and medical assistance (cash benefits and health care services) involves the obligation for the social assistance authorities to advise and guide people seeking help in accordance with the situation and to the extent necessary to achieve the goals of social assistance, and a right of appeal for any violation of such obligations.

The additional information explains that the quality and quantity of the services, as well as the way they are organised, differs from one Land to another. Territorial authorities run some of them, while others are outsourced to non-profit organisations, associations or private providers. The Committee takes note of the comprehensive information provided on the services available in each Land to people without resources or at risk of becoming so and notes that these services are also available to nationals of other States Parties legally resident in Austria.

Conclusion

The Committee concludes that the situation in Austria is in conformity with Article 13§3 of the Charter.

Article 14 - Right to benefit from social services – Conclusions 2013

Paragraph 1 - Promotion or provision of social services

Organisation of the social services

Social services are the responsibility of the nine Länder. The Committee notes that the report contains information on the situations in just six Länder, representing only about 70% of the population and 54% of national territory. It asks for the next report to provide information on the situation regarding social services in each Land. The Committee underlines that if the necessary information is not provided in the next report there will be nothing to show that the situation is in conformity with the Charter.

Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population, which distinguishes the right guaranteed by Article 14 from the various articles of the Charter which require States to provide social welfare services with a narrowly specialised objective (Statement of interpretation on Article 14§1, Conclusions 2009, General introduction, §11). The Committee notes that the report often describes social services with specialised objectives. Pointing out that many of these services come under other provisions of the Charter accepted by Austria, it asks that the information should henceforth be given in the reports submitted in respect of these provisions (in particular Articles 7§10, 16, 17 and 27).

The Committee refers to the report for a detailed description of the activities implemented by the social services of the Länder.

Social services are to a large extent provided by private welfare organisations funded by the Länder. For instance, private welfare organisations operate 193 welfare centres (Sozialstationen) in Lower Austria and, in Upper Austria, mobile social services are delivered almost exclusively by private providers. Conversely, in some Länder, such as Upper Austria, institutional facilities (such as retirement homes) are mostly run directly by public providers (in particular municipalities).

Effective and equal access

The Committee understands from the report that, in Burgenland, in the event of a dispute relating to social services provision, the only possible remedy is to apply to the Land government or the Ombudsman's office (Volksanwaltschaft). It requests confirmation that no appeal to the courts is possible. It also notes that in the Land of Salzburg, unlike the situation in Upper Austria and Vorarlberg, no appeal can be lodged with the courts in the event of a breach of an individuals' right of access to the advice and counselling provided by the public social assistance services, as this is not subject to an administrative decision. The Committee recalls that remedies shall be available to clients of social services in terms of complaints and a right to appeal to an independent body in urgent cases of discrimination and violation against human dignity (see Conclusions 2005, Bulgaria). It notes that this is not the case in the Land of Salzburg which is not in conformity with Article 14§1. At a more general level, the Committee asks, in respect of all the Länder, whether persons wishing to complain about the manner in which their right to benefit from social welfare services has been implemented have a right to a remedy before an independent authority, whether or not judicial in nature.

Social services can be subject to the payment of fees, depending on the individual's personal situation. The remainder is paid by the public authorities. In the Land of Salzburg, for example, the amount to be paid by the beneficiary is determined by the administrative authority, and the rest is contributed by the Land and the individual municipalities on a 50/50 basis. The Committee asks whether, in all the Länder, social services are provided free of charge to those without adequate resources (within the meaning of Article 13§1).

The Committee understands from the report that, at least as regards the Land of Vienna, funding for certain social services is granted solely to Austrian citizens or persons with "equivalent" status who have their place of abode in the Land. It asks that the next report indicate, for each Land, whether nationals of other States Parties to the Charter lawfully resident or regularly working in Austria have the same entitlement regarding access to social services as Austrian citizens, and if not what restrictions are applied.

Personal data gathered by the authorities in charge of social services are protected under the Federal Data Protection Act of 2000 (Datenschutzgesetz, DSG) and in some cases by specific laws at Land level.

Quality of services

Supervision of public and private service providers is carried out in the same way.

In Vorarlberg, supervision of social services provision is exercised by the Land government. The same applies in Burgenland, where a time-limit is allowed for remedying any shortcomings revealed by the inspections. In the event of imminent danger, the Land government takes the measures required to protect the persons concerned and bills the responsible institution for the cost. In the Land of Salzburg the authorities also organise inspection visits to monitor the quality of social services.

In Upper Austria agreements are concluded between the public authorities and private service providers covering the services to be rendered, the qualifications required of the staff concerned (based on the requirements of the Social Care Professions Act – Oö. Sozialberufegesetz) and the fees to be paid for the services provided. The same applies in the Land of Salzburg.

Service provision is neighbourhood-focused. In Upper Austria, for example, decentralised social counselling points have been set up all over the Land taking into account regional needs, particularly with regard to the age structure of the population, transport infrastructure and local living conditions.

The annual net expenditure of the Länder on social assistance totalled €2.31 billions. 58% of this total was allocated to funding accommodation for the elderly. The cost of mobile social welfare services represented 16% of the total, while standard-rate benefits, financial assistance and rent assistance accounted for 13% and illness assistance 4%. The remainder includes expenditure on assistance for refugees.

Conclusion

The Committee concludes that the situation in Austria is not in conformity with Article 14§1 of the Charter on the ground that clients of social services have not a right of appeal to an independent body in urgent cases of discrimination and violation against human dignity in all the Länder.

Paragraph 2 - Public participation in the establishment and maintenance of social services

The Committee takes note of the information contained in the report submitted by Austria and in the supplementary information provided by the Government.

It notes that, according to the report, there have been no changes to the situation which it has previously considered to be in conformity with the Charter. The Committee therefore refers to its previous conclusion (Conclusions XIX-2) for a description of the situation. Since the social services are mostly provided by private-sector organisations, the Committee also refers to its conclusion with regard to Article 14§1.

The Government recognises that a number of social services can only be properly implemented with the help of private organisations. This is the case for example with the meals-on-wheels service offered by several of the Länder. To organise this service, the social assistance bodies and the private organisations entered into co-operation agreements to the effect that the former would provide the funding and the latter would provide the service in keeping with predefined principles. More generally, agreements between private social service providers and the authorities specify points such as the type of service to be provided, the quality standards to be observed, the share of the costs to be paid by the beneficiaries and the qualifications required of staff. In the event of a shortcoming on the part of the private service provider, the agreement may be suspended if the service provider fails to rectify the problems reported.

The main method used to help voluntary organisations to set up social services and make them work is to grant them public subsidies. The Committee takes note of the Federal Long-Term Care Fund Act (Pflegefondsgesetz, PFG), which came into force on 30 July 2011. This federal act has enabled the Laender to safeguard the establishment and expansion of service provision between 2011 and 2014. The total amount of funds available under this law is €685 million. The extension of the fund beyond 2014 is currently being discussed.

Since the supplementary information provided by the Government does not address this question, the Committee asks again whether and how the Government ensures that services managed by the private sector are accessible on an equal footing to all without discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The Committee refers to its conclusion under Article 14§1 with regard to supervision of the activities of private-sector social service providers. It emphasises that the Governments of the Laender supervise activities conducted by private service providers, either directly or through delegated powers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Austria is in conformity with Article 14§2 of the Charter.

Article 15 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Conclusions 2012

Paragraph 1 - Education and training for persons with disabilities

The Committee takes note of the information contained in the report submitted by Austria.

Austria signed the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol in March 2007 and ratified in September 2008. The first comprehensive State report on the implementation of the UNCRPD in Austria was adopted by the federal government on 5 October 2010.

Definition of disability

The Committee acknowledges from the report and other sources that in Austria, several fields of law include definitions of the term "disability". These definitions are clearly shaped by the legal context they relate to. Notwithstanding the differences, the definitions share a common element: the definitions are all based on a medical understanding of disability. The definitions draw attention to deficiency and abnormality, the lack or loss of ability to conform with what is considered normal, and on measures to overcome those deficiencies or burdens.

The report further states that in September 2010 a new regulation determining the criteria for assessment of disability degree (for the purposes of the Disability Employment Act, Federal Disability Act and Family Allowance Act) entered into force. The new regulation aims to bring the methodology in line with modern standards. The main changes involve: assessment based on functional impairment instead of diagnosis; significantly improved assessment of psychological disorders and sensory impairments; adaptation of the assessment of minor physical disabilities (e.g. fallen arches, splayfoot) to the needs of the contemporary labour market, modern treatment options and available technical aids. According to the report, as of 1 June 2011, a total of 30,000 assessments were performed and disabilities classified using this new instrument. The instrument has proved effective: to date no complaints have been lodged by either the individuals assessed, those using the instrument or by relevant stakeholders.

Vocational training

Integration in vocational schools was established in 2003 when the Vocational Training Act was modified. Vocational school students with learning difficulties may either expand their first vocational school year over two years, or finish their training with a partial qualification.

The Austrian report to the UNCRPD states that given that obtaining access to initial vocational training is particularly challenging for young people with disabilities and special educational needs, integrated vocational training (IBA) was created in 2003, which provides for the extension of the duration of training by one or two years and/or makes it possible to obtain a partial qualification in a trade. IBA is accompanied by vocational training assistance. This ensures a reaction which is flexible and suited to the needs and situation of the respective person. On 31 December 2009 there were 4,683 young people in integrated vocational training, of whom 3,305 were in extended training and 1,378 were taking partial qualifications.

The report provides that pupils with physical and sensory disabilities are principally integrated into all vocational technical, commercial, business, social, tourism and arts schools provided that they can fulfil the requirements of the curriculum, although a certain amount of leeway is granted here by the law. In order to ensure continuous support for children with physical or sensory disabilities in vocational secondary schools and the upper years of general secondary schools (AHS), special legal provisions have been established which enable appropriate deviations from the curriculum and extended special instruction.

The Committee acknowledges from the report that after the 9th school year there is an option of integrated vocational training (IBA), a form of initial vocational training which corresponds to the needs for suitable training of young people with disabilities or disadvantages and to the requirements of companies for suitably qualified young workers. At the end of July 2010 there were 4,750 young people in integrated vocational training, and more than three quarters of the companies involved envisage continuing to employ them.

According to ANED, however, only a small number of young people with SEN or disabilities manage a direct transition from compulsory school to vocational education or training. The others move on to vocational preparation measures in the segregative sector, provide unskilled labour on the general labour market, or change from school directly to a sheltered workshop or occupational therapy. Furthermore, while, due to a flexibilisation of requirements, the integrative vocational training measure (IBA) enables a considerable number of young people with SEN or disabilities to attend a regular vocational school (berufsbildende Schule), parents' associations and evaluation results indicate that this is not at all the case for all young people in question and that the model fails to address a substantial share of the target group. Moreover, the training standards for integrative vocational training have not yet been harmonised nationwide and the vocational schools still frequently lack adequate infrastructure in terms of staff and material for teaching young people with certain disabilities.

The ANED report also states that Austria currently does not provide a legal basis for the inclusion of students with SEN or disabilities in the field of technical and vocational schools and colleges. The practice of inclusive education and training remains almost entirely limited to the field of compulsory education and integrative vocational training in the dual system. On the upper secondary level, in secondary intermediate and higher schools, only sporadic pilot projects exist. Furthermore, according to ANED, there is lack of studies on the evidence of outcomes and progress towards inclusion in education and training for young people with SEN or disabilities after compulsory schooling.

The Committee emphasises that education and training are the essential foundation to obtain a position in the open labour market and to be able to lead a self-determined life. Young disabled people with an education below the upper secondary level will be per se subject to various disadvantages on the employment market. The Committee recalls that States must take

measures in order to enable integration and guarantee that both mainstream and special schools ensure adequate teaching. Furthermore, States must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems.

The Committee finds that the information at its disposal do not allow adequate assessment of the situation. It asks the next report to provide comprehensive information on its policy concerning vocational training of persons with disabilities and progress achieved during the reference period, including relevant statistics, and exhaustive answers to the Committee's questions. If this information is not provided, there will be nothing to show that the situation is in conformity with Article 15§1 of the Charter.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Austria under the 1961 Charter. The Government consequently has an obligation to provide the requested information in the next report on this provision.

Paragraph 2 - Employment of persons with disabilities

Employment of persons with disabilities

The Committee refers to its conclusion under Article 15§1 as regard the description of different concepts of disability in Austrian law.

The Committee recalls that in its previous conclusion it requested the next report to provide reliable statistics including the total number of persons with disabilities as well as that of those in working age; the total number of persons with disabilities employed on the ordinary market as well as that of those employed in sheltered employment; the rate of progression of persons with disabilities from sheltered employment to the ordinary labour market.

According to the report, providing clear statistics is difficult, as privacy laws allow to collect data on disability only if a legal basis exist, consequently accurate figures are available only for the various groups of persons with disabilities for the purposes of different laws. However, one person can belong simultaneously to more than one category, therefore the sum of these categories does not actually represent the total number of persons with disabilities.

Likewise, statistical data about the employment and support situation of people with disabilities with a significant explanatory power in Austria is hard to obtain, as most of the administrative authorities have different definitions of disability depending on the regulations of access to the diverse forms of services or benefits they are managing.

The Committee takes note of the data provided in the report with regard to different groups of persons with disabilities. It notes, for example, that in 2010 there were 94,400 eligible persons with disabilities pursuant to the Disability Employment Act, 35,664 registered job seekers with disabilities (AMS definition, annual average), 209,431 beneficiaries of a pension insurance: invalidity pensions excluding public service, 7,250 beneficiaries of an accident insurance: disability pensions including public service, 365,477 recipients of long-term care benefits pursuant to the Federal Long-Term Care Act, 74,330 recipients of long-term care benefits pursuant to a Länder long-term care acts.

As far as the situation on the labour market is concerned, the report states that as of 1 December 2010, 51,523 persons referred to as eligible persons with disabilities held jobs with employers obliged to employ persons with disabilities under Disability Employment Act, 8,302 eligible persons with disabilities held jobs with employers who were not under such obligation,

and 3,761 eligible persons with disabilities were self-employed. Given that the number of eligible persons with disabilities on 1 December 2010 equalled 95,430, approximately 67% of them (63,586) were employed. As regards the registered persons with health-related placement impediments (AMS definition), according to the report, on average one in four persons finds employment.

The Committee recalls that where it is known that a certain category of persons is, or might be, discriminated against, it is the national authorities' duty to collect data to assess the extent of the problem (*European Roma Rights Centre v. Greece*, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of rational policy (*European Roma Rights Centre v. Italy*, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23). Given the confusion as regards statistical data concerning persons with disabilities, the Committee asks how the Government ensures implementation and monitoring of relevant law and policies under Article 15§2.

The Committee considers that due to lack of relevant and unambiguous figures it cannot adequately assess the situation.

Anti-discrimination legislation

The Committee refers to its conclusion under Article 15§1 and to its previous conclusion (Conclusions XIX-1) for the description of the anti-discrimination legal framework.

The requirement of reasonable accommodation for persons with a disability is provided in the Disability Employment Act, as well as a possibility to enforce this right in court. Nevertheless, due to the fact that the obligatory prior low-threshold conciliation procedure has a high settlement rate, there are as yet no court rulings concerning this issue. The report further states that any potential impact of the reasonable accommodation obligation on employment cannot be determined, due to the "statistical interference resulting from the generally deteriorated situation on the labour market".

The Committee notes, however, from another source, that according to law, the employer is not obliged to create a "new" post in the company, specifically tailored to meet the needs of the employee and if dismissal seems necessary to prevent the company's bankruptcy or other grave disturbances, the employee's interests are usually outweighed by the interests of the employer. In this connection, the Committee notes from the same source an example of relevant case-law. In a case decided by the Administrative High Court on 17 December 2007 (No. 2006/12/0223), the employment of a disabled person who became unable to fulfil the duties of his post was discontinued and the court found no discrimination, considering that redeployment to another post was not possible, because alternative suitable positions were already held by other (able bodied) employees.

The Committee reiterates its request for information about the implementation of this requirement in practice (for example, statistics concerning the number of request for reasonable accommodation, the number of request granted and refused, the amount of state contribution to the costs incurred).

Measures to encourage the employment of persons with disabilities

The Committee takes note of different measures specifically promoting employment of disabled people, implemented by the Federal Social Welfare Office and by the Public Employment Service (AMS). The main provisions and support services include wage subsidies for employers, mobility subsidies, work place adaptation, supported employment, clearing (transition from school to work), qualification projects, integrated vocational training, employment projects and personal assistance at the workplace.

According to the report, 60,217 measures towards integration in the labour market were granted in 2010. For example, 7,554 persons benefited from clearing (5.47% more than in 2009), 4,291 from vocational training assistance (9.10% increase compared to 2009), 12,106 from supported employment and 664 from job coaching.

As for the measures organised by the AMS, 5,600 persons with disabilities received integration subsidies in 2010 (there was an overall decrease of 9% compared to 2007). 5,474 persons with disabilities were newly included in skills training measures, which represents an increase of 12.3% over 2007. An additional 26,315 individuals with other health related placement impediments were able to participate in the basic and advanced training measures (7.9% increase). Of the total of 31,660 individuals participating in qualification schemes, 73%, participated in measures commissioned by the AMS through contribution towards staff and materials expenses. People with health related impairments can attend specialised courses offered in the external education market, with possibility of benefiting from contribution towards fees – 4,506 persons choose this option in 2010.

The report provides that at present about 1,500 positions are available in integrative (sheltered) companies for persons with disabilities. These employment contracts correspond to those for regular employees (wages are regulated by collective agreements, they are fully covered by social security and enjoy trade union rights). Roughly 2% of disabled persons employed with integrative companies succeed each year in transferring to the open labour market.

The Committee notes from another source that generally, sheltered employment is possible under the requirement that the person with disability is still able to achieve half the productivity of a regular worker (Normalarbeitskraft). In this case the employment is treated in the same way as any other employment, so the protection against discrimination will apply to those contracts and working conditions. Below the above mentioned level of ability (half productivity) people with disabilities will not be treated as employees, but will live on social security and their activities will not constitute employment. Nevertheless, they are covered by the protection against discrimination (with the exception of Lower Austria) as the protection for the disability ground is also reaching into the area of social security and supply with goods and services.

According to other sources, if a company employs a person with a disability they can receive a benefit for covering wages and social security payments. This is considered an incentive for businesses to employ unemployed people with disabilities. Under the Employment of People with Disabilities Act all employers with at least 25 employees are obliged to employ at least one person with disabilities for each group of 25 employees (in public and private sector). The duty only relates to disabled people with the degree of disability of at least 50%. In 2009, only 22.3% of employers fulfilled this obligation.

The Committee asks the next report to clarify what kind of sheltered/supported employment exists in Austria and under what legislation, how many people benefit from it, in what way it helps persons with disabilities to find employment in the open labour market. It also asks whether and how the effectiveness of all the measures available are monitored and the relevant data analysed and followed-up in order to adjust and improve the employment policy for persons with disabilities.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

The Committee considers that the absence of the information required amounts to a breach of the reporting obligation entered into by Austria under the 1961 Charter. The Government

consequently has an obligation to provide the requested information in the next report on this provision.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2015

Economic protection of families

Family benefits

According to Eurostat data, the monthly median equivalised income in 2013 was €1,839. The report indicates that the following amounts of child benefits are applicable per child and month (status as of 1 January 2013):

- 0-3 years: €105.40;
- 3-9 years: €112.70;
- 10-18 years: €130.90;
- 19 years and older: €152.70.

In addition, the following amounts are added to the total family allowance per month:

- with two children €6.40 per child;
- with three children €15.94 per child;
- with four children €24.45 per child; etc.

Child benefits represented a percentage of that income as follows: 5.7% for the first child 0-3 years of age; 6.1% for the first child 3-9 years of age; 7.1% for the first child 10-18 years of age; 8.3% for the first child 19 years and older, etc. The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of the monthly median equivalised income. On the basis of the figures indicated, the Committee considers that the amount of benefits is compatible with the Charter.

Vulnerable families

Despite the Committee's request, the report provides no information on the steps taken to ensure that vulnerable families, such as Roma families receive financial protection. It therefore reiterates its question. Should the next report not provide the requested information there will be nothing to show that the situation is in conformity with the Charter in this respect.

Equal treatment of foreign nationals and stateless persons with regard to family benefits

The report stresses that there are no minimum residence requirements applied to foreign nationals, who thus enjoy equal treatment with regard to family benefits.

The Committee asks the next report to indicate whether stateless persons and refugees are treated equally with regard to family benefits.

Conclusion

The Committee concludes that the situation in Austria is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of the other States Parties with regard to the payment of housing subsidies is not ensured (nationality, length of residence requirements).

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment – Conclusions 2015

Paragraph 1 - Participation in working life

Employment, vocational guidance and training

The Committee recalls that the aim of Article 27 is to promote the reconciliation of professional and family responsibilities.

Article 27 requires States Parties to take specific measures in the field of vocational guidance and training, so as to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities (Conclusions 2007, Armenia).

According to the report, an active and supportive attitude as well as low-threshold information offers are important to enable women and men to return to the labour market as quickly as possible after a family-related interruption. In addition to support programmes and grants provided by the Public Employment Service, persons re-entering the labour market receive special support through the 'return-to work- initiative. Early information, individual counselling and specific training programmes are offered to enable persons re-entering the labour market to plan their career objective and be aware of the consequences of the decision whether and to what extent they resume work.

Returnees are advised by specially trained consultants and special information events take place to prepare them for re-entering the labour market. The framework for programmes offered to returnees is defined by nationwide minimum standards. "Re-entry with a future" is tailored to women re-entering the labour market after their careers have been interrupted for family-related reasons. The focus is placed on the reconciliation of work and family life. The primary objective of women's counselling centres is to provide support in organising childcare and to resolve other family-related issues.

The Committee notes that in 2013 39,694 women and 4,032 men re-entering the labour market were supported.

Conditions of employment, social security

The Committee recalls that implementing Article 27§1 may also require the adoption of measures concerning length and organisation of working time. Workers with family responsibilities should be allowed to work part time or to return to full employment (Conclusions 2005, Estonia). These measures cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).

According to the report, pursuant to Section 14 of the Employment Contract Law Adaptation Act (Federal Law Gazette No 459/1993) workers with duties to provide assistance to family members may opt to negotiate a reduction of standard weekly working time with their employers. They have the right to return to the original standard working time after their care duties have ended. Sections 14a et seq. AVRAG stipulate that employees may take full-time or part-time family hospice leave. Section 16 of the Paid Annual Leave Act (Federal Law Gazette No. 390/1976) sets forth the employees' entitlement to paid time off for caring for a close relative living in the same household who has fallen ill.

In the event that salaried employees (white-collar) need to be absent from work due to family responsibilities, they are also entitled to paid time off under the provisions of Section 8, para 3 of the Salaried Employees Act (Federal Law Gazette No. 292/1921). Blue-collar workers are entitled to such paid time off under the provisions of Section 1154b of the General Civil Code.

The Committee recalls that Article 27§1 requires States Parties to take account of the needs of workers with family responsibilities in terms of social security. The Workers should be entitled to social security benefits under the different schemes, in particular health care, during periods of parental/childcare leave.

According to the report, social insurance protection remains in effect throughout this period, with the employer paying all contributions.

The Committee also wishes to know to what extent periods of leave due to family responsibilities are taken into account for determining the right to pension and for calculating the amount of pension. It recalls in this respect that crediting of periods of childcare leave in pension schemes should be secured equally to men and women.

Child day care services and other childcare arrangements

The Committee recalls that under Article 27§1 affordable, good quality childcare facilities should be made available. Child day care may be arranged in many ways, for example in crèches, kindergartens, family day care or as a form of pre-school. Moreover, day care may be private or public. In all cases, the Committee examines if there is a sufficient provision of childcare places, and whether services are affordable and of high standard (quality being assessed on the basis of the number of children under the age of six covered, staff to child ratios, staff qualifications, suitability of the premises and the amount of the financial contribution parents are asked to make).

According to the report, in 2011-2014 the Federal Government provided a total of € 55 million in funding for childcare facilities, which were co-financed by the competent Länder with the same amount. Grants and subsidies of € 15 million were available per year in 2012-2014.

The expansion initiative (Agreement pursuant to Article 15a of the Federal Constitutional Law on the expansion of institutional childcare facilities) focused on expanding childcare facilities for children under three, promoting childminder services and extending opening hours throughout the year. In 2013 further expansion has been confirmed by the Council of Ministers both in terms of quantity and quality.

The Committee asks that the next report contain a detailed list of the number of places in crèches and other childcare institutions broken down by age bracket and the number of rejected applications.

The Committee asks what are the requirements regarding qualifications of staff working in childcare facilities. It also asks how qualifications of personnel and the quality of child care services in general are monitored.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Austria is in conformity with Article 27§1 of the Charter.

3. ILO Conventions

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) - Austria (Ratification: 1969)

Direct Request (CEACR) - adopted 2012, published 102nd ILC session (2013)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Article 13 of the Convention. Rehabilitation measures. The Government indicates in its report that access to disability pension is granted only if it is impossible to restore ability to work through rehabilitation measures, making rehabilitation compulsory. As a result of changes made to vocational protection in connection with disability pension, access to such pension was made more difficult in the case of skilled workers and was facilitated in the case of unskilled workers through the hardship provision, which will expire in 2015. ***The Committee asks the Government to supply the legal texts concerning the above amendments and to provide further information, including statistics, on concrete results achieved in practice, indicating, inter alia, the number of vocational rehabilitation measures before and after the reform, the number of rehabilitated disabled persons who found employment, the number of suspension of benefits due to the beneficiary not undergoing rehabilitation process as well as any measures envisaged following the expiry of the hardship provision in 2015.***

Article 17(a) in conjunction with Article 26. Level of old age benefit. According to the calculations provided in the report, the replacement rate of the old-age pension served to the standard beneficiary (skilled manual male employee determined under Article 26(6)(c) of the Convention) after 30 years of insurance decreased from 46.2 per cent in 2002 to 43.12 per cent in 2011. The Government indicates that before the 2003 pension reform, each year of pension coverage was assigned a specific incremental rate of 2 per cent whereas following the reform the new rate is 1.78 per cent of the assessment base for each year of coverage. The assessment basis is now calculated using the average annual income for the reference period by means of revaluation coefficients whereas, until 2004, those coefficients had been specified by the Federal Ministry of Labour, Social Affairs and Consumer Protection largely in parallel to consumer price inflation. Also, the period of contribution for entitlement to the maximum replacement rate, i.e. 80 per cent of the pension assessment basis, is now obtained after 45 years as opposed to 40 years previously. These reforms aimed at stabilizing the development of spending in relation to pensions by restraining the rise of costs in the statutory pension system and through structural changes enabling workers to remain economically active longer while preserving social symmetry and enhancing fairness with regard to contributions. ***In view of the long-term trend towards the reduction of the replacement rate of old-age pensions in Austria, the Committee asks the Government to specify whether actuarial projections have been made to determine the future development of this trend, particularly with a view to ensuring that the minimum replacement rates prescribed by the Convention continue to be observed.***

Article 29(1). Adjustment of benefits. The Committee notes the extensive information, including statistics, provided by the Government in reply to its previous comments. It notes, in particular,

that during the reporting period, various discretionary decisions were taken regarding the adjustment of pensions due to the transition from net wage adjustment to an adjustment rule based on the development of consumer prices, taking into account the interests of the insured as well as poverty reduction. In the period 2011–12, the maximum pension benefiting from adjustment measures was raised substantially. ***The Committee asks the Government to continue supplying the statistical data on the evolution of the consumer price index (VPI) in comparison with the standard wage index (TLI), as well as the discretionary adjustment measures aimed at poverty reduction among persons in old age.***

Comments made by the Austrian Federal Chamber of Labour (BAK). ***Noting the comments made by the Austrian Federal Chamber of Labour appended to the Government's report received 31 August 2012, the Committee asks the Government to supply information in respect of the issues raised therein in its next report.***

Maternity Protection Convention, 2000 (No. 183) - Austria (Ratification: 2004)

Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Application of the Convention in law and in practice. The Committee notes that, according to statistical information provided by the Government's report, while the number of inspections undertaken to monitor compliance with the national legislation on maternity protection has remained stable in the last years at about 7,000 inspections visits, the number of cases of violations of the relevant legislation has increased substantially from 1,328 in 2008 to 2,387, of which 1,247 cases concerned on-the-job risk evaluation provisions introduced in 2011. ***The Committee asks the Government to indicate whether promotional or other measures have been taken or are envisaged with a view to strengthening compliance with these newly introduced provisions and to report accordingly.***

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

COUNCIL RECOMMENDATION of 14 July 2015 on the 2015 National Reform Programme of Austria and delivering a Council opinion on the 2015 Stability Programme of Austria (2015/C 272/23), (18.08.2015, C 272/87, Official Journal of the European Union).

[*Official Website of the European Commission*](#)

(11) Austrian healthcare spending ranks amongst the highest in the Union. The ongoing healthcare reform (2013-2016) is aimed at stabilising it as a proportion of GDP as of 2016. However, even if the reforms are successful, the fiscal sustainability and efficiency of the healthcare system still face structural challenges. Measures should be taken now with regard to the period after 2016. For example, more patients should be treated in multidisciplinary primary outpatient care settings and the average length of stay for inpatient treatment should be lowered further.

(12) Ensuring the long-term availability of adequately qualified labour remains a challenge for Austria. At about 5,6 %, the unemployment rate is among the lowest in the Union, but the labour market potential of certain parts of the labour force is not fully tapped. Austria has taken some measures to extend working lives, better facilitate labour market participation by women and exploit more fully the potential of labour market participants of migrant background, including through improved recognition of their qualifications. However, recent reforms must be closely monitored and more measures are necessary to utilise fully the labour market potential of these groups.

HEREBY RECOMMENDS that Austria take action in 2015 and 2016 to:

1. Avoid deviating from the medium-term budgetary objective in 2015 and 2016. Ensure the budget neutrality of the tax reform aimed at reducing the tax burden on labour. Correct the misalignment between the financing and spending responsibilities of the different levels of government. Take measures to ensure the long-term sustainability of the pension system, including by earlier harmonisation of the statutory retirement age for men and women, and link the statutory retirement age to life expectancy.

2. Strengthen measures to increase the labour market participation of older workers and women, including by improving the provision of childcare and long-term care services. Take steps to improve the educational achievement of disadvantaged young people.